



# City Council Agenda Bill

# 20254

Bill Number

**Subject:** Interlocal agreement with City of Lynden to provide general maintenance services

**Summary Statement:** This interlocal agreement allows the City of Bellingham to assist the City of Lynden in providing maintenance expertise and the ability to perform and assist in performing general maintenance tasks related to street, storm, sewer, and water distribution activities of Public Works.

**Previous Council Action:** None

**Fiscal Impact:** No impact; City of Lynden will pay all City time and overhead.

**Funding Source:**

**Attachments:** Interlocal Agreement

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Consent Agenda	16-Dec-2013	Vote to Approve	Ted Carlson, PW Director	

**Council Committee:**

**Agenda Bill Contact:**

Mike Olinger, PW Superintendent Maintenance  
778-7725

**Committee Actions:**

Reviewed By	Initials	Date
Ted Carlson, PW Director	<i>TC</i>	12/10/13

Legal  
Mayor

*km/1316* 12/10/13

**Council Action:**

**INTERLOCAL AGREEMENT  
CITY OF BELLINGHAM – CITY OF LYNDEN  
SMOKE TESTING AND CAMERA INSPECTIONS OF  
STORMWATER AND SANITARY SEWER LINES**

**THIS INTERLOCAL AGREEMENT** ("Agreement") is entered into by and between THE CITY OF BELLINGHAM ("Bellingham"), a municipal corporation of the State of Washington, and THE CITY OF LYNDEN ("Lynden"), a municipal corporation of the State of Washington, pursuant to the Washington State Interlocal Cooperation Act, RCW 39.34.

**RECITALS**

**WHEREAS**, Lynden lacks the expertise and equipment required to perform smoke testing and camera inspections of its city-owned stormwater and sanitary sewer lines; and

**WHEREAS**, Bellingham possesses the expertise and equipment required to perform smoke testing and camera inspections of stormwater and sanitary sewer lines; and

**WHEREAS**, the parties desire to enter into this Interlocal Agreement to authorize Bellingham to furnish Lynden with manpower, equipment and materials when requested and when available on a reimbursable basis for the performance of smoke testing and camera inspection of Lynden's stormwater and sanitary sewer lines; and

**WHEREAS**, the services contemplated herein will provide needed services to Lynden and will provide mutually beneficial training opportunities for Lynden and Bellingham; and

**WHEREAS**, the Washington State Interlocal Cooperation Act, RCW 39.34, authorizes governmental entities to enter into Interlocal Agreements such as this to accomplish mutually beneficial purposes in the public interest.

**NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:**

**TERMS AND CONDITIONS**

**1. PURPOSE:** The purpose of this Interlocal Agreement is to authorize Bellingham to furnish Lynden with manpower, equipment and materials when requested and when available on a reimbursable basis to perform smoke testing and camera inspections of Lynden's stormwater and sanitary sewer lines. The parties acknowledge and agree that Bellingham's operational resources are dedicated first and foremost to the needs of Bellingham but may from time to time be furnished to Lynden upon request if Bellingham determines, in its sole discretion, that the requested resources are available and may be furnished without detriment to the needs of Bellingham.

**2. REQUEST FOR SERVICES PROCEDURE:** Each request for service shall be in writing signed by Lynden's Director of Public Works or his/her designee. The request for service shall

specify the particular services requested, the amounts and types of labor, equipment, and material requested, the location of the work, and other information pertinent to the request. Upon receipt of the request, Bellingham's Superintendent of Maintenance or his designee shall indicate his acceptance or rejection of the request in writing accompanied by a good faith but non-binding written estimate of the cost of the requested services. Lynden shall accept or reject Bellingham's written estimate in writing. In cases of emergency, the request and approvals may be done verbally but must be documented in writing by both parties within 48 hours of the verbal request.

**3. PAYMENT:** Payment to Bellingham for services rendered will be for all actual direct and related indirect costs. In addition, fifteen percent (15%) of the total cost shall be added to cover overhead costs for accounting, billing and administrative services. Lynden will pay each invoice issued by Bellingham within 30 calendar days of the date of the invoice. Lynden shall be responsible for payment of any taxes due to the Washington State Department of Revenue on any payments made under this Interlocal Agreement.

**4. TERM:** This Interlocal Agreement shall be effective upon full execution of the parties and upon filing in accordance with Section 20 below. This Interlocal Agreement shall terminate on December 31, 2014, unless sooner terminated in accordance with Section 11 below or renewed by written modification signed by both parties.

**5. NO NEW ENTITIES CREATED:** The parties agree that there are no separate legal or administrative entities created by this Interlocal Agreement.

**6. RELATIONSHIP OF THE PARTIES:** The parties agree that they are each independent entities operating pursuant to the terms and conditions of this Agreement. No agent, employee, servant or representative of any party shall be deemed to be an employee, agent, servant or representative of the other party for any purpose.

#### **7. INDEMNIFICATION:**

7.1 Lynden agrees to release, defend, indemnify, and hold harmless Bellingham from all damages, claims, suits, and liabilities for personal injury or property damage arising out of the negligent actions or inactions or intentional misconduct of Lynden and its employees and agents in the performance of this Agreement.

7.2 Bellingham agrees to release, defend, indemnify, and hold harmless Lynden from all damages, claims, suits, and liabilities for personal injury or property damage arising out of negligent actions or inactions or intentional misconduct of Bellingham and its employees and agents in the performance of this Agreement.

**8. EXTENT OF AGREEMENT:** This Interlocal Agreement contains all of the terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Interlocal Agreement.

**9. MODIFICATION:** No changes or modifications of this Interlocal Agreement shall be valid or binding upon either party to this Interlocal Agreement unless such changes or modifications are in writing and executed by authorized representatives of both parties.

**10. AUTHORIZED REPRESENTATIVES:** The persons responsible for administration of this Interlocal Agreement on behalf of each party shall be the Bellingham Superintendent of Maintenance and the Lynden Director of Public Works. All correspondence, letters or other notices shall be in writing and shall be directed to the foregoing parties at the following addresses:

Superintendent of Maintenance  
City of Bellingham Public Works  
2221 Pacific Street  
Bellingham, WA 98229

Director of Public Works  
City of Lynden  
300 4<sup>th</sup> Street  
Lynden, WA 98264

**11. TERMINATION:** This Interlocal Agreement may be terminated by either party upon the giving of thirty (30) days' written notice to the other and setting a date of termination, at which time any remaining financial obligations for services rendered prior to the date of termination shall be paid in full.

**12. CONSEQUENTIAL DAMAGES:** In no event and under no circumstances shall Bellingham be liable to Lynden for any interest, loss of anticipated revenue, increased expense of operations, loss by reason of shutdown or non-operation, or for any consequential, indirect or special damages.

**13. DIRECTION AND CONTROL:** The parties hereto do not intend to create any separate or legal administrative entity by this Interlocal Agreement but, rather, intend for this mutual Interlocal Agreement to govern for the purposes contained herein.

**14. PROPERTY AND EQUIPMENT:** The ownership of all property and equipment utilized in association with this Interlocal Agreement shall remain with the original owner unless specifically and mutually agreed to by both parties.

**15. STATUS OF AGREEMENT:** This Interlocal Agreement is in addition to, and is not intended to replace, substitute, modify or otherwise amend any other agreement between Bellingham and Lynden. This Interlocal Agreement is only limited to the purposes stated herein. Any other agreements continue in effect according to the specific terms of those agreements.

**16. COMPLIANCE WITH LAW:** All parties to this Interlocal Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Interlocal Agreement.

**17. FURTHER COOPERATION:** The parties shall fully and completely cooperate with one another in good faith at all times, so that the terms and spirit of this Interlocal Agreement may be fully implemented. All parties have had the ability to negotiate the terms of this Interlocal

Agreement on an equal basis. This Interlocal Agreement shall be reasonably interpreted and not weighed in favor of or against any party.

**18. SURVIVABILITY:** All covenants, promises, and performances which are not fully performed as of the date of termination shall survive termination as binding obligations.

**19. WAIVER:** No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Interlocal Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Interlocal Agreement, and each and every covenant, agreement, term, and condition of this Interlocal Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

**20. FILING:** Prior to its entry into force, this Interlocal Agreement shall be filed with the county auditor or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source in accordance with the Washington State Interlocal Cooperation Act, RCW 39.34.

**21. SEVERABILITY:** If any provision of this Interlocal Agreement is held to be invalid, illegal or unenforceable for any reason, that holding shall not affect or impair, in any manner, the validity, legality or enforcement of the remainder of this Interlocal Agreement.

**AGREED TO BY:**

CITY OF BELLINGHAM

CITY OF LYNDEN

Dated this \_\_\_\_ day of \_\_\_\_\_ 2013

Dated this \_\_\_\_ day of \_\_\_\_\_ 2013

\_\_\_\_\_  
Kelli Linville, Mayor

\_\_\_\_\_  
Scott Korthuis, Mayor

Attest:

\_\_\_\_\_  
Finance Director

Department Approval:

Department Approval:

\_\_\_\_\_  
Director of Public Works

\_\_\_\_\_  
Director of Public Works

Approved as to form:

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Office of the City Attorney

Approved as to form:

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Office of the City Attorney

STATE OF WASHINGTON }  
COUNTY OF WHATCOM } ss

I CERTIFY that I know or have satisfactory evidence that **KELLI LINVILLE** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **MAYOR** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

\_\_\_\_\_  
NAME PRINTED

\_\_\_\_\_  
Notary Public  
TITLE

\_\_\_\_\_  
MY APPOINTMENT EXPIRES

STATE OF WASHINGTON }  
COUNTY OF WHATCOM } ss

I CERTIFY that I know or have satisfactory evidence that **SCOTT KORTHUIS** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **MAYOR** of the **CITY OF LYNDEN** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

\_\_\_\_\_  
NAME PRINTED

\_\_\_\_\_  
Notary Public  
TITLE

\_\_\_\_\_  
MY APPOINTMENT EXPIRES