

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF BELLEVUE AND THE CITY OF MERCER ISLAND
RELATING TO MARINE PATROL AND OTHER SERVICES**

This is an Interlocal Agreement (Agreement) between the City of Bellevue (Bellevue) and the City of Mercer Island (Mercer Island), collectively referred to herein as the "Parties" to provide law enforcement mutual aid and for the exchange of governmental services between the Parties. The authority of the cooperating agencies entering into this Agreement is that authority provided by Washington law including, and subject to, the general powers of the Parties, the Washington Interlocal Cooperation Act as codified in Chapter 39.34 RCW, and the Washington Mutual Peace Officers Powers Act as codified in Chapter 10.93 RCW. This Agreement shall be effective upon the last date of signing below.

WHEREAS Bellevue has a geographical boundary either bordering on or encompassing navigable waters in King County and, thus has the authority to police these waters; and

WHEREAS, Mercer Island has established and maintains a marine patrol service on Lake Washington which can also serve the waters under the authority of Bellevue; and

WHEREAS, Bellevue has established specialized police services such as K-9, forensics, firing range and major investigations of which services Mercer Island has need from time to time;

NOW, THEREFORE, in consideration of the terms and provisions herein, it is agreed by and between Bellevue and Mercer Island as follows:

1. Mercer Island Obligations:

- 1.1 Through its Marine Patrol Unit, Mercer Island shall provide routine patrol of waters on Lake Washington under the authority of Bellevue as described under Section 1.3 for the purposes of enforcing applicable laws and ordinances, promoting boating safety, and preventing law or safety violations, including responding to emergency complaints in accordance with standard emergency dispatch protocol.
- 1.2 Mercer Island shall provide marine patrol services year-round.
- 1.3 Mercer Island shall provide routine patrol services in water areas under the jurisdiction of Bellevue on Lake Washington by rendering service of the same level, degree and type as rendered for Mercer Island in its jurisdiction, provided that marine patrol services shall be subject to interruption for boat repair and maintenance. The shifts shall emphasize afternoon and early evening hours of the boating season beginning with opening day and continuing for four months (approximately April 1st through September 30th each year).
- 1.4 At the specific request of Bellevue, and at times when its workload priorities permit, Mercer Island shall provide patrol services and/or respond to emergencies at times other than those of the daily boating season shift and outside the boating season.
- 1.5 During the first quarter of each calendar year, Mercer Island shall provide Bellevue with an annual report of the marine patrol services rendered within Bellevue's waters, including number of calls for service (dispatched and on-view), number and type of citations and warnings issued, and safety checks made.

2. Bellevue Obligations:

- 2.1 Bellevue confers municipal police authority on Mercer Island officers engaged pursuant to this Agreement in enforcing State laws and regulations and Bellevue ordinances within Bellevue's waters for the purposes of carrying out this Agreement.
- 2.2 At times where its workload priorities permit and in consideration for the marine patrol services provided by Mercer Island, Bellevue shall make available, at no charge, to Mercer Island upon request and with adequate notice specialized Bellevue police services consisting of K-9, forensics, firing range, major investigations, SWAT, and such other services as Bellevue may in the future permit.
- 2.3 Whenever Bellevue shall request the placement of buoys within the waters under its jurisdiction, Mercer Island shall provide notice to Bellevue of the full cost of said purchase and installation. If Bellevue concurs in writing for Mercer Island to perform the work, Mercer Island shall purchase and install the buoys and Bellevue shall reimburse Mercer Island for the costs of the buoys as provided in writing. Mercer Island shall maintain, repair and replace such buoys as needed, and Bellevue shall reimburse Mercer Island for the costs associated with the replacement as provided in writing.
- 2.4 Under the King County Fire Resource Plan, which provides mutual aid assistance for any fire agency within King County, the Bellevue Fire Department sends units to Mercer Island more often than Mercer Island sends units to Bellevue. By formalizing this Agreement with Bellevue, any inequities experienced under the King County Fire Resource Plan, would be recognized/off-set, thus helping to balance this response equation.

3. Supervision and Personnel: In the providing of services as set forth above, each agency is acting as an independent contractor so that:

- 3.1 Control of Personnel: Control of personnel, standards of performance, discipline and all other aspects of performance shall be governed entirely by the agency providing the service through its employees.
- 3.2 Independent Contractors. Each party to this Agreement is an independent contractor with respect to the subject matter herein. Nothing in this Agreement shall make any employee of Mercer Island an employee of Bellevue, and vice versa, for any purpose, including, but not limited to withholding of taxes, payment of benefits, insurance, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded to either city's employee by virtue of their employment. At all times pertinent hereto, employees of Mercer Island are acting as Mercer Island employees, and employees of Bellevue are acting as Bellevue employees.
- 3.3 Liabilities. All liabilities to employees of each agency for wages and benefits or sickness arising from performance of the law enforcement services for the other agency shall remain the liability of the employing agency.

4. Compensation:

- 4.1 The parties intend that the scope of services each is providing to the other will be of approximately equal value as viewed from the totality of the relationship between the parties and on that basis neither party shall be entitled to compensation from the other party for the performance of services provided under this Agreement.
- 4.2 Boat tax revenue for all City of Bellevue shoreline along Lake Washington will accrue to the City of Mercer Island.

5. Indemnification:

- 5.1 Mercer Island shall protect, defend, indemnify and save harmless Bellevue, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of Mercer Island. Mercer Island agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, Mercer Island, by mutual negotiation, hereby waives, as respects Bellevue only, any immunity that would otherwise be available against such claims under the industrial insurance provision of Title 51 RCW. In the event Bellevue obtains any judgment or award, and/or incurs any cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from Mercer Island.
- 5.2 Bellevue shall protect, defend, indemnify and save harmless Mercer Island, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of Bellevue. Bellevue agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, Bellevue, by mutual negotiation, hereby waives, as respects Mercer Island only, any immunity that would otherwise be available against such claims under the industrial insurance provision of Title 51 RCW. In the event Mercer Island obtains any judgment or award, and/or incurs any cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from Bellevue.

6. Insurance; Risk of Loss:

- 6.1 Each party shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance that is sufficient to protect itself against all applicable risks associated with this Agreement, including coverage necessary to address liability associated with U.S. Long shore and Harbour Workers Act and Jones Act coverage, as amended, with minimum coverage of \$1,000,000 per occurrence/\$2,000,000 aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Mercer Island's membership in a municipal self-insurance pool, including evidence of limits of coverage, exclusions, and limits of liability satisfactory to Bellevue; in addition, this requirement shall be deemed satisfied by evidence of Bellevue's self-insurance satisfactory to Mercer Island. Each party will be liable for all loss or damage, other than ordinary wear and tear, for the property in the other's possession or control that is caused by the other party's negligence. In the event of any such loss or damage, the damaging party will pay the damaged party the full current replacement cost of such equipment or property within a reasonable time, not less than sixty (60) days after its loss or damage.

7. Duration:

- 7.1 This Agreement is effective upon authorization and signature by both parties. The initial contract period shall be for one year, which shall automatically renew for successive one year terms under the same terms and conditions indefinitely, unless

one party gives the other party ninety (90) days prior written notice of its intent to terminate this Agreement.

8. Termination:

8.1 Either party may initiate a process to terminate this Agreement as follows: the party desiring to terminate the Agreement shall provide 90 days prior written notice to the other party.

9. General Provisions:

- 9.1 **Governing Law; Venue; Attorney's Fees.** This Agreement shall be governed by the laws of the State of Washington and its choice of law rules. In the event of any suit or other proceeding instituted to enforce any term of this Agreement, the venue shall be in King County, Washington. In any lawsuit between the Parties with respect to the matters covered by this Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs of suit, in addition to any other relief it may be awarded.
- 9.2 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of the Agreement is held to be invalid or unenforceable by a court of competent jurisdiction for any reason, the remaining provision will continue in full force without being impaired or invalidated in any way. Bellevue and Mercer Island agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- 9.3 **Nonwaiver.** Any failure by either party to enforce strict performance of any provision of the Agreement will not constitute a waiver that party's right to subsequently enforce such provision or any other provision of the Agreement.
- 9.4 **No Assignment.** Neither this Agreement nor any of the rights or obligations of the any party arising under this Agreement may be assigned to any third party, without the other party's prior written consent, which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- 9.5 **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.
- 9.6 **Discrimination Prohibited.** Neither party shall discriminate against any employee or any person seeking service under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or the presence of any sensory, mental or physical handicap or any other protected class status under applicable Federal, State or Local laws.
- 9.7 **Notices.** All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in the signature blocks below.
- 9.8 **Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

- 9.9 Amendments. This Agreement represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties hereto.
- 9.10 Filing Requirement. This Agreement shall be filed/posted in accordance with RCW 39.34.040.


CITY OF BELLEVUE



~~Brad Miyake~~ *Mary Kate Berens*
Dep. City Manager
450 110th Ave. NE
Bellevue, WA 98004

Dated: 12/29/15

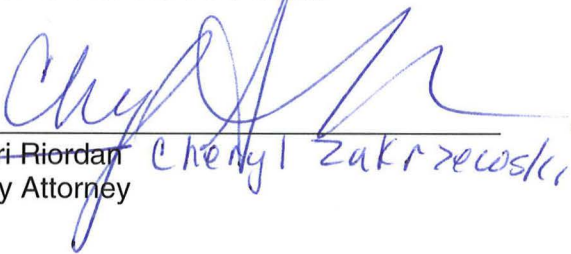
CITY OF MERCER ISLAND



Noel Treat
City Manager
9611 SE 36th Street
Mercer Island, WA 98040

Dated: 12/15/15

APPROVED AS TO FORM:



Asst ~~Lori Riordan~~ *Cheryl Zakrzewski*
City Attorney

APPROVED AS TO FORM:



Kari Sand
City Attorney