



Next Ord: 1723-11
Next Res: 855-11

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 WORKSESSION

AGENDA

December 7, 2011

7:00 PM

**Sedro-Woolley Municipal Building
Public Safety Training Room
325 Metcalf Street**

- A. Skagit County Brickyard Creek Agreement
(Staff Contact – Mark Freiberger & Eron Berg)
- B. 2012 Budget Update
(Staff Contact – Patsy Nelson & Eron Berg)
- C. Executive Session - Collective Bargaining (RCW 42.30.140(4))
– action requested

DRAFT

After Recording Return to:

SKAGIT COUNTY BOARD OF COMMISSIONERS
1800 CONTINENTAL PLACE, STE. 100
MOUNT VERNON, WA 98273

CITY COUNCIL
WORKSESSION

DEC 07 2011

AGENDA ITEM A

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN

SKAGIT COUNTY
AND
THE CITY OF SEDRO-WOOLLEY

THIS AGREEMENT (the "Agreement") is made and entered into by and between the City of Sedro-Woolley, a Washington municipal corporation ("City") and Skagit County, a political subdivision of the State of Washington ("County") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT. The City and the County may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties."

WHEREAS, pursuant to RCW 86.15, the Sedro-Woolley Sub Flood Control Zone was abolished by the Skagit County Board of Commissioners (acting as Board of Supervisors for the Skagit County Flood Control Zone District) by Resolution No. R20100306, dated September 7, 2010; and

WHEREAS, pursuant to RCW 86.15, the date for abolishment of the Sedro-Woolley Sub-Flood Control Zone was established as December 31, 2011, by Resolution No. R20100322, dated September 20, 2010; and

WHEREAS, pursuant to Resolutions No. R20100306 and R20100322, and RCW 86.15.210, effective December 31, 2011, the assets of the Sedro-Woolley Sub-Flood Control Zone (including funds in the amount of approximately Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars [\$268,616]) will be transferred from the Sedro-Woolley Sub-Flood Control Zone to the County to be used for flood control purposes (the "Sedro-Woolley Sub-Flood Funds"); and

WHEREAS, the parties recognize the mutual benefit of working jointly to fulfill common flood control needs and to achieve mutually beneficial solutions for regional flood control and related storm water drainage concerns; and

WHEREAS, pursuant to RCW 36.89.050, the County may provide funding for storm water control facilities located within the limits of a city, with the prior consent of such city; and

INTERLOCAL AGREEMENT

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WHEREAS, County has determined that it would be beneficial to provide the Sedro-Woolley Sub-Flood Funds to the City to be used for flood control (and related storm water and drainage) purposes.

NOW THEREFORE in consideration of the foregoing and the mutual covenants herein, and pursuant to provisions of Chapter 39.34 RCW, **THE PARTIES HERETO DO HEREBY AGREE** as follows:

1. **PURPOSE:** The County shall provide the City with the Sedro-Woolley Sub-Flood Funds in the total amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616) to be used by the City for flood control (and related storm water management and drainage) purposes, as more particularly described pursuant to the terms of this Agreement to be performed by the City, and benefiting directly or indirectly properties within the former Sedro-Woolley Sub-Flood Control Zone.

2. **RESPONSIBILITIES:** The parties to this Agreement mutually agree as follows:

2.1 The City shall perform the flood control (and related storm water management) work and projects (as further described in Exhibit "A", attached hereto and incorporated by reference), and the County shall reimburse the City for such work with the Sedro-Woolley Sub-Flood Funds in the total amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616), pursuant to the terms of this Agreement. The parties agree that such reimbursement in the amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616) shall be for such flood control (and related storm water management) work and projects performed by the City on or after January 1, 2012. The parties recognize and agree that the County has no direct involvement in the flood control (and related storm water management) work and projects to be performed by the City, and that such flood control (and related storm water management) work and projects are to be designed, constructed, implemented, used, operated, managed by the City, at the City's expense and liability (as such work is not a County project). The County is not responsible for and shall be held harmless by the City from liability or damages arising from and/or related to the design, construction, implementation, use, operation, and/or maintenance of the flood control (and related storm water management) work and projects performed by the City.

2.2 As part of the flood control (and related storm water management) work and projects to be performed by the City, the City shall be responsible for the future use, operation, and maintenance of the Brickyard Creek corridor in its entirety (as located within the City of Sedro Woolley municipal limits) by performing mowing, brush removal, debris removal, cleaning, and any other applicable work on an annual basis.

2.3 Prior to beginning work, the City shall submit information to the County for any proposed flood control (and related storm water management) work and projects to be performed by the City, and the City must receive written approval of any such proposed flood control (and related storm water management) work and project(s) from the County's representative prior to initiation of any such project(s). Project information submittals from the City to the County shall include a conceptual scope, cost estimate, and estimated schedule in a format and content acceptable to the County.

2.4 Subsequent to written approval by the County (pursuant to Section 2.3), and upon actual completion, the County shall reimburse the City for expenses incurred on approved flood control (and related storm water management) work and projects, pursuant to Section 4. of this Agreement. Unless specifically stated to the contrary in this Agreement, the County is not otherwise obligated to provide any funds, or perform or provide any other services, duties, or responsibilities pursuant to the terms of this Agreement.

2.5 Effective January 1, 2012, the County hereby transfers to the City one Hydromatic Pump model S8F drainage pump and pump station (herein the "drainage pump"), located, on unopened County road right-of-way in Mountain View Estates near the west end of Sauk Mountain Drive, in Sedro-Woolley, Washington (additional information regarding the drainage pump and pumping station, including its location, is included at Exhibit "B", attached hereto and incorporated by reference) and all spare parts for the drainage pump. Upon transfer to the City, the County shall not be responsible or liable for the use, operation, maintenance of the drainage pump or pumping station. Upon transfer to the City, the electrical power supply to the drainage pump and pump station shall be the responsibility of the City. If necessary, the City and County shall reasonably cooperate to execute any further documentation needed to effectuate the transfer of the drainage pump and pumping station from the County to the City.

3. TERM OF AGREEMENT: The term of this Agreement shall commence upon mutual execution through December 31, 2020, unless sooner terminated pursuant to the terms herein, or until the entirety of the Sedro Woolley Sub-Flood Control Zone funds (in the total amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616) have been disbursed to the City by the County in accordance with the terms of this Agreement.

4. MANNER OF FINANCING: On or after January 1, 2012, the total available Sedro Woolley Sub-Flood Control Zone funds in the amount of Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616) shall be used by the County to reimburse the City for completed approved flood control (and related storm water management) work and projects, in accordance with the terms of this Agreement. Contingent upon written approval by the County, and upon completion of such project(s) by the City, the City will provide billings to the County with proper documentation of such work completed by the City (invoices), and the County will pay such invoice(s) in accordance with the terms of this Agreement, in a total amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616), in the ordinary course of business. Unless expressly provided to the contrary herein, the County is not obligated to perform or provide any additional funds or financing, or provide any other services, duties, or responsibilities pursuant to the terms of this Agreement. On an annual basis, on or before January 1st of each year, or more frequently upon request of the County, the City shall provide written documentation of expenditure of any and all funds provided to the City by the County pursuant to the terms of this Agreement in a form acceptable to the County, until such funds are fully expended by the City. The City shall remain solely and separately responsible and liable for the payment and management of any contractors and subcontractors hired by the City for the purposes described in this Agreement. The City shall be solely and separately responsible and liable for the payment of any and all costs and expenses associated with any flood control (and related storm water management) work and project(s) performed by the City pursuant to this Agreement in excess of the County's maximum potential contribution of the Sedro Woolley Sub-Flood Control Zone funds in the total amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616). Any funds provided by the County to the City pursuant to this Agreement shall be used for flood control (and related storm

water management) purposes. The parties recognize and agree that but for and only in reliance upon the terms of this Agreement, the County would not provide the Sedro-Woolley Sub-Flood Funds (in the total amount not to exceed \$268,616) to the City, and that the use of said Sedro-Woolley Sub-Flood Funds by the City shall be subject to the terms of this Agreement.

5. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The County's representative shall be:
Public Works Director, or his designee
Skagit County Public Works
1800 Continental Place
Mount Vernon, WA 98273

5.2 City's representative shall be:
Mark Freiburger
Public Works Director
City of Sedro-Woolley
325 Metcalf Street
Sedro-Woolley, WA 98284

6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively held or used pursuant to this Agreement. The County shall not be responsible for or liable for the use, operation, maintenance, repair, or replacement of any of the City's storm water, drainage, or flood control facilities, ditches, and/or infrastructure pursuant to the terms of this Agreement.

7. INDEMNIFICATION: Except as is otherwise set forth per the terms of this Agreement, each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the County by reason of entering into this contract except as expressly provided herein.

8. NO PARTNERSHIP OR JOINT VENTURE: No partnership and/or joint venture exists between the City and the County, and no partnership and/or joint venture is created by and between the City and the County by virtue of this Agreement. No agent, employee, contractor, subcontractor, consultant, volunteer, and/or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other party.

9. DEFAULT: Failure of the parties to comply with the terms of this Agreement shall constitute default. The parties shall have all remedies for the enforcement of this Agreement as provided by law.

10. VENUE AND CHOICE OF LAW: In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Skagit. This agreement shall be governed by the laws of the State of Washington.

11. CAPTIONS & COUNTERPARTS: The captions in this agreement are for convenience and reference only and do not define, limit, or describe the scope or intent of this Agreement. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Agreement.

12. NEUTRAL AUTHORSHIP: Each of the terms and provisions of this Agreement have been reviewed and negotiated, and represents the combined work product of the parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Agreement and have either done so, or have voluntarily chosen not to do so. The parties represent and warrant that they have fully read this Agreement, that they understand its meaning and effect, and that they enter into this Agreement with full knowledge of its terms. The parties have entered into this Agreement without duress or undue influence.

13. TERMINATION: Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

14. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS: The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

15. SEVERABILITY: In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

16. USE OF DOCUMENTS AND MATERIALS PRODUCED: The County shall have the right to use and distribute any and all documents, writings, programs, data, public records or other materials prepared by any party (and/or any party's contractors, consultants, and/or subcontractors), in connection with performance of this Agreement.

17. NO THIRD PARTY BENEFICIARIES: This Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to members of the general public, residents and/or property owners located at or within

the vicinity of the former Sedro-Woolley Sub Flood Control Zone, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of either party.

18. COMPLIANCE WITH LAWS, PERMITS, & GRANTS: The parties to this Agreement shall comply with all applicable federal, state, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement. As necessary, the City (at the City's own expense and liability) shall obtain and comply with all necessary permits and approvals from all applicable jurisdictions prior to commencing any flood control (and related storm water management) work, and the City shall be solely and separately responsible and liable for compliance with all terms and conditions of any permit(s) and/or grant(s) obtained or procured by the City.

19. STATUS OF AGREEMENT: This Agreement is in addition to, and is not intended to replace, substitute, modify, or otherwise amend any other agreements by and between the parties. Any other agreements by and between the parties shall continue in full force and effect.

20. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

APPROVED:

CITY OF SEDRO-WOOLLEY
SKAGIT COUNTY, WASHINGTON

Mike Anderson, Mayor

(Date _____)

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

Attest by:

Patsy Nelson, Finance Director

Approved as to Form:

Eron M. Berg
City Attorney
INTERLOCAL AGREEMENT
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IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2011.

APPROVED:

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

RON WESEN, Chairman

KENNETH A. DAHLSTEDT, Commissioner

SHARON D. DILLON, Commissioner

Recommended:

By: _____
Department Head

By: _____
Budget & Finance Director

Approved as to Indemnification:

By: _____
Risk Manager

Approved as to Form:

By: _____
Deputy Prosecuting Attorney

Attest: .

Clerk of the Board

Exhibit "A"

The following further describes the types of work and projects for flood control (and related storm water management) for which City may expend up to an amount not to exceed Two Hundred Sixty Eight Thousand Six Hundred Sixteen Dollars (\$268,616), subject to, and as further specified by the terms of the Agreement:

- Drainage system and channel operation, maintenance, replacement, restoration, and rehabilitation for the purpose of flood control with direct and/or indirect benefits to the properties located within the former Sedro-Woolley Sub-Flood Control Zone.
- Maintenance and operation of the Brickyard Creek corridor in its entirety (within the City of Sedro Woolley municipal limits) by mowing, brush removal, debris removal, cleaning and other applicable work.
- Flood control and drainage projects with direct and/or indirect benefits to the properties located within the former Sedro-Woolley Sub-Flood Control Zone.
- Drainage pump projects and/or operation and maintenance that directly and/or indirectly benefit the properties located within the former Sedro-Woolley Sub-Flood Control Zone.

Exhibit "B"

Additional Information Regarding Drainage Pump and Pumping Station (Including Location).



Pump Station

