

2.5 INDEMNIFICATION

The following indemnification provisions shall apply to the entirety of this Agreement except for Section 3.2.3 (Transfer of Property) and **Exhibit E** (Development Services Agreement Provisions), both of which contain separate indemnification provisions.

2.5.1 The County shall indemnify and hold harmless the City and its elected officials, officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, or the County and the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its elected officials, officers, agents, and employees, or any of them, or jointly against the City and County and their respective elected officials, officers, agents, and employees, or any of them, the County shall satisfy the same. The City acknowledges and agrees that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, elected officials, and/or officers and the County, its agents, employees, elected officials, and/or officers, this Section 2.5.1 shall be valid and enforceable only to the extent of the negligence of the County, its agents, employees, elected officials, and/or officers.

2.5.2 The City shall indemnify and hold harmless the County and its elected officials, officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the County, or the County and the City, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the County and its ~~officers~~, elected officials, officers, agents, and employees, or any of them, or jointly against the City and County and their respective elected officials, officers, agents, and employees or any of them, the City shall satisfy the same. The County acknowledges and agrees that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, elected officials, and/or officers and the County, its agents, employees, elected officials, and/or officers, this Section 2.5.2

shall be valid and enforceable only to the extent of the negligence of the City, its agents, employees, elected officials, and/or officers.

2.5.3 Fire District 16 shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of Fire District 16, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, Fire District 16 shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and Fire District 16 and their respective officers, agents, and employees, or any of them, Fire District 16 shall satisfy the same. The City acknowledges and agrees that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and Fire District 16, its agents, employees, and/or officers, this Section 2.5.3 shall be valid and enforceable only to the extent of the negligence of Fire District 16, its agents, employees and/or officers.

2.5.4 The City shall indemnify and hold harmless Fire District 16 and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that Fire District 16 retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Fire District 16 and its officers, agents, employees, or any of them, or jointly against the City and Fire District 16 and their respective officers, agents, and employees or any of them, the City shall satisfy the same. Fire District 16 acknowledges and agrees that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and Fire District 16, its agents, employees, and/or officers, this Section 2.5.4 shall be valid and enforceable only to the extent of the negligence of the City, its agents, employees and/or officers.

2.5.5 WFR shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of WFR, its officers, agents, and employees, or any of them, in

3.2 SUBJECT AREAS, IN ACCORDANCE WITH RCW 35A.14.480(2)(b).

3.2.1 TERM / EFFECTIVE DATE

3.2.1.1. This Agreement shall be deemed to take effect following the approval of the Agreement by the official action of the legislative bodies of each of the Parties and the signing of the Agreement by the duly authorized representative of each of the Parties, and shall continue in force in perpetuity from the date signed by both Parties except as otherwise provided for in Section 1.1.

3.2.1.2. The effective date of annexation of the Annexation Areas shall be February 28, 2014 (“Effective Date”).

3.2.2 TRANSFER OF JURISDICTION, AUTHORITY AND SERVICES.

3.2.2.1 RECORDS TRANSFER.

3.2.2.1.1 The County shall use its best efforts to deliver those records listed in **Exhibits D-1** and **D-2** by the Effective Date.

3.2.2.1.2 If the County fails to deliver those records identified in **Exhibit D-1** by the Effective Date, then the County shall indemnify and hold the City harmless in accordance with Section 2.5 of this Agreement. If the County fails to deliver all of those records identified in **Exhibit D-2** by six months following the **Effective Date**, then the County shall indemnify and hold the City harmless in accordance with Section 2.5 of this Agreement. Without limiting the foregoing obligations to indemnify, if additional time is needed to produce any of these records, the County shall inform the City of the amount of additional time required to produce each specified. The County shall continue to use its best efforts to provide each specified record within the additional time specified.

3.2.2.1.3 The County shall not be required to provide records that are not reasonably available or to create records or compilations that have not already been created. The County shall provide the City free of charge one set of records meeting the requirements of this section.

3.2.2.2 **DEVELOPMENT SERVICES.** As of the date this Agreement is signed by all Parties, transfer of development services shall be as set forth in the attached **Exhibit E**, which is hereby incorporated into this Agreement.

3.2.2.3 **JAIL SERVICES.** The City of Bothell is responsible for the incarceration of adult offenders charged with misdemeanor or gross misdemeanor crimes occurring in the Annexation Areas on or after the Effective Date. King County is responsible for the

incarceration of adult offenders charged with misdemeanor or gross misdemeanor crimes occurring in the Annexation Areas before the Effective Date.

3.2.2.4. POLICE SERVICES.

3.2.2.4.1 On and after the Effective Date, police service responsibility within the Annexation Areas will be transferred to the City. The County will be responsible for all criminal cases and investigations reported before the Effective Date, including but not limited to all costs associated with these cases and investigations. The City will be responsible for all criminal cases and investigations reported on and after the Effective Date, including but not limited to all costs associated with these cases and investigations. The City's Chief of Police and the King County Sheriff will work together to ensure a smooth transition plan and a continuing partnership. In addition to the provisions of that transition plan, the Parties further agree as follows:

3.2.2.4.2 Sharing of community information: The County agrees to provide policing-related community contact lists that the County may have regarding the Annexation Areas to the City upon request. These lists may include, but are not limited to: members of block watch programs, community groups, and/or homeowner's associations. ~~The~~ If requested by the City, the lists shall be provided to the City within 90 days of the Effective Date.

3.2.2.4.3 Annexation of Emergency Response (911) Services: The City and County agree to coordinate the transfer of emergency response (911) services in the Annexation Areas.

3.2.2.5 COURT AND PROSECUTION SERVICES TRANSITION. The County will be responsible for the court expenses, prosecution and payment of any fees or assessments associated with misdemeanor criminal cases filed by the County prior to the Effective Date. The City will be responsible for the court expenses, prosecution and payment of any fees or assessments associated with misdemeanor criminal cases filed by the City from and after the Effective Date of annexation.

3.2.2.6 STATUS OF COUNTY EMPLOYEES. Subject to City civil service rules and state law, the City agrees to consider the hiring of County employees whose employment status is affected by the change in governance of the Annexation Areas where such County employees make application with the City pursuant to the City's hiring process and meet the minimum qualifications for employment with the City. The City's consideration of hiring affected Sheriff Department employees shall be governed by the provisions set forth in RCW 35.13.360 through 35.13.400 and other applicable law, if any.

3.2.2.7 ROAD AND FIRE LEVY TAXES. The County's collection and disbursement to the City of the road and fire levy taxes within the Annexation Areas, including any EMS levy taxes, shall be in accordance with RCW 35A.14.801.

3.2.3 TRANSFER OF PROPERTIES.

3.2.3.1 TRANSFER OF SURFACE WATER MANAGEMENT, PARK AND GREENBELT PROPERTIES

3.2.3.1.1 Transfer of Drainage Facilities and Drainage Facility Property Interests.

3.2.3.1.1.1 Upon the Effective Date, those Drainage Facilities which are held by the County as specifically identified in **Exhibit F-1** shall automatically be transferred from the County to the City, and the City shall assume ownership and full and complete responsibility for the operation, maintenance, repairs, and any subsequent improvements to the Drainage Facilities. The Drainage Facilities identified in **Exhibit F-2** shall not be transferred but shall remain in private ownership. The City has the right but not the obligation to inspect the facilities identified in **Exhibit F-2** from and after the Effective Date, and shall notify the owners of those facilities of this right.

3.2.3.1.1.2 The County shall within 30 days of the Effective Date, for the area in which the "Drainage Property Interests" identified in **Exhibit F**, attached hereto and incorporated herein by reference, are located, convey the Drainage Property Interests by quit claim deed to the City; and the City shall accept the Drainage Property Interests, subject to all rights, conditions, covenants, obligations, limitations and reservations of record for such property interests. The City agrees to abide by and enforce all rights, conditions, covenants, obligations, limitations and reservations for the Drainage Facility Property Interests.

3.2.3.1.1.3 The County is willing to continue to perform surface water-related management services and maintenance on behalf of the City in the Annexation Areas after the Effective Date, via separate written contract between the Parties, which contract is no part of this Agreement.

3.2.3.1.1.4 The Parties will make staff available to identify and review any additional County-owned local drainage facilities, easements, and other property interests within the Annexation Areas that should appropriately be conveyed to the City. Such facilities and other property interests include those for which the County's facility acceptance process has not yet been completed, including both projects being constructed by the County as well as projects subject to County

the Drainage Facilities, Drainage Facility Property Interests, Park Properties, or Greenbelt Properties.

3.2.3.1.6.3 If the City discovers the presence of hazardous materials at levels that could give rise to a statutory claim for contribution against the County it shall notify the County in writing within ninety (90) days of discovery. The Parties shall make their best efforts to reach agreement as to which Party is responsible for remediation under the terms of this Agreement prior to undertaking any remediation.

3.2.3.1.6.4 In no event shall the County be responsible for any costs of remediation that exceed the minimum necessary to satisfy the state or federal agency with jurisdiction over the remediation.

3.2.3.1.7 Indemnification related to Drainage Facilities, Drainage Facility Property Interests, Park Properties and Greenbelt Properties .

3.2.3.1.7.1 King County shall indemnify and hold harmless the City and its elected officials, officers, agents ~~and/or~~ employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, arising from those occurrences related to the Drainage Facilities, Drainage Facility Property Interests, Park Properties and Greenbelt Properties that occurred prior to the Effective Date, except to the extent that indemnifying or holding the City harmless would be limited by Section ~~32~~.2.3.1.6 of this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against the City or the City and King County, King County shall defend the same at its sole cost and expense and, if final judgment be rendered against the City and its elected officials, officers, agents and employees or jointly against the City and King County and their respective elected officials, officers, agents and employees, King County shall satisfy the same. The City acknowledges and agrees that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this Section 3.2.3.1.7.1 shall be valid and enforceable only to the extent of the negligence of the County, its agents, employees and/or officers.

3.2.3.1.7.2 The City shall indemnify and hold harmless King County and its elected officials, officers, agents and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of

applications it is processing under this Agreement. The County shall thereupon transfer to the City those application files and records, posted financial guarantee instruments, and unexpended portions of filing fees for pending land use and building-related applications within the Annexation Area. Upon transfer, the City shall be responsible for notifying affected applicants that it has assumed all further processing responsibility.

12. Extension. The City and County may agree to extend the duration of this Agreement through December 31, 2022 or to a date prior thereto. In order for any such extensions to occur, the City shall make a written request to the County not less than sixty (60) days prior to the otherwise applicable expiration date. Any agreement by the County to the proposed extension(s) shall be made in writing. If the parties have not agreed to the extension in writing by the otherwise applicable expiration date, the Agreement shall expire.

13. Application Process. The City will prepare a document describing the handling of applications based upon this Agreement. Both the City and the County will have that document available for applicants.

14. Indemnification, Hold Harmless and Defense.

14.1 The County shall indemnify and hold harmless the City and its elected officials, officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its elected officials, officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principal or governmental or public law is involved, and if final judgment be rendered against the City and its elected officials, officers, agents, and employees, or any of them, or jointly against the City and County and their respective elected officials, officers, agents, and employees, or any of them, the County shall satisfy the same.

14.2 The City shall indemnify and hold harmless the County and its elected officials, officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its elected officials, officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the County, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principal of governmental or public law is involved~~;~~ and if final judgment be rendered against the County and its elected officials, officers, agents, employees, or any of them, or jointly against the City and County and their respective elected officials, officers, agents, and employees or any of them, the City shall satisfy the same.

14.3 The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, elected officials, and/or officers and the County, its

agents, employees, elected officials, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees, elected officials, and/or officers.

14.4 In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility that arises in whole or in part from the existence or effect of City ordinances, rules, regulations, policies or procedures. If any cause, claim, suit, action or proceeding (administrative or judicial), is initiated challenging the validity or applicability of any City ordinance, rule or regulation, the City shall defend the same at its sole expense and if judgment is entered or damages awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorneys' fees.

15. Personnel. Control of County personnel assigned by the County to process applications under this Agreement shall remain with the County. Standards of performance, discipline and all other aspects of performance shall be governed by the County.

16. Administration. This Agreement shall be administered by the County Director of the Department of ~~Development and Environmental Services~~Permitting and Environmental Review or his/her designee, and by the City's Community Development Director or his/her designee.

17. Amendments. This Agreement is the complete expression of the terms hereto and any oral representation or understanding not incorporated herein is excluded. Any modifications to this Agreement shall be in writing and signed by both parties.

18. Legal Representation. The services to be provided by the County pursuant to this Agreement do not include legal services, which shall be provided by the City at its own expense.

19. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based upon any provision set forth herein.