

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
SKAGIT COUNTY AND CITY OF SEDRO-WOOLLEY
FOR
FRUITDALE ROAD ARTERIAL IMPROVEMENT**

THIS INTERLOCAL AGREEMENT is entered into this 12 day of September, 2016 between Skagit County, Washington (the "County") and City of Sedro-Woolley, a Washington Municipal Corporation (the "Recipient") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT, and in consideration of the mutual benefits do hereby agree as follows:

1. **Purpose:** The purpose of the contract is to distribute economic development funds pursuant to RCW 82.14.370.
2. **Scope of Work:** Recipient will use the funds distributed under this agreement pursuant to the intent and purpose of RCW 82.14.370. Further, Recipient is to use such funds only for the Public Facility Project described in Recipient's Economic Development Application submitted to the County which is attached to this document as Exhibit "A".
3. **Payment:** County will compensate Recipient a maximum of \$400,000, chargeable to GL expenditure code # 342 58502095200. Recipient shall submit an invoice describing the use of funds to be distributed by the County and the County upon receipt of appropriate documentation shall distribute a portion of the awarded funding as determined by the County Contract Representative described in Paragraph 6.1 of this Contract. However, such payments shall not occur more often than monthly, through the County voucher system. The County Contract Representative has the sole discretion of determining what appropriate documentation is required in order for Recipient to receive a distribution of funds under this Agreement.
4. Recipient agrees that in the event the county or other state or federal agency finds that the funds distributed pursuant to this agreement violate any state or federal laws including but not limited to the primary purpose for which funds pursuant to this agreement are being given, Recipient agrees to return the funds provided by County under this agreement to County including any penalties and interest, and agrees to hold County harmless and indemnify County for distributing such funds contrary to state or federal law. Further, in the event that funds provided to Recipient under this agreement are used for a purpose other than what was originally described in its application of funds, then Recipient agrees to return such funds to the County upon demand.
5. The parties agree that Recipient is an independent contractor and not an employee, or agent of Skagit County. Recipient hereby agrees not to make any representations to any third party or to allow such third party to remain under the misimpression that Recipient is an employee, independent contractor, or agent of Skagit County. All payments made hereunder and all services performed shall be made and performed pursuant to this Agreement.

Recipient will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph. Further the Recipient represents that all employees and sub-contractors are covered under Industrial Insurance in compliance with R.C.W. Title 51.

6. 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 in writing.

6.1 The County's representative shall be the Budget and Finance Director:
Trisha Logue
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

6.2 Recipient's representative shall be Finance Director / City Clerk:
Patsy Nelson
325 Metcalf Street
Sedro-Woolley, WA 98284

All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

7. Defense & Indemnity Agreement: The Recipient agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Recipient, its subcontractors, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. Recipient insurance shall be primary. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Recipient's insurance and shall not contribute to it.

8. This Agreement shall become effective on July 18, 2016, per Resolution No. R20160202. Work on the project shall be substantially complete and contract shall expire

December 31, 2018. For the purposes of this paragraph, the term "substantially complete" shall mean "when the contract work has progressed to the extent that the Recipient has full use and benefit of the facilities, both from the operational and safety standpoint, and only minor incidental work, replacement of temporary substitute facilities, or correction or repair remains to physically complete the total contract." Upon termination of this Agreement, all property acquired by the Recipient shall remain the Recipient's property, with no obligation to pay the County therefore.

9. The Recipient shall not assign any interest in this Contract and shall not transfer any interest in same without prior written County consent.

10. The Recipient will secure, at his own expense, all personnel required in performing said services under this Contract. Recipient shall be personally liable for applicable payroll, Labor and Industries premiums, and all taxes, and shall hold the County harmless from any claims related thereto.

11. Right to Review: This contract is subject to review by the State Auditor's office. The County or its designee shall have the right to review and monitor the financial components of this project. Such review may include, but is not limited to, on-site inspection by County agents or employees, and inspection of all records of other materials, which the County deems pertinent to the Agreement and its performance. Recipient shall preserve and maintain all financial records and records relating to this project under this Agreement for 3 years after contract termination, and shall make them available for such review, within Skagit County, State of Washington, upon request.

12. Acknowledgement of Funding: All books, informational pamphlets, press releases, research reports, articles, requests for information, signs or other public notices developed for or referring to the activities or programs funded by this agreement shall include the statement, "This project received funding from Skagit County," or similar language acknowledging Skagit County's funding contribution. Further, Recipient shall notify the County (or Administrative Services) no later than two weeks before a dedication ceremony or public event for any activities or programs funded by this agreement. Recipient shall also make efforts to verbally acknowledge the County's contributions to the Recipient at all dedication ceremonies or other public events relating to any programs or projects funded by this agreement.

13. Prevailing Wages: If Prevailing Wages are applicable to the work provided under the Agreement then Recipient shall submit a "Statement of Intent to Pay Prevailing Wages" prior to submitting first application for payment. Each statement of intent to pay prevailing wages must be approved by the Industrial Statistician of the Department of Labor and Industries before it is submitted to the County. Unless otherwise authorized by the Department of Labor and Industries, each voucher claim submitted by a Recipient for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the pre-filed statement or statements of Intent to Pay Prevailing Wages on file with the public agency.

14. Nondiscrimination: During the performance of this contract, the Recipient shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

a. Nondiscrimination in Employment: The Recipient shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment selection for training, including apprenticeships and volunteers. This requirement does not apply, however, to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.

15. Compliance with Applicable Law: The Recipient and all subcontractors of Recipient shall comply with, and the Department is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies. This obligation includes, but is not limited to, nondiscrimination laws and/or policies; the Americans with Disabilities Act (ADA); Ethics in Public Service (RCW 42.52); Covenant Against Contingent Fees (48 C.F.R. Sec. 52.203-5); safety and health regulations. In the event of the Recipient's or a subcontractor's noncompliance or refusal to comply with any law or policy, the Department may rescind, cancel, or terminate the contract in whole or in part. The Recipient is responsible for any and all costs or liability arising from the Recipient's failure to so comply with applicable law.

16. 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.

17. No Separate Legal Entity: It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of the Agreement.

18. Termination of Contract for Cause

a. If, through any cause, the Recipient shall fail to fulfill in a timely and proper manner its obligations under this contract or if the Recipient shall violate any of its covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate this contract and withhold the remaining allocation if such default or violation is not corrected within thirty (30) days after submitting written notice to the Recipient describing such default or violation. Further, in the event Recipient fails to expend funds under this contract in accordance with State or Federal laws and/or the provisions of the agreement, the County reserves to right to recapture funds expended to Recipient in an amount equal to the extent of the noncompliance.

b. The County may unilaterally terminate all or part of this contract, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this contract.

19. Termination for Public Convenience: The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Recipient shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County. If sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. No penalty or expense shall accrue to the County in the event this provision applies.

20. Nonassignability: Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Recipient.

21. Taxes: All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Recipient or its staff shall be the sole responsibility of the Recipient.

IN WITNESS WHEREOF, the parties have executed this Agreement this 12 day of September, 2016.

City of Sedro-Woolley

Keith L. Wagoner
Signature
(Date 16 Aug 16)
Keith L. Wagoner
Print Name
Mayor
Title

Mailing Address:
325 Metcalf St.
Sedro-Woolley WA
98284

Telephone No. 360-855-1661
Fed. Tax ID # 916001276
Contractor Lic. #. -

Attest:

Linda Hanna
Clerk of the Board

APPROVED:

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

ABSENT

Lisa Janicki, Chair

Ron Wesen
Ron Wesen, Commissioner
Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Commissioner

For contracts under \$5000

County Administrator
(Authorization per Resolution #R20030146)

Recommended:

Lisha Logne
Department Head
Lisha Logne
Budget and Finance Director

Approved as to Indemnification:

[Signature]
Risk Manager

Approved as to Form:

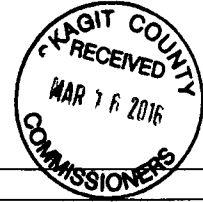
M. [Signature] (8/30/2016)
Deputy Prosecuting Attorney

Exhibit A



Economic Development Public Facility Project Application

Board of County Commissioners · 1800 Continental Place · Mount Vernon WA 98273
 voice 360-416-1300 · fax 360-336-9307 · www.skagitcounty.net



Part 1 Applicant Information

Organization City of Sedro-Woolley, Port of Skagit & Skagit County
 Address 325 Metcalf Street State WA Zip 98284
 Primary Contact Mark A. Freiberger, PE Phone 360-855-9933
 E-mail Address mfreiberger@ci.sedro-woolley.wa.us

Part 2 Project Information

RCW 82.14.370 (3) defines "public facilities" as bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, commercial infrastructure, and port facilities in the state of Washington.

Project Name Fruitdale Road Arterial Improvement Project Location Fruitdale Road, McGarigle Road to North City Limits
 Project Type Roadway Infrastructure Start Date 5/1/2017
 Description Reconstruct Fruitdale Road to Arterial standards and restore landslide damaged closure area to through traffic, including infill of gaps in the non-motorized system from McGarigle Road to the entrance to the Northern State Campus, now named the Center for Innovation and Technology (Center), and reconstruction of the intersection of Fruitdale Road at the Center's access road.
 Use of funds Describe the specifics of what funds will be spent on (e.g., labor, equipment, material, etc.):
 Funding from this grant request will be used as match funds for the constuction phase of the project.

Part 3 Required Resources

Provide a budget that shows a breakdown of project costs. Please also provide a breakdown of current and proposed funding that clearly illustrates the total funding required for the project listed by individual funding source, including any money from the Public Facilities fund. Specify any conditions attached to any funding sources.

Budget	Total funding requested from Distressed/Rural County Sales and Use Tax to fund public facilities projects in Skagit County (not to exceed \$500,000)	\$	500,000
	Amount primary sponsor/organization is contributing to the project	\$	145,000
	Other Funding Source: Skagit County - Design Phase funding	\$	100,000
	Other Funding Source: Port of Skagit - Design Phase funding	\$	100,000
	Other Funding Source: State of Washington - RW Donation	\$	50,000
	Other Funding Source: Transportation Improvement Board UAP Grant (anticipated)	\$	1,920,000
	Other Funding Source: Click here to enter text.	\$	text
	Total Project Cost	\$	2,815,000

Comments Describe impact to project if not fully funded:

The city is in a partnership with the Port of Skagit and Skagit County that seeks to redevelop the Northern State Campus as the Center for Innovation and Technology (the Center). The approximately 225 acre Center site's sole access is presently via Fruitdale Road from SR20. Fruitdale Road also continues northwest into Skagit County and via Kalloch Road to SR9, but this portion of the road has been closed to through traffic since 2013 due to a landslide located south of the city limits. The Planned Action Environmental Impact Statement prepared for the Center identified the repair of Fruitdale Road north of the center including the connection to SR9 at Kalloch Road as a major assumption in the transportation analysis. In accordance with the EIS a funding plan and schedule for the repair has been established in an interlocal agreement between the parties. The EIS requires Fruitdale Road improvements be made as a condition of development of the site. Continuous non-motorized improvements are also required to fill gaps in the non-motorized system from McGarigle Road to the entrance to the Center. Finally, the EIS notes that the existing entrance to the Center from Fruitdale is not geometrically adequate to accommodate anticipated site traffic. The proposed Fruitdale Road Arterial Improvement Project includes elements that meet all three of these EIS conditions. Without this project, the Center's redevelopment will be delayed which will impact Janicki Bioenergy's construction schedule.

Part 4 Growth Management

Planning Per RCW 82.14.370(3)(a), the project must be listed as an item in the County's adopted overall economic development plan, or the economic development section of the County's comprehensive plan, or your city or town's comprehensive plan. Under which plan is the proposed project contained? (Please attach a resolution or ordinance documenting that the appropriate authority has included the project in one of the above plans.)

The Fruitdale Road Arterial Improvement Project within city limits, is included in the City's 2021-2026 Transportation Improvement Program and the City's 2016 Transportation Plan element of the Comprehensive Plan. Fruitdale Road outside of the city limits to Kalloch Road, and Kalloch Road to SR9 are listed in Skagit County's 2016-2021 TIP.

Project location Incorporated Area

Zoning: Public and Residential

Business Is this project supportive of a specific business? If so, how many? Please provide names of businesses if known.

Yes. The project will fulfill EIS mitigations conditions for the redevelopment of the Center, and allow early development of a portion of the site for a research and development operation specifically to support Janicki Bioenergy, an innovative local company developing a unique wastewater treatment process targeting the underdeveloped portions of the world. The vision of the local partners is to redevelop the 225-acre site into a high-tech research and development center with education facilities, and retail and hospitality uses. Janicki Bioenergy desires to, through a lease with the Port of Skagit, utilize the campus or portions thereof, for a global headquarters for Janicki Bioenergy and its innovative Omni Processor. The goal is to break ground at the Center by 2017. The project is expected to support up to 1,000 new high technology jobs within five years. Fulfilling the mitigation Center's EIS requirements relating to Fruitdale Road will enable this project to move forward and support Janicki's decision to build their research and development campus in Sedro-Woolley.

Jobs Describe, in specific detail, how this project will create jobs and/or allow for the retention of current jobs.

The Center's EIS includes an Economic Impact Study, which looks at moderate and high intensity development potential for the site. The Moderate Development alternative anticipates redevelopment of 400,000 square feet of existing building space and the addition of 200,000 square feet of new space, generating 98 new jobs per year and 1,950 new jobs over 20 years. The high Intensity level anticipates redevelopment of 400,000 square feet of existing building space and 330,000 square feet of new building space, generating 143 jobs per year and 2,855 jobs over 20 years. It anticipated that compatible existing uses and those associated jobs will remain at the site during and after the redevelopment of the Center. It is also anticipated that incompatible existing uses and those associated jobs will be transitioned off the campus to other locations. Location of the Janicki Bioenergy facility at the site will accelerate the new job creation at the site with the addition of 1,000 new high-technology jobs within five years. The Job Detail information provided in the section below is based on the Moderate Development Alternative of the EIS.

Job Detail Provide information on the following: (a) the average wage, including benefits, and the number of new jobs/FTEs; and (b) the average wage, including benefits, as the result of the project. Please be specific as possible. *Generic information may not be scored. Do not include any construction-related jobs.*

	Jobs/FTEs Retained	Jobs/FTEs Created 1-3 Years	Jobs/FTEs Created 4 Years
Number of Jobs/FTEs	250	292.5	390
Average Wage/FTE	\$42,629	\$81,551	\$81,551

Infrastructure How will this project improve local infrastructure capacity? How much additional capacity will be provided for future development? Please be specific in your answer.

The EIS for the Center anticipates reopening of Fruitdale north of the entrance to the Center as a condition of development, without which significant impacts to Level of Service (LOS) will occur within the City transportation system, including State Route 20. With the recommended improvements, coupled with other City Transportation projects included in the 2016 Transportation Plan, the traffic impacts of the moderate and high intensity development assumptions will not adversely impact LOS within the city. Specifically, the road improvements will allow for up to 2,855 additional jobs in the target area over 20 years with an estimated additional 4,270 new daily vehicle trips.

Part 6**Project Timeline**

Timeline Provide a timeline for the project. Please include specific deadlines for segments or phases of the project, including total project begin date and completion date.

The Port of Skagit, Skagit County and City of Sedro-Woolley partnership has entered into an Interlocal Agreement that provides \$331,000 for the design phase for the Fruitdale Road Arterial Improvement Project within the city limits. A consultant has been selected and design is under way. The design schedule calls for 100% plans by July 2016, with the intention of applying for state Transportation Improvement Board (TIB) funds with the August 2016 call for projects. If funded by TIB, the construction project would bid in the winter of 2016/2017 and construct beginning in May 2017, with completion by December 2017.

Phasing If this is a phased project, for which phase are you applying for funding?

A future phase would add improvements to Fruitdale Road and Kalloch Road outside of the city limits. This project will provide added safety upgrades to the county portion of the route, but is not necessary in the short term to meet the mitigation requirements for the Center's EIS. \$10,000 for preliminary scoping is included in the present project budget. Final design and construction phase funding is being sought for this work.

Completion By what date will the project (or this phase) be complete? Funds will lapse and may not be spent after this date.

Design phase completion is scheduled for January 2017. If funded by TIB in November 2016, the Construction phase would complete in December 2017. If a second funding cycle or alternative source is required, the Construction phase would be delayed one year with completion in December 2018.

Efforts So Far Summarize efforts taken to date regarding the project. What planning has taken place? Have engineering reports and feasibility studies been prepared? If so, describe them.

The Planned Action EIS prepared for the Center includes an Economic Analysis and Transportation Analysis. The EIS Transportation Analysis identifies the proposed Fruitdale Road Arterial Improvements proposed in this grant request as a key assumption. The Partnership funded a federal Functional Classification Request to upgrade Fruitdale Road to Major Collector, making the project eligible for state and federal funding. The FC request has been approved by Federal Highways. The city has prepared a preliminary plan, scope of work and preliminary estimate for the work. The Port of Skagit, Skagit County and the City of Sedro-Woolley have executed an Interlocal Agreement to fully fund the design phase of the Fruitdale Road Arterial Improvement Project within the city limits, and to scope the county portion. Consultant selection for the design phase has been completed, and the design phase is under way. Topographic Survey work and geotechnical testing have been completed, and plan development has started. The City is acting as lead agency for the design phase of the project.

Part 7**Action Plan**

What quantifiable measures are you going to track to measure the success of the project?

Completion of 100% Design plans and specifications by July 2016. Submittal of TIB grant application by the end of August 2016. Completion of bid documents by January 2017. Bid advertisement by March 2017. Award by April 2017. Construction to complete by December 2017, if funded in 2016, or by December 2018 if a second funding cycle is required.

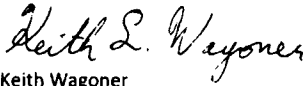
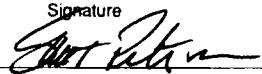

Part 8 Miscellaneous

Include information related to the project, if any, that would assist the Economic Development Advisory Committee and the Board of County Commissioners in evaluating the funding request, such as emergency declarations, bird-in-hand industry, volunteer efforts, links to other priority projects, etc.

This project is supported by a partnership of the Port of Skagit, Skagit County and the City of Sedro-Woolley that seeks to redevelop the former Northern State campus as the Center for Innovation and Technology. The Center project EIS assumes reconstruction of Fruitdale Road prior to further development of the Center. It is vitally important that the Fruitdale Road Arterial Extension Project be completed in the next two to three years in order for the Center to attract and retain a key anchor tenant. Provision of the requested funding, coupled with design phase funding already committed to the project, will greatly strengthen efforts of the Partnership to attract additional funding for the construction phase of the road project.

Part 9 Applicant Certification

The applicant here certifies and affirms (1) that it does not now, nor will it during the performance of any contract arising from this application, unlawfully discriminate against any employee, applicant for employment, client, customer, or other person who might benefit from said contract, by reason of age, race, color, ethnicity, sex, religion, creed, place of birth, or degree of handicap; (2) that it will abide by all relevant local, state and federal laws and regulations; and (3) that it has read and understood the provisions and restrictions in each part above and will comply with all provisions thereof.

Signature		Date	March 16, 2016
Printed Name	Keith Wagoner	Title	Mayor, City of Sedro-Woolley
Signature		Date	MARCH 17, 2016
Printed Name	Scott Peterson	Title	Director of Business Development, Port of Skagit
Signature		Date	March 17, 2016
Printed Name	Dan Berentson	Title	Director of Public Works, Skagit County