KC-496-13

INTERLOCAL AGREEMENT FOR EMERGENCY MANAGEMENT SERVICES

WHEREAS, RCW 38.52, the Emergency Management Act, empowers local governmental entities to establish a program to deal with emergencies and specifically authorizes two or more entities to join together to establish such a program; and

WHEREAS, RCW 39.34, the Interlocal Cooperation Act, encourages joint programs and cooperation between governmental entities; and

WHEREAS, Kitsap County and the cities of Bainbridge Island, Bremerton, Port Orchard, and Poulsbo desire to join together to establish a program to manage emergencies or disasters, whether natural, technological or human-caused.

NOW, THEREFORE, the parties agree as follows:

Section 1. Definitions

The following terms are defined as follows:

a. "Cities" means the cities of Bainbridge Island, Bremerton, Port Orchard, and Poulsbo.

b. "Council" means the Kitsap County Emergency Management Council.

c. "County" means Kitsap County.

d. "Director" means the Director of the Department of Emergency Management.

e. "Department of Emergency Management" means the department that is responsible for performing local emergency management functions in incorporated and unincorporated Kitsap County.

f. "Emergency or disaster" means an event or set of circumstances which:

   (1) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or

   (2) Reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

g. "Emergency Management" means the preparation for and carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid

victims suffering from injury or damage, resulting from disaster caused by all hazards, whether natural, technological, or human-caused, and to provide support for search and rescue operations for persons and property in distress.

h. "Search and Rescue" means the acts of searching for, rescuing, recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological or human-caused disaster, including instances involving searches for downed aircraft when ground personnel are used.

Section 2. Department of Emergency Management Established.

The Department of Emergency Management is hereby established. This department is the successor to the Emergency Management Organization of Kitsap County. The Department of Emergency Management shall be a Kitsap County department that is jointly administered and funded by the Parties to this Interlocal Agreement.

Section 3. Powers and Duties of the Department of Emergency Management.

The Department of Emergency Management shall provide emergency management services and programs to the residents of, and on behalf of, the County and the Cities. In addition, the Department of Emergency Management, pursuant to RCW 38.52.070, is designated as the local emergency management organization for the County and Cities and is vested with emergency management powers and authority to the maximum extent permitted by RCW 38.52.

Section 4. Kitsap County Emergency Management Council Established.

The Kitsap County Emergency Management Council is hereby established. This Council is the successor to the Emergency Management Organization of Kitsap County.

Section 5. Control by Council.

Direction, control, and oversight of the Department of Emergency Management are hereby vested in the Council unless otherwise specifically provided herein.

Section 6. Composition of Council.

a. The Council shall be composed of the following five persons:

1. One (1) county commissioner;
2. The mayors of Bremerton, Port Orchard and Poulsbo.
3. One (1) City council member from Bainbridge Island.

b. If one of the members is unable to attend a meeting of the Council, he or she may designate an alternate elected official who shall be empowered to vote and participate in and conduct the business of the Council.

Section 7. Conduct of Business by Council.

a. Meetings. The business and other matters that come before the Council shall be conducted during an open public meeting. Meetings may be scheduled at regular times or may be called as a special meeting on an as-needed basis. The chairperson, vice-chairperson, or the Director is authorized to call for a meeting.

b. Quorum. A quorum shall exist when there are at least two (2) mayors, or their designees, and one (1) county commissioner, or his or her designee present. Business may be conducted by majority vote of the quorum unless otherwise provided in this agreement.

c. Bylaws. Bylaws may be passed and amended by the Council but shall require a two-thirds (2/3) favorable vote.

d. Election. At the first meeting of each calendar year, the Council shall elect a chairperson and vice-chairperson. Each position shall serve for the remainder of the calendar year or until a successor is elected.

e. Minutes. The Director, or designee, shall keep the minutes of all meetings.

f. Rules. Council meetings shall be conducted in accordance with Robert's Rules of Order unless otherwise stated in the bylaws.

g. Notice. Prior to conducting and holding special meetings, each member of the Council shall be given forty-eight (48) hours advance notice of the meeting and public notice shall be provided as required by state law.

Section 8. Appointment of Director.

A Director shall be appointed to organize, administer, and manage the operations of the Department of Emergency Management on a day-to-day basis. The Council shall, by majority vote, select the Director.

Section 9. Powers and Duties of Director.

The Director, or designee, shall:

a. Implement the policies, procedures, programs, and directives of the Council in regard to emergency management operations.

b. Make recommendations and report to the Council.

c. Represent the Department of Emergency Management on behalf of the Council in dealings with the public and other outside public or private entities pertaining to emergency management and response to an emergency or disaster.

d. Organize, appoint, and train volunteers and salaried employees needed to assist in the implementation of emergency management services or programs.

e. Coordinate the local emergency management program(s) with State, Federal and other local programs.

f. Develop an "all-hazard" Comprehensive Emergency Management Plan for the county, including polices and procedures to be utilized during an emergency or disaster.

g. Develop an "all-hazard" Comprehensive Emergency Management Plan for each city, including policies and procedures to be utilized during an emergency or disaster.

h. Conduct studies and surveys of hazards and the resources available to deal with an emergency or disaster.

i. Develop mutual aid agreements for reciprocal emergency management aid and assistance.

j. When an emergency or disaster demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, the Director may proclaim an emergency or disaster anywhere within unincorporated Kitsap County, make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such proclamation, and/or rules and regulations must be confirmed at the earliest practicable time by the County Board of Commissioners.

k. In the event of a proclaimed emergency or disaster, obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of the life and property of the people, and bind the county for the fair value thereof, and if required immediately, to commandeer the same for public use.

l. In the event of a proclaimed emergency or disaster, require emergency services of any county officer or employee, and in the event of a proclamation by the Governor of the existence of a disaster, to command the aid of as many citizens for the community as he/she considers necessary in the execution of his/her duties; such person shall be entitled to all privileges, benefits and immunities as are provided by State law for registered emergency workers.

m. In the event of a proclaimed emergency or disaster, execute all of the special powers conferred upon him/her by this adopted agreement pursuant thereto, all powers conferred by statute, or agreement approved by the Board of County Commissioners, or by any other lawful authority.

n. In the event of a proclaimed emergency or disaster, requisition necessary personnel or material of any County department or agency.

Section 10. Budget.

Prior to July 31st of each calendar year, the Director, or designee, shall submit a proposed budget to the Council for its consideration and approval. The approved budget shall then be submitted to the Board of County Commissioners for inclusion into the County's budget.

Section 11. Funding.

The budget for the Department of Emergency Management that is not funded after receipt of grants or gifts shall be funded by assessments from the County and Cities. The assessment amount for each city shall be based upon a per capita charge. In calculating the per capita charge, the population of each city (numerator) is divided by the total population of the County (denominator) and that percentage is then multiplied by the total amount required for the following year's budget that does not include grant funding. The assessment amount for the County shall be that amount which is obtained when the population of the unincorporated portion of the County is divided by the total population of the County and that percentage is then multiplied by the budget amount that does not include grant funding. Population figures utilized shall be the latest figures available from the Bureau of Census as updated periodically by the Washington State Office of Financial Management (OFM). Assessments shall be paid on an annual basis.

Section 12. Fund Established.

Moneys received and collected on behalf of the Department of Emergency Management shall be deposited in a fund known as the Kitsap County Department of Emergency Management Fund and maintained by the County Treasurer. Department of Emergency Management expenditures shall be paid from this fund.

Section 13. Emergency Proclamation.

Proclamation. If circumstances warrant, the Board of County Commissioners may proclaim the existence of a local emergency occurring anywhere within unincorporated Kitsap County. Provided, if circumstances are exigent, the Director, or designee, may proclaim the existence of a local emergency anywhere within unincorporated Kitsap County if there is not sufficient time for the Board of County Commissioners to meet in person or by telephone; provided further, if a proclamation of a local emergency is proclaimed by the Director, or designee, the Board of County Commissioners shall meet as soon as possible thereafter to affirm or rescind the Proclamation. If the circumstances warrant, a Mayor, or designee, may proclaim the existence of a local emergency occurring anywhere within that City's jurisdictional boundaries.

a. Abatement. When a proclaimed emergency or disaster has sufficiently abated, the Board of County Commissioners and/or the Mayor, or designees, depending upon which jurisdiction proclaimed the existence of a local emergency, shall proclaim an end to the emergency or disaster.

b. Use of Government Resources. If an emergency or disaster has been proclaimed, the Department of Emergency Management may utilize the services, equipment, supplies, and facilities of the State and all other governmental entities organized pursuant to State law.

c. Impressment of Citizens. If an emergency or disaster has been proclaimed by the Governor, the Department of Emergency Management may commandeer the service and equipment of citizens as provided under chapter 38.52 RCW.

d. Rules and Regulations. If an emergency or disaster has been proclaimed, the Council, or designee, may make such rules and regulations necessary for the protection of life and property.

Section 14. Compensation for Emergency Workers.

Emergency workers or their dependents shall be compensated for injuries or death pursuant to Chapter 38.52 RCW and implementing regulations thereto.

Section 15. Liability.

Liability for emergency management operations shall be limited as provided by Chapter 38.52 RCW.

Section 16. Compensation Board.

The Compensation Board for the Department of Emergency Management shall be composed of those individuals that would constitute a compensation board for a county pursuant to RCW 38.52.210 (1).

Section 17. Duties of County.

The County shall:

a. Establish the salaries of the Director and other salaried staff of the Department of Emergency Management.

b. Treat the Director and salaried staff of the Department of Emergency Management as County employees with respect to such matters as auditing, accounting, fringe benefits, and personnel policies.

c. Represent and act on the Council's behalf in entering into contracts and Interlocal Agreements and accepting grant funds.

Section 18. Agreement to be Liberally Construed.

This Agreement shall be liberally construed to secure the public health, safety and welfare and the rule of strict construction shall have no application.

Section 19. Hold Harmless.

To the extent not covered under Chapter 38.52 RCW, each party shall defend, indemnify and save all other parties harmless from any and all claims arising out of that party's negligent performance of this agreement.

Section 20. Representation

The Kitsap County Prosecuting Attorney's Office shall provide legal advice and act as counsel for Emergency Management. In the event that a conflict exists between Emergency Management and another client represented by the Prosecutor's Office, then the Bremerton City Attorney's Office shall provide such representation to the Department of Emergency Management; and provided further, that in the event that a conflict exists between Emergency Management and both a client represented by the Prosecutor's Office and a client represented by the Bremerton City Attorney's Office, Emergency Management may retain outside legal counsel regarding that matter only.

Section 21. Term

This agreement shall be of perpetual duration unless terminated as provided in Section 22.

Section 22. Withdrawal.

Any of the five (5) participants in this Interlocal Agreement for Emergency Management Services may withdraw by giving written notice of such to each of the other participants no later than one hundred and twenty (120) days prior to the end of a calendar year; provided, no participant may withdraw unless it is current in its monetary assessment. In the event such notice is given, the withdrawal shall be effective December 31st of the year such notice was given. Upon receipt of a notice of withdrawal, the remaining participants shall meet as soon as possible thereafter, to determine whether there needs to be adjustments or amendments to the Interlocal Agreement for Emergency Management Services necessitated by such withdrawal.

Section 23. Effective date.

This agreement shall become effective and the Kitsap County Emergency Management Council and the Department of Emergency Management shall commence existence when:

a. The County and Cities each enact a resolution or ordinance authorizing this agreement, or an agreement similar in substance to this agreement; and

b. This agreement, or an agreement similar in substance to this agreement, is approved by the Director of the Washington State Emergency Management Division; and

c. A fully executed copy of, this agreement is filed with the Kitsap County Auditor.

Section 24. Venue.

The venue for any action related to this agreement shall be in the Superior Court in and for Kitsap County, Washington.

Section 25. Severability.

If any portion of this agreement or its application to any person/entity or circumstance is held invalid, the remainder or application to other persons/entities or circumstance shall not be affected.

Section 26. Existing Rights and Obligations.

Upon the effective date, the Interlocal Agreement for Emergency Management Services, entered into by the County and Cities in 1986, is hereby terminated and no longer in effect. The rights and obligations that the Emergency Management Organization formed under the 1986 Interlocal Agreement are hereby assumed by the Emergency Management Council formed under this Agreement. This Agreement supersedes and replaces the Interlocal Agreement for Emergency Management Services dated May 2005.

CITY OF BAINBRIDGE ISLAND

By: Doug Schulze, City Manager

CITY OF BREMERTON

By: Patty Lent, Mayor

CITY OF PORT ORCHARD

By: Tim Matthes, Mayor

CITY OF POULSBO

By: Becky Erickson, Mayor

DATED this 13 day of May, 2013

KITSAP COUNTY BOARD OF COMMISSIONERS

KITSAP COUNTY, WASHINGTON

Josh Brown, Chair

Charlotte Garrido, Commissioner

Robert Gelder, Commissioner

ATTEST:

Dana Daniels,
Clerk to the Board

BOARD OF COMMISSIONERS STATE OF WASHINGTON KITSAP COUNTY

Approved as to form:

Shelley E Kneip
Deputy Prosecuting Attorney

KCDEM

KITSAP COUNTY DEPARTMENT OF EMERGENCY MANAGEMENT

Phyllis Mann, Director

KITSAP COUNTY EMERGENCY MANAGEMENT COUNCIL - 2013

Kitsap County Commissioners

Josh Brown, Dist. 3

City of Bainbridge Island Council Representative Steven Bonkowski

City of Bremerton Mayor Patty Lent, Council Chair

City of Poulsbo Mayor Becky Erickson

City of Port Orchard Mayor Tim Matthes Council Vice Chair

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www.kitsapdem.org

May 29, 2013

Mayor Steven Bonkowski
City of Bainbridge Island
280 Madison Ave N
Bainbridge Island, WA 98110

Contract: Interlocal Agreement for Emergency Management Services KC-496-13

Dear Mayor Bonkowski:

Enclosed please find one fully signed original contract between The City of Bainbridge Island and Kitsap County Department of Emergency Management. Please keep this fully signed original for your files.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Phyllis A. Mann

Phyllis A. Mann
Director

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