



CITY OF
BAINBRIDGE ISLAND

EXECUTIVE DEPARTMENT

MEMORANDUM

DATE: 4/5/2018

TO: CITY COUNCIL

FROM: AMBER RICHARDS, EMERGENCY MANAGEMENT COORDINATOR

SUBJECT: EMERGENCY MANAGEMENT POLICY CONFLICT

BACKGROUND

Chapter 38.52 RCW, the Emergency Management Act, provides the authority and direction for the establishment of a local emergency management organization. Under this statute, emergency management organizations can be administered by a local agency independently or local agencies may join to form an organization. The State law is disjunctive. The City must either: establish a local emergency management organization; or become a member of a joint local organization.

On May 13, 2013, the incorporated cities of Bainbridge Island, Bremerton, Port Orchard and Poulsbo, and Kitsap County executed Interlocal Agreement (ILA) KC-496-13. This ILA provides for a unified emergency management organization which is allowable under RCW 38.52.070. Under KC-496-13, each incorporated City is responsible for providing funding on a per-capita charge based on population data provided by the Washington State Office of Financial Management (OFM). The fee owed by the City for Emergency Management services for FY 2018 is \$35,760.

In return, Kitsap County Department of Emergency Management (DEM) is designated as the joint emergency management organization for the County and all the Cities within Kitsap County. DEM is responsible for all emergency functions within the county. It is the only organization with authority to execute the duties and responsibilities for emergency functions under RCW 38.52 for the whole of Kitsap County; the cities do not retain that authority.

On May 22, 2013 the City revised the Bainbridge Island Municipal Code (BIMC) through Ordinance 2013-09. BIMC 2.44.040 states:

There is hereby created, in accordance with Chapter 38.52 RCW, an emergency management organization. The purpose of the local organization is to perform local emergency management functions. The organization shall represent only the city of Bainbridge Island and exercise emergency authority only within the City.

A policy decision is needed to deconflict the BIMC and the ILA. The City cannot simultaneously have its own emergency management organization and be part of a joint emergency management organization.

POSSIBLE OPTIONS

The City can withdraw from ILA KC-496-13 by giving written notice to each of the other four participants listed in the ILA.

OR –

The City can amend BIMC 2.44 to reflect the language in the ILA, recognizing the agreement to establish a joint emergency management organization, and designating Kitsap County DEM as the City's established emergency management organization.

STAFF RECOMMENDATION

In September 2016, Emergency Management was identified as a priority program and subsequently, Council adopted a vision for the City to be a recognized leader in preparedness in Washington State. City staff, with strong support, significant involvement, and substantial investment from the community, have worked toward achieving the adopted vision within the constraints of Interlocal Agreement KC-469-13.

Under this structure, statutory emergency management authority is transferred from the City to the County. This is prohibitive to any substantial future growth within the City's Emergency Management program because the City lacks authority to create an efficient, effective program. Additionally, the model goes against one of the most important principles of emergency management – that disasters are local events, survived best when strong local programs are in place and communities are engaged and integrated in them.

Having an in-house emergency management organization aligns with our collective vision of becoming a recognized leader in emergency preparedness in Washington. It also takes into account that Bainbridge Island has unique geographical, economic, and cultural considerations that highlight the importance of having a strong local program.

The residents of this community are looking to their local government, not to the County, to deliver emergency management programs, services, and volunteer opportunities. Likewise, in the event a disaster impacts Bainbridge Island, the residents of Bainbridge Island will look to this government for a strong, confident response.

In consideration of the measurable steps the Council has taken to make emergency management a strategic priority, it is important to consider terminating the ILA KC-496-13. The funding currently paid to support DEM and emergency management within the County at-large

can be invested in a local Office of Emergency Management within the City, to the direct benefit of this community and its residents.

ATTACHMENTS:

Chapter 38.52.070 RCW

Ordinance No. 2013-09 Relating to Emergency Management

KC 496-13 Interlocal Agreement for Emergency Management Services

RCW 38.52.070**Local organizations and joint local organizations authorized—Establishment, operation—Emergency powers, procedures—Communication plans.**

(1) Each political subdivision of this state is hereby authorized and directed to establish a local organization or to be a member of a joint local organization for emergency management in accordance with the state comprehensive emergency management plan and program: PROVIDED, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director and secure his or her recommendations thereon, and verification of consistency with the state comprehensive emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. Local comprehensive emergency management plans must specify the use of the incident command system for multiagency/multijurisdiction operations. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director may authorize two or more political subdivisions to join in the establishment and operation of a joint local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a joint local organization for emergency management each shall pay its share of the cost into a special pooled fund to be administered by the treasurer of the most populous subdivision, which fund shall be known as the emergency management fund. Each local organization or joint local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a joint local organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization or joint local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW **38.52.020** occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

(3)(a) Each local organization or joint local organization for emergency management that produces a local comprehensive emergency management plan must include a communication plan for notifying significant population segments of life safety information during an emergency. Local organizations and joint local organizations are encouraged to consult with affected community organizations in the development of the communication plans.

(i) In developing communication plans, local organizations and joint organizations should consider, as part of their determination of the extent of the obligation to provide emergency notification to significant population segments, the following factors: The number or proportion of the limited English proficiency persons eligible to be served or likely to be encountered; the frequency with which limited English proficiency individuals come in contact with the emergency notification; the nature and importance of the emergency notification, service, or program to people's lives; and the resources available to the political subdivision to provide emergency notifications.

(ii) "Significant population segment" means, for the purposes of this subsection (3), each limited English proficiency language group that constitutes five percent or one thousand residents, whichever is less, of the population of persons eligible to be served or likely to be affected within a city, town, or county. The office of financial management forecasting division's limited English proficiency population estimates are the demographic data set for determining eligible limited English proficiency language groups.

(b) Local organizations and joint local organizations must submit the plans produced under (a) of this subsection to the Washington military department emergency management division, and must implement those plans. An initial communication plan must be submitted with the local organization or joint local organization's next local emergency management plan update following July 23, 2017, and subsequent plans must be reviewed in accordance with the director's schedule.

(4) When conducting emergency or disaster after-action reviews, local organizations and joint local organizations must evaluate the effectiveness of communication of life safety information and must inform the emergency management division of the Washington military department of technological challenges which limited communications efforts, along with identifying recommendations and resources needed to address those challenges.

[2017 c 312 § 4; 1997 c 49 § 4; 1986 c 266 § 28; 1984 c 38 § 7; 1974 ex.s. c 171 § 9; 1951 c 178 § 8.]

NOTES:

Finding—Intent—2017 c 312: See note following RCW 38.52.580.

Severability—1986 c 266: See note following RCW 38.52.005.

ORDINANCE NO. 2013-09

AN ORDINANCE of the City of Bainbridge Island relating to emergency management; repealing and replacing Ordinance No. 86-29, dated November 20, 1986, and adopting a new Chapter 2.44 of the Bainbridge Island Municipal Code.

WHEREAS, the Washington Emergency Management Act, Chapter 38.52 RCW, requires each political subdivision of the state to establish a local organization for emergency management, together with a plan and program for emergency management, and to obtain certification of consistency with the state comprehensive emergency management plan; and

WHEREAS, the City of Bainbridge Island does not have a current emergency management ordinance; and

WHEREAS, Washington State Constitution, article 11, section 11, grants cities the same police power as is granted to the state itself, except as restricted by statute; and

WHEREAS, each local organization for emergency management is required to have a director appointed pursuant to state law; and

WHEREAS, RCW 38.52.010(8), designates the city manager as the executive head in those cities and towns operating under the council-manager form of government; and

WHEREAS, it is in the best interest of the citizens of the City of Bainbridge Island that its emergency management ordinance be revised to clarify the authority and powers of its officers in emergency or disaster situations of local, regional, and national scope and to ensure that emergency management functions are coordinated to the maximum extent possible with local, regional, and national agencies so that the most effective preparation and use may be made of the City's resources in dealing with any emergency or disaster that may occur.

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

Section 1. Ordinance No. 86-29, dated November 20, 1986, is hereby repealed.

Section 2. A new emergency management ordinance is hereby adopted to be codified as Chapter 2.44 of the Bainbridge Island Municipal Code to read as follows:

EMERGENCY MANAGEMENT

Sections:

- | | |
|-----------------|--|
| 2.44.010 | Purpose. |
| 2.44.020 | Emergency management policy. |
| 2.44.030 | Definitions. |
| 2.44.040 | Emergency management organization. |
| 2.44.050 | Designation of the city manager as executive head for emergency |

- services of the city.
- 2.44.060 **Comprehensive Emergency Management Plan.**
- 2.44.070 **Continuity of government.**
- 2.44.080 **Proclamation of emergency.**
- 2.44.090 **Notice of proclamations of emergency and emergency orders.**
- 2.44.100 **Authorized emergency orders.**
- 2.44.110 **Emergency procurements.**
- 2.44.120 **Emergency powers under governor's proclamation of emergency or disaster.**
- 2.44.130 **Penalties.**
- 2.44.140 **Private liability.**
- 2.44.150 **Continuance of existing agreements.**
- 2.44.160 **General duty only.**

2.44.010 Purpose.

The purpose of this chapter is to establish a local emergency management organization and set out and clarify the authority of the city and of its officers with regard to local, regional and national emergency and disaster situations. It is intended, in conformity with Article 11, Section 11 of the Washington State Constitution and with Chapter 38.52 RCW, to grant the broadest power permitted by constitutional and statutory authority to preserve the public health, safety and welfare.

2.44.020 Emergency management policy.

It is the policy of the city to make effective preparation and use of staffing, resources, and facilities for dealing with any emergency or disaster that may occur. Emergencies and disasters, by their very nature, may disrupt or destroy existing systems and the capability of the city to respond to protect life, public health and property. Therefore, citizens are advised to be prepared to be without public services or utilities for up to a minimum of 72 hours should an emergency or disaster occur.

2.44.030 Definitions.

When used in this chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in Chapter 38.52 RCW and this section, except where the context clearly indicates a different meaning:

- A. "Disaster" shall mean an incident, expected or unexpected, in which a community's available, pertinent resources are exhausted, or the need for resources exceeds availability, and in which a community undergoes severe damage, incurring losses so that the social or economic structure of the community is disrupted and the fulfillment of some or all of the community's essential functions are prevented.
- B. "Emergency" shall mean a sudden, usually unexpected event that does or could do harm to people, resources, property, or the environment. Emergencies can range from single to localized incidents, natural or technological, that damage, or threaten to damage, local operations. An emergency is an incident "which

requires emergency assistance to save lives and protect public health and safety or to avert or lessen the threat of a major disaster.” (Public Law 92-288)

- C. "Emergency management" shall mean the preparation for the 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 disasters caused by all hazards, whether natural or manmade, and to provide support for search and rescue operations for persons and property in distress.
- D. "Emergency or disaster" as used in this chapter shall mean 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 area within the city overtaken by such occurrences, or (2) reaches such a dimension or degree of destructiveness as to warrant the city manager proclaiming the existence of a disaster or the governor proclaiming a state of emergency in accordance with appropriate local ordinances and state statute.

2.44.040 Emergency management organization.

- A. There is hereby created, in accordance with Chapter 38.52 RCW, an emergency management organization. The purpose of the local organization is to perform local emergency management functions. The organization shall represent only the City of Bainbridge Island and exercise emergency authority only within the city.
- B. The emergency management director shall be appointed by the city manager and have direct responsibility for the organization, administration and operation of the emergency management program for the city.
- C. The emergency management organization of the city shall consist of the officers and employees of the city designated by the city manager as well as all volunteer emergency workers per RCW 38.52.010(4). The functions and duties of this organization shall be distributed among such divisions, services and staff as prescribed by the city manager. Any plan prescribed by the city manager shall set forth the form of the organization, establish and designate divisions and services, assign function, duties and powers, and designate officers and employees to carry out the provisions of this chapter according to an established line of succession. Insofar as possible, the form of the organization, titles and terminology shall conform to the recommendations of the federal government and the state of Washington Military Department, Emergency Management Division.

2.44.050 Designation of the city manager as executive head for emergency services of the city.

The city manager shall serve as the executive head of the city for purposes of emergency management pursuant to Chapter 38.52 RCW.

2.44.060 Comprehensive Emergency Management Plan.

The Comprehensive Emergency Management Plan, prepared under the direction of the emergency management director, is the official emergency management plan of the City of Bainbridge Island. The emergency management plan shall be available from the office of the city clerk.

2.44.070 Continuity of government.

In the event the city manager is unavailable to exercise the powers and discharge the duties described in this chapter, a line of succession, to be prepared by the city manager, shall be used to determine the interim executive head subject to the city council's confirmation, modification, or rejection as soon as practicable. In the event that the city manager and all successors are unable to discharge the duties in this chapter, the mayor shall act as the interim executive head subject to the city council's confirmation, modification, or rejection as soon as practicable.

2.44.080 Proclamation of emergency.

- A. Whenever an emergency or disaster, or the imminent threat thereof, occurs in the city and results in, or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the executive head, extraordinary and immediate measures to protect the public health, safety and welfare, the executive head shall forthwith:
 - 1. If the city council is in session, request the council to proclaim the existence or threatened existence of an emergency; or
 - 2. If the city council is not in session, issue such proclamation, subject to council ratification and confirmation, modification or rejection as soon as practicable.
 - 3. Proclamations of emergency issued by the executive head shall be presented as soon as practical to the city council for ratification and confirmation, modification or rejection. Proclamations which are rejected shall, after vote, be void. Proclamations shall be considered in full force and effect until the council shall act.
- B. Such proclamation of emergency may be in addition to or as an alternative to the proclamation of state of emergency by the governor.
- C. The executive head shall terminate the proclamation of emergency when order has been restored in the affected area of the city.

2.44. 090 Notice of proclamations of emergency and emergency orders.

When practical, the executive head shall consult with the emergency management director on the need for and development of the proclamation of emergency or emergency order. The executive head shall cause any proclamation of emergency or emergency order issued pursuant to the authority of this chapter to be delivered to the

emergency management director, state emergency management, the governor, the public, and news media within the general area of the city. The executive head shall use available means as shall be necessary in his or her judgment to give notice of such proclamations. Such proclamations and orders shall be filed with the city clerk as soon as practical.

2.44.100 Authorized emergency orders.

- A. Upon the proclamation of an emergency, and during the existence of such emergency, the executive head, may make and proclaim any or all of the following orders and delegate enforcement authority therefore to law enforcement officers and designated emergency personnel:
 - 1. Order imposing a general curfew applicable to the city as a whole, or to such geographical area or areas of the city and during such hours, as it deems necessary, and from time to time to modify the hours such curfew will be in effect and the area or areas to which it will apply;
 - 2. Order requiring any or all business establishments to close and remain closed until further order;
 - 3. Order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
 - 4. Order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings;
 - 5. Order prohibiting undue inflationary pricing of goods and services with the intent of maximizing profits as a result of the declared emergency;
 - 6. Order utilizing existing services and facilities to the maximum extent practicable notwithstanding any other provision of law, in the event of a disaster, after proclamation by the governor of the existence of such disaster, to have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed; provided that citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by Chapter 38.52 RCW and federal and state emergency management regulations for registered emergency workers;
 - 7. Such other orders as are imminently necessary for the protection of life and property.
- B. Emergency orders shall be presented as soon as practicable to the city council for ratification and confirmation, modification or rejection. Orders which are rejected

shall, after vote, be void. Emergency orders shall be considered in full force and effect until the city council shall act.

2.44.110 Emergency procurements.

- A. Upon proclamation of an emergency, and during the existence of such emergency, the executive head, alternates as defined in BIMC 2.44.070, or the finance director, is authorized to make emergency procurements where the city may suffer a substantial loss or damage to property, bodily injury, or loss of life by reason of the time required for following the regular purchasing procedures.
- B. Such authorization for emergency procurement shall be presented to the city council for ratification and confirmation, modification or rejection. Emergency procurements shall be considered in full force and effect until the city council acts.

2.44.120 Emergency powers under governor's proclamation of emergency or disaster.

In addition to or as an alternative to those emergency powers prescribed by this chapter upon the proclamation of an emergency, the executive head shall have, upon proclamation of a state of emergency or disaster by the governor pursuant to Chapters 43.06 RCW and 38.52 RCW, the authority to exercise in behalf of the city all emergency powers set forth in RCW 38.52.070(2), including without limitation:

- A. To accept and receive, with the consent of the governor, in behalf of the city, offers from the federal government of services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management.
- B. In cases where there is damage to the equipment borrowed from other jurisdictions under a mutual aid agreement, to receive the filing of claims for such damage within 60 days after the damage is incurred.
- C. To utilize existing services and facilities to the maximum extent practicable notwithstanding any other provision of law, in the event of a disaster, after proclamation by the governor of the existence of such disaster, to have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed; provided that citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by Chapter 38.52 RCW and federal and state emergency management regulations for registered emergency workers.

2.44.130 Penalties.

A violation of this chapter shall constitute a misdemeanor and shall be punishable as such; provided that whenever any person shall commit a second offense hereunder, the same shall constitute a gross misdemeanor and shall be punishable as such. It shall be a violation of this chapter to:

- A. Willfully obstruct, hinder, or delay any law enforcement officer or designated emergency management personnel organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon such member by virtue of this chapter;
- B. Violate a proclamation of emergency issued pursuant to BIMC 2.36.090 or of a subsequent emergency order issued pursuant to Chapter 35.33 RCW;
- C. Wear, carry or display, without authority, any means of identification specified by the emergency management organization of the city.

2.44.140 Private liability.

No individual, firm, association, corporation or other party owning, maintaining or controlling any building or premises, who voluntarily and without compensation grants to the city a license or privilege or otherwise permits said city to inspect, designate and use the whole or any part or parts of such building or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency or disaster, or their successors in interest, or the agents or employees of any of them, shall be subject to liability for injuries sustained by any person while in or upon said building or premises as a result of any act or omission in connection with the upkeep or maintenance thereof, except a willful act of negligence, when such a person has entered or gone into or upon said building or premises for the purpose of seeking refuge therein during an emergency or disaster or an attack by enemies of the United States or during a disaster drill, exercise or test ordered by a lawful authority.

2.44.150 Continuance of existing agreements.

Nothing in this ordinance shall be deemed to affect any existing interlocal agreements entered into by the city or other cities and towns of the State of Washington pursuant to Chapter 38.52 RCW regarding emergency planning and the giving of mutual aid; provided that for the purposes of such agreements, the city manager shall exercise all powers as executive head of the city under such agreements in conformity with RCW 38.52.070.

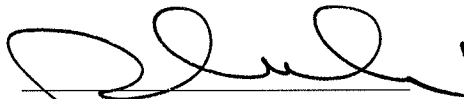
2.44.160 General public duty created.

- A. It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this ordinance.
- B. Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this ordinance by its officers, employees or agents.


Section 3. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this 22nd day of May, 2013.

APPROVED BY THE MAYOR this 22nd day of May, 2013.


Steven Bonkowski, Mayor

ATTEST/AUTHENTICATE:


Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK:	April 26, 2013
PASSED BY THE CITY COUNCIL:	May 22, 2013
PUBLISHED:	May 24, 2013
EFFECTIVE DATE:	May 29, 2013
ORDINANCE NUMBER:	2013-09

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 policies 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.

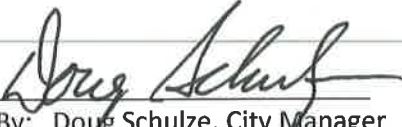
Section 25. Severability.

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

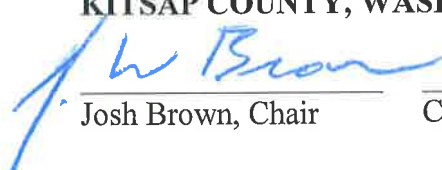
CITY OF POULSBO


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



Approved as to form:


Deputy Prosecuting Attorney

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

Main Offices
911 Carver Street
Bremerton, WA 98312
360.307.5871
Fax: 360.478.9802
dem@co.kitsap.wa.us
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,

A handwritten signature in blue ink that reads "Phyllis A. Mann".

Phyllis A. Mann
Director

encl