Next Ord: 1696-11
Next Res: 839-11

VISION STATEMENT

SEDRO-WOOLLEY IS A FRIENDLY CITY THAT IS CHARACTERIZED BY CITY GOVERNMENT AND CITIZENS WORKING TOGETHER TO ACHIEVE A PROSPEROUS, VIBRANT AND SAFE COMMUNITY

MISSION STATEMENT

TO PROVIDE SERVICES AND OPPORTUNITIES WHICH CREATE A COMMUNITY WHERE PEOPLE CHOOSE TO LIVE, WORK AND PLAY

# CITY COUNCIL AGENDA

**February 9, 2011**
**7:00 PM**
**Sedro-Woolley Municipal Building**
**Council Chambers**
**325 Metcalf Street**

1. Call to Order
2. Pledge of Allegiance
3. Consent Calendar

NOTE: Agenda items on the Consent Calendar are considered routine in nature and may be adopted by the council by a single motion, unless any Councilmember wishes an item to be removed. The Council on the regular agenda will consider any item so removed after the Consent Calendar.

a. Minutes from Previous Meeting (Including February 1, 2011 Work Session)
b. Finance
   - Claim Checks #71328 to # 71441 in the amount of $122,040.79.
   - Payroll Checks #49669 to #49772 in the amount of $251,084.50.
c. Misc. Annual Contracts/Agreements
   1. Loggerodeo, Inc.
   2. Sedro-Woolley Chamber of Commerce
   3. Skagit Valley Tulip Festival
   4. Sedro-Woolley Riding Club
   5. Sedro-Woolley Farmers Market
   6. Sedro-Woolley Museum
   7. Sedro-Woolley Rotary (Concert Series)
d. Grant Agreement between Northwest Clean Air Agency and the City of Sedro-Woolley
e. Possible Bid Award - Public Works Agreement No. 2011-PW-02 - Safety Tree Service
f. Professional Service Agreements No. 2011-PS-02 through 7, 9, and 10 for Miscellaneous On-Call Professional Services
g. Possible Bid Award - Public Works Agreement Nos. 2011-PW-03 through 05 - On-Call Construction Services
h. Possible Bid Award - Public Works Agreement No. 2011-PW-13 - 2011 Library Furnace Replacement
i. Possible Bid Award - Public Works Agreement No. 2011-PW-14 - 2011 Library Insulation Project

4. Public Comment (Limited to 3-5 minutes)

**UNFINISHED BUSINESS**

5. Ordinance - Proposed modification to Municipal Code to regulate new alcohol serving establishments (bars) in the Central Business District *(2nd reading- action requested)*

(continued)

6. Ordinance - Proposed modification to Municipal Code regarding the keeping of chickens, ducks, bees and small non-hoofed animals *(2nd reading- action requested)*
7. Ordinance - Updating Sedro-Woolley Municipal Code (SWMC) Title 9 *(3rd reading- action requested)*

**NEW BUSINESS**

8. Parks Memorial Tree Program *(1st reading)*
9. Council Meeting Schedule *(discussion only)*

**COMMITTEE REPORTS AND REPORTS FROM OFFICERS**

*There may be an Executive Session immediately preceding, during or following the meeting.*

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 1-3

DATE: February 9, 2011

TO: Mayor Anderson and City Council

FROM: Patsy Nelson, Finance Director

SUBJECT: 1) CALL TO ORDER; 2) PLEDGE OF ALLEGIANCE; 3) CONSENT CALENDAR

1. CALL TO ORDER - The Mayor will call the February 9, 2011 Regular Meeting to Order. The Finance Director will note those in attendance and those absent.

   ____ Ward 1 Councilmember Ted Meamber

   ____ Ward 2 Councilmember Tony Splane

   ____ Ward 3 Councilmember Thomas Storrs

   ____ Ward 4 Councilmember Keith Wagoner

   ____ Ward 5 Councilmember Hugh Galbraith

   ____ Ward 6 Councilmember Rick Lemley

   ____ At-Large Councilmember Brett Sandström

2. PLEDGE OF ALLEGIANCE - The Mayor will lead the City Council and citizens in the Pledge of Allegiance to the United States of America.

3. CONSENT CALENDAR - Mayor will ask for Council approval of Consent Calendar items.

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3a

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CITY OF SEDRO-WOOLLEY

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Regular Meeting of the City Council
January 26, 2011 – 7:00 P.M. –City Hall Council Chambers

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Ted Meamber, Tony Splane, Tom Storrs. Hugh Galbraith, Rick Lemley and Brett Sandström. Staff: Recorder Brue, Finance Director Nelson, City Supervisor/Attorney Berg, Engineer Freiberger, Planner Moore, Fire Chief Klinger and Police Chief Wood.

The Meeting was called to order at 7:00 P.M.

Pledge of Allegiance

Consent Calendar

- Minutes from Previous Meeting
- Finance
  - Claim Checks #71187 to #71256 in the amount of $170,951.49
  - Claim Checks #71186 and #71257 to #71327 in the amount of $67,801.84
  - Payroll Checks #49567 to #49668 in the amount of $174,985.65
- Interlocal Agreement with Skagit County for reimbursement of the city for work performed by City forces for the County
- Agreement for medical services with Skagit Public Hospital District No. 1

Councilmember Lemley moved to approve the consent calendar A through D. Seconded by Councilmember Meamber. Motion carried (6-0).

Public Comment

Rick Judd – speaking on behalf of the Helping Hands Food Bank gave a special presentation to Terry Carter, Sr. for his many of years of service and the legacy left to the Helping Hands Food Bank.

Mayor Anderson displayed a certificate of appreciation presented to the City from the Helping Hands Food Bank at their grand opening earlier in the day.

**NEW BUSINESS**

Proposed Modification to Municipal Code to Regulate New Alcohol Serving Establishments (bars) in the Central Business District

Planner Moore reviewed the proposed modifications to the Municipal Code. The modifications come as a result of comments received from numerous citizens and business owners. The comments received were in the form of letters, verbal comments

and statements during the comment period at Council meetings as well as a signed petition. He noted the proposed ordinance adds a definition of alcohol serving establishments and requires a conditional use within the Central Business District (CBD) and is recommended for approval by the Planning Commission. No action is anticipated until the next meeting as this is a first read.

Discussion was held on the public input process. Moore noted the required public hearings have been held at the Planning Commission level however, Council may choose to allow more public comment from audience members.

Kevin Dykstra – stated he and his wife are in the process of looking into opening a brew pub either in Sedro-Woolley or Burlington and questioned how this would affect them.

Planner Moore reviewed the definition of a conditional use permit which includes a formal hearing by a Hearing Examiner. The Hearing Examiner analyzes the use within the comprehensive plan and zoning code, a public hearing is held and the decision made. The Hearing Examiner process provides an extra level of review.

City Supervisor/Attorney Berg reviewed the definition for an alcohol serving establishment.

Jennifer Eldred – 437 Warner St., also a member of the Planning Commission and a local business owner addressed the Council. She listed numerous items she has had to pick up prior to being able to open her business for daily operations. She also addressed the stench of urine smell in alley. Both believed to be a result of nearby bars. Eldred stated the Planning Commission hotly debated the topic prior to making their recommendations. She also addressed patrol issues and balancing free business and the reputation of the community.

Brad Anderson – 27185 Hoehn Rd., representing the Castle, addressed the Council. He noted the bars close at 2:00 P.M. and spoke of the number of juveniles out at that time of night and believes that they are the cause of a lot of the problems. He also spoke of businesses being dark at night which entices vagrants and suggested businesses light their entrances in order to deter vandalism. Anderson also questioned the public process and the petition. He noted the bar owners are merchants just like other businesses and also addressed the presence of bouncers, security and camera within the establishments. The patrons are regulated while in the bars but once outside the owner can't control the actions.

Larry Bragg – 2433 McKendree Ln., stated he has seen problems of over serving and buildings overextended with crowds and the Police officers not dealing with issue due to crowd. He stated he would like to see the Police get tough in handling infractions and also pointed out the business causing most of the issues has now closed.

Michelle Anderson – 700 N. Reed #51 – a resident of Sedro-Woolley for over 54 years and a businesswoman in almost every bar in town for about 34 years. She addressed

knowledge of the problems and would like to see more aggressive enforcement happen by liquor control board. Anderson also addressed the need for more training of wait staff.

Elizabeth Fernando – 805 B Metcalf, owner of Simply Silver, noted she did sign petition but also is not sure if regulation will be the answer. She said she has made a point to get to know business owners in town through her roll in the Chamber of Commerce and her conversations have been positive with a spirit of cooperation. She addressed the need to create good will in order to make progress.

Eva Arragon – 721 N. Reed, addressed spirit of cooperation noting the big problem between 3 p.m. to 2 a.m. is not necessarily what is going on inside bar but outside. She noted with passage of the no smoking law it has caused the issues. She suggested each bar have a smoking area perhaps behind the business or designated area off the main street.

Lisa Meiers – 109 Ferry Street, owner of the Overflow stated she feels everything is being lumped together. She noted that some bar owners are very responsible with keeping an eye on customers and cleaning up outside their business. She also stated it is not necessarily the bars creating the problem but the kids around town and addressed the need for better Police patrol in the middle of night and the need for the liquor control board to hold meetings as in the past. Meiers also stated the bars should communicate with each other. She then addressed the smoking issue and noted there can't be different rules for different businesses.

Councilmember Lemley questioned with the closure of a certain establishment. It was noted that many of the problems had been rectified since that closure.

Brad Anderson – again to the podium, questioned smoking in alley and whether retracting canopies could be placed on the sides of the building to move the people to the alley.

Discussion ensued regarding closure of alleys and safety and emergency access.

Troy Erwin – 124 N. Reed, expressed concern on the conditional use permit process and the ability of attracting new business as well as the public hearing process and the need to keep the cost reasonable.

Stephanie – bar manager at the Overflow, noted that the bar is not just a place for drinking but can be a social gathering place with many people drinking coffee and visiting with friends. She expressed concern with the elimination of bars it would eliminate jobs for people in town.

Mayor Anderson noted this is a first read with no action to be taken tonight and recommended Councilmember's consider the comments made and ask people around town their opinions.

Proposed modifications to Municipal Code regarding the keeping of chickens, ducks, bees and small non-hoofed animals

Planner Moore reviewed the proposed modification to the Municipal Code regarding the keeping of chickens and other specified animals. He noted the Planning Department has had numerous inquiries by citizens on the keeping of certain animals and had also received a petition. He reviewed current regulations and noted the Planning Commission held three public hearings. Some people are keeping such animals and this process will legitimize their actions. The proposed ordinance would create a new section under low intensity agriculture. He reviewed the proposed ordinance which addresses no roosters allowed, bee keeping, performance criteria and inspection. Moore stated no action is necessary as this is a first read only. The Planning Commission has unanimously approved for recommendation.

Eva Aragon – 721 N. Reed, spoke in support of the changes and stated she believe it to be important to expose kids to the responsibilities of owning farm animals. She also noted that when purchasing property one of the documents required to sign is a document noting living in an agricultural zone.

Council discussion took place to include the bee requirements, concern on the number of hives allowed, basis of ordinance modeled after another city, the safety of food and limiting small animal 4 – H projects to children living in the City.

Shawna Osborne –addressed the Council noting she no longer lives in Sedro-Woolley due to the limitations. She noted she is a rabbit breeder and addressed issues faced with the code enforcement department regarding her keeping of rabbits. She also noted there are over 100 participants in the Sedro-Woolley in the 4-H program. Osborne encouraged passage of the ordinance.

Further discussion ensued regarding the intention of the ordinance to cover outside animals.

Brad Anderson – again to the podium addressed concern of allowing beehives and suggested requiring the need for special insurance as you would have with potentially dangerous dogs.

## COMMITTEE REPORTS AND REPORTS FROM OFFICERS

Fire Station 2 Update

City Supervisor/Attorney Berg – noted the report in the packet is the final written report on Fire Station 2. The next step will be final acceptance of the project.

Police Chief Wood – requested Council authorize the Mayor to sign a mutual aid agreement with different police agencies. The agreement has been in place and renewed

year to year however, with a new sheriff at the helm a new agreement has been requested.

Councilmember Storrs moved to approve the mutual aid agreement between the County and all the Towns and Cities. Seconded by Councilmember Splane. Motion carried (6-0).

Fire Chief Klinger – pointed out the flyer on the upcoming Open House for Fire Station 2 to be held Wednesday, February 23rd.

Planner Moore – reminded Council that the end of the month is the deadline for any comp plan amendments. He noted he has not received any public requests but if Council has anything for consideration to notify him.

Engineer Freiberger – reminded Council of the upcoming public information meeting on Feb 1st on the SR 20 widening project being held prior to the Council worksession.

City Supervisor/Attorney Berg – reported that Councilmember Splane brought to the City's attention that in 2001 the state legislature passed a law mandating 100% bio-fuel usage by 2013. He stated he and Fire Chief Klinger went to Olympia and testified in favor of a bill for exempting Cities and Towns from usage.

Councilmember Lemley moved to adjourn. Seconded by all. Motion carried (6-0).

The meeting adjourned at 8:08 P.M.

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3a

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CITY OF SEDRO-WOOLLEY

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Council Worksession
February 1, 2011 – 7:00 P.M. – City Hall Council Chambers

The meeting was called to order at 7:02 P.M. by Mayor Anderson.

Pledge of Allegiance

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Ted Meamber, Tony Splane, Tom Storrs, Keith Wagoner, Rick Lemley and Brett Sandström. Staff: City Supervisor/Attorney Berg, Engineer Freiberger Others: Burlington Mayor Ed Brunz, Chal Martin, Scott Thomas, Kevin Rogerson and Dan O'Donnell.

- Chal Martin provided an overview of the FEMA flood mapping issues
- Scott Thomas and Kevin Rogerson provided an overview of the appeal process for seeking review of the new FEMA maps and discussed the attached document manual "FEMA Appeal Work Plan."
- Kevin Rogerson discussed the new scientific resolution panel and related process.
- City Supervisor/Attorney Berg requested Thomas and Rogerson to address the value and importance of having Sedro-Woolley join the appeal through the attached draft interlocal agreement.
- Rogerson discussed the importance of accurate hydrology and future flood protection measures.
- Engineer Freiberger asked about Skagit County's position. No one could address what the County would do with the FEMA map appeal. The County seems to be focused on the GI Study.
- Rogerson discussed the proposed interlocal in more detail.
- Dan O'Donnell commented on federal funding issues and the role of the county and the USGS.
- Councilmember Storrs discussed the City's responsibility to serve the community and stated his support for the interlocal with a $1000 contribution. Councilmember Meamber agreed.
- City Supervisor/Attorney Berg discussed the importance of accurate hydrology as it impacts future flood protection measures in Skagit County as a whole.
- Councilmember Meamber asked about the impact to Sedro-Woolley joining the appeal. Thomas talked about potential appeal to the Federal Court. City Supervisor/Attorney Berg noted paragraph 5 of the interlocal which allows the City to withdraw with 30 day notice.
- Councilmember Sandström commented on the positive tone and asked to be included in positive cooperative relationships in the future. He also agreed about possible negative impacts in Sedro-Woolley of future Burlington projects and asked about the BNSF Railroad Bridge at Burlington.

Councilmember Storrs moved to approve the interlocal agreement "An Interlocal Agreement Advancing the Community's Interests for Accurate Flood Mapping in the Skagit River Basin Supporting the cities of Burlington and Mount Vernon Commitment to Seed Review of FEMA Preliminary Flood Insurance Rate Maps". Seconded by Councilmember Meamber. Motion carried (6-0).

- A question about medical marijuana was asked and a discussion followed. It is a changing landscape under both State and Federal law. The Council expressed an interest in learning more in the future.

With no further business to discuss the worksession adjourned at 8:37 P.M.

# FEMA Appeal Work Plan

This public plan is a result of discussions and deliberation between the City of Mount Vernon and Burlington City Councils and Diking District Commissioners, Mayors, various City staff and outside engineering consultants.

It is the intention of this plan to provide to the public a thumbnail sketch of Federal Emergency Management Agency (FEMA) established procedures for administrative appeals and the technical efforts in how a joint proposed FEMA appeal would be conducted to seek administrative review of the ongoing scientific and technical issues and concerns raised by the above mentioned jurisdictions.

The plan has been given to the County as a part of promoting new ongoing communication among local jurisdictions about concerns in getting flood maps based on the most accurate science. The contracting authorities for the cities and those special purpose districts involved have yet to finalize an agreement that reflects how costs for such an appeal will be paid. It is anticipated such an agreement shall be reached shortly.

1. Review previously developed historical/technical record with consultants. Investigate further facts surrounding claims/potential claims regarding Food Insurance Study. Identify all technical appeal issues, and elements of all potential claims. Develop research plan (as appropriate).

2. Develop expert witness/consultant plan. Consult with expert witnesses regarding preparation of appeal documents. Complete development of factual record.

3. Develop specific techniques to achieve objectives. Continue to prepare appeal package.

4. Participate in pre-appeal discussions with local community and local jurisdictions including recognizing opportunities for joint efforts between the cities, Skagit County and other interested parties.

5. Review all locally submitted appeals per Federal Emergency Management Agency regulations and provide appropriate comment regarding merits of private appeals prior to forwarding to Federal Emergency Management Agency.

6. File completed appeal package.

7. Participate in community consultation with Federal Emergency Management Agency. Continue to participate in discussion with local community and other local jurisdictions.

THE

**AN INTERLOCAL AGREEMENT ADVANCING THE COMMUNITY'S INTERESTS FOR ACCURATE FLOOD MAPPING IN THE SKAGIT RIVER BASIN SUPPORTING CITIES OF BURLINGTON AND MOUNT VERNON COMMITMENT TO SEEK REVIEW OF FEMA PRELIMINARY FLOOD INSURANCE RATE MAPS**

This Agreement ("Agreement") is by and between the City of Burlington, the City of Mount Vernon (The "Partners"), and the City of Sedro-Woolley (the "Contributing Governmental Entity") known collectively as "The parties."

**WHEREAS,** flooding in the Skagit River Basin poses a catastrophic threat to human life and property within Skagit County. Regulations that manage such floodplains should be based on best available science; and

**WHEREAS,** the Federal Emergency Management Agency ("FEMA") has issued a revised Flood Insurance Study, revised preliminary flood insurance rate maps (PFIRMs), and new base flood elevations for the Skagit River Valley (collectively, the "Flood Maps"); and

**WHEREAS,** the Partners and the Contributing Governmental Entity either own property or contain property within their respective jurisdictions that reside within the newly proposed one hundred year flood plain located within the Flood Maps; and

**WHEREAS**, the Partners and the Contributing Governmental Entity are parties that will be adversely effected in the event inaccurate Flood Maps are accepted by FEMA; and

**WHEREAS,** the Partners have contracted with and expended revenues toward legal counsel and engineering consultant experts in the field of hydrology and hydraulics who have examined the Skagit River and the Flood Maps in order to determine whether or not the Flood Maps are based on best available science and such experts have concluded the Flood Maps contain significant flaws; and

**WHEREAS,** the Partners have begun and continue to develop alternate hydrology and hydraulic studies including producing alternative flood maps necessary to submit to FEMA in order to seek an administrative review of the Flood Maps and that replicating the technical and scientific work with separate engineers and attendant legal costs to submit an independent appeal would prove too costly for the Contributing Governmental Entity to undergo alone; and

**WHEREAS,** The Partners and Contributing Governmental Entity anticipate that an appeal and/or litigation may be necessary to protect their respective interests with respect to receiving accurate Flood Maps. The Partners and Contributing Governmental Entity understand and agree that they have a mutual interest in ensuring that the best available science, data, and methodologies are

utilized to ascertain expected flood volumes and elevations, and that they share a mutuality of interest in a common legal enterprise directed toward devising and advancing their common interests.; and

**WHEREAS,** the Contributing Governmental Entity recognizes that it benefits from the Partners efforts to seek review of proposed Flood Maps in order to assure that final maps issued by FEMA are based on best available science and that coordination by and among their counsel with the Contributing Governmental Entity promotes the orderly and expeditious resolution of the issues described herein and any resulting litigation, and the protection of their common interests; and

**WHEREAS** the Partners and Contributing Governmental Entity wish to pursue ethically the separate but common interests of their client(s) without waiving any protections of the attorney-client privilege and the work product doctrine. The Parties have concluded that, from time to time, their mutual interests will be best served by having their respective counsel share certain documents, oral representations, factual material, mental impressions, memoranda, witness statements, interview reports, and other information as described in the Agreement; and

**WHEREAS,** the community will be well-served by a joint, unified approach by the Partners and Contributing Governmental Entity to address flooding issues in the Skagit River Basin.

**NOW, THEREFORE**, the Partners and Contributing Governmental Entity agree as follows:

**1. Joint Flood Strategy.** For the term of this Agreement, the Partners shall cooperate in planning and executing a joint strategy regarding the use of the best available science towards a determination of the base flood elevations for the Skagit River Basin.

**2. Joint Strategy Team.** To facilitate this objective, the Partners shall establish a Joint Strategy Team which shall be responsible for efficiently developing and executing the Joint Strategy subject to each Partner's approval be their respective City Councils. The Partners shall appoint one (1) representative to be principally responsible for coordination consistent with this Agreement. The Joint Strategy Team or its individual members shall provide reports to the Contributing Governmental Entity involving its progress.

**3. Cost Sharing.** From time to time, the Partners will incur costs in implementing a joint flood strategy. The Contributing Governmental Entity shall contribute the sum of $1,000.00 to defray these expenses, and the City of Burlington and City of Mount Vernon shall share all remaining expenses equally.

No responsibility for any costs may be incurred absent unanimous approval by the City of Burlington and City of Mount Vernon.

**4. Joint Prosecution / Defense Agreement.** The Partners have contemplated, discussed and investigated litigation as a mechanism intrinsic to achieving the objectives sought by this Agreement which include as a preliminary step filing an administrative appeal of FEMA's Flood Maps and will continue to discuss and analyze litigation in furtherance of this Agreement's goals and objectives. The Contributing Governmental Entity recognizes and agrees that such discussions shall continue among the Partners without participation by the Contributing Governmental Entity unless specifically invited. No party to this Agreement shall be construed to consent to, approve, join in, participate in, or support any particular legal action or legal course of action as a result of executing this Agreement unless further approved by their respective governing authorities. In the event the Contributing Governmental Entity elects to participate in filing an appeal of the Flood Maps based on the scientific and or technical work of the Partners consultants or staff in whole or in part, the Contributing Governmental Entity shall agree that the Joint Strategy Team shall control strategic and tactical decisions regarding such an appeal including the selection of potential experts that may review such appeal as part of the administrative process.

**5. Withdrawal.** Any Contributing Governmental Entity or Partner may withdraw from this Agreement. In the event of withdrawal by any party, the terminating party shall provide all remaining parties with reasonable written notice at least thirty (30) days in advance. In the event that a Contributing Governmental Entity withdraws from this Agreement, the Agreement will remain in effect as to the Partners and any remaining Contributing Governmental Entity. In the event of a withdrawal by any party to this Agreement, the withdrawing party shall continue to maintain the confidentiality of any confidences shared under this Agreement during the course of any resulting Litigation and any appeals thereto. The terminating party must pay its share of any costs and expenses incurred as part of a cost sharing arrangement to which the terminating party has prior agreed in writing.

**6. Remedy in the Event of Termination of or Withdrawal from Joint Defense.** In the event that any party terminates this Agreement for any reason, the party shall not seek to disqualify legal counsel, including outside legal counsel hired to represent the Partners, from the continued representation in the appeal of FEMA's Flood maps. In the event of a withdrawal, no party shall be liable to any other party for any legal claims based on this Agreement.

**7. Confidential Information**

a. In order to further their common interests with respect to reasonably anticipated legal action, the Partners agree to share certain

information and documents under the protection of joint privilege amongst themselves. All confidential documents, attorney work product, mental impressions, advice, and other information shared under this Agreement is subject to the joint defense and attorney-client privilege which includes the common interest doctrine and shall not be disclosed outside the Partners except as provided herein. No party subject to this Agreement is authorized to waive a privilege of non-disclosure held by another party subject to this Agreement. Each of the parties subject to this Agreement shall take care to ensure that the confidences of other parties are protected from unwilling and unapproved disclosure. To assist each of the parties in fulfilling this obligation, the Partners and Contributing Governmental Entity shall mark confidential documents and communications with the notation "CONFIDENTIAL – ATTORNEY CLIENT COMMUNICATION AND WORK PRODUCT SUBJECT TO USE UNDER JOINT DEFENSE PRIVILEGE" or a substantially equivalent notation.

b. Although the Partners agree to pool and share information for purposes of pursuing their mutual legal objectives among themselves, the Partners are not obliged nor shall share information in its possession to a Contributing Governmental Entity unless that information is specifically identified herein. In addition, the Partners are not obligated nor shall share all information in its possession amongst themselves. Neither outside legal counsel retained by the Partners nor general counsel for the Partners shall be considered retained as legal counsel for the Contributing Governmental Entity or result in an attorney-client relationship with the Contributing Governmental Entity. This Agreement is simply intended to recognize privileges and/or work product with respect to information actually shared by the parties to this Agreement. Partners and the Contributing Governmental Entity agree that the Contributing Governmental Entity shall be entitled to only the following information:

i.) Final reports of any technical or scientific work produced by the Partners' consultants or staff that will be included in any appeal filed; and

ii.) Copies of pleadings previously filed with FEMA or court related to an appeal of the Flood Maps; and

iii.) A Copy of any final appeal to be submitted by the Partners

c. The parties agree all privileged materials to be shared under this Agreement are records that would not be available to any third party under the rules of pre-trial discovery for causes pending in the superior courts of the state of Washington and/or the Federal Rules of Civil Procedure. The parties further agree that such materials are thus exempt from disclosure under the Washington Public Records Act, RCW 42.56.

d. This Agreement shall not be construed as confidential material under this Agreement and may be disclosed for public inspection and copying in accordance with applicable law.

e. This Agreement memorializes prior oral discussions pursuant to which information may have been exchanged. The parties mutually understand and agree that all privileged information previously exchanged, if any, between or among the parties for purposes of any resulting Litigation is subject to the provisions of this Agreement and the intent of this Agreement is to maintain the confidences and privileges of the parties.

f. The parties agree that waiver of the attorney work product privilege and/or the attorney-client privilege as to documents and information shared by the Partners and their counsel shall be only by written consent of the Partners. The parties agree they will use the all privileged materials described herein solely in connection with the matter also described herein and any resulting litigation, and for no other purpose. The parties cannot use materials obtained pursuant to this Agreement in actions against each other, but must request the materials through normal discovery procedures, whether formal or informal, so that appropriate privileges can be asserted. In the event a party receives a request, including, without limitation a subpoena or public records request under the Washington Public Disclosure Act, Ch. RCW 42.56, for the production of privileged materials described herein, that party shall notify all other parties, and will take appropriate steps to oppose production of the requested materials, including, but not limited to, seeking a protective order, and promptly giving all other parties copies of said request(s) and the opportunity to seek a protective order against such disclosure. This Agreement does not prohibit disclosure by a party of materials which that the party alone has prepared or obtained, which contain no privileged or protected information obtained directly or indirectly from another party, and which are materials subject to this Agreement only because that party has delivered them to other parties; nor does this Agreement prevent a party from using in connection with the prosecution of any litigation nonprivileged facts, documents, and theories which are learned or derived from any materials subject to this Agreement.

**8. Attorneys and Authority.** Each party represents that it has entered into this Agreement with the advice of counsel and agrees to be bound by its terms. Copies of this executed Agreement will be provided to the Contributing Governmental Entity, and the Partners.

**9. Enforcement.** The parties agree that a breach of the provisions of this Agreement by a party will cause irreparable harm to the other parties and therefore agree that injunctive relief is an appropriate means to enforce this Agreement. In the event that any party hereto institutes proceedings to enforce any provision hereof, the prevailing party will be entitled to be reimbursed for reasonable costs, expenses, and attorney fees incurred.

**10. Governing Law.** This Agreement is entered into under the laws of the State of Washington. If it becomes necessary to interpret any of the Agreement's terms, it is the intent of the parties that the internal laws of the State of Washington shall apply.

**11. Binding Effect.** This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, legatees, representatives, attorneys, successors, transferees, and assigns.

**12. Severability.** If any provision of this Agreement is deemed by law to be void, invalid or inoperative for any reason, that provision will be deemed modified to the extent necessary to make it valid and operative or, if it cannot be so modified, then such provision will be deemed severed from this Agreement, with the remaining Agreement continuing in full force and effect as if the Agreement had been signed with the void, invalid or inoperative provision eliminated.

**13. Additional Contributing Governmental Entities.** The undersigned acknowledge that additional parties may enter into this Agreement at a later date as Contributing Governmental Entities upon consent by the Partners. Such subsequent entry by an additional Contributing Governmental Entity shall not be construed as a waiver of any privilege sought to be preserved by this Agreement. Provided, however, no additional Partners may enter or become party to this Agreement without the express consent of all Partners to this Agreement.

**14. Entire Agreement/Counterparts.** This Agreement is integrated and contains the entire agreement between the parties as to its subject matter. There are no third-party beneficiaries to this Agreement. This Agreement may be signed in any number of multiple counterparts, through original and/or facsimile signature, each of which will be considered to be a duplicate original, and will be considered to be one and the same instrument.

**15. Ratification and Confirmation.** All acts and communications taken prior to the effective date of this Agreement that are consistent with the intent and purpose of the same are hereby ratified and confirmed retroactive to July 1, 2007.

**16. Effective Date.** This Agreement shall be effective as of and between the Parties that have executed it, and shall not require for its effectiveness the execution of all parties listed above.

**17. Execution.** This Agreement is executed by the Partners by and through their counsel. Each Partners' signature to this Agreement represents a certification that counsel for the parties has explained this Agreement to their

respective client(s) and that the client agrees to abide by the understandings reflected herein. Counsel each represent and warrant that they have full power and actual authority to bind their respective client(s).

IN WITNESS WHEREOF, the parties have executed this Agreement this _____day of_____, 2011.

**CITY OF MOUNT VERNON:**

_____
BUD NORRIS, Mayor
(Date _____)

Mailing Address:
City of Mount Vernon
910 Cleveland Avenue
P.O. Box 809
Mount Vernon WA, 98273

**CITY OF BURLINGTON:**

_____
EDWARD J. BRUNZ, Mayor
(Date _____)

Mailing Address:
City of Burlington
900 East Fairhaven Avenue
Burlington, WA 98233

**CONTRIBUTING GOVERNMENTAL ENTITY**
**CITY OF SEDRO-WOOLLEY:**

_____
MIKE ANDERSON, Mayor
(Date _____)

Mailing Address:
City of Sedro-Woolley
325 Metcalf Street
Sedro-Woolley, WA 98284

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3b

DATE: February 9, 2011

TO: Mayor Anderson and City Council

FROM: Patsy Nelson, Finance Director

SUBJECT: FINANCE - CLAIMS

Attached you will find the Claim Checks register proposed for payment for the period ending February 9, 2011.

Motion to approve Claim Checks #71328 to #71441 in the amount of $122,040.79.

Motion to approve Payroll Checks #49669 to #49772 in the amount of $251,084.50.

If you have any comments, questions or concerns, please contact me for information during the working day at 855-1661. This will allow me to look up the invoices that are stored in our office.

CITY OF SEDRO-WOOLLEY

SORTED TRANSACTION WARRANT REGISTER

02/09/2011 (Printed 02/03/2011 14:54)



| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| 71328 | ALLELUJAH BUSINESS SYSTEMS | SUPPLIES | ENG | 7.00 |
| | | OFF/OPER SUPPS & BOOKS | INSP | 31.42 |
| | | WARRANT TOTAL | | 38.42 |
| 71329 | ALL-PHASE ELECTRIC | SMALL TOOLS & MINOR EQUIP | FD | 44.82 |
| | | REPAIRS/MAINTENANCE | ST | 142.04 |
| | | OPERATING SUPPLIES | SWR | 8.93 |
| | | WARRANT TOTAL | | 195.79 |
| 71330 | ALLIED WASTE SERVICES #197 | SOLID WASTE DISPOSAL | SAN | 48.71 |
| | | WARRANT TOTAL | | 48.71 |
| 71331 | A.M. LEONARD | SMALL TOOLS & MINOR EQUIP | PK | 26.98 |
| | | WARRANT TOTAL | | 26.98 |
| 71332 | ALPINE FIRE & SAFETY | REPAIRS/MT-COMMUNITY CTR | PK | 152.02 |
| | | SAFETY EQUIPMENT | ST | 85.86 |
| | | OPERATING SUPPLIES | SWR | 248.59 |
| | | WARRANT TOTAL | | 486.47 |
| 71333 | AMERICAN HERITAGE | BOOKS, PERIOD, RECORDS | LIB | 36.00 |
| | | WARRANT TOTAL | | 36.00 |
| 71334 | APEX TOWING | PROFESSIONAL SERVICES | PD | 221.81 |
| | | WARRANT TOTAL | | 221.81 |
| 71335 | APSCO INC. | MAINT OF GENERAL EQUIP | SWR | 263.51 |
| | | WARRANT TOTAL | | 263.51 |
| 71336 | ARCHAEOLOGY | BOOKS, PERIOD, RECORDS | LIB | 39.95 |
| | | WARRANT TOTAL | | 39.95 |
| 71337 | ARAMARK UNIFORM SERVICES | MISC-LAUNDRY | CEM | 25.20 |
| | | MISC-LAUNDRY | CEM | 16.07 |
| | | MISC-LAUNDRY | CEM | 25.20 |
| | | MISC-LAUNDRY | CEM | 14.74 |
| | | MISC-LAUNDRY | CEM | 14.74 |
| | | MISC-LAUNDRY | ST | 11.31 |
| | | MISC-LAUNDRY | ST | 11.31 |
| | | LAUNDRY | SWR | 7.50 |
| | | LAUNDRY | SWR | 22.29 |
| | | WARRANT TOTAL | | 148.36 |
| 71338 | ARTIST'S MAGAZINE | BOOKS, PERIOD, RECORDS | LIB | 39.96 |
| | | WARRANT TOTAL | | 39.96 |
| 71339 | ASSOC OF WASH CITIES | ASSOC OF WA CITIES DUES | FIN | 6,177.00 |
| | | WARRANT TOTAL | | 6,177.00 |
| 71340 | ASSOC PETROLEUM PRODUCTS | AUTO FUEL | CS | 135.58 |
| | | AUTO FUEL | CS | 106.94 |
| | | AUTO FUEL | CS | 62.73 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | AUTO FUEL | PD | 91.47 |
| | | AUTO FUEL | PD | 81.46 |
| | | AUTO FUEL | PD | 1,326.40 |
| | | AUTO FUEL/DIESEL | FD | 544.38 |
| | | AUTO FUEL/DIESEL | ST | 114.04 |
| | | AUTO FUEL/DIESEL | ST | 179.82 |
| | | AUTO FUEL/DIESEL | ST | 76.70 |
| | | AUTO FUEL/DIESEL | SWR | 126.08 |
| | | AUTO FUEL/DIESEL | SWR | 124.81 |
| | | AUTO FUEL/DIESEL | SAN | 1,742.04 |
| | | AUTO FUEL/DIESEL | SAN | 1,224.30 |
| | | AUTO FUEL/DIESEL | SWTR | 183.78 |
| | | WARRANT TOTAL | | 6,120.53 |
| 71341 | AT & T | TELEPHONE | JUD | 1.15 |
| | | TELEPHONE | EXE | 1.11 |
| | | TELEPHONE | FIN | 9.19 |
| | | TELEPHONE | LGL | 3.45 |
| | | TELEPHONE | IT | 2.30 |
| | | TELEPHONE | PLN | 3.45 |
| | | TELEPHONE | ENG | 11.49 |
| | | TELEPHONE | PD | 54.00 |
| | | TELEPHONE | FD | 11.49 |
| | | TELEPHONE | INSP | 5.75 |
| | | TELEPHONE | LIB | 2.30 |
| | | TELEPHONE | SWR | 5.75 |
| | | TELEPHONE | SAN | 3.45 |
| | | WARRANT TOTAL | | 114.88 |
| 71342 | BANK OF AMERICA | TRAVEL | ENG | 1.50 |
| | | CONST-FRUITDALE MCGARIGLE | AST | 9.73 |
| | | WARRANT TOTAL | | 11.23 |
| 71343 | BANK OF AMERICA | SUPPLIES | LGS | 35.85 |
| | | SENIOR CRIME WATCH | EXE | 288.61 |
| | | EMPLOYEE WELLNESS | EXE | 27.06 |
| | | SUPPLIES | ENG | 19.91 |
| | | SUPPLIES | ENG | 50.75 |
| | | SUPPLIES | ENG | 79.80 |
| | | SUPPLIES | ENG | 35.86 |
| | | TRAVEL | PD | 566.25 |
| | | OPERATING SUPPLIES | PK | 23.89 |
| | | WARRANT TOTAL | | 1,127.98 |
| 71344 | BANK OF AMERICA | TRAVEL | LGS | 135.00 |
| | | WARRANT TOTAL | | 135.00 |
| 71345 | BANK OF AMERICA | EARLY LITERACY | LIB | 63.98 |
| | | EARLY LITERACY | LIB | 57.85 |
| | | WARRANT TOTAL | | 121.83 |
| 71346 | BAY CITY SUPPLY | OPERATING SUPPLIES | FD | 97.38 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | OPERATING SUP - CITY HALL | PK | 132.37 |
| | | OPERATING SUP - LIBRARY | PK | 305.89 |
| | | OPERATING SUP - HAMMER SQ | PK | 207.38 |
| | | REPAIR/MT-MEMORIAL PARK | PK | 529.64 |
| | | OPERATING SUPPLIES | SAN | 57.02 |
| | | CONTAINERS | SAN | 331.04 |
| | | WARRANT TOTAL | | 1,660.72 |
| 71347 | BETTER HOMES & GARDENS | BOOKS, PERIOD, RECORDS | LIB | 22.00 |
| | | WARRANT TOTAL | | 22.00 |
| 71348 | BLUMENTHAL UNIFORM & EQUP | UNIFORMS/ACCESSORIES | PD | 469.21 |
| | | UNIFORMS/ACCESSORIES | PD | 235.87 |
| | | UNIFORMS/ACCESSORIES | PD | 260.17 |
| | | UNIFORMS/ACCESSORIES | PD | 74.01 |
| | | BALISTIC VESTS | PD | 681.12 |
| | | BALISTIC VESTS | PD | 1,351.42 |
| | | WARRANT TOTAL | | 3,071.80 |
| 71349 | BOARD FOR VOLUNTEER | PENSION-VOLUNTEER FIREMEN | FD | 2,880.00 |
| | | WARRANT TOTAL | | 2,880.00 |
| 71350 | BREWER, KATHERINE | TUITION/REGISTRATION | LIB | 15.00 |
| | | WARRANT TOTAL | | 15.00 |
| 71351 | BROWN & COLE STORES | OPERATING SUPPLIES | FD | 7.02 |
| | | WARRANT TOTAL | | 7.02 |
| 71352 | C.H. BERRY & ASSOC. INC. | MAINT OF GENERAL EQUIP | SWR | 214.61 |
| | | MAINT OF GENERAL EQUIP | SWR | 214.61 |
| | | WARRANT TOTAL | | 429.22 |
| 71353 | CODE PUBLISHING INC. | CODE BOOK | LGS | 117.44 |
| | | WARRANT TOTAL | | 117.44 |
| 71354 | COLEMAN, JOHN | TRAVEL | PLN | 27.44 |
| | | WARRANT TOTAL | | 27.44 |
| 71355 | COMCAST | INTERNET SERVICES | IT | 99.95 |
| | | WARRANT TOTAL | | 99.95 |
| 71356 | COUNTRY LIVING | BOOKS, PERIOD, RECORDS | LIB | 20.00 |
| | | WARRANT TOTAL | | 20.00 |
| 71357 | HSBC BUSINESS SOLUTIONS | SENIOR CRIME WATCH | EXE | 29.96 |
| | | NETWORK HARDWARE | IT | 432.79 |
| | | OFFICE/OPERATING SUPPLIES | PD | 64.14 |
| | | MACHINERY & EQUIPMENT | F-C | 432.79 |
| | | WARRANT TOTAL | | 959.68 |
| 71358 | COUNTRYSIDE SALES & SERVICE | REPAIR & MAINT - AUTO | PD | 43.17 |
| | | REPAIR & MAINT - AUTO | PD | 193.90 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | REPAIR & MAINT - AUTO | PD | 218.25 |
| | | REPAIR & MAINT - AUTO | PD | 338.65 |
| | | WARRANT TOTAL | | 793.97 |
| 71359 | CREIGHTON ENGINEERING INC. | PROFESSIONAL SERVICES | FD | 275.00 |
| | | WARRANT TOTAL | | 275.00 |
| 71360 | CRYSTAL SPRINGS | OPERATING SUPPLIES | SAN | 26.05 |
| | | WARRANT TOTAL | | 26.05 |
| 71361 | CUSTOM EMBROIDERY | UNIFORMS/ACCESSORIES | PD | 73.50 |
| | | WARRANT TOTAL | | 73.50 |
| 71362 | DAY WIRELESS SYSTEMS INC | REPAIRS & MAINTENANCE | PD | 125.59 |
| | | MACHINERY & EQUIPMENT | PD | 160.14 |
| | | WARRANT TOTAL | | 285.73 |
| 71363 | DEZURIK, INC. | MAINTENANCE OF VEHICLES | SWR | 544.26 |
| | | WARRANT TOTAL | | 544.26 |
| 71364 | E & E LUMBER | MACHINERY & EQUIPMENT | PD | 9.06 |
| | | MACHINERY & EQUIPMENT | PD | 8.20 |
| | | MACHINERY & EQUIPMENT | PD | 5.18 |
| | | MACHINERY & EQUIPMENT | PD | 22.87 |
| | | MACHINERY & EQUIPMENT | PD | 2.79 |
| | | SMALL TOOLS & MINOR EQUIP | FD | 32.48 |
| | | OPERATING SUP - BINGHAM PARK | | 16.18 |
| | | SMALL TOOLS & MINOR EQUIP | PK | 10.25 |
| | | SMALL TOOLS & MINOR EQUIP | PK | 42.62 |
| | | REPAIRS/MT-RIVERFRONT | PK | 42.07 |
| | | REPAIRS/MT-RIVERFRONT | PK | 2.80 |
| | | REPAIRS/MT-RIVERFRONT | PK | 31.37 |
| | | REPAIRS/MT-RV PARK | PK | 12.95 |
| | | REPAIRS/MT-RV PARK | PK | 42.10 |
| | | OPERATING SUPPLIES | SWR | 16.86 |
| | | OPERATING SUPPLIES | SWR | 12.97 |
| | | WARRANT TOTAL | | 310.75 |
| 71365 | EDASC | COMMUNITY GRANT PROGRAMS | LIB | 3,878.00 |
| | | WARRANT TOTAL | | 3,878.00 |
| 71366 | ENTERPRISE OFFICE SYSTEMS | SUPPLIES | FIN | 193.74 |
| | | OFFICE/OPERATING SUPPLIES | PD | 50.54 |
| | | WARRANT TOTAL | | 244.28 |
| 71367 | EMERGENCY MEDICAL PRODUCTS INC | OPERATING SUPPLIES | FD | 363.80 |
| | | WARRANT TOTAL | | 363.80 |
| 71368 | E-WASTE, LLC | SOLID WASTE DISPOSAL | SAN | 179.20 |
| | | WARRANT TOTAL | | 179.20 |
| 71369 | FASTENAL COMPANY | OPERATING SUPPLIES | SAN | 14.66 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | WARRANT TOTAL | | 14.66 |
| 71370 | FEDERAL EXPRESS CORP. | CONSTRUCTION | F-C | 31.17 |
| | | PROFESSIONAL SERVICES | SWR | 16.51 |
| | | WARRANT TOTAL | | 47.68 |
| 71371 | FLOYD, WINNIE | OFFICE/OPERATING SUPPLIES | PD | 21.63 |
| | | WARRANT TOTAL | | 21.63 |
| 71372 | FRANKLIN CORPORATION (THE) | CONSTRUCTION | F-C | 4,093.94 |
| | | WARRANT TOTAL | | 4,093.94 |
| 71373 | FRONTIER | TELEPHONE | PD | 57.97 |
| | | TELEPHONE | FD | 177.74 |
| | | TELEPHONE | PK | 87.10 |
| | | PUBLIC UTILITIES-CITY HALL | PK | 24.58 |
| | | TELEPHONE | CEM | 63.40 |
| | | TELEPHONE | LIB | 122.24 |
| | | TELEPHONE | SWR | 256.73 |
| | | WARRANT TOTAL | | 789.76 |
| 71374 | GALL'S, AN ARAMARK CO. | UNIFORMS/ACCESSORIES | PD | 24.08 |
| | | WARRANT TOTAL | | 24.08 |
| 71375 | GAYLORD BROS. | SUPPLIES | LIB | 299.86 |
| | | WARRANT TOTAL | | 299.86 |
| 71376 | GLOCK PROFESSIONAL, INC. | TUITION/REGISTRATION | PD | 150.00 |
| | | TUITION/REGISTRATION | PD | 150.00 |
| | | WARRANT TOTAL | | 300.00 |
| 71377 | GRAINGER PARTS | OPERATING SUPPLIES | SAN | 200.86 |
| | | WARRANT TOTAL | | 200.86 |
| 71378 | GREAT AMERICA LEASING COR | REPAIR/MAINTENANCE-EQUIP | LIB | 139.63 |
| | | WARRANT TOTAL | | 139.63 |
| 71379 | GRCC/WOW | MISC-TUITION/REGISTRATION | SWR | 175.00 |
| | | WARRANT TOTAL | | 175.00 |
| 71380 | GUARDIAN SECURITY | OPERATING SUP - CITY HALL | PK | 200.17 |
| | | WARRANT TOTAL | | 200.17 |
| 71381 | H.B. JAEGER CO. LLC | MAINTENANCE OF LINES | SWR | 139.96 |
| | | WARRANT TOTAL | | 139.96 |
| 71382 | HAYDEN, PATRICK | PROFESSIONAL SERVICES | JUD | 150.00 |
| | | WARRANT TOTAL | | 150.00 |
| 71383 | I.A.P.E. | DUES/SUBSCRIPTIONS | PD | 50.00 |
| | | WARRANT TOTAL | | 50.00 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| 71384 | SUPERMEDIA LLC | BOOKS, PERIOD, RECORDS | LIB | 36.31 |
| | | WARRANT TOTAL | | 36.31 |
| 71385 | IKON OFFICE SOLUTIONS | REPAIRS & MAINTENANCE | PD | 25.05 |
| | | REPAIRS & MAINTENANCE | PD | 75.74 |
| | | EQUIPMENT LEASE | FD | 75.74 |
| | | REPAIRS/MAINT-EQUIP | FD | 25.04 |
| | | WARRANT TOTAL | | 201.57 |
| 71386 | JOYS BAKERY & CAFE | EMPLOYEE RECOGNITION | EXE | 887.04 |
| | | WARRANT TOTAL | | 887.04 |
| 71387 | KESSELRING'S | AMMUNITION | PD | 1,020.54 |
| | | WARRANT TOTAL | | 1,020.54 |
| 71388 | LANGUAGE EXCH. INC. (THE) | LANGUAGE INTERPRETER | JUD | 232.00 |
| | | WARRANT TOTAL | | 232.00 |
| 71389 | LOGGERS AND CONTRACTORS | REPAIRS/MT-RIVERFRONT | PK | 42.76 |
| | | WARRANT TOTAL | | 42.76 |
| 71390 | LIFE TEK, INC | SUPPLIES & BOOKS | FD | 3.18 |
| | | WARRANT TOTAL | | 3.18 |
| 71391 | MARTIN MARIETTA MATERIALS | OPERATING SUPPLIES | ST | 309.20 |
| | | WARRANT TOTAL | | 309.20 |
| 71392 | MONEY MAGAZINE | BOOKS, PERIOD, RECORDS | LIB | 59.85 |
| | | WARRANT TOTAL | | 59.85 |
| 71393 | MOUNT VERNON, CITY OF | OPERATING LEASE-COMPUTER | PD | 2,399.74 |
| | | WARRANT TOTAL | | 2,399.74 |
| 71394 | MUNICIPAL EMERGENCY SVC | REPAIRS/MAINT-EQUIP | FD | 137.29 |
| | | WARRANT TOTAL | | 137.29 |
| 71395 | NAEYC | SUBSCRIPTIONS | LIB | 57.00 |
| | | WARRANT TOTAL | | 57.00 |
| 71396 | NAT'L WILDLIFE FEDERATION | BOOKS, PERIOD, RECORDS | LIB | 46.00 |
| | | WARRANT TOTAL | | 46.00 |
| 71397 | NEWMAN SIGNS INC | OPERATING SUPPLIES | ST | 1,519.35 |
| | | OPERATING SUPPLIES | ST | 1,428.90 |
| | | WARRANT TOTAL | | 2,948.25 |
| 71398 | NEXTEL COMMUNICATIONS | TELEPHONE | PD | 420.24 |
| | | WARRANT TOTAL | | 420.24 |
| 71399 | NORTH CASCADE FORD | REPAIR & MAINT - AUTO | PD | 232.64 |
| | | WARRANT TOTAL | | 232.64 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| 71400 | NORTHWEST CLEAR AIR | SUPPLIES & BOOKS | FD | 325.00 |
| | | WARRANT TOTAL | | 325.00 |
| 71401 | NORTHWEST BIOSOLIDS MGMT | MISC-DUES/SUBSCRIPTIONS | SWR | 470.00 |
| | | WARRANT TOTAL | | 470.00 |
| 71402 | OLIVER-HAMMER CLOTHES | SAFETY EQUIPMENT | PK | 76.78 |
| | | OPERATING SUPPLIES | SAN | 72.47 |
| | | OPERATING SUPPLIES | SAN | 95.17 |
| | | OPERATING SUPPLIES | SAN | 135.23 |
| | | WARRANT TOTAL | | 379.65 |
| 71403 | OUTWEST UNLIMITED | REPAIR/MAINTENANCE-LAND | CEM | 175.00 |
| | | WARRANT TOTAL | | 175.00 |
| 71404 | OWEN EQUIPMENT COMPANY | REPAIRS/MAINTENANCE | SWTR | 1,142.04 |
| | | WARRANT TOTAL | | 1,142.04 |
| 71405 | PAT RIMMER TIRE CTR, INC | REPAIR & MAINT - AUTO | PD | 77.86 |
| | | REPAIR & MAINT - AUTO | PD | 597.97 |
| | | REPAIR & MAINT - AUTO | PD | 597.97 |
| | | REPAIR & MAINT - AUTO | PD | 77.86 |
| | | REPAIR & MAINT - AUTO | PD | 97.34 |
| | | REPAIR & MAINT - AUTO | PD | 977.38 |
| | | REPAIR & MAINT - AUTO | PD | 266.71 |
| | | WARRANT TOTAL | | 2,693.09 |
| 71406 | PEOPLE EN ESPANOL | BOOKS, PERIOD, RECORDS | LIB | 18.00 |
| | | WARRANT TOTAL | | 18.00 |
| 71407 | PETTY CASH-DEBRA PETERSON | SUPPLIES | LIB | 19.28 |
| | | EARLY LITERACY | LIB | 39.08 |
| | | BOOKS, PERIOD, RECORDS | LIB | 8.65 |
| | | WARRANT TOTAL | | 67.01 |
| 71408 | PIERCE, DAVE | OFFICE/OPERATING SUPPLIES | PD | 43.27 |
| | | WARRANT TOTAL | | 43.27 |
| 71409 | PITTMAN, HAROLD | RETIRED MEDICAL | PD | 1,214.50 |
| | | WARRANT TOTAL | | 1,214.50 |
| 71410 | PROBUILD | OPERATING SUPPLIES | ST | 609.99 |
| | | WARRANT TOTAL | | 609.99 |
| 71411 | PROFORCE LAW ENFORCEMENT | MACHINERY & EQUIPMENT | PD | 269.36 |
| | | WARRANT TOTAL | | 269.36 |
| 71412 | PUBLIC UTILITY DIS. NO.1 | PUBLIC UTILTIES | PD | 17.40 |
| | | UTILITIES-RIVERFRONT | PK | 143.02 |
| | | UTILITIES-HAMMER SQUARE | PK | 38.11 |
| | | UTILITIES-BINGHAM & MEMORIAL | P | 32.07 |
| | | UTILITIES - OTHER | PK | 29.05 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | PUBLIC UTILITIES-CITY HALL | PK | 176.39 |
| | | PUBLIC UTILITIES | CEM | 98.94 |
| | | PUBLIC UTILITIES | ST | 38.11 |
| | | PUBLIC UTILITIES | LIB | 35.52 |
| | | CONSTRUCTION | F-C | 20.78 |
| | | PUBLIC UTILITIES | SWR | 186.02 |
| | | PUBLIC UTILITIES | SAN | 38.11 |
| | | WARRANT TOTAL | | 853.52 |
| 71413 | PUGET SOUND ENERGY | PUBLIC UTILTIES | PD | 39.14 |
| | | REPAIRS & MAINTENANCE | PD | 9.94 |
| | | UTILITIES-RIVERFRONT | PK | 517.08 |
| | | UTILITIES-COMMUNITY CTR | PK | 245.22 |
| | | UTILITIES-SENIOR CENTER | PK | 378.20 |
| | | UTILTIES-TRAIN | PK | 74.75 |
| | | UTILITIES-HAMMER SQUARE | PK | 417.21 |
| | | UTILITIES-BINGHAM & MEMORIAL | P | 81.52 |
| | | UTILITIES - SHOP | PK | 77.19 |
| | | UTILITIES - SHOP | PK | 36.83 |
| | | UTILITIES - OTHER | PK | 9.94 |
| | | PUBLIC UTILITIES-CITY HALL | PK | 2,756.12 |
| | | PUBLIC UTILITIES | CEM | 95.82 |
| | | PUBLIC UTILITIES | ST | 15.78 |
| | | PUBLIC UTILITIES | ST | 157.45 |
| | | PUBLIC UTILITIES | ST | 731.62 |
| | | PUBLIC UTILITIES | ST | 99.26 |
| | | PUBLIC UTILITIES | LIB | 268.75 |
| | | ADVERTISING | HOT | 44.14 |
| | | PUBLIC UTILITIES | SWR | 10,346.54 |
| | | PUBLIC UTILITIES | SAN | 178.19 |
| | | PUBLIC UTILITIES | SWTR | 132.10 |
| | | WARRANT TOTAL | | 16,712.79 |
| 71414 | RELIABLE (OFFICE SUPPLY) | OFFICE/OPERATING SUPPLIES | PD | 67.99 |
| | | OFFICE/OPERATING SUPPLIES | PD | 53.94 |
| | | OFFICE/OPERATING SUPPLIES | PD | 110.99 |
| | | MACHINERY & EQUIPMENT | PD | 83.82 |
| | | WARRANT TOTAL | | 316.74 |
| 71415 | SCIENTIFIC SUPPLY | OPERATING SUPPLIES | SWR | 254.63 |
| | | WARRANT TOTAL | | 254.63 |
| 71416 | SEDRO-WOOLLEY AUTO PARTS | REPAIR & MAINT - AUTO | PD | 38.91 |
| | | OPERATING SUPPLIES | CEM | 2.51 |
| | | OPERATING SUPPLIES | ST | 97.36 |
| | | OPERATING SUPPLIES | ST | 97.36- |
| | | REPAIR/MAINTENANCE-EQUIP | ST | 8.96 |
| | | MAINTENANCE OF VEHICLES | SWR | 24.13 |
| | | OPERATING SUPPLIES | SAN | 9.09 |
| | | OPERATING SUPPLIES | SAN | 37.32 |
| | | OPERATING SUPPLIES | SAN | 86.55 |
| | | WARRANT TOTAL | | 207.47 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| 71417 | SEDRO-WOOLLEY POSTMASTER | POSTAGE | LIB | 88.00 |
| | | WARRANT TOTAL | | 88.00 |
| 71418 | SEDRO-WOOLLEY VOLUNTEER | SALARIES-VOLUNTEERS | FD | 10,947.50 |
| | | WARRANT TOTAL | | 10,947.50 |
| 71419 | SJOSTROM LAW OFFICE | MISC-FILING FEES/LIEN EXP | SWR | 692.77 |
| | | MISC-FILING FEES/LIEN EXP | SAN | 692.57 |
| | | OPERATING SUPPLIES | SWTR | 209.00 |
| | | WARRANT TOTAL | | 1,594.34 |
| 71420 | SKAGIT 911 | CONTRACTED ENHANCED 911 | PD | 14,269.72 |
| | | CONTRACT SVS-CNTRL DISPATCH | FD | 3,624.03 |
| | | WARRANT TOTAL | | 17,893.75 |
| 71421 | SKAGIT COUNTY EMS | SUPPLIES & BOOKS | FD | 165.00 |
| | | WARRANT TOTAL | | 165.00 |
| 71422 | SKAGIT PUD NO. 1 | REPAIRS/MAINT-HYDRANTS | FD | 660.55 |
| | | WARRANT TOTAL | | 660.55 |
| 71423 | SKAGIT COUNTY TREASURER | CRIME VCTM & WITNSS PROG | LGL | 79.19 |
| | | WARRANT TOTAL | | 79.19 |
| 71424 | SKAGIT DV & SA SERVICES | SKAGIT CO DOMESTIC VIOLENCE | DV | 398.63 |
| | | WARRANT TOTAL | | 398.63 |
| 71425 | SKAGIT VALLEY PUBLISHING | ADVERTISING/LEGAL PUBLIC | PLN | 165.00 |
| | | ADVERTISING/LEGAL PUBLIC | PLN | 160.00 |
| | | WARRANT TOTAL | | 325.00 |
| 71426 | SK. WHATCOM ELECTRONICS | MACHINERY & EQUIPMENT | F-C | 107.12 |
| | | WARRANT TOTAL | | 107.12 |
| 71427 | STAPLES BUSINESS ADVANTAGE | SUPPLIES | FIN | 4.28 |
| | | SUPPLIES | FIN | 50.90 |
| | | OFFICE SUPPLIES | FD | 48.13 |
| | | OFFICE SUPPLIES | FD | 215.75 |
| | | OFFICE SUPPLIES | FD | 107.88 |
| | | OFFICE SUPPLIES | FD | 215.75- |
| | | OFFICE SUPPLIES | FD | 107.88- |
| | | OFFICE SUPPLIES | SWR | 64.86 |
| | | WARRANT TOTAL | | 168.17 |
| 71428 | SUBURBAN PROPANE, L.P. | PROPANE | CEM | 48.69 |
| | | WARRANT TOTAL | | 48.69 |
| 71429 | TRUE VALUE | MACHINERY & EQUIPMENT | PD | 12.96 |
| | | MACHINERY & EQUIPMENT | PD | 7.56 |
| | | MACHINERY & EQUIPMENT | PD | 35.14 |
| | | MACHINERY & EQUIPMENT | PD | 3.56 |
| | | OPERATING SUPPLIES | FD | 31.37 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | OPERATING SUPPLIES | FD | 17.29 |
| | | OFFICE SUPPLIES | FD | 10.68 |
| | | OPERATING SUP - RIVERFRONT | PK | 18.57 |
| | | SMALL TOOLS & MINOR EQUIP | PK | 40.02 |
| | | REPAIRS/MT-RIVERFRONT | PK | 3.12 |
| | | REPAIRS/MT-RIVERFRONT | PK | 14.06 |
| | | REPAIRS/MT-RIVERFRONT | PK | 11.05 |
| | | REPAIRS/MT-RV PARK | PK | 29.20 |
| | | REPAIR/MT-SENIOR CENTER | PK | 199.54 |
| | | REPAIR/MT-NORTH TOWNSHIP | PK | 33.48 |
| | | REPAIR/MT-SMALL TOOLS EQUIP | PK | 66.51 |
| | | OPERATING SUPPLIES | CEM | 13.49 |
| | | SMALL TOOLS/MINOR EQUIP | ST | 59.48 |
| | | MAINT OF GENERAL EQUIP | SWR | 24.19 |
| | | OPERATING SUPPLIES | SWR | 24.86 |
| | | OPERATING SUPPLIES | SWR | 19.47 |
| | | OPERATING SUPPLIES | SAN | 21.36 |
| | | OPERATING SUPPLIES | SAN | 18.38 |
| | | OPERATING SUPPLIES | SAN | 26.49 |
| | | WARRANT TOTAL | | 741.83 |
| 71430 | UNITED STATES PLASTIC CORP. | OPERATING SUPPLIES | ERR | 356.55 |
| | | WARRANT TOTAL | | 356.55 |
| 71431 | UPSTART | EARLY LITERACY | LIB | 47.55 |
| | | WARRANT TOTAL | | 47.55 |
| 71432 | VALLEY AUTO SUPPLY | MACHINERY & EQUIPMENT | PD | 96.03 |
| | | OPERATING SUPPLIES | FD | 32.61 |
| | | REPAIR/MT-SMALL TOOLS EQUIP | PK | 19.47 |
| | | REPAIR/MT-SMALL TOOLS EQUIP | PK | 30.05 |
| | | REPAIR/MT-SMALL TOOLS EQUIP | PK | 35.78 |
| | | MAINT OF PUMPING EQUIP | SWR | 15.05 |
| | | MAINTENANCE OF VEHICLES | SWR | 13.85 |
| | | MAINT OF GENERAL EQUIP | SWR | 103.85 |
| | | MAINT OF GENERAL EQUIP | SWR | 10.82- |
| | | SMALL TOOLS & MINOR EQUIP | SWR | 9.73 |
| | | SMALL TOOLS & MINOR EQUIP | SWR | 7.30 |
| | | REPAIRS/MAINTENANCE | SWTR | 410.01 |
| | | WARRANT TOTAL | | 762.91 |
| 71433 | VAN LIEW, JANINE | TUITION/REGISTRATION | LIB | 15.00 |
| | | WARRANT TOTAL | | 15.00 |
| 71434 | VERIZON WIRELESS | TELEPHONE | FIN | 67.31 |
| | | TELEPHONE | FIN | 57.31 |
| | | TELEPHONE | LGL | 58.46 |
| | | TELEPHONE | IT | 57.31 |
| | | NEXTEL CELL PHONES | | 114.62 |
| | | NEXTEL CELL PHONES | | 16.74 |
| | | TELEPHONE | PD | 57.31 |
| | | TELEPHONE | PD | 559.21 |

| WARRANT | VENDOR NAME | DESCRIPTION | | AMOUNT |
|---|---|---|---|---|
| | | TELEPHONE | PD | 24.70 |
| | | TELEPHONE | FD | 129.05 |
| | | TELEPHONE | FD | 148.96 |
| | | TELEPHONE | INSP | 14.08 |
| | | TELEPHONE | PK | 121.79 |
| | | TELEPHONE | CEM | 14.08 |
| | | TELEPHONE | ST | 74.10 |
| | | NEXTEL CELL PHONES | | 185.43 |
| | | NEXTEL CELL PHONES | SAN | 153.20 |
| | | WARRANT TOTAL | | 1,853.66 |
| 71435 | WA CITY/COUNTY MGMT ASSOC. | TUITION/REGISTRATION | EXE | 133.00 |
| | | WARRANT TOTAL | | 133.00 |
| 71436 | WA ST DEPT OF ECOLOGY | DOE NPDES PERMIT | SWTR | 1,147.82 |
| | | WARRANT TOTAL | | 1,147.82 |
| 71437 | WA ST DEPT OF PROF LICEN | INTERGOV SVC-GUN PERMITS | PD | 57.00 |
| | | WARRANT TOTAL | | 57.00 |
| 71438 | WA ST OFF OF TREASURER | STATE REMITTANCES-COURT | | 4,120.01 |
| | | WARRANT TOTAL | | 4,120.01 |
| 71439 | WHATCOM COUNTY PARK & REC | RANGE FEES | PD | 5,060.00 |
| | | WARRANT TOTAL | | 5,060.00 |
| 71440 | WIDENER AND ASSOCIATES | CONST-FRUIT MC MITIGATION | | 1,822.80 |
| | | WARRANT TOTAL | | 1,822.80 |
| 71441 | WOOD'S LOGGING SUPPLY INC | MACHINERY & EQUIPMENT | PD | 8.63 |
| | | POSTAGE | FD | 7.43 |
| | | POSTAGE | FD | 11.23 |
| | | REPAIRS/MAINT-EQUIP | FD | 22.71 |
| | | REPAIR/MT-SMALL TOOLS EQUIP | PK | 24.82 |
| | | REPAIR/MT-SMALL TOOLS EQUIP | PK | 8.66 |
| | | MAINTENANCE OF LINES | SWR | 55.18 |
| | | OPERATING SUPPLIES | SAN | 43.26 |
| | | OPERATING SUPPLIES | SAN | 17.31 |
| | | REPAIRS/MAINTENANCE | SWTR | 175.37 |
| | | WARRANT TOTAL | | 374.60 |
| | | RUN TOTAL | | 122,040.79 |

| FUND | TITLE | AMOUNT |
|---|---|---|
| 001 | CURRENT EXPENSE FUND | 71,947.97 |
| 101 | PARK FUND | 7,678.72 |
| 102 | CEMETERY FUND | 607.88 |
| 103 | STREET FUND | 5,673.28 |
| 104 | ARTERIAL STREET FUND | 1,832.53 |
| 105 | LIBRARY FUND | 5,475.76 |
| 108 | STADIUM FUND | 44.14 |
| 330 | 1996 FIRE STATION CONST FUND | 4,685.80 |
| 401 | SEWER FUND | 14,886.01 |
| 412 | SOLID WASTE FUND | 5,452.03 |
| 425 | STORMWATER | 3,400.12 |
| 501 | EQUIPMENT REPLACEMENT FUND | 356.55 |
| TOTAL | | 122,040.79 |

| DEPARTMENT | AMOUNT |
|---|---|
| 001 000 000 | 4,120.01 |
| 001 000 011 | 288.29 |
| 001 000 012 | 383.15 |
| 001 000 013 | 1,366.78 |
| 001 000 014 | 6,559.73 |
| 001 000 015 | 141.10 |
| 001 000 017 | 592.35 |
| 001 000 018 | 305.25 |
| 001 000 019 | 355.89 |
| 001 000 020 | 337.67 |
| 001 000 021 | 36,190.97 |
| 001 000 022 | 20,856.90 |
| 001 000 024 | 51.25 |
| 001 000 062 | 398.63 |
| FUND CURRENT EXPENSE FUND | 71,947.97 |
| 101 000 076 | 7,678.72 |
| FUND PARK FUND | 7,678.72 |
| 102 000 036 | 607.88 |
| FUND CEMETERY FUND | 607.88 |
| 103 000 042 | 5,673.28 |
| FUND STREET FUND | 5,673.28 |
| 104 000 042 | 1,832.53 |
| FUND ARTERIAL STREET FUND | 1,832.53 |
| 105 000 072 | 5,475.76 |
| FUND LIBRARY FUND | 5,475.76 |
| 108 000 019 | 44.14 |
| FUND STADIUM FUND | 44.14 |
| 330 000 082 | 4,685.80 |
| FUND 1996 FIRE STATION CONST FUND | 4,685.80 |
| 401 000 035 | 14,886.01 |
| FUND SEWER FUND | 14,886.01 |
| 412 000 037 | 5,452.03 |
| FUND SOLID WASTE FUND | 5,452.03 |
| 425 000 039 | 3,400.12 |
| FUND STORMWATER | 3,400.12 |
| 501 000 047 | 356.55 |
| FUND EQUIPMENT REPLACEMENT FUND | 356.55 |
| TOTAL | 122,040.79 |

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3C

DATE: February 9, 2011

TO: Mayor Anderson & City Council

FROM: Patsy Nelson, Finance Director

SUBJECT: MISC. ANNUAL CONTRACTS/AGREEMENTS

Recommended Action:

Staff recommends that as part of the consent calendar, the Council approve the following:

| | | |
|---|---|---|
| 1. | Loggerodeo, Inc. | $10,000.00 |
| 2. | Sedro-Woolley Chamber of Commerce | $15,500.00 |
| 3. | Skagit Valley Tulip Festival | $ 400.00 |
| 4. | Sedro-Woolley Riding Club | $ 1,000.00 |
| 5. | Sedro-Woolley Farmers Market | $ 1,500.00 |
| 6. | Sedro-Woolley Museum | $ 2,000.00 |
| 7. | Sedro-Woolley Rotary (Concert Series) | $ 3,000.00 |

# AGREEMENT

This Agreement, entered into this 9th day of February, 2011, by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and Sedro-Woolley Rotary (Concert Series).

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $3,000.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley, or for the production and operation of special events and festivals designed to attract tourists, relating to historic preservation and restoration, and the arts; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall

a. Submit a Special Events Permit Application at least 45 days before the event.

b. Comply with deposit, insurance, and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.

c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

d. As this is a new event, grantee shall immediately request Community Event status and fee waiver of City-owned facilities from the City Council.

e. Comply with City Code 12.36.050 regulations regarding use of Amphitheatre at Riverfront Park including reservations, noise and security/facility monitor (depend upon Council approval of Community Event status.

4. Grantee shall submit an annual economic impact report to the City of Sedro-Woolley including:

a. estimated number of tourists attending your events (by event)
b. estimated number of tourists traveling over 50 miles (by event)
c. estimated number of persons remaining in Sedro-Woolley overnight (by event)
d. estimated number of lodging stays generated (by event)
e. estimated increase in sales tax revenue attributed to your events (by event)
f. any other information demonstrating the impact of increased tourism attributed to your events (by event)

5. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance of actual performance.

6. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

7. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

8. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

9. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

10. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

11. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

| | |
|---|---|
| City: | Mayor<br>325 Metcalf Street<br>Sedro-Woolley, WA 98284 |
| Grantee: | President<br>Sedro-Woolley Rotary<br><br>Sedro-Woolley, WA 98284 |

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

12. This agreement shall commence and be effective as of January 1, 2011 and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST:

CITY OF SEDRO-WOOLLEY

_____
City Clerk

_____
Mike Anderson
Mayor, City of Sedro-Woolley

SEDRO-WOOLLEY ROTARY

_____
President

# AGREEMENT

This Agreement, entered into this 9th day of February, 2011, by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and Sedro-Woolley Museum.

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $2,000.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley; or for the production and operation of special events and festivals designed to attract tourists, relating to historic preservation and restoration, and the arts; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall
   a. Submit a Special Events Permit Application at least 45 days before the event.
   b. Comply with deposit, insurance, and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.
   c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

4. Grantee shall submit an annual economic impact report to the City of Sedro-Woolley including:
   a. estimated number of tourists attending your events (by event)
   b. estimated number of tourists traveling over 50 miles (by event)
   c. estimated number of persons remaining in Sedro-Woolley overnight (by event)
   d. estimated number of lodging stays generated (by event)
   e. estimated increase in sales tax revenue attributed to your events (by event)
   f. any other information demonstrating the impact of increased tourism attributed

5. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance to actual performance.

6. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

7. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

8. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

9. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

10. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

11. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

| | |
|---|---|
| City: | Mayor<br>325 Metcalf Street<br>Sedro-Woolley, WA 98284 |
| Grantee: | Carolyn Freeman, President<br>Sedro-Woolley Museum<br>725 Murdock Street<br>Sedro-Woolley, WA 98284 |

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

12. This agreement shall commence and be effective as of January 1, 2011, and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST:

CITY OF SEDRO-WOOLLEY

_____
City Clerk

_____
Mike Anderson
Mayor, City of Sedro-Woolley

SEDRO-WOOLLEY MUSEUM

By _____
President

# AGREEMENT

This Agreement, entered into this 9th day of February 2011, by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and Sedro-Woolley Farmers Market, a non-profit corporation.

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $1,500.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley, or for the production and operation of special events and festivals designed to attract tourists, relating to preservation and restoration, and the arts; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall

a. Submit a Special Events Permit Application at least 45 days before the event.

b. Comply with deposit, insurance and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.

c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

4. Grantee shall submit an annual economic impact report to the City of Sedro-Woolley including:

a. estimated number of tourists attending your events (by event)
b. estimated number of tourists traveling over 50 miles (by event)
c. estimated number of persons remaining in Sedro-Woolley overnight (by event)
d. estimated number of lodging stays generated (by event)
e. estimated increase in sales tax revenue attributed to your events (by event)
f. any other information demonstrating the impact of increased tourism attributed to your events (by event)

5. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall

contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance to actual performance.

6. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

7. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

8. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

9. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

10. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

11. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

City: Mayor
325 Metcalf Street
Sedro-Woolley, WA 98284

Grantee: _____
Sedro-Woolley Farmers Market
P.O. Box 20
Sedro-Woolley, WA 98284

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

12. This agreement shall commence and be effective as of January 1, 2011, and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST: CITY OF SEDRO-WOOLLEY

_____ _____
City Clerk Mike Anderson

Mayor, City of Sedro-Woolley

SEDRO-WOOLLEY FARMERS MARKET

By _____
President

# AGREEMENT

This Agreement, entered into this 9th day of February, 2011 by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and Sedro-Woolley Riding Club, Inc.

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $1,000.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley, or for the production and operation of special events and festivals designed to attract tourists, relating to historic preservation and restoration, and the arts, or to operate the Visitor and Information Center; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall

a. Submit a Special Events Permit Application at least 45 days before the event.

b. Comply with deposit, insurance, and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.

c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

4. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance to actual performance.

5. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

6. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

7. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

8. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

9. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

10. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

| | |
|---|---|
| City: | Mayor<br>325 Metcalf Street<br>Sedro-Woolley, WA 98284 |
| Grantee: | President<br>Sedro-Woolley Riding Club<br>24538 Polte Rd<br>Sedro-Woolley, WA 98284 |

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

11. This agreement shall commence and be effective as of January 1, 2011, and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST:

CITY OF SEDRO-WOOLLEY

_____
City Clerk

_____
Mike Anderson
Mayor, City of Sedro-Woolley

SEDRO-WOOLLEY RIDING CLUB

_____
President

# AGREEMENT

This Agreement, entered into this 9th day of February, 2011, by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and Skagit Valley Tulip Festival.

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $400.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley, or for the production and operation of special events and festivals designed to attract tourists, relating to historic preservation and restoration, and the arts; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall
   a. Submit a Special Events Application at least 45 days before the event.
   b. Comply with deposit, insurance, and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.
   c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

4. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance to actual performance.

5. Grantee shall submit an annual economic impact report to the City of Sedro-Woolley including:
   a. estimated number of tourists attending your events (by event)
   b. estimated number of tourists traveling over 50 miles (by event)
   c. estimated number of persons remaining in Sedro-Woolley overnight (by event)
   d. estimated number of lodging stays generated (by event)
   e. estimated increase in sales tax revenue attributed to your events (by event)
   f. any other information demonstrating the impact of increased tourism attributed

to your events (by event)

6. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

7. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

8. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

9. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

10. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

11. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

| | |
|---|---|
| City: | Mayor<br>325 Metcalf Street<br>Sedro-Woolley, WA 98284 |
| Grantee: | Executive Director<br>Skagit Valley Tulip Festival<br>P. O. Box 1784<br>Mount Vernon, WA 98273 |

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

12. This agreement shall commence and be effective as of January 1, 2011 and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST:

CITY OF SEDRO-WOOLLEY

_____
City Clerk

_____
Mike Anderson
Mayor, City of Sedro-Woolley

SKAGIT VALLEY TULIP FESTIVAL

_____

Executive Director

# AGREEMENT

This Agreement, entered into this 9th day of February, 2011, by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and the Sedro-Woolley Chamber of Commerce, (Grantee.)

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $15,500.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley, or for the production and operation of special events and festivals designed to attract tourists, relating to historic preservation and restoration, and the arts; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall

a. Submit a Special Events Permit Application at least 45 days before the event.

b Comply with deposit, insurance, and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.

c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

4. Grantee shall submit an annual economic impact report to the City of Sedro-Woolley including:

a. estimated number of tourists attending your events (by event)
b. estimated number of tourists traveling over 50 miles (by event)
c. estimated number of persons remaining in Sedro-Woolley overnight (by event)
d. estimated number of lodging stays generated (by event)
e. estimated increase in sales tax revenue attributed to your events (by event)
f. any other information demonstrating the impact of increased tourism attributed to your events (by event)

5. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall

contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance of actual performance.

6. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

7. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

8. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

9. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

10. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

11. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

| | |
|---|---|
| City: | Mayor<br>325 Metcalf Street<br>Sedro-Woolley, WA 98284 |
| Grantee: | Executive Director/President<br>Sedro-Woolley Chamber of Commerce<br>714 - B Metcalf Street<br>Sedro-Woolley, WA 98284 |

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

12. This agreement shall commence and be effective as of January 1, 2011, and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST:

CITY OF SEDRO-WOOLLEY

_____

City Clerk

_____

Mike Anderson

Mayor, City of Sedro-Woolley

SEDRO-WOOLLEY CHAMBER
OF COMMERCE

_____

Executive Director

# AGREEMENT

This Agreement, entered into this 9th day of February, 2011, by and between the City of Sedro-Woolley, Inc., (City), a municipal corporation, and Loggerodeo, Inc.

WHEREAS, City is an eligible municipality entitled to levy, collect and distribute a hotel occupancy tax, as authorized by Washington Tax Code, Chapter 3.08; and

WHEREAS, Grantee provided and performs functions, activities and events that are qualified activities under Chapter 3.08 and;

WHEREAS, City desires to provide proceeds from the hotel occupancy tax of the 2011 fiscal year to Grantee to perform qualified services for City:

NOW THEREFORE, in consideration of the terms and conditions set forth herein, City and Grantee do mutually agree as follows:

1. City grants to Grantee the sum of $10,000.00 from the 2011 fiscal year hotel occupancy tax proceeds.

2. Grantee shall use such funds to provide advertising, marketing and promotion directed at attracting and welcoming tourists or potential tourists to Sedro-Woolley, or for the production and operation of special events and festivals designed to attract tourists, relating to historic preservation and restoration, and the arts; however, no part of these funds shall be spent on capital improvements.

3. If the festival or event is within the City limits, grantee shall

a. Submit a Special Events Permit Application at least 45 days before the event.

b. Comply with deposit, insurance, and traffic control requirements as outlined in SWMC 12.44 Special Events, Parades and Festivals.

c. Include the City of Sedro-Woolley's logo on event material, as an event sponsor.

4. Grantee shall submit an annual economic impact report to the City of Sedro-Woolley including:

a. estimated number of tourists attending your events (by event)
b. estimated number of tourists traveling over 50 miles (by event)
c. estimated number of persons remaining in Sedro-Woolley overnight (by event)
d. estimated number of lodging stays generated (by event)
e. estimated increase in sales tax revenue attributed to your events (by event)
f. any other information demonstrating the impact of increased tourism attributed to your events (by event)

5. Grantee recognizes that the City cannot make payment to Grantee from the funds granted until the services defined in Paragraph 2 have been performed by Grantee. All payments shall be based upon invoices grantee shall present to City for services performed. Said invoices shall contain an itemized statement of services Grantee has performed and for which it seeks payment. In no event shall the City be required to pay for services in advance of actual performance.

6. Grantee shall have a fiduciary duty with respect to the revenue provided by this agreement.

7. Grantee shall maintain complete and accurate financial records for each expenditure of funds. Grantee shall make such records available for inspection by the City upon request by the City Finance director.

8. Grantee shall hold harmless, indemnify, and defend City, its officers, agents and employees, from any liability, causes of action, damages, judgments, costs, charges, expenses and attorney's fees arising from or user the actions of Grantee, its officers, agents or employees.

9. This Agreement may be amended upon the written consent of the parties, and such written amendments shall go incorporated into this Agreement for all intents and purposes.

10. The phrases, clauses, sentences, paragraphs or sections of this Agreement are severable and, if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by the final decree of judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentence, paragraphs and sections of this Agreement.

11. This Agreement may be terminated by either of the parties by providing thirty (30) days' written notice to the other at the address set forth below:

| | |
|---|---|
| City: | Mayor<br>325 Metcalf Street<br>Sedro-Woolley, WA 98284 |
| Grantee: | President<br>Loggerodeo, Inc.<br>P. O. Box 712<br>Sedro-Woolley, WA 98284 |

Such notice shall be sent U.S. Mail, postage prepaid, properly addressed, by certified or registered mail, return receipt requested.

12. This agreement shall commence and be effective as of January 1, 2011 and shall expire on December 31, 2011.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicated original by their respectively duly authorized officers of the day and year first written.

ATTEST:

CITY OF SEDRO-WOOLLEY

_____
City Clerk

_____
Mike Anderson
Mayor, City of Sedro-Woolley

LOGGERODEO, INC.

_____

President

**GRANT AGREEMENT BETWEEN THE NORTHWEST CLEAN AIR AGENCY AND THE CITY OF SEDRO - WOOLLEY, WASHINGTON**

This Agreement is entered into between the Northwest Clean Air Agency (hereinafter referred to as the "Agency"), a municipal corporation of the laws of the State of Washington, and the City of Sedro - Woolley,(hereinafter referred to as "The City"), for the purposes and terms set forth in this Agreement.

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
3d

## I. RECITALS

**WHEREAS**, The City has requested project funding as set forth in Exhibit A, attached hereto, and by this reference fully incorporated herein; and

**WHEREAS**, The City is a Municipal Corporation in the State of Washington; and

**WHEREAS**, the Agency has allocated $10,051.00 in grant funds to The City to accomplish this project; and

**WHEREAS**, The City and the Agency agree that grant funds shall be used solely for this project; and

**WHEREAS**, it is in the interest of The City and the Agency to promote environmental protection; and

**WHEREAS**, The City and the Agency mutually agree that funding assistance from the Agency will further this interest.

## II. AGREEMENT

**NOW, THEREFORE**, The City and the Agency agree as follows:

A. **PURPOSE.** The purpose of this Agreement is to establish procedures for payment by the Agency to The City in the amount of $10,051.00 to be used solely as set forth herein.

B. **TERM.** This Agreement shall remain in effect until June 30, 2012.

C. **PAYMENT BY THE AGENCY.** The Agency shall make a single payment, not later than February 28, 2011, in the amount of $10,051.00 to The City to be used solely for the purposes described and set forth in Exhibit A.

D. **CERTIFICATION BY THE CITY.** Not later than June 30, 2012, The City shall certify, in writing, to The Agency that all grant funds have been used in accordance with the commitments of The City set forth herein. In the event that a portion of the grant funds have not been so used and so certified, then The City shall remit such portion to the Agency not later than June 30, 2012.

E. **HOLD HARMLESS/INDEMNIFICATION.** To the extent legally permitted, each party shall indemnify and hold harmless the other party from and against any and all claims, actions, damages, liability, and expense, including, without limitation, reasonable attorney's fees, incurred as a result of such party's actions under this Agreement; provided that, if such claims, actions, damages, liability, or expense arise from concurrent negligence of two or more of the parties, including instances where this Agreement is subject to the provisions of RCW 4.24.115, then the obligation to indemnify under this Agreement shall be effective only to the extent of each party's own negligence. No party shall be required under this section to indemnify another for its sole negligence.

F. **FINANCIAL RECORDS.** The parties to this Agreement shall each maintain books, records, documents, and other evidence which sufficiently and properly reflect performance by The City of its' responsibilities as set forth herein. Records maintained for this Agreement will be retained for six (6)

years after expiration and shall be subject to inspection, review, or audit by personnel of The AGENCY, other personnel duly authorized by the AGENCY, and the Office of the State Auditor.

E. **NOTICES.** All notices hereunder may be hand delivered or mailed. If mailed, they shall be sent to the following respective addresses:

Northwest Clean Air Agency
Laura Curley
1600 S. 2nd Street
Mount Vernon, WA 98273

City of Sedro - Woolley
Mayors office
325 Metcalf St.
Sedro - Woolley, WA. 98284

Or to such other respective addresses as either party hereto may hereafter designate in writing.

## III. GENERAL PROVISIONS

A. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Washington.

B. **AMENDMENTS/MODIFICATIONS.** This Agreement may be amended or modified only by written Agreement of the parties.

C. **ENTIRE AGREEMENT.** This Agreement and attached Appendix contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.

**IN WITNESS HEREOF,** the undersigned have, on the date set next to their signatures, executed this Agreement on behalf of the parties hereto.

| **NORTHWEST CLEAN AIR AGENCY** | **CITY OF SEDRO - WOOLLEY** |
|---|---|
| By: | |
| Mark Asmundson, Director | Mike Anderson, Mayor |
| Date: _____ | Date: 2/1/14 |

EXHIBIT A

ITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron Berg
City Supervisor/Attorney

September 1, 2010

Northwest Clean Air Agency
ATTN: Mark Asmundson
1600 South Second Street
Mount Vernon, WA 98273

RE: Sedro-Woolley Grant Request

Dear Mark:

The City of Sedro-Woolley is very interested in your call for projects for 2011. We would like to request $10,051.00 for the replacement of two decades old furnaces at the City library. In the event funding must be reduced, we would request funding to replace one of these old furnaces.

We believe this energy upgrade/retrofit project will benefit the environment by reducing the use of fossil fuels used in the vintage equipment and reducing greenhouse gas emissions. It will also have the secondary benefit of reducing our utility costs at that location will allow us to use the savings to replace exterior lights with LED lighting, to insulate the attic and to replace an aged, large hot water tank with a tankless water heater -- all over time.

Please let me know if you need any additional information to support our grant request.

Sincerely,

CITY OF SEDRO-WOOLLEY

Eron Berg, City Supervisor/Attorney

RECEIVED

SEP - 3 2010

NORTHWEST
CLEAN AIR AGENCY

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3e

**CITY OF SEDRO-WOOLLEY**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

Mark A. Freiberger, PE
Director of Public Works/City Engineer

---

MEMO TO: City Council and Mayor Mike Anderson

FROM: Mark A. Freiberger, PE

RE: **Possible bid award – Public Works Agreement No. 2011-PW-02 Safety Tree Service**

DATE: February 1, 2011 (for Council action February 9, 2011)

**ISSUE**
Should Mayor Anderson execute the attached Public Works Agreement No. 2011-PW-02 for the 2011 Sapp Road and Jones Road Tree Removal Project with Safety Tree Service of Sedro-Woolley in the amount of $7,060.05?

**BACKGROUND/DISCUSSION**
The city advertised for bids on January 3, 2011 under the MRSC Small Works Roster process for miscellaneous hazardous tree removal at various locations in city street right of way and hazardous limb removal at the Cemetery. Ten bids were received on January 25, 2011, as shown on the attached Bid Summary. The low responsive bid was from Safety Tree Service of Sedro-Woolley. Bids ranged from $7,060.05 to $16,392.30, with the first two bids within 12%. The original apparent low bid from Gilligan Logging was determined to be non-responsive due to not having a current contractor's license.

**FINANCE**
The work will be funded as follows:

103.004.042.542.30.48.00 Repairs & Maintenance - Streets $5,978.05
102.000.036.536.20.48.30 Cemetery Fund - Repairs & Maintenance – Land $1,082.00

**MOTION:**

***Move to authorize Mayor Anderson to execute Public Works Agreement No. 2011-PW-02 for the 2011 Sapp Road and Jones Road Tree Removal Project with Safety Tree Service of Sedro-Woolley in the amount of $7,060.05.***

**City of Sedro-Woolley**

# *FINAL - BID SUMMARY*

*2011 SAPP ROAD AND JONES ROAD TREE REMOVAL*

*BID OPENING: January 25, 2011, 2:00 PM*

| RANK | COMPANY NAME | TOTAL BID AMOUNT | Addendum Acknowledged | MRSC |
|---|---|---|---|---|
| Non-Responsive | Gilligan Logging, Sedro-Woolley, WA | 4,598.50 | Yes | Yes |
| 2 | A-1 Safety Tree Service, Sedro-Woolley, WA | 7060.05 | Yes | Yes |
| 3 | Selective Tree Removal, Monroe, WA | 7871.55 | Yes | Yes |
| 4 | Out On A Limb Tree Service LLC, Arlington, WA | 9602.75 | Yes | Yes |
| 5 | L.A. Excavation, Clear Lake, WA | 11382.64 | Yes | Yes |
| 6 | J T Muenscher General Contractor Inc, Everson, WA | 14,758.48 | Yes | Yes |
| 7 | Kemp West Inc., Snohomish, WA | 15,678.18 | Yes | Yes |
| 8 | Red Rock Holdings LLC, Shelton, WA | 15,700.27 | Yes | Yes |
| 9 | Bighorn Excavating LLC, Duvall, WA | 16,392.30 | Yes | Yes |
| 10 | The Davey Tree & Lawn Expert Co., Bellevue, WA | No Bid | N/A | Yes |

RECORDED BY: J. ROSARIO

**PUBLIC WORKS AGREEMENT 2011-PW-02**

**Project Name: 2011 Sapp Road and Jones Road Tree Removal Project**

The City of Sedro-Woolley, a municipal corporation of the State of Washington (hereinafter the "City"); and **Safety Tree Service, 26825 Paramount Lane, Sedro-Woolley, WA 98284** (hereinafter the "Contractor") hereby agree as follows:

**I. THE PROJECT:** The Contractor agrees to complete the following project, utilizing the best available materials and labor, and in accordance with bid specifications and contractor's proposal (if any), project plans and technical specifications:

Project description: **Remove and dispose of eight (8) medium to large trees located on Sapp Road, one (1) large tree located on Jones Road, and one (1) large tree located on Fidalgo Street, Sedro-Woolley, Washington, and hourly tree trimming at the Sedro-Woolley Cemetery.**

**II. GENERAL CONDITIONS:** The General Conditions of this agreement are the Standard Specifications for Road, Bridge and Municipal Construction, Current Edition, issued by the State of Washington and the APWA, modified as follows:

A. **Definitions and Terms:**

1. Whenever the terms "Washington State Transportation Commission", "State Department of Transportation", or variations of same are used in the Standard specifications, they shall be construed to mean "City of Sedro-Woolley" or "Owner".

2. Where references are made to the "State Treasurer", the term shall be construed to mean the City's "Finance Director".

3. Where the term "Secretary of Transportation" or "District Administrator" are used, the terms shall be construed to mean the duly authorized representative of the City.

B. **Project Manager:** The term "engineer" is understood to be the City's Project Manager, who is the City's representative to the Contractor for all purposes under this agreement. The City designates **David Davidson, Street Lead Operator (360-661-6464)**, as its Project Manager. Contractor designates **Randy Hannan** as its Project Manager.

C. **Business License:** A City Business License is required, and Contractor and Sub-Contractors are responsible for payment of the taxes imposed thereunder.

D. **Taxes:** Contractor is responsible for payment of all applicable taxes, including state sales tax on those projects subject to it. Taxes are deemed to be included in the amounts invoiced to the City.

E. **Bonding Requirements**: The City requires the following bonds; combination documents, cash deposits, or assigned savings accounts are acceptable alternatives:

1. Bid Bond: 5%, if the work is subject to bid procedures;

2. Contract bond in the form made a part of this agreement. In lieu thereof for projects of $35,000 or less, at the contractor's option, retainage of 50% will be held until releasable under RCW 39.08.010.

F. **Insurance:** The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts ($1 Million minimum) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

G. **Traffic Control:** The **City of Sedro-Woolley** shall furnish all flagging and maintain all temporary traffic control signs and devices necessary to control traffic during construction operations at all locations. Traffic control plans and traffic control signs and devices shall conform to the Manual on Uniform Traffic Control Devices as adopted by the State of Washington, and shall be approved in advance by the City. Unless provided for specifically in the contract, no additional compensation will be made for traffic control.

## III. PAYMENT

A. The maximum payable hereunder is $7,060.05.

B. The Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices are submitted to the Project Manager for approval prior to payment. No final payment shall be made until the project is accepted by the City.

C. Prior to any payment hereunder, contractor is responsible for complying with applicable Department of Labor and Industries and Department of Revenue requirements and procedures. (General conditions section 1-07.9. If Federal Funds, Davis-Bacon Act and U. S. Department of Labor requirements.) This includes obtaining and timely filing of Intent to Pay Prevailing Wages, Affidavit of Wages paid, Notice of Completion of Public Works Contract, and any other required documents.

D. Retainage will be administered in accordance with RCW 60.28.010(1).

## IV. SCOPE OF PROJECT, TECHNICAL SPECIFICATIONS AND CONDITIONS OF WORK:

A. Term of contract: contractor shall begin work as soon as is practicable and will complete work on or before **April 30, 2011.**

B. To the extent not inconsistent with this agreement, this contract includes the Invitation to Bid and Proposal, and contract plans and specifications, all incorporated herein by this reference.

C. Scope of project: **Per the Request for Proposals dated January 3, 2011, Addendum 1 dated January 11, 2011 and this Contract**.

D. Joinder in Arbitration Proceedings. If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

E. Indemnification.

1. Contractor shall indemnify, defend, and hold the City harmless from and

against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

2. Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City's agents or employees.

3. Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

4. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor's employees directly against Contractor.

5. Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

F. Attorneys Fees. The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

G. MRSC Roster Registration. If required, the Contractor shall register or maintain registration on the MRSC Small Works Contractor Roster.

H. Washington State Department of Retirement Systems. Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

I. Debarment. Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-contractors are listed on any state or federal debarment list.

EXECUTED, this the _____ day of _____, 2011, for the Contractor, _____

_____
, Contractor

EXECUTED, this the _____ day of _____, 201___, for the CITY OF SEDRO-WOOLLEY:

_____
Mike Anderson, Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

**CONTRACT BOND**
**to the**
**CITY OF SEDRO-WOOLLEY**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, the undersigned _____

_____

_____

as principal, and _____, a corporation organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the **CITYOF SEDRO-WOOLLEY** in the penal sum of $_____ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the **CITY OF SEDRO-WOOLLEY**.

**DATED** at _____, Washington, this ____ day of _____, 200___.

Nevertheless, the conditions of the above obligation are such that:

**WHEREAS**, the Mayor of said City has let or is about to let to the said bounded principal, a certain contract, for _____

_____

_____

_____

(which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

**NOW THEREFORE**, if the said Principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extension of time as may be granted under said contract (notice of which extension being hereby waived by the Surety), and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City harmless from any direct or indirect damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Approved: _____
Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

_____
Principal
Title: _____

For the Surety: _____

Name: _____
Title: _____
Address: _____
_____

## RETAINAGE INVESTMENT OPTION

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____

Pursuant to Chapter 60.28 RCW, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the City of Sedro-Woolley (City) will hold your retainage as described in "Current Expense", option 1 below.

_____1. Current Expense: The City will retain your money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

_____2. Interest Bearing Account: The City will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.

_____3. Escrow / Investments: The City will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserve payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the City and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. Selection of this option requires an escrow agreement to be completed by the contractor. The City of Sedro-Woolley will provide the form for use by the contractor. If the contractor elects to use the Escrow Investment option, please complete attached Escrow Agreement.

***BONDS AND SECURITIES ACCEPTABLE BY THE CITY OF SEDRO-WOOLLEY:***

1. Bills, certificates, notes or bonds of the United States.
2. Other obligations of the United States or its agencies.
3. Indebtedness of the Federal national Mortgage Association.
4. Time Deposits in commercial banks.

Designate below the type of investment selected:

_____

_____

_____

_____4. Bond-in-Lieu: With the consent of the City, the contractor may submit a bond for all or any portion of the amount of funds retained by the City in a form acceptable to the City and from a bonding company meeting standards established by the City, if any. Unless otherwise indicated, the contractor elects to submit a bond for the entire 5% retainage amount. Such bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in Chapter 60.28 RCW. Whenever the City accepts a bond-in-lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier, to the subcontractor or supplier, within thirty days of the contractor's receipt of the retained funds from the City.

Retainage is normally released 30 - 45 days after final acceptance of work by the City, or following receipt of Labor and Industries / Department of Revenue clearance, whichever takes longer.

_____

(Contractor's Signature) Date

_____

Title

**RETAINAGE ACCOUNT** _____

**CITY** _____

# ESCROW AGREEMENT / INTEREST BEARING ACCOUNT

TO: _____
Bank or Trust Company

_____
Branch

_____
Attn:

_____
Street Address

_____
City, State, Zip

The undersigned _____hereinafter referred to as the Contractor, has directed the City of Sedro-Woolley, hereinafter referred to as the City, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

## INSTRUCTIONS

1. The City shall deliver to you from time to time warrants or checks payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name any such warrant or check so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow / interest bearing account. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such warrant or check shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you, and the City. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions on investments recited herein. A list of such bonds, or other securities approved by the City are indicated on the Retainage Investment Option form. No further approval is necessary if any of these bonds or securities are selected by the Contractor. Other bonds or securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the City. Purchase of such bonds or other securities shall be in a form which shall allow you alone to

reconvert such bonds or other securities into money if you are required to do so by the City as provided in Paragraph 4 of the Escrow Agreement.

The investments selected by the Contractor, approved by the City and purchased by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless with your written consent you are otherwise directed in writing by the Contractor.

3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City shall inform you and keep you informed in writing of the name of the person or persons with authority to give you such written instructions. Compliance with such instruction shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow / Interest Bearing Account Agreement is_____. Upon request by you, the City shall advise you in writing of any change in the estimated completion date. If the estimated completion date is changed, you are authorized to reinvest the monies held hereunder in accordance with the new estimated completion date.

4. In the event the City orders you to do so in writing, and notwithstanding any other provisions of this agreement you shall, within thirty-five (35) days of receipt of such order, reconvert into money the securities held by you pursuant to this agreement and return such money together with any other monies, including accrued interest on such securities, held by you hereunder, to the City.

5. The Contractor agrees to pay you as compensation for your services hereunder as follows:

_____

_____

_____.

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interest of this escrow or any modifications hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigations.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow or interest bearing account holder hereunder, you shall give written notice to the City and Contractor. The City and Contractor shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the City and upon doing, it absolves you from all further charges and obligations in connection with this escrow or interest bearing account.

7. This agreement shall not be binding until executed by the Contractor and City and accepted by you.

8. This instrument contains the entire agreement between you, the Contractor and the City with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this; you shall not be required to take notice if any default or any other matter, not bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow or interest bearing account and do hereby execute this agreement on this _____day of _____, 20____.

| | |
|---|---|
| _____ | **CITY OF SEDRO-WOOLLEY** |
| Contractor | City |
| BY: _____ | BY: _____ |
| Signature & Title | Authorized Signature & Title |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City State Zip | City State Zip |

ATTESTED BY:

_____
City Clerk

Approved as to form:

_____
City Attorney

The above escrow instructions received and accepted this _____day of _____, 20____.

_____
Bank or Trust Company

By: _____

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3f

**CITY OF SEDRO-WOOLLEY**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

Mark A. Freiberger, PE
Director of Public Works/City Engineer

---

MEMO TO: City Council and Mayor Mike Anderson

FROM: Mark A. Freiberger, PE

RE: **Professional Services Agreements No. 2011-PS-02 through 7, 9 and 10 for Miscellaneous On-Call Professional Services**

DATE: January 25, 2011 (for Council action February 9, 2011)

## ISSUE

Should Mayor Anderson execute the attached Professional Services Agreements No. 2011-PS-02 through 7, 9 and 10 as noted below for miscellaneous on-call professional service agreements?

## BACKGROUND/DISCUSSION

The city has utilized the services of various firms for on-call professional services for miscellaneous engineering, land surveying and other professional services. The attached agreements represent the 2011 on-call services that are anticipated. Following is a list of these agreements and proposed use:
2011-PS-02 - LJF Document Imaging Services – NTE $1,000 – scan archive plan sets.
2011-PS-03 – Reichhardt & Ebe Engineering Inc. – NTE $25,000 – miscellaneous engineering support for grant writing, minor design, etc.
2011-PS-04 – Skagit Surveyors & Engineers – NTE $25,000 – miscellaneous assistance with legal descriptions and minor surveying.
2011-PS-05 – Lisser & Associates – NTE $25,000 – miscellaneous assistance with legal descriptions and minor surveying.
2011-PS-06 – Ecotone Solutions – NTE $5,000 – assistance with GIS mapping.
2011-PS-07 – David Evans & Associates – NTE $25,000 - miscellaneous engineering support for grant writing, minor design, etc.
2011-PS-09 – Bright Rain Solutions - $10,000 – assistance with GIS mapping and support.
2011-PS-10 SCADA & Controls Engineering Inc. – NTE $10,000 – software support and minor modifications to Wastewater SCADA systems.

## FINANCE

Individual Task Order will be issued for work items as needed. Budgets will be identified and approval sought through the normal process. Task order work will generally be from one of the following budget line items:

001.000.020.532.20.41.00 Professional Services – Engineering $28,000
401.000.035.535.80.41.00 Professional Services - Sewer Fund $49,200

## MOTION:

***Move to authorize Mayor Anderson to execute the attached Professional Services Agreements No. 2011-PS-02 through 7, 9 and 10 as noted above for miscellaneous on-call professional service agreements.***

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-02**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **LJF Document Imaging Services,** whose address is **PO Box 131, Rockport, WA 98283,** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **Document Imaging Services** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____

[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 1,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011**.

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(2 Million)** as are acceptable to the City. *(Waived – MF/jr)*

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts **(2 Million)** as are acceptable to the City. *(Waived – MF/jr)*

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.
*(Waived – MF/jr)*

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**

The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

LJF Document Imaging Services

By: _____

## LJF Document Imaging Services

# EXHIBIT B

***Providing quality records preservation through reliable digital processes***

Dear Julie:

Following are process and related pricing parameters that covers most ERM (Electronic Records Management) projects.

**Process:**

- I will prepare, scan, and analyze standard size documents 11x14 and under.
- I will prepare, scan, and analyze larger format size document 12x18 to 36x48.
- I can provide color replications up to 12x18.
- Preparation of all your paper items to be converted will be performed in a controlled process to insure items are returned to their original folders in a manner and order requested by you.
- I will deliver your digital file images in multi-page PDF and/or Tiff file format, indexed by file name per your specifications, and stored in a searchable registry.
- Finished deliverable will be a copy of the completed registry on CD, DVD, or other storage device if requested.

**Pricing:**

Below are 2 pricing options for your consideration.

A.) Strait Hourly: I will perform all processes and provide deliverables described above, along with any other requests that you might have for $30.00 an hour.

B.) Price per Process: I will perform all processes and provide deliverables described above for the following pricing breakdown.

| | |
|---|---|
| • Scan standard size documents up to 11x18 | $0.25 each |
| • Color replications | $1.00 each |
| • Scan large format documents 12x18 | $1.00 each |
| • Scan large format document >12x18 up to 24x36 | $1.50 each |
| • Scan large format document >24x36 | $2.00 each |
| • Simple Sequential Indexing up to 2 index fields | Included |
| • Simple Indexing Examples: (Smith John, Smith Rob, Smith Tom); (Projects 1988, Vacations 1988, Notes 1988); 422 H Ave., 500 H Ave., 820 H Ave.) | |
| • Initial CD/DVD – one copy | Included |
| • Handling Processes | $30.00 hr |

Handling Processes is defined as all processes other than scanning to include:

- Pre-scan file preparation of all size documents and re-assembly of hard files.
- Append/insert related digital images to existing digital multi-page files, such as updated documents, color or grey scale items, and large format images which are processed in separate scan flows.
- Complex indexing: Non sequential numbering or alpha indexing; Reference numbering 4 digits or more; Simple indexing requiring more than 2 index fields.
- More Indexing Concepts: There are deeper indexing concepts that we can explore if that is your preference, such as OCR, database file links, and Excel creation and management.

Thank you for your continued interest Julie; I am confident that you and the City of Sedro-Woolley will be pleased with my services.

Lawrence Franks

Lawrence J. Franks

PO Box 131, Rockport, WA 98283 (360) 853-7760, (360) 333-2906 lawrencefranks@peoplepc.com

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-03**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **Reichhardt & Ebe Engineering Inc.,** whose address is **813 Metcalf Street, Sedro-Woolley, WA 98284,** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call Engineering Services as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____
[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 25,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011**.

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(2 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**2 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

Reichhardt and Ebe Engineering Inc.

By: _____

# EXHIBIT B


## REICHHARDT AND EBE ENGINEERING, INC.
### CONSULTING ENGINEERS
813 Metcalf Street I Sedro-Woolley, WA 98248 I Ph: (360) 855-1713 I Fax: (360) 855-1164


2011 Non-Federal Billing Rate

| Classification | Bill Rate | | | | | |
|---|---|---|---|---|---|---|
| Engineer | 2011 | | | | | |
| E-I | 58.02 | | | | | |
| E-II | 66.51 | | | | | |
| E-III | 77.83 | Garret | Ben K | | | |
| E-IV | 89.15 | | Ian | | | |
| E-V | 100.47 | Cody | Mike | | | |
| E-VI | 111.79 | Carl | Dale | Jim | Luis | Nathan |
| E-VII | 123.11 | Larry | Tom | | | |
| Technical/CAD | | | | | | |
| T-I | 42.45 | Intern | | | | |
| T-II | 52.36 | | | | | |
| T-III | 58.02 | Barb | | | | |
| T-IV | 66.51 | | | | | |
| T-V | 77.83 | Linda | | | | |
| T-VI | 90.56 | Gary | Glen | Ken | Steve | |
| Clerical | | | | | | |
| C-I | 29.72 | | | | | |
| C-II | 41.04 | Shannon | Deb C/Lyn | | | |
| C-III | 46.70 | Deb H | Deb C/S-W | | | |
| C-IV | 52.36 | | | | | |

Jan 20,2011

(updated 1/16/11)

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-04**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **Skagit Surveyors and Engineers Inc.** whose address is **806 Metcalf Street, Sedro-Woolley, WA 98284,** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call Engineering Services as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____
[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 25,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011**.

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(2 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**2 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

Skagit Surveyors & Engineers

By: _____

# EXHIBIT B

Skagit Surveyors, Inc. d/b/a
**Skagit Surveyors & Engineers**

SURVEYING-CIVIL ENGINEERING-SUBDIVISIONS-LAND USE PLANNING-ELEVATIONS
806 Metcalf Street, Sedro-Woolley, WA 98284 - PHONE (360) 855-2121 - FAX (360) 855-1658

---

Skagit Surveyors & Engineers Fee Schedule for Surveying, Planning and Engineering services effective October 7, 2010 are as follows:

| | RATE |
|---|---|
| • Principal Engineer or Principal Surveyor | $125/hr. |
| • Principal Engineer or Principal Surveyor-Litigation Preparation/Expert Witness | $150/hr. |
| • Licensed Surveyor | $100/hr. |
| • Licensed Engineer | $100/hr. |
| • Certified Planner | $100/hr. |
| • Certified Planner-Litigation Preparation/Expert Witness | $150/hr. |
| • Project Engineer or Project Surveyor | $ 90/hr. |
| • Project Engineer or Project Surveyor-Litigation Preparation/Expert Witness | $125/hr. |
| • Assistant Project Manager | $ 80/hr. |
| • CAD Design Technician | $ 75/hr. |
| • Two Person Survey Crew | $150/hr. |
| • Additional Crew Member | $ 75/hr. |
| • One Person with Equipment in Field | $100/hr. |
| • One Person with RTK- GPS Equipment | $125/hr. |
| • Minimum Fee for Bench Mark | $600.00 |
| • Minimum Fee for Elevation Certificate | $900.00 |
| • Minimum Fee for Establishing Bench Mark & Completing Elevation Certificate | $1200.00 |
| • Minimum Fee for Office Consultation | $100/hr. |
| • Office Assistant | $ 60/hr. |
| • Outside expenses incurred for supplies used in extraordinary quantities or special equipment used on a project | Actual Cost Plus 5% |

This Rate Schedule is subject to change without notice. Fees, such as Permit or Application Fees are not included in this Schedule.

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-05**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **Lisser & Associates PLLC** whose address is **PO Box 1109, Mount Vernon, WA 98273,** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call Survey Services as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____
[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 25,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011**.

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(1 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**1 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

Lisser & Associates PLLC

By: _____

# EXHIBIT B

## LISSER & ASSOCIATES PLLC

## FEE SCHEDULE FOR LAND SURVEYING SERVICES

## EFFECTIVE JANUARY 1, 2008

### OFFICE PERSONNEL

| | |
|---|---|
| Principal | $155.00 per hour |
| Licensed Professional Personnel | $ 85.00 per hour |
| Surveying Technician | $ 75.00 per hour |
| Draftsperson | $ 60.00 per hour |
| Office Assistant | $ 48.00 per hour |
| Office expense (special printing, fees paid etc.) | Cost plus 15% |

### FIELD PERSONNEL

| | |
|---|---|
| 2 person crew | $145.00 per hour |
| 2 person crew (construction work) | $150.00 per hour |
| 3 person crew | $180.00 per hour |
| 3 person crew (construction work) | $185.00 per hour |
| Special field supplies | Cost plus 15% |

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-06**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **Ecotone Solutions LLC** whose address is **17075 Blodgett Road, Mount Vernon, WA 98274,** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call GIS Mapping Services as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____
[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 5,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011.**

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(1 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**1 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

Ecotone Solutions LLC

By: _____

# EXHIBIT B

Ecotone Solutions, LLC
17075 Blodgett Road
Mount Vernon, WA 98274
360-420-9311 (cell)
360-982-2666 (fax)
UBI#602799889
CC#ECOTOSL911K9

January 20, 2011

RE: Ecotone Solutions charge rates for 2011

Hi Julie,

Ecotone Solutions will provide the services listed below at the rates indicated for the 2011 calendar year.

| | |
|---|---|
| $30.00/hr | GIS/Database/Field Mapping |
| $35.00/hr | non-Prevailing Wage Landscape/Restoration/Planting Labor |
| $40.00/hr | Prevailing Wage Landscape/Restoration/Planting Labor |
| $60.00/hr | Prevailing Wage General Labor |

Rob Biggar
Managing Partner
Ecotone Solutions, LLC

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-07**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **David Evans and Associates Inc.** whose address is **415-118th Avenue SE, Bellevue, WA 98005-3518,** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call Engineering, Surveying, Review and Engineering Support Consultant and Grant Writing Assistance as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____

[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 25,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011**.

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**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(2 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**2 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

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**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

David Evans and Associates Inc.

By: _____

# EXHIBIT B

**FEE SCHEDULE**
**AUDITED COST PLUS**
**David Evans and Associates, Inc. - Puget Sound Region**
Date Last Revised: January 31, 2011

**City of Sedro Woolley - On-call Transportation Engineering Services**

| PROFESSIONAL CLASSIFICATION | HOURLY BILLING RATE | |
|---|---|---|
| | Min | Max |
| ADMINISTRATIVE | | |
| Principal In Charge (PICH) | $151.70 | $266.99 |
| Senior Project Manager (SPJM) | $151.70 | $242.72 |
| Project Manager (PMGR) | $121.36 | $233.62 |
| Executive Administrator (EXAD) | $69.78 | $154.73 |
| Project Administrator (PADM) | $54.61 | $94.05 |
| Administrative Assistant (ADMA) | $42.48 | $94.05 |
| Office Assistant (OFFA) | $30.34 | $54.61 |
| | | |
| ENGINEERING | | |
| Engineering Manager (ENGM) | $145.63 | $242.72 |
| Managing Professional Engineer (MGPE) | $121.36 | $224.52 |
| Senior Professional Engineer (SPEN) | $91.02 | $206.31 |
| Professional Engineer (PFEN) | $75.85 | $139.56 |
| Transmission Engineer (TRNS) | $97.09 | $139.56 |
| Electrical Engineer (ELEC) | $91.02 | $206.31 |
| Sr. Design Engineer (SDEN) | $97.09 | $139.56 |
| Design Engineer (DEEN) | $60.68 | $124.39 |
| Designer (DESG) | $45.51 | $84.95 |
| Design Technician (DETE) | $30.34 | $66.75 |
| CADD Manager (CADM) | $66.75 | $136.53 |
| 3D CADD Simulation Technician (CA3D) | $66.75 | $136.53 |
| Sr. CADD Technician (SCAD) | $66.75 | $136.53 |
| CADD Designer (CDSN) | $60.68 | $103.16 |
| CADD Technician (CADD) | $42.48 | $87.99 |
| | | |
| STRUCTURAL ENGINEERING | | |
| Senior Structural Engineer (SSTE) | $91.02 | $182.04 |
| Senior Bridge Engineer (SBEN) | $115.29 | $182.04 |
| Structural Engineer (STEN) | $60.68 | $139.56 |
| Bridge Engineer (BREN) | $60.68 | $139.56 |
| | | |
| CONSTRUCTION ENGINEERING | | |
| Senior Construction Inspector (SCIN) | $109.22 | $151.70 |
| Construction Inspector (CINS) | $91.02 | $121.36 |
| Construction Engineer (CENG) | $60.68 | $109.22 |
| | | |
| GIS | | |
| GIS Manager (GISM) | $97.09 | $136.53 |
| Sr. GIS Specialist (SGIS) | $72.82 | $106.19 |
| | | |
| LANDSCAPE ARCHITECTURE | | |
| Landscape Architecture Manager (LAMN) | $91.02 | $133.50 |
| Sr. Landscape Architect (SLAN) | $81.92 | $133.50 |
| Landscape Architect (LAAR) | $69.78 | $97.09 |
| Sr. Landscape Designer (SLAD) | $57.65 | $106.19 |

**FEE SCHEDULE**
**AUDITED COST PLUS**
**David Evans and Associates, Inc. - Puget Sound Region**
Date Last Revised: January 31, 2011

**City of Sedro Woolley - On-call Transportation Engineering Services**

| PROFESSIONAL CLASSIFICATION | HOURLY BILLING RATE | |
|---|---|---|
| | Min | Max |
| | | |
| NATURAL RESOURCES | | |
| Natural Resources Manager (NATR) | $121.36 | $233.62 |
| Managing Scientist (MSCI) | $115.29 | $185.07 |
| Sr. Scientist (SSCI) | $75.85 | $151.70 |
| Scientist (SCIT) | $45.51 | $100.12 |
| Field Scientist (FSCI) | $30.34 | $51.58 |
| Sr. Environmental Planner (SEVP) | $87.99 | $133.50 |
| Environmental Planner (ENVP) | $45.51 | $118.33 |
| | | |
| WATER RESOURCES | | |
| Water Resources Engineer (WREN) | $97.09 | $151.70 |
| | | |
| PLANNING | | |
| Sr. Planner (SPLN) | $106.19 | $197.21 |
| Planner (PLNR) | $45.51 | $118.33 |
| | | |
| PUBLIC RELATIONS | | |
| Public Relations Manager (PRMR) | $91.02 | $166.87 |
| Public Relations Coordinator (PRCO) | $45.51 | $100.12 |
| Sr. Graphic Specialist (SGRP) | $54.61 | $106.19 |
| Graphic Specialist (GRPH) | $36.41 | $60.68 |
| | | |
| SURVEYING | | |
| Survey Manager (SVYM) | $121.36 | $233.62 |
| Sr. Professional Land Surveyor (SPLS) | $97.09 | $194.18 |
| Professional Land Surveyor (PLSU) | $60.68 | $139.56 |
| Project Surveyor (PSVR) | $66.75 | $118.33 |
| Survey Technician (SVTE) | $42.48 | $106.19 |
| Party Chief (PCHF) | $54.61 | $106.19 |
| Instrument Person (INST) | $36.41 | $84.95 |

| | |
|---|---|
| Negotiated Overhead Rate: | 174.90% of Direct Labor |
| Negotiated Fee Rate: | 28.50% of Direct Labor |
| **Total** | **203.40% of Direct Labor** |

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-09**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **Bright Rain Solutions** whose address is **2202 North 40th Street, Seattle, WA 98103** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call GIS Support Services as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____
[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$10,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011.**

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(1 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**1 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

Bright Rain Solutions

By: _____

# EXHIBIT B

bright rain solutions

## Bright Rain Solutions

## Consulting Services Rate Sheet

### Standard Rates

**GIS Consulting Services Hourly Rate: $120**
*Travel time will be billed at 50% of this rate.*

### Invoices

Services will be invoiced monthly along with detailed time and tasks report.

### Payment

Payment is due fifteen (15) days after date of invoice. Client may not withhold any amounts due hereunder unless notification is given in writing and allowance for reasonable cure. Any late payment will be subject to any costs of collection (including reasonable legal fees) and will bear interest at the rate of one (1) percent per month or fraction thereof until paid.

### Expenses

Client will reimburse Contractor for its reasonable and necessary cost of travel and out-of-pocket costs for photocopying, overnight courier, unusual long distance telephone and the like. Expense reports will be submitted monthly and ALL receipts will be included. Contractor will use Bright Rain Solutions' expense report unless Client provides an alternate expense template.

### Reimbursables

Sub-Consultants, Professional and Technical Cost + 12%

Maps, reports, materials, permit fees, express delivery and messenger, pass-thru bills and similar items necessary for work in progress Cost + 12%

2202 N 40TH ST • SEATTLE, WASH • 98103
PHONE: 206.547.0870 • MOBILE: 206.799.9701
david@brightrain.com
www.brightrain.com

**PROFESSIONAL SERVICES AGREEMENT No. 2011-PS-10**
*(To be used for engineering, professional, and consultant services)*

This Agreement made and entered into this **10th** day of **February, 2011** by and between the City of Sedro-Woolley, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City" and **SCADA & Controls Engineering Inc.** whose address is **2020 Maltby Road, Ste 7, PMB 170, Bothell, WA 98021** hereinafter referred to as the "Contractor".

WHEREAS, the City desires to engage the Contractor to perform certain duties relating to professional services, and

WHEREAS, the Contractor has agreed to offer its professional services to perform said work, and

WHEREAS, the Contractor has represented and by entering into this Agreement now represents that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, to the standards required by City,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as determined by City, the services hereafter set forth in connection with this Agreement:

**1. Scope of Services.**

The Contractor agrees to perform in a satisfactory and proper manner, as determined by the City, as **On Call Engineering Support Services related to the city's wastewater treatment plant and pump station SCADA systems as assigned by task order** that are requested by the City of Sedro-Woolley.

**2. Relationship of Parties.**

The Contractor, its subcontractors, agents and employees are independent Contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The contractor, subcontractors, agents, and employees shall not have the authority to bind City any way except as may be specifically provided herein.

The Contractor represents that it is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of services, and that it maintains a principal place of business other than City's office that is eligible for a business deduction under IRS regulations, and that on the effective date of this agreement it assumes responsibility for filing, at the next applicable filing period, a schedule of expenses with the IRS for the services subject to this agreement, it has established all required tax accounts with state government agencies, has a Washington State Uniform Business Identifier number, and is maintaining a separate set of books and records reflecting all expenses and income items of its business.

**3. Time of Performance.**

The service of the Contractor is to commence

[ ] on or before _____

[ **X** ] as soon as practicable after the execution of this Agreement shall be undertaken so as to ensure its expeditious completion in light of the purpose of this Agreement.

The service of the Contractor is to be completed

[ ] not later than _____

[ ] pursuant to the schedule set forth on Attachment C, Schedule of Work.

**4. Standard of Care.**

Contractor shall exercise the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed.

**5. Delays and Extensions of Time.**

If either party is delayed at any time in the progress of providing services covered by this Agreement, by any causes beyond the party's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to the other party.

**6. Compensation and Schedule of Payments.**

City shall pay the Contractor its hourly rates pursuant to the schedule set forth on **Exhibit B.**

The Contractor shall be paid monthly on the basis of invoices for compensation earned by the Contractor during the billing period, as agreed by the parties. Payment shall be made within ten (10) days after approval of the voucher by the City council.

Cost not to exceed **$ 10,000.00** without prior approval of the Director of Public Works/City Engineer.

**7. Ownership of Records and Documents.**

The written, graphic, mapped, photographic, or visual documents prepared by the Contractor under the scope of work of this Agreement are instruments of the Contractor's services for use by the City with respect to this project and, unless otherwise provided, shall be deemed the property of the City. The City shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, duplicates of 35 mm slides, and copies in the form of computer files, for the City's use. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, drawings, images or other material prepared under this Agreement, provided that the Contractor shall have no liability for the use of the Contractor's work product outside of the scope of its intended purpose.

**8. Termination.**

The term of this agreement shall be from the date signed through **December 31, 2011**.

A. This agreement may be terminated by either party for reasonable cause, upon written notice to the other party. Reasonable cause shall include:

a) Material violation of this agreement.

b) Failure to maintain professional standards in the performance of services related to this agreement.

B. This agreement may be terminated without cause upon thirty (30) days notice by either party.

C. Termination of this agreement shall not relieve either party of their obligations under this agreement which accrues prior to the date of termination, or which, by their nature, is intended to survive completed performance of the scope of work, including the obligation of the City to pay for competent services performed prior to the date of termination.

**9. Evaluation and Compliance with the Law.**

The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations, including laws governing equal employment opportunity, and prevailing or area standard wage laws, if applicable.

**10. Joinder in Arbitration Proceedings.**

If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

**11. City Business and Occupation License.**

Prior to performing work under this Agreement, Contractor shall secure a City of Sedro-Woolley Business and Occupation License.

**12. Indemnification.**

The Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

The Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City 's agents or employees.

The Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act. Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor 's employees directly against Contractor.

The Contractor 's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies, City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

**13. Insurance.**

The Contractor shall provide proof to the City that it **and its subcontractors** are insured under professional liability insurance policies covering the work within the scope of this agreement, in such form and amounts **(1 Million)** as are acceptable to the City.

The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the

work within the scope of this agreement, in such form and with policy limits in such amounts (**1 Million**) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

**14. Employment Security.**

The Contractor shall comply with all employment security laws of the State of Washington, and shall timely make all required payments in connection therewith.

**15. Amendments.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between the City and the Contractor and shall be incorporated in written amendments to this Agreement.

**16. Scope of Agreement.**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto which are merged into this written agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement or written amendment hereto.

**17. Ratification.**

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

**18. Assignability.**

This agreement is not assignable by either party, without written consent of the other party.

**19. Notices.**

Any notice given in connection with this agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

**20. Choice of Law/Venue.**

Any dispute under this agreement or related to this agreement shall be decided in accordance with the laws of the State of Washington. Venue for any court proceeding arising under or related to this agreement shall be in Skagit County Superior Court.

**21. Attorneys Fees.**

The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

**22. Non-exclusive Agreement.**

This agreement shall not prevent the City of Sedro-Woolley from entering into a contract with another person or firm for similar services.

**23. MRSC Roster Registration.**
The Contractor shall register or maintain registration on the MRSC Consultant Roster.

**24. Washington State Department of Retirement Systems.**
Have you retired under the 2008 early retirement factors? Yes ☐ No ☐ N/A ☐

**25. Debarment.**
Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-consultants are listed on any state or federal debarment list.

DATED this **10th** day of **February, 2011**.

CITY OF SEDRO-WOOLLEY
A Washington municipal corporation

By: _____
Mayor

Attest:

_____
Finance Director

Approved as to Form:

_____
City Attorney

CONTRACTOR:

SCADA & Controls Engineering Inc.

By: _____

# EXHIBIT B

SCADA & Controls Engineering, Inc.
2020 Maltby Rd Ste 7 PMB170
Bothell, WA 98021

PHONE (206) 354-1779
FAX (425) 806-5056
E-MAIL smith@scadace.com
WEB SITE www.scadace.com

## Standard Labor Rates

The following is a list of hourly rates for specific services.

| | |
|---|---|
| Registered Professional Engineer | $135.00 per Hour |
| Senior Project Engineer | $115.00 per Hour |
| Senior Software Programmer | $115.00 per Hour |
| Junior Project Engineer | $100.00 per Hour |
| Junior Software Programmer | $100.00 per Hour |
| Control Panel Fabrication | $80.00 per Hour |
| Auto-Cad Design & Drafting | $75.00 per Hour |
| Administrative | $60.00 per Hour |
| Installation (Handyman) Labor | $60.00 per Hour |

Services in excess of 12 hours per day, Monday through Friday, will be billed at 1.5 times the hourly rate. Saturdays, Sundays, and all business holidays will be billed at 2 times the hourly rate. Emergency services are billed at a minimum of four (4) hours. All travel time will be billed, portal to portal, at the hourly rate in effect on the day of travel.

### General Terms and Conditions

Services will be billed via invoice, with service reports when requested. All vehicle travel will be charged by total mileage at the current IRS reimbursement rate for mileage. All other expenses, (hotel, airline, rental car, etc.), will be billed at documented cost. All invoices are Net 30 days.

All prices are net prices and do not include any state, local, or use taxes.

Prices are valid for a period of 60 days unless specified.

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 39

**CITY OF SEDRO-WOOLLEY**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

Mark A. Freiberger, PE
Director of Public Works/City Engineer

---

MEMO TO: City Council and Mayor Mike Anderson

FROM: Mark A. Freiberger, PE

RE: **Possible bid award – Public Works Agreement Nos. 2011-PW-03 through 05 On-Call Construction Services**

DATE: February 2, 2011 (for Council action February 9, 2011)

**ISSUE**
Should Mayor Anderson execute the attached Public Works Agreement Nos. 2011-PW-03 through 05 for the 2011 On-Call Construction Services for Miscellaneous Construction Services of an Emergent Nature as shown below?

**BACKGROUND/DISCUSSION**
The city advertised for bids on January 14, 2011 under the MRSC Small Works Roster process for the 2011 On-Call Construction Services of an Emergent Nature contracts. These contracts will provide labor and equipment for sanitary sewer and storm drainage repair work that is beyond the capacity of city forces due to depth and/or soil conditions. We anticipate doing the work with the first contractor, but are issuing contracts with two other firms to provide backup in the instance that the low bidder is not available for a particular task order repair. The basis for bid comparison was a typical one day sewer repair for work in excess of 10' depth in groundwater. A copy of the comparison is attached. Staff also considered the ability of the contractor to respond, available equipment and references in the determination of the low bidder. The alternate contracts were the next contractors in the order of the bid comparison.

| Contract | Contractor | Not-to-Exceed Total |
|---|---|---|
| 2011-PW-03 | L.A. Excavating & Selective Logging, Inc. of Clearlake, WA | $35,000 |
| 2011-PW-04 | Trico Contracting, Inc. of Burlington, WA | $35,000 |
| 2011-PW-05 | Interwest Construction Inc. of Burlington, WA | $35,000 |

**FINANCE**
The work will be funded as follows:
401.000.035.535.40.48.10 Maintenance of Lines – Emergency Repairs – Sewer Fund $38,000
425.000.039.539.80.48.00 Repairs/Maintenance – Stormwater Fund $2,500

The individual contracts are issued as not to exceed $35,000. Individual Task Orders will be issued for work as needed, and will include negotiated lump sum or not to exceed estimates. We do not anticipate the cumulative value exceeding $35,000 total.

We have also included Task Orders 1 and 2 for Agreement 2011-PW-03. TO-1 has already been issued due to an emergency repair to deal with a plugged sewer service that was required on February 2, 2011, and so the motion below also includes ratification of this task order. Task Order 2 is for two additional repairs that are next in the que. Task Orders under $10,000 generally fall under the City Administrator's signature authority.

**MOTION:**

***Move to authorize Mayor Anderson to execute the attached Public Works Agreement Nos. 2011-PW-03 through 05 for the 2011 On-Call Construction Services for Miscellaneous Construction Services of an Emergent Nature, with each agreement not to exceed $35,000. Move to ratify issuance of Agreement 2011-PW-03 Task Order 1 on an emergency basis.***

CITY OF SEDRO-WOOLLEY
PUBLIC WORKS DEPARTMENT

**2011 ON-CALL CONSTRUCTION SERVICES**

## BID COMPARISON

Bid Date: January 27, 2011

By: Mark A. Freiberger, Director of Public Works

| | | | LA Excavation | | TRICO | | Interwest Const | | SRV Constr., Inc. | |
|---|---|---|---|---|---|---|---|---|---|---|
| **TYPICAL ONE DAY DIG** | **QUANT** | **UNIT** | **RATE** | **TOTAL** | **RATE** | **TOTAL** | **RATE** | **TOTAL** | **RATE** | **TOTAL** |
| Foreman | 8.00 | Hours | 60.00 | 480.00 | 67.00 | 536.00 | 69.00 | 552.00 | 74.25 | 594.00 |
| Operator | 8.00 | Hours | 60.00 | 480.00 | 65.00 | 520.00 | 67.00 | 536.00 | 72.25 | 578.00 |
| Pipe Layer | 16.00 | Hours | 50.00 | 800.00 | 55.00 | 880.00 | 55.00 | 880.00 | 59.00 | 944.00 |
| Flagger | 16.00 | Hours | 45.00 | 720.00 | 45.00 | 720.00 | 48.00 | 768.00 | 51.00 | 816.00 |
| Pickup with Tools | 8.00 | Hours | 20.00 | 160.00 | 15.00 | 120.00 | 17.00 | 136.00 | 31.00 | 248.00 |
| Service Truck with Tools | 8.00 | Hours | 30.00 | 240.00 | 40.00 | 320.00 | 48.00 | 384.00 | 31.00 | 248.00 |
| Air Compressor with Tools | 8.00 | Hours | 30.00 | 240.00 | 17.00 | 136.00 | 18.00 | 144.00 | 42.00 | 336.00 |
| Dump Truck | 8.00 | Hours | 50.00 | 400.00 | 90.00 | 720.00 | 75.00 | 600.00 | 84.00 | 672.00 |
| Excavator, 6-8 Ton (Deere 160LC or equivalent) | 8.00 | Hours | 65.00 | 520.00 | 58.00 | 464.00 | 75.00 | 600.00 | 86.00 | 688.00 |
| Hoe-Pac Excavator Attachment | 8.00 | Hours | 25.00 | 200.00 | 3.00 | 24.00 | 15.00 | 120.00 | 22.00 | 176.00 |
| Rubber Tire Loader | 8.00 | Hours | 50.00 | 400.00 | 60.00 | 480.00 | 60.00 | 480.00 | 70.00 | 560.00 |
| Jumping Jack Compactor | 8.00 | Hours | 20.00 | 160.00 | 2.00 | 16.00 | 5.00 | 40.00 | 10.00 | 80.00 |
| Trench Box | 1.00 | Day | 10.00 | 10.00 | 40.00 | 40.00 | 25.00 | 25.00 | 105.00 | 105.00 |
| 2" Trash Pump w/Hoses | 1.00 | Day | 25.00 | 25.00 | 64.00 | 64.00 | 80.00 | 80.00 | 70.00 | 70.00 |
| Traffic Control Devices | 1.00 | Day | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 500.00 | 500.00 |
| Mobilization/Demobilization | 1.00 | LS | 250.00 | 250.00 | 800.00 | 800.00 | 500.00 | 500.00 | 2,600.00 | 2,600.00 |
| **Subtotal** | | | | **5,185.00** | | **5,940.00** | | **5,945.00** | | **9,215.00** |
| WSST at 8.2% | | | | 425.17 | | 487.08 | | 487.49 | | 755.63 |
| **TOTAL** | | | | **5,610.17** | | **6,427.08** | | **6,432.49** | | **9,970.63** |
| **Markup Rate for Materials** | | | | 10% | | 10% | | 15% | | 12% |
| **POSITION** | | | | **LOW** | | **2** | | **3** | | **4** |

**NOTES**

1. Project assumes a one day repair of a sewer main at 10' depth in a city street with groundwater.

**PUBLIC WORKS AGREEMENT 2011-PW-03**

**Project Name: On-Call Construction Services Agreement**

The City of Sedro-Woolley, a municipal corporation of the State of Washington (hereinafter the "City"); and **L.A. Excavation & Selective Logging Inc., POB 302, Clearlake, WA 98235,** (hereinafter the "Contractor") hereby agree as follows:

**I. THE PROJECT:** The Contractor agrees to complete the following project, utilizing the best available materials and labor, and in accordance with bid specifications and contractor's proposal (if any), project plans and technical specifications:

Project description: **On-Call Construction Services Agreement for miscellaneous construction services of an emergent nature.**

**II. GENERAL CONDITIONS:** The General Conditions of this agreement are the Standard Specifications for Road, Bridge and Municipal Construction, Current Edition, issued by the State of Washington and the APWA, modified as follows:

A. **Definitions and Terms:**

1. Whenever the terms "Washington State Transportation Commission", "State Department of Transportation", or variations of same are used in the Standard specifications, they shall be construed to mean "City of Sedro-Woolley" or "Owner".
2. Where references are made to the "State Treasurer", the term shall be construed to mean the City's "Finance Director".
3. Where the term "Secretary of Transportation" or "District Administrator" are used, the terms shall be construed to mean the duly authorized representative of the City.

B. **Project Manager:** The term "engineer" is understood to be the City's Project Manager, who is the City's representative to the Contractor for all purposes under this agreement. The City designates **Debra Allen, Wastewater Treatment Plant Superintendent** as its Project Manager. Contractor designates **Lincoln Aldridge, Owner** as its Project Manager.

C. **Business License:** A City Business License is required, and Contractor and Sub-Contractors are responsible for payment of the taxes imposed thereunder.

D. **Taxes:** Contractor is responsible for payment of all applicable taxes, including state sales tax on those projects subject to it. Taxes are deemed to be included in the amounts invoiced to the City.

E. **Bonding Requirements**: The City requires the following bonds; combination documents, cash deposits, or assigned savings accounts are acceptable alternatives:

1. Bid Bond: 5%, if the work is subject to bid procedures;
2. Contract bond in the form made a part of this agreement. In lieu thereof for projects of $35,000 or less, at the contractor's option, retainage of 50% will be held until releasable under RCW 39.08.010.

F. **Insurance:** The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite

and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts ($1 Million minimum) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

G. **Traffic Control:** The Contractor shall furnish all flagging and maintain all temporary traffic control signs and devices necessary to control traffic during construction operations at all locations. Traffic control plans and traffic control signs and devices shall conform to the Manual on Uniform Traffic Control Devices as adopted by the State of Washington, and shall be approved in advance by the City. Unless provided for specifically in the contract, no additional compensation will be made for traffic control.

## III. PAYMENT

A. The maximum payable hereunder is **$35,000**.

B. Individual Task Orders will specify the method of compensation, which will be on a Time & Expense Not To Exceed basis per rates established in **Exhibit A**, Labor and Equipment Rate Sheet, or agreed Lump Sum Price.

C. The Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices are submitted to the Project Manager for approval prior to payment. No final payment shall be made until the project is accepted by the City.

D. Prior to any payment hereunder, contractor is responsible for complying with applicable Department of Labor and Industries and Department of Revenue requirements and procedures. (General conditions section 1-07.9. If Federal Funds, Davis-Bacon Act and U. S. Department of Labor requirements.) This includes obtaining and timely filing of Intent to Pay Prevailing Wages, Affidavit of Wages paid, Notice of Completion of Public Works Contract, and any other required documents.

E. Retainage will be administered in accordance with RCW 60.28.010(1).

## IV. SCOPE OF PROJECT, TECHNICAL SPECIFICATIONS AND CONDITIONS OF WORK:

A. Term of contract: This contract anticipates repair or restoration work that cannot be definitively scheduled due to its emergent nature. As a result, contractor shall begin work within five days of Notice to Proceed or as otherwise agreed, and will complete work within a timeline as mutually agreed with the Project Manager. All terms of this contract will expire **December 31, 2011.**

B. To the extent not inconsistent with this agreement, this contract includes the Invitation to Bid and Proposal, and contract plans and specifications, all incorporated herein by this reference.

C. Scope of project: **Per Task Order**

D. Joinder in Arbitration Proceedings. If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

E. Indemnification.

1. Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

2. Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City's agents or employees.

3. Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

4. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor's employees directly against Contractor.

5. Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

F. Attorneys Fees. The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

G. MRSC Roster Registration. If required, the Contractor shall register or maintain registration on the MRSC Small Works Contractor Roster.

H. Washington State Department of Retirement Systems. Have you retired under the 2008 early retirement factors? Yes No N/A

I. Debarment. Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-contractors are listed on any state or federal debarment list.

EXECUTED, this the _____ day of _____, 201___, for the Contractor, **L.A. Excavation & Selective Logging Inc.**

_____
, Contractor

EXECUTED, this the _____ day of _____, 201___, for the CITY OF SEDRO-WOOLLEY:

_____
Mike Anderson, Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

**CONTRACT BOND**
**to the**
**CITY OF SEDRO-WOOLLEY**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, the undersigned _____
_____
_____
as principal, and _____, a corporation organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the **CITYOF SEDRO-WOOLLEY** in the penal sum of $_____ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the **CITY OF SEDRO-WOOLLEY.**

**DATED** at _____, Washington, this ____ day of _____, 200___.

Nevertheless, the conditions of the above obligation are such that:

**WHEREAS**, the Mayor of said City has let or is about to let to the said bounded principal, a certain contract, for _____
_____
_____
_____
(which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

**NOW THEREFORE**, if the said Principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extension of time as may be granted under said contract (notice of which extension being hereby waived by the Surety), and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City harmless from any direct or indirect damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Approved: _____
Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

_____
Principal
Title: _____

For the Surety: _____

Name: _____
Title: _____
Address: _____
_____

## RETAINAGE INVESTMENT OPTION

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____

Pursuant to Chapter 60.28 RCW, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the City of Sedro-Woolley (City) will hold your retainage as described in "Current Expense", option 1 below.

_____1. Current Expense: The City will retain your money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

_____2. Interest Bearing Account: The City will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.

_____3. Escrow / Investments: The City will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserve payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the City and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. Selection of this option requires an escrow agreement to be completed by the contractor. The City of Sedro-Woolley will provide the form for use by the contractor. If the contractor elects to use the Escrow Investment option, please complete attached Escrow Agreement.

***BONDS AND SECURITIES ACCEPTABLE BY THE CITY OF SEDRO-WOOLLEY:***

1. Bills, certificates, notes or bonds of the United States.
2. Other obligations of the United States or its agencies.
3. Indebtedness of the Federal national Mortgage Association.
4. Time Deposits in commercial banks.

Designate below the type of investment selected:

_____

_____

_____

_____4. Bond-in-Lieu: With the consent of the City, the contractor may submit a bond for all or any portion of the amount of funds retained by the City in a form acceptable to the City and from a bonding company meeting standards established by the City, if any. Unless otherwise indicated, the contractor elects to submit a bond for the entire 5% retainage amount. Such bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in Chapter 60.28 RCW. Whenever the City accepts a bond-in-lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier, to the subcontractor or supplier, within thirty days of the contractor's receipt of the retained funds from the City.

Retainage is normally released 30 - 45 days after final acceptance of work by the City, or following receipt of Labor and Industries / Department of Revenue clearance, whichever takes longer.

_____

(Contractor's Signature) Date

_____

Title

**RETAINAGE ACCOUNT** _____

**CITY** _____

# ESCROW AGREEMENT / INTEREST BEARING ACCOUNT

TO: _____
Bank or Trust Company

_____
Branch

_____
Attn:

_____
Street Address

_____
City, State, Zip

The undersigned _____hereinafter referred to as the Contractor, has directed the City of Sedro-Woolley, hereinafter referred to as the City, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

## INSTRUCTIONS

1. The City shall deliver to you from time to time warrants or checks payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name any such warrant or check so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow / interest bearing account. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such warrant or check shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you, and the City. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions on investments recited herein. A list of such bonds, or other securities approved by the City are indicated on the Retainage Investment Option form. No further approval is necessary if any of these bonds or securities are selected by the Contractor. Other bonds or securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the City. Purchase of such bonds or other securities shall be in a form which shall allow you alone to

reconvert such bonds or other securities into money if you are required to do so by the City as provided in Paragraph 4 of the Escrow Agreement.

The investments selected by the Contractor, approved by the City and purchased by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless with your written consent you are otherwise directed in writing by the Contractor.

3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City shall inform you and keep you informed in writing of the name of the person or persons with authority to give you such written instructions. Compliance with such instruction shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow / Interest Bearing Account Agreement is_____. Upon request by you, the City shall advise you in writing of any change in the estimated completion date. If the estimated completion date is changed, you are authorized to reinvest the monies held hereunder in accordance with the new estimated completion date.

4. In the event the City orders you to do so in writing, and notwithstanding any other provisions of this agreement you shall, within thirty-five (35) days of receipt of such order, reconvert into money the securities held by you pursuant to this agreement and return such money together with any other monies, including accrued interest on such securities, held by you hereunder, to the City.

5. The Contractor agrees to pay you as compensation for your services hereunder as follows:

_____

_____

_____.

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interest of this escrow or any modifications hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigations.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow or interest bearing account holder hereunder, you shall give written notice to the City and Contractor. The City and Contractor shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the City and upon doing, it absolves you from all further charges and obligations in connection with this escrow or interest bearing account.

7. This agreement shall not be binding until executed by the Contractor and City and accepted by you.

8. This instrument contains the entire agreement between you, the Contractor and the City with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this; you shall not be required to take notice if any default or any other matter, not bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow or interest bearing account and do hereby execute this agreement on this _____day of _____, 20____.

| | |
|---|---|
| _____ | **CITY OF SEDRO-WOOLLEY** |
| Contractor | City |
| BY: _____ | BY: _____ |
| Signature & Title | Authorized Signature & Title |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City State Zip | City State Zip |

ATTESTED BY:

_____
City Clerk

Approved as to form:

_____
City Attorney

The above escrow instructions received and accepted this _____day of _____, 20____.

_____
Bank or Trust Company

By: _____

# EXHIBIT A

CITY OF SEDRO-WOOLLEY
2011 ON-CALL CONSTRUCTION SERVICES
***SAMPLE LABOR AND EQUIPMENT RATE SHEET (Note 1)***

*Contractor Name:* L.A. Excavation & Selective Logging, Inc.

| ITEM | BASE HOURLY RATE (1) | OVERTIME HOURLY RATE |
|---|---|---|
| **Labor Rates (Note 2)** | | |
| Superintendent/Supervisor | 60 | 90 |
| Foreman | 60 | 90 |
| Operator | 60 | 90 |
| Pipe Layer | 50 | 75 |
| Laborer Foreman | 50 | 75 |
| General Laborer | 50 | 75 |
| Dumptruck/Lobed Driver | 55 | 80 |
| Flagger/TCS | 45 | 62 |
| Flagger | 45 | 62 |
| | | |
| **Material Markup Rate, % (Note 2)** | 10.1% | |
| | | |
| **Estimated Mobilization/Demobilization Cost per unit to Sedro-Woolley** | | |
| | | |
| **Equipment Rates (Note 3)** | **Unit Cost** | **Unit** |
| 3/4 Ton Pickup with tools | 20 | Per Hour |
| 1 Ton Service Truck with tools | 30 | Per Hour |
| Air Compressor with tools | 30 | Per Hour |
| Rubber Tire Backhoe, 80-99 HP (Deere 310SE or equivalent) | 50 | Per Hour |
| Mini Excavator | 60 | Per Hour |
| Excavator, 6-8 Ton (Deere 160LC or equivalent) | 65 | Per Hour |
| Excavator, 6-8 Ton (Deere 190E or equivalent) | 70 | Per Hour |
| Excavator, 8.1-12 Ton (Deere 290D or equivalent) | 70 | Per Hour |
| Cat 936-950 Rubber Tire Wheel Loader (or equivalent) | 65 | Per Hour |
| Cat D4 Dozer (or equivalent) | 45 | Per Hour |
| Double Drum Vibratory Roller Compactor | 45 | Per Hour |
| Jumping Jack Compactor | 20 | Per Hour |
| Plate Compactor | 20 | Per Hour |
| Hoe-Pac Backhoe or excavator attachment | 25 | Per Hour |
| 2" Trash Pump w/ suction & discharge hose | 20 | Per Hour |
| Equipment Truck/Lowboy Trailer | 60 | Per Hour |
| 7 CY Dump Truck 2 Axle Solo | 50 | Per Hour |
| 10 CY Dump Truck 3 Axle w/Trailer | 60 | Per Hour |
| Hydraulic Boom Truck | 45 | Per Hour |
| Sweeper | 45 | Per Hour |
| Trench Shoring Box | 10 | Per Day |
| Manhole Shoring Box | 20 | Per Day |
| Speed Shores | 15 | Per Day |
| Steel Crossing Plate | 30 | Per Day |
| Traffic Control Equipment (Work Ahead, Detour, etc) | 100 | Per Day |
| Asphalt Saw, walk behind | 100 | Per Day |

**NOTES:**

1. This Rate Sheet is provided for example only. Contractor may provide their own standard Rate Sheet as long as it provides the requested information or equivale
2. Material markup rate as a percent to be applied to mateials furnished per invoice before sales tax.
3. Labor and Equipment rates to include insurance, L&I, small tools, markup & etc. but not sales tax. Sales tax will be applied on net invoice amount

# Public Works Agreement 2011-PS-03
# Task Order 1

Task Title: **Item 1: Emergency Sanitary Sewer Service Repair - 939 Warner Street**

**Item 2: Sanitary Sewer Main or Service Repair between Warner & Talcott Streets.**

Date Issued: **February 2, 2011**

Contractor Name: **L.A. Excavation & Selective Logging Inc.**

Contractor Contact: **Lincoln Aldridge, Owner** Phone: **360-333-3838**

City Contact: **Debra Allen, Wastewater Superintendent** Phone: **360-661-6448**

BARS No: 401.000.035.535.40.48.10 Maintenance of Lines – Emergency Repairs

All work under this Task Order is to be constructed as per the terms and conditions of Public Works Agreement 2011-PW-03 - On-Call Construction Services Agreement dated February 10, 2011 as modified herein. It is anticipated that this agreement will be approved at the February 9, 2011 council meeting; due to the emergency nature of this work the contractor is authorized to proceed prior to this date.

**SCOPE OF WORK**

Contractor will perform work in accordance with City of Sedro-Woolley Public Works Department Standards and the current edition of the State of Washington Department of Transportation Standard Specifications for Road, Bridge and Municipal Construction.

Item 1: The sanitary sewer service to 939 Warner is plugged by root intrusion. The service is connected the 8" concrete sanitary sewer line located in the alley in the 900 block between Warner and Talcott Streets, Sedro-Woolley. The work will consist of excavating to the main and replacing the service line with new 6" DR3035 PVC pipe to the right of way with a new clean out. The main is approximately 9' deep. Groundwater may be encountered but is not expected.

Item 2: The 8" concrete sanitary sewer line in the alley in the 900 block between Warner and Talcott between Manhole B7 and B54 is suspected to have a broken side sewer in the right of way. The work will consist of excavating to the main and replacing the service line with new 6" DR3035 PVC pipe to the right of way with a new clean out. The main is approximately 9' deep. Groundwater may be encountered but is not expected.

Special Conditions:

- Call for emergency locates.
- Excavate and haul off existing trench spoil. Properly dispose of excavated materials.
- Replace existing side sewer with 6" DR35 PVC sewer pipe, including the tap at the main. Plug or cap existing service tap if necessary. Utilize a CB saddle to connect to the main.
- Bed pipe 6 inches under and 6 inches over with pea gravel or buck shot

- Backfill & compact trench section with approved pit run or crushed surfacing base course to obtain 95% compaction per ASTM D 1557
- Restore alley surfacing with minimum 4" Crushed Surfacing Top Course.

**PAYMENT**

[X] Time & Material – **Not to Exceed $10,000** without written authorization.

[ ] Lump Sum $_____.

**SCHEDULE**

This Task Order is an emergency and work to restore sewer flow will need to be completed within 24 hours of notice the agreement date.

**BONDING REQUIREMENTS**

[ ] Contract Bond in the form made a part of this agreement.

[X] The estimated value of this work is under $35,000. Contractor agrees to withholding of 50% of the contract amount in lieu of the Contract Bond requirement in accordance with RCW 39.08.010.

**APPROVED**

| CITY OF SEDRO-WOOLLEY | CONTRACTOR |
|---|---|
| By: _____ | By: _____ |
| Signature: ERON BERG | Signature: _____ |
| Date: 2·2·2011 | Date: _____ |

# Public Works Agreement 2011-PS-03
# Task Order 2

Task Title: **Sanitary Sewer Service Repair, 210 W. Woodworth**

Date Issued: **February 10, 2011**

Contractor Name: **L.A. Excavation & Selective Logging Inc.**

Contractor Contact: **Lincoln Aldridge, Owner** Phone: **360-333-3838**

City Contact: **Debra Allen, Wastewater Superintendent** Phone: **360-661-6448**

BARS No: 401.000.035.535.40.48.10 Maintenance of Lines – Emergency Repairs

All work under this Task Order is to be constructed as per the terms and conditions of Public Works Agreement 2011-PW-03 - On-Call Construction Services Agreement dated February 10, 2011 as modified herein. It is anticipated that this agreement will be approved at the February 9, 2011 council meeting; due to the emergency nature of this work the contractor is authorized to proceed prior to this date.

**SCOPE OF WORK**

Contractor will perform work noted below in accordance with City of Sedro-Woolley Public Works Department Standards and the current edition of the State of Washington Department of Transportation Standard Specifications for Road, Bridge and Municipal Construction.

The 8" PVC sanitary sewer line in the alley between Manhole P16 and P17 has an offset joint in the side sewer to 210 W. Woodworth. The work will consist of excavating to the main and replacing the service line with new 6" DR3035 PVC pipe to the right of way and tying in to the existing clean out. The main is approximately 7' deep. Groundwater may be encountered but is not expected.

Special Conditions:

- Call for emergency locates.
- Excavate and haul off existing trench spoil. Properly dispose of excavated materials.
- Replace existing side sewer with 6" DR35 PVC sewer pipe, including the tap at the main. Plug or cap existing service tap if necessary. Utilize a CB saddle to connect to the main.
- Bed pipe 6 inches under and 6 inches over with pea gravel or buck shot
- Backfill & compact trench section with approved pit run or crushed surfacing base course to obtain 95% compaction per ASTM D 1557
- Restore alley surfacing with minimum 4" Crushed Surfacing Top Course.

**PAYMENT**

[X] Time & Material – **Not to Exceed $5,000** without written authorization.

[ ] Lump Sum $_____.

**SCHEDULE**
This Task Order is non-emergency and work shall begin within five days of Notice to Proceed, and will complete within a timeline as mutually agreed with the Project Manager.

**BONDING REQUIREMENTS**
[ ] Contract Bond in the form made a part of this agreement.

[X] The estimated value of this work is under $35,000. Contractor agrees to withholding of 50% of the contract amount in lieu of the Contract Bond requirement in accordance with RCW 39.08.010.

**APPROVED**

| CITY OF SEDRO-WOOLLEY | CONTRACTOR |
|---|---|
| By: _____ | By: _____ |
| Signature: _____ | Signature: _____ |
| Date: _____ | Date: _____ |

**PUBLIC WORKS AGREEMENT 2011-PW-04**

**Project Name: On-Call Construction Services Agreement**

The City of Sedro-Woolley, a municipal corporation of the State of Washington (hereinafter the "City"); and **Trico Contracting, Inc., POB 409, Burlington, WA 98233**, (hereinafter the "Contractor") hereby agree as follows:

**I. THE PROJECT:** The Contractor agrees to complete the following project, utilizing the best available materials and labor, and in accordance with bid specifications and contractor's proposal (if any), project plans and technical specifications:

Project description: **On-Call Construction Services Agreement for miscellaneous construction services of an emergent nature**

**II. GENERAL CONDITIONS:** The General Conditions of this agreement are the Standard Specifications for Road, Bridge and Municipal Construction, Current Edition, issued by the State of Washington and the APWA, modified as follows:

A. **Definitions and Terms:**

1. Whenever the terms "Washington State Transportation Commission", "State Department of Transportation", or variations of same are used in the Standard specifications, they shall be construed to mean "City of Sedro-Woolley" or "Owner".
2. Where references are made to the "State Treasurer", the term shall be construed to mean the City's "Finance Director".
3. Where the term "Secretary of Transportation" or "District Administrator" are used, the terms shall be construed to mean the duly authorized representative of the City.

B. **Project Manager:** The term "engineer" is understood to be the City's Project Manager, who is the City's representative to the Contractor for all purposes under this agreement. The City designates **Debra Allen, Wastewater Treatment Plant Superintendent** as its Project Manager. Contractor designates _____ as its Project Manager.

C. **Business License:** A City Business License is required, and Contractor and Sub-Contractors are responsible for payment of the taxes imposed thereunder.

D. **Taxes:** Contractor is responsible for payment of all applicable taxes, including state sales tax on those projects subject to it. Taxes are deemed to be included in the amounts invoiced to the City.

E. **Bonding Requirements**: The City requires the following bonds; combination documents, cash deposits, or assigned savings accounts are acceptable alternatives:

1. Bid Bond: 5%, if the work is subject to bid procedures;
2. Contract bond in the form made a part of this agreement. In lieu thereof for projects of $35,000 or less, at the contractor's option, retainage of 50% will be held until releasable under RCW 39.08.010.

F. **Insurance:** The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite

and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts ($1 Million minimum) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

G. **Traffic Control:** The Contractor shall furnish all flagging and maintain all temporary traffic control signs and devices necessary to control traffic during construction operations at all locations. Traffic control plans and traffic control signs and devices shall conform to the Manual on Uniform Traffic Control Devices as adopted by the State of Washington, and shall be approved in advance by the City. Unless provided for specifically in the contract, no additional compensation will be made for traffic control.

## III. PAYMENT

A. The maximum payable hereunder is **$35,000**.

B. Individual Task Orders will specify the method of compensation, which will be on a Time & Expense Not To Exceed basis per rates established in **Exhibit A**, Labor and Equipment Rate Sheet, or agreed Lump Sum Price.

C. The Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices are submitted to the Project Manager for approval prior to payment. No final payment shall be made until the project is accepted by the City.

D. Prior to any payment hereunder, contractor is responsible for complying with applicable Department of Labor and Industries and Department of Revenue requirements and procedures. (General conditions section 1-07.9. If Federal Funds, Davis-Bacon Act and U. S. Department of Labor requirements.) This includes obtaining and timely filing of Intent to Pay Prevailing Wages, Affidavit of Wages paid, Notice of Completion of Public Works Contract, and any other required documents.

E. Retainage will be administered in accordance with RCW 60.28.010(1).

## IV. SCOPE OF PROJECT, TECHNICAL SPECIFICATIONS AND CONDITIONS OF WORK:

A. Term of contract: This contract anticipates repair or restoration work that cannot be definitively scheduled due to its emergent nature. As a result, contractor shall begin work within five days of Notice to Proceed or as otherwise agreed, and will complete work within a timeline as mutually agreed with the Project Manager. All terms of this contract will expire **December 31, 2011.**

B. To the extent not inconsistent with this agreement, this contract includes the Invitation to Bid and Proposal, and contract plans and specifications, all incorporated herein by this reference.

C. Scope of project: **Per Task Order**

D. Joinder in Arbitration Proceedings. If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

E. Indemnification.

1. Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

2. Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City's agents or employees.

3. Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

4. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor's employees directly against Contractor.

5. Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

F. Attorneys Fees. The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

G. MRSC Roster Registration. If required, the Contractor shall register or maintain registration on the MRSC Small Works Contractor Roster.

H. Washington State Department of Retirement Systems. Have you retired under the 2008 early retirement factors? Yes No N/A

I. Debarment. Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-contractors are listed on any state or federal debarment list.

EXECUTED, this the _____ day of _____, 201___, for the Contractor, **Trico Contracting, Inc.**

_____
, Contractor

EXECUTED, this the _____ day of _____, 201___, for the CITY OF SEDRO-WOOLLEY:

_____
Mike Anderson, Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

**CONTRACT BOND**
**to the**
**CITY OF SEDRO-WOOLLEY**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, the undersigned _____
_____
_____
as principal, and _____, a corporation organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the **CITYOF SEDRO-WOOLLEY** in the penal sum of $_____ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the **CITY OF SEDRO-WOOLLEY**.

**DATED** at _____, Washington, this ____ day of _____, 200___.

Nevertheless, the conditions of the above obligation are such that:

**WHEREAS**, the Mayor of said City has let or is about to let to the said bounded principal, a certain contract, for _____
_____
_____
_____
(which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

**NOW THEREFORE**, if the said Principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extension of time as may be granted under said contract (notice of which extension being hereby waived by the Surety), and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City harmless from any direct or indirect damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Approved: _____
Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

_____
Principal

Title: _____

For the Surety: _____

Name: _____

Title: _____

Address: _____

_____

## RETAINAGE INVESTMENT OPTION

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____

Pursuant to Chapter 60.28 RCW, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the City of Sedro-Woolley (City) will hold your retainage as described in "Current Expense", option 1 below.

_____1. Current Expense: The City will retain your money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

_____2. Interest Bearing Account: The City will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.

_____3. Escrow / Investments: The City will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserve payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the City and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. Selection of this option requires an escrow agreement to be completed by the contractor. The City of Sedro-Woolley will provide the form for use by the contractor. If the contractor elects to use the Escrow Investment option, please complete attached Escrow Agreement.

***BONDS AND SECURITIES ACCEPTABLE BY THE CITY OF SEDRO-WOOLLEY:***

1. Bills, certificates, notes or bonds of the United States.
2. Other obligations of the United States or its agencies.
3. Indebtedness of the Federal national Mortgage Association.
4. Time Deposits in commercial banks.

Designate below the type of investment selected:

_____

_____

_____

_____4. Bond-in-Lieu: With the consent of the City, the contractor may submit a bond for all or any portion of the amount of funds retained by the City in a form acceptable to the City and from a bonding company meeting standards established by the City, if any. Unless otherwise indicated, the contractor elects to submit a bond for the entire 5% retainage amount. Such bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in Chapter 60.28 RCW. Whenever the City accepts a bond-in-lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier, to the subcontractor or supplier, within thirty days of the contractor's receipt of the retained funds from the City.

Retainage is normally released 30 - 45 days after final acceptance of work by the City, or following receipt of Labor and Industries / Department of Revenue clearance, whichever takes longer.

_____

(Contractor's Signature) Date

_____

Title

**RETAINAGE ACCOUNT** _____

**CITY** _____

# ESCROW AGREEMENT / INTEREST BEARING ACCOUNT

TO: _____
Bank or Trust Company

_____
Branch

_____
Attn:

_____
Street Address

_____
City, State, Zip

The undersigned _____hereinafter referred to as the Contractor, has directed the City of Sedro-Woolley, hereinafter referred to as the City, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

## INSTRUCTIONS

1. The City shall deliver to you from time to time warrants or checks payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name any such warrant or check so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow / interest bearing account. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such warrant or check shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you, and the City. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions on investments recited herein. A list of such bonds, or other securities approved by the City are indicated on the Retainage Investment Option form. No further approval is necessary if any of these bonds or securities are selected by the Contractor. Other bonds or securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the City. Purchase of such bonds or other securities shall be in a form which shall allow you alone to

reconvert such bonds or other securities into money if you are required to do so by the City as provided in Paragraph 4 of the Escrow Agreement.

The investments selected by the Contractor, approved by the City and purchased by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless with your written consent you are otherwise directed in writing by the Contractor.

3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City shall inform you and keep you informed in writing of the name of the person or persons with authority to give you such written instructions. Compliance with such instruction shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow / Interest Bearing Account Agreement is_____. Upon request by you, the City shall advise you in writing of any change in the estimated completion date. If the estimated completion date is changed, you are authorized to reinvest the monies held hereunder in accordance with the new estimated completion date.

4. In the event the City orders you to do so in writing, and notwithstanding any other provisions of this agreement you shall, within thirty-five (35) days of receipt of such order, reconvert into money the securities held by you pursuant to this agreement and return such money together with any other monies, including accrued interest on such securities, held by you hereunder, to the City.

5. The Contractor agrees to pay you as compensation for your services hereunder as follows:

_____

_____

_____.

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interest of this escrow or any modifications hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigations.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow or interest bearing account holder hereunder, you shall give written notice to the City and Contractor. The City and Contractor shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the City and upon doing, it absolves you from all further charges and obligations in connection with this escrow or interest bearing account.

7. This agreement shall not be binding until executed by the Contractor and City and accepted by you.

8. This instrument contains the entire agreement between you, the Contractor and the City with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this; you shall not be required to take notice if any default or any other matter, not bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow or interest bearing account and do hereby execute this agreement on this _____day of _____, 20_____.

| | |
|---|---|
| _____ | **CITY OF SEDRO-WOOLLEY** |
| Contractor | City |
| BY: _____ | BY: _____ |
| Signature & Title | Authorized Signature & Title |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City State Zip | City State Zip |

ATTESTED BY:

_____
City Clerk

Approved as to form:

_____
City Attorney

The above escrow instructions received and accepted this _____day of _____, 20____.

_____
Bank or Trust Company

By: _____

# EXHIBIT A

CITY OF SEDRO-WOOLLEY
2011 ON-CALL CONSTRUCTION SERVICES
***SAMPLE LABOR AND EQUIPMENT RATE SHEET (Note 1)***

*Contractor Name:* TRICO CONTRACTING, INC.

| ITEM | BASE HOURLY RATE (1) | OVERTIME HOURLY RATE |
|---|---|---|
| **Labor Rates (Note 2)** | | |
| Superintendent/Supervisor | 90.97 | 122.45 |
| Foreman | 67.00 | 88.44 |
| Operator | 65.00 | 85.00 |
| Pipe Layer | 55.00 | 72.00 |
| Laborer Foreman | 61.00 | 82.00 |
| General Laborer | 53.00 | 71.00 |
| Dumptruck/Lobed Driver | 65.00 | 85.00 |
| Flagger/TCS | 53.00 | 71.00 |
| Flagger | 45.00 | 59.00 |
| | | |
| **Material Markup Rate, % (Note 2)** | | |
| | | |
| **Estimated Mobilization/Demobilization Cost per unit to Sedro-Woolley** | | |
| | | |
| **Equipment Rates (Note 3)** | **Unit Cost** | **Unit** |
| 3/4 Ton Pickup with tools | 15.00 | Per Hour |
| 1 Ton Service Truck with tools | 40.00 | Per Hour |
| Air Compressor with tools | 17.00 | Per Hour |
| Rubber Tire Backhoe, 80-99 HP (Deere 310SE or equivalent) | 45.00 | Per Hour |
| Mini Excavator | 35.00 | Per Hour |
| Excavator, 6-8 Ton (Deere 160LC or equivalent) | 39.00 | Per Hour |
| Excavator, 6-8 Ton (Deere 190E or equivalent) | 58.00 | Per Hour |
| Excavator, 8.1-12 Ton (Deere 290D or equivalent) | 80.00 | Per Hour |
| Cat 936-950 Rubber Tire Wheel Loader (or equivalent) | 60.00 | Per Hour |
| Cat D4 Dozer (or equivalent) | 60.00 | Per Hour |
| Double Drum Vibratory Roller Compactor | 40.00 | Per Hour |
| Jumping Jack Compactor | 2.00 | Per Hour |
| Plate Compactor | 4.00 | Per Hour |
| Hoe-Pac Backhoe or excavator attachment | 3.00 | Per Hour |
| 2" Trash Pump w/ suction & discharge hose | 8.00 | Per Hour |
| Equipment Truck/Lowboy Trailer | 75.00 | Per Hour |
| 7 CY Dump Truck 2 Axle Solo | 40.00 | Per Hour |
| 10 CY Dump Truck 3 Axle w/Trailer | 90.00 | Per Hour |
| Hydraulic Boom Truck | 100.00 | Per Hour |
| Sweeper | 30.00 | Per Hour |
| Trench Shoring Box | 40.00 | Per Day |
| Manhole Shoring Box | 40.00 | Per Day |
| Speed Shores | 40.00 | Per Day |
| Steel Crossing Plate | 40.00 | Per Day |
| Traffic Control Equipment (Work Ahead, Detour, etc) | 100.00 | Per Day |
| Asphalt Saw, walk behind | 130.00 | Per Day |

**NOTES:**

1. This Rate Sheet is provided for example only. Contractor may provide their own standard Rate Sheet as long as it provides the requested information or equivale
2. Material markup rate as a percent to be applied to mateials furnished per invoice before sales tax.
3. Labor and Equipment rates to include insurance, L&I, small tools, markup & etc. but not sales tax. Sales tax will be applied on net invoice amount

**PUBLIC WORKS AGREEMENT 2011-PW-05**

**Project Name: On-Call Construction Services Agreement**

The City of Sedro-Woolley, a municipal corporation of the State of Washington (hereinafter the "City"); and **Interwest Construction, Inc., 609 North Hill Blvd., Burlington, WA 98233**, (hereinafter the "Contractor") hereby agree as follows:

**I. THE PROJECT:** The Contractor agrees to complete the following project, utilizing the best available materials and labor, and in accordance with bid specifications and contractor's proposal (if any), project plans and technical specifications:

Project description: **On-Call Construction Services Agreement for miscellaneous construction services of an emergent nature.**

**II. GENERAL CONDITIONS:** The General Conditions of this agreement are the Standard Specifications for Road, Bridge and Municipal Construction, Current Edition, issued by the State of Washington and the APWA, modified as follows:

A. **Definitions and Terms:**

1. Whenever the terms "Washington State Transportation Commission", "State Department of Transportation", or variations of same are used in the Standard specifications, they shall be construed to mean "City of Sedro-Woolley" or "Owner".

2. Where references are made to the "State Treasurer", the term shall be construed to mean the City's "Finance Director".

3. Where the term "Secretary of Transportation" or "District Administrator" are used, the terms shall be construed to mean the duly authorized representative of the City.

B. **Project Manager:** The term "engineer" is understood to be the City's Project Manager, who is the City's representative to the Contractor for all purposes under this agreement. The City designates **Debra Allen, Wastewater Treatment Plant Superintendent** as its Project Manager. Contractor designates _____ as its Project Manager.

C. **Business License:** A City Business License is required, and Contractor and Sub-Contractors are responsible for payment of the taxes imposed thereunder.

D. **Taxes:** Contractor is responsible for payment of all applicable taxes, including state sales tax on those projects subject to it. Taxes are deemed to be included in the amounts invoiced to the City.

E. **Bonding Requirements**: The City requires the following bonds; combination documents, cash deposits, or assigned savings accounts are acceptable alternatives:

1. Bid Bond: 5%, if the work is subject to bid procedures;

2. Contract bond in the form made a part of this agreement. In lieu thereof for projects of $35,000 or less, at the contractor's option, retainage of 50% will be held until releasable under RCW 39.08.010.

F. **Insurance:** The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite

and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts ($1 Million minimum) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

G. **Traffic Control:** The Contractor shall furnish all flagging and maintain all temporary traffic control signs and devices necessary to control traffic during construction operations at all locations. Traffic control plans and traffic control signs and devices shall conform to the Manual on Uniform Traffic Control Devices as adopted by the State of Washington, and shall be approved in advance by the City. Unless provided for specifically in the contract, no additional compensation will be made for traffic control.

## III. PAYMENT

A. The maximum payable hereunder is **$35,000**.

B. Individual Task Orders will specify the method of compensation, which will be on a Time & Expense Not To Exceed basis per rates established in **Exhibit A**, Labor and Equipment Rate Sheet, or agreed Lump Sum Price.

C. The Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices are submitted to the Project Manager for approval prior to payment. No final payment shall be made until the project is accepted by the City.

D. Prior to any payment hereunder, contractor is responsible for complying with applicable Department of Labor and Industries and Department of Revenue requirements and procedures. (General conditions section 1-07.9. If Federal Funds, Davis-Bacon Act and U. S. Department of Labor requirements.) This includes obtaining and timely filing of Intent to Pay Prevailing Wages, Affidavit of Wages paid, Notice of Completion of Public Works Contract, and any other required documents.

E. Retainage will be administered in accordance with RCW 60.28.010(1).

## IV. SCOPE OF PROJECT, TECHNICAL SPECIFICATIONS AND CONDITIONS OF WORK:

A. Term of contract: This contract anticipates repair or restoration work that cannot be definitively scheduled due to its emergent nature. As a result, contractor shall begin work within five days of Notice to Proceed or as otherwise agreed, and will complete work within a timeline as mutually agreed with the Project Manager. All terms of this contract will expire **December 31, 2011.**

B. To the extent not inconsistent with this agreement, this contract includes the Invitation to Bid and Proposal, and contract plans and specifications, all incorporated herein by this reference.

C. Scope of project: **Per Task Order**

D. Joinder in Arbitration Proceedings. If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

E. Indemnification.

1. Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

2. Contractor's duty to indemnify City shall not apply to liability for damages arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City's agents or employees.

3. Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

4. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor's employees directly against Contractor.

5. Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

F. Attorneys Fees. The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

G. MRSC Roster Registration. If required, the Contractor shall register or maintain registration on the MRSC Small Works Contractor Roster.

H. Washington State Department of Retirement Systems. Have you retired under the 2008 early retirement factors? Yes No N/A

I. Debarment. Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-contractors are listed on any state or federal debarment list.

EXECUTED, this the _____ day of _____, 201___, for the Contractor, **Interwest Construction, Inc.**

_____
, Contractor

EXECUTED, this the _____ day of _____, 201___, for the CITY OF SEDRO-WOOLLEY:

_____
Mike Anderson, Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

**CONTRACT BOND**
**to the**
**CITY OF SEDRO-WOOLLEY**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, the undersigned _____
_____
_____
as principal, and _____, a corporation organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the **CITYOF SEDRO-WOOLLEY** in the penal sum of $_____ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the **CITY OF SEDRO-WOOLLEY**.

**DATED** at _____, Washington, this ____ day of _____, 200___.

Nevertheless, the conditions of the above obligation are such that:

**WHEREAS**, the Mayor of said City has let or is about to let to the said bounded principal, a certain contract, for _____
_____
_____
_____
(which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

**NOW THEREFORE**, if the said Principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extension of time as may be granted under said contract (notice of which extension being hereby waived by the Surety), and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City harmless from any direct or indirect damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Approved: _____
Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

_____
Principal
Title: _____

For the Surety: _____

Name: _____
Title: _____
Address: _____
_____

## RETAINAGE INVESTMENT OPTION

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____

Pursuant to Chapter 60.28 RCW, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the City of Sedro-Woolley (City) will hold your retainage as described in "Current Expense", option 1 below.

_____1. Current Expense: The City will retain your money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

_____2. Interest Bearing Account: The City will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.

_____3. Escrow / Investments: The City will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserve payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the City and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. Selection of this option requires an escrow agreement to be completed by the contractor. The City of Sedro-Woolley will provide the form for use by the contractor. If the contractor elects to use the Escrow Investment option, please complete attached Escrow Agreement.

***BONDS AND SECURITIES ACCEPTABLE BY THE CITY OF SEDRO-WOOLLEY:***

1. Bills, certificates, notes or bonds of the United States.
2. Other obligations of the United States or its agencies.
3. Indebtedness of the Federal national Mortgage Association.
4. Time Deposits in commercial banks.

Designate below the type of investment selected:

_____

_____

_____

_____4. Bond-in-Lieu: With the consent of the City, the contractor may submit a bond for all or any portion of the amount of funds retained by the City in a form acceptable to the City and from a bonding company meeting standards established by the City, if any. Unless otherwise indicated, the contractor elects to submit a bond for the entire 5% retainage amount. Such bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in Chapter 60.28 RCW. Whenever the City accepts a bond-in-lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier, to the subcontractor or supplier, within thirty days of the contractor's receipt of the retained funds from the City.

Retainage is normally released 30 - 45 days after final acceptance of work by the City, or following receipt of Labor and Industries / Department of Revenue clearance, whichever takes longer.

_____

(Contractor's Signature) Date

_____

Title

**RETAINAGE ACCOUNT** _____

**CITY** _____

# ESCROW AGREEMENT / INTEREST BEARING ACCOUNT

TO: _____
Bank or Trust Company

_____
Branch

_____
Attn:

_____
Street Address

_____
City, State, Zip

The undersigned _____hereinafter referred to as the Contractor, has directed the City of Sedro-Woolley, hereinafter referred to as the City, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

## INSTRUCTIONS

1. The City shall deliver to you from time to time warrants or checks payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name any such warrant or check so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow / interest bearing account. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such warrant or check shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you, and the City. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions on investments recited herein. A list of such bonds, or other securities approved by the City are indicated on the Retainage Investment Option form. No further approval is necessary if any of these bonds or securities are selected by the Contractor. Other bonds or securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the City. Purchase of such bonds or other securities shall be in a form which shall allow you alone to

reconvert such bonds or other securities into money if you are required to do so by the City as provided in Paragraph 4 of the Escrow Agreement.

The investments selected by the Contractor, approved by the City and purchased by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless with your written consent you are otherwise directed in writing by the Contractor.

3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City shall inform you and keep you informed in writing of the name of the person or persons with authority to give you such written instructions. Compliance with such instruction shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow / Interest Bearing Account Agreement is_____. Upon request by you, the City shall advise you in writing of any change in the estimated completion date. If the estimated completion date is changed, you are authorized to reinvest the monies held hereunder in accordance with the new estimated completion date.

4. In the event the City orders you to do so in writing, and notwithstanding any other provisions of this agreement you shall, within thirty-five (35) days of receipt of such order, reconvert into money the securities held by you pursuant to this agreement and return such money together with any other monies, including accrued interest on such securities, held by you hereunder, to the City.

5. The Contractor agrees to pay you as compensation for your services hereunder as follows:

_____

_____

_____.

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interest of this escrow or any modifications hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigations.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow or interest bearing account holder hereunder, you shall give written notice to the City and Contractor. The City and Contractor shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the City and upon doing, it absolves you from all further charges and obligations in connection with this escrow or interest bearing account.

7. This agreement shall not be binding until executed by the Contractor and City and accepted by you.

8. This instrument contains the entire agreement between you, the Contractor and the City with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this; you shall not be required to take notice if any default or any other matter, not bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow or interest bearing account and do hereby execute this agreement on this _____day of _____, 20____.

| | |
|---|---|
| _____ | **CITY OF SEDRO-WOOLLEY** |
| Contractor | City |
| BY: _____ | BY: _____ |
| Signature & Title | Authorized Signature & Title |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City State Zip | City State Zip |

ATTESTED BY:

_____
City Clerk

Approved as to form:

_____
City Attorney

The above escrow instructions received and accepted this _____day of _____, 20____.

_____
Bank or Trust Company

By: _____

# EXHIBIT A

CITY OF SEDRO-WOOLLEY
2011 ON-CALL CONSTRUCTION SERVICES
***SAMPLE LABOR AND EQUIPMENT RATE SHEET (Note 1)***

*Contractor Name:* Interwest Construction, Inc.

| ITEM | BASE HOURLY RATE (1) | OVERTIME HOURLY RATE |
|---|---|---|
| **Labor Rates (Note 2)** | | |
| Superintendent/Supervisor | $77.00 | $105.00 |
| Foreman | $69.00 | $92.00 |
| Operator | $67.00 | $90.00 |
| Pipe Layer | $55.00 | $75.00 |
| Laborer Foreman | $58.00 | $80.00 |
| General Laborer | $54.00 | $74.00 |
| Dumptruck/Lobed Driver | $60.00 | $92.00 |
| Flagger/TCS | $48.00 | $66.00 |
| Flagger | $45.00 | $62.00 |
| | | |
| **Material Markup Rate, % (Note 2)** | 15% | |
| | | |
| **Estimated Mobilization/Demobilization Cost per unit to Sedro-Woolley** | $500.00 | Lump Sum |
| | | |
| **Equipment Rates (Note 3)** | **Unit Cost** | **Unit** |
| 3/4 Ton Pickup with tools | $17.00 | Per Hour |
| 1 Ton Service Truck with tools | $48.00 | Per Hour |
| Air Compressor with tools | $18.00 | Per Hour |
| Rubber Tire Backhoe, 80-99 HP (Deere 310SE or equivalent) | $43.00 | Per Hour |
| Mini Excavator | $39.00 | Per Hour |
| Excavator, 6-8 Ton (Deere 160LC or equivalent) | $75.00 | Per Hour |
| Excavator, 6-8 Ton (Deere 190E or equivalent) | $85.00 | Per Hour |
| Excavator, 8.1-12 Ton (Deere 290D or equivalent) | $100.00 | Per Hour |
| Cat 936-950 Rubber Tire Wheel Loader (or equivalent) | $60.00 | Per Hour |
| Cat D4 Dozer (or equivalent) | $60.00 | Per Hour |
| Double Drum Vibratory Roller Compactor | $30.00 | Per Hour |
| Jumping Jack Compactor | $5.00 | Per Hour |
| Plate Compactor | $5.00 | Per Hour |
| Hoe-Pac Backhoe or excavator attachment | $15.00 | Per Hour |
| 2" Trash Pump w/ suction & discharge hose | $10.00 | Per Hour |
| Equipment Truck/Lowboy Trailer | $95.00 | Per Hour |
| 7 CY Dump Truck 2 Axle Solo | $45.00 | Per Hour |
| 10 CY Dump Truck 3 Axle w/Trailer | $75.00 | Per Hour |
| Hydraulic Boom Truck | $90.00 | Per Hour |
| Sweeper | $20.00 | Per Hour |
| Trench Shoring Box | $25.00 | Per Day |
| Manhole Shoring Box | $25.00 | Per Day |
| Speed Shores | $25.00 | Per Day |
| Steel Crossing Plate | $20.00 | Per Day |
| Traffic Control Equipment (Work Ahead, Detour, etc) | $100.00 | Per Day |
| Asphalt Saw, walk behind | $350.00 | Per Day |

**NOTES:**

1. This Rate Sheet is provided for example only. Contractor may provide their own standard Rate Sheet as long as it provides the requested information or equivale
2. Material markup rate as a percent to be applied to mateials furnished per invoice before sales tax.
3. Labor and Equipment rates to include insurance, L&I, small tools, markup & etc. but not sales tax. Sales tax will be applied on net invoice amount

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3b

**CITY OF SEDRO-WOOLLEY**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

Mark A. Freiberger, PE
Director of Public Works/City Engineer

---

MEMO TO: City Council and Mayor Mike Anderson

FROM: Mark A. Freiberger, PE

RE: **Possible bid award – Public Works Agreement No. 2011-PW-13**
**2011 Library Furnace Replacement**

DATE: February 2, 2011 (for Council action February 9, 2011)

**ISSUE**
Should Mayor Anderson execute the attached Public Works Agreement No. 2011-PW-13 for the 2011 Library Furnace Replacement with McKinstry of Bellingham, WA in the amount of $6,548.00 including sales tax?

**BACKGROUND/DISCUSSION**
The city advertised for bids on December 23, 2010 under the MRSC Small Works Roster process for the 2011 Library Furnace Replacement project. Seven bids were received as shown on the attached Bid Summary. McKinstry of Bellingham is the low bidder at $6,548.00, which is 11.1% under the second bidder. The bid conforms to the specifications and is recommended for award.

**FINANCE**
The city has received a grant from the Northwest Clean Air Agency (the subject of a separate memorandum on this council agenda) for a number of building retrofit activities, including the Library Furnace replacement. The proposed contract is below the budgeted amount for the furnace replacement.

**MOTION:**

***Move to authorize Mayor Anderson to execute the attached Public Works Agreement No. 2011-PW-13 for the 2011 Library Furnace Replacement with McKinstry of Bellingham, WA in the amount of $6,548.00 including sales tax.***

**City of Sedro-Woolley**

# *FINAL - BID SUMMARY*

*2011 LIBRARY FURNACE REPLACEMENT*

*BID OPENING: January 25, 2011, 2:00 PM*

| RANK | COMPANY NAME | TOTAL BID AMOUNT | MRSC |
|---|---|---|---|
| 1 | McKinstry, Bellingham, WA | $ 6,548.00 | Yes |
| 2 | D.K. Systems Inc., Burlington, WA | $ 7,281.86 | Yes |
| 3 | Taxdahl Heating, Burlington, WA | $ 7,465.80 | Yes |
| 4 | Morgan Mechanical LLC, Mill Creek, WA | $ 11,782.98 | No |
| 5 | Williams Mechanical Inc., Everett, WA | $ 12,676.86 | Yes |
| 6 | MacDonald-Miller Facility Solutions Inc., Seattle, Wa | $ 16,879.20 | Yes |
| 7 | Trotter & Morton Facilities Serices of Washington Inc., Federal Way, WA | $ 18,685.06 | Yes |

RECORDED BY: J. ROSARIO

**PUBLIC WORKS AGREEMENT 2011-PW-13**

**Project Name: 2011 Library Furnace Replacement Project**

The City of Sedro-Woolley, a municipal corporation of the State of Washington (hereinafter the "City"); and **McKinstry, POB 28670, Bellingham, WA 98226** (hereinafter the "Contractor") hereby agree as follows:

**I. THE PROJECT:** The Contractor agrees to complete the following project, utilizing the best available materials and labor, and in accordance with bid specifications and contractor's proposal (if any), project plans and technical specifications:

Project description: **Furnish and install two new 95% efficient natural gas fired furnaces including one year warranty, ducting connections, reconnecting existing air conditioner, reconnecting utilities, start up and testing.**

**II. GENERAL CONDITIONS:** The General Conditions of this agreement are the International Building Code, Current Edition, National Electrical Code, current edition, and the City of Sedro-Woolley Building Code modified as follows:

A. **Definitions and Terms:**

1. Whenever the terms "Washington State Transportation Commission", "State Department of Transportation", or variations of same are used in the Standard specifications, they shall be construed to mean "City of Sedro-Woolley" or "Owner".

2. Where references are made to the "State Treasurer", the term shall be construed to mean the City's "Finance Director".

3. Where the term "Secretary of Transportation" or "District Administrator" are used, the terms shall be construed to mean the duly authorized representative of the City.

B. **Project Manager:** The term "engineer" is understood to be the City's Project Manager, who is the City's representative to the Contractor for all purposes under this agreement. The City designates **Nathan Salseina, Public Works Operations Lead (360-661-6492)**, as its Project Manager. Contractor designates _____ as its Project Manager.

C. **Business License:** A City Business License is required, and Contractor and Sub-Contractors are responsible for payment of the taxes imposed thereunder.

D. **Taxes:** Contractor is responsible for payment of all applicable taxes, including state sales tax on those projects subject to it. Taxes are deemed to be included in the amounts invoiced to the City.

E. **Bonding Requirements**: The City requires the following bonds; combination documents, cash deposits, or assigned savings accounts are acceptable alternatives:

1. Bid Bond: 5%, if the work is subject to bid procedures;

2. Contract bond in the form made a part of this agreement. In lieu thereof for projects of $35,000 or less, at the contractor's option, retainage of 50% will be held until releasable under RCW 39.08.010.

F. **Insurance:** The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts ($1 Million minimum) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

G. **Traffic Control:** Not Applicable.

## III. PAYMENT

A. The Lump Sum amount payable hereunder is **$6,548.00,** including 8.2% including sales tax.

B. The Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices are submitted to the Project Manager for approval prior to payment. No final payment shall be made until the project is accepted by the City.

C. Prior to any payment hereunder, contractor is responsible for complying with applicable Department of Labor and Industries and Department of Revenue requirements and procedures. (General conditions section 1-07.9. If Federal Funds, Davis-Bacon Act and U. S. Department of Labor requirements.) This includes obtaining and timely filing of Intent to Pay Prevailing Wages, Affidavit of Wages paid, Notice of Completion of Public Works Contract, and any other required documents.

D. Retainage will be administered in accordance with RCW 60.28.010(1).

## IV. SCOPE OF PROJECT, TECHNICAL SPECIFICATIONS AND CONDITIONS OF WORK:

A. Term of contract: contractor shall begin work as soon as is practicable and will complete work on or before **June 1, 2011.**

B. To the extent not inconsistent with this agreement, this contract includes the Invitation to Bid and Proposal, and contract plans and specifications, all incorporated herein by this reference.

C. Scope of project: **Per the Request for Proposals dated December 23, 2010 and this Contract, and McKinstry quotation dated January 18, 2011, attached as Exhibit A.**

D. Joinder in Arbitration Proceedings. If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

E. Indemnification.

1. Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

2. Contractor's duty to indemnify City shall not apply to liability for damages

arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City's agents or employees.

3. Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

4. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor's employees directly against Contractor.

5. Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

F. Attorneys Fees. The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

G. MRSC Roster Registration. If required, the Contractor shall register or maintain registration on the MRSC Small Works Contractor Roster.

H. Washington State Department of Retirement Systems. Have you retired under the 2008 early retirement factors? Yes No N/A

I. Debarment. Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-contractors are listed on any state or federal debarment list.

EXECUTED, this the _____ day of _____, 2011, for the Contractor, **McKinstry**

Signature: _____

Name: _____ Title: _____

EXECUTED, this the _____ day of _____, 2011, for the CITY OF SEDRO-WOOLLEY:

_____
Mike Anderson, Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

**CONTRACT BOND**
**to the**
**CITY OF SEDRO-WOOLLEY**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, the undersigned _____
_____
_____
as principal, and _____, a corporation organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the **CITYOF SEDRO-WOOLLEY** in the penal sum of $_____ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the **CITY OF SEDRO-WOOLLEY**.

**DATED** at _____, Washington, this ____ day of _____, 200___.

Nevertheless, the conditions of the above obligation are such that:

**WHEREAS**, the Mayor of said City has let or is about to let to the said bounded principal, a certain contract, for _____
_____
_____
_____
(which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

**NOW THEREFORE**, if the said Principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extension of time as may be granted under said contract (notice of which extension being hereby waived by the Surety), and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City harmless from any direct or indirect damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Approved: _____
Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

_____
Principal
Title: _____

For the Surety: _____

Name: _____
Title: _____
Address: _____
_____

## RETAINAGE INVESTMENT OPTION

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____

Pursuant to Chapter 60.28 RCW, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the City of Sedro-Woolley (City) will hold your retainage as described in "Current Expense", option 1 below.

_____1. Current Expense: The City will retain your money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

_____2. Interest Bearing Account: The City will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.

_____3. Escrow / Investments: The City will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserve payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the City and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. Selection of this option requires an escrow agreement to be completed by the contractor. The City of Sedro-Woolley will provide the form for use by the contractor. If the contractor elects to use the Escrow Investment option, please complete attached Escrow Agreement.

***BONDS AND SECURITIES ACCEPTABLE BY THE CITY OF SEDRO-WOOLLEY:***

1. Bills, certificates, notes or bonds of the United States.
2. Other obligations of the United States or its agencies.
3. Indebtedness of the Federal national Mortgage Association.
4. Time Deposits in commercial banks.

Designate below the type of investment selected:

_____

_____

_____

_____4. Bond-in-Lieu: With the consent of the City, the contractor may submit a bond for all or any portion of the amount of funds retained by the City in a form acceptable to the City and from a bonding company meeting standards established by the City, if any. Unless otherwise indicated, the contractor elects to submit a bond for the entire 5% retainage amount. Such bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in Chapter 60.28 RCW. Whenever the City accepts a bond-in-lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier, to the subcontractor or supplier, within thirty days of the contractor's receipt of the retained funds from the City.

Retainage is normally released 30 - 45 days after final acceptance of work by the City, or following receipt of Labor and Industries / Department of Revenue clearance, whichever takes longer.

_____

(Contractor's Signature) Date

_____

Title

**RETAINAGE ACCOUNT** _____

**CITY** _____

# ESCROW AGREEMENT / INTEREST BEARING ACCOUNT

TO: _____
Bank or Trust Company

_____
Branch

_____
Attn:

_____
Street Address

_____
City, State, Zip

The undersigned _____hereinafter referred to as the Contractor, has directed the City of Sedro-Woolley, hereinafter referred to as the City, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

## INSTRUCTIONS

1. The City shall deliver to you from time to time warrants or checks payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name any such warrant or check so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow / interest bearing account. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such warrant or check shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you, and the City. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions on investments recited herein. A list of such bonds, or other securities approved by the City are indicated on the Retainage Investment Option form. No further approval is necessary if any of these bonds or securities are selected by the Contractor. Other bonds or securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the City. Purchase of such bonds or other securities shall be in a form which shall allow you alone to

reconvert such bonds or other securities into money if you are required to do so by the City as provided in Paragraph 4 of the Escrow Agreement.

The investments selected by the Contractor, approved by the City and purchased by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless with your written consent you are otherwise directed in writing by the Contractor.

3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City shall inform you and keep you informed in writing of the name of the person or persons with authority to give you such written instructions. Compliance with such instruction shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow / Interest Bearing Account Agreement is_____. Upon request by you, the City shall advise you in writing of any change in the estimated completion date. If the estimated completion date is changed, you are authorized to reinvest the monies held hereunder in accordance with the new estimated completion date.

4. In the event the City orders you to do so in writing, and notwithstanding any other provisions of this agreement you shall, within thirty-five (35) days of receipt of such order, reconvert into money the securities held by you pursuant to this agreement and return such money together with any other monies, including accrued interest on such securities, held by you hereunder, to the City.

5. The Contractor agrees to pay you as compensation for your services hereunder as follows:

_____

_____

_____.

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interest of this escrow or any modifications hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigations.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow or interest bearing account holder hereunder, you shall give written notice to the City and Contractor. The City and Contractor shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the City and upon doing, it absolves you from all further charges and obligations in connection with this escrow or interest bearing account.

7. This agreement shall not be binding until executed by the Contractor and City and accepted by you.

8. This instrument contains the entire agreement between you, the Contractor and the City with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this; you shall not be required to take notice if any default or any other matter, not bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow or interest bearing account and do hereby execute this agreement on this _____day of _____, 20_____.

| | |
|---|---|
| _____ | **CITY OF SEDRO-WOOLLEY** |
| Contractor | City |
| BY: _____ | BY: _____ |
| Signature & Title | Authorized Signature & Title |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City State Zip | City State Zip |

ATTESTED BY:

_____
City Clerk

Approved as to form:

_____
City Attorney

The above escrow instructions received and accepted this _____day of _____, 20____.

_____
Bank or Trust Company

By: _____

McKinstry | PO BOX 28670 | BELLINGHAM, WA 98226 | (360) 733-4652 | MCKIN**372NO

McKinstry
For The Life Of Your Building

# EXHIBIT A

January 18, 2011

Sedro Woolley Public Library
802 Ball Street
Sedro Woolley, WA 98284

Project: HVAC (Heating, Ventilation, and Air Conditioning) Upgrade and Replacement

City of Sedro Woolley;

We appreciate the opportunity to review this project for you. The following assessment and proposal are based on the history we have with the facility, discussions with your staff, as well as investigative visits to the jobsite.

**Current Situation**
The existing HVAC system serving the library is inefficient, and due to the age and condition of the equipment, should be replaced. A new heating system will provide years of reliable indoor air comfort. Utility costs will also lower by replacing the existing furnaces with new high efficiency units.

**Job Specific Challenges**
Some of the equipment on site will need to be accessed through the ceiling above the main librarian desk. Before we begin the process of installation, desk-top items should be removed to prevent damage. Please note that we will provide coverings for the desk and immediate areas to avoid dust and debris from settling on to these areas.

**Proposed Scope**

- Install (2) new RHEEM 95+% Efficient /Natural Gas/Insulated Noise Reduction/95,000 BTU/5 Ton Furnaces
- Install (1) new Condensate Pump and associated High Efficiency PVC Venting for downstairs furnace drainage.
- Reconnect existing High Efficiency PVC Condensate Drainage for upstairs furnace.
- Install (2) new Filter Access Doors for ease of use.
- Reconnect all existing supply and return ducting to new furnaces for proper air distribution.
- Reconnect all existing air conditioning to new furnaces.
- Reconnect all utilities to new furnaces.
- Install (2) new Honeywell 7-Day Programmable Thermostats. This proposal will include all necessary wiring, connections and programming as desired.
- Install new High Quality Pleated Filters in both new furnaces.
- This proposal does include upgrading any associated furnace venting to meet or exceed WA Sate Code.
- This proposal does include all necessary mechanical and low-voltage electrical permits.
- This proposal does include all necessary travel, labor and parts/equipment to complete the installation of the equipment as listed above.
- This proposal does include hauling and disposal of any job related waste items per E.P.A. regulations.
- This proposal does include Washington State Tax.
- This proposal does include Prevailing Wage Payment Schedules.
- This proposal does include job site clean-up and evaluation.
- Start, Test and Run of system will be performed.
- Customer Job Walk-Thru Upon Completion Included.

**Warranty Scope**

- 1 year McKinstry Warranty on all parts and labor included.
- Rheem Manufacturer Warranty includes Limited Lifetime Warranty of heat exchanger.

| |
|---|
| Estimated cost to perform proposed work, to include all necessary labor and materials, during regular business hours: **6,548.00** |

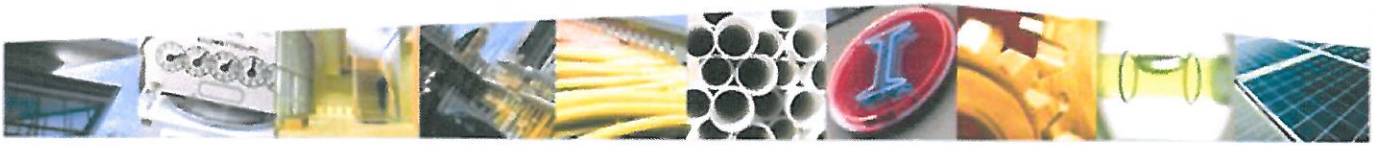
This *budget* excludes: Overtime and/or any other work or materials not specified.

Acceptance: _____ Date: _____

Please do not hesitate to call me with any questions or for scheduling.

Regards,

Kelly Lonsberry
McKinstry Company
kellyl@mckinstry.com
360-305-7774



CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3

**CITY OF SEDRO-WOOLLEY**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

Mark A. Freiberger, PE
Director of Public Works/City Engineer

---

MEMO TO: City Council and Mayor Mike Anderson

FROM: Mark A. Freiberger, PE

RE: **Possible bid award – Public Works Agreement No. 2011-PW-14**
**2011 Library Insulation Project**

DATE: February 2, 2011 (for Council action February 9, 2011)

**ISSUE**
Should Mayor Anderson execute the attached Public Works Agreement No. 2011-PW-14 for the 2011 Library Insulation project with Coast Insulation of Ferndale, WA in the amount of $2,505.91 including sales tax?

**BACKGROUND/DISCUSSION**
The city advertised for bids on December 23, 2010 under the MRSC Small Works Roster process for the 2011 Library Insulation project. Three bids were received as shown on the attached Bid Summary. Coast Insulation of Ferndale, WA is the low bidder at $2,505.91, which is 13.7% under the second bidder. The bid conforms to the specifications and is recommended for award.

**FINANCE**
The city has received a grant from the Northwest Clean Air Agency (see separate Agreement on this council agenda) for a number of building retrofit activities, including the Library Insulation project. The proposed contract is below the budgeted amount for the insulation work.

**MOTION:**

***Move to authorize Mayor Anderson to execute the attached Public Works Agreement No. 2011-PW-14 for the 2011 Library Insulation project with Coast Insulation of Ferndale, WA in the amount of $2,505.91 including sales tax.***

**City of Sedro-Woolley**

# *FINAL - BID SUMMARY*

*2011 LIBRARY INSULATION*

*BID OPENING: January 25, 2011, 2:00 PM*

| RANK | COMPANY NAME | TOTAL BID AMOUNT | MRSC |
|---|---|---|---|
| 1 | Coast Insulation, Ferndale, WA | $ 2,505.91 | Yes |
| 2 | Classic Insulation & Pest Control, Mount Vernon, WA | $ 2,849.99 | Yes |
| 3 | Welch Meeds Construction Inc., Enumclaw, WA | $ 3,635.52 | Yes |

RECORDED BY: J. ROSARIO

**PUBLIC WORKS AGREEMENT 2011-PW-14**

**Project Name: 2011 Library Insulation Project**

The City of Sedro-Woolley, a municipal corporation of the State of Washington (hereinafter the "City"); and **Coast Insulation, 2625 Delta Ring Road, Ste. 1, Ferndale, WA 98248** (hereinafter the "Contractor") hereby agree as follows:

**I. THE PROJECT:** The Contractor agrees to complete the following project, utilizing the best available materials and labor, and in accordance with bid specifications and contractor's proposal (if any), project plans and technical specifications:

Project description: **Furnish and install approximately 2,650 square feet of R-38 blown in attic insulation at the City of Sedro-Woolley Public Library, 802 Ball Street, Sedro-Woolley, WA 98284.**

**II. GENERAL CONDITIONS:** The General Conditions of this agreement are the International Building Code, Current Edition, National Electrical Code, current edition, and the City of Sedro-Woolley Building Code modified as follows:

A. **Definitions and Terms:**

1. Whenever the terms "Washington State Transportation Commission", "State Department of Transportation", or variations of same are used in the Standard specifications, they shall be construed to mean "City of Sedro-Woolley" or "Owner".

2. Where references are made to the "State Treasurer", the term shall be construed to mean the City's "Finance Director".

3. Where the term "Secretary of Transportation" or "District Administrator" are used, the terms shall be construed to mean the duly authorized representative of the City.

B. **Project Manager:** The term "engineer" is understood to be the City's Project Manager, who is the City's representative to the Contractor for all purposes under this agreement. The City designates **Nathan Salseina, Public Works Operations Lead (360-661-6492)**, as its Project Manager. Contractor designates _____ as its Project Manager.

C. **Business License:** A City Business License is required, and Contractor and Sub-Contractors are responsible for payment of the taxes imposed thereunder.

D. **Taxes:** Contractor is responsible for payment of all applicable taxes, including state sales tax on those projects subject to it. Taxes are deemed to be included in the amounts invoiced to the City.

E. **Bonding Requirements**: The City requires the following bonds; combination documents, cash deposits, or assigned savings accounts are acceptable alternatives:

1. Bid Bond: 5%, if the work is subject to bid procedures;

2. Contract bond in the form made a part of this agreement. In lieu thereof for projects of $35,000 or less, at the contractor's option, retainage of 50% will be held until releasable under RCW 39.08.010.

F. **Insurance:** The Contractor shall provide proof to the City that it is insured under **automobile and vehicle liability insurance** covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, and general **comprehensive** liability insurance covering the work within the scope of this agreement, in such form and with policy limits in such amounts ($1 Million minimum) as are acceptable to the City.

The Contractor agrees to name the City as an **additional insured** when obtaining liability insurance and to provide a **Certificate of Insurance** to this effect.

G. **Traffic Control:** Not Applicable.

## III. PAYMENT

A. The Lump Sum amount payable hereunder is **$2,501.91,** including 8.2% including sales tax.

B. The Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices are submitted to the Project Manager for approval prior to payment. No final payment shall be made until the project is accepted by the City.

C. Prior to any payment hereunder, contractor is responsible for complying with applicable Department of Labor and Industries and Department of Revenue requirements and procedures. (General conditions section 1-07.9. If Federal Funds, Davis-Bacon Act and U. S. Department of Labor requirements.) This includes obtaining and timely filing of Intent to Pay Prevailing Wages, Affidavit of Wages paid, Notice of Completion of Public Works Contract, and any other required documents.

D. Retainage will be administered in accordance with RCW 60.28.010(1).

## IV. SCOPE OF PROJECT, TECHNICAL SPECIFICATIONS AND CONDITIONS OF WORK:

A. Term of contract: contractor shall begin work as soon as is practicable and will complete work on or before **June 1, 2011.**

B. To the extent not inconsistent with this agreement, this contract includes the Invitation to Bid and Proposal, and contract plans and specifications, all incorporated herein by this reference.

C. Scope of project: **Per the Request for Proposals – 2011 Library Insulation, dated December 23, 2010, and this Contract, and Coast Insulation proposal dated January 20, 2011 attached as Exhibit A.**

D. Joinder in Arbitration Proceedings. If the City and any third party agree to binding arbitration as the method of dispute resolution between them and their claims or any of them arise out of or are related to Contractor's services, Contractor agrees to be joined in such arbitration proceeding as a party and that the Arbitrator(s) decision therein shall be final and binding on Contractor and judgment may be entered upon it in any court having jurisdiction thereof.

E. Indemnification.

1. Contractor shall indemnify, defend, and hold the City harmless from and against any claim, damages, losses, liability or expense arising out of its breach of contract or negligence.

2. Contractor's duty to indemnify City shall not apply to liability for damages

arising out of bodily injury to persons or damage caused to property caused by or resulting from the sole negligence of City or City's agents or employees.

3. Contractor's duty to indemnify City for liability for damages arising out of bodily injury or damage to property caused by or resulting from the concurrent negligence of (a) City or City's agents or employees, (b) Contractor and Contractor's agents or employees, or (c) any third parties shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

4. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this AGREEMENT shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by City, and not include, or extend to, any claims by Contractor's employees directly against Contractor.

5. Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liabilities to which it applies City's personnel-related costs, attorneys' fees, and all other costs whether or not taxable by statute or court rule.

F. Attorneys Fees. The prevailing party in any litigation of any dispute arising out of this agreement shall be entitled to its actual attorneys fees incurred and all costs of such litigation (including expert witness fees) in addition to any costs otherwise taxable by statute or court rule.

G. MRSC Roster Registration. If required, the Contractor shall register or maintain registration on the MRSC Small Works Contractor Roster.

H. Washington State Department of Retirement Systems. Have you retired under the 2008 early retirement factors? Yes No N/A

I. Debarment. Contractor represents and agrees that it is not listed on any state or federal debarment list and further agrees that none of its sub-contractors are listed on any state or federal debarment list.

EXECUTED, this the _____ day of _____, 2011, for the Contractor, **Coast Insulation**

Signature: _____

Name: _____ Title: _____

EXECUTED, this the _____ day of _____, 201___, for the CITY OF SEDRO-WOOLLEY:

_____
Mike Anderson, Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

**CONTRACT BOND**
**to the**
**CITY OF SEDRO-WOOLLEY**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, the undersigned _____
_____
_____
as principal, and _____, a corporation organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the **CITYOF SEDRO-WOOLLEY** in the penal sum of $_____ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the **CITY OF SEDRO-WOOLLEY**.

**DATED** at _____, Washington, this ____ day of _____, 200___.

Nevertheless, the conditions of the above obligation are such that:

**WHEREAS**, the Mayor of said City has let or is about to let to the said bounded principal, a certain contract, for _____
_____
_____
_____
(which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

**NOW THEREFORE**, if the said Principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extension of time as may be granted under said contract (notice of which extension being hereby waived by the Surety), and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City harmless from any direct or indirect damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Approved: _____
Mayor

Attest:

_____
Finance Director

Approved as to form:

_____
City Attorney

_____
Principal
Title: _____

For the Surety: _____

Name: _____
Title: _____
Address: _____
_____

## RETAINAGE INVESTMENT OPTION

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____

Pursuant to Chapter 60.28 RCW, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the City of Sedro-Woolley (City) will hold your retainage as described in "Current Expense", option 1 below.

_____1. Current Expense: The City will retain your money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

_____2. Interest Bearing Account: The City will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.

_____3. Escrow / Investments: The City will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserve payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the City and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. Selection of this option requires an escrow agreement to be completed by the contractor. The City of Sedro-Woolley will provide the form for use by the contractor. If the contractor elects to use the Escrow Investment option, please complete attached Escrow Agreement.

***BONDS AND SECURITIES ACCEPTABLE BY THE CITY OF SEDRO-WOOLLEY:***

1. Bills, certificates, notes or bonds of the United States.
2. Other obligations of the United States or its agencies.
3. Indebtedness of the Federal national Mortgage Association.
4. Time Deposits in commercial banks.

Designate below the type of investment selected:

_____

_____

_____

_____4. Bond-in-Lieu: With the consent of the City, the contractor may submit a bond for all or any portion of the amount of funds retained by the City in a form acceptable to the City and from a bonding company meeting standards established by the City, if any. Unless otherwise indicated, the contractor elects to submit a bond for the entire 5% retainage amount. Such bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in Chapter 60.28 RCW. Whenever the City accepts a bond-in-lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier, to the subcontractor or supplier, within thirty days of the contractor's receipt of the retained funds from the City.

Retainage is normally released 30 - 45 days after final acceptance of work by the City, or following receipt of Labor and Industries / Department of Revenue clearance, whichever takes longer.

_____

(Contractor's Signature) Date

_____

Title

**RETAINAGE ACCOUNT** _____

**CITY** _____

# ESCROW AGREEMENT / INTEREST BEARING ACCOUNT

TO: _____
Bank or Trust Company

_____
Branch

_____
Attn:

_____
Street Address

_____
City, State, Zip

The undersigned _____hereinafter referred to as the Contractor, has directed the City of Sedro-Woolley, hereinafter referred to as the City, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

## INSTRUCTIONS

1. The City shall deliver to you from time to time warrants or checks payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name any such warrant or check so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow / interest bearing account. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such warrant or check shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you, and the City. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions on investments recited herein. A list of such bonds, or other securities approved by the City are indicated on the Retainage Investment Option form. No further approval is necessary if any of these bonds or securities are selected by the Contractor. Other bonds or securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the City. Purchase of such bonds or other securities shall be in a form which shall allow you alone to

reconvert such bonds or other securities into money if you are required to do so by the City as provided in Paragraph 4 of the Escrow Agreement.

The investments selected by the Contractor, approved by the City and purchased by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below unless with your written consent you are otherwise directed in writing by the Contractor.

3. You are not authorized to deliver to the Contractor all or any part of the securities held by you pursuant to this agreement (or any monies derived from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City shall inform you and keep you informed in writing of the name of the person or persons with authority to give you such written instructions. Compliance with such instruction shall relieve you of any further liability related thereto. The estimated completion date on the contract underlying this Escrow / Interest Bearing Account Agreement is_____. Upon request by you, the City shall advise you in writing of any change in the estimated completion date. If the estimated completion date is changed, you are authorized to reinvest the monies held hereunder in accordance with the new estimated completion date.

4. In the event the City orders you to do so in writing, and notwithstanding any other provisions of this agreement you shall, within thirty-five (35) days of receipt of such order, reconvert into money the securities held by you pursuant to this agreement and return such money together with any other monies, including accrued interest on such securities, held by you hereunder, to the City.

5. The Contractor agrees to pay you as compensation for your services hereunder as follows:

_____

_____

_____.

Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any property placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interest of this escrow or any modifications hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigations.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow or interest bearing account holder hereunder, you shall give written notice to the City and Contractor. The City and Contractor shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the City and upon doing, it absolves you from all further charges and obligations in connection with this escrow or interest bearing account.

7. This agreement shall not be binding until executed by the Contractor and City and accepted by you.

8. This instrument contains the entire agreement between you, the Contractor and the City with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this; you shall not be required to take notice if any default or any other matter, not bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow or interest bearing account and do hereby execute this agreement on this _____day of _____, 20____.

| | |
|---|---|
| _____ | **CITY OF SEDRO-WOOLLEY** |
| Contractor | City |
| BY: _____ | BY: _____ |
| Signature & Title | Authorized Signature & Title |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City State Zip | City State Zip |

ATTESTED BY:

_____
City Clerk

Approved as to form:

_____
City Attorney

The above escrow instructions received and accepted this _____day of _____, 20____.

_____
Bank or Trust Company

By: _____

# EXHIBIT A

## Estimate

2625 Delta Ring Road, Ste. 1
Ferndale, WA 98248

Phone: (360) 366-3472 Fax: (360) 366-3473
Email: coastinsulation@comcast.net

| Date | Bid |
|---|---|
| 1/20/2011 | 5361 |

| Name/Address | Job Address |
|---|---|
| City Of Sedro Woolley<br>Public Works Department<br>325 Metcalf Street<br>Sedro Woolley, WA 98284 | City Library<br>802 Ball Street<br>Sedro Woolley, WA |

| Terms | Rep |
|---|---|
| Net 10th | DI |

**Description Of Work**

R-38 blown-in insulation at the accessible ceiling area

Bid Notes::Prevailing wage noted

JAN 21 2011

8k

**Total** $2,316.00

BID EXCLUDES WASHINGTON STATE SALES TAX. Terms of Sale: This agreement is not effective until an authorized representative of the company or owner signs below. Shipment and delivery of goods and performance of work shall at all times be subject to approval by Coast Insulation's credit department. Payments are to be made progressively as each component is completed. Invoice is due upon receipt unless stated otherwise. Any past due payment will be subject to 1.5% (18% annum) to the extent permitted by law. Delinquent accounts not paid in accordance with the above terms are subject to collection costs and attorney's fees. Once acceptance of said estimate by owner/contractor this agreement may not be cancelled, unless with Coast Insulation's approval. In the event of cancellation owner/contractor shall pay a restocking fee, up to 25% of said estimate. The undersigned understands and agrees to all terms and conditions as stated on said estimate/bid proposal.

WSST 8.2% 189.91

Signature:Dan Isom
Cell - (360) 815-5495

Customer Signature: total: 2505.91

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 4

SUBJECT: PUBLIC COMMENT

Name:
Address:
Narrative:

Name:
Address
Narrative:

Name:
Address:
Narrative:

Name:
Address:
Narrative:

Name:
Address:
Narrative:

# UNFINISHED BUSINESS

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 5

**Planning Department**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

# MEMO:

**To:** City Council
Mayor Anderson

**From:** Jack Moore
Planning Director/ Building Official

**Date:** February 9, 2011

**Subject:** Proposed modification to Municipal Code to regulate new alcohol serving establishments (bars) in the Central Business District – **(2nd Read)**

## ISSUE

Should the Council adopt amendments to the Zoning Code to regulate the creation of new alcohol serving establishments in the Central Business District (CBD)?

## PROJECT DESCRIPTION / HISTORY

The topic of bars in the CBD was brought before the City Council by a downtown business owner at their August 25 meeting; a letter from that business owner is included as Exhibit 2. A petition requesting a limit on bars in the downtown was also received; that petition is attached as Exhibit 3. The City Council directed the planning department to draft a proposed change to regulate bars in the CBD, hold public hearing(s) before the Planning Commission and present recommended changes to Title 17 SWMC.

The Planning Commission held open public hearings on this topic on September 21, October 19 and November 16, 2010. The Planning Commission recommends defining "alcohol serving establishments" on SWMC 17.04.030 and amending SWMC 17.24.010(B) to require that new alcohol serving establishments in the CBD be approved through the conditional use process.

**EXHIBIT 1:** Proposed ordinance
**EXHIBIT 2:** Letter from Rick Schafer, owner of Cascade Physical Therapy, identifying problems his business has experienced with adjacent bars in the Central Business District
**EXHIBIT 3:** A petition signed by 22 business owners and other interested parties requesting the City limit the number of drinking establishments in the downtown area

## RECOMMENDED ACTIONS

Make a motion to adopt ordinance _____ to modify SWMC Title 17 to require conditional use approval for new alcohol serving establishments in the Central Business District.

**ORDINANCE NO. _____-11**

**AN ORDINANCE AMENDING THE SEDRO-WOOLLEY MUNICIPAL CODE TO REGULATE NEW ALCOHOL SERVING ESTABLISHMENTS IN THE CENTRAL BUSINESS DISTRICT**

**WHEREAS**, the city received inquiries from citizens and commercial property owners regarding the affect of alcohol serving establishments on local businesses in the Central Business District, and

**WHEREAS**, the Planning Commission held three public hearings and recommended amendments to the municipal code; and

**WHEREAS**, a SEPA environmental checklist was reviewed and a DNS was issued on November 12, 2010;

**WHEREAS**, pursuant to RCW 36.70A.106, a 60-day notice of intent to adopt a development regulation was sent to the Washington State Department of Commerce; and

**WHEREAS**, the City Council finds the proposed amendments to the SWMC to be consistent with and implement the intent of the Sedro-Woolley Comprehensive Plan; and

**WHEREAS**, the City Council has concluded that it is in the best interest of the public health, safety and welfare to adopt this ordinance; and

**WHEREAS**, the City Council adopts the forgoing as its findings of fact justifying its adoption of this Ordinance;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** SWMC 17.04.030 is amended to include a new definition for "alcohol serving establishments:

"Alcohol serving establishment" means a business licensed to allow on-premises consumption of liquor, wine or beer where the sale and on-premises consumption of said product is the prime source of revenue for the premises. It is not meant to include restaurants where food is prepared and served on the premises and where the sale of liquor, wine or beer is incidental to and not the prime source of revenue for the premises.

**Section 2.** SWMC 17.24.010(B) is amended, to read as follows:

B. Conditional Uses.
1. Alcohol serving establishments
2. All uses not prohibited above

**Section 3.** This ordinance shall be effective five (5) days after passage and publication as provided by law.

**Section 4.** The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this ordinance.

**PASSED** by majority vote of the members of the Sedro-Woolley City Council this _____ day of _____, 2011, and signed in authentication of its passage this _____ day of _____, 2011.

_____
Mike Anderson, Mayor

Attest:

_____
Patsy Nelson, Finance Director

Approved as to form:

_____
Eron Berg, City Attorney

Published:

EXHIBIT 2

6-11-10

To: City of Sedro Woolley

Re: Potential of Occupancy of 214 Ferry Street

Greetings Sedro Woolley Mayor, Councilors and Directors,

As a business owner in our town, I have interest in the success of our local businesses. It is great to see someone provide a needed service or product, and do it well so that the business and the community both benefit. Others may fail for lack of a good plan or product. Another category for me would be those, who by coming to town, bring with them the potential of bringing more harm than good. Unfortunately, the latter is why I feel the need to give my input on the following;

It has come to my attention that the above mentioned address has applied for Sedro Woolley business approval/ license, and a WA state liquor license. I own and operate the business that is immediately adjacent (south) from 214 Ferry Street-- in the same building. I would like to make a few comments and observations that should be considered, I believe, in regard to these applications. I trust the process includes consideration of what is in the best interest of Sedro Woolley -- its businesses and its residents.

Personal Effects. When an alcohol-serving establishment was next door to us previously we had to deal with:

1. Multiple incidents of broken windows.
2. Dramatic increase in parking lot trash on a daily basis.
3. Broken beer bottles in the parking lot were common.
4. Vomit in front of my business establishment
5. Signs of urination in the recessed corners in the front of my office. My understanding of the location and inadequacy of the current restroom facilities increases this potential.
6. Loud and disturbing music -- intermittently playing from 5pm on, when we still had clients.
7. Bar attendees that would wonder past my office -- sometimes directly looking in my windows -- while I am trying to maintain a professional office environment. These folk would be moving from bar-to-bar in the downtown core of Sedro Woolley.
8. Intermittent finding of bar patrons sleeping in their vehicle in the morning when I arrive to open the office.

Community Environment

1. There is an over abundance of alcohol serving facilities in this town. Recently there were up to 6 bars within1-2 blocks. There is no evidence that this community is lacking alcohol serving establishments. More is not better.
2. There have been some incidents in the local news over the recent years with fights; attacks / injury of police who have been called to a disturbance; over serving; and other.
3. Residents within a few blocks of down town refuse to walk in town in the evening for concerns of safety -- due to the patrons that hang out in the areas close the existing bars. Opening further bars would expand this zone. I have spoken with a few people who have volunteered this info. I personally can relate -- as I would not feel comfortable bringing my young children by this area on some evenings.
4. Given the above, there is an impression (negative) regarding the atmosphere and activity that goes on in Sedro Woolley. This has been communicated to me by people living north, south, east, and west of our town.

This is not good for my business, or any business in Sedro Woolley.

Thus, given the above, and in the interest of our citizens, I would respectfully request that additional liquor establishments / bars, would not be granted permission to operate in Sedro Woolley.

Thank you for your attention. Feel free to contact me about the above.

Sincerely,

Rick Schafer
Cascade Physical Therapy and Sports Clinic
210 Ferry Street
Sedro Woolley, WA 98284
ph 360 856 4216
fax 360 856 4217

For City Council Presentation 8-25-10
Rick Schafer
Cascade Physical Therapy and Sports Clinic

I moved here 4 years ago with my family and have since purchased a home and a business, CPTSC at 210 Ferry Street. This is a beautiful valley and I plan to live here with my family for the long term.

I believe in promoting and supporting local business. I have been a member of the SW Chamber of Commerce for 2.5 years now.

I am here to bring to your attention to an issue that is frequently discussed at my place of business -- that is… the prevalence of bars and bar patrons, -- and how that affects the appearance, safety and atmosphere of downtown Sedro Woolley.

I believe there is no need for further bars in this town. Though I'm sure we agree that new business should be encouraged, further alcohol-serving establishments are not the kind of new business we need.

Based on the affects to my own business, along with observations and comments from numerous city residents and business owners I can conclude that bars are

1) not good neighbors (I will shortly explain), and
2) do not create an atmosphere that will draw new business that the city needs and should want.

In fact there is great potential that allowing for expansion of this type of business will further deter those considering starting up new business to the down-town core.

In May/June 2010, I realized the movement toward re-opening the bar space at 214 Ferry Street. You should have all received a letter from me (dated June 11), that summarized my concern over once again having an active bar as my immediate business neighbor.

For 2 of my 4.5 years working at 210 Ferry Street, there was a bar next door to me. We encountered:

-Daily trash and cigarette buts in parking lot
-Broken bottles
-Two incidents of broken windows, which were not covered by the BOP
-Intermittent loud music shaking my office in late afternoon, while I am seeing clents.

-Bar clients passing my office, and plastering their face against my windows -- peering in to where I am attempting to treat clients in a professional atmosphere
-Intermittently finding bar patrons asleep in their cars in front of my office in the morning when I come to work.
-Signs of urination in the recessed corners of the frontage of my office
-Vomit in the parking lot

Interestingly when I have been visiting with business owners in my vicinity, two different business people were quick to add that they find
-feces,
-condoms and
-ladies underwear
outside their place of business.

So when I noticed significant activity in 214 Ferry Street on Monday and Tuesday this week, and verbally confirmed that there are folks looking to re-open that site as a bar, I felt that rather than just hoping it would fail, and not cause me too much trouble for too long -- I felt I needed to get would get more involved.

Thus I have come tonight to request that the City of Sedro Woolley create a mechanism, or activate existing mechanisms for limiting the expanding numbers of this kind of business. Yesterday afternoon, I decided to take a few minutes to see if there was any other local support for what I am proposing. All but one of the people I contacted was in full support of this type of proposal -- in fact, each one wanted to talk extensively about this problem, and their experience to date. Many can cite more than one incident where they have been directly affected by having to pay out-of-pocket for repair-- plus clean-up of some of the nasty garbage described earlier.

So in summary:

"As Owner of a Sedro Woolley business I believe there is no need for additional bars in Sedro Woolley. To address the potential of additional bars, I request the City to establish a mechanism to limit the number of these establishments."

I am including a signed list of other local businesses within 1-2 blocks of the corner of Metcalf and Ferry Streets (which I was able to get within the limited time I had last evening, and earlier today) who also strongly urge the City to act on this matter.

Thank you for your attention.

August 24, 2010
To: Sedro Woolley City Council
Regarding: Prevalence of Bars / Alcohol-serving establishments

and other interested parties

EXHIBIT 3

**"As representatives of Sedro Woolley businesses within 2 block radius of Metcalf and Ferry Streets, and other interested parties we believe that there is no need for additional bars in Sedro Woolley. To address this potential, we request the City of Sedro Woolley to establish a legal mechanism to limit the number of these establishments."**

| Name | Company | Position | Signature |
|---|---|---|---|
| 1. Rick Schafer | Cascade Physical Therapy | Owner | [illegible] |
| 2. Elizabeth Fernandez | Simply Silver & More | owner | Fernandez |
| 3. Dawn Greenfield | 807 building (Old Carrier Times) | owner | Dawn Greenfield |
| 4. Allyn Moore | Massage | Owner | [illegible] |
| 5. MICHAEL LENARZ | Health First Chiropractic | OWNER | [illegible] D.C. |
| 6. Norm STrode | HUSTON BARBER | owner | Norm Strode |
| 7. KEVIN NGUYEN | DIAMOND NAILS | OWNER | Nguyen [illegible] |
| 8. Jennifer Eldred | Eldred & Assoc. | owner | Jennifer Eldred |
| 9. Staci Pulver | USPSA | magazine advertising coordinator | Staci S. Pulver |
| 10. Daniel Lyons | USPSA | membership coordinator | Daniel Lyons |
| 11. Rick Paul Singh | Dollar Spree | owner | [illegible] |
| 12. JEANNE McLennan | employee | | J McLennan |
| 13. Olivia Dozier | LifeCare Skagit Valley | | Olivia Dozier |
| 14. Carol Torset | Skiyou Nsg | | Carol A. Torset |
| 15. Amy Rapp | SW Flooring | owners wife | Amy S. Rapp |

and o 'n interested parties.



**"As representatives of Sedro Woolley businesses within 2 block radius of Metcalf and Ferry Streets, we believe that there is no need for additional bars in Sedro Woolley. To address this potential, we request the City of Sedro Woolley to establish a legal mechanism to limit the number of these establishments."**

| | Name | Company | Position | Signature |
|---|---|---|---|---|
| 16. | Lynn Torset | Skiyou Nursery | Owner | |
| 17. | Jason Rapp | Sedro Woolley Flowers | owner | |
| 18. | Cheryl Malk | SWVision | optician | |
| 19. | [illegible] | SW Chamber | office asst. | |
| 20. | [illegible] | EBPLLC | Acct Mgr | Mt Vern |
| 21. | [illegible] | Costco | Marketing | |
| 22. | Mary McGoffin | | C of Commerce | SW |
| 23. | | | | |
| 24. | | | | |
| 25. | | | | |
| 26. | | | | |
| 27. | | | | |
| 28. | | | | |
| 29. | | | | |
| 30. | | | | |

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 6

**Planning Department**
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

# MEMO:

**To:** City Council
Mayor Anderson

**From:** Jack Moore
Planning Director/ Building Official

**Date:** February 9, 2011

**Subject:** Proposed modification to Municipal Code regarding the keeping of chickens, ducks, bees and small non-hoofed animals – **(2nd Read)**

## ISSUE

Should the Council amend SWMC 17.04.030 and create a new Chapter 6.XX SWMC to allow for the keeping of chickens, ducks, bees and small animals?

## PROJECT DESCRIPTION / HISTORY

The Planning Department has received several inquiries about the rules for keeping chickens on one's property, which currently requires that a property owner have 40,000 square feet of property (just under one acre). Because of this large size limit, very few properties in the City are large enough to keep chickens, or any other animals. Residents interested in having chickens submitted a petition asking the City to create a backyard chicken ordinance. The Planning Commission held three public hearings on an ordinance to allow backyard chickens and as well as other small animals that may be appropriate for smaller urban lots. The amendments are intended to protect the safety and well-being of the community by putting limits on the number of chickens, ducks, bees and small non-hoofed animals that may be kept on a property in the City, as well as providing regulations on the manner in which those animals must be kept.

The Sedro-Woolley Planning Commission held Open Record Public Hearings on September 21, October 19 and November 16 to gather public testimony on the subject. The Planning Commission unanimously recommended adoption of the attached modifications to the municipal code concerning chickens, ducks, bees and small, non-hoofed animals.

**EXHIBIT 1:** Proposed ordinance
**EXHIBIT 2:** Citizen Petition

## RECOMMENDED ACTIONS

Make a motion to adopt ordinance _____-11 to modify SWMC 17.04.030 and create a new Chapter 6.XX SWMC to allow for the keeping of chickens, ducks, bees and small animals.

**ORDINANCE NO. _____-11**

**AN ORDINANCE AMENDING THE SEDRO-WOOLLEY MUNICIPAL CODE TO ALLOW FOR THE KEEPING OF CHICKENS, DUCKS, BEES AND SMALL NON-HOOFED ANIMALS**

**WHEREAS**, generating food for human consumption in backyards has become increasingly popular in response to global economic and environmental conditions, and

**WHEREAS**, the Sedro-Woolley Municipal Code currently limits the keeping of farm animals to lots within the city that are greater than 40,000 square feet in size, and

**WHEREAS**, SWMC 17.04.030 (25) defines an "Low-intensity agriculture" and needs to be amended to allow for smaller lots; and

**WHEREAS**, the Planning Commission held three public hearings and recommended amendments to the municipal code to allow chickens, ducks, bees and small non-hoofed animals under certain conditions; and

**WHEREAS**, a SEPA environmental checklist was reviewed and a DNS was issued on November 12, 2010;

**WHEREAS**, pursuant to RCW 36.70A.106, a 60-day notice of intent to adopt a development regulation was sent to the Washington State Department of Commerce; and

**WHEREAS**, the City Council finds the proposed amendments to the SWMC to be consistent with and implement the intent of the Sedro-Woolley Comprehensive Plan; and

**WHEREAS**, the City Council has concluded that it is in the best interest of the public health, safety and welfare to adopt this ordinance; and

**WHEREAS**, the City Council adopts the forgoing as its findings of fact justifying its adoption of this Ordinance;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** SWMC 17.04.030(25) is amended to read as follows:

"Low-intensity agriculture" means the production, raising or keeping of any form of crops, ornamental plants or animals; provided, that any animal, excluding household pets such as dogs and cats, such as horses, cattle, hogs, pigs, goats, sheep, bovine animals, chickens, fowl or any other animals, poultry or fowl, shall not be raised, kept or maintained on a lot or ownership of less than forty thousand square feet, <u>except as permitted under Chapter 6.XX_SWMC</u>.

**Section 2.** A new chapter is added to Title 6, SWMC, to read as follows:

**Keeping of Animals.**

6.__.010. The keeping of small animals, chickens, ducks and bees outdoors is permitted outright in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the standards of this Chapter. This Chapter shall not apply to the keeping of common household pets (dogs, cats, rodents, reptiles) or other pets that are primarily kept indoors.

6.__.020. Small Animals. Up to three (3) small animals (guinea pigs, rabbits and other similar, non-hoofed small animals kept outdoors) may be kept accessory to each dwelling unit on a lot, except as follows:

A. up to four (4) small animals are permitted on lots in single-family zones of at least twenty thousand (20,000) square feet; and

B. one (1) additional small animal is permitted for each five thousand (5,000) square feet of lot area in excess of twenty thousand (20,000) square feet in single-family zones.

C. Nursing offspring may be kept until weaned, no longer than 12 weeks from birth, without violating the limitations of this section.

6.__.030. Chickens and ducks. Up to three (3) chickens or three (3) ducks may be kept on any lot in addition to the small animals permitted in SWMC 6.__.020. For each one thousand (1,000) square feet of lot area in excess of the minimum lot area required for the zone or, if there is no minimum lot area, for each one thousand (1,000) square feet of lot area in excess of five thousand (5,000) square feet, one (1) additional chicken or duck may be kept. The keeping of roosters is prohibited.

6.__.040. Beekeeping. Beekeeping is permitted outright as an accessory use, when registered with the State Department of Agriculture, provided that:

A. No more than four (4) hives, each with only one (1) swarm, shall be kept on lots of less than ten thousand (10,000) square feet.

B. Hives shall not be located within twenty-five (25) feet of any lot line except:

    a. When situated eight (8) feet or more above the grade immediately adjacent to the grade of the lot on which the hives are located; or

    b. When situated less than eight (8) feet above the adjacent existing lot grade, the hives must be kept behind a solid fence or hedge six (6) feet high parallel to any property line within twenty-five (25) feet of a hive and extending at least twenty (20) feet beyond the hive in both directions; or

    c. When situated less than eight (8) feet above the adjacent existing lot grade, the hives must be enclosed by a solid fence six (6) feet high so as to

force the bee to enter and exit the hive area at a height that will not interfere with the passers-by.

6.__.050. Performance Criteria. The keeping of animals regulated by this Chapter is allowed provided all of the following criteria are met:

A. A contiguous fenced area shall be available for domestic fowl.
B. Sheds, shelters or pens shall not be closer than twenty-five feet to the front property line and 5-feet from side and rear property lines.
C. Sheds or shelters shall be kept free from rodents and shall be bedded as necessary with a fresh covering of straw, wood shavings or corn cobs.
D. Feed shall be kept in a rodent proof container and spillage and leftovers from feedings shall be removed and disposed of to prevent flies, rodents, and odors.
E. In order to prevent insect and odor problems, manure must be collected on a regular basis at least once per week and placed in concrete or metal fly-proof containers. Manure must be removed from the premises at least once a week or spread as fertilizer upon cultivated ground or lawns unless the city determines that use as fertilizer causes insect or odor problems.
F. Pen fences, corral fences or similar enclosures must be of sufficient height and strength to retain animals.
G. The keeping of animals shall conform to all regulations of local and state health authorities.
H. The area shall be landscaped to harmonize with the surrounding semi-rural residential character.
I. Animals shall not be kept within fifty feet of any stream or water body, wetland, or environmentally sensitive area, and fencing shall be provided to prohibit animal access to these areas.
J. Sanitary surfacing, such as wood chips, sand or gravel shall be placed on wet or muddy portions of the property used by animals.
K. Upon reasonable request, properties housing animals shall be subject to inspection by the city or other local and state health authorities.

6.__.060. Nothing in this chapter excuses compliance with other titles and chapters of the Sedro-Woolley Municipal Code including but not limited to SWMC 8.16 and SWMC 15.04 which address conditions that create nuisances and maintenance requirements. In addition to the enforcement provisions in SWMC 8.16 and SWMC 15.04, and upon a finding by either the City's enforcement officer or building official that animals are contributing to violations under either of those chapters, either the City's enforcement officer or building official shall have the authority to order the property owner to reduce or eliminate the number of animals kept on that property. Appeals of such an order must be filed within fourteen days of the date of the order in writing to the City Clerk's office. Appeals are heard by the City Council. The City Council's action is final.

**Section 3.** This ordinance shall be effective five (5) days after passage and publication as provided by law.

**Section 4.** The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this ordinance.

**PASSED** by majority vote of the members of the Sedro-Woolley City Council this _____ day of _____, 2011, and signed in authentication of its passage this _____ day of _____, 2011.

_____
Mike Anderson, Mayor

Attest:

_____
Patsy Nelson, Finance Director

Approved as to form:

_____
Eron Berg, City Attorney

Published:

# Backyard Chicken Ordinance Petition

EXHIBIT 2

This petition is to encourage the city of Sedro Woolley to create a Backyard Chicken ordinance. At this time it is against the law to have chickens within city limits. All other cities within Skagit County already allow for backyard chickens with a limit according to lot size. We are asking that Sedro Woolley bring their ordinances in accordance with the other cities in our county.

## Please Print Name and Address

| | | |
|---|---|---|
| Era Aragon | 721 N. Reed St. S.W. | 360 708 7516 |
| Gail Korhonen | 515 puget Ave SW | 891-0462 |
| Jennifer Young | 20241 Prairie Rd SW | 360-724-3023 |
| Shelley Hoffman | 24223 Crabapple Ln S.W | 360-856-6740 |
| Cynthia Keele | 903 Jameson St. | 360-853-3218 |
| [illegible] Mitchell | 304 Haines St. S.W. | 360-855-0257 |
| TAMMIE CLACK | 903 JAMESON ST. SW | 360-755-3443 |
| Gregory Sherman | 808 Marshall Ave. | 360-855-0317 |
| Jean Garcia | 822 Warner S.W. | 360-855-1446 |
| Jessica Muchmayle | 311 Hawthorne St. SW | 360-391-7827 |
| Jenni Wilson | 818 Evans Dr. SW | 360-630-9362 |
| Joe Runnels | 705 Talcott ST S-W | 360-391-2568 |
| Debra Pippin | 20834 Hartry Ln. SW | 360 708-1920 |
| Ashley Henderson | 931 Alderwood Ln | 360-610-5276 |
| Carol Bohmbach | 1101 Warner St. | 360 855-1938 |
| Erika Kroon | 168 N. Township St. S.W. | 360-840-6231 |
| Sharon Dosch | 1204 Independence Blvd SW | 360-661-7366 |
| Courtney Lofgren | 168 N Township St. SW | 360-333-9725 |
| Courtney Peters | 1000 N. Reed St. #8 SW | 360-391-0298 |
| Kay Street | 1000 N. Reed St. #8 SW | 360-395-5344 |
| Aubrey Naylor | 501 Creek lane SW | 360 770 1703 |

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 7

MEMO TO: City Council
FROM: Jennifer Bouwens
RE: Ordinance to Update SWMC
DATE: February 2, 2011

ISSUE: Should the City Counsel approve the attached ordinance updating the Sedro-Woolley Municipal Code Title 9?

BACKGROUND: From time to time it is necessary to review and update the criminal sections of our city Municipal Code. The attached ordinance will bring the code into line with current state code in the Revised Code of Washington, the RCW, and clarify other cumbersome portions.

One change updates the level of loss in theft 3, malicious mischief 3, and unlawful issuance of bank checks from a prior maximum of $250. to $ 750. The state made this change about a year ago.

A second change is made by naming whether a crime is a gross misdemeanor or a misdemeanor instead of the broad statement that, " ___ is a crime," - then requiring reference to another section to determine whether the crime is a gross misdemeanor or a misdemeanor. This is not a substantive change in the code, but it is made for clarification and better notice to the public.

A third general change is adoptions of the domestic violence definitions and code from the state RCW. This was implied before but it will now be clearly stated in our city code.

RECOMMENDATION: Motion to adopt the attached Ordinance updating the SWMC Title 9.

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF SEDRO-WOOLLEY UPDATING SECTIONS OF THE SEDRO-WOOLLEY MUNICIPAL CODE TITLE 9 AND ADOPTING CERTAIN STATE CRIMINAL STATUTES**

WHEREAS The City Council of the City of Sedro-Woolley hereby finds that certain sections of its current criminal code could be updated to provide more clarity and better understanding of the code; and

WHEREAS, The City Council of the City of Sedro-Woolley desires to adopt additional state criminal statutes; and

WHEREAS, the City Council finds that it is in the interests of the public health, safety and welfare to adopt the sections set forth below, now therefore;

THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

**SECTION 1**. Sedro-Woolley Municipal Code 9.08.010 C is amended, to read as follows:

An attempt to commit a crime is a misdemeanor.

**SECTION 2**. Sedro-Woolley Municipal Code 9.08.020 B is amended, to read as follows:

Criminal solicitation is a misdemeanor.

**SECTION 3**. Sedro-Woolley Municipal Code 9.10.010 B is amended, to read as follows:

Obstructing a public officer is a gross misdemeanor.

**SECTION 4**. Sedro-Woolley Municipal Code 9.10.020 B is amended, to read as follows:

Making a false statement is a gross misdemeanor.

**SECTION 5**. Sedro-Woolley Municipal Code 9.12.010 B is amended, to read as follows:

Refusing to summon aid for a peace officer is a gross misdemeanor.

**SECTION 6**. Sedro-Woolley Municipal Code 9.14.010 B is amended, to read as follows:

Resisting arrest is a misdemeanor.

**SECTION 7**. Sedro-Woolley Municipal Code 9.16.010 B is amended, to read as follows:

Bail jumping is a misdemeanor.

**SECTION 8**. Sedro-Woolley Municipal Code 9.18.010 B is amended, to read as follows:

False reporting is a gross misdemeanor.

**SECTION 9**. The following sections of Sedro-Woolley Municipal Code 9.20 are amended, to read as follows:

A. 9.20.020. Every person who shall commit an assault shall be guilty of a gross misdemeanor.
B. 9.20.030 B. Provoking assault is a gross misdemeanor.
C. 9.20.040 B. Reckless endangerment is a gross misdemeanor.
D. 9.20.050 B. The unlawful aiming or discharging of a weapon is a gross misdemeanor.
E. 9.20.060 2 C. Harassment is a gross misdemeanor.
F. 9.20.070 D. Any violation of this section is a gross misdemeanor.

**SECTION 10**. Sedro-Woolley Municipal Code 9.21.010 C is amended, to read as follows:

Interference with the reporting of domestic violence is a gross misdemeanor.

**SECTION 11**. Sedro-Woolley Municipal Code 9.22.030 is amended, to read as follows:

Violation of a restraining order, order of protection, or no-contact order is a gross misdemeanor.

**SECTION 12**. Sedro-Woolley Municipal Code 9.23.020 is amended, to read as follows:

Coercion is a gross misdemeanor.

**SECTION 13**. Sedro-Woolley Municipal Code 9.24.010 is amended, to read as follows:

> A. A person is guilty of public indecency if he (1) makes any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm, or (2) urinates or defecates in public.
>
> B. Public indecency is a gross misdemeanor on the first offense if the person exposes himself to a person under the age of fourteen years. In all other cases, public indecency is a misdemeanor.
>
> C. The act of breastfeeding or expressing breast milk is not indecent exposure.

**SECTION 14**. Sedro-Woolley Municipal Code 9.30.060 is amended, to read as follows:

Violation of this chapter is a misdemeanor.

**SECTION 15**. Sedro-Woolley Municipal Code 9.34.030 is amended, to read as follows:

Any person who shall sell or offer for sale or to purchase any keg or container of malt liquor in violation of Sections 9.34.010 and 9.34.020, or who shall knowingly supply false information on the receipt and declaration required by Sections 9.34.010 and 9.34.020, or who shall sell any keg or container knowing that any information on the receipt and declaration required by Sections 9.34.010 and 9.34.020 is false, shall be guilty of a gross misdemeanor.

**SECTION 16**. Sedro-Woolley Municipal Code 9.36.030 is amended, to read as follows:

The possession of less than forty grams of marijuana is a misdemeanor.

**SECTION 17**. Sedro-Woolley Municipal Code 9.37.050 is amended, to read as follows:

The use, sale, manufacture, delivery of advertisement of drug paraphernalia is a misdemeanor.

**SECTION 18**. Sedro-Woolley Municipal Code 9.40.010 B is amended, to read as follows:

Obstructing streets, alleys or sidewalks is a misdemeanor.

**SECTION 19**. Sedro-Woolley Municipal Code 9.41.010 B is amended, to read as follows:

Failure to disburse is a misdemeanor.

**SECTION 20**. Sedro-Woolley Municipal Code 9.42.010 B is amended, to read as follows:

Disorderly conduct is a misdemeanor.

**SECTION 21**. Sedro-Woolley Municipal Code 9.43.010 B is amended, to read as follows:

Use of a public park or other public land of the city in violation of this section is a misdemeanor.

**SECTION 22**. Sedro-Woolley Municipal Code 9.50.020 is amended, to read as follows:

Reckless burning is a gross misdemeanor.

**SECTION 23**. Sedro-Woolley Municipal Code 9.51.010 B is amended, to read as follows:

Any person, firm or corporation who violates any of the provisions of this chapter shall have committed a civil infraction. Procedure for issuance of a notice of infraction and the processing thereof in the courts shall be substantially as set forth for traffic infraction

pursuant to the justice court traffic infraction rules as now or hereafter promulgated by the Washington State Supreme Court or local court rules. Penalties for violations shall be a fine of not more than $250.00.

**SECTION 24.** Sedro-Woolley Municipal Code 9.52.010 is amended, to read as follows:

A. A person is guilty of malicious mischief if he knowingly and maliciously causes physical damage to the property of another in an amount less than seven hundred fifty dollars ($750.00).

B. Malicious mischief is a gross misdemeanor.

**SECTION 25.** Sedro-Woolley Municipal Code 9.54.010 is amended, to read as follows:

A. A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building.

B. Criminal trespass in the first degree is a gross misdemeanor.

C. A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon the premises of another under circumstances not constituting criminal trespass in the first degree.

D. Criminal trespass in the second degree is a misdemeanor.

**SECTION 26.** Sedro-Woolley Municipal Code 9.56.010 is amended, to read as follows:

Vehicle prowling is a gross misdemeanor.

**SECTION 27.** Sedro-Woolley Municipal Code 9.58.020 is amended, to read as follows:

A person is guilty of theft in the third degree if he commits theft of property or services in an amount less than seven hundred fifty dollars ($750.00).

**SECTION 28.** Sedro-Woolley Municipal Code 9.58.030 is amended, to read as follows:

Theft in the third degree is a gross misdemeanor.

**SECTION 29.** Sedro-Woolley Municipal Code 9.60 is repealed in its entirety.

**SECTION 30.** Sedro-Woolley Municipal Code 9.62.030 is amended, to read as follows:

Unlawful issuance of a bank check is a gross misdemeanor.

**SECTION 31.** Sedro-Woolley Municipal Code 9.64.020 is amended, to read as follows:

A person is guilty of possessing stolen property in the third degree if he possesses stolen property which does not exceed seven hundred fifty dollars ($750.00) in value.

**SECTION 32**. Sedro-Woolley Municipal Code 9.64.030 is amended, to read as follows:

Possessing stolen property in the third degree is a gross misdemeanor.

**SECTION 33**. Sedro-Woolley Municipal Code 9.65.040 is amended, to read as follows:

Failure to deliver leased property is a gross misdemeanor.

**SECTION 34**. Sedro-Woolley Municipal Code 9.70.020 B is amended, to read as follows:

Contributing to the delinquency of a minor is a gross misdemeanor.

**SECTION 35**. Sedro-Woolley Municipal Code 9.74.030 B is amended, to read as follows:

Any person violating this section shall be guilty of a gross misdemeanor.

**SECTION 36**. Sedro-Woolley Municipal Code 9.78.030 is amended, to read as follows:

Any person violating this section shall be guilty of a gross misdemeanor.

**SECTION 37**. Sedro-Woolley Municipal Code 9.82.010 B is amended, to read as follows:

Knowingly possessing a firearm in a prohibited place is a gross misdemeanor.

**SECTION 38**. Sedro-Woolley Municipal Code 9.82.020 B is amended, to read as follows:

Any person violating this section shall be guilty of a gross misdemeanor.

**SECTION 39**. A new chapter of the Sedro-Woolley Municipal Code is hereby adopted to be known as **Domestic Violence**, which shall consist of four (4) sections to read as follows:

9.___.010. Purpose and intent. The purpose of this chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. The legislature finds that the existing criminal statutes are adequate to provide protection for victims of domestic violence. However, previous societal attitudes have been reflected in policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between cohabitants and of the same crimes occurring between strangers. Only recently has public perception of the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and

shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the legislature that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

9.___.020. Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(4) "Dating relationship" has the same meaning as in RCW 26.50.010.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

(a) Assault in the fourth degree;

(b) Reckless endangerment;

(c) Coercion;

(d) Criminal trespass in the first degree;

(e) Criminal trespass in the second degree;

(f) Malicious mischief in the third degree;

(g) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);

(6) "Victim" means a family or household member who has been subjected to domestic violence.

9.___.030. Duties of Court – No contact order.

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The no-contact order shall also be issued in writing as soon as possible. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to

electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is punishable under RCW 26.50.110.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(6) Whenever a no-contact order is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

9.___.040. Appearance by defendant.

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020 and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3)(a) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The court may include in the order any conditions authorized under RCW 9.41.800 and 10.99.040.

(b) For the purposes of (a) of this subsection, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(c) For the purposes of (b) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (d) of this subsection before the date of the appearance.

(d) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and (6).

**SECTION 40**. A new chapter of the Sedro-Woolley Municipal Code is hereby adopted to be known as **Rendering Criminal Assistance**, which shall consist of three (3) sections to read as follows:

9.___.010. A person is guilty of rendering criminal assistance in the second degree if he renders criminal assistance to a person who has committed or is being sought for a class B or C felony or an equivalent juvenile offense or to someone being sought for violation of parole, probation, or community supervision.

9.___.020. Except as provided in Section 9.___.030, rendering criminal assistance in the second degree is a gross misdemeanor.

9.___.030. Rendering criminal assistance in the second degree is a misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060.

**SECTION 41**. Sedro-Woolley Municipal Code 9.86.010 is amended, to read as follows:

A. Except as otherwise provided herein, any person convicted of a gross misdemeanor shall be punished by a fine not to exceed five thousand dollars or imprisonment not to exceed one year in jail, or by both such fine and imprisonment. Provided, however, that wherever there is a lesser maximum penalty prescribed for violation of an analogous provision of Washington State law then such lesser maximum penalty shall apply; and provided further, that wherever a minimum mandatory penalty is provided for violation of an analogous provision of Washington State law, then such minimum mandatory penalty shall apply.

B. Except as otherwise provided herein, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars or imprisonment not to exceed ninety days in jail, or by both such fine and imprisonment. Provided, however, that wherever there is a lesser maximum penalty prescribed for violation of an analogous provision of Washington State law then such lesser maximum penalty shall apply; and provided further, that wherever a minimum mandatory penalty is provided for violation of an analogous provision of Washington State law, then such minimum mandatory penalty shall apply.

**SECTION 42. Effective date**. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

**SECTION 43. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, clause or phrase of this ordinance.

**SECTION 44. Application.** The provisions of this ordinance shall apply to any offense committed on or after the effective date of this ordinance, which is defined in this ordinance, unless otherwise expressly provided or unless the context otherwise requires, and shall also apply to any defense to prosecution for such an offense. The provisions of this ordinance do not apply to or govern the construction of and punishment for any offense committed prior to the effective date of this ordinance, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this ordinance had not been enacted.

**PASSED** by majority vote of the members of the Sedro-Woolley City Council this _____ day of _____, 2011, and signed in authentication of its passage this ____ day of _____, 2011.

_____

Mike Anderson, Mayor

Attest:

_____

Patsy Nelson, Finance Director

Recommended:

_____

Jennifer Bouwens, Prosecuting Attorney

Approved as to form:

_____

Eron Berg, City Attorney

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|---|---|
| Filed with the City Clerk: | August 3, 2010 |
| First Reading: | August 11, 2010 |
| Second Reading: | August 25, 2010 |
| Third Reading: | February 9, 2011 |
| Passed by the City Council: | |
| Signed by the Mayor: | |
| Date of Publication: | |

# NEW BUSINESS

CITY COUNCIL AGENDA
REGULAR MEETING

FEB 09 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 8

**CITY OF SEDRO-WOOLLEY PUBLIC WORKS OPERATIONS**

325 Metcalf Street, Sedro-Woolley, WA 98284 (360) 855-1661

# Memorandum

To: Eron Berg, City Supervisor/Attorney

From: Nathan Salseina, Operations Lead

Date: 1/14/2011

Re: Parks Memorial Tree Program

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Eron,

At the January 3rd Parks Advisory Board Meeting the board unanimously endorsed the creation of a tree donation program. Under the details of the program, any citizen can purchase a tree from a 1 inch caliper all the way up to a 6 in caliper and have it placed in a city park as a memorial to friends or relatives or simply to do a good deed for the parks. We will primarily utilize the stock from the city owned nursery for the program.

Staff did a study of similar programs from the City of Seattle, City of Boston, and the City of Mount-Vernon to assess the fee that those cities charge for this service. The attached sheet reflects the rates that staff as well as the parks board recommends charging for the program. These rates are cheaper than that of other cities and still cover our costs of digging and moving the trees from the city nursery and into the parks system.

This program is great in that it makes good use of the city owned nursery stock, and provides a great benefit to the parks, the environment and the citizens. We request that this information be presented to council for approval so that we can implement this program.

Please let me know if you have any other questions.

Thank you,

Nathan Salseina
Operations Lead

**SEDRO-WOOLLEY PARKS & RECREATION DEPARTMENT**

**325 Metcalf Street, Sedro-Woolley, WA 98284**
**360-856-5167/ 360-855-0707**

**SHANE WALLEY, SUPERVISOR**

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# Tree Donation Info Sheet

**Tree variety will be determined by the Parks Department**

| | |
|---|---|
| **Tree: 1 - 2.5" caliper** | **$100.00** |
| **Tree: 2.6- 4" caliper** | **$200.00** |
| **Tree: 4.1 - 5" caliper** | **$300.00** |
| **Tree: 5.1 and larger caliper** | **$400.00** |

Donor can request which of our parks the tree will be planted in, but the Sedro-Woolley Parks Department will determine the specific site.

Trees can be purchased year round, but plantings will only occur from December 1st through February 28th while trees are dormant and are less susceptible to injury.

Note: Memorial Plaques may be purchased separately by the tree donor and delivered to the Parks Department for installation.

Checks to be payable to the City of Sedro-Woolley.

For more program information or to purchase trees please contact Nathan Salseina at the Sedro-Woolley Parks & Recreation Department at 360-856-5167 or nsalseina@ci.sedro-woolley.wa.us

# COMMITTEE REPORTS AND REPORTS FROM OFFICERS