



CONTRACTS & AGREEMENTS

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2/3/2014

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12/31/2099

CR#:

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Ordinance:

Resolution:

8689

Leg Date:

2/3/2014

Vendor #:

Description:

ARTICLES OF INCORPORATION - INTERLOCAL AGREEMENT

ECITYGOV ALLIANCE
12/31/2099

Notes:

INTRLOC_00
INTERLOCAL AGREEMENTS
12/31/2099
500176854

ARTICLES OF INCORPORATION

OF

eCITYGOV ALLIANCE

The undersigned, in order to form a not for profit corporation under Chapter 24.06 of the Revised Code of Washington ("RCW"), and pursuant to Chapter 39.34 RCW, hereby sign and deliver the following Articles of Incorporation:

ARTICLE I — NAME

The name of this corporation is:

eCITYGOV ALLIANCE

ARTICLE II — DURATION

The period of duration of the eCITYGOV Alliance (the "ALLIANCE") is perpetual.

ARTICLE III — PURPOSES

ALLIANCE is organized on behalf of and as an instrumentality of its governmental members to carry out certain exclusively governmental activities and the purposes of the Amended and Restated Interlocal Agreement Establishing eCityGov Alliance (the "Interlocal Agreement") pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW. These purposes include developing, owning, operating and managing and maintaining online public service programs and services as further described in the Interlocal Agreement.

ARTICLE IV — PROHIBITED ACTIVITY

Notwithstanding any of the provisions of these Articles of Incorporation, the ALLIANCE shall not conduct or carry on activities not permitted to be conducted or carried on by an organization exempt from federal income tax under Sections 115 of the Internal Revenue Code or by an organization, contributions to which are deductible under Section 170(c)(2). No part of the net earnings of the ALLIANCE shall inure to the benefit of any director, officer or private individual. No substantial part of the activities of the ALLIANCE shall be devoted to the carrying on of propaganda, or otherwise attempting to influence legislation except as may be permitted by the Internal Revenue Code, and the ALLIANCE shall not participate in, or intervene in (including the publication or distribution of statements regarding) any political campaign on behalf of or in opposition to any candidate for public office. The ALLIANCE shall not have or issue shares of stock, shall not make any disbursement of income to its directors or officers, and shall not make loans to its officers or directors.

ARTICLE V — POWERS

In general, and subject to such limitations and conditions as are or may be prescribed by law, or in these Articles of Incorporation or in the ALLIANCE'S Bylaws or in the Interlocal Agreement, the ALLIANCE shall have all powers which now or hereafter are conferred under Chapters 24.06 and 39.34 RCW and other applicable law upon a corporation organized for the

purposes set forth above, or are necessary or incidental to the powers so conferred, or are conducive to the attainment of the ALLIANCE's purposes.

ARTICLE VI — MEMBERS

Each Member of ALLIANCE must be a municipal corporation formed and existing under the laws of the state of Washington and meeting the other requirements described in the Interlocal Agreement. As used in these Articles, the term "Members" means "Principals" as defined in the Interlocal Agreement. The rights and responsibilities of the Members/Principals and the manner of their election, appointment, or admission to membership and termination of membership shall be as provided for in the Interlocal Agreement. The ALLIANCE shall have one class of Members/Principals, except that each Member/Principal may be treated as a separate class for calculating votes as provided for in the Interlocal Agreement.

ARTICLE VII — DISTRIBUTIONS UPON DISSOLUTION

No director, trustee or officer of the ALLIANCE, nor any private individual, shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the ALLIANCE or the winding up of its affairs. Upon dissolution of the ALLIANCE, after paying, satisfying, and discharging, or making adequate provision therefor, of all liabilities and obligations of the ALLIANCE, and after returning, transferring, or conveying assets held by the ALLIANCE requiring return, transfer, or conveyance on condition of the dissolution, all remaining assets of the ALLIANCE shall be distributed by the Executive Board as provided for in the Interlocal Agreement.

ARTICLE VIII — DISSENTING MEMBERS

"Dissenting members," as that term is used in RCW 24.06.245 through 255, will be entitled to the rights and allocation of assets set forth in the Interlocal Agreement, but may be limited to "a return of less than the fair value" of their membership as that term is used in RCW 24.06.255.

ARTICLE IX — BYLAWS

Provisions for the regulation of the internal affairs of the ALLIANCE shall be set forth in the Bylaws of the ALLIANCE.

ARTICLE X — REGISTERED AGENT

The address of the initial registered office of the ALLIANCE is eCityGov Alliance, c/o City of Bellevue 450 100th Avenue, Bellevue WA 98004. The name and address of its initial registered agent is the City Clerk (or his/her designee), City of Bellevue, 450 110th Avenue N.E., Bellevue, WA 98004.

ARTICLE XI — DIRECTORS

The initial board of directors (referred to in the Interlocal Agreement as the "Executive Board") shall consist of eight (8) directors. The names and addresses of the persons who are to serve as initial directors are:

Brad Miyake, Interim City Manager
City of Bellevue
450 110th Avenue N.E.
Bellevue, WA 98004

Bob Stowe, City Manager
City of Bothell
18304 101st Avenue N.E.
Bothell, WA 98011

Bob Harrison, City Administrator
City of Issaquah
130 E. Sunset Way
Issaquah, WA 98027

Nancy Ousley, Assistant City Manager
City of Kenmore
18120 68th Ave. N.E.
Kenmore, WA 98028

Kurt Triplett, City Manager
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

Noel Treat, City Manager
City of Mercer Island
9611 S.E. 36th St.
Mercer Island, WA 98040

Lyman Howard, Deputy City Manager
City of Sammamish
801 228th Avenue. S.E.
Sammamish, WA 98075

Bob Larson, City Administrator
City of Snoqualmie
38624 S.E. River St.
Snoqualmie, WA 98065

Directors may be removed as provided for in the Bylaws.

ARTICLE XII -- OFFICERS

The ALLIANCE shall have four officers, a President, Vice-President, Secretary and Treasurer. The President and Vice-President are referred to as the "Chair" and "Vice-Chair" respectively, in the Interlocal Agreement. The responsibilities of the officers shall be described in the ALLIANCE Bylaws.

ARTICLE XIII — INCORPORATORS

The names and addresses of the incorporators are:

1. City of Bellevue
450 110th Avenue N.E.
Bellevue, WA 98004
2. City of Bothell
18304 101st Avenue N.E.
Bothell, WA 98011
3. City of Issaquah
130 E. Sunset Way
Issaquah, WA 98027
4. City of Kenmore
18120 68th Ave. N.E.
Kenmore, WA 98028
5. City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189
6. City of Mercer Island
9611 S.E. 36th St.
Mercer Island, WA 98040
7. City of Sammamish
801 228th Avenue. S.E.
Sammamish, WA 98075
8. City of Snoqualmie
38624 S.E. River St.
Snoqualmie, WA 98065

ARTICLE XIV — LIMITATION OF DIRECTOR LIABILITY

Except to the extent otherwise required by applicable law (as it exists on the date of the adoption of this Article or may be amended from time to time), a director of the ALLIANCE (a director is referred to as a "Member of the Executive Board" in the Interlocal Agreement) shall not be personally liable to the ALLIANCE for monetary damages for conduct as a director, except for liability of the director (i) for acts or omissions which involve intentional misconduct

by the director or a knowing violation of law by the director, (ii) for any transaction from which the director will personally receive a benefit in money, property or services to which the director is not legally entitled, or (iii) for any act or omission occurring before the date when this provision becomes effective.

If the Washington Nonprofit Miscellaneous and Mutual Corporation Act (the "Act") is hereafter amended to expand or increase the power of the ALLIANCE to eliminate or limit the personal liability of directors, then, without any further requirement of action by the directors of the ALLIANCE, the liability of a director shall be eliminated or limited to the full extent permitted by the Act. No amendment to or repeal of this Article shall adversely affect any right of protection of any director of the ALLIANCE occurring after the date of the adoption of this Article and prior to such amendment or repeal.

ARTICLE XV — INDEMNIFICATION

Except as provided in Article XIV, the ALLIANCE shall indemnify any director and officer of the ALLIANCE who is involved in any capacity in a proceeding (as defined in RCW 23B.08.500, as presently in effect and as hereafter amended) by reason of the position held by such person or entity in the ALLIANCE to the full extent allowed by law, as presently in effect and as hereafter amended. By means of a resolution or of a contract specifically approved by the Board of Directors (referred to as the "Executive Board" in the Interlocal Agreement), the ALLIANCE may also indemnify an employee, or agent to such degree as the Board of Directors determines to be reasonable, appropriate, and consistent with applicable law and to be in the best interests of the ALLIANCE. Reasonable expenses incurred by a director or officer who is involved in any capacity in a proceeding by reason of the position held in the ALLIANCE, shall be advanced by the ALLIANCE to the full extent allowed by and on the conditions required by applicable law, as presently in effect and as hereafter amended.

The Board of Directors of the ALLIANCE shall have the right to designate the counsel who shall defend any person or entity who may be entitled to indemnification, to approve any settlement, and to approve in advance any expense. The rights conferred by or pursuant to this Article shall not be exclusive of any other rights that any person may have or acquire under any applicable law (as presently in effect and as hereafter amended), these Articles of Incorporation, the bylaws of the ALLIANCE, a vote of the Board of Directors of the ALLIANCE, or otherwise. No amendment to or repeal of this Article shall adversely affect any right of any director, officer, employee, or agent for events occurring after the date of the adoption of this Article and prior to such amendment or repeal.

The ALLIANCE shall also indemnify and hold harmless every Member/Principal, including, but not limited to that Member's/Principal's officers, directors, employees and agents from all claims, injuries, damages, losses or suits, including reasonable attorney fees and costs which arise out of acts and/or omissions of the ALLIANCE. To such degree as the board of directors/Executive Board determines to be reasonable, appropriate, and consistent with applicable law and to be in the best interests of the ALLIANCE, the ALLIANCE may also indemnify and hold harmless Subscribers, including, but not limited to that Subscriber's officers, directors, employees and agents from all claims, injuries damages, losses or suits, including reasonable attorney fees which arise out of acts and/or omissions of the ALLIANCE.

Nothing in these Articles of Incorporation may be interpreted as a waiver of sovereign immunity by any member.

Indemnification of directors and officers by the ALLIANCE shall be consistent with the terms of the Interlocal Agreement, the Act, the Interlocal Cooperation Act and other applicable law. In the event of any inconsistency between this Article and the Interlocal Agreement, the terms of the Interlocal Agreement shall control to the extent consistent with applicable law.

Notwithstanding any other provision of this Article, no indemnification shall be provided to any person if in the reasonable opinion of competent counsel, payment of such

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indemnification would cause the ALLIANCE to lose its exemption from federal income taxation.

DATED as of this 1st day of March, 2014.

INCORPORATORS:

INCORPORATOR: City of Bellevue

INCORPORATOR: City of Bothell


By: Brad Miyake, Interim City Manager

By: Bob Stowe, City Manager

INCORPORATOR: City Issaquah

INCORPORATOR: City of Kenmore

By: Fred Butler, Mayor

By: Rob Karlinsey City Manager

INCORPORATOR: City of Kirkland

INCORPORATOR: City of Mercer Island

By: Kurt Triplett, City Manager

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By: Ben Yazici, City Manager

By: Matthew R. Larson, Mayor

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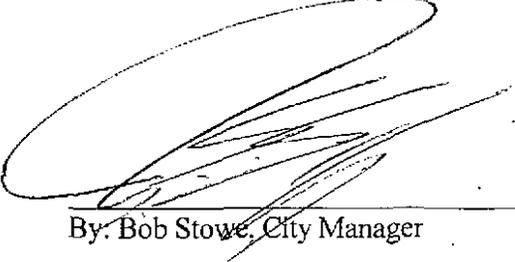
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Notwithstanding any other provision of this Article, no indemnification shall be provided to any person if in the reasonable opinion of competent counsel, payment of such indemnification would cause the ALLIANCE to lose its exemption from federal income taxation.

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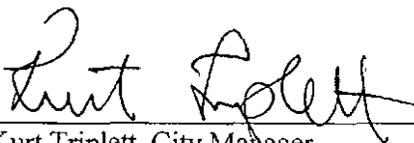
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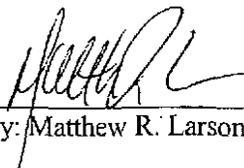
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INCORPORATOR: City of Snoqualmie

By: Ben Yazici, City Manager



By: Matthew R. Larson, Mayor

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 8689

A RESOLUTION authorizing execution of an amended and restated Interlocal Agreement and related Articles of Incorporation re-establishing the eCityGov Alliance.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amended and restated Interlocal Agreement and related articles of Incorporation re-establishing the eCityGov Alliance, a copy of which amended and restated Interlocal Agreement has been given Clerk's Receiving No. 53172.

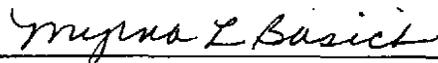
Passed by the City Council this 3rd day of February, 2014, and signed in authentication of its passage this 3rd day of February, 2014.

(SEAL)



Claudia Balducci, Mayor

Attest:



Myrna L. Basich, City Clerk

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 8689 authorizing execution of an amended and restated Interlocal Agreement and related Articles of Incorporation for the eCityGov Alliance. This resolution does not change the original intent of the Alliance.

FISCAL IMPACT

The City pays partnership fees and rates to the Alliance annually. The Alliance membership is budgeted in the Information Technology Fund, and fees related to MyBuildingPermit.com are budgeted in the Development Services Fund. These budgets are reviewed by Council as part of the biennial budget process.

The financial impact related to this action to adopt the Amended and Restated Interlocal Agreement is minimal because it involves merely a reorganization of the Alliance, formalizing the separate legal status of the Alliance from its member cities. This action is not expected to significantly impact the City's fee to the Alliance. No staffing changes are required or anticipated. There will be small administrative costs, shared by all members, for routine tax status and report filing, the keeping of separate books and accounts, and for a separate state audit. Sufficient budget authority exists to cover these costs in 2014, and will be included in the 2015-2016 budget process.

STAFF CONTACT

Toni Cramer, Chief Information Officer, 452-2972
Rick Berman, Assistant Director, 452-4890
Information Technology Department

POLICY CONSIDERATION

Shall the City Council approve an amended and restated Interlocal Agreement ("ILA"), and related Articles of Incorporation, to reorganize the eCityGov Alliance ("Alliance") as a separate legal entity (specifically, a nonprofit corporation), while retaining the current governance structure, and making certain other updates and changes to the current Alliance ILA?

BACKGROUND

The Alliance was founded in 2002 by the City of Bellevue and eight other partner cities for the purpose of developing, owning, operating and maintaining customer centric, web service portals to improve customer service and lower operational costs.

The Alliance was originally formed as a joint board comprised of the cities of Bellevue, Bothell, Issaquah, Kenmore, Kirkland, Mercer Island, Sammamish, Snoqualmie and Woodinville. All those cities remain Alliance partners. In addition, there are several dozen agencies, both public and private, that subscribe to various Alliance services.

The Alliance currently provides and maintains six online programs and services:

- MyBuildingPermit.com
- MyParksandRecreation.com
- NWMaps.net
- NWProperty.net
- SharedProcurementPortal.com
- GovJobsToday.com

The ILA was amended in 2005 and states in part that “The Agency shall be created as a separate legal entity as authorized by RCW 39.34.030.” The current Alliance ILA explicitly envisions the Alliance as a separate legal entity; however, it does not clearly identify the type of separate legal entity. In order to provide clarity, the ILA should be amended and restated. In addition, by amending and restating the ILA the original intent that the Alliance own the intellectual property associated with its programs and services will be made more explicit thus avoiding confusion while providing legal protections to member and subscriber agencies. In addition the new ILA will clarify a number of operational and other issues. The basic governance structures and current staffing structures will remain unchanged.

Although the Alliance was intended to operate as a separate legal entity, since the original formation the type of entity was never formally documented. Since 2005, legal thinking has evolved about which form of “separate legal entity” status is most appropriate and how such entity status should be documented. There are a handful of options to accomplish this under the Interlocal Cooperation Act (Ch. 39.34 RCW); however, the nonprofit corporation form provides clarity in terms of decision making, flexibility to operate, and good legal protection to member cities. This corporate structure has been used by groups of municipalities many times in King County and around the state. Most recently, the City approved an interlocal agreement creating a separate non-profit entity to manage a shared B&O tax reporting portal.

The authorized scope of services that the Alliance will provide remains essentially as is in place today. In addition, the composition of the Board—one member from each city that is party to the ILA—remains unchanged.

So what is different, in addition to formalizing the legal entity status? The Executive Board is recommending several adjustments and updates to the ILA. There are also some changes required by the state nonprofit corporation law (Ch. 24.06 RCW). The Executive Board-initiated changes include:

- (1) Clarifying the wording around the principles and purposes of the Alliance.
- (2) Moving to a two-prong supermajority vote structure for certain items, including expansion of programs offered, selecting the Fiscal Agent, or adding new “Principals” (Principals are parties to the new ILA and have a seat on the Executive Board). A Supermajority Vote requires approval of not less than 66% in number of board members and 66% in Weighted Vote. Weighted Votes are based on population. (Under the Original Agreement, all voting is weighted by population and there is no supermajority requirement.)
- (3) Clarifying that persons serving on the Executive Board must be the appointing agency’s chief executive officer, or their deputy or equivalent.

- (4) Making it possible for municipal corporations other than cities to join as Principals (provided there are readily available reports on their population);
- (5) Clarifying the budget approval process;
- (6) Clarifying that the Executive Director reports to the Board, not the supporting Operations Committee;
- (7) Clarifying the provisions relating to ownership and use of intellectual property of the Alliance (all Principals have license rights to all the intellectual property) and how that property is distributed upon termination of the ILA;
- (8) Allowing the ILA to be amended by supermajority vote of the Executive Board in certain minor situations;
- (9) Updating the "boilerplate" sections of the ILA.

The nonprofit corporation act under which the Alliance is being reorganized also requires certain changes, most notably: the termination, merger or consolidation of the agency, or sale of all or nearly all of its assets requires a supermajority vote, as does amending the Articles of Incorporation. One of the formal steps to reorganize the Alliance as a nonprofit corporation is the filing of Articles of Incorporation with the Washington Secretary of State. The Articles must be approved by each City Council that is party to the ILA.

The Alliance Executive Board has been working with a consultant and legal team on this effort for the last year. The eCityGov Alliance Executive Board recommends approval of the Interlocal Agreement and related Articles of Incorporation

EFFECTIVE DATE

If approved, this Resolution becomes effective immediately upon Council adoption.

OPTIONS

1. Approve the Amended and Restated Interlocal Agreement and the related Articles of Incorporation.
2. Direct amendments to the proposed Interlocal Agreement or seek further information.
3. Reject the proposal and retain the Alliance in its current joint board structure and direct staff to conform Alliance's activities to match that structure, including identifying a Principal to serve as Administering Agency for the Alliance.

RECOMMENDATION

Approve the proposed Interlocal Agreement and Articles of Incorporation.

MOTION

Move to adopt Resolution No. 8689 authorizing execution of the Amended and Restated Interlocal Agreement with the eCityGov Alliance and the related Articles of Incorporation.