

**CITY OF BLAINE**  
**REQUEST FOR COUNCIL ACTION**  
**MEETING DATE:** September 27, 2010

**SUBJECT:** Interlocal Agreement with Whatcom County for Training Sites

**DEPARTMENT:** Public Safety

**PREPARED BY:** Michael Haslip, Public Safety Director  
(Digital Signature)

**AGENDA LOCATION:** ☒ X Consent Agenda ☐ Council Action ☐ Unfinished Business

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**ATTACHMENTS:**

1. Draft Interlocal Agreement for Training

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**BACKGROUND/SUMMARY:**

Blaine Police Department and Whatcom County Sheriffs Office periodically hold joint training. On occasion the County will arrange or sponsor training where several agencies attend, and venues are needed. Patrol Canine training in city buildings, emergency vehicle operator training on unused runways, and Active Shooter training are a few of the many examples of the joint training we conduct. It serves the City to have these trainings held in or close to Blaine as it reduces the cost of attendance and travel time for our personnel. A formal interlocal agreement will spell out the limits of the City's liability and its ability to regulate when and where the trainings will occur. The attached Interlocal is patterned upon one which has been in place between the Port of Bellingham and the County for some years.

**BUDGET IMPLICATIONS:**

This ordinance change is cost neutral.

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**RECOMMENDATION:** REQUEST TO Waive the second reading

The Public Safety Director recommends that Council authorize the Public Safety Director and the City Manager to formalize an existing process by signing and entering in to the attached Interlocal Agreement.

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**REVIEWED BY:**

City Manager \_\_\_\_\_ Finance Director \_\_\_\_\_ City Clerk \_\_\_\_\_  
(Digital Signature) (Digital Signature) (Digital Signature)

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**COUNCIL ACTION:**

☐ Approved ☐ Denied ☐ Tabled/Deferred ☐ Assigned to: \_\_\_\_\_

**ADDITIONAL INFORMATION:** \_\_\_\_\_

## INTERLOCAL AGREEMENT FOR USE OF PROPERTY AND INDEMNIFICATION

**THIS INTERLOCAL AGREEMENT** for Use of Property and Indemnification (the "Agreement") is entered into between WHATCOM COUNTY ("Training Agency ") and the CITY OF BLAINE (the "City"), both municipal corporations of the State of Washington.

**WHEREAS**, the City owns certain real properties in Whatcom County, Washington (collectively hereinafter the "Properties");

**WHEREAS**, Training Agency desires to use the Properties to conduct training exercises in connection with its public functions;

**WHEREAS**, the City recognizes that allowing Training Agency to use the Properties for training purposes will provide the City's personnel with ready access to the training undertaken and give Training Agency and its respective personnel additional familiarity with the Properties that could help to preserve life and property during instances of fire, disaster or other emergency response that may occur on the Properties; and

**WHEREAS**, the City is willing to allow Training Agency to use the Properties for training according to the terms herein.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein, the parties hereby agree as follows:

**1. Agreement for Use.** In accordance with the terms and conditions contained in this Agreement, the City hereby allows Training Agency to use designated locations within the Properties for training activities. Within its sole discretion, the City shall have the right to designate at which locations, dates and times the Properties may be utilized for training.

**2. Notice and Representatives.** A Training Agency representative shall submit to a City representative a written request to use a specified location(s) at the Properties at least ten (10) days prior to the intended use date. The request shall include, as a minimum, the nature and scope of the training exercise, the date and time of the training exercise, the number of individuals participating in the training exercise, and the City property to be impacted by the training exercise. The City shall respond to the request ("Response Letter") within three (3) days of receipt of the request. The City shall have the authority, within its sole discretion, to deny or revoke any or all of such request(s) for any reason and at any time. The City's failure to timely respond shall be deemed a denial in full of the request. The City may, in its sole discretion, as a condition of granting consent, require Training Agency to satisfy certain conditions at its own expense or to provide alternative locations on the Properties for such training exercises.

2.1 The Response Letter shall set forth any limitations and/or conditions on the use of the designated property ("Designated Property") required to be fulfilled by Training Agency, and the Response Letter shall be deemed to be fully incorporated by reference into this Agreement. If Training Agency proceeds to conduct the training activities, Training Agency shall be deemed to have fully accepted and agreed to all conditions and/or limitations contained in the Response Letter.

2.2 Any permission granted by the City shall be solely for the benefit of Training Agency, and the permission may not be assigned in whole or in part.

2.3 For purposes of this Agreement, all notices which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by electronic mail (email), sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to the representatives of the parties are as follows:

<b>Training Agency:</b>	Undersheriff 311 Grand Avenue Bellingham, WA 98225	Chief Criminal Deputy 311 Grand Avenue Bellingham, WA 98225
<b>City of Blaine:</b>	Public Safety Director. 322 H Street Blaine, WA 98230	Public Safety Administrative Manager 322 H Street Blaine, WA 98230

**3. Term of Agreement and Termination.** This Agreement will continue until either party terminates it upon thirty (30) days' written notice to the other party.

**4. Indemnification and Hold Harmless.** In consideration for this Agreement and the use of the Designated Property by Training Agency for training purposes as authorized herein, Training Agency shall reimburse the City for any damage to any City property that results from Training Agency's use of the Properties under the terms of this Agreement. Training Agency shall defend, indemnify and hold the City, its officers, agents and employees harmless from any and all claims, suits, liability, loss, costs, expenses and damages of any nature whatsoever that arise out of Training Agency's use of City property as provided herein, provided however: (i) that this paragraph shall not be construed to require Training Agency to defend, indemnify or hold harmless the City from such claims, suits, liability, loss, costs, expenses and damages caused by or resulting from the sole negligence of the City; and (ii) in the event of the concurrent negligence of Training Agency and the City, Training Agency's indemnification shall be in proportion to its proportionate negligence.

4.1 The foregoing indemnification obligation shall include, but is not limited to, all claims against the City by an employee or former employee of Training Agency. For this purpose, the Training Agency expressly waives, as respects the City only, all immunity and limitation on liability under any industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act or other employee benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim.

**BY INITIALING BELOW, THE OWNER AND TRAINING AGENCY CERTIFY THAT THE WAIVER OF IMMUNITY SPECIFIED BY THIS PROVISION WAS MUTUALLY NEGOTIATED.**

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City of Blaine \_\_\_\_\_ Training Agency \_\_\_\_\_

**5. Insurance:** Unless self insured as set forth below, Training Agency shall procure and maintain a comprehensive general liability policy covering all claims for personal injury (including death) and property damage (including all real and personal property located on the Premises) arising on the Premises or arising out of Training Agency's activities. The limits of liability shall be not less than One Million Dollars (\$1,000,000) for each occurrence and in the aggregate unless the City requests a lesser liability limit.

5.1 The foregoing insurance policy shall name the City as an additional insured. Training Agency shall provide current certificates of insurance and, if requested, copies of any policy to City prior to commencing any training activity

5.2 If Training Agency is self insured, Training Agency represents that its self insurance program will cover claims to the extent they would be covered under the insurance provisions of this paragraph.

**6. Condition of Property.** Training Agency acknowledges that the City has made no representations or warranties concerning the suitability or condition of the Designated Property. Training Agency has inspected the Designated Property and has satisfied itself as to the condition, suitability and appropriateness of the Designated Property for its intended activities.

**7. Survivability.** All covenants, promises and performance which are not fully performed as of the date of termination shall survive termination as binding obligations, including but not limited to, the defense and indemnification obligations.

**8. Amendment.** No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

**9. Waiver.** No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this 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 Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

**10. Captions.** The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

**11. Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**12. Neutral Authorship.** Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

**13. Governing Law.** This Agreement, and the right of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action, venue shall lie exclusively in Whatcom County, Washington.

**14. Entire Agreement.** The entire agreement between the parties concerning the matters expressed herein is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

**CITY OF BLAINE:**

Executed this \_\_\_\_\_ Day of \_\_\_\_\_, 2010 for the City of Blaine.

\_\_\_\_\_  
Gary R Tomsic, City Manager

**Approved as to Form:**

\_\_\_\_\_  
Jon Sitken, City Attorney

**WHATCOM COUNTY**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010

**Approved:**

\_\_\_\_\_  
Pete Kremen, County Executive

**Approved as to Form:**

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Randy Watts, Chief Civil Deputy Prosecutor

STATE OF WASHINGTON)

) ss.

COUNTY