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09/10/2020 01:30 PM Pages: 1 of 9 Fees: \$111.50
Skagit County Auditor

After Recording Return to:

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

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

City of Sedro-Woolley

AND

Skagit County

THIS AGREEMENT (herein "Agreement") is made and entered into by and between the City of Sedro-Woolley, a Washington municipal corporation (herein after referred to as "City") and Skagit County, a political subdivision of the State of Washington (herein after referred to as "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". In consideration of the following, the parties mutually agree as follows:

1. PURPOSE: The City owns certain real property with historical significance known as the Northern State Hospital Cemetery, commonly identified as Skagit County Assessor Tax Parcel Number: P100635 (herein the "City Property"). The County owns property to the south of the City Property as County road right-of-way that was previously used by the County for Helmick Road (County Road # 95510) prior to a road realignment project, as well as real property commonly identified as P38653, with applicable portions located adjacent to and in the immediate vicinity of the City Property (collectively herein the "County Property"). The City desires to make certain improvements at and in the vicinity of the City Property that requires long term use of the County Property by the City (herein the "Project"), and the County desires to cooperate with City to allow the City to use the County Property for Project purposes, subject to the terms of this Agreement. Additional information and depictions regarding the Project, the City Property, and the County Property are attached hereto as Exhibit "A" and are hereby incorporated by reference. The City Property and the County Property may be collectively referred to herein as the "Project Property". The County and the City support the goals and purposes of the Project as laudable public purposes, with public benefit for the community as a whole. The parties agree that the mutual benefit provided by the terms of this Agreement are adequate consideration for this Agreement.

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

INTERLOCAL AGREEMENT

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SKAGIT COUNTY
Contract # C20200461
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2.1 City shall perform the following duties and obligations pursuant to the terms of this Agreement (upon and subject to the following conditions):

2.1.1 The City shall, at the City's own cost, expense, and liability, perform all Project design, construction, management, use, and ongoing maintenance and operation associated with the Project and the Project Property. The City shall acquire all approvals as may be required for the Project. Except as expressly provided herein to the contrary, the City shall be separately responsible and liable for the payment of any taxes (if any) and utilities (i.e., electricity, water, etc.) and/or other similar expenses (if any) arising from or related to the Project on the Project Property.

2.1.2. The City (at the City's cost and expense) shall place and maintain appropriate security lighting on the Project Property; provided that the County shall pay the ongoing monthly cost of electricity for such security lighting for a period of five (5) years from the date of mutual execution of this Agreement, and thereafter the City shall be solely responsible for such ongoing monthly cost of electricity for the security lighting.

2.2 The County shall perform the following duties and obligations pursuant to the terms of this Agreement (upon and subject to the following conditions):

2.2.1 The County shall provide reasonable cooperation to the City in order to allow the City to design the Project, including, but not necessarily limited to, review and input on data and preliminary design.

2.2.2 The parties agree that the County is not responsible or liable for the design, construction, management, implementation, use, operation, or maintenance of the Project in any way.

2.2.3 The County shall allow the City to use the County Property for Project Purposes "as is" without any representations or warranties of any kind (express or implied), subject to the terms of this Agreement.

2.2.4 The County is not otherwise obligated to provide any funds to the City, or perform or provide any other services, duties, or responsibilities pursuant to the terms of this Agreement.

3. TERM OF AGREEMENT: The term of this Agreement shall be from the date of mutual execution, and shall remain in effect through December 31, 2045, after which this Agreement will automatically renew for additional one (1) year terms on January 1st of each subsequent year thereafter (without further action by the parties), unless otherwise terminated sooner pursuant to the terms herein.

4. MANNER OF FINANCING: No funds will be provided by the County to the City pursuant to the terms of this Agreement. The City will assume any and all liability and

responsibility for the use, maintenance, and operation of the Project Property (including the County Property) for Project purposes by the City and members of the public, and the City shall be solely and separately responsible and liable for any and all costs, charges, utilities, and expenses arising from and/or related to the use of the County Property by the City.

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:

Skagit County Parks and Recreation Director, or his/her designee
1730 Continental Place
Mount Vernon, WA 98273
Phone: (360) 416-1350

5.2 The City's representative shall be:

Sedro Woolley Public Works Director, or his/her designee
325 Metcalf Street
Sedro Woolley, WA 98284
Phone: (360) 855-0771

6. TREATMENT OF ASSETS AND PROPERTY: Except as provided herein to the contrary regarding the City's use of the County Property for Project purposes, no fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement. The County shall not be responsible for or liable for the construction, project management, use, operation, maintenance, repair, and/or replacement of the Project pursuant to the terms of this Agreement.

7. NO PARTNERSHIP OR JOINT VENTURE: No partnership and/or joint venture exists between the parties, and no partnership and/or joint venture is created by and between the parties 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.

8. 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, the general public, property owners and residents at or in the vicinity of the Project, any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any party.

9. **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. Unless privileged or otherwise exempt from public disclosure, the parties recognize and agree that any documents and/or materials arising from and/or related to this Agreement may be subject to public disclosure pursuant to applicable law (including RCW 42.56).

10. **INDEMNIFICATION:** Except as provided to the contrary herein, 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.

11. **LIMITATION OF LIABILITY.** Any party having a claim against the City, however arising, shall have recourse only to the extent of assets and property of the City, and shall have no recourse against the County, its appointed or elected officers, employees, volunteers or its/their assets or credits.

12. **TERMINATION:** Any party hereto may terminate this Agreement upon providing three hundred and sixty five (365) 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 agree that upon request by the County, the City shall terminate use of the County Property, and the City shall restore the County Property (at the City's sole cost and expense) to a condition reasonably suitable to the County (at least substantially similar to the condition of the County Property as of the effective date of this Agreement).

13. **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:** The Agreement may be changed, modified, amended or waived only by subsequent 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.

14. **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.

15. **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.

16. 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.

17. COMPLIANCE WITH LAWS AND TERMS OF 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 work on the Project, and individually 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 in such party's name. To the maximum extent allowed by law, the City shall defend, indemnify, and hold the County harmless from any liability arising from and/or related to non-compliance with any permit(s), approval(s), and/or grant(s) for the Project. The City separately assumes all responsibility for compliance with RCW 39.80, if applicable.

18. ASSIGNMENT AND SUBCONTRACTING: Unless otherwise expressly provided herein, no portion of this Agreement may be assigned, contracted, and/or subcontracted to any other individual, firm, company, and/or other entity without the express and prior written approval of the County. The City shall be responsible and liable for the performance and completion of any Project work which is agreed to by the County to be assigned, contracted, and/or subcontracted pursuant to the terms herein.

19. 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.

20. VENUE AND CHOICE OF LAW: In the event that any litigation should arise concerning 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.

21. 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.

22. 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.

23. SURVIVAL: The terms of Sections 2, 4, 6, 7, 8, 9, 10, 11, 17, and 18, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

CITY OF SEDRO-WOOLLEY:

By: Julia Johnson
Julia Johnson
Title of Signatory: Mayor
(Date Aug 13, 2020)

Mailing Address:

City of Sedro-Woolley
325 Metcalf Street
Sedro-Woolley, WA 98284

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Julia Johnson is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized execute the instrument and acknowledged it as the Mayor of the City of Sedro-Woolley, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 13th day of August, 2020.



Christine A. Salseina
Notary Public
print name: Christine A. Salseina
Residing at Skagit Co.
My commission expires 07-22-2021

DATED this 8 day of September, 2020.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ron Wesen

Ron Wesen, Chair

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner

Lisa Janicki

Lisa Janicki, Commissioner

Attest:

Amber Epps
Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

Blew
Department Head

County Administrator

Approved as to form:

[Signature] 8/21/20
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

[Signature]
Risk Manager

Approved as to budget:

[Signature]
Budget & Finance Director

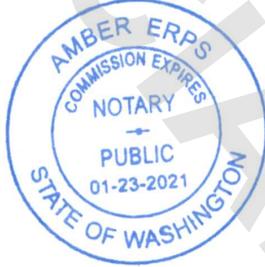
INTERLOCAL AGREEMENT

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Lisa Janicki, Ron Wesen, and/or Kenneth A. Dahlstedt is/are the person(s) who appeared before me, and said person(s) acknowledged that she/he/they signed this instrument, on oath stated that she/he/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 8 day of September, 2020.

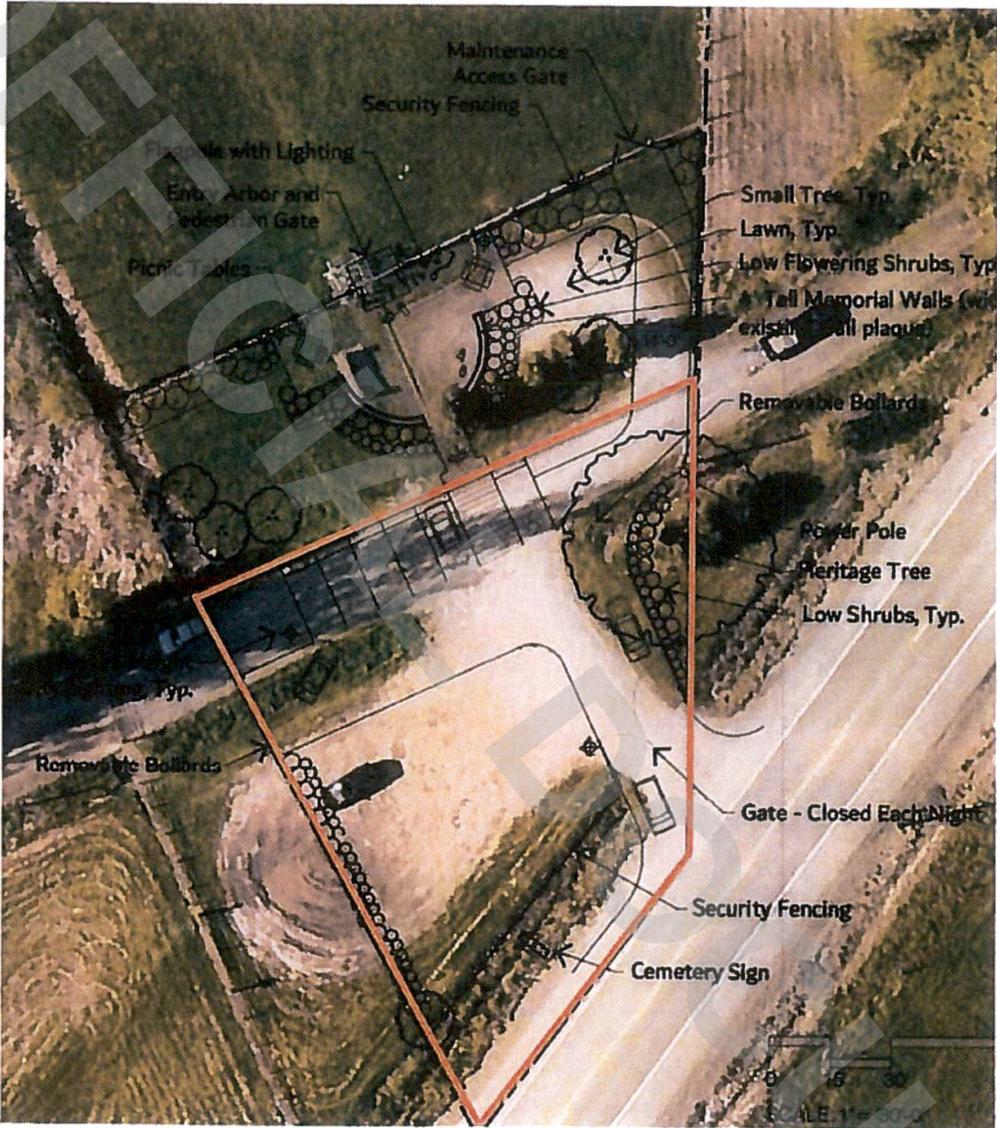
(SEAL)



Amber Erps
Notary Public
print name: Amber Erps
Residing at Mount Vernon
My commission expires 01-23-2021

EXHIBIT "A"

Additional Details Regarding the Project and the Project Property.



Orange lines depict the approximate boundaries of the County Property to be used for the Project (i.e., the combined portion of Skagit County Road Right-of-Way for Helmick Road [County Road # 95510] and a portion of Parcel P38653).