

City of Blaine
Request for Council Action
Meeting Date: October 24, 2022

Subject: A Request to City Council to Authorize the City Manager to Sign the Interlocal Agreement between Whatcom County and the City Blaine Concerning Procedures for Amending the County Wide Planning Policies

Department: City Manager

Prepared By: _____
(Digital Signature)

Agenda Location: Consent Agenda Council Action Unfinished Business

Action Needed:

The City Manager requests authorization from the City Council to sign the Interlocal Agreement between Whatcom County and the City of Blaine as it applies to procedures for amending the County Wide Planning Policies (“the CWPPs”).

Attachments:

1. Memo from Matt Aamot to the Whatcom County Executive and Whatcom County Council, dated September 14, 2022.
 2. Draft Interlocal Agreement, approved by the Whatcom County Council’s Committee of the Whole (COTW) on September 27, 2022.
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Background/Summary:

Whatcom County’s Comprehensive Plan contains County Wide Planning Policies (CWPPs) that serve as the framework for developing city and county comprehensive plans that are consistent.¹ **Attachment 1** provides information on the regulatory background of the CWPPs. On March 9, 2020, the Blaine City Council authorized the City Manager to enter into an interlocal agreement to provide interim procedures for amending the CWPPs.² **Attachment 2** is the draft interlocal agreement that will replace the 2020 interim agreement.

On September 27, 2022, the [Whatcom County Council Committee of the Whole](#) reviewed the proposed agreement (**Attachment 2**) and unanimously approved the updated draft. Subsequent to the Cities ratifying the agreement, the County will take the agreement back to County Council for a public hearing and authorize the County Executive to sign the Interlocal.

¹ RCWs 36.70A.040(4) and 36.70A.210.

² The agreement was also entered into by the County and all of the other cities in the County.

Budget Implications: Current Budget New Budget Request Non-Budgetary

Recommendation:

The City Manager respectfully requests that you authorize him to sign the interlocal agreement between Whatcom County and the City of Blaine as it applies to amending the County Wide Planning Policies (CWPPs).

Reviewed By:

City Manager _____ Finance Director _____ City Clerk _____
(Digital Signature) (Digital Signature) (Digital Signature)

WHATCOM COUNTY

Planning & Development Services
 5280 Northwest Drive
 Bellingham, WA 98226-9097
 360-778-5900, TTY 800-833-6384
 360-778-5901 Fax



Mark Personius
 Director

ATTACHMENT 1

Memorandum

September 14, 2022

TO: The Honorable Satpal Sidhu, Whatcom County Executive
 The Honorable Whatcom County Council

FROM: Matt Aamot, Senior Planner

THROUGH: Steve Roberge, Assistant Director

RE: Interlocal Agreement - Countywide Planning Policies Amendment
 Procedures

The Growth Management Act (GMA) required the County to adopt countywide planning policies in cooperation with the cities (RCW 36.70A.040(4) and RCW 36.70A.210). Countywide planning policies establish a framework for developing city and county comprehensive plans and ensuring these plans are consistent. The County Council originally adopted countywide planning policies in 1993 and amended these policies in 1997, 2005, and 2021.

As the City/County Planner Group discussed the GMA requirement to amend the countywide planning policies in association with the Buildable Lands Program, we came to the conclusion that we needed to establish an interim procedure for making countywide planning policy amendments. The Group established a subcommittee that reviewed other jurisdictions' procedures for countywide planning policy amendments, drafted a proposed interlocal agreement, and brought it back to the City/County Planner Group for consideration.

The County Council's Special Committee of the Whole (SCOTW) met on September 10, 2019 and January 28, 2020 to discuss the draft interim interlocal agreement. The SCOTW approved a motion to accept the proposed Interlocal on February 11, 2020 (7-0 vote). All 7 cities signed the Interim Interlocal Agreement. After County Council authorization, the Executive signed the Interim Interlocal Agreement on July 14, 2020 (Whatcom County Contract No. [202007014](#)).

The City/County Planner Group is now proposing a long-term Interlocal Agreement establishing procedures for amending countywide planning policies, to replace the Interim Interlocal Agreement. Main differences between the approved Interim Interlocal Agreement and the proposed long-term Interlocal Agreement include changes to the following sections:

- Tribal and Federal Agency Participation (Section 1.3) – A new section was added relating to inviting the Lummi Nation, Nooksack Tribe, and appropriate federal agencies to participate in and cooperate with the countywide planning

policy amendment process in accordance with RCW 36.70A.210(4). This new section was added in response to Substitute House Bill 1717 that was passed by the State Legislature and signed by the Governor in 2022.

- Recommendation (Section 1.4) – A clause was removed that essentially allowed the City/County Planner Group to stop a Countywide Planning Policy amendment from going forward (unless overruled by the County Executive and majority of mayors). Under the current proposal, if the City/County Planner Group recommends denial of an amendment, it will still proceed for review by the County Planning Commission and County Council. A timeframe was added that the County Planning Director must refer proposed CWPP amendments to the City/County Planner Group *within 10 days*. Finally, the option for City/County Planner Group members to vote by email was removed (with ZOOM or hybrid meetings, this would typically not be necessary).
- Ratified Amendments (Section 1.10) – A clause was added to ratification method A that at least 50% of the total jurisdictions must vote for the amendments (so that a minority of jurisdictions could not impose new CWPPs on the majority of jurisdictions).
- Effective Date, Duration and Termination (Section 2) – The proposal is a long-term Interlocal Agreement that would be valid through December 31, 2032. The existing Interim Interlocal Agreement is set to expire in 2024 or when new CWPP amendment procedures are adopted, whichever comes first.
- Termination of Interim Procedures (Section 3) – Explicitly terminates the Interim Interlocal Agreement, as it is being replaced by the proposed long-term Interlocal Agreement.

Section 1.10 of the proposed long-term Interlocal Agreement provides two methods to ratify countywide planning policy amendments. In order to become effective, the amendments would have to be approved by:

- Method 1 - Jurisdictions (the County and cities) representing at least 85% of the total population of Whatcom County and at least 50 percent of the total number of jurisdictions; **or**
- Method 2 - At least 75% of the jurisdictions, provided that Whatcom County must be one of the jurisdictions to approve the amendments (i.e., the County and at least 5 of the 7 existing cities).

Under method 1, the County, the City of Bellingham and two or more small cities (depending on population) would need to approve a countywide planning policy amendment. Disapproval by the County, the City of Bellingham, or a coalition of small cities would prevent the countywide planning policies from being ratified

under this method. However, there is a second method under which countywide planning policies could be ratified.

Under method 2, the County and at least 5 of the seven cities would need to approve a countywide planning policy amendment. Disapproval by the County or a coalition of three cities would prevent the countywide planning policies from being ratified *under this method.*

The chart below shows the different possible routes to ratification. For the amendments to become effective, ratification is only required under method 1 or method 2. Additionally, Whatcom County is the only jurisdiction that must approve the countywide planning policies amendments in every scenario.

Approval by	Ratification under Method 1?	Ratification under Method 2?	Bellingham's Approval Required?	% of County Population Represented
County, Bellingham, and 2 or 3 small cities	Yes (except if the cities are the smallest ones)	No	Yes	85%
County, Bellingham, and 4 small cities	Yes	Yes	Yes	86%
County and 5 small cities	No	Yes	No	53%

NOTE: The "% of County Population Represented" is the minimum percentage of the countywide population represented by the jurisdictions approving the amendments. For purposes of this chart, the County represents the unincorporated population, which is approximately 41% of the countywide population. Bellingham has about 40% of the countywide population. These percentages are from the 2020 Census.

On September 27, Planning and Development Services would like to provide an overview of the proposed Interlocal Agreement and ask the County Council to identify any concerns prior to review by the seven city councils. After approval by the city councils, we will bring the interlocal agreement back to the County Council to hold a public hearing and vote to authorize the Executive to sign the Interlocal Agreement.

Thank you for your review and consideration of the proposed Interlocal Agreement between Whatcom County and the cities.

INTERLOCAL AGREEMENT
BETWEEN
WHATCOM COUNTY AND THE CITIES OF BELLINGHAM,
BLAINE, EVERSON, FERNDALE, LYNDEN, NOOKSACK, AND SUMAS
CONCERNING PROCEDURES FOR AMENDING THE
COUNTYWIDE PLANNING POLICIES

This agreement is made by and between Whatcom County (herein after referred to as the “County”) and the Cities of Bellingham, Blaine, Everson, Ferndale, Lynden, Nooksack, and Sumas (herein after referred to as the “Cities”).

WHEREAS, the Growth Management Act (GMA) required the County to adopt countywide planning policies in cooperation with the Cities (RCW 36.70A.040(4) and RCW 36.70A.210); and

WHEREAS, the GMA states countywide planning policies are used “. . . solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent . . .” (RCW 36.70A.210(1)); and

WHEREAS, the County Council adopted the original countywide planning policies in April 1993 (Resolution 93-024); and

WHEREAS, the County Council amended the countywide planning policies in March 1997 (Resolution 97-011); and

WHEREAS, the County Council amended the countywide planning policies in January 2005 (Ordinance 2005-022); and

WHEREAS, the County Council amended the countywide planning policies in February 2021 (Ordinance 2021-003); and

WHEREAS, the County and the cities entered into an interlocal agreement containing interim procedures for amending the countywide planning policies in 2020 (Whatcom County Contract No. 202007014); and

WHEREAS, cooperative relationships and coordination between the County and Cities are mutually beneficial; and

WHEREAS, the Cities and County desire to agree on procedures for amending the countywide planning policies in this interlocal agreement; and

Draft (September 2022)

WHEREAS, the Cities and County find that establishing procedures for amending the Countywide Planning Policies is in the public interest and will further the goals of the GMA; and

NOW, THEREFORE, subject to the terms and conditions contained herein, the Cities and County agree as follows:

Section 1. Procedures for Amending the Countywide Planning Policies

The Cities and the County agree to the following procedures for amending the countywide planning policies:

1. **Authority to Initiate Amendment** – Any of the following may initiate a proposed amendment to the Countywide Planning Policies by submitting a written proposal to the County Planning Director:
 - a. The Whatcom County Executive;
 - b. The Whatcom County Council;
 - c. Any City Council;
 - d. Any City Mayor.
2. **Required Information** - The proposed amendment shall include:
 - a. The language of the proposed amendment shown with underlining and strikethroughs.
 - b. An explanation of the need for the proposed amendment. This may include, as appropriate, the factors, changed conditions, data, analysis, and/or experience with existing countywide planning policies that show a need for the proposed amendment.

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3. **Tribal and Federal Agency Participation** - The County Planning Director will invite the Lummi Nation, Nooksack Tribe, and appropriate federal agencies to participate in and cooperate with the countywide planning policy amendment process in accordance with RCW 36.70A.210(4). The City/County Planner Group will identify appropriate federal agencies to invite.
4. **Recommendation** - Within 10 days, the County Planning Director shall refer proposed amendments to the City/County Planner Group, which shall be comprised of the planning directors or designees from the County and each of the seven Cities. The City/County Planner Group will review and issue recommendations on the proposed amendments as follows:
 - a. The City/County Planner Group will strive to reach consensus but if consensus cannot be reached, recommendations will be by majority vote of the eight jurisdictions (the County and seven cities).
 - b. The City/County Planner Group's recommendations will be issued within 180 days of receiving the proposed amendments. The process of forming recommendations will allow time, within this 180-day period, for individual jurisdictions to consult with their respective planning commissions and/or elected officials, at the discretion of each jurisdiction. The 180-day time period may be extended by 90 days by majority vote of the eight jurisdictions
5. **SEPA** – Whatcom County will conduct SEPA review, if required, on the recommended Countywide Planning Policy amendments.
6. **Whatcom County Planning Commission Review** – The Whatcom County Planning Commission will hold a public hearing and issue recommendations on the proposed countywide planning policy amendments. City planners will be invited to the hearing.
7. **Whatcom County Council Review** – The County Council will invite County and City planners to a committee of the whole meeting to discuss the proposed countywide planning policy amendments. The County Council's committee of the whole will take a vote whether or not to send final draft countywide planning policy amendments to the cities for review and approval.

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8. **City Approval Process** – The respective city legislative authorities must act upon final draft countywide planning policy amendments within 90 days of the County Council vote to send the amendments to the cities for review and approval.

City approval means a vote by the legislative authority to approve or disapprove the countywide planning policy amendments (up or down vote). Final draft countywide planning policy amendments may not be modified during the city approval process.

If a city does not notify the County Planning Director of the action taken within the 90-day period, that city shall be deemed to have approved the amendments.

9. **Whatcom County Council Adoption** – Following approval of the countywide planning policy amendments by the cities under subsection 8 above, the County Council may, after conducting a public hearing, adopt the countywide planning policy amendments. Final draft countywide planning policy amendments may not be modified during the County Council adoption process.

10. **Ratified Amendments** - In order to become effective, countywide planning policy amendments must be approved (pursuant to subsections 8 and 9 above) by:

- a. Jurisdictions (the County and cities) representing at least 85% of the total population of Whatcom County and at least 50 percent of the total number of jurisdictions; or
- b. At least 75% of the total number of jurisdictions, provided that Whatcom County must be one of the jurisdictions to approve the amendments (i.e., the County and at least 5 of the 7 existing cities).

11. **Notification of Ratified Amendments** - The County Planning Director shall notify the Cities and the Governor's office in writing within fourteen (14) days of County Council adoption of the countywide planning policies, as set forth in subsection 9 above.

Draft (September 2022)

Section 2. Effective Date, Duration and Termination

This interlocal agreement shall be effective upon signature by the Mayor and/or City Manager of each of the seven Cities and the Whatcom County Executive. This interlocal agreement shall remain in effect until December 31, 2032, unless modified or terminated by written agreement of all of the parties.

Section 3. Termination of Interim Procedures

The County and the Cities agree that the interlocal agreement containing interim procedures for amending the countywide planning policies in 2020 (Whatcom County Contract No. 202007014) will terminate on the effective date of this interlocal agreement.

Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF BELLINGHAM

By _____
Seth Fleetwood, Mayor

Date _____

Approved as to form:
Office of the City Attorney

Draft (September 2022)

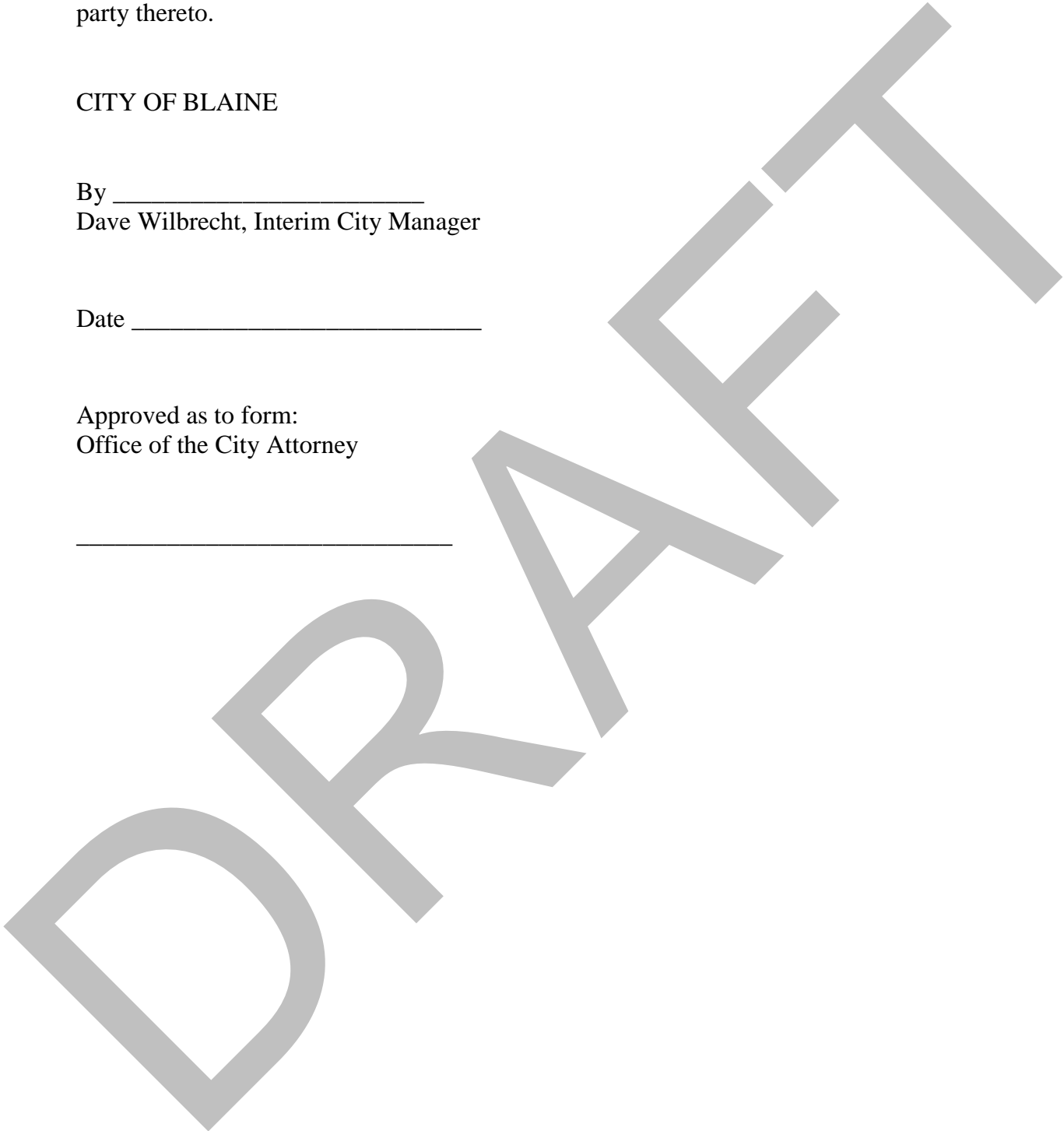
Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF BLAINE

By _____
Dave Wilbrecht, Interim City Manager

Date _____

Approved as to form:
Office of the City Attorney



Draft (September 2022)

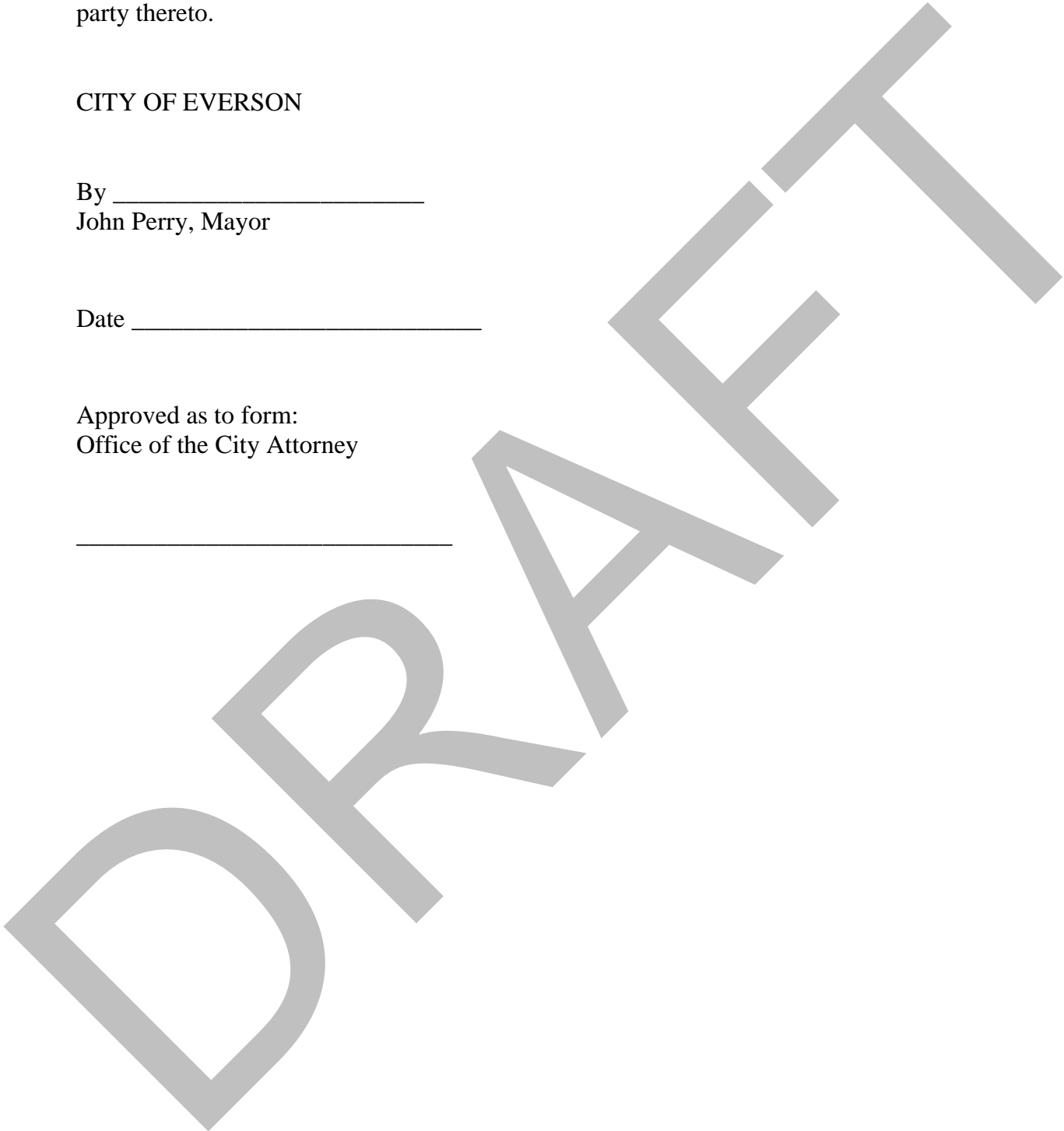
Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF EVERSON

By _____
John Perry, Mayor

Date _____

Approved as to form:
Office of the City Attorney



Draft (September 2022)

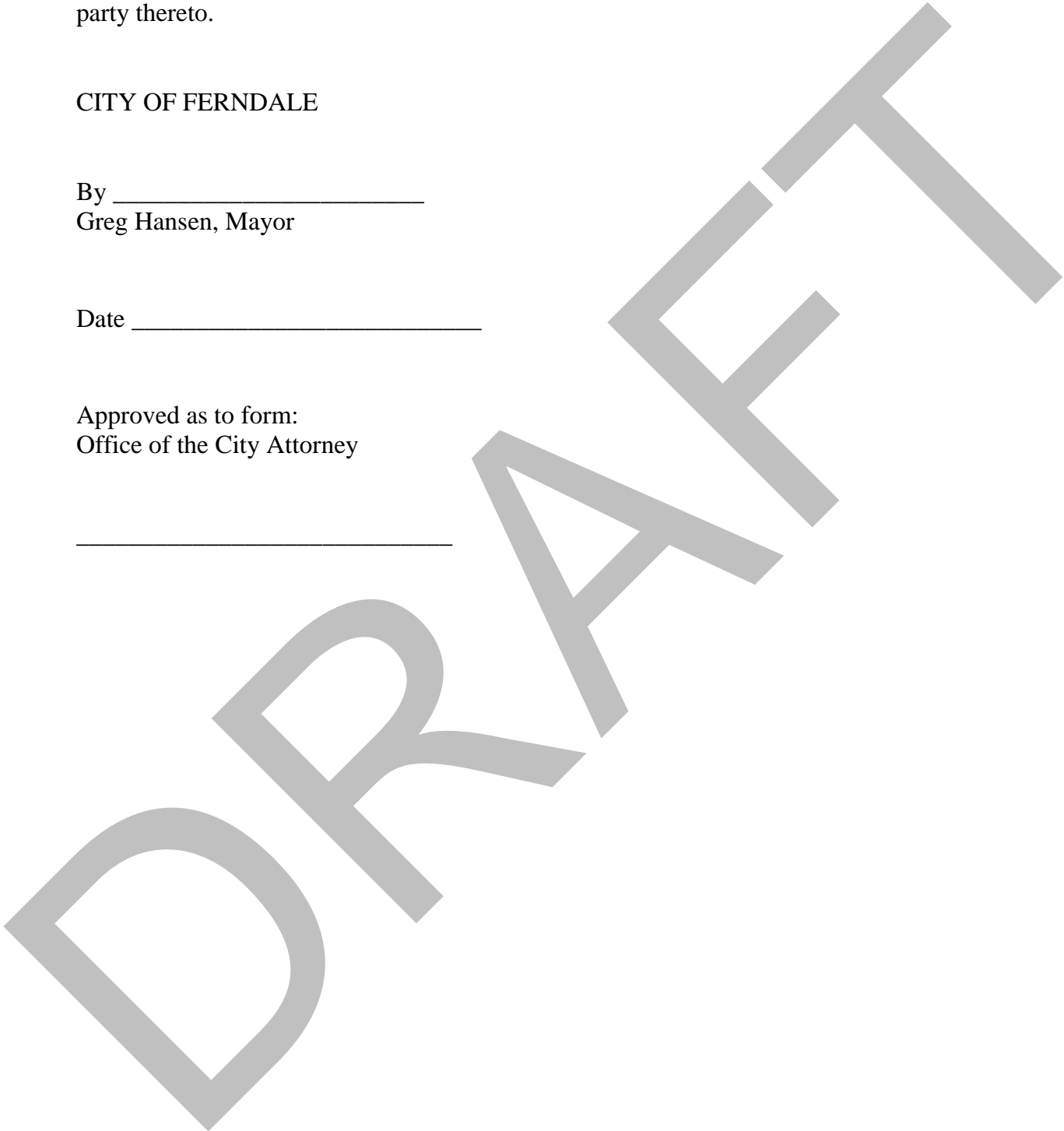
Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF FERNDALE

By _____
Greg Hansen, Mayor

Date _____

Approved as to form:
Office of the City Attorney



Draft (September 2022)

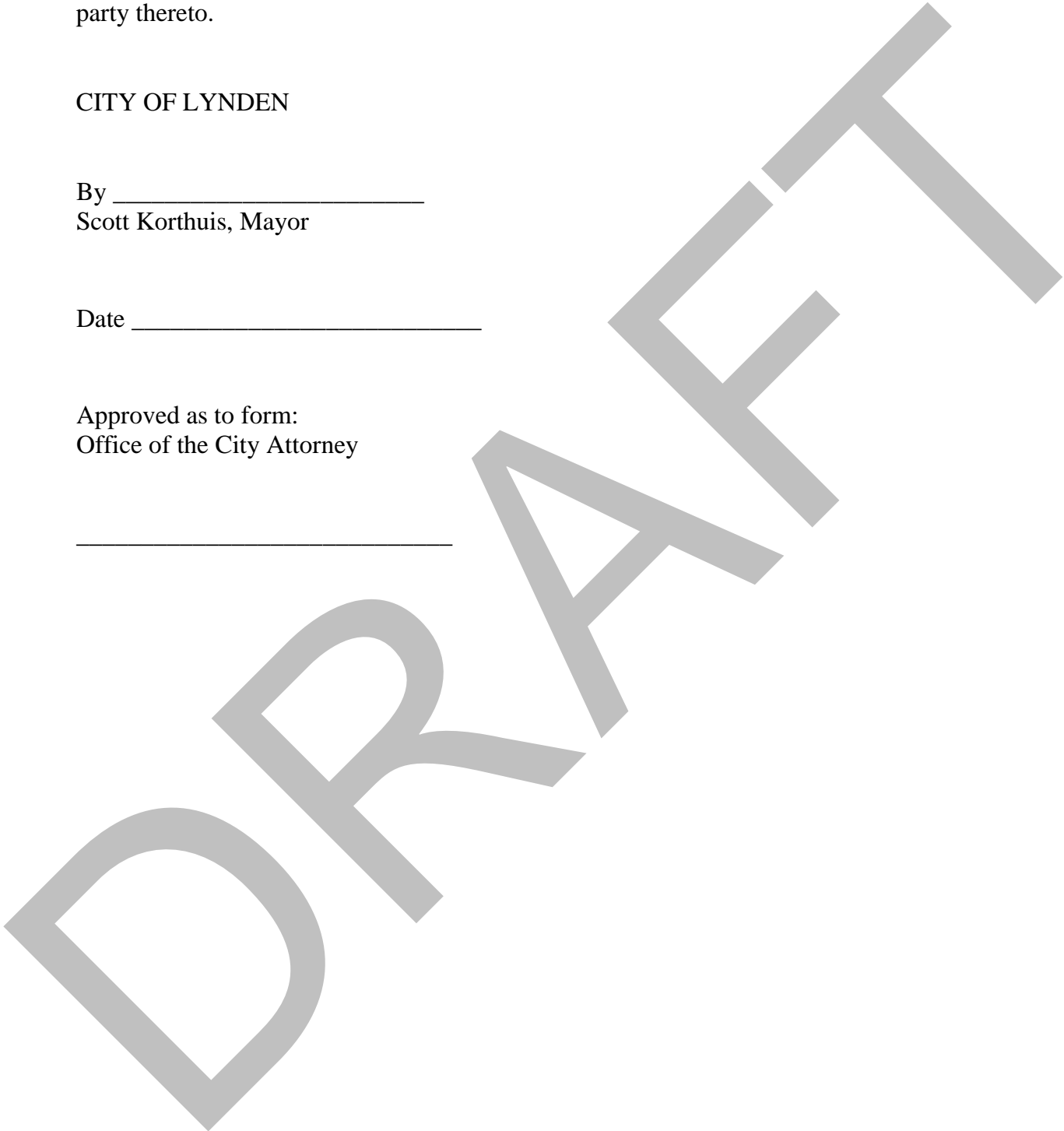
Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF LYNDEN

By _____
Scott Korthuis, Mayor

Date _____

Approved as to form:
Office of the City Attorney



Draft (September 2022)

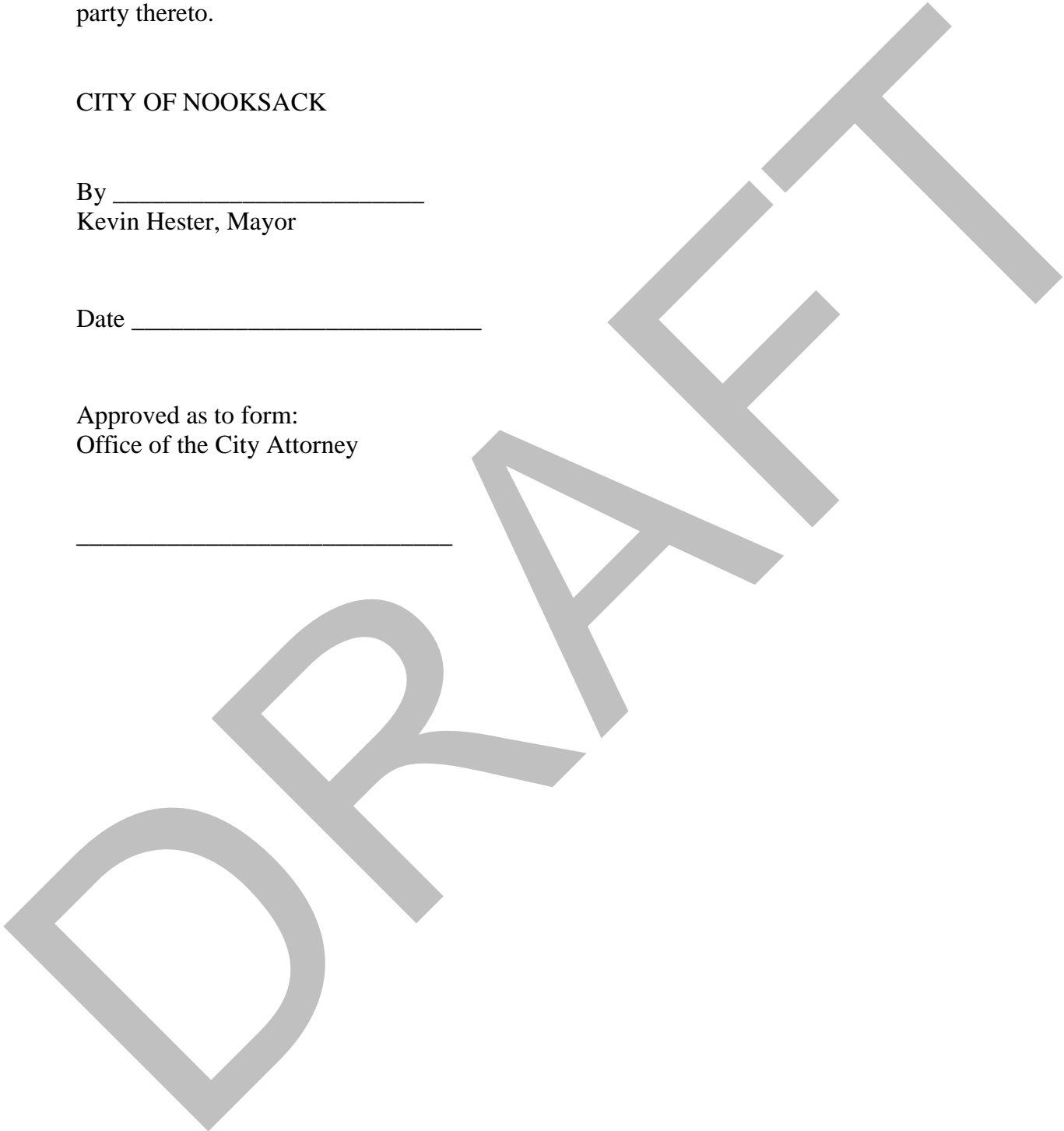
Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF NOOKSACK

By _____
Kevin Hester, Mayor

Date _____

Approved as to form:
Office of the City Attorney



Draft (September 2022)

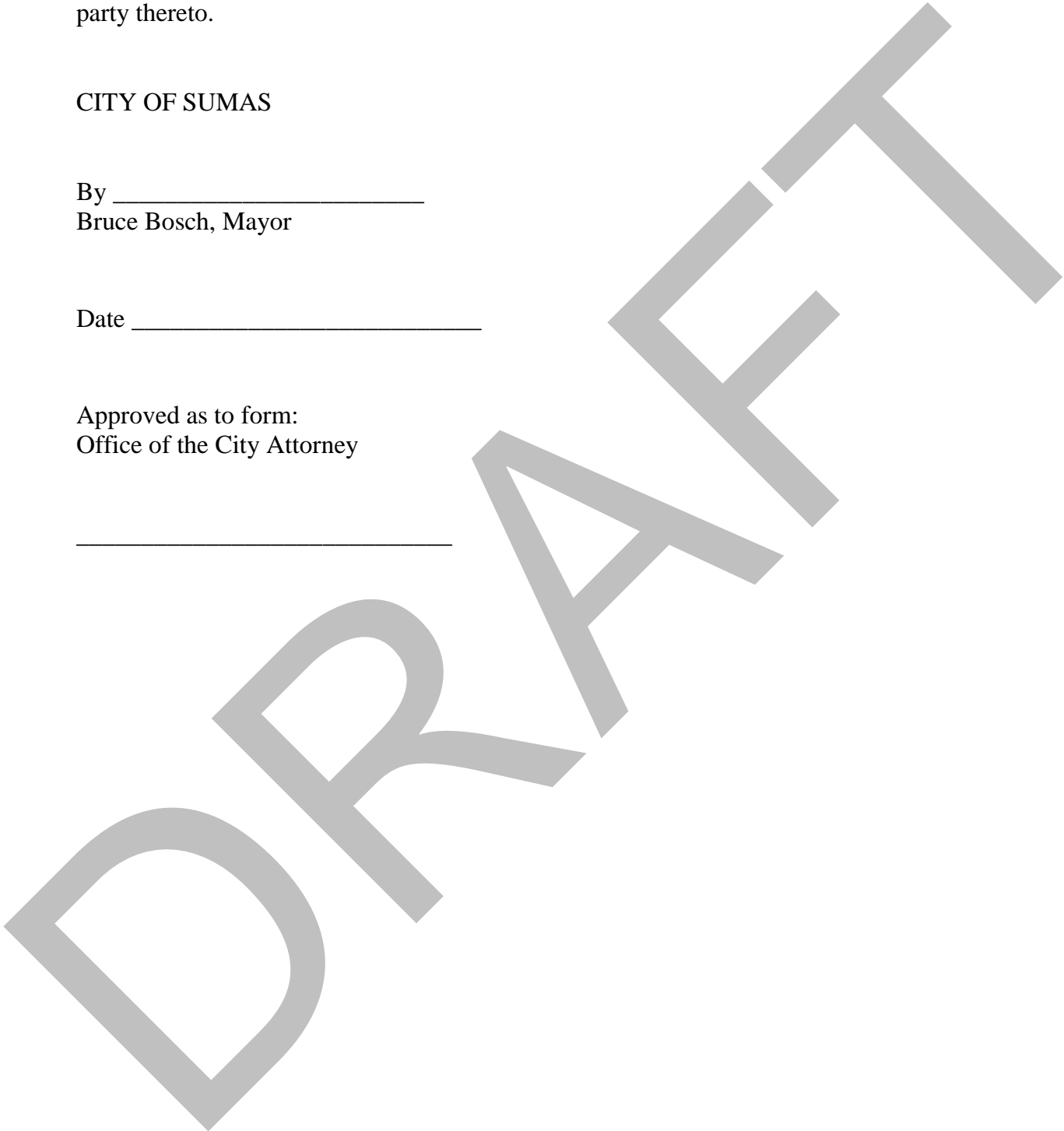
Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF SUMAS

By _____
Bruce Bosch, Mayor

Date _____

Approved as to form:
Office of the City Attorney



Draft (September 2022)

Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

WHATCOM COUNTY

By _____
Satpal Sidhu, County Executive

Date _____

Approved as to form:
Whatcom County Prosecutor

