the investigation, the city council may grant or deny the application and may place reasonable conditions on any permit it issues.

D. General License Certificate. An individual who has received a general license from the State Fire Marshal for public display of fireworks shall file a certificate from the State Fire Marshal evidencing the license with any application for a city permit for the public display of fireworks. Such permit, if granted, shall not be transferable.

E. Bond Requirements. The applicant for a permit for public display of fireworks shall include with the application evidence of a bond issued by an authorized surety company. The bond shall be conditioned upon the applicant’s payment of all damages to persons or property resulting from or caused by such public display of fireworks, or any negligence on the part of the applicant or its agents, servants, employees or subcontractors in presentation of the display. Instead of a bond, the applicant may include a certificate of insurance evidencing the carrying of appropriate public liability insurance for the benefit of the named insured, as evidence of ability to respond in damage. The city attorney shall approve the bond or insurance if it meets the requirements of this section.

F. Discharge of Special Fireworks. No person may discharge special fireworks at any place except as authorized by state license and local permit for the public display of fireworks; provided, that common fireworks, firecrackers, salutes and chasers may be purchased and used by religious or private organizations or persons, if purchased from a licensed manufacturer, importer, or wholesaler for use on prescribed dates and locations, for religious or other specific purposes, upon obtaining a permit therefor from the city fire chief.

G. Permit—Not Required. A permit is not required for the possession or use of common fireworks lawfully purchased at retail.

H. Permit Fee. The original and annual permit fee for any act requiring a permit under this chapter shall be $25.00. The permit fee shall be for the period beginning June 28th and ending July 6th.

I. Permit—Issuance.

1. Common Fireworks Permit. The fire chief may issue, on an annual basis, for a fee, permits for the sale of common fireworks to persons, corporations, or organizations, after investigation and the fire chief’s determination that the location where the fireworks are to be sold is not hazardous to property or endangers any person, and that the persons in charge
of selling the fireworks are competent and trained to handle such fireworks. No person under the age of 18 years shall be employed by the permittee in connection with such sale. All permits may be issued with or without conditions, including the condition that such permits may be revoked, by the fire chief or his designee, upon demand due to reasons of safety.

2. Special Fireworks Permit. The fire chief will issue the permit after the procedures and requirements in subsections (B) through (H) of this section, governing public display permits, have been followed, if applicable. Such permits will be issued on a special event basis only.

3. Appeal. If the fire chief refuses to issue a common or special fireworks permit, the applicant shall have the right of appeal to the Langley city council. Such appeal must be filed with the city clerk-treasurer within three days after such permit is denied or the right will be deemed waived. All costs of the appeal must be paid for by the appellant.

J. Manufacture and Import Permit. An application for fireworks manufacturing and import permits shall be submitted to the city fire chief. Such applications will be issued by the Langley city council, on a case-by-case basis, after a public hearing and council directed investigation. No manufacturing or importing of fireworks shall be allowed in the city of Langley unless the permit has been issued. (Ord. 624, 1992)

9.05.050 Safety provisions.
A. Signs - Required. Approved no-smoking signs shall be posted at conspicuous locations on all four sides of the fireworks stand or structure and such other places as may be designated by the city fire chief. Each sign shall have the words "NO SMOKING BY ORDER OF THE STATE FIRE MARSHAL" in red letters not less than two inches in height on a white background. All signs shall be maintained in a legible condition.

B. Smoking and Discharge of Fireworks. Smoking and the discharge of fireworks shall be prohibited within 25 feet of any building or stand in which fireworks are sold at retail or stored after-hours.

C. Safety Equipment. Each retail fireworks location shall have not less than two water-type extinguishers of not less than two and one-half gallon capacity.

D. Temporary Structures. Temporary structures used for the retail sale of common fireworks shall be removed from the premises within one week after July 6th of each year. Any such stand
or structure remaining beyond one week may be removed by the regulating authority at the expense of the permittee or owner.

E. Posting List of Saleable Fireworks. Retailers required to obtain a permit under this chapter shall post prominently, at each retail outlet, a list of the fireworks that may be sold to the public in this state pursuant to Chapter 70.77 RCW. The posted list shall be in a form approved by the State Department of Community, Trade and Economic Development. (Ord. 624, 1992)

9.05.060 Sale—Hours of sale and discharge.
A. Hours of Sale. No common fireworks shall be sold within this city except from 12:00 noon on the twenty-eighth of June to 12:00 noon on the sixth of July of each year, or as provided in RCW 70.77.311 and other relevant parts of this chapter. No common fireworks may be sold between the hours of 11:00 p.m. and 9:00 a.m.

B. Hours of Discharge. The city of Langley restricts the discharge of common fireworks to July 4th only of each year. The times of discharge shall be from 9:00 a.m. to 12:00 p.m.

C. Special Fireworks. It is unlawful for any person knowingly to sell, transfer, or agree to sell or transfer any special fireworks to any person who is not a fireworks licensee/permittee as provided for in this chapter and under state law. A violation of this subsection is a gross misdemeanor.

D. Sale or Transfer of Common Fireworks. It is unlawful for any person to knowingly sell or transfer any common fireworks to a consumer or user other than at a fixed place of business of a retailer for which a permit or license has been issued. A violation of this subsection is a gross misdemeanor.

E. Sale to Minors. Common fireworks shall not be sold or given to minor children under eight years of age, unless accompanied by a parent or other responsible adult. (Ord. 649, 1993; Ord. 624, 1992)

9.05.070 Other violations.
A. Reckless Discharge. It is unlawful for any person to discharge or use fireworks of any kind in a reckless manner which creates substantial risk of death or serious physical injury to another person or damage to the property of another. A violation of this subsection is a gross misdemeanor.
B. Unlawful Possession of Fireworks. It is unlawful to possess any class or kind of fireworks in violation of Chapter 70.77 RCW or this chapter. A violation of this subsection is:

1. A misdemeanor if involving less than one pound of fireworks, exclusive of external packaging; or

2. A gross misdemeanor if involving one pound or more of fireworks, exclusive of external packaging. (Ord. 624, 1992)

9.05.080 Liability.
Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of a permittee to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. 624, 1992)

Section 2. Langley Municipal Code Chapter 9.05 Replaced. Chapter 9.05 is hereby replaced with a new Chapter 9.05 to read as follows:

Sections:
9.05.010 Fireworks defined.
9.05.015 Sale, use and discharge of fireworks unlawful.
9.05.020 Sky lantern defined.
9.05.025 Sale and use of sky lanterns unlawful.
9.05.030 Permit required for public display.
9.05.035 Application for public display permit.
9.05.040 Inspection.
9.05.045 Issuance-Nontransferable-Voiding.
9.05.050 Penalties for violation.

Section 9.05.010 Fireworks defined.
As used in this chapter, the term “fireworks” means all fireworks, special fireworks, common fireworks and pyrotechnics, as defined in Chapter 70.77 RCW.

Section 9.05.015 Sale, use and discharge of fireworks unlawful.
It is unlawful for any person to sell, use, transfer, discharge, ignite or explode any fireworks with the City of Langley; provided, that this prohibition shall not apply to the following activities, when authorized by a state license and city permit:

a. Duly authorized public displays, as provided in RCW 70.77.260: and
b. Duly authorized use by religious organizations or private organizations or persons for religious or other specific purposes on an approved date and in an approved location, as provided in RCW 70.77.311(2); and

c. Special effects for entertainment media pursuant to RCW 70.77.535.

Section 9.05.020 Sky Lantern defined.
As used in this chapter, the term “sky lantern” means an airborne lantern typically made of paper or other combustible material containing a candle, fuel cell composed of waxy flammable material or other open flame which serves as a heat source to heat the air inside the lantern to cause it to lift into the air. “Sky candles,” “fire balloons” and “airborne paper lanterns” are included as sky lanterns.

Section 9.05.025 Sale and use of sky lanterns unlawful.
It is unlawful for any person to sell, use, transfer, discharge or ignite any sky lantern within the City of Langley.

9.05.030 Permit required for public display.
It is unlawful for any person to hold, conduct or engage in a public display of fireworks within the City without first having obtained and being the holder of a valid permit issued pursuant to the provisions of this chapter. This chapter is intended to implement RCW 70.77, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto. The annual fee for a public display permit for the public display of fireworks shall be established by resolution and be payable to the City of Langley.

9.05.035 Application for public display permit.
Applications for a permit to hold, conduct or operate a public display of fireworks shall be made to the fire chief at least thirty days prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display.

9.05.040 Inspection.
After the discharge site has been completely set up, and prior to the display, the discharge site shall by inspected and approved by the fire chief or his designee.

9.05.045 Issuance—Nontransferable—Voiding.
Each public display permit issued pursuant to this chapter shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is a violation of this chapter and shall void the permit granted in addition to all other sanctions provided in this code.

9.05.050 Penalties for violation.
Any person violating or failing to comply with the provisions of this chapter which does not also constitute a violation of state law shall be guilty of a civil infraction and upon conviction thereof, shall be punished by a fine of $500.00 for the first offense and $21,000.00 for second offense and for each offense within a three-year period. Any violation of the chapter which also constitutes a violation of state law shall be punishable under state law penalties. In addition, any fireworks that are involved in the violation may be confiscated.
Section 3. Severability.
Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date.
This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force March 1, 2021.

PASSED by the City Council and APPROVED by the Mayor on this ___ day of __________, 2020.

MAYOR

__________________________
Tim Callison, Mayor

ATTEST

__________________________
Debbie L. Mahler, Clerk-Treasurer

APPROVED AS TO FORM

__________________________
Michael Kenyon, City Attorney
Contractor: City of Langley  
Project: Langley Infrastructure Project  
Contract No.: RM-GSA-2020-15

INTERLOCAL AGREEMENT
RURAL COUNTY ECONOMIC DEVELOPMENT FUNDS

THIS INTERLOCAL AGREEMENT is made and entered into pursuant to Chapter 39.34 of the Revised Code of Washington, by and between Island County, Washington, a political subdivision of the State of Washington, acting by and through its Board of County Commissioners, (the “County”) and the City of Langley, a municipal corporation organized under the laws of the State of Washington, acting by and through its City Council and wholly situated in Island County, Washington, (the “City”), on the date established pursuant to section 15 below.

RECOLALS

A. The County is eligible for and receives sales and use taxes for rural counties authorized in RCW 82.14.370 and imposed in Island County Code Chapter 3.02C. Such tax is authorized for the purpose of financing public facilities serving economic development purposes in rural areas.

B. The Island County Board of County Commissioners at its August 13, 2019 meeting approved the award of Rural County Economic Development Funds to assist the City in financing the costs of an infrastructure project known as the Langley Infrastructure Improvement Project (the “Project”). Said improvements are more particularly described in the City’s Application for Rural County Economic Development Funds, as submitted on March 27, 2019, and incorporated herein for all intents and purposes. This Interlocal Agreement sets forth the terms and conditions of said award.

C. The County approves an award of Rural County Economic Development Funds in the amount of Three Million Dollars ($3,000,000) for the Project, subject to the following conditions:
   a. The City is awarded and enters into a contract with the US Department of Agriculture Rural Development Loan Program in the minimum amount of $2,000,000. Said loan proceeds shall be used to finance the Project.
   b. The City issues bonds as authorized by the voters on November 5, 2019. Said bond proceeds shall be used to finance the Project.
   c. The City agrees that aforementioned bonds and loan proceeds, and other City funds will be spent on the Project, before expending grant funds authorized under this agreement.

D. The project is included in the City of Langley Comprehensive Plan.
E. The City has the appropriate statutory authority pursuant to Chapter 35A.11 RCW, and is ready, willing, and able to complete the Project described herein, and the parties are entering into this Agreement to carry out such purpose.

F. Entry into this Agreement is authorized under Chapter 39.34 of the Revised Code of Washington, the Interlocal Cooperation Act.

AGREEMENT

1. For and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

2. **Purpose.** The purpose of this Agreement is to allow the County to provide partial funding assistance to the City for costs of the Project.

3. **Project Time / Budget.** Work on the Project shall be substantially complete no later than December 31, 2022. If an extension is required, a written request must be made to, and approved by, the Island County Board of Commissioners. For purposes of RCW 39.34.030(3)(d), the City will establish and maintain a Project construction budget. The City will be responsible for acquiring, holding and disposing of Project property. Unless otherwise agreed by the parties by subsequent written instrument, the County shall not own any real or personal property acquired with the funds distributed to the City hereunder.

4. **Construction.** The County shall have no responsibility for the design, construction or Project management of said Project. The City shall have the sole authority to determine its design, construction and Project management, and to enter into partnerships, contracts, or other legal arrangements with potential investors and/or users thereof to assist in financing and/or construction and permitting, in the manner allowed by law.

5. **Allowable uses.** All funds disbursed by the County to the City under this Agreement shall be used by the City solely for Project costs considered permitted uses under RCW 82.14.370 and Island County Code Chapter 3.02C.040(A). In addition, funding provided under this agreement can only be used for construction of infrastructure. City administrative costs are not eligible for reimbursement. The City hereby agrees that the said Project shall be completed for uses as described herein.

6. **Financing.** The contribution to the City from County rural county sales and use tax proceeds for this Project will be in the amount of Three Million Dollars ($3,000,000). Upon receipt of a request for reimbursement and documentation evidencing that the City has paid Project costs allowable under this Agreement, the County shall pay said reimbursement request within forty-five (45) days of receipt. The City may submit requests for reimbursement periodically during the term of this Agreement.

7. **Repayment.** In the event that it is determined that any portion of the funds provided by the County is used for any purpose not authorized under this Interlocal Agreement, the City hereby agrees that it will repay to the County all such funds, together with accrued
interest at the same rate as if the funds had been invested with the Washington State Local Government Investment Pool. Any repayments due to the County shall be paid by the City within forty-five (45) days of written request made by the County.

8. **Documentation.** The City shall maintain for a period of six (6) years proper records documenting that the funds provided by the County were used solely for the purposes contained herein. During regular business hours and upon reasonable advance notice, the City shall make Project records available for inspection or audit by the County or its duly authorized representatives.

9. **Reporting.** The City shall file a report with the Board of County Commissioners by January 31st of each of the five calendar years following completion of the Project, reflecting the number of jobs and businesses created or retained as a result of the Project, along with other related information reasonably required by the County to measure the economic impact of its financial assistance.

The City shall also file a report with the County Auditor by January 31 of each year thereafter in which the City has been reimbursed in the prior year under Section 6 above. The report must show the following:

(a) List the name of the project;
(b) Indicate where the project is listed in the Town’s economic development plan or the economic development section of the Town’s comprehensive plan;
(c) List the Town’s total expenditures for the project from rural county sales and use tax funds received from the County in previous year and in prior years, if applicable;
(d) List the actual or estimated number of businesses created/retained by the Project; and
(e) List the actual or estimated number of jobs created/retained by the Project.

10. **Indemnification.** The City shall be solely responsible for administration of the Project. The City shall at all times protect, indemnify and save harmless the County from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable counsel fees, and expenses) imposed upon or reasonably incurred by or asserted against the County on account of (i) any failure of the City to comply with any of the terms of this Agreement or (ii) any loss or damage to real or personal property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use or financing thereof or (iii) any use of the Project funding in violation of applicable law (including environmental laws); provided, the City has no obligation to indemnify the County for any claim or liability resulting from the County’s negligence or willful misconduct. If any such indemnification obligation arises or results from the concurrent negligence of the parties or their respective agents, this indemnification obligation shall be valid and enforceable only to the extent of the negligence of each party. This paragraph shall survive the completion, expiration, and/or termination of this Agreement.

The City shall maintain, during the life of the Agreement, Industry Standard Occurrence
Commercial General Liability, or an equivalent, in the amount of $1,000,000.00 Per Occurrence and $2,000,000.00 Aggregate, including Premises/Operations, Products/Completed Operations, Blanket Contractual Liability and Personal Injury Coverage, to protect the City from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this contract whether such operations be by the City or by anyone directly employed by or contracting with the Town.

The City shall maintain, during the life of this Agreement, Business Automobile Liability Insurance, or an equivalent, in the amount of $1,000,000.00 Bodily Injury and Property Damage per combined single limit to protect the City from claims which may arise from the performance of this Contract, whether such operations are by the City or by anyone directly or indirectly employed by the Town.

Membership of the City in a state approved municipal risk pool with similar or better coverages shall satisfy the insurance requirements of this section.

11. No Separate Legal Entity. No separate legal entity is created or established to conduct this cooperative undertaking. For purposes of RCW 39.34.030(4)(a), the City’s chief administrative officer shall administer the Project.

12. Modification of the Agreement. This Agreement may be modified only by the written consent of the legislative body of each party.

13. Arbitration. Any dispute between the parties concerning the application of or violation of the express terms of this Agreement shall be resolved first through negotiation and, if agreed, by non-binding mediation. If the dispute is not resolved in either such manner, the parties may resort to arbitration. For purposes of arbitration, each party shall pick its own arbitrator and the two arbitrators within ten (10) days shall pick a third arbitrator. If the two arbitrators do not agree within ten (10) days to pick a third arbitrator, either party may apply to the Superior Court of Island County to select a third arbitrator. A majority decision of the arbitrators shall be final and conclusive.

Except where expressly provided in this Agreement, the arbitration shall be governed by Ch. 7.04A RCW. The cost of arbitration shall be borne by each party paying for its own arbitrator and its attorney fees and costs. Should all parties participate in an arbitration, those parties' arbitrators shall meet and choose an arbitrator who shall join in deciding the matters in the dispute in the manner set forth above. The arbitrator will be compensated by the parties as follows: Each party shall pay one half the costs of all arbitration including the compensation for the third arbitrator. Each party shall pay the cost for the arbitrator it selects.

14. Term of Agreement and Termination. This Agreement shall become effective on full execution hereof and compliance with Section 15, and shall expire upon the payment in full to the City, if any, for any documented reimbursement request owed by the County pursuant to Section 6 of this Agreement.

15. Filing of Agreement. Under RCW 39.34.040, prior to its entry into force, this Agreement must be either filed with the Island County Auditor or, alternatively, listed by subject
on the City’s Internet website.

16. **Survival.** Sections 5, 7, 8, 9, 10 and 13 of this Agreement shall survive the termination of this Agreement.

BOARD OF COUNTY COMMISSIONERS  
ISLAND COUNTY, WASHINGTON

By: ___________________________ Date: ______________

Janet St. Clair, Chair

Attest:

______________________________
Clerk of the Board

CITY OF LANGLEY

By: ___________________________ Date: ______________

Mayor

Attest:

______________________________
City Clerk