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Staff Liaison: Mike Dahlem, Michael Kosa, Andrew Leach, Alisa O'Haver-Ayala, Robert Wright, Andria Swann, Courtney Littrell, Drew McCarty, Kelsey White

The city is conducting this public meeting using a hybrid model. The public is welcome to attend tonight's meeting in-person at , or virtually by using the meeting access link and additional information located on the city's website, and on tonight's meeting agenda.

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Meeting URL: <https://sumnerwa-gov.zoom.us/j/87101964344>

Meeting ID: 871 0196 4344

COMMITTEE BUSINESS

1. Ordinance No.:2839 Pretreatment Regulations Code Update
2. Main and Wood Intersection Improvements - Construction Management Services Agreement
3. ADA Transition Plan Update
4. Stewart Road Bridge Easement Acquisition: Potelco
5. Grant Acceptance: Systemic Horizontal Curve and Roadway Safety Improvements

REPORTS

1. Project Management Report

ADJOURNMENT

SUBJECT: Ordinance No.:2839 Pretreatment Regulations Code Update

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Draft Pretreatment Regulations
-

STAFF CONTACT: Andria Hannegan, Pretreatment Coordinator

SUMMARY BACKGROUND:

The Department of Ecology has required the Sumner Wastewater Treatment Facility to assume responsibility for developing and administering a state-approved Pretreatment Program. Pretreatment Program staff have developed this ordinance which contains all the pretreatment authorities required to impose all applicable state and federal requirements for any users of the Sumner Wastewater Treatment Facility that discharge non-domestic wastewater into the sewer collection system. The objective of this ordinance is to not only meet regulatory requirements, but to also protect the WWTF biological process, City staff, the general public and the environment from potential harm caused by uncontrolled non-domestic waste water being disposed of into the City sanitary sewer system. Additionally, this ordinance helps the City encourage economic growth by establishing clear, fair, standards and requirements for the management and pretreatment of non-domestic waste water.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/1/2022

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Ordinance No.: 2839, revising sections of Chapter 13 , substantially in the form as approved by the City Attorney.

Chapter 13.49 PRETREATMENT REGULATIONS

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Section 1. General Provisions

13.49.010 Purpose and Policy

These Regulations set forth uniform requirements for Users of Publicly Owned Treatment Works (POTW) for the Sumner Wastewater Treatment Facility (WWTF) and Contributing Jurisdictions (Contributing Jurisdictions) to comply with all applicable State and Federal laws, including Chapter 173-216 Washington Administrative Code, the Clean Water Act (33 United States Code, Section 1251 et seq.), and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403).

The objective of these Regulations are:

- A. To encourage economic growth by establishing clear, fair, standards and requirements for the management and pretreatment of non-domestic waste.
- B. To protect the POTW from potential harm. Harm to be prevented includes causing Interference or otherwise harming the POTW; causing Pass Through, or otherwise harming the receiving environment; or causing the POTW to respond to Discharge based on a real or perceived threat;
- C. To protect POTW staff who may be affected by Wastewater and sludge in the course of their employment and to protect general public;
- D. To promote reuse and recycling of Industrial Wastewater by Industrial Users;
- E. To provide high-quality end products, such as reclaimed water and biosolids from the POTW, for beneficial use;
- F. To provide for fees for the equitable distribution of the cost of operations, maintenance, and improvement of the POTW, as economically feasible; and
- G. To enable the Sumner WWTF to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

These Regulations shall apply to all Persons connected (or believed connected) to the POTW. The Regulations compel the production of information; authorize the issuance of Control Documents, including Wastewater Discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program establishment herein.

The provisions of these Regulations shall be revised or amended from time to time, consistent with the purpose and policy stated in section 13.49.010, to conform to changes in the State and Federal water quality laws and regulations.

13.49.020 Administration

Except as otherwise provided herein, as the Owner of the Sumner Wastewater Treatment Facility (WWTF), the City of Sumner (City), is the Control Authority responsible for administering and managing the overall affairs of the WWTF. The City of Bonney Lake (CoBL) is the owner of a system of sewers that provide for the collection and transmission of Wastewater to the WWTF. CoBL is the Contributing Jurisdiction (Contributing Jurisdiction) responsible for managing their system of sewers connected to the WWTF. (add City of Pacific)

The City Public Works Director (Director) shall administer, implement, and enforce the provisions of these Regulations. Any powers granted to, or duties imposed upon the Director may be delegated by the Director to other Control Authority, WWTF or Contributing Jurisdiction personnel. The Director is authorized to adopt implementing procedures consistent with these Regulations.

Section 2. Abbreviations and Definitions

13.49.200 Abbreviations

The following abbreviations, when used in these Regulations, shall have the designated meanings:

AKART – All Known, Available and Reasonable Method of Prevention, Control and Treatment

ASPP – Accident Spill Prevention Plan

BOD – Biochemical Oxygen Demand

BMPs – Best Management Practices

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

EPA – U.S. Environmental Protection Agency

GI – Grease Interceptor

GPD – gallons per day

IU – Industrial User

LEL – Lower Explosive Limit

mg/L – milligrams per liter

MIU – Minor Industrial User

NAICS – North American Industry Classification System

NOV – Notice of Violation

NDCIU – Non-Discharging Categorical Industrial User

NPDES – National Pollutant Discharge Elimination System

POTW – Publicly Owned Treatment Works

RCRA – Resource Conservation and Recovery Act

RCW – Revised Code of Washington

SIC – Standard Industrial Classification

SIU – Significant Industrial User

TSS – Total Suspended Solids

U.S.C. – United States Code

WAC – Washington Administrative Code

WWTF – Wastewater Treatment Facility

13.49.210 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in these Regulations, shall have the meanings hereinafter designated.

Act or “the Act”. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq.

AKART. All known, available, and reasonable methods of prevention, control, and treatment. AKART represents the most current methodology that may reasonably be required for preventing, controlling, or abating the Pollutants associated with a Discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term Best Management Practices is a subset of the AKART requirement.

Approval Authority. Ecology’s Water Quality Program Manager or designee.

Authorized Representative of the Non-Domestic User.

- i. If the Non-Domestic User is a corporation, regardless of form:
 1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other individual or Person who performs similar policy or decision-making functions for the corporation; or
 2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- ii. If the Non-Domestic User is a partnership or sole proprietorship, regardless of form: a general partner or proprietor, respectively.

- iii. If the Non-Domestic User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director.

Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.A(A) and (B) of these Regulations and 40 CFR Part 403.5(a)(1) and (b). BMPs may also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Bypass. The intentional diversion of waste streams from any portion of a Non-Domestic User's Pretreatment Facility.

Categorical Pretreatment Standard. Any regulation containing Pollutant Discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317) which apply to a specific category of Non-Domestic User and which appear in 40 CFR Chapter I, Subchapter N, Parts 405471.

Categorical Industrial User or CIU. A Non-Domestic User subject to a Categorical Pretreatment Standard.

Contributing Jurisdiction. A county, city, town, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state and any Indian tribe recognized as such by the United States government authorized by law to provide a system of sewers for the collection, transmission, or treatment of Wastewater that has entered into an agreement with the Control Authority that provides for acceptance of some or all of that entity's Wastewater.

Control Authority. The City of Sumner, as the Owner of the Sumner Wastewater Treatment Facility who administers and manages the overall affairs of the WWTF, including treatment operations and without limitation the administration of these Regulations.

Control Document. A Wastewater Discharge permit or any other formal written Wastewater Discharge authorization or prohibition issued by the Director.

Composite Sample. A representative composite of samples of a waste stream taken throughout the period of a calendar day or equivalent representative 24-hour period when Discharges are produced by a regulated activity. Composite samplers must interface with a flow metering device to produce a representative flow proportionate composite sample unless the Director has determined that flow proportionate samples are not required or the analyte is not amenable to composite sampling (pH, temperature, oil, etc.).

Daily Maximum Limit. The maximum allowable Discharge of a Pollutant over a calendar day or equivalent representative 24-hour period. Where daily limits are expressed in units of mass, the daily Discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily Discharge is the Composite Sample value, or flow weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the sample value if samples are composited prior to analysis.

Dangerous Waste. Solid wastes designated in Washington Dangerous Waste Regulations WAC 173-303-070 through 179-303-100 as dangerous, or extremely hazardous or mixed waste. The waste may be any of the following: Characteristics hazardous waste (toxicity, corrosivity, ignitability, reactivity); listed hazardous waste; and/or state-only dangerous waste for toxicity or persistence.

Dental Establishment. means a facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).

Director. Public Works Director of the Control Authority, or the designee of the Director, including without limitation any designated officer, employee or other representative of any Contributing Jurisdiction, who is delegated certain duties and responsibilities by these Regulations.

Discharge or Indirect Discharge. The introduction of Pollutants into the POTW from any Non-Domestic User or non-domestic source subject to these Regulations or other State or Federal regulations.

Domestic User. Any Person who contributes, causes, or allows the contribution of Wastewater to the POTW that the Director determines is of similar volume and/or chemical make-up to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include kitchen wastes, human wastes, and housekeeping cleaning materials in volumes and/or concentrations normally discharged from these classes of users and typically include up to 100 gallons per capita per day, 300 mg/L of BOD, and 300 mg/L of TSS.

Ecology. The Washington State Department of Ecology.

EPA. The United States Environmental Protection Agency or, where appropriate, the director of the Region 10 Water Division, or other duly authorized official.

Existing Source. Any source of Discharges subject to Categorical Pretreatment Standards and discharging prior to the promulgation of those Standards or otherwise not meeting the definition of a New Source.

Fats, Oils and Grease. Components of wastewater able to be measured by the methods described in the current edition of Standard Methods for the Examination of Water and Wastewater, or methods identified in 40 CFR Part 136. The term "fats, oils and grease" shall include polar and nonpolar fats, oils, and grease and other components extracted from wastewater by these methods.

Food Processing Establishment. Any establishment in which food is prepared, manufactured, or packaged for consumption off site.

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Food Sales Establishment. Any retail and wholesale grocery stores, retail seafood stores, food processing plants, bakeries, confectioneries, fruit, nuts and vegetable stores and places of business and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off premises.

Food Service Establishment. Any establishment for the preparation and/or serving of food, or other edible products and/or are required to have a food business permit issued by the Tacoma-Pierce County Health Department. The term "food service establishment" includes but is not limited to restaurants, coffee shops, cafeterias, breweries, wineries and distilleries, short order cafes, grocery store delis, luncheonettes, taverns, lunchrooms, places which manufacture retail sandwiches, church kitchens, childcare facility where food is prepared, adult care facility, soda fountains, institutional cafeterias, catering establishments, food vending vehicles, and operations connected therewith, and similar facilities by whatever name called.

Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Gravity grease interceptor. A grease interceptor of at least 1,000 gallons to serve one or more fixtures and which is remotely located underground and outside of a food service establishment. It is designed to collect, contain or remove food wastes and FOG from the waste stream while allowing the balance of the liquid waste ("gray water") to discharge to the wastewater collection system by gravity.

Grease Interceptor. A pretreatment device designed to separate and collect fats, oils, grease, and solids and prevent these Pollutants from entering the sanitary sewer. Grease interceptors may be either hydromechanical grease interceptors (HGIs) or gravity grease interceptors (GGIs) and shall meet the requirements of SMC 13.49.400 and SMC 13.49.410. Grease interceptors shall be located to allow access for inspection and maintenance.

Grease Trap. A device designed to retain FOG from one to a maximum of four fixtures, with a maximum capacity of 50 gpm/100 pounds, and a minimum of 20 gpm/40 pounds. Grease traps shall be located to allow access for inspection and maintenance.

Hydromechanical Grease Interceptor. A device located inside a food service establishment designed to retain FOG from fixtures whose total capacity in gallons (gal) (L) shall not exceed 2½ times the certified gallons per minute (gpm) (L/s) flow rate of the interceptor in accordance with the UPC. It is designed to collect, contain, or remove food wastes and FOG from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity or mechanical means.

Hauled Waste. A waste transported by haulers and discharged to a POTW a conveyance other than a pipe (e.g., by truck or rail). Hauled waste might be sewage or domestic waste, or it might include non-domestic waste, or a combination of both types of waste.

Hazardous Waste. Any waste designated as hazardous under the provisions of 40 CFR 261 or a dangerous waste under WAC 173-303 – *State Waste Discharge Permit Program, Dangerous Waste Regulations*.

High Strength Waste or Wastewater. Any waters or wastewater having concentrations of BOD or Total Suspended Solids in excess of 300 mg/L, or having a concentration of fats, oils and grease in excess of 100 mg/L.

Industrial User. See definition for Non-Domestic User.

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Industrial Waste. Any non-domestic waste, including without limitation, solid, liquid, or gaseous waste resulting from any commercial, industrial, manufacturing, trade, health service, educational institution, business, laboratory, research establishment or facility, or from the development, recovery, or processing of natural resources.

Industrial Wastewater. Non-domestic Wastewater, Process Wastewater or any liquid wastestream resulting from any commercial or industrial process; or from the development, recovery, or processing of natural resources.

Instantaneous Limit. The maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of a discrete sample. For analytes for which Non-Domestic Users must take a Grab Sample for compliance purposes, this standard is the same as the Daily Maximum Limit. For all other Pollutants, the instantaneous limit shall be twice the Daily Maximum Limit. For analytes for which Non-Domestic Users must take a Composite Sample for compliance purposes, this standard is twice the Daily Maximum Limit.

Interference. A Discharge that alone or in conjunction with a Discharge or Discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts the WWTF's biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the WWTF's NPDES permit or of the prevention of sewage biosolids use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act. A Discharge from a Non-Domestic User which causes a blockage resulting in a Discharge at a point not authorized under the NPDES permit(s) is included in the definition of Interference.

Local Limits. Effluent limitations developed for Non-Domestic Users by the Control Authority to specifically protect the POTW from the potential for deleterious impacts including Pass Through, Interference, and the beneficial use of biosolids. Such limits shall be based on the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic Wastewater.

Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Minor Industrial User or MIU. Any Non-Domestic User that does not otherwise qualify as a Significant Industrial User of the POTW and is identified by the Director as having the potential to Discharge Wastewater that, when taken into account with the Wastewaters of other Industrial Users, may have a significant impact on the POTW; or is classified as such by the Director.

Monthly Average. The arithmetic mean of the effluent sample results collected during a calendar month or specified 30-day period. Where Composite Samples are required, Grab Samples taken for process control or by the Control Authority are not to be included in a Monthly Average.

New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Categorical Pretreatment Standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
 - c. The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (a) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous onsite construction program:
 - i. Any placement, assembly, or installation of facilities or equipment; or
 - ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts, which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Non-Discharging Categorical Industrial User (NDCIU). Any Person that generates Wastewater subject to a Categorical Pretreatment Standard that does not Discharge those Wastewaters subject to the Categorical Pretreatment Standard to the POTW. NDCIUs are considered a potential source of Indirect Discharge.

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Non-Discharging Minor Industrial User (NDMIU). Any Person that stores, handles, or manages volumes of liquid or sludge that is not discharged to the POTW. NDMIUs are considered a potential source of Indirect Discharge.

Non-Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Non-Contact Cooling Water may contain protective additives which may be deleterious to the POTW. Non-Domestic Wastewater. Wastewater that is not Domestic Wastewater.

Non-Domestic User. Any Person that does not qualify as a Domestic User and is a source, or potential source, of Indirect Discharge. This includes but is not limited to Food Service Establishments, Auto-related Businesses, Medical Facilities, Commercial or Industrial Facilities, and Warehouses.

Non-Polar FOG. Fats, Oils or Grease (FOD) in water or waste from a petroleum or mineral source as measure using analytical procedures established in 40 CFR 136.

Oil/Water Separator. A pretreatment device with a large capacity underground vault installed between a drain serving a nonpolar FOG discharger and the connecting sewer pipe. These vaults are designed with baffles or coalescing plates to trap sediments and retain floating oils. The large capacity of the vault slows down the wastewater, allowing oil to float to the surface and solid material to settle on the bottom. Any customer that is a potential discharger of petroleum-based and/or nonpolar FOG is required to have an OWS.

Pass Through. A Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the WWTF's NPDES permit(s), including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, regardless of form; or their legal representatives, agents, or assigns. This definition includes all federal, State, and local governmental entities.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in standard units. pH is an expression of the intensity of the alkaline or acid condition of a liquid. The pH may range from 0 to 14, where 0 is most acid and 14 most alkaline.

Pollutant. Any substance, either liquid, gaseous, solid or radioactive, discharged to the POTW which, if discharged directly, would alter the chemical, physical, thermal, biological or radiological properties of waters of the State. This includes any Discharge likely to create a nuisance or render such waters harmful, detrimental or injurious to any beneficial uses, terrestrial or aquatic life, or to public health, safety or welfare, and includes any dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and Industrial Wastes, and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, Carbonaceous Oxygen Demand, toxicity, or odor).

Sumner Municipal Code
Chapter 13.49 PRETREATMENT REGULATIONS

Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except not by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment Standard.

Pretreatment Facility. Wastewater treatment equipment, unit, device, facility, or portions thereof designed for providing Pretreatment of Wastewater.

Pretreatment Requirement. Any substantive or procedural requirement related to Pretreatment imposed on a Non-Domestic User, other than a Pretreatment Standard.

Pretreatment Standard or Standard. A Discharge prohibition (SMC 13.49.300), Categorical Pretreatment Standard (SMC 13.49.310), State Pretreatment Standard (SMC 13.49.320), Local Limit (SMC 13.49.330), and site-specific limit based on potential detrimental effects to the POTW, health and safety of staff and general public.

Publicly Owned Treatment Works (POTW). A treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the Control Authority, or a Contributing Jurisdiction. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastes of a liquid nature and any conveyances which convey Wastewater to a Treatment Plant.

RV (Recreational Vehicle) Waste. Liquid removed from waste holding tanks of recreational vehicles.

Septage. Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences, including wastes from chemical toilets, campers, or trailers.

Sewage. Human excrement and gray water from household showers, toilets, kitchens, clothes and dish washing, and related Domestic User activities.

Significant Industrial User or SIU:

- i. Except as provided in paragraph (ii) of this definition, a Significant Industrial User is:
 1. A Non-Domestic User subject to Categorical Pretreatment Standards; or
 2. A Non-Domestic User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process Wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater);
 - b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the Treatment Plant; or
 - c. Is designated as such by the Director, on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.

- ii. Upon a finding that a Non-Domestic User meeting the above criteria for a Significant Industrial User is not a Categorical Industrial User, or is a Non-Discharging Categorical Industrial User, and has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the Director may at any time, on its own initiative or in response to a petition received from a Non-Domestic User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such Non-Domestic User should not be considered a Significant Industrial User.

Slug Load or Slug Discharge. Any Discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions. This includes Discharges at a flow rate or concentration which could cause a violation of the prohibited Discharge Standards of SMC 13.49.300 of these Regulations.

Standard. Is the same as Pretreatment Standard.

Standard Method. The current version of Standard Methods for Examination of Water and Wastewater.

State. The State of Washington.

Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and which is removable by laboratory filtering, as included in current EPA standard methods for the examination of water and wastewater.

Wastewater. Any combination of liquid and water-carried Industrial Wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Facility. That portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

Zero-Discharge User. See definition for Non-Domestic User.

Section 3. General Sewer Use Requirements

13.49.300 Prohibited Discharges Standards.

A. General Prohibitions. No Domestic or Non-Domestic User shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater which causes Pass Through or Interference. These general prohibitions apply to all Non-Domestic Users and Domestic Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Pretreatment Requirements.

B. Specific Prohibitions. No Domestic or Non-Domestic User shall introduce or cause to be introduced into the POTW any of the following Pollutants, substances, or Wastewater:

- (1) Pollutants which either alone or by interaction may create a fire or explosive hazard in the POTW, a public nuisance or hazard to life, or prevent entry into the sewers for their maintenance and repair or are in any way injurious to the operation of the system or operating personnel. This includes waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR Part 261.21, and Wastewater causing any single reading over ten percent (10%) of the lower explosive limit based on an explosivity meter reading at the point of Discharge into the POTW or at any point in the POTW.
- (2) Gasoline, kerosene, naphthalene, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromides, carbides, hydrides, sulfides, and any other substance that the Control Authority, the State, or the EPA has notified the Non-Domestic User is a fire hazard or hazard to the POTW.
- (3) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel. Discharges outside this pH range may be authorized by a permit issued by the Director pursuant to a finding that the system is specifically designed to accommodate a Discharge of that pH.
- (4) Solid or viscous substances in amounts which may cause obstruction to the flow in the sanitary sewer or other Interference with the operation of the sanitary sewer system or POTW. In no case shall solids greater than 1/4 inch (0.64 cm) in any dimension be discharged. Specifically prohibited substances in amounts that produce Interference include, but are not limited to: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (5) Pollutants, including oxygen-demanding Pollutants (BOD, etc.), released in a Discharge at a flow rate and/or Pollutant concentration which, either singly or by interaction with other Pollutants, will cause Interference with the POTW.
- (6) Wastewater having a temperature which will interfere with the biological activity in the POTW, has detrimental effects on the collection system, or prevents entry into the sanitary sewer. In no case shall Wastewater be discharged which exceeds 140 degrees F (60 degrees C), or causes the Wastewater temperature at the influent to the Treatment Plant to exceed 104 degrees F (40 degrees C).
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute or chronic worker health and safety problems.
- (8) Septage other than RV Waste discharged at an approved location.

- (9) Trucked or hauled Pollutants, except at Discharge points designated by the Director and when specifically, and expressly approved by the Director.
- (10) The following are prohibited unless approved in writing by the Director under extraordinary circumstances, such as lack of direct Discharge alternatives due to combined sewer service or need to augment Sewage flows due to septic conditions (as required under WAC 173-216-060):
- a. Non-Contact Cooling Water in significant volumes;
 - b. Storm Water, or other direct inflow sources;
 - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the POTW; and
 - d. Surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and unpolluted water, unless specifically authorized by the Director.
- (11) Noxious or malodorous liquids, gases, solids, or other Wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sanitary sewers for maintenance or repair.
- (12) Chlorine, bleach or other oxidants in quantities that cause Interference to the POTW.
- (13) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the WWTF's effluent.
- (14) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director, and in compliance with applicable federal or State regulations.
- (15) Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.
- (16) Medical Wastes, except as specifically authorized by the Director.
- (17) Wastewater causing, alone or in conjunction with other sources, the WWTF's effluent to fail a toxicity test.
- (18) Detergents, surface-active agents, or other substances in amounts that may cause excessive foaming in the POTW.
- (19) Any fats, oils, or greases, including but not limited to petroleum oil, nonbiodegradable cutting oil, or products of mineral oil, animal or vegetable origin in amounts that may cause obstructions or maintenance problems in the POTW.
- (20) Total Petroleum Hydrocarbon (non-polar oil and grease) concentrations 100 parts per million, by weight, of fats, oil, greases, wax, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32- and 150-degrees Fahrenheit.
- (21) Any substance which will cause the WWTF to violate its NPDES and/or other disposal system permit(s).

- (22)Any dangerous, extremely hazardous, or hazardous wastes as defined in rules or regulations published by Ecology or by EPA, except as specifically approved by the Director.
- (23)Any persistent pesticide and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA) as amended.
- (24)Any Wastewater containing toxic Pollutants in sufficient quantity, either singly or by interaction, to injure or create Interference with any Wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in Categorical Pretreatment Standards, or State or local Pretreatment Standards.
- (25)Any substance which may cause the WWTF's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or which causes Interference with the reclamation process. In no case shall a substance be discharged to the POTW that will cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act; or with the Clean Air Act, the Toxic Substances Control Act, or State Pretreatment Standards applicable to the sludge management method being used.
- (26)Any Slug Load, or any Pollutant, including oxygen demanding Pollutants, released in a single extraordinary Discharge episode or in such volume or strength as to cause Interference to the POTW; or released with a flow rate exceeding the permitted peak flow, or ten percent (10%) of the capacity of the available trunk sewer, whichever is greater.
- (27)Wastewater that may cause a measurable or detectable decrease in WWTF effluent Ultraviolet Transmittance.
- (28)Antifreeze or a coolant solution used in a vehicle or motorized equipment, except as specifically approved by the Director.
- (29)An enzyme, chemical, or other agent that allows fat, oil, grease, or a solid to Pass Through a Pretreatment Facility.
- (30)Wastewater that contains, or has contained, glutaraldehyde or ortho-phthalaldehyde unless it has been completely de-activated with sodium bisulfite or sodium hydroxide, has a pH of between 6.0 and 9.0 standard units, and does not contain any drain clogging solids. The Non-Domestic User shall contact the Director for review and obtain approval prior to Discharge.
- (31)All other wastes found by the Director to be harmful to the POTW.

Pollutants, substances or Wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

13.49.310 National Categorical Pretreatment Standards

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference.

- A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Director may impose equivalent concentration or mass limits in accordance with SMC 13.49.310(E) and SMC 13.49.310(F) and 40 CFR Part 403.6(c).
- B. Upon promulgation of a Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal standard, if more stringent, shall supersede the Local Limit imposed in these Regulations. If the Local Limit imposed in these Regulations is more stringent than the Federal standard, then the Local Limit shall supersede the Federal limit.
- C. When Categorical Pretreatment Standards are expressed in terms of a mass of Pollutant which may be discharged per unit of production, the Director may either impose limits based on mass or equivalent effluent concentrations. The Non-Domestic User must supply appropriate actual or projected long-term production rates for the unit of production specified in order to facilitate this process pursuant to 40 Part CFR 403.6(c)(2).
- D. The Director may allow Wastewater subject to a Categorical Pretreatment Standard to be mixed with other Wastewaters prior to treatment. In such cases, the Non-Domestic User shall identify all categorical wastestreams and provide sufficient information on each non-categorical wastestream to determine whether it should be considered dilute for each Pollutant. Absent information showing that non-categorical wastestreams contain the Pollutant in question at levels above that of the supply water, such wastestreams shall be considered dilute. In such situations, the Director shall apply the combined wastestream formula as found at 40 CFR Part 403.6(e) to determine appropriate limits.
- E. When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, a Non-Domestic User may request that the limits be converted to equivalent mass limits. The Director may establish equivalent mass limits if the Non-Domestic User meets all of the conditions set forth below.
 1. To be eligible for equivalent mass limits, the Non-Domestic User must submit information with its permit application or permit modification request which:
 - a. Shows it has a Pretreatment system which has consistently met all applicable Pretreatment Standards and maintained compliance without using dilution;
 - b. Describes the water conserving practices and technologies it employs, or will employ, to substantially reduce water use during the term of its permit;
 - c. Includes the facility's actual average daily flow rate for all waste streams from continuous effluent flow metering;

- d. Determines an appropriate unit of production, and provides the present and long-term average production rates for this unit of production;
 - e. Shows that long-term average flow and production are representative of current operating conditions;
 - f. Shows that its daily flow rates, production levels, or Pollutant levels do not vary so much that equivalent mass limits would be inappropriate; and
 - g. Shows the daily and Monthly Average Pollutant allocations currently provided based on the proposed unit of production.
- 2. An Non-Domestic User subject to equivalent mass limits must:
 - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow by continuous effluent flow monitoring;
 - c. Continue to record the facility's production rates;
 - d. Notify the Director if production rates are expected to vary by more than twenty (20) percent from the baseline production rates submitted according to SMC 13.49.310(E)(1)(d). The Director may reassess and revise equivalent limits as necessary to reflect changed conditions; and
 - e. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to SMC 13.49.310(E)(1)(b) so long as it Discharges under an equivalent mass limit.
- 3. Equivalent mass limits:
 - a. Will not exceed the product of the actual average daily flow from regulated process(es) of the Non-Domestic User and the applicable concentration-based daily maximum and Monthly Average standards (and the appropriate unit conversion factor);
 - b. May be reassessed and the permit revised upon notification of a revised production rate, as necessary to reflect changed conditions at the facility; and
 - c. May be retained in subsequent permits if the Non-Domestic User's production basis and other information submitted in SMC 13.49.310(E)1 is verified in their reapplication. The Non-Domestic User must also be in compliance with SMC 13.49.1420 regarding the prohibition of Bypass.
- F. The Director may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414 (organic chemicals), 419 (petroleum refining), and 455 (pesticide formulating, packaging, and repackaging) to concentration limits in permits for such Non-Domestic Users. In such cases, the Director will document the basis and the determination that dilution is not being substituted for treatment in the permit fact sheet.
- G. The Control Authority is obliged under Federal regulations to make the documentation of how any equivalent limits were derived (concentration to mass limits or vice versa) publicly available.

- H. Once incorporated into its permit, the Non-Domestic User must comply with the equivalent limits in lieu of the Categorical Pretreatment Standards from which they were derived.
- I. The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.
- J. Non-Domestic Users subject to permits with equivalent mass or concentration limits calculated from a production-based standard shall notify the Director if production will significantly change. This notification is required within two (2) business days after the Non-Domestic User has a reasonable basis to know that production will significantly change in the next calendar month. Non-Domestic Users who fail to notify the Director of such anticipated changes must meet the more stringent of the equivalent limits or the Non-Domestic User's prior limits.

13.49.320 State Pretreatment Standards

State Pretreatment Standards and requirements, located at Chapter 173-216 WAC, were developed under authority of the State Water Pollution Control Act, Chapter 90.48 RCW and are hereby incorporated by reference. The version incorporated is the version current as of the date of the latest revision or version of these Regulations. All waste materials discharged from a commercial or industrial operation into the POTW must satisfy the provisions of Chapter 173-216 WAC. In addition to more stringent prohibitions, the provisions described in SMC 13.49.320(A) through 13.49.320(J) are unique to the State and are required by these Regulations for Discharges to a POTW.

- A. Any Person who constructs or modifies or proposes to construct or modify Wastewater treatment facilities must first comply with the regulations for submission of plans and reports for construction of Wastewater facilities, Chapter 173-240 WAC. Non-Domestic Users shall request approval for such plans through the Director. Prior to constructing or modifying Wastewater treatment facilities, plans and reports as required by Chapter 173-240 WAC must be approved by the Director.
- B. Non-Domestic Users shall apply to the Director for a permit at least one hundred twenty (120) days prior to the intended Discharge of any Pollutants (SMC 13.49.530) other than Sewage or Wastewater which the Director has determined is similar in character and strength to normal domestic Wastewater with no potential to adversely affect the POTW.
- C. All Significant Industrial Users must apply for and obtain a Wastewater Discharge permit prior to Discharge.
- D. All Non-Domestic Users shall apply AKART to waste Discharges to the waters of the State.

- E. Discharge restrictions of Chapter 173-303 WAC (Dangerous Waste) shall apply to all Domestic and Non-Domestic Users. Specific written approval from the Control Authority and Ecology is required prior to the Discharge of Dangerous Wastes.
- F. Claims of confidentiality shall be submitted according to WAC 173-216-080. Information which may not be held confidential includes the: name and address of applicant, description of proposal, the proposed receiving water, receiving water quality, and effluent data. Claims shall be reviewed based on the standards of WAC 173-216-080, Chapter 42.56 RCW, Chapter 173-03 WAC, and RCW 43.21A.160.
- G. Persons applying for a new permit or a permit renewal or modification which allows a new or increased Pollutant loading shall publish notice for each application in the format provided by the Director. Such notices shall fulfill the requirements of WAC 173-216-090. These requirements include publishing:
 - (1) The name and address of the applicant and facility/activity to be permitted;
 - (2) A brief description of the activities or operations which result in the Discharge;
 - (3) Whether any tentative determination has been reached with respect to allowing the Discharge;
 - (4) The address and phone number of the office of the Director where Persons can obtain additional information;
 - (5) The dates of the comment period (which shall be at least 30 days); and
 - (6) How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
- H. The Director may require the applicant to also mail this notice to Persons who have expressed an interest in being notified, to state agencies and local governments with a regulatory interest, and to post the notice on the premises. If the Director determines there is sufficient public interest the Control Authority or Contributing Jurisdiction, as appropriate, shall hold a public meeting following the rules of WAC 173-216-100. The Director may assume responsibility for public notice requirements for any Person and may waive this requirement for any Non-Domestic User not classified as a CIU, SIU, or MIU by the Director.
- I. Permit terms shall include, wherever applicable, the requirement to apply AKART.
- J. All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC, except for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, and turbidity must otherwise be accredited, it shall be accredited for these parameters as well.

13.49.330 Local Limits

- A. The Control Authority has established and may periodically modify Local Limits pursuant to 40 CFR Part 403.5(c) based upon the POTW's site-specific flow and loading capacities,

receiving water considerations, and reasonable treatment expectations for non-domestic Wastewater using a method approved by the Director.

- B. Unless the Director determines that the public health or safety require an earlier implementation, any modification the Control Authority establishes to the Local Limits in Table 330-1 shall not go into effect until thirty (30) days after reasonable notice of the changes is provided to the public and Persons known to the Control Authority or Contributing Jurisdiction who may Discharge Wastewater containing analytes subject to such Local Limits.
- C. The Pollutant limits in Table 330-1 are established to protect against Pass Through and Interference and reflect the application of reasonable treatment technology. No Non-Domestic User shall Discharge Wastewater in excess of the Daily Maximum Limits shown in Table 330-1 unless authorized in writing by the Director.
- D. The Local Limits shown in Table 330-1 apply at the point where the Wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Director may impose mass limits in addition to, or in place of, concentration-based limits in accordance with SMC 13.49.310.
- E. Significant Industrial Users and Categorical Industrial Users shall also be subject to Instantaneous Limits (as determined by a Grab Sample) equal to twice the daily maximum concentration limit identified in Table 330-1 for any Pollutant for which a Composite Sample is required in a permit. This provision is not applicable to SIUs and CIUs without the permit requirement to collect a Composite ample for the analyte in question.

Table 330-1: Initial DRAFT Local Limits (Subject to Director Modification)

Analyte	Daily Maximum Concentration Limit (mg/L)	Instantaneous Concentration Limit (mg/L)
Arsenic	0.14	0.28
Aluminum	TBD probably N/A	TBD probably N/A
Cadmium	0.12	0.24
Chromium	4.05	5.0
Copper	1.42	2.84
Cyanide	0.19	0.38
Lead	0.80	1.60
Mercury	0.030	.060

Analyte	Daily Maximum Concentration Limit (mg/L)	Instantaneous Concentration Limit (mg/L)
Molybdenum	0.17	0.34
Nickel	0.83	1.66
Selenium	0.21	0.42
Silver	0.54	1.08
Zinc	1.93	3.86

- F. No Non-Domestic User shall Discharge Wastewater in excess of the Daily Maximum Limits shown in Table 330-2 unless authorized in writing by the Director. The standard limits in Table 330-2 apply at the point where the Wastewater is discharged to the POTW.

Table 330-2: Standard Limits

Analyte	Daily Maximum Concentration Limit
Total Hydrocarbon based fats, oil and grease	100 mg/L
Minimum pH	6.0 standard units
Maximum pH	9.0 standard units

- G. A High Strength User is any Non-Domestic User who, in any given month, discharges Wastewater found to contain a Monthly Average of more than fifty (50) pounds per day of Biochemical Oxygen Demand and fifty (50) pounds per day of Total Suspended Solids. High Strength Users shall be subject to charges as determined by the Director and as amended and under the authority of these Regulations up to any maximum loading limit.
- H. The Control Authority shall use the individual permit process to establish ceiling limits for compatible Pollutants and appropriate Discharge limits for all other Pollutants not listed in SMC 13.49.330. This includes Pollutants subject to regulation under RCRA, volatile or semi-volatile organic compounds, halogenated or brominated compounds, poly-aromatic hydrocarbons, polymers, surfactants, pesticide active ingredients, and any other Pollutant identified by the Control Authority.
- I. The Director may establish and require Best Management Practices for any category of Non-Domestic User or type of industrial process which creates a non-domestic waste

stream. Such requirements may be applied either in lieu of or in addition to the Local Limits in SMC 13.49.330. BMPs may also include alternative limits which may be applied at the end of a specific process or treatment step instead of at the combined effluent.

- J. Where a Non-Domestic User is subject to a Categorical Pretreatment Standard and a Local Limit for a given Pollutant, the more stringent provision shall control.

13.49.340 Right of Revision

The Control Authority reserves the right to establish, by subsequent resolution or regulation, or in Wastewater Discharge permits or other Control Documents, more stringent standards, or requirements for any Discharges to the POTW.

13.49.350 Dilution

No Non-Domestic User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limit unless expressly authorized by an applicable Pretreatment Standard or requirement. The Director may impose mass limitations on Users where deemed appropriate to safeguard against the use of dilution to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Section 4. Pretreatment of Wastewater

13.49.400 Pretreatment Facilities

Non-Domestic Users shall provide Wastewater Pretreatment as necessary to comply with these Regulations and shall achieve compliance with the Pretreatment Standards set out in these Regulations within the time limitations specified by EPA, the State, or the Control Authority, whichever is more stringent. Any Pretreatment Facilities necessary for compliance shall be provided, operated, and maintained at the Non-Domestic User's expense, and satisfy State requirements for review and approval of Plans for Wastewater Facilities as described in SMC 13.49.320. Such plans (Engineering Report, Plans and Specifications, and Operation and Maintenance Manuals) shall be submitted [as required by Chapter 173-240 WAC] to the Director for review and approval prior to construction. The review of such plans and operating procedures shall in no way relieve the Non-Domestic User from the responsibility of modifying such Pretreatment Facilities as necessary to produce a Discharge acceptable to the Director under the provisions of these Regulations.

13.49.410 Additional Pretreatment Measures

- A. The Director may immediately and effectively halt or prevent any Discharge of Pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of POTW staff or general public. In such cases, the Director will provide the User advance notice if possible but shall not delay a response to imminent endangerment.
- B. The Director may halt or prevent any Discharge to the POTW which presents or may present an endangerment to the environment, or which threatens to interfere with the operation of the POTW. In such cases, the Director shall attempt to provide not only notice to the affected Non-Domestic User(s), but the opportunity to respond.
- C. Any Non-Domestic User causing the Director to exercise the emergency authorities provided for under SMC 13.49.410(A) and SMC 13.49.410(B) shall be responsible for reimbursement of all related costs to the Control Authority or Contributing Jurisdiction, as appropriate.
- D. The Director may require Non-Domestic Users to reduce or curtail certain Discharges to the POTW, designate that certain Wastewater be discharged only into specific sewers, relocate and/or consolidate points of Discharge, separate Sewage waste streams from Industrial Waste streams, and take all other measures to protect the POTW and determine the User's compliance with the requirements of these Regulations.
- E. The Director, based on the determination that such facilities or devices are necessary for implementation of Pretreatment Requirements, may require any Non-Domestic User to install and maintain, on their property and at their expense, Pretreatment Facilities, devices and equipment that may include, but not be limited to, any of the following:
 - 1. A sampling facility accessible to the Control Authority or Contributing Jurisdiction;
 - 2. A suitable storage and/or flow equalization tank;
 - 3. A Grease Interceptor, grease Trap, solids separator, or oil/water separator;
 - 4. An approved hazardous gas detection meter;
 - 5. An amalgam separator and/or a silver recovery unit; or
 - 6. Other Pretreatment Facilities, devices, equipment, and/or units as may be necessary to treat Non-Domestic Wastewater prior to entering the POTW.

Non-domestic Users installing any Pretreatment Facility or device shall ensure they are of the type and capacity approved by the Director and conform to any separate requirements established by the Control Authority or Contributing Jurisdiction, as appropriate. Users shall locate Pretreatment Facilities or devices in areas easily accessible for cleaning and inspection by representatives of the Director. Non-Domestic Users shall maintain Pretreatment Facilities or devices at all times to provide acceptable treatment of Wastewater and to maintain compliance with Pretreatment Standards and requirements. Non-Domestic Users are responsible for all periodic inspection, cleaning, maintenance, and repair of such facilities.

- F. **Food Service Establishment.** Non-Domestic Users who prepares and/or serves food or otherwise have potential to Discharge fats, oils, or grease into the POTW shall be required

to install Grease Interceptors located outside the building. The Director may approve the installation of Grease Traps inside the building on a case-by-case basis under special circumstances. Non-Domestic Users may be required to retrofit Grease Interceptors that were constructed prior to the adoption of these Regulations.

- G. **GI Design.** GIs shall be designed, sized, constructed, and installed in accordance with Control Authority or Contributing Jurisdiction standards and the Uniform Plumbing Code (UPC). All fixtures, equipment, and drain lines located in a facility's food preparation and cleanup areas shall be connected to a GI, unless specifically approved by the Director. The following types of equipment or fixtures have been identified as potential sources of fats, oils and grease and shall be connected to a GI per Director or manufacturer's instructions: pre-rinse and/or pre-wash sinks or sinks in dishwashing areas; two or three compartment sinks; wok stoves; self-cleaning stove ventilation/exhaust hood; kitchen floor drains; floor drains; floor sinks; mop sinks; food prep sinks; and hand sinks. Dishwashers may only be directed to GIs per Director or manufacturer instructions. Dishwashers or other fixtures discharging emulsifying agents, such as detergents, should be located such that their potential to adversely impact the GI operation is minimized. All drain lines shall have permanently fixed screens with maximum 1/4-inch openings to prevent the pass-through of larger solids. Commercial food grinders and garbage disposals are not allowed. No sanitary waste shall be conveyed to the GI. A monitoring manhole shall be included on all GI installations.
- H. **GI Installation.** GIs shall be installed such that they are easily accessible for inspection, cleaning, and the removal of fats, oils, grease and solid material. An accessible GI shall meet the following minimum criteria: the edge of the GI shall be flush with any edge of an overhead obstruction; and the overhead clearance shall be at least equal to the overall depth of the GI. GI access covers should be located such that the influent and effluent sanitary tee and compartment walls are accessible at all times for proper cleaning and inspection.
- I. **Cleaning and Maintenance.** The Director shall be authorized to establish routine maintenance schedules of Pretreatment Facilities or devices for the purpose of inspection, maintaining effective treatment and Pollutant removal, and reducing Pollutant loadings to the POTW. The Control Authority or Contributing Jurisdiction shall be allowed access to Pretreatment Facilities or devices for the purpose of inspection and/or to verify compliance with these Regulations. Waste removed from a Pretreatment Facility or device shall not be disposed of in the POTW. A record of cleaning, maintenance or disposal activities shall be submitted to the Director. The use of hot water, enzymes, bacteria, chemicals, or other agents for the purpose of causing the contents of a Pretreatment Facility or device to be discharged into the POTW is prohibited.

13.49.420 Accidental Discharge/Slug Discharge Control Plans

The Director may require any Non-Domestic User to develop and implement an Accidental Discharge/Slug Discharge Control Plan and take other actions the Director believes are necessary to control Discharges which may be caused by spills or periodic non-routine activities. Accidental Discharge/Slug Discharge Control Plans shall include at least the following:

- A. A description of all Discharge practices, including any non-routine batch Discharges such as from cleaning, replenishment, or disposal;
- B. A description of all stored chemicals, disclosing all ingredients in formulations which could violate a Discharge prohibition if discharged to the POTW;
- C. The procedures for immediately notifying the Director of any accidental Discharge or Slug Discharge, as required by SMC 13.49.750; and
- D. The procedures that will be taken to prevent the occurrence or adverse impact from any accidental or Slug Discharge. Such procedures shall address the inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (including solvents), and/or measures and equipment for emergency response.

Non-Domestic Users shall notify the Director immediately upon the occurrence of any accidental Discharge or Slug Discharge of substances regulated by these Regulations. The notification shall include location of Discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any Non-Domestic User that has an accidental Discharge or Slug Discharge shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the Control Authority or Contributing Jurisdiction on account thereof under these Regulation, State or Federal law.

Within five (5) days following an accidental Discharge, the Non-Domestic User shall submit to the Director a detailed written report describing the cause of the Discharge and the measures to be taken by the Non-Domestic User to prevent similar future occurrences. Such notification shall not relieve the Non-Domestic User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to Person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability that may be imposed under these Regulations or other applicable law.

13.49.430 Hauled Wastewater

- A. Certain non-domestic wastes may be introduced into the POTW at locations designated by the Director, and at such times as are established by the Control Authority. No Septage may be discharged to the POTW. The hauler of approved wastes shall be responsible for ensuring such that wastes comply with all Discharge prohibitions in SMC 13.49.200 through SMC 13.49.240 and other applicable Control Authority or Contributing Jurisdiction requirements. Waste Haulers are required to obtain Wastewater Discharge permits, other Control Documents, and/or provide a manifest at the time of Discharge identifying the customer name, address, volume, and other information from each customer.

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- B. Fees for the Discharge of hauled waste may be established as part of the fee system as authorized in SMC 13.49.1700 and SMC 13.49.1710 as amended.
- C. Haulers proposing to Discharge site remediation Wastewater shall comply with applicable Pretreatment Standards and requirements of these Regulations and policies and guidelines as established by the Control Authority. Haulers proposing to Discharge site remediation Wastewater may be subject to fees based upon volume, treatability, handling, and administration.
- D. The Director shall require the hauler, and may also require the generator, of non-domestic waste to obtain a Wastewater Discharge permit or other Control Document. The Director may also prohibit the disposal of any or all hauled Industrial Waste. The Discharge of hauled Industrial Waste is subject to all applicable Pretreatment Standards and requirements of these Regulations and policies and guidelines as established by the Control Authority.
- E. Industrial Waste haulers may Discharge loads only at locations designated by the Director and with the prior consent of the Director. The Control Authority may collect, or require the hauler to collect, samples of each hauled load to ensure compliance with applicable Standards, and halt the Discharge at any point in order to take or require additional samples or hold the load pending analysis. The Director may require the Industrial Waste hauler to provide a waste analysis of any load prior to Discharge, to characterize the waste, or to certify that the waste does not meet the definition of a hazardous waste under Chapter 173-303 WAC.
- F. Industrial Waste haulers are required to provide a waste-tracking form for each load, unless exempted in writing by the Director. The waste-tracking form may be required to include the following information:
 - 1. Name and address of the Industrial Waste hauler;
 - 2. Truck and driver identification;
 - 3. Names and addresses of the sources of waste;
 - 4. Type of industry, volume, brief description, known characteristics and presumed constituents of waste;
 - 5. Any wastes which are designated hazardous wastes under RCRA; and
 - 6. Any other information deemed necessary by the Director.

Section 5. Wastewater Discharge Permits

13.49.500 Industrial User Surveys

The Control Authority is obligated under Federal law to identify and locate all possible Non-Domestic Users which might be subject to the Pretreatment Standards, and to identify the character and volume of Pollutants discharged by such Non-Domestic Users. To satisfy this requirement, any possible Non-Domestic User of the POTW must, upon request of the Director, periodically complete an Industrial User survey form. Users of the POTW shall fully disclose the information requested and sign the completed form in accordance with SMC 13.49.550. Proper completion of survey requirements is a condition of initial and continued Discharge to the POTW. Non-Domestic Users failing to fully comply with survey requirements within a timeframe specified by the Director shall be subject to all enforcement measures authorized under these Regulations including termination of service. The Director is authorized to prepare several forms for this purpose and require completion of the particular form which the Director determines appropriate to provide the information needed to categorize each User. The Director shall be authorized to categorize each Non-Domestic User, provide written notice of a Non-Domestic User's categorization and what it means, and revise this categorization at any time.

13.49.510 Wastewater Discharge Permit Requirement

- A. No Significant Industrial User shall Discharge Wastewater into the POTW without first obtaining an individual Wastewater Discharge permit from the Director. A Significant Industrial User that has filed a timely application pursuant to SMC 13.49.520 may continue to Discharge unless and until notified otherwise by the Director.
- B. The Director may require all other Non-Domestic Users to obtain a Wastewater Discharge permit, Control Document, or implement Best Management Practices as necessary to carry out the requirements or otherwise meet the intent of these Regulations. For example, a Control Document may be required solely for flow equalization or for a NDCIU.
- C. Any failure to complete the required survey form, apply for and obtain a required permit or other Control Document, or violate the terms and conditions of a Wastewater Discharge permit or Control Document shall be deemed a violation of these Regulations and subject the Non-Domestic User to the sanctions set out in SMC 13.49.1100 through SMC 13.49.1360. Obtaining a Wastewater Discharge permit or other Control Document does not relieve a Non-Domestic User of its obligation to comply with all Federal and State Pretreatment Standards or requirements or with any other requirements of Federal, State, and local law.

13.49.520 Wastewater Discharge Permitting: Existing Connections

- A. Any Non-Domestic User required to obtain a Wastewater Discharge permit under these Regulations who was discharging Wastewater into the POTW prior to the effective date of these Regulations may be required to apply to the Control Authority for a Wastewater Discharge permit in accordance with SMC 13.49.530. In such event, the Non-Domestic User shall not cause or allow Discharges to the POTW to continue two hundred seventy (270) days following the effective date of these Regulations except in accordance with a Wastewater Discharge permit issued by the Director. The timeframes provided in this Section may be extended at the Director's discretion. The Director may authorize Significant Industrial Users that are already permitted by Ecology to continue discharging to the POTW pursuant to such permit by reissuing such permit under a new permit number and cover page identifying the Control Authority as the issuer and administrator of the permit.
- B. Any Non-Domestic User with an existing Wastewater Discharge approval proposing to make a change in an existing waste Discharge, which will substantially change the volume of flow or the characteristics of the waste or establish a new point of Discharge, shall apply for a new Wastewater Discharge approval thirty (30) days prior to making the change. Substantial changes may include, but are not limited to, a twenty-percent (20%) increase in the authorized daily maximum flow, addition of a new process, product, or manufacturing line that will increase or decrease the concentration of Pollutants in the waste stream or require modification in the operation of the pretreatment system, addition of new pretreatment equipment, or alteration of a sample site.

13.49.530 Wastewater Discharge Permitting: New Connections

Persons wishing to Discharge Industrial Wastewater must first complete either a survey form (if they do not expect a permit is needed) or a permit application. Any Non-Domestic User identified by the Control Authority through the survey as potentially needing a permit must file a permit application. Applications for Wastewater Discharge permits, in accordance with SMC 13.49.540, must be filed at least one hundred twenty (120) days prior to the desired date of Discharge, and the Discharge permit obtained prior to commencing Discharge.

13.49.540 Wastewater Discharge Permit Application Contents

- A. All Non-Domestic Users required to obtain a Wastewater Discharge permit must apply using a form provided by the Control Authority or Contributing Jurisdiction. Non-Domestic Users must supply the following information as part of the permit application if relevant to the Non-Domestic Users operation unless waived by the Director.
 - 1. Identifying information.

- a. The name and physical address of the facility, the names of the operator/facility manager and owner, and the name and address of the point of contact; and
 - b. A description of activities, facilities, and plant production processes on the premises.
2. A list of any environmental control permits held by or for the facility.
3. A description of operations and facilities including:
 - a. A brief description of the operations, average rate of production, and industrial classification (SIC or NAICS codes) of the operation(s) conducted on site;
 - b. The number and type of employees, and proposed or actual hours of operation;
 - c. The type, amount, rate of production, and process used for each product produced;
 - d. The type and amount of raw materials used (average and maximum rates);
 - e. The raw materials and chemicals to be routinely stored at the facility (including products in rail cars and tank trucks located on site);
 - f. The types of wastes generated on a routine and periodic basis;
 - g. The times and durations when wastes will be discharged;
 - h. A schematic process diagram showing each process step, waste stream, treatment step, internal recycle, and point of Discharge to the POTW. This diagram should identify which streams are subject to Categorical Pretreatment Standards;
 - i. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge;
 - j. The sampling locations and provisions for monitoring Discharges; and
 - k. Copies of plans and reports for Wastewater facilities as required under Chapter 173-240 WAC (Engineering Report, Plans and Specifications, and an Operations and Maintenance Manual).
4. Flow data: The average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream. Information shall be complete enough to allow use of the combined wastestream formula per SMC 13.49.310(D) and 40 CFR Part 403.6(e) where applicable.
 - a. Significant Industrial Users that are subject to Categorical Pretreatment Standards shall submit information showing the measured average daily

flow and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (i) Regulated or manufacturing process streams; and
- (ii) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).

b. Significant Industrial Users that are not subject to Categorical Pretreatment Standards shall submit information showing the measured average daily flow and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (i) Total process flow, Treatment Plant flow, total plant flow, or individual manufacturing process flow as required by the Control Authority. The Director may allow verifiable estimates of these flows where justified by cost or feasibility considerations.

5. Pollutant Data:

- a. The Categorical Pretreatment Standards applicable to each regulated process;
- b. The results of sampling and analysis identifying the nature and concentration, (and mass where required by the Standard or the Director), of regulated Pollutants in the Discharge from each regulated process; and
- c. The estimated peak instantaneous, daily maximum, and long-term average Discharge concentrations (and mass) based on the sampling results.

6. Sampling data to show samples are:

- a. Representative of daily operations;
- b. Taken just downstream from Pretreatment Facilities if such exist, or just downstream of the regulated process(es) if no Pretreatment Facilities exist;
- c. Collected as required by SMC 13.49.800 of these Regulations; and
- d. Analyzed according to SMC 13.49.790 of these Regulations.

7. Information confirming BMPs. Where Standards specify a BMP or pollution prevention alternative, the Non-Domestic User must include the information needed by the Control Authority or the applicable Standard to determine whether BMPs are (or will be) implemented.

8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a Pollutant neither present nor expected to be present in the Discharge must include new sampling data showing (continued) absence of the Pollutant in the raw Wastewater and satisfying SMC 13.49.730(J).
 9. Any other information deemed necessary by the Director to prepare a Discharge permit.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the Non-Domestic User for revision. The Control Authority and the Director shall be held harmless for delays caused by returned applications.

13.49.550 Application and Survey Signatories and Certifications

- A. All Wastewater Discharge permit applications and reports shall be signed by an Authorized Representative of the Non-Domestic User and contain the certification statement in SMC 13.49.830(A).
- B. All survey forms shall be signed by an Authorized Representative of the Non-Domestic User and may contain the certification statement in SMC 13.49.830(A).
- C. Non-Domestic Users shall submit a new authorization if the designation of an Authorized Representative of the Non-Domestic User is no longer accurate. This includes when a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company. The Non-Domestic User must submit the new authorization to the Director prior to or with any reports to be signed by the new Authorized Representative of the Non-Domestic User.

13.49.560 Wastewater Discharge Permit Decisions

After receipt of a complete Wastewater Discharge permit application, the Director will determine whether or not to issue a Wastewater Discharge permit. The Director may deny any application for a Wastewater Discharge permit or require additional safeguards (including the installation of Pretreatment Facilities or plant or process modifications), or reports (including plans under Chapter 173-240 WAC), or information as a condition for approval. For Non-Domestic Users not meeting the criteria of Significant Industrial Users, the Director may also waive or defer a permit, or allow Discharges in the interim while a permit is being prepared.

As a condition of an approval, the Director may require the Non-Domestic User to install Pretreatment Facilities or make plant or process modifications as deemed necessary by the Director to meet the requirements of these Regulations and applicable Federal and state standards. Such facilities or

modifications shall be designed, installed, constructed, operated, and maintained at the Non-Domestic User's expense in accordance with the provisions of these Regulations, and in accordance with the rules and regulations of all local and governmental agencies. If additional pretreatment and/or operation and maintenance will be required to meet the applicable Pretreatment Standards, the Non-Domestic User shall submit a proposed schedule with the shortest feasible timeline (not to exceed 3 years), to be reviewed and approved by the Director, by which the Non-Domestic User will provide such additional pretreatment and/or operation and maintenance. The schedule shall conform to the requirements of SMC 13.49.700(C)(4) of these Regulations. The completion date in this schedule shall not be later than the compliance date established pursuant to SMC 13.49.700(C)(4).

Section 6. Wastewater Discharge Permit Issuance

13.49.600 Wastewater Discharge Permit Duration

The Director may issue a Wastewater Discharge permit for a period of up to five (5) years from its effective date. Each Wastewater Discharge permit will indicate its expiration date.

13.49.610 Wastewater Discharge Permit Contents

Wastewater Discharge permits will include conditions the Director deems reasonably necessary to carry out the goals of the SMC 13.49.010, Federal and State regulations, and the requirements of these Regulations.

- A. Significant Industrial User and Categorical Industrial User Wastewater Discharge permits will contain the information specified in SMC 13.49.540(A)1 through SMC 13.49.540(A)9. Other Non-Domestic User control mechanisms may contain, as determined by the Director, the information specified in SMC 13.49.540(A)1 through SMC 13.49.540(A)9.
1. The permit issuance date, expiration date, and effective date.
 2. A statement that the Wastewater Discharge permit is nontransferable without prior notification to the Director in accordance with SMC 13.49.640, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge permit.
 3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards and requirements to apply AKART (see SMC 13.49.230(I)).

4. The Pollutants to be monitored and specific monitoring and reporting requirements. This includes the sampling location(s), sampling frequencies, and sample types consistent with Federal and State law and these Regulations, and the requirement that monitoring data be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC.
5. Requirements to submit certain reports (as reflected in Section 7 Reporting Requirements), including submittal and approval of plans, reports and manuals as required by Chapter 173-240 WAC, and to provide various notifications, keep records, and if required, implement Best Management Practices.
6. The process to be used to request a waiver from monitoring for a Pollutant neither present nor expected to be present in the Discharge in accordance with SMC 13.49.730(J), or a specific waived Pollutant in the case of an individual permit.
7. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, any applicable compliance schedule, falsification of reports or tampering with sampling equipment. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
8. Requirements to control Slug Discharges, including to develop, update, and implement Slug Discharge control plans (see SMC 13.49.420 for required content) where the Director determines such plans are important to preventing accidental, unanticipated, or non-routine Discharges.
9. Any monitoring, which has been conditionally waived by the Director according to SMC 13.49.730(J) but which automatically applies at any time the requirements of the conditional waiver are not met.
10. Requirement for immediate notification to the Director where self-monitoring results indicate noncompliance.
11. Requirement to immediately take action to stop, contain, and cleanup a Bypass, Slug Discharge, or any other unauthorized Discharge, immediately notify the Director, and submit a written report to the Director within 30 days of the occurrence, as required by Chapter 173-216 WAC.
12. Permit reapplication requirements
13. Permit modification requirements, as described in SMC 13.49.630.

14. Permit revocation provisions, as described in SMC 13.49.650.

B. Wastewater Discharge permits may contain, but need not be limited to, the following additional conditions:

1. Pretreatment Facilities and measures required by SMC 13.49.400 and 13.49.410 of these Regulations;
2. Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;
3. Requirements to install pretreatment technology, pollution controls, or to construct appropriate containment devices to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works, ground, or Storm Water;
4. Requirements to develop and implement of waste minimization plans to reduce the amount of Pollutants discharged to the POTW;
5. Requirements to pay charges or fees for Discharge to the POTW including high strength charges;
6. Requirements to install, maintain, and properly operate inspection, sampling, and Pretreatment Facilities and equipment, including flow measurement devices;
7. Notice that compliance with the Wastewater Discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge permit; and
8. Other conditions as deemed appropriate by the Director to ensure compliance with these Regulations, and State and Federal laws, rules, and regulations.

13.49.620 Permit Issuance Process

- A. Public Notice: Non-Domestic Users shall follow the procedures for public notice found in SMC 13.49.320(G) and SMC 13.49.320(H). The Director shall consider and respond to public input as appropriate prior to issuance of a permit. The Director will arrange a public meeting pursuant to WAC 173-216-100 if there is sufficient interest.

- B. Permit Appeals: Any Person, including the Non-Domestic User, may petition the Director to reconsider the terms of a Wastewater Discharge permit within thirty (30) days of the date of its issuance.
1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 2. In its petition, the appealing party must indicate the Wastewater Discharge permit provisions objected to, the reasons for this objection, and the alternative condition(s), if any, it seeks to place in the Wastewater Discharge permit.
 3. The effectiveness of the Wastewater Discharge permit shall not be stayed pending the appeal.
 4. If the Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a Wastewater Discharge permit, not to issue a Wastewater Discharge permit, or not to modify a Wastewater Discharge permit shall be considered final administrative actions for purposes of judicial review.
 5. Aggrieved parties seeking judicial review of the final administrative Wastewater Discharge permit decision must do so by filing a complaint with the Superior Court of Pierce County within thirty (30) days of final agency action and properly served upon the Control Authority or Contributing Jurisdiction.

13.49.630 Wastewater Discharge Permit Modification

The Director may modify a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, any of the following reasons:

- A. To incorporate any new or revised Federal, State, or local Pretreatment Standards or requirements including new or revised Local Limits;
- B. To address new or changed operations, processes, production rates, waste streams, or changes in water volume or character;
- C. To reflect conditions at the POTW requiring an authorized Discharge to be reduced or curtailed. Such requirements may be either temporary or permanent;

- D. Based on information that indicates a permitted Discharge poses a threat to POTW or staff, the receiving waters, or to violate a prohibition of these Regulations;
- E. To address violations of any terms or conditions of the Wastewater Discharge permit;
- F. To address misrepresentations or failure to fully disclose all relevant facts in the Wastewater Discharge permit application or in any required report;
- G. To incorporate revisions based on a variance from Categorical Pretreatment Standards approved pursuant to 40 CFR Part 403.13;
- H. To correct typographical or other errors in the Wastewater Discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator as required under SMC 13.49.640.

13.49.640 Wastewater Discharge Permit Transfer

Wastewater Discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the Wastewater Discharge permit transfer. Failure to provide advance notice of a transfer renders the Wastewater Discharge permit void as of the date of facility transfer. The notice to the Director must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing Wastewater Discharge permit.

Provided that the notice required above occurs and that there were no significant changes to the manufacturing operation or Wastewater Discharge, the new owner will be considered an existing connection per SMC 13.49.520 and be covered by the existing limits and requirements in the previous owner's Discharge approval.

13.49.650 Wastewater Discharge Permit Revocation

The Director may revoke a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, when a Non-Domestic User has:

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- A. Failed to notify the Director of significant changes to the Wastewater prior to the changed Discharge;
- B. Failed to provide prior notification to the Director of changed conditions pursuant to SMC 13.49.740;
- C. Misrepresented or failed to fully disclose all relevant facts in the Wastewater Discharge permit application;
- D. Falsified self-monitoring reports or tampered with monitoring equipment;
- E. Refused to allow the Control Authority timely access to the facility premises and records;
- F. Failed to meet effluent limitations or permit conditions;
- G. Failed to pay applicable fines or sewer charges;
- H. Failed to meet compliance schedule deadline dates;
- I. Failed to complete a Wastewater survey or Wastewater Discharge permit application;
- J. Failed to provide advance notice of the transfer of business ownership;
- K. Violated any Pretreatment Standard or requirement, or any terms of the Wastewater Discharge permit or these Regulations;
- L. Ceased operations; or
- M. Transferred business ownership.

Prior Wastewater Discharge permits issued to a Non-Domestic User are void upon the effective date of the new Wastewater Discharge permit issued to that Non-Domestic User.

13.49.660 Wastewater Discharge Permit Reissuance

A Non-Domestic User with a Wastewater Discharge permit due to expire shall apply for Wastewater Discharge permit reissuance by submitting a complete permit application, in accordance with SMC 13.49.540, a minimum of one hundred twenty (120) days prior to the expiration of the Non-Domestic

User's existing Wastewater Discharge permit. A Non-Domestic User, whose existing permit or Control Document has expired, and has submitted its re-application in the time period specified herein, shall be deemed to have an effective permit or Control Document until the Director issues or denies the new permit or Control Document. The Director may waive the time limit for submittal of a reissuance application, for good cause shown.

Section 7. Reporting Requirements

13.49.700 Baseline Monitoring Reports

- A. When Categorical Pretreatment Standards for an industry category are published (promulgated), Non-Domestic Users that perform that process and either currently Discharge or are scheduled to Discharge Wastewater from the process to the POTW, must submit a baseline monitoring report to the Director. This report must contain the information listed in SMC 13.49.700(C). The report is due within one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, unless the final administrative decision on a category determination comes later.
- B. Non-Domestic Users that wish to begin discharging Wastewater to the POTW from operations subject to Categorical Pretreatment Standards after EPA has published the Standards (called New Sources), shall submit a baseline monitoring report to the Director containing the information listed in SMC 13.49.700(C). However, for New Sources, the report must be provided at least one hundred twenty (120) days before desiring to Discharge. New Sources shall describe the method of pretreatment they intend to use to meet applicable Categorical Pretreatment Standards. Because monitoring data will not be available for proposed facilities, New Sources instead must provide estimates of the anticipated flow rates and quantity of Pollutants to be discharged.
- C. The baseline monitoring report shall include the following information:
 1. All information required in SMC 13.49.540(A)(1) through SMC 13.49.540(A)(9).
 2. Additional conditions for Existing Sources measuring Pollutants.
 - a. Non-Domestic Users shall take a minimum of three representative sample to compile the data for the baseline monitoring report.
 - b. Non-Domestic Users shall take samples immediately downstream from Pretreatment Facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If the Non-Domestic User mixes other Wastewaters with the regulated Wastewater prior to pretreatment, the Non-Domestic User must provide the flows and concentrations necessary to apply the combined wastestream formula of

SMC 13.49.310(C) and 40 CFR Part 403.6(e). Where the Non-Domestic User wants an alternate concentration or mass limit, and it is allowed by Federal rules at 40 CFR Part 403.6(e), the User shall propose the adjusted limit and provide supporting data to the Control Authority.

- c. Sampling and analysis shall be performed in accordance with SMC 13.49.800 (Sample Collection), and SMC 13.49.790 (Analytical Requirements).
 - d. The Director may allow the report to use only historical data if the data is good enough to allow the evaluation of whether (and which) industrial pretreatment measures are needed.
 - e. The baseline monitoring report shall indicate the time, date, and place of sampling, methods of analysis. The User shall certify that the sampling and analysis presented is representative of normal work cycles and expected Pollutant Discharges to the POTW.
3. Compliance Certification. A statement, reviewed by the Authorized Representative of the Non-Domestic User and certified by a qualified professional experienced in the design, construction, and operation of Pretreatment Facilities indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment steps are required to meet the Pretreatment Standards and requirements.
4. Compliance Schedule. While New Sources must install the treatment required to meet the Pretreatment Standards prior to operation, Existing Sources may be granted a compliance schedule where they must provide additional pretreatment and/or O&M to meet the Pretreatment Standards. In such cases, the Non-Domestic User shall propose the shortest schedule by which they can provide the additional pretreatment and/or O&M. The completion date which the Non-Domestic User proposes in this schedule may not be later than the compliance date established for the applicable Pretreatment Standard. Any compliance schedule authorized pursuant to this Section must also meet the requirements set out in SMC 13.49.710.

Signature and Report Certification. All baseline monitoring reports must be certified in accordance with SMC 13.49.830(A) and signed by an Authorized Representative of the User.

13.49.710 Compliance Schedule Progress Reports

The following conditions shall apply to compliance schedules proposed by Existing Sources according to SMC 13.49.700(C)(4) and incorporated into permits:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Non-Domestic User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The Non-Domestic User shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Director.

13.49.720 Reports on Compliance with Categorical Pretreatment Standards Deadline

Both Existing Sources and New Sources must submit a report on whether compliance has been initially achieved. For Existing Sources, the report is due ninety (90) days after the date applicable Categorical Pretreatment Standards give as the final compliance date. For a New Source, the report is due ninety (90) days after starting to Discharge to the POTW.

In both cases, the report must contain the information described in SMC 13.49.540(A)(3) through SMC 13.49.540(A)(6). For Existing Sources, it must also contain the compliance certification of SMC 13.49.700(C)(3) and, if needed, the compliance schedule described in SMC 13.49.700(C)(4). Non-Domestic Users subject to equivalent mass or concentration limits, as allowed by SMC 13.49.310, must include a reasonable measure of their long term production rate. Other Non-Domestic Users subject to Standards based on a unit of production (or other measure of operation) must include their actual production during the sampling period. All compliance reports must be signed and certified in accordance with SMC 13.49.830(A).

13.49.730 Periodic Compliance Reports

- A. The Director may specify the necessary minimum sampling and reporting frequencies and include applicable requirements in permits. Significant Industrial Users (SIUs) must:
 - 1. Report at least twice a year, in June and December unless otherwise specified;
 - 2. Report the flows and concentrations for the reporting period of regulated Pollutants in all Discharges subject to Pretreatment Standards;

3. Report average and maximum daily flows for the reporting period and identify where flow estimates are used; and
 4. Include the documentation needed to show compliance with applicable BMPs, pollution prevention alternatives, maintenance, treatment, or record keeping requirements.
- B. Non-Domestic Users must sign and certify all periodic compliance reports in accordance with SMC 13.49.830(A) of these Regulations.
- C. Non-Domestic Users must take Wastewater samples which are representative of their range of Discharge conditions and of any Discharge not disclosed in their permit application. Non-Domestic Users must properly operate, clean, and maintain sampling and flow metering facilities and devices and ensure they function properly. The Director will not allow Non-Domestic User claims that sampling results are unrepresentative due to a Non-Domestic User's failure to meet this requirement, without extenuating circumstances approved by the Director.
- D. Non-Domestic Users subject to the reporting requirements in this Section must report any additional monitoring which might determine compliance with permit requirements. This includes any additional monitoring of regulated Pollutant at their respective effluent monitoring locations using procedures prescribed in SMC 13.49.800. In such cases, the results of this monitoring shall be included in periodic monitoring reports.
- E. If a Non-Domestic User sampled and analyzed more frequently than was required by the Director or by these Regulations, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the Discharge during the reporting period.
- F. Any Non-Domestic User subject to equivalent mass or concentration limits established by the Director or by unit production limits specified in the applicable Categorical Pretreatment Standards, shall report production data as outlined in SMC 13.49.310(E).
- G. Zero Discharge Non-Domestic Users shall submit periodic reports as required by the Director stating that no Industrial Wastewater has been discharged to the POTW.
- H. If the Director calculated limits to factor out dilution flows or nonregulated flows, the Non-Domestic User will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.

- I. Flows shall be reported on the basis of actual measurement; however, the Director may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that an actual measurement is not feasible.
- J. The Director may authorize a Categorical Industrial User to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard when it is not present in raw Wastewater provided that:
 1. The CIU submits a request for the waiver with their permit application or reapplication;
 2. The CIU analyzes a sample (or samples) representative of all Wastewater from all processes before any treatment and includes all results with the request;
 3. The CIU demonstrates through source water and untreated process water sample results that the Pollutant never exceeds intake water levels. (Pollutants simply reduced by treatment to background levels are ineligible for the waiver.);
 4. The CIU shows, where non-detectable sample results are returned as provided in subsection (b) or (c) above, that they used the method from 40 CFR Part 136 with the lowest detection level;
 5. The Authorized Representative of the User signs the request using the certification statement;
 6. The CIU includes in routine monitoring reports, a statement certifying that there has been no increase in the Pollutant in its waste stream due to activities of the Industrial User; and
 7. The CIU reports and immediately resumes the monitoring, which would otherwise have been required upon discovering that a waived Pollutant is present or expected to be present based on changes to the User's operations.
- K. The Director will document the reasons supporting the waiver in the permit fact sheet, and keep any information submitted by the Non-Domestic User and the fact sheet for three (3) years after the waiver expires. Monitoring waivers are valid after being incorporated in a Non-Domestic User's permit. The waiver is in effect while the Permit is effective. The Director may cancel a monitoring waiver at any time for cause.

13.49.740 Reports of Changed Conditions

Each Non-Domestic User must notify the Director of any substantial changes to the Non-Domestic User's operations or system which might alter the nature, quality, or volume of its Wastewater. This

notification must be made at least thirty (30) days before the desired change and be sent to the Director. In such cases:

- A. The Director may require the User to submit any information needed to evaluate the changed condition. The Director may also require a new or revised Wastewater Discharge permit application under SMC 13.49.540; and
- B. The Director may issue, reissue, or modify a Wastewater Discharge permit applying the procedures of Section 6 of these Regulations in response to a User's notice under this Section.

13.49.750 Reports of Potential Problems

- A. Any Non-Domestic User which has any unusual Discharge that could cause problems to the POTW must immediately notify the Director by telephone of the incident. This notification shall include the location of the Discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the Non-Domestic User to control and curtail the Discharge. Such Discharges may include spills, Slug Loads, accidental Discharges, or other Discharges of a non-routine, episodic nature. Problems to the POTW which require reporting under this Section include violating Pretreatment Requirements, Pretreatment Standards, or other requirements of Section 3 of these Regulations such as vapor toxicity and explosivity limits.
- B. Within five (5) days following such Discharge, the Non-Domestic User shall submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the Non-Domestic User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the Non-Domestic User of any fines, penalties, or other liability which may be imposed pursuant to these Regulations.
- C. Non-Domestic Users required to submit an Accidental Discharge/Slug Discharge Control Plan (per SMC 13.49.420) shall post notice in a prominent location advising employees who to call at the POTW to inform the Director of a potential problem Discharge (SMC 13.49.750(A)). Non-Domestic Users shall ensure that all employees who may cause or witness such a Discharge are advised of the emergency notification procedures.
- D. All Non-Domestic Users must immediately notify the Director of any changes at their facility which might increase their potential for a Slug Discharge. This includes increasing the volume of materials stored or located on site which, if discharged to the POTW, would cause problems. Non-Domestic Users required to prepare an Accidental Discharge/Slug Discharge Control Plan under SMC 13.49.420 shall also modify their plans to include the new conditions prior to, or immediately after making such changes.

13.49.760 Reports of Unpermitted Users

All Non-Domestic Users not required to obtain a Wastewater Discharge permit shall provide appropriate reports to the Director as the Director may require. This may include, but not be limited to, periodically completing, and signing Industrial User Surveys, monitoring reports, and reports regarding compliance with Best Management Practices.

13.49.770 Notice of Violation / Repeat Sampling and Reporting

If sampling performed by a Non-Domestic User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The Non-Domestic User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The Director may waive the repeat sampling requirement where the Control Authority or Contributing Jurisdiction has sampled the effluent for the Pollutant in question prior to the Non-Domestic User obtaining sampling results.

13.49.780 Notification of the Discharge of Hazardous Waste

- A. Any Non-Domestic User that proposes to Discharge any volume of hazardous waste as defined in 40 CFR 261 (listed or characteristic wastes) or dangerous waste as defined Chapter 173-303 WAC, or any facility that proposes to Discharge any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), is required to provide a request in writing to the Director. Discharging such waste without the Director's approval as provided herein is prohibited. The request shall be provided with the initial Wastewater Discharge approval application and repeated with each subsequent reapplication.
- B. Any Non-Domestic User who Discharges any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, or Chapter 173-303 WAC must also comply with the following requirements:
 1. Notify the Director, the EPA Region 10 Office of Air, Waste, and Toxics Director, and State hazardous waste authorities, in writing, of the Discharge. Maintain a copy of this notification and include it in all subsequent permit applications or re-applications under these Regulations.
 2. Include the following information in the notification:
 - a. The name of the hazardous waste as found in 40 CFR Part 261;
 - b. The EPA hazardous waste number; and
 - c. The type of Discharge (continuous, batch, or other).

3. If the Discharge totals more than two hundred twenty (220) pounds of hazardous waste in any month, also provide:
 - a. The hazardous constituents contained in the wastes;
 - b. An estimate of the mass and concentration of hazardous constituents in the wastestream discharged during that calendar month; and
 - c. An estimate of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
 4. This notice shall be repeated for new or increased Discharges of substances subject to this reporting requirement.
 5. All notifications must take place prior to discharging a substance for which these reporting requirements apply. If this is not possible, the notice must be provided as soon after Discharge as practical and describe why prior notice was not possible.
 6. Non-Domestic Users must provide notifications under this paragraph only once to EPA and the State for each hazardous waste discharged. However, all of the information of these notices shall be repeated in each new permit application submitted under these Regulations.
 7. This requirement does not relieve the Non-Domestic User from requirements to provide other notifications, such as of changed conditions under SMC 13.49.540, or applicable permit conditions, permit application requirements, and prohibitions.
 8. Pollutants that are reported under the reporting requirements for Categorical Industrial Users in baseline monitoring, final and periodic compliance reports are not subject to the notification requirements in this Section.
- C. Non-Domestic Users must report all Discharges of more than thirty-three (33) pounds per month of substances which, if otherwise disposed of, would be hazardous wastes. Non-Domestic Users must also report any Discharge of acutely hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e). Subsequent months during which the Non-Domestic User Discharges more of a hazardous waste for which notice has already been provided do not require another notification to EPA or the State but must be reported to the Director.

- D. If new regulations under RCRA describe additional hazardous characteristics or substances as a hazardous waste, the Non-Domestic User must provide notifications under paragraphs A, if required by paragraph B within ninety (90) days of the effective date of such regulations.
- E. For any notification made under this Section, the Non-Domestic User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical and shall describe that program and reductions obtained through its implementation.
- F. This provision does not create a right to Discharge any substance not otherwise permitted to be discharged by these Regulations, a permit issued thereunder, or any applicable Federal or State law.

13.49.790 Analytical Requirements

All Pollutant sampling and analyses required under these Regulations shall conform to the most current version of 40 CFR Part 136, unless otherwise approved by the Director or specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for a Pollutant, or the Director determines that the 40 CFR Part 136 sampling and analytical techniques are inconsistent with the goal of the sampling, the Director may specify an analytical method. If neither case applies, Users shall use validated analytical methods or applicable sampling and analytical procedures approved by EPA.

13.49.800 Sample Collection

Non-Domestic Users must ensure all samples they collect to satisfy sampling requirements under these Regulations are representative of the range of conditions occurring during the reporting period. Non-Domestic Users must also ensure that, when specified, samples are collected during the specific period.

- A. Non-Domestic Users must use properly cleaned sample containers appropriate for the sample analysis and sample collection and preservation protocols specified in 40 CFR Part 136 and appropriate EPA guidance.
- B. Non-Domestic Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using Grab Sample collection techniques.
- C. For certain Pollutants, Non-Domestic Users may composite multiple Grab Samples taken over a 24-hour period. Non-Domestic Users may composite Grab Samples for cyanide, total phenols, and sulfides either in the laboratory or in the field and may composite Grab Samples for volatile organics and oil & grease in the laboratory prior to analysis.

- D. For all other Pollutants, Non-Domestic Users must employ 24-hour flow-proportional composite samplers unless the Director authorizes or requires an alternative sample collection method.
- E. The Director may authorize Composite Samples for parameters unaffected by the compositing procedures, as appropriate.
- F. The Director may require Grab Samples either in lieu of or in addition to composite sampling to show compliance with instantaneous Discharge limits.
- G. In all cases, Non-Domestic Users must take care to ensure the samples are representative of their Wastewater Discharges.
- H. Non-Domestic Users sampling to complete baseline monitoring and ninety (90) day compliance reports required by SMC 13.49.720 and SMC 13.49.700, must satisfy some specific requirements. These reports require at least four (4) Grab Samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. Non-Domestic Users may Composite Samples prior to analysis if allowed in SMC 13.49.800(C). Where historical sampling data exists; the Director may also authorize fewer samples.
- I. For periodic compliance reports, (SMC 13.49.730), the Director may specify the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements.
- J. Samples should be taken immediately downstream from Pretreatment Facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the Director and/or contained in the Non-Domestic User's Wastewater Discharge permit. For Categorical Industrial Users, if other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment the Non-Domestic User shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable Categorical Pretreatment Standards. For other SIUs, for which the Director has adjusted its Local Limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted Pretreatment Standards.
- K. All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges from the user. If a Non-Domestic User sampled and analyzed more frequently than what was required in its Wastewater Discharge

approval, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the Discharge as part of its self-monitoring report.

- L. Where a treated regulated process waste stream is combined prior to treatment with Wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream for the purpose of determining compliance with applicable Pretreatment Standards. If the industrial user chooses to monitor the segregated process waste stream, it shall apply the applicable Categorical Pretreatment Standard. If the Non-Domestic User chooses to monitor the combined waste stream, it shall apply an alternative Discharge limit calculated using the combined waste stream formula as provided in 40 CFR 403.6(e). The industrial user may change monitoring points only after receiving approval from the Director. The Director shall ensure that any change in an industrial user's monitoring point(s) will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable requirements.

13.49.810 Date of Receipt of Reports

The Director will credit written reports as having been submitted on the date of the post mark when mailed via certified mail through the United States Postal Service. Reports delivered in any other manner will be credited as having been submitted on the business day received.

13.49.820 Record Keeping

Non-Domestic Users subject to reporting requirements of these Regulations shall retain the below records for all monitoring required by these Regulations and for any additional monitoring which could be used to satisfy minimum monitoring requirements. Non-Domestic Users must make these records available for inspection and copying at the location of the Discharge. Non-Domestic Users must similarly maintain documentation associated with any Best Management Practices required under authority of SMC 13.49.330(I). Monitoring records shall include at least:

- A. The time, date, and place of sampling;
- B. The sampling and preservation methods used;
- C. The individual taking the sample, and individuals with control of the sample prior to analysis;
- D. The individual performing the analyses and the date the analysis was completed;
- E. The analytical techniques or methods used; and

F. The results of analysis.

Non-Domestic Users are encouraged to retain quality control and quality assurance information provided by the laboratory and submit this information in routine reporting. This information also has value in the event that the sample data is called into question. For analytes for which the State requires use of a certified/accredited laboratory, Users must maintain the scope of accreditation for laboratories performing any analyses for them.

Non-Domestic Users shall maintain the above records for the latest of: at least three (3) years, until any litigation concerning the Non-Domestic User or the Control Authority is complete, or for longer periods when the Non-Domestic User has been specifically notified of a longer retention period by the Director.

13.49.830 Certification Statements

A. The following certification statement must be signed by an Authorized Representative of the Non-Domestic User and included when submitting any of the following:

1. A permit (re)application in accordance with SMC 13.49.550;
2. A baseline monitoring report under SMC 13.49.700;
3. A report on compliance with the Categorical Pretreatment Standard deadlines under SMC 13.49.720; or
4. A periodic compliance report required by SMC 13.49.730(A) through SMC 13.49.730(D).

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B. Certification of Pollutants Not Present

Non-Domestic Users that have an approved monitoring waiver based on SMC 13.49.730(J) must also include the following certification statement in each report. This statement certifies that there has been no increase in the pollutant in its waste stream due to activities of the Non-Domestic User:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and

belief, there has been no increase in the level of _____ [list pollutant(s) in the wastewater due to the activities at the facility since filing of the last periodic report under SMC 13.49.730(A).

Section 8. Compliance Monitoring

13.49.840 Right of Entry: Inspection and Sampling

The Director shall have the right to enter the premises of any Non-Domestic User to determine whether the Non-Domestic User is complying with all requirements of these Regulations and any Wastewater Discharge permit or order issued hereunder. Non-Domestic Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a Non-Domestic User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the Non-Domestic User's operations.
- C. Non-Domestic Users shall provide full access to the Director to use any monitoring facilities and utilities available or required in accordance with SMC 13.49.410 and SMC 13.49.420(E) through SMC 13.49.420(F) to confirm that the Standards or treatment required for Discharge to the POTW are being met.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Non-Domestic User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.
- E. Any unreasonable delay in allowing the Director full access to the Non-Domestic User's premises and Wastewater operations shall be a violation of these Regulations.

13.49.850 Search Warrants

The Director may seek issuance of an administrative search warrant from the Superior Court of Pierce County. Such warrants may be secured when:

- A. The Director has been refused access or is unable to locate a representative who can authorize access to a building, structure, or property, or any part thereof, and has probable cause that a violation of these Regulations is occurring on the premises;
- B. The Director has been denied access to inspect and/or sample as part of a routine inspection and sampling program of the Control Authority designed to verify compliance with these Regulations or any permit or order issued hereunder; or
- C. The Director has cause to believe there is imminent endangerment of the overall public health, safety and welfare of the community by an activity on the premises.

Section 9. Confidentiality Agreement

13.49.900 Confidential Information

Except as provided below, information submitted to demonstrate compliance with Pretreatment Standards and requirements will be available to the public. Non-Domestic Users may have certain information, however, withheld as confidential if the following process is followed.

- A. When a Non-Domestic User submits information to the Director, or provides information to inspectors, Users may request that specific information be maintained as confidential. Non-Domestic Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable State or Federal laws.
- B. Upon receipt of such statement of confidentiality, the information shall be filed separately and marked that the information shall not be disclosed except as provided for under this Section.
- C. Upon receipt of a public records request for information a Non-Domestic User claims to be exempt from disclosure, the Director shall within five (5) business days of receipt notify the Non-Domestic User of the public disclosure request and inform such User in writing that the information will be disclosed unless the Non-Domestic User obtains a court order directing that the information not be disclosed within no less than ten (10) days of receipt of providing notice of the request to the Non-Domestic User. The Director shall include a copy of the written notification to the Non-Domestic User in the initial response to the public records request required under State law.
- D. Unless the court orders the withholding of the information claimed to be confidential or the information is otherwise determined exempt from disclosure, the Director shall provide such information to the Person making the public records request.

- E. All other information submitted to the Director and obtained from the Director's oversight shall be available to the public subject to applicable City or Contributing Jurisdiction public records policies.
- F. Information held as confidential may not be withheld from governmental agencies for uses related to the NPDES program or Pretreatment Program, or in enforcement proceedings involving the Person furnishing the report.
- G. Federal rules prevent Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR Part 2.302 from being recognized as confidential information.

Section 10. Publication of Users in Significant Non-Compliance

13.49.1000 Publication of Users in Significant Non-Compliance

- A. PUBLISHING: The Director must annually publish a list of the Non-Domestic Users which, at any time during the previous twelve (12) months, were in Significant Non-Compliance with applicable Pretreatment Standards and requirements. The list will be published in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW.
- B. DEFINITION: The term Significant Non-Compliance means:
 - 1. Any violation of a Pretreatment Standard or requirement including numerical limits, narrative Standards, and prohibitions, that the Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.
 - 2. Any Discharge that has caused imminent endangerment to the public or to the environment or has resulted in the Director's exercise of its emergency authority to halt or prevent such a Discharge.
 - 3. Any violation(s), including of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.
 - 4. Chronic violations of Wastewater Discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same Pollutant parameter taken during a rolling six (6) month period exceed, by any magnitude, a numeric Pretreatment Standard or requirement, including Instantaneous Limits of SMC 13.49.330.

5. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of Wastewater measurements taken for each Pollutant parameter during a rolling six (6) month period equal or exceed the product of the numeric Pretreatment Standard or requirement, (including Instantaneous Limits, as defined by SMC 13.49.330, multiplied by the applicable criteria. Applicable criteria are 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH.
 6. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
 7. Failure to provide any required report within forty-five (45) days after the due date. This includes initial and periodic monitoring reports, and reports on initial compliance and on meeting compliance schedules.
 8. Failure to accurately report non-compliance.
- C. APPLICABILITY: The criteria in SMC 13.49.1000(B)(1) through SMC 13.49.1000(B)(3) are applicable to all Users, whereas the criteria in SMC 13.49.1000(B)(4) through SMC 13.49.1000(B)(8) are only applicable to Significant Industrial Users and Categorical Industrial Users

Section 11. Administrative Enforcement Remedies

13.49.1100 Procedures

The Director shall establish enforcement procedures consistent with the provisions of these Regulations. The Director shall adopt an Enforcement Response Plan consistent with the requirements of State law. Such Plan shall ensure that the application of remedies provided for in Section 9 through Section 11 of these Regulations is appropriate to the violation, and consistent with the treatment of other Non-Domestic Users. Any Person may review or obtain a copy in accordance with applicable local, state and federal public records policies of the Enforcement Response Plan by contacting the Control Authority. In response to non-compliance with any requirement of these Regulations, the Control Authority shall apply its Enforcement Response Plan, which shall be incorporated into the enforcement procedures.

13.49.1110 Notification of Violation

The Director may serve a written Notice of Violation on any Non-Domestic User that the Director finds has violated, or continues to violate, any provision of these Regulations, including terms or requirements of a permit, order, or a Pretreatment Standard or requirement. Non-Domestic Users shall, in response to a Notice of Violation, provide the Director a written explanation of the violation, its cause, and a corrective action plan within fourteen (14) calendar days of the receiving this notice. Non-Domestic Users submitting plans to correct non-compliance must include the specific actions they will take to correct ongoing and

prevent future violations at the soonest practicable date. The Director's acceptance of a plan does not relieve a Non-Domestic User of liability for any violations. The Director may also take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

13.49.1120 Consent Orders

The Director may enter into a consent order or other voluntary agreement to memorialize agreements with Non-Domestic Users violating any requirement of these Regulations. Such agreements must include the specific action(s) required and date(s) they are to be completed to correct the non-compliance. Such documents must be constructed in a judicially enforceable manner and have the same force and effect as Administrative Orders issued pursuant to SMC 13.49.1150 and SMC 13.49.1160.

13.49.1130 Compliance Review Meeting

The Director may order a Non-Domestic User that has violated or continues to violate any provision of these Regulations, a Wastewater Discharge permit, order, Pretreatment Standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the Non-Domestic User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the meeting. Such notice may be served on any Authorized Representative of the User. A compliance review meeting shall not be a bar against, or prerequisite for, taking any other action against the Non-Domestic User.

13.49.1140 Compliance Orders

The Director may issue a compliance order to any Non-Domestic User which has violated any provision of these Regulations including a requirement of a permit, order, or a Pretreatment Standard or requirement. The compliance order may direct that the Non-Domestic User come into compliance within a specified time, install and properly operate adequate treatment facilities or devices, or take such measures as the Director finds are reasonably necessary. These measures may include additional self-monitoring and management practices designed to minimize the amount of Pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or requirement, or relieve a User of liability for any violation, including a continuing violation. If the Non-Domestic User does not come into compliance within the time provided, sanitary sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the Non-Domestic User.

13.49.1150 Cease and Desist Orders

When the Director finds that a Non-Domestic User has violated, or continues to violate, any provision of these Regulations, a Wastewater Discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the Non-Domestic User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the Non-Domestic User.

13.49.1160 Administrative Fines

- A. When the Director finds that a Non-Domestic User has violated, or continues to violate, any provision of these Regulations, a Wastewater Discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Director may fine such Non-Domestic User in an amount not to exceed five thousand dollars (\$5,000). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average Discharge limits, fines may be assessed for each day during the period of violation.
- B. The Director may add the costs of any emergency response, additional monitoring, investigation, and administrative costs related to the non-compliance and the Director's response to the situation to the amount of the fine.
- C. The Director will consider the economic benefit enjoyed by a User as a result of the non-compliance in cases where there appears to have been a monetary benefit from not complying. In such cases, the Director shall ensure that fines, to the maximum amounts allowable, exceed the benefit to the Non-Domestic User from the non-compliance.
- D. Unpaid charges, fines, and penalties shall, at thirty (30) days past the due date, be assessed an additional penalty at a rate established by the Control Authority, and interest shall accrue thereafter at a rate established by the Control Authority. After thirty (30) days the Control Authority, on its own behalf or as an authorized agent of a Contributing Jurisdiction, shall be authorized to file a lien against the User's property for unpaid charges, fines, and penalties.
- E. Non-Domestic Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within fifteen (15) working days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the Non-Domestic User's appeal is successful, the Director shall rebate the difference between the initial and final penalty amounts to the Non-Domestic User.
- F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the Non-Domestic User.

13.49.1170 Emergency Suspensions

The Director may immediately suspend a Non-domestic User's authorization to discharge to the POTW when the Discharge reasonably appears to present a substantial danger to the health or welfare of Persons. In such cases, the Director will first provide informal notice to the Non-domestic User. The

Director may also immediately suspend Non-domestic User's authorization to discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- A. Any Non-domestic User notified of a suspension of authorization to discharge to POTW shall immediately stop or eliminate the Discharge. If a Non-Domestic User fails to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary to protect the public and its interest in the POTW. Remedies available to the Director include immediately severing the sanitary sewer connection, at the Users expense, turning off pump stations downstream of the Non-Domestic User, and partnering with law enforcement. The Director may not allow the Non-domestic User to recommence its Discharge until the Non-domestic User has demonstrated to the satisfaction of the Director that the situation warranting the suspension has been properly addressed and any proposed termination proceeding has been resolved.
- B. Any Non-domestic User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Non-Domestic Users shall submit this report to the Director prior to the date of any compliance review meeting or termination hearing under SMC 13.49.1130 and SMC 13.49.1180, respectively.

13.49.1180 Termination of Discharge

Any Non-Domestic User who violates any of the following conditions is subject to having the privilege of discharging to the POTW withdrawn:

- A. Discharge of Non-domestic Wastewater without a permit or other Control Document, including:
 - 1. Where the appropriate permit or Control Document has not been requested;
 - 2. Where the appropriate permit or Control Document has not yet been issued; or
 - 3. Where the permit or Control Document has been denied or revoked based on the provisions of SMC 13.49.650 (Wastewater Discharge Permit Revocation).
- B. Violation of permit or other Control Document terms and conditions including:
 - 1. Exceeding any permit or Control Document limit;

2. Failing to meet other Pretreatment Standards or requirements;
 3. Violating any prohibition; or
 4. Failing to properly monitor and report Discharges or changed conditions.
- C. Refusal of reasonable access to the Non-Domestic User's premises for the purpose of inspection, monitoring, or sampling (whether subject to a permit or not).
- D. Violation of the Pretreatment Standards and requirements in Section 3 of these Regulations, including failure to satisfy Industrial User Survey requirements.

When the Director determines this remedy is necessary and appropriate to fulfill the intentions of these Regulations, such User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under SMC 13.49.1130 of these Regulations why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 12. JUDICIAL ENFORCEMENT REMEDIES

13.49.1220 Injunctive Relief

The Director may seek injunctive relief when a User has violated, or continues to violate a provision of these Regulations, including a Pretreatment Standard or requirement, or a permit or order issued hereunder. In such cases, the Director may petition the Superior Court of Pierce County for temporary or permanent injunctive relief, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge permit, Control Document, order, or other requirement imposed by these Regulations on activities of the Non-Domestic User. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Non-Domestic User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a Non-Domestic User.

13.49.1230 Civil Penalties

- A. A Non-Domestic User which has violated, or continues to violate a provision of these Regulations, including a Pretreatment Standard or requirement, or a permit or order issued hereunder shall be liable to the Control Authority for a maximum civil penalty of five thousand dollars (\$5,000) per violation, per day. In the case of a monthly or other long-term average Discharge limit, penalties shall accrue for each day during the period of the violation. Any such assessment, penalty, or charges shall constitute a lien against the individual User's property.
- B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with any emergency response, enforcement activities, additional monitoring and oversight, and costs of any actual damages to the POTW.

- C. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, any other action the Director may take to resolve non-compliance by a Non-Domestic User.
- D. A Non-Domestic User's failure to pay such civil penalties shall constitute a violation of these Regulations and be grounds for termination of sanitary sewer utility services and revocation of the Wastewater Discharge permit or other Control Document or mechanism.

13.49.1240 Criminal Prosecution

- A. A Non-Domestic User who willfully or negligently violates any provision of these Regulations, a Wastewater Discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than five thousand dollars (\$5,000) per violation, per day, or imprisonment for not more than one year, or both.
- B. A Non-Domestic User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least five thousand dollars (\$5,000), or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other criminal charges or judicial remedies, including remedies for causing personal injury, endangerment, or destruction of public property available under State law.
- C. A Non-Domestic User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to these Regulations, Wastewater Discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these Regulations shall, upon conviction, be punished by a fine of not more than five thousand dollars (\$5,000) per violation, per day, or imprisonment for not more than one (1) year, or both.
- D. In the event of a second conviction, a Non-Domestic User shall be punished by a fine of not more than five thousand dollars (\$5,000) per violation, per day, or imprisonment for not more than one (1) year, or both.

13.49.1250 Remedies Nonexclusive

The remedies provided for in these Regulations are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Control Authority's Enforcement Response Plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

SECTION 13. SUPPLEMENTAL ENFORCEMENT ACTION

13.49.1300 Supplemental Penalties

- A. The Director may assess a penalty of one hundred dollars (\$100) to any Non-Domestic User for each day that a report required by these Regulations, a permit or order issued hereunder is late.

The Director's actions to collect late reporting penalties shall not limit the Director's authority to initiate any other enforcement action. Non-Domestic Users desiring to dispute such fines must follow the procedures in SMC 13.49.1160.

- B. The Director may assess a penalty of one hundred dollars (\$100) for each day that a Non-Domestic User or establishment where fats, oils and grease may be introduced into the POTW is not in compliance with the routine maintenance schedule as authorized in SMC 13.49.410(H). The Director's actions to collect penalties for non-compliance per this Section shall not limit the Director's authority to initiate any other enforcement action. Non-Domestic Users desiring to dispute such fines must follow the procedures in SMC 13.49.1160(E).

13.49.1310 Performance Bonds

The Director may require a satisfactory bond, payable to the Control Authority, in a sum not to exceed a value determined by the Director as necessary to assure the Non-Domestic User will achieve consistent compliance with these Regulations. The Director may require this bond as an enforcement response or as a prerequisite to issue or reissue a Wastewater Discharge permit. Any Non-Domestic User who has failed to comply with any provision of these Regulations, a previous permit or order issued hereunder, or any other Pretreatment Standard or requirement may be subject to this requirement. This bond may also be required of any category of User which has led to public burdens in the past regardless of the compliance history of the particular User. The Control Authority may use this bond to pay any fees, costs, or penalties assessed to the User whenever the Non-Domestic Users account is in arrears for over thirty (30) days. This includes the costs of cleanup of the site if the Non-Domestic User goes out of business, sells the business to a Person that does not first assume the bond, or goes bankrupt. Non-Domestic Users may petition the Director to convert their performance bond to a requirement to provide Liability Insurance, or to forego any such safeguard based on their performance. A Non-Domestic User may petition no more frequently than once in any twelve (12) month period.

13.49.1320 Liability Insurance

The Director may require any Non-Domestic User to provide insurance if they previously failed to comply with any provision of these Regulations, a previous permit, or order issued hereunder, or any other Pretreatment Standard or requirement. The Director may also require Non-Domestic Users in businesses which historically have left a public burden to clean up pollution to obtain this insurance, regardless of their compliance history. In such cases, Non-Domestic Users must provide proof that the insurance is sufficient to cover any liabilities incurred under these Regulations, including the cost of damages to the POTW and the environment caused by the User. The Director may require Non-Domestic Users to provide the proof of such insurance either in response to non-compliance or prior to issuing or reissuing a Wastewater Discharge permit.

13.49.1330 Payment of Outstanding Fees and Penalties

The Director may decline to issue or reissue a Wastewater Discharge permit to any Non-Domestic User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of these Regulations, a previous permit or order issued hereunder.

13.49.1340 Water Supply Severance

The Director may order water service to a Non-Domestic User severed whenever a Non-Domestic User has violated or continues to violate any provision of these Regulations, a permit, or order issued hereunder, or any other Pretreatment Standard or requirement. Non-Domestic Users wishing to restore their service must first demonstrate their ability to comply with these Regulations and pay the related costs of this action.

13.49.1350 Public Nuisances

A violation of any provision of these Regulations or a permit or order issued hereunder, or any other Pretreatment Standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any Person(s) creating a public nuisance shall be subject to the provisions of applicable law governing such nuisances, including reimbursing the Control Authority for any costs incurred in removing, abating, or remedying said nuisance.

13.49.1360 Contractor Listing

Non-Domestic Users which have not achieved compliance with applicable Pretreatment Standards and requirements may not be eligible to receive a contractual award for the sale of goods or services to the Control Authority or Contributing Jurisdiction. Existing contracts for the sale of goods or services to the Control Authority or Contributing Jurisdiction held by a Non-Domestic User found to be in Significant Non-Compliance with Pretreatment Standards or requirements may be terminated at the discretion of the Director.

SECTION 14. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.49.1400 Upset

- A. For the purposes of this Section, the word “upset” means an exceptional incident in which there is unintentional and temporary non-compliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include non-compliance to the extent caused by operational error, improperly designed Pretreatment Facilities, inadequate Pretreatment Facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to punitive actions in response to non-compliance with Categorical Pretreatment Standards SMC 13.49.320, but not Local Limits SMC 13.49.340, when the requirements of SMC 13.49.1400(C) are met.
- C. A Non-Domestic User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 1. An upset occurred and the User can identify the cause(s) of the upset.
 2. The facility was at the time being operated in a prudent and workman-like manner and was in compliance with applicable operation and maintenance procedures.

3. Where the upset involved reduction, loss, or failure of its Pretreatment Facility (e.g. a power failure), the User controlled production of all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards until the facility was restored or an alternative method of treatment was provided.
4. The Non-Domestic User submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset. When initially provided orally, the Non-Domestic User must have provided a written report within five (5) days that includes:
 - a. A description of the Indirect Discharge and cause of non-compliance;
 - b. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- D. In any enforcement proceeding, the Non-Domestic User seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with Categorical Pretreatment Standards.

13.49.1410 Prohibited Discharge Standards

A Non-Domestic User will have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in SMC 13.49.300(A) and SMC 13.49.300(B)(3) through SMC 13.49.300(B)(7) in certain cases. The Non-Domestic User must be able to prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each Pollutant discharged and the Non-Domestic User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the Non-Domestic User's prior Discharge when the Control Authority was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.49.1420 Bypass

- A. For the purposes of this Section, severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production
- B. A Non-Domestic User may be authorized to allow a Bypass to occur if it does not cause Pretreatment Standards or Pretreatment Requirements to be violated and is for essential maintenance to assure efficient operation.
- C. Any other Bypass must meet the following requirements:
 1. Non-Domestic Users knowing in advance of the need for a Bypass must submit prior notice to the Director, at least ten (10) days before the Bypass whenever possible; and
 2. Non-Domestic Users must notify the Director of any unanticipated Bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours of becoming aware of the Bypass. Non-Domestic Users must provide a written follow-up report within five (5) days. The Director may waive the written report if the oral report was timely and complete. Unless waived, the written report must contain:
 - a. A description of the Bypass (volume, Pollutants, etc.);
 - b. What caused the Bypass;
 - c. When, specifically, the Bypass started and ended;
 - d. When the Bypass is expected to stop (if ongoing); and
 - e. What steps the User has taken or plans to take to reduce, eliminate, and prevent the Bypass from reoccurring.
- D. Bypass is prohibited, and the Director may take an enforcement action against a User for a Bypass, unless:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The Non-Domestic User submitted notices as required under SMC 13.49.1420(C).
- E. The Director may approve an anticipated Bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed in SMC 13.49.1420(E).

SECTION 15. ADMINISTRATIVE HEARING

13.49.1500 Right to Administrative Hearing

- A. Any affected Non-Domestic User shall have the right to an administrative hearing to appeal the Director's determination to take any of the following actions:
1. Issue or deny a Non-Domestic User's Wastewater Discharge permit or other Control Document;
 2. Impose particular conditions or requirements in a Non-Domestic User's Wastewater Discharge permit or other Control Document;
 3. Suspend a Non-Domestic User's Wastewater services or Wastewater Discharge permit or other Control Document pursuant to SMC 13.49.1200;
 4. Terminate the Non-Domestic User's Wastewater services or Wastewater Discharge permit or other Control Document pursuant to SMC 13.49.1210;
 5. Modify the Non-Domestic User's Wastewater Discharge permit or other Control Document pursuant to SMC 13.49.630;
 6. Issue a Notice of Violation pursuant to SMC 13.49.1110;
 7. Require annual publication pursuant to SMC 13.49.1000;
 8. Issue a compliance order pursuant to SMC 13.49.1140;

9. Impose administrative penalties pursuant to SMC 13.49.1160;
10. Impose civil penalties pursuant to SMC 13.49.1230;
11. Assess damages and costs against the User pursuant to SMC 13.49.1230;
12. Impose any other discretionary action upon the User, or deny any discretionary action requested of the Director by the User, if such action or omission directly affects the Non-Domestic User; or
13. Take any other action with respect to the User which requires the opportunity for hearing by State law or constitutional right.

13.49.1510 Request for Administrative Hearing

- A. A hearing pursuant to this Section shall be requested by the Non-Domestic User, in writing to the Director within fifteen (15) business days of the User's actual notice of the Director's action or determination from which the User seeks appeal. Failure to request such hearing within this period shall constitute a waiver of the right to administrative hearing, unless the Director determines that good cause exists for the delay.
- B. Any request for administrative hearing shall adequately identify the affected Non-Domestic User, the Director's action or determination from which the User seeks appeal, and the basis or reasons for the appeal.
- C. The Director shall respond to all requests for administrative hearing within fifteen (15) business days of receipt of request from the User, or five (5) business days if the User is contesting suspension of Wastewater services, permit, or other Control Document.
- D. The Director may deny a request for hearing if the request is untimely, the action contested is not subject to appeal, or if the Director determines in good faith that the request is incomplete or additional information is needed to identify the User, determine the particular action or decision appealed, or determine the basis or reasons for appeal. If the request is denied, the Director shall state the basis for the denial in the Director's response.
- E. If the request for hearing is granted, the Director shall set a date for hearing no sooner than ten (10) days or later than thirty (30) days from the date of the Director's response to the request. The Director may extend the date for hearing upon good cause for delay and timely notice to the Non-Domestic User.
- F. The Director's response granting an administrative hearing shall notify the Non-Domestic User of the following items:

1. The names and addresses of all parties to whom notice has been sent;
2. The mailing address and telephone number of the department or office designated to represent the Director, typically the Control Authority or Contributing Jurisdictions' Attorney's Office;
3. The official file or reference number and name of the proceeding;
4. The name, title, mailing address, and telephone number of the appointed hearings officer, if known;
5. A brief statement of the time, location, and nature of the administrative hearing;
6. A statement that the hearing is provided pursuant to this Section under the authority conferred upon the Director by SMC 13.49.020;
7. A reference to the particular Sections of these Regulations, State law, or Federal law upon which the Director intends to rely;
8. A short statement of the factual or legal matters asserted by the Director, if known; and
9. A statement that a party who fails to attend or participate in the scheduled hearing may be found in default.

13.49.1520 Hearings Officer

- A. The Hearings Officer for an administrative hearing under this Section shall be the Director or the Director's designate.
- B. A Person that has served as an investigator, prosecutor, or advocate in an adjudicative proceeding, or in its pre-adjudicative stage, or one who is subject to the authority, direction, or discretion of such a Person, may not serve as a Hearings Officer in the same proceeding.

13.49.1530 Petition for Disqualification

- A. Any party to the hearing may present a written petition for disqualification of a designated Hearings Officer. A Hearings Officer shall be subject to disqualification for actual bias, prejudice, interest, or any other cause sufficient to disqualify a judge under State law. Such petition shall particularly describe the basis or reasons asserted for disqualification, and must be submitted to

the designated Hearings Officer within ten (10) days of official notice of the Hearings Officer's identity, or within five (5) days of actual knowledge of the basis for disqualification, whichever is longer. Failure to timely submit a petition for disqualification shall result in a waiver of that party's objection to the Hearings Officer. Petition for disqualification must be submitted at least two (2) days prior to hearing date.

- B. The Hearings Officer shall consider and decide such petition within ten (10) days and issue a written order stating facts and reasons for the determination made.
- C. The time for hearing set pursuant to SMC 13.49.1510 shall be stayed pending determination of a petition for disqualification.

13.49.1540 Pleadings, Briefs, Motions, Service

The Hearings Officer shall allow all parties, at appropriate stages of the proceeding, to submit and respond to written and oral pleadings, motions, petitions and objections. A party that submits written pleadings, briefs, petitions, or other documents to the Hearings Officer shall deliver a copy in advance to all other parties. The Hearings Officer may refuse to consider written pleadings, motions, petitions, and other documents which have not been delivered to other parties.

13.49.1550 Default

- A. When a party fails to attend or participate in a hearing pursuant to this Section, the Hearings Officer may issue an order of default disposing of the matter in favor of the opposing party.
- B. Within seven (7) days of issuance of order of default, the party against whom the order has been issued may petition the Hearings Officer, in writing, to repeal the order of default and set a new date for hearing. Upon good cause shown by the defaulting party, and a finding by the Hearings Officer, on the record, that repeal of the order of default is required in the administration of justice, such repeal of the order of default may be granted and the hearing re-set.

13.49.1560 Continuance

- A. Upon the written or oral motion of any party, or on his or her own accord, the Hearings Officer may grant a continuance of the date set for hearing for any good cause. Upon request for continuance, the party requesting continuance shall advise all other parties of the request. The Hearings Officer shall afford all other parties an opportunity to address a request for continuance before granting such motion. If contested, the Hearings Officer shall determine in his or her discretion whether good cause has been presented, taking into due consideration the orderly and efficient administration of such hearings.
- B. Upon order of continuance, the Hearings Officer shall determine a new date for hearing not to exceed thirty (30) days from the date of the previously arranged hearing, and shall advise all parties of the new date and time for hearing, and new location, if applicable.
- C. The time limits for hearing otherwise established by this Section shall be deemed to be waived by all parties upon issuance of an order of continuance.

13.49.1570 Procedure at Hearing

- A. The Hearings Officer shall preside over and regulate the course of proceedings at the hearing.
- B. To the extent necessary to make an informed and rational decision, the Hearings Officer shall allow all parties the opportunity to present evidence and argument, conduct cross-examination, and submit rebuttal evidence.
- C. Upon finding that the rights of the parties will not be prejudiced, the Hearings Officer may allow all or part of the hearing to be conducted by telephone, or other electronic means.
- D. The formal rules of evidence shall not apply to the presentation of evidence at the hearing. The Hearings Officer shall allow evidence if, in the judgment of the Hearings Officer, the evidence is of the kind upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Upon the motion of any party, or upon his or her own accord, the Hearings Officer may exclude the presentation of evidence that the Hearings Officer determines is not relevant, cumulative, prejudicial, or excludable on the basis of constitutional or State law.
- E. All testimony of witnesses shall be made under oath or affirmation and the Hearings Officer is authorized by these Regulations to administer such oath or affirmation as set forth in RCW 5.28.010-060.
- F. The Hearings Officer may take administrative notice of: any fact judicially cognizable; technical or scientific facts within the Director's specialized knowledge; officially published laws and regulations of the Control Authority or any Contributing Jurisdiction, the State, the United States, or any other state; and any codes or standards that have been adopted by the Control Authority or any Contributing Jurisdiction, an agency of the United States, the State, or any other state, or by a nationally recognized organization or association.

Parties shall be notified of any such information which the Hearings Officer takes administrative notice and shall have the opportunity to address and/or contest the facts or materials so noticed prior to issuance of a final order.

13.49.1580 Record of Proceedings

- A. The Hearings Officer shall cause the hearing to be recorded in a method chosen by the Director. The Director shall not be required to prepare a transcript, unless required to do so by other provision of law.
- B. Any party may make arrangements to record the hearing through any means of choice, provided that the party arranges and pays for the expenses of recording, and provided further that the chosen recording means does not cause distraction or disruption.
- C. Upon issuance of a Final Order, the Director shall maintain the record of hearing for a period of ninety (90) days, for the purposes of judicial review.

13.49.1590 Public Access

Administrative hearings pursuant to this Section shall be generally open to public observation, unless required to be private by State law or constitutional provision, or if the Non-Domestic User requests confidentiality and establishes that evidence to be presented at the hearing is protected from public disclosure under the standards set forth in SMC 13.49.900. The Hearings Officer may order the hearing to be closed upon other good cause shown by the parties, such as undue distraction or disruption.

13.49.1600 Ex Parte Communications

- A. Once designated, the Hearings Officer shall not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any elected official, officer, employee or other representative of the Control Authority or any Contributing Jurisdiction who has specific knowledge of the matter, or with any other Person who has a direct or indirect interest in the outcome of the hearing, without notice and opportunity for all parties to participate, except as otherwise provided in this Part.
- B. The Hearings Officer may receive aid and advice from the Control Authority or any Contributing Jurisdictions' Attorney's Office, provided that the Hearings Officer initiates the communication, the particular employee providing advice has not and/or will not represent the Director at the hearing, and provided further that any such communications are limited to the resolution of legal issues requiring specialized knowledge or resources.
- C. The Hearings Officer may communicate with employees or consultants of the Control Authority or any Contributing Jurisdiction who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.
- D. Persons with whom the Hearings Officer may not communicate regarding any issue in the hearing under the provisions of SMC 13.49.1600(A) shall not initiate communication with the Hearings Officer, without notice and opportunity for all parties to participate, unless necessary to procedural aspects of maintaining an orderly process.
- E. Nothing in this Section shall prohibit the parties from communicating with the Hearings Officer when specifically authorized or required to do so by these Regulations or State law.
- F. A Hearings Officer who receives or initiates prohibited communications shall notify all parties and identify the party making the communication, or to whom the communication was made, and place on the record the substance of all prohibited communications. Any party may submit a written rebuttal statement to the Hearings Officer in response to a prohibited communication, and such statement shall be placed on the record, provided that the rebuttal is submitted within ten (10) days of the party's notice of the prohibited communication, and further that notice of the rebuttal is provided to all other parties. Such prohibited statements and rebuttals included on the record shall not be considered evidence in the Hearings Officer's determination and may form the basis for a petition for disqualification of the Hearings Officer.

13.49.1610 Issuance of Final Order

- A. The Hearings Officer shall issue a written Final Order within fifteen (15) business days of conclusion of the hearing. The Hearings Officer may extend the time for Final Order upon notice to the parties and upon good cause, including but not limited to: excessive evidence or testimony, factual or legal complexities requiring additional investigation or research, or time conflict with other prearranged matters. The Hearings Officer shall be reasonably diligent in issuing Final Orders within the timelines specified in this Section.
- B. The Final Order shall include the following elements:
 - 1. A statement of findings and conclusions, and the reasons and basis therefor, on all material issues of fact, law, or discretion presented on the record;
 - 2. The remedy, sanction, or other action determined to be applicable;
 - 3. Any specific findings substantially based upon the credibility or demeanor of witnesses and the reasons therefor; and
 - 4. A statement advising the parties of the right to seek judicial review in Pierce County Superior Court by filing the appropriate petition within thirty (30) days of issuance of the Final Order.
- C. Findings of fact shall be based exclusively upon the evidence contained in the record of the hearing and shall be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs.
- D. The Hearings Officer may rely upon any specialized knowledge of the Control Authority or Contributing Jurisdictions in evaluating evidence.
- E. The Hearings Officer may allow the parties time after conclusion of the hearing to submit memos, briefs, or proposed orders. A party submitting a memo, brief, or proposed order shall provide notice of the submittal to all other parties and comply with the provisions of SMC 13.49.1540.
- F. The Hearings Officer may accept and issue, or incorporate into the Final Order, any stipulated agreement made between the parties, provided the Hearings Officer determines that such stipulated agreement does not offend the administration of justice.
- G. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under these Regulations.

SECTION 16 JUDICIAL REVIEW

13.49.1620 Final Action

- A. An administrative hearing, where provided by these Regulations, shall be a prerequisite to judicial review of the Director's determination, action, or omission under this Part. A Non-Domestic User shall not be deemed to have exhausted administrative remedies unless such hearing is timely requested and conducted or denied.
- B. A Final Order issued by a Hearings Officer pursuant to Section 15 of these Regulations, or the Director's refusal to grant a request for administrative hearing, shall constitute final agency action for purposes of administrative review.
- C. Except to the extent that these Regulations or another statute provides otherwise, the record resulting from any administrative hearing shall constitute the exclusive basis for agency action in judicial review of the administrative hearing.
- D. Unless otherwise provided by law, petition for judicial review of final agency action shall be submitted to Superior Court of Pierce County within thirty (30) days of final agency action and properly served upon the Control Authority.

SECTION 17 WASTEWATER TREATMENT charges and fees

13.49.1700 Pretreatment Charges and Fees

The Control Authority may adopt reasonable fees for reimbursement of costs of setting up and operating the Control Authority's Pretreatment Program which may include:

- A. Fees for Wastewater Discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's Discharge, and reviewing monitoring reports submitted by Users;
- C. Fees for reviewing and responding to accidental Discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (not included in SMC 13.49.1700(B)) associated with the enforcement activity taken by the Director to address Non-Domestic User non-compliance; and
- F. Other fees as the Control Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by these Regulations and are separate from all other fees, fines, and penalties chargeable by the Control Authority.

13.49.1710 High Strength User Charges and Fees

Non-Domestic Users meeting the definition of a High Strength User as defined in SMC 13.49.330(G) shall be subject to appropriate charges and fees as determined by the Director.

- A. A monthly sanitary sewer charge for flow is levied on each High Strength User discharging directly to the POTW. This charge is at a rate as determined by the Director and is based upon the measured volume of total Wastewater discharged to the POTW or metered water consumption.
- B. Rates for strength of Industrial Wastewater from High Strength Users are established for each pound of BOD and each pound of suspended solids as determined by the Director.
- C. Industrial Wastewater samples taken for the purpose of determining charges are to be taken by the Control Authority or as otherwise determined by the Control Authority. The samples taken shall be Composite Samples. Charges shall apply as specified in SMC 13.49.1710(B), as determined on the basis of at least one twenty-four (24) hour flow proportioned or timed sample analysis to be obtained twice per month and such analyses averaged for each month; provided, a new average for strength of Industrial Wastewater may be computed, regardless of previous averages, when changes in preliminary treatment or industrial process changes have been made which are expected to significantly change the average strength of the Wastewater.
- D. Sampling procedures and methods to determine the mean wastewater strength for the purpose of determining charges shall be conducted by or under the direction of the Director. Samples shall involve a twenty-four (24) hour flow-proportioning or timed sampling device, where feasible, and be in accordance with methods as prescribed in SMC 13.49.790 and SMC 13.49.780. Sampling shall be conducted at sampling manholes or other locations adjudged by the Director to be suitable points from which samples would be representative, either singly or with other samples, of the Industrial Wastewater to be sampled. Samples shall be analyzed by an accredited laboratory as required by Chapter 173-50 WAC.

SECTION 18 MISCELLANEOUS PROVISIONS

13.49.1800 Severability

If any provision, paragraph, word, or Section of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

13.49.1810 Conflict

All other resolutions or regulations, or parts thereof, inconsistent, or conflicting with any part of these Regulations are hereby repealed to the extent of such inconsistency or conflict.

SUBJECT: Main and Wood Intersection Improvements - Construction Management Services Agreement

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$316,129.57

Within Budget Allocation: Yes

ATTACHMENTS:

1. Agreement w/ Scope & Fee

STAFF CONTACT: Michael Kosa, City Engineer, Courtney Littrell, Engineering Assistant

SUMMARY BACKGROUND:

The Main and Wood intersection is the oldest intersection within the City of Sumner. This intersection needs major improvements to allow for improved pedestrian access as well as vehicle traffic improvements. With this intersection upgrade, overhead utilities will be relocated underground, and the intersection will be raised to provide additional safety to pedestrians. Bike lanes will also be constructed along Wood Avenue just north and south of the Main Street crossing, as well as the addition of significant ADA upgrades to the intersection with new sidewalks and curb ramps.

Conсор North America, Inc. was selected to provide Construction Management Services for this project through a qualification-based selection process. A total of eight consultants submitted responses to the Request for Qualifications and after initial evaluations and a round of interviews, Conсор North America, Inc. was selected. An hourly rate agreement with a maximum payable of \$316,129.57 was negotiated for the construction phase of this project.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/1/2022

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion authorizing the Mayor and City Administrator to execute all necessary contract documents with Conсор, in an amount not-to-exceed \$316,129.57 for the Main and Wood Intersection Improvements (CIP19-02), substantially in a form approved by the City Attorney.

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: _____

Firm/Organization Legal Name (do not use dba's):		
Address	Federal Aid Number	
UBI Number	Federal TIN	
Execution Date	Completion Date	
1099 Form Required ☐ Yes ☐ No	Federal Participation ☐ Yes ☐ No	
Project Title		
Description of Work		
☐ Yes ☐ Yes ☐ Yes ☐ Yes	☐ No DBE Participation ☐ No MBE Participation ☐ No WBE Participation ☐ No SBE Participation	Maximum Amount Payable:

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the _____, hereinafter called the “AGENCY,” and the “Firm / Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:			If to CONSULTANT:		
Name:			Name:		
Agency:			Agency:		
Address:			Address:		
City:	State:	Zip:	City:	State:	Zip:
Email:			Email:		
Phone:			Phone:		
Facsimile:			Facsimile:		

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits “D” and “E” attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT’s direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT’s fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits “D” and “E” shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT’s FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits “D” and “E” will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT’s books and records to determine the CONSULTANT’s actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits “D” and “E” shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY’s option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee’s actual classification, and actual salary plus indirect cost rate plus fee.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT’s failure to perform is without the CONSULTANT’s or its employee’s fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name:

Agency:

Address:

City: State: Zip:

Email:

Phone:

Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENTS over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENTS over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT’s contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the “Execution Date” box on page one (1) of this AGREEMENT.

Signature

Date

Signature

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Exhibit A Scope of Work

Project No.

See attached scope of work.

SCOPE OF WORK

MAIN AND WOOD IMPROVEMENTS CONSTRUCTION MANAGEMENT & INSPECTION SERVICES CITY OF SUMNER

Project Background

The City of Sumner is initiating a project to upgrade the signalized intersection at Main Street and Wood Avenue. Once constructed, this project will improve pedestrian safety and mobility around the intersection. Key work includes the reconstruction of sidewalk, driveways, and ADA curb ramps; upgrades to the water, sewer and storm systems; stamped concrete paving; and replacement upgrades to the intersection signal system. The project design is complete and the construction contractor bids are expected to be opened in late 2022. The City is contracting with Consor North America, Inc. (Consultant) to provide construction management and inspection services for the construction phase of the project.

Project Summary

Consultant will perform project management, contract administration, construction management, construction inspection, and testing and special inspection for the Main and Wood Improvements Project.

Project Assumptions

Construction is anticipated to commence in January 2023 for project kick-off and critical submittal phase. Once traffic signal system components and bollard submittals are approved, a work suspension is anticipated until traffic signal system components are fabricated. For budgeting purposes, a project suspension period of 120 calendar days (approximately 17 weeks) and an active construction duration of 100 working days (approximately 20 weeks) has been assumed.

Scope of Services

Consultant is proposing to perform the following services in relation to the City's Main and Wood Improvements Project:

Task 1 - Project Management and Contract Administration

Objective

Provide overall leadership and team strategic guidance aligned with City staff objectives. Coordinate, monitor, and control the project resources to meet the technical, communication, and contractual obligations required for developing and implementing the project scope.

Subtask 1.1 Project Coordination

- Perform general administration and project management throughout the construction phase to ensure successful completion of all tasks and elements of the Project within the established scope, schedule, and budget.
- Proactively track progress of project work completed against schedule & budget.
- Inform the City of any anticipated challenges during the construction phase as they may arise and develop solutions together.

Subtask 1.2 Invoices/Status Reporting

- Prepare monthly invoices, including expenditures by task, hours worked by project personnel, and other direct expenses with the associated backup documentation.
- Monthly status reports to accompany each invoice and include comparisons of monthly expenditures and cumulative charges to budget by Task.

Subtask 1.2 Assumptions

- Assume ten (10) monthly invoices and status reports

Subtask 1.2 Deliverables

- Consultant will deliver to the City a monthly invoice and status report covering:
 - Work on the project performed during the previous month
 - Issues encountered, and actions taken for their resolution
 - Potential impacts to submittal dates, budget shortfalls, or optional services
 - Construction schedule updates
 - Issues requiring project team action

Subtask 1.3 Project Safety Plan and SBE participation plan

Prepare a project specific safety plan for Consultant employees, to be used in conjunction with safety plans provided by the construction contractor.

Subtask 1.3 Deliverables

- Copy of project specific safety plan

Task 2 – Construction Contract Administration and Closeout

Objective

Oversee construction phase activities as first point of contact for construction contractor. Coordinate with City staff and design team. Lead all project meetings and monitor project budget and schedule, quantities and quality of materials, and verify conformance with contract documents.

Subtask 2.1 Pre-Construction Meeting

Attend and lead the Pre-Construction Meeting with up to three (3) consultant team members in attendance. Prepare meeting agenda, run meeting, and issue meeting summary.

Subtask 2.1 Assumptions

- Three (3) consultant staff to attend Pre-Construction Meeting.

Subtask 2.1 Deliverables

- Meeting agenda and meeting minutes

Subtask 2.2 Project and Weekly Construction Meetings

Attend and lead project, weekly construction, and utility coordination meetings with up to one (1) consultant team members in attendance. Prepare meeting agenda, run meeting, and issue meeting summary.

Subtask 2.2 Assumptions

- One (1) consultant staff to attend (Construction Manager). Construction Inspector attendance is covered in Task 3 and not included in this subtask. Assume 2 project meetings during the suspension period, 20 weekly meetings during active construction, and 2 utility coordination meetings.

Subtask 2.2 Deliverables

- Meeting agenda and meeting minutes

Subtask 2.3 Contract Administration

Provide construction management and administration services to monitor that the project is completed according to the Contract Documents. Perform the following tasks.

1. Coordinate and communicate with City and construction contractor on a regular basis to discuss project issues and status.
2. Issue change orders, including independent cost justifications, and maintain a change order log.
3. Issue field work directives and non-conformance reports.
4. Assess contractor-submitted baseline schedule, schedule updates, and 3-week look ahead schedules for feasibility and conformance with the Contract.
5. Monitor overall project construction budget.
6. Maintain material quantity and quality documentation, including setting up and maintenance of the Record of Materials (ROM).

Subtask 2.3 Assumptions

- Development of ROM anticipated at 40 hours.
- Assume five (5) change orders taking ten (10) hours per change orders to coordinate with City, EOR and contractor and draft change orders.

Subtask 2.3 Deliverables

- Change order documents for City review and approval.
- Field work directives and non-conformance reports
- Quality and quantity documentation
- ROM

Subtask 2.4 Monthly Progress Estimates

Track quantities of materials installed monthly on pay note documents and draft progress estimates. Review estimates with the construction contractor prior to finalizing and submitting to the City for payment.

Subtask 2.4 Assumptions

- Ten (10) monthly estimates are assumed. It is anticipated that three (3) monthly estimates will be required during the suspension period for material on hand (MOH) requests and that seven (7) monthly estimates will be required during active construction and project closeout.

Subtask 2.4 Deliverables

- Quantity tracking spreadsheet
- Monthly progress estimates with recommendation to pay

Subtask 2.5 Shop Drawings, Submittals and RFIs

Prepare and maintain submittal log for approximately 75 submittals and/or shop drawings. Receive, log, distribute, and track submittal reviews and responses for project submittals. Prepare a submittal and documentation matrix for reference by contractor, EOR and construction management team. Prepare and maintain RFI log for 25 RFIs. Receive, log, distribute, and track RFIs and respond to construction contractor.

Subtask 2.5 Assumptions

- 75 shop drawings and submittals are assumed, with an average of two (2) hours per submittal. Assume 10 additional re-submittals.
- 25 RFIs are assumed, with an average of two (2) hours per RFI.

Subtask 2.5 Deliverables

- Updated Submittal Log
- Reviewed submittals and shop drawings returned to construction contractor
- Updated RFI Log
- Reviewed RFI responses to construction contractor

Subtask 2.6 Labor Compliance

Lead all labor compliance monitoring including the following tasks.

1. Track and file statements of intent to pay prevailing wages (Intent) and affidavit of paid wages (Affidavit).
2. Review and approve Request to Sublets (RTS).
3. Collect and review certified payroll and work with contractor and subcontractors to resolve deficiencies.
4. Coordinate wage rate interviews with construction inspector and contractors.
5. Oversee contractor DBE compliance and reporting, including subcontract review, utilization reports.

Subtask 2.6 Assumptions

- 15 Request to Sublets are assumed, with an average of one and half (1.5) hours per request.

Subtask 2.6 Deliverables

- Requests to Sublet filed
- Intents and Affidavits filed
- Certified payroll filed
- Wage rate interviews filed
- DBE reporting filed

Subtask 2.7 Project Closeout

Consultant will lead the close-out phase to document completion of the project and adherence to WSDOT LAG requirements. Consultant will provide complete project files to the City and perform the following duties to assist with project close-out.

Substantial Completion/Punch List: Upon substantial completion of work, Construction Inspector will provide punch list of any outstanding items and coordinate completion with contractor.

As-Built Drawings: Construction Inspector will confirm that the contractor is maintaining a set of "Record Drawings"

Project Closeout: Transfer project documentation to the City for permanent storage. Provide a thumb drive or other electronic transfer method with all electronic documents and pictures. Provide hard copies of documentation upon request.

Subtask 2.7 Deliverables

- Punch list
- Project Closeout Documents (Project documentation files including Electronic documents and pictures on a thumb drive). Hard copies if requested.

Task 3 – Construction Inspection

Objective

Provide full time construction inspection to observe construction, monitor the work by the construction contractor, and document that the work is in general compliance with the requirements of the Contract Documents. The Construction Inspector is to act as the City's on-site representative, is responsible for routine interfacing with the construction contractor and stakeholders, and is to observe the construction contractor's operations and work.

Subtask 3.1 Construction Inspection

The Construction Inspector's activities, in general, will include the following tasks.

1. Attend pre-construction conference, project, and weekly progress meetings.
2. Establish pre-construction site conditions using photo and video log of sites.
3. Observe/inspect the contractor's activities, operations, and work and document the contractor's work is in general compliance with the requirements of the contract documents. Observations will be completed on the standard WSDOT daily report form unless specified differently by the City.
4. Monitor the contractor's progress with respect to planned/scheduled work.
5. Document contractors and DBE subcontractors working onsite and conduct wage rate interviews for all DBE contractors, contractor and sub-contractors.
6. Document the contractor's construction activities (preparation of daily reports, photographs, etc.).
7. Create field note records of bid item work performed.
8. Verify and document that traffic control is per accepted traffic control plans when on-site.
9. Keep Construction Manager and City informed of project progress, issues, and developments.
10. Review minor change requests by the contractor.
11. Coordinate, observe, and document material testing and special inspection
12. Utility coordination with stakeholders
13. Track force account labor and equipment/materials; issue force account sheets for additional payment when required.
14. Maintain field construction records and as-built set.
15. Maintain photo log

Subtask 3.1 Assumptions

- Inspection hours estimated at 45 hours per week
- for 100 working days (20 weeks) and includes attendance at all project meetings.
- 3 site visits at 8 hours estimate per visit will be required for MOH requests during the suspension period.

Subtask 3.1 Deliverables

- Daily progress reports, photos, force account documentation
- DBE on site review
- Contractor and sub-contractors wage rate interviews
- Daily on-site contractor and sub-contractors list

Task 4 – Testing and Special Inspection Services During Construction

Objective

Work under this task includes material testing and special inspection services in accordance with LAG testing requirements and NHS Highway System requirements.

Subtask 4.1 Material Testing and Special Inspections

Consultant will assist the City in developing a quality assurance program. Consultant will provide material testing and special inspection as outlined and at the frequency indicated in the LAG Manual.

Subtask 4.1 Assumptions

- Testing level of effort based on assumptions included in Materials Testing Consulting, Inc's quote (attached)

Subtask 4.1 Deliverables

- Material test and special inspection test reports

Proposed Material Testing and Special Inspection Firm

- Materials Testing Consulting, Inc. – Material Testing and Special Inspection

Proposed Project Fee Estimate

Consultant proposes to perform this work on a time and expenses basis with a total not to exceed amount of \$ 316,130.00. The proposed fee estimate is provided as "Attachment A." Fee estimates are based upon Consultant's approved indirect overhead rates.

Proposed Project Schedule

Construction is anticipated to commence in January 2023 for project kick-off and critical submittal phase. Once traffic signal system components and bollard submittals are approved, a work suspension is anticipated until traffic signal system components are fabricated. For budgeting purposes, a project suspension period of 120 calendar days (approximately 17 weeks) and an active construction duration of 100 working days (approximately 20 weeks) has been assumed.

Exhibit B

DBE Participation Plan

In the absents of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

NA

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

NA

B. Roadway Design Files

NA

C. Computer Aided Drafting Files

NA

D. Specify the Agency's Right to Review Product with the Consultant

The agency has the right to review products provided by the consultant

E. Specify the Electronic Deliverables to Be Provided to the Agency

Project documents

F. Specify What Agency Furnished Services and Information Is to Be Provided

Project plans and specifications, contractor bid tabs, Contractor contract documents

II. Any Other Electronic Files to Be Provided

NA

III. Methods to Electronically Exchange Data

Email, sharepoint

A. Agency Software Suite

B. Electronic Messaging System

C. File Transfers Format

Exhibit D
Prime Consultant Cost Computations

See attached.

Consultant Fee Determination - Summary Sheet
Negotiated Fee

City of Sumner
MAIN AND WOOD IMPROVEMENTS PROJECT

Task Description:

Consultant Fee Determination

Consultant: Consor

Code	Classification	Man Hours		Rate		Dollars
LABOR		Hours				
	Principal II (Machan)	5	x	\$98.06	=	490.30
	Construction Manager V (M Warren)	537	x	\$60.90	=	32,703.30
	Inspector IV (Hawkins)	984	x	\$43.58	=	42,877.80
	Technician III (Ramos)	273	x	\$40.79	=	11,136.35
	Technician I (E Warren)	215	x	\$27.30	=	5,869.50
	Administrative II (Gillis)	10	x	\$30.33	=	303.35
	Total Hours	2,024				
	Total DSC				=	93,380.60

Overhead (OH Cost -- including Salary Additives)

OH Rate x DSC of 194.22% x \$ 93,380.60 = **181,363.80**

Negotiated Fee (NF):

NF Rate x DSC of 25.40% x \$ 93,380.60 = **23,718.67**

Reimbursables

Itemized	Quantity	Units	@	Rate	=	In Scope
Mileage	3,484	each	@	\$0.625	=	<u>2,177.50</u>
Reimbursables Total						<u>2,177.50</u>

Consor Subtotal **300,640.57**

Material Testing and Special Inspection Costs (Direct Expense)

MTC **15,489.00**

Grand Total **316,129.57**

Prepared By: Mark Warren

Date: October 27, 2022

Select 2023 Rate Schedule to Use:
Custom

MAIN AND WOOD IMPROVEMENTS PROJECT
CITY OF SUMNER
PROPOSED FEE ESTIMATE

	LABOR CLASSIFICATION (HOURS)												
	Principal II	Construction Manager V	Inspector IV	Technician III	Technician I	Administrative I	Hours	Labor	Subconsultants		Subconsultant Total with Markup	Expenses	Total
									MTC	Subconsultant Multiplier % Markup			
Average Billing Rate Estimated per Classification/Staff	\$313	\$195	\$139	\$130	\$87	\$97							
Staff Name	Machan	WarrenM	Hawkins	Ramos	WarrenE	Gillis							
Task 1 - Project Management and Contract Administration													
Task 1.1 - Project Coordination	4						4	\$ 1,254		1.0	\$ -	\$ -	\$ 1,254
Task 1.2 - Invoices/Status Reporting		5				10	15	\$ 1,943		1.0	\$ -	\$ -	\$ 1,943
Task 1.3 - Project Safety Plan	1	2					3	\$ 703		1.0	\$ -	\$ -	\$ 703
Task 1 Subtotal	5	7	0	0	0	10	22	\$ 3,899	\$ -		\$ -	\$ -	\$ 3,899
Task 2 - Construction Contract Administration and Closeout													
Task 2.1 - Pre-Construction Meeting		17	4	3			24	\$ 4,257		1.0	\$ -	\$ -	\$ 4,257
Task 2.2 - Project and Weekly Construction Meetings		120					120	\$ 23,358		1.0	\$ -	\$ 406	\$ 23,764
Task 2.3 - Contract Administration		100		200			300	\$ 45,541		1.0	\$ -	\$ -	\$ 45,541
Task 2.4 - Monthly Progress Estimates		45		30	30		105	\$ 15,288		1.0	\$ -	\$ -	\$ 15,288
Task 2.5 - Shop Drawings, Submittals and RFIs		200			50		250	\$ 43,293		1.0	\$ -	\$ -	\$ 43,293
Task 2.6 - Labor Compliance		8			135		143	\$ 13,337		1.0	\$ -	\$ -	\$ 13,337
Task 2.7 - Project Closeout		40	40	40			120	\$ 18,572		1.0	\$ -	\$ -	\$ 18,572
Task 2 Subtotal	0	530	44	273	215	0	1062	\$ 163,646	\$ -		\$ -	\$ 406	\$ 164,052
Task 3 - Construction Inspection													
Task 3.1 - Construction Inspection			940				940	\$ 130,918		1.0	\$ -	\$ 1,771	\$ 132,689
Task 3 Subtotal	0	0	940	0	0	0	940	\$ 130,918	\$ -		\$ -	\$ 1,771	\$ 132,689
Task 4 - Testing and Special Inspection Services During Construction													
Task 4.1 - Material Testing and Special Inspections							0	\$ -	\$ 15,489	1.0	\$ 15,489	\$ -	\$ 15,489
Task 4 Subtotal	0	0	0	0	0	0	0	\$ -	\$ 15,489		\$ 15,489	\$ -	\$ 15,489
TOTAL - ALL TASKS	5	537	984	273	215	10	2024	\$ 298,463	\$ 15,489		\$ 15,489	\$ 2,178	\$ 316,130

Exhibit E

Sub-consultant Cost Computations

If no sub-consultant participation listed at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

See attached.



Date:October 24, 2022

Client Name:City of Sumner

Address:1104 Maple St., Sumner, WA 98390

Email:Mark Warren <Mark.Warren@consoreng.com>

Engineer:BCRA

Project: Name / MAIN AND WOOD INTERSECTION IMPROVEMENTS, SUMNER, WA

Contact:Mark Warren

Phone:1.360.628.6896

Geotech of Record:NA

Based on Plans Dated:10-12-22 Bid set

Materials Testing & Consulting, Inc. (MTC) thanks you for the opportunity, and respectfully submits the following proposal to provide materials testing and special inspection services during construction of the above-referenced project. Combined with our past experience with projects of similar size and scope, we estimate the total cost of our services for this project to be:

Special & Construction Inspection						
Bill Code	Item / Description	Unit	Quantity	Rate		Total
IPDS	Subgrade Compaction / Visual Soils/ Tprobe/ Proof Rolls	Hour	24	\$	78.00	1,872.00
IPDS	Utility Trench Compaction	Hour	20	\$	78.00	1,560.00
IPDS	Site Subgrade & Rock Course Compaction	Hour	24	\$	78.00	1,872.00
IPDA	Asphalt Paving Compaction Verification / Inspection and Sampling	Hour	24	\$	78.00	1,872.00
SAMPU	Sample Pickup if Required (Allowance)	Hour	4	\$	78.00	312.00
RC	All Concrete Pavement, Walks, Curbs, etc	Hour	32	\$	80.00	2,560.00
Subtotal - Special & Construction Inspection:						\$ 10,048.00
Laboratory Testing						
Bill Code	Item / Description	Unit	Quantity	Rate		Total
PROC	Moisture Density Relationship/Proctor with Sieve	Each	4	\$	325.00	1,300.00
COMB	Sieve Analysis with #200 Wash/Combined Gradation	Each	4	\$	156.00	624.00
SE	Sand Equivalent	Each	4	\$	120.00	480.00
FRAC	Fracture Percentage	Each	4	\$	84.00	336.00
UVC	Uncompacted Void Content	Each	1	\$	150.00	150.00
EXT	Asphalt Extraction with Gradation	Each	1	\$	285.00	285.00
RICE	Rice Density	Each	4	\$	114.00	456.00
CONC	Concrete Compression Test Cylinders - 4" x 8" - Sets of 5	Each	35	\$	30.00	1,050.00
Subtotal - Laboratory Testing:						\$ 4,681.00
Project Management & Consulting Services						
Bill Code	Item / Description	Unit	Quantity	Rate		Total
PM - STR	Project Management	Hour	8	\$	95.00	760.00
Subtotal - Project Management & Consulting Services:						\$ 760.00
Budget Estimate for Services - Total:						\$ 15,489.00

- Soils inspection and testing services are proposed to measure compliance with project documents, including drawings, specifications and the recommendation of the soils report. In the event that a test or tests fail to meet the soils report's recommendations or if project conditions differ from approved project documents, it shall be referred to the Geotechnical Engineer of Record for resolution.
- Prices are subject to change if this agreement is not executed within 90 days from the date of the bid.
- All services will be provided on a time and materials basis. The total is an estimate and the actual construction cost will be based on the project schedule and sequencing. The estimate is not a guaranteed price. A four hour minimum charge applies to all work performed, billing is also based on a portal to portal basis. A premium rate of 1.5 times the regular rate will be charge for overtime and 2 times the regular charge for Sundays and holidays.
- MTC will utilize the laboratory based closest to the project site. MTC offers additional services upon request which will be billed at our regular fee schedule. Acceptance of this proposal will constitute agreement to MTC standard general terms and conditions.
- Invoices are due and payable upon receipt. Any invoice not paid within thirty (30) days of the date rendered may be assessed a finance charge of one-and-one-half (1½%) percent per month, for each month beyond thirty (30) days past due. Invoices not paid within sixty (60) days of the date rendered may result in MTC stopping work until such invoices are paid in full. Invoices not paid within ninety (90) days of the date rendered may be referred to an independent company for collection. Client will be responsible for all expenses incurred by MTC for the collection of any unpaid invoice(s), including collection fees, actual attorneys' fees, and costs for legal counsel as stated in RCW 19.16.250.21. Furthermore, Client acknowledges that MTC may elect to withhold a Final Letter of Compliance for the project, and/or place a lien on any real property until all outstanding invoices and/or fees have been paid in full.
- As a mutual protection to clients, the public and ourselves, all reports are submitted as the confidential property of clients, and authorization for publication of statements, conclusions or extracts from or regarding our reports is reserved pending our written approval.
- In closing, our experienced inspection staff will ensure the highest level of quality is brought to your project. We believe that our local staff and vast experience on projects of similar size and scope make MTC the clear team member of choice for this project. We look forward to working with you.

Respectfully Submitted,

Deane Ramsdell

Deane Ramsdell
360-508-6336

Client Authorized Signature

Printed Name & Title

Date

Exhibit F - Title VI Assurances Appendix A & E

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, *(Federal Highway Administration)*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
[Include Washington State Department of Transportation specific program requirements.]
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. *[Include Washington State Department of Transportation specific program requirements.]*
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *(Federal Highway Administration)* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *(Federal Highway Administration)*, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non- discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *(Federal Highway Administration)* may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the *(Federal Highway Administration)* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Exhibit F - Title VI Assurances Appendix A & E

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Exhibit G ***Certification Document***

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of _____
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of

whose address is

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the _____

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit G-1(b) Certification of _____

I hereby certify that I am the:

☐

☐ Other

of the _____, and _____

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the _____

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the require certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of _____* are accurate, complete, and current as of _____**.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: _____

Signature

Title

Date of Execution _____***.

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ _____.

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ _____.

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ _____.

- Include all costs, fee increase, premiums.
 - This cost shall not be billed against an FHWA funded project.
 - For final contracts, include this exhibit
-

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 Forward Documents to Local Programs

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit

SUBJECT: ADA Transition Plan Update**CATEGORY:** Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:**STAFF CONTACT:** Andrew Leach, Public Works Manager

SUMMARY BACKGROUND:**2020-2022 ADA UPDATE**

ADA project accomplishments, future projects and anticipated challenges are part of the City's Americans with Disabilities Act Transition Plan.

ADA Project Accomplishments

In 2020, the City finished the CIP 17-09 Volunteer Sidewalks project. This project replaced 16 curb ramps, 21 driveway approaches, and 3,020 linear feet of sidewalk. The project construction cost was approximately \$1,082,000. The project was funded by Sound Transit, Sumner School District, Volunteer Sidewalk program, ADA repair program, and other local funds.

In 2021, the City started the CIP 20-10 Sidewalk Improvement Project. This project replaced 57 curb ramps, 99 driveway approaches, and 10,030 linear feet of sidewalk. The project construction cost was approximately \$1,518,000. The project was funded by Sound Transit, Complete Streets, and other local funds. This project was completed in 2022.

In early 2022, the City finalized the CIP 15-04 SR 410/Traffic Avenue Interchange Improvements Project. This project installed 220 linear feet of new 14 feet wide shared use path, 460 linear feet of sidewalk, and 4 new curb ramps. The shared use path and sidewalk portion of the project was funded by Sound Transit.

Also in 2022, the City completed the CIP 19-08 160th Retrofit and Pervious Sidewalk Project. This project filled in a sidewalk gap with 530 linear feet of new pervious sidewalk and two driveway approaches. The project construction cost was approximately \$430,000. The project was funded by the Department of Ecology, ADA Repair Program and other local funds.

The City has also updated the ADA Coordinator to Andrew Leach, Public Works Manager.

In 2022, the City also updated the Municipal Code for sidewalks to state that sidewalk damage caused by street trees is the City's responsibility to fix.

Future Projects

CIP 19-05 – TC:UW and Academy Street Bike Lanes. This project started in 2022 and will be completed in 2023. This project will add approximately 4,480 linear feet of sidewalk and 51 new curb ramps.

CIP 19-02 Main-Wood Intersection Improvements. This project is planned to start in 2023. This project will add approximately 615 linear feet of sidewalk and 4 curb ramps.

City Council approved a street tree repair program as well as another volunteer sidewalk program. The street repair program will focus on repairing damaged sidewalks caused by street trees. The repairs are planned to start in 2023. The Volunteer Sidewalk Program will start in 2023 with planning and design and construction to be completed in 2024.

Anticipated Challenges

Currently there are no anticipated challenges for pursuing the goals of the City of Sumner's ADA Transition Plan.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee
MEETING/STUDY SESSION DATE: 11/1/2022
COMMITTEE RECOMMENDATION: Informational Only

STAFF RECOMMENDATIONS/MOTION:

Informational Only

SUBJECT: Stewart Road Bridge Easement Acquisition: Potelco

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$200,000

Within Budget Allocation: Yes

ATTACHMENTS:

1. Easement Documents
-

STAFF CONTACT: Mike Dahlem, Public Works Director, Michael Kosa, City Engineer

SUMMARY BACKGROUND:

The Stewart Road corridor provides an important transportation link between West Valley Highway, East Valley Highway, and SR 167 from Auburn, Pacific, Bonney Lake, Pierce County, and Sumner. The existing bridge over the White River is considered “functionally obsolete” and is operating at overcapacity due to the increasing traffic volumes using this corridor. Replacing this bridge is vital to providing the transportation infrastructure for the development of the Sumner/Pacific Manufacturing Industrial Area.

To complete the project, the City needs to acquire a portion of thirteen parcels. One parcel at the northeast corner of the intersection is the headquarters for Potelco Industries. The project will acquire river protection, slope, temporary construction, and utility easements for transfer to PSE to construct and permanently maintain the new bridge structure. This is the first parcel acquisition for the project; other property acquisitions will be forthcoming as agreements are negotiated and finalized.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/1/2022

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving the partial acquisition of 14103 Stewart Road for a total amount of \$200,000 and authorizing the Mayor to execute any and all documents necessary to effectuate the purchase transaction.

City of Sumner
Public Works Department
1104 Maple Street, Suite 260
Sumner, WA 98390
Attention: Mike Dahlem

RIVER PROTECTION EASEMENT

Grantor: Potelco Industries Limited Partnership
Grantee: City of Sumner
Abbreviated Legal: Ptn of: Parcel B, City of Sumner Boundary Line Adjustment No. PLN 2012-00017, Recording No. 201208085001
Tax Parcel No.: 0420012019 & 0420012020

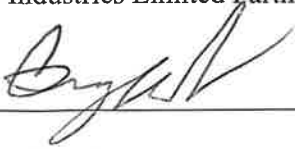
THE GRANTOR, Potelco Industries Limited Partnership, a Washington Limited Partnership, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue to us therefrom, do by these presents grant and convey to City of Sumner, a municipal corporation and political subdivision of the State of Washington, for the use of the public, a perpetual easement, allowing the City, its agents and assigns, ingress and egress over, under, and across the following described property situated in Pierce County, Washington, together with any after-acquired title therein, to wit:

For the purpose of constructing, maintaining and keeping in repair, a concrete bank protection and toe mat of the standard type now in use by said Inter-County River Improvement, constructed on a slope of not more than three to one, along the North and Easterly bank of said river as it now exists across the subject property. Permission is also hereby granted to said Improvement to enter upon and across any of the adjacent lands with all necessary staff, material, and equipment for the purposes of constructing, inspecting, and maintaining the same.

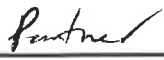
It is also understood and agreed by the property owner that the City shall not be responsible for replacing or restoring any structures, fences, retaining walls, shrubbery, hedges, landscaping or any other items found within the described easement after working in this area and shall hold the City harmless from any liability arising out of work related to maintenance of the easement.

DATED this 11th day of October, 20 22.

Potelco Industries Limited Partnership



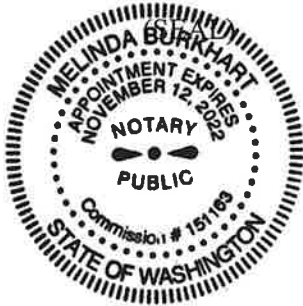
By: Gary Tucci

Its: 

STATE OF WASHINGTON)

County of Pierce) : ss

On this 11th day of October, 2022 before me personally appeared Gary Tucci known to me to be a Limited Partner of Potelco Industries Limited Partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument. GIVEN under my hand and official seal the day and year last above written.



Melinda Burkhardt

Notary Public in and for the State of Washington,
residing at East Wenatchee
My commission expires 11-12-22

APPROVED as to form only:

Accepted By:

City of Sumner Attorney

Public Works Director

Date

EXHIBIT "A"
LEGAL DESCRIPTION
PARCEL 0420012019
POTELCO INDUSTRIES LTD.
RIVER PROTECTION EASEMENT

THAT PORTION OF SE 1/4 OF THE NW 1/4 OF SECTION 01, TOWNSHIP 20 NORTH, RANGE 04 EAST, W.M., PIERCE COUNTY, WASHINGTON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY POINT OF RIVER PROTECTION EASEMENT PER RECORDING NO. 201502230072, ALSO BEING A POINT ON THE WESTERLY BOUNDARY LINE OF PARCEL 0420012019;
THENCE NORTH 16°17'37" EAST, ALONG SAID WESTERLY BOUNDARY LINE A DISTANCE OF 14.07 FEET;
THENCE SOUTH 28°59'13" EAST, A DISTANCE OF 161.96 FEET;
THENCE NORTH 84°55'11" WEST, A DISTANCE OF 12.07 FEET TO A POINT ON THE EAST LINE OF SAID RIVER PROTECTION EASEMENT RECORDING NO. 201502230072;
THENCE NORTH 28°59'13" WEST, A DISTANCE OF 145.30 FEET, TO THE POINT OF BEGINNING.



City of Sumner
Public Works Department
1104 Maple Street, Suite 260
Sumner, WA 98390
Attention: Mike Dahlem

SLOPE EASEMENT

Grantor: Potelco Industries Limited Partnership
Grantee: City of Sumner
Abbreviated Legal: Ptn of: Parcel B, City of Sumner Boundary Line Adjustment No. PLN 2012-00017, Recording No. 201208085001
Tax Parcel No.: 0420012019 & 0420012020

THE GRANTOR, Potelco Industries Limited Partnership, a Washington Limited Partnership, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue to us therefrom, do(es) by these presents grant and convey to City of Sumner, a municipal corporation and political subdivision of the State of Washington, for the use of the public, a perpetual easement, allowing the City, its agents and assigns, ingress and egress over, under, and across the following described property situated in Pierce County, Washington, together with any after-acquired title therein, to wit:

For the purpose of the constructing and maintaining cuts and/or fills for slopes occasioned by the original grading and reestablishment of grades for City road and bridge purposes, together with the right of the City of Sumner, its agents and assigns, to enter upon said premises at anytime with all necessary staff, material, and equipment for the purposes of constructing, inspecting, repairing, and maintaining the same.

DATED this 11th day of October, 2022

Potelco Industries Limited Partnership



By: Gary Tucci

Its: 

APPROVED as to form only:

Accepted By:

City of Sumner Attorney

Public Works Director

Date

STATE OF WASHINGTON)

County of Pierce) : ss

On this 11th day of October, 2022 before me personally appeared Gary Tucci known to me to be a Limited Partner of Potelco Industries Limited Partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument. GIVEN under my hand and official seal the day and year last above written.



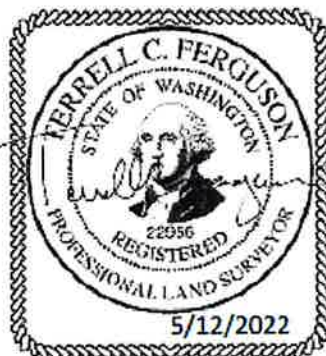
Melinda Burkhardt

Notary Public in and for the State of Washington,
residing at East Wenatchee
My commission expires 11-12-22

EXHIBIT "A"
LEGAL DESCRIPTION
PARCEL 0420012019
POTELCO INDUSTRIES LTD.
SLOPE EASEMENT

THAT PORTION OF SE 1/4 OF THE NW 1/4 OF SECTION 01, TOWNSHIP 20 NORTH, RANGE 04 EAST, W.M., PIERCE COUNTY, WASHINGTON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF EXISTING RIVER PROTECTION EASEMENT PER RECORDING NO. 201502230072;
THENCE NORTH 28°59'13" WEST, ALONG THE EAST LINE OF SAID RIVER PROTECTION EASEMENT PER RECORDING NO. 201502230072, A DISTANCE OF 22.05 FEET;
THENCE SOUTH 88°55'11" EAST, A DISTANCE OF 114.06 FEET;
THENCE SOUTH 01°34'07" WEST, A DISTANCE OF 12.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STEWART RD SE;
THENCE NORTH 88°25'53" WEST, ALONG THE NORTH RIGHT-OF-WAY OF SAID STEWART RD SE, A DISTANCE OF 102.64 FEET TO THE POINT OF BEGINNING.



City of Sumner
Public Works Department
1104 Maple Street, Suite 260
Sumner, WA 98390
Attention: Mike Dahlem

UTILITY EASEMENT FOR TRANSFER

Grantor: Potelco Industries Limited Partnership
Grantee: City of Sumner
Abbreviated Legal: Ptn of: Parcel B, City of Sumner Boundary Line Adjustment No. PLN 2012-00017, Recording No. 201208085001
Tax Parcel No.: 0420012019 & 0420012020

THE GRANTOR, Potelco Industries Limited Partnership, a Washington Limited Partnership, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue to us therefrom, do(es) by these presents grant and convey to the City of Sumner, a municipal corporation and political subdivision of the State of Washington, a perpetual easement, allowing the City, its agents and assigns, ingress and egress over, under, and across the following described property situated in Pierce County, Washington together with any after-acquired title therein, to wit:

For the purpose of constructing and maintaining the relocation of certain public utility infrastructure together with ingress and egress for all necessary equipment, materials and personnel. Upon conclusion of any construction or maintenance activity, Grantor, and its successors and assigns shall restore the easement area to the its original condition prior to said activity.

Grantor specifically acknowledges and accepts that at the conclusion of the City of Sumner's relocation work within the easement areas described below, occasioned only by the City's Stewart Road Bridge replacement project, this utility easement agreement shall be transferred and assigned in full to Puget Sound Energy or its successor or assign for purposes of access to and ongoing maintenance and ownership of the public utility infrastructure located over, under and upon the easement area described herein constructing roadways, sidewalks, drainage facilities, utilities, and all other right-of-way uses, together with the right of Pierce County, its agents and assigns, to enter upon said premises at anytime with all necessary staff, material, and equipment for the purposes of constructing, inspecting, repairing, improving, and maintaining the same.

Grantor(s) hereby represent(s) and warrant(s) that he/she/they are/is the owner(s) of said real property and may grant the above-described easement for the purposes intended.

This agreement is a real covenant or equitable servitude and shall run with said real property and is binding upon the heirs, successors, and assigns of Grantor(s).

DATED this 11th day of October, 2022.

Potelco Industries Limited Partnership

[Signature]

By: Gary Tucci

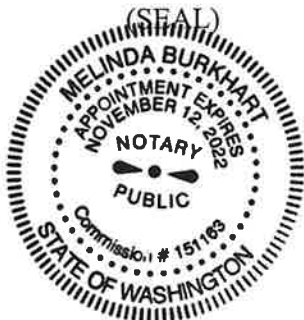
It's: [Signature]

STATE OF WASHINGTON)

: ss

County of Pierce)

On this 11th day of October, 2022 before me personally appeared Gary Tucci known to me to be a Limited Partner of Potelco Industries Limited Partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument. GIVEN under my hand and official seal the day and year last above written.



Melinda Burkhardt
Notary Public in and for the State of Washington,
residing at East Wenatchee
My commission expires 11-12-22

APPROVED as to form only:

Accepted By:

City of Sumner Attorney
Print Name:

Public Works Director
Print Name:

Date

EXHIBIT "A"
LEGAL DESCRIPTION
CITY OF SUMNER
PSE UTILITY EASEMENT

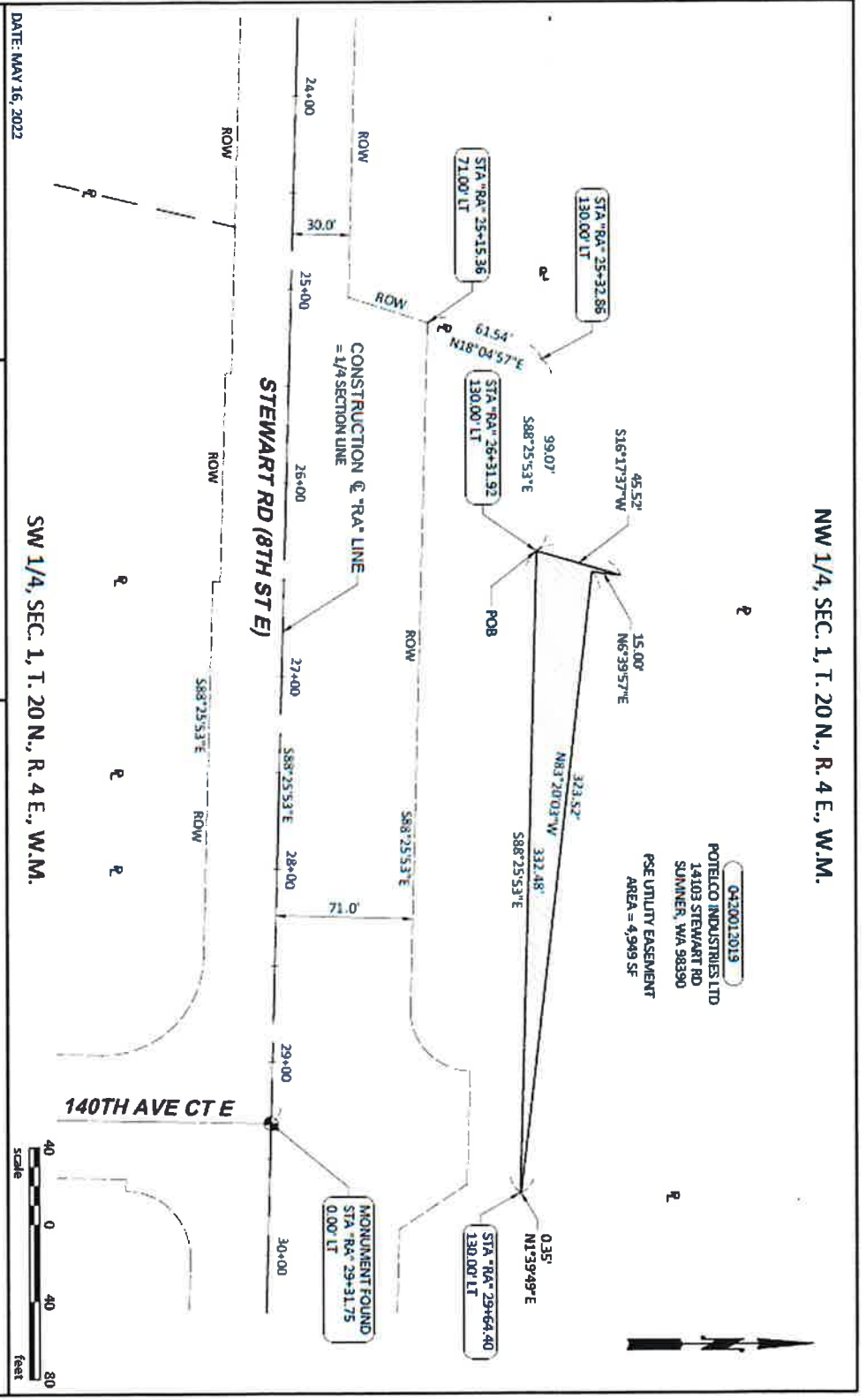
THAT PORTION OF THE SE 1/4 OF THE NW 1/4 OF SECTION 01, TOWNSHIP 20 NORTH, RANGE 04 EAST, W.M., PIERCE COUNTY, WASHINGTON LYING WITHIN THE RIGHT-OF-WAY OF STEWART RD SE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION POINT OF STEWART RD SE WITH THE CENTERLINE OF 140TH AVE CT E; THENCE NORTH 88°25'53" WEST, ALONG THE CENTERLINE OF SAID STEWART RD SE, A DISTANCE OF 416.67 FEET; THENCE NORTH 01°34'07" EAST, A DISTANCE OF 70.03 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 83°20'03" WEST, A DISTANCE OF 55.97 FEET;
THENCE SOUTH 88°25'53" EAST, A DISTANCE OF 57.22 FEET;
THENCE SOUTH 18°04'57" WEST, A DISTANCE OF 5.19 FEET TO THE POINT OF BEGINNING.



NW 1/4, SEC. 1, T. 20 N., R. 4 E., W.M.

0420012019
POTELCO INDUSTRIES LTD
14103 STEWART RD
SUMNER, WA 98390
PSE UTILITY EASEMENT
AREA = 4,949 SF



DATE: MAY 16, 2022

SW 1/4, SEC. 1, T. 20 N., R. 4 E., W.M.



WSP USA INC.
11301 9th Avenue South
Suite 300
Federal Way, WA 98003-2600
TEL: (206) 431-2300
FAX: (206) 431-2250

EXHIBIT "B"
PARCEL 0420012019 - POTELCO INDUSTRIES LTD.
PSE UTILITY EASEMENT

City of Sumner
Public Works Department
1104 Maple Street, Suite 260
Sumner, WA 98390
Attention: Mike Dahlem

TEMPORARY EASEMENT

Grantor: Potelco Industries Limited Partnership
Grantee: City of Sumner
Abbreviated Legal: Ptn of: Parcel B, City of Sumner Boundary Line Adjustment No. PLN 2012-00017, Recording No. 201208085001
Tax Parcel No.: 0420012019 & 0420012020

THE GRANTOR, Potelco Industries Limited Partnership, a Washington Limited Partnership, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue to us therefrom, do by these presents grant and convey to the City of Sumner, a municipal corporation and a political subdivision of the State of Washington, for the use of the public, a temporary easement for the purpose of building an access road to excavate and rebuild an existing levee as part of the Stewart Road Bridge Replacement, project along, across, and upon the following described real property situated in Pierce County, Washington.

Said lands being situated in Pierce County, State of Washington, and described in Exhibit A, attached hereto and made a part hereof.

The subject site will be refurbished to its original condition following the end of the temporary construction easement. The temporary rights herein granted shall terminate on December 31, 2025.

DATED this 11th day of October, 2022.

Potelco Industries Limited Partnership

 Gary Fries
By: *[Signature]*
Its: *Robert*

APPROVED as to form only:

Accepted By:

Andrea Marquez Date
Sumner City Attorney

Mike Dahlem Date
Public Works Director

STATE OF WASHINGTON)

County of Pierce) : ss

On this 11th day of October, 2022 before me personally appeared Gary Tucci known to me to be a General Partner of Potelco Industries Limited Partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and each on oath stated that he/she/they was/were authorized to execute said instrument. GIVEN under my hand and official seal the day and year last above written.



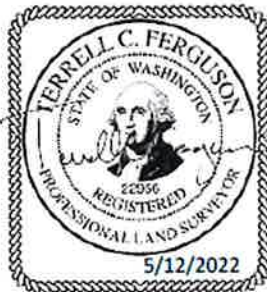
Melinda Burkhardt

Notary Public in and for the State of Washington,
residing at East Wenatchee
My commission expires 11-12-22

EXHIBIT "A"
LEGAL DESCRIPTION
PARCEL 0420012019
POTELCO INDUSTRIES LTD.
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF THE SE 1/4 OF THE NW 1/4 OF SECTION 01, TOWNSHIP 20 NORTH, RANGE 04 EAST, W.M., PIERCE COUNTY, WASHINGTON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTERLINE INTERSECTION POINT OF STEWART RD SE WITH THE CENTERLINE OF 140TH AVE CT E; THENCE NORTH 88°25'53" WEST ALONG SAID CENTERLINE OF STEWART RD SE, A DISTANCE OF 192.38 FEET; THENCE NORTH 01°34'07" EAST, A DISTANCE OF 71.00 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 0420012019 AND THE TRUE POINT OF BEGINNING;
THENCE NORTH 88°25'53" WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID STEWART RD SE AND THE SOUTH PARCEL LINE OF SAID PARCEL 0420012019, A DISTANCE OF 224.00 FEET TO THE WEST LINE OF SAID PARCEL 0420012019;
THENCE NORTH 18°04'57" EAST, ALONG THE WESTERLY LINE OF SAID PARCEL 0420012019, A DISTANCE OF 61.54 FEET TO THE NORTH LINE OF SAID PARCEL 0420012019;
THENCE SOUTH 88°25'53" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 99.07 FEET;
THENCE NORTH 16°17'37" EAST, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 88.00 FEET;
THENCE SOUTH 28°59'13" EAST, A DISTANCE OF 167.35 FEET, TO THE TRUE POINT OF BEGINNING.



REAL PROPERTY VOUCHER

AGENCY NAME City of Sumner Attn: Mike Dahlem Public Works Department 1104 Maple Street, Suite 260 Sumner, WA 98390		I hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the Agency, that the same or any part thereof has not been paid, and that I am authorized to sign for the claimant.	
		SIGNATURE (IN INK) FOR EACH CLAIMANT	DATED
		X 10/11/22	
GRANTOR OR CLAIMANT (NAME, ADDRESS) Potelco Industries Limited Partnership Attn: Gary Tucci 14103 Stewart Road SE Sumner, WA 98390		TIN/SSN: 	
PROJECT NO. AND TITLE STEWART ROAD BRIDGE REPLACEMENT		By: Gary Tucci Its: Governor	
FEDERAL AID NO. 		PARCEL NO. 0420012019 & 0420012019	
In full, complete and final payment and settlement for the title or interest conveyed or released, as fully set forth in:		DATED	\$ AMOUNT
LAND:			
River Protection Esmt. 1,536 SF			\$15,400.00 (rd)
Slope Esmt. 1,658 SF			\$1,700.00 (rd)
PSE Esmt. 4,949 SF			\$5,000.00 (rd)
Temporary Const. Esmt. 14,762 SF		+	\$53,600.00 (rd)
IMPROVEMENTS:		+	
DAMAGES:			
Cost to Cure		+	
Proximity		+	
Other		+	
SPECIAL BENEFITS			
JC (Just Compensation) Amount			\$75,700.00
REMAINDER:			
Uneconomic Remnant		+	
Excess Acquisition		+	
DEDUCTIONS:			
Amount Previously Paid			
Performance Bond			
Salvage Amount			
Pre Paid Rent			
Other			
ADMINISTRATIVE SETTLEMENT		+	\$124,300
STATUTORY EVALUATION ALLOWANCE		+	
ESCROW FEE		+	
REAL ESTATE EXCISE TAX		+	
OTHER:			
ACQUISITION AGENT		DATE	Voucher No.
Melinda Burkhardt		10/11/22	(9) \$200,000 \$75,700.00
AUTHORIZED AGENT FOR AGENCY		DATE	

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

Gray Tucci

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☒ Individual/sole proprietor or single-member LLC

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

11503-134th Ave CTE

Requester's name and address (optional)

6 City, state, and ZIP code

Puyallup, WA

98374

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

534-68-0710

or

Employer identification number

_____-_____-_____-_____-_____-_____-_____-_____-

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Gray Tucci

Date ►

10/11/22

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

REVIEW APPRAISER'S CERTIFICATE NO. 1

Agency:	City of Sumner/WSDOT
Parcel No.	0420012019 & 0420012020
Owner:	Potelco Industries Limited Partnership, a Washington limited partnership.
Federal Aid No.	N/A
Project:	Stewart Road Bridge Replacement
Map Sheet:	6 of 11; and 1 of 1 (PSE)
Map Approval Date:	3-21-22
Date of Last Revision:	None.

From: Richard F. Duncan, MAI, RF Duncan and Associates, Inc.

To: Tierra Right of Way Services, LTD and The City of Sumner, WA

**Date of
Review:** August 13, 2022

The following appraisals have been made on the subject larger parcel:						
Appraisers	Valuation Date	Fair Market Value – Before Project	Fair Market Value –After Project	Value Difference	Value of Property Rights Acquired	Damages
Barbro A. Hines, MAI, SRA, WA Cert. No. 1001044	5-17-22	\$5,357,900	\$5,282,200	\$75,700	\$75,700	-0-

Appraisal Review Comments and Conclusions

Appraisal No. 1 is an appraisal report as defined by USPAP and generally follows the WSDOT Narrative Appraisal Format. The Agency proposes a partial acquisition of the subject parcel.

Project Description

The subject's project is identified in right of way plans as being located within the Stewart Road Bridge Replacement Project, which is part of the City of Sumner's White River Restoration Project, a multi-phase regional project intended to provide enduring flood protection for Sumner, while creating a sustainable instream, floodplain, and wetland habitats in the Lower White River. The subject's bridge replacement phase of the project is one phase of this larger project. The phases are described as follows:

The Bridge: Replacement bridge is higher and wider, allowing river to migrate, improving vehicular traffic flow and connecting regional trail system.

SUBJECT: Grant Acceptance: Systemic Horizontal Curve and Roadway Safety Improvements

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Grant Award

STAFF CONTACT: Mike Dahlem, Public Works Director, Michael Kosa, City Engineer

SUMMARY BACKGROUND:

The City applied for a federally-funded Highway Safety Improvement Program (HSIP) grant to install curve warning signs, speed feedback signs, rumble strips, profiled striping, reflective markers, guardrail, and street lighting at curve locations throughout Sumner as identified, specifically along West Valley Highway and East Valley Highway.

The grant provides \$903,000 towards the design and construction of the project. The work will be 100% funded by the grant (no local match required) if the City obligates for construction by April 30, 2025. It is fully expected that the Public Works department can obligate the project in the required timeframe for 100% grant funding.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/1/2022

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving the acceptance of \$903,000 in grant funds from the Highway Safety Improvement Program managed by WSDOT for use in a future project "Systemic Horizontal Curve and Roadway Departure Safety Improvements," and authorizing the Mayor to execute any and all documents necessary to accept the funds, substantially in a form as approved by the City Attorney.

September 13, 2022

Mr. Mike Dahlem, PE
Public Works Director
City of Sumner
1104 Maple Street, Suite 260
Sumner, Washington 98390-1447

**Systemic Horizontal Curve and
Roadway Departure Safety Improvements
2022 City Safety Selections
Federal Funding**

Dear Mr. Dahlem:

WSDOT is pleased to advise you that the above-mentioned safety project was recently selected to receive funding through the Highway Safety Improvement Program (HSIP). The federal funding is limited to the amount shown below:

Systemic Horizontal Curve and Roadway Departure Safety Improvements \$903,000

Scope: See attached Project Summary – delivered as one contract.

NOTE: The project is eligible for 100% HSIP funding, for all phases authorized prior to April 30, 2026. If any phase is not obligated by this date, remaining funding will be rescinded, and the agency will need to re-compete for funding or construct the project with local funds. Scope and funding modifications require prior approval from WSDOT Local Programs.

In order to meet state and federal requirements, the following are required:

- Project expenditures incurred before receiving notice from Local Programs of federal fund authorization are not eligible for reimbursement.
- Please refer to the Local Programs web page for detailed information, including: (<http://www.wsdot.wa.gov/localprograms/>)
 - ✓ Local Agency Guidelines (LAG) manual for the requirements regarding programming, authorization, reimbursement, etc.;
 - ✓ Projects utilizing federal funds must be included in your current Transportation Improvement Program (TIP) as a complete programmed project. Once your TIP amendment is approved, WSDOT will amend the Statewide Transportation Improvement Program (STIP);
 - ✓ Funding and billing forms;
 - ✓ Local Project Report is required to be completed by the end of June and December each year. To access the database you will need an account name and password. Your account name is **Sumner** and your password is **Sumne723**. The password is case sensitive.
- If the project is not actively pursued, or becomes inactive (23 CFR 630), the project is at risk of being cancelled, and funds reprogrammed.

Mike Dahlem
City of Sumner
2022 City Safety Selections
September 9, 2022

- FHWA requires that all projects are ADA compliant upon completion or the federal funds must be repaid.

As a reminder, Local Programs requires all agencies to submit monthly progress billings to ensure timely reimbursement of eligible federal expenditures.

For assistance please contact John Ho, your Region Local Programs Engineer at 564.669.1018.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jay Drye", with a long horizontal flourish extending to the right.

Jay Drye, PE
Director
Local Programs

JD:st:ml
Enclosure

cc: Kelly McGourty, Transportation Director, PSRC
John Ho, Olympic Region Local Programs Engineer, MS 47440

Project Summary

Program: 2022 City Safety Program

Date: August 2022

Agency: City of Sumner

Project Title: Systemic Horizontal Curve and Roadway Departure Safety Improvements

Project Description: Install curve warning signs, speed feedback signs, rumble strips, profiled striping, reflective markers, guardrail, and street lighting.

Detailed Project Description

Install static and dynamic curve warning signs, speed feedback signs, centerline and edge line profiled striping, rumble strips, reflective markers on-pavement and to delineate roadside objects, channelization, guardrail/roadway shouldering, and street lighting.

Locations:

- a. East Valley Highway from Elm Street to north City limit
- b. The entirety of West Valley Highway within Sumner City limits
- c. The entirety of Sumner-Tapps Highway/166th Avenue E within Sumner City limits
- d. 142nd Avenue E and 24th St E from Puyallup St to SR 167

Project Schedule (Estimated)

Project added to the STIP	2/23
Project agreement signed with WSDOT Local Programs	3/23
Begin PE (phase authorized by FHWA through WSDOT)	9/23
Community/stakeholder engagement complete	12/23
Environmental documents approved by WSDOT	9/24
Begin right-of-way (phase authorized by FHWA through WSDOT)	2/24
Right-of-Way completed (certification by FHWA through WSDOT)	12/24
Contract advertised	1/25
Contract awarded	2/25
Construction complete	9/25

Project Cost and Award Amount

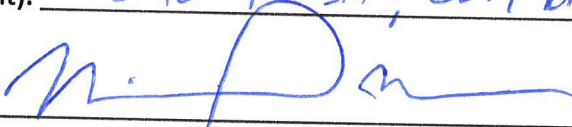
Phase	Total Cost	Local Match	Amount Awarded
Preliminary Engineering	\$290,000	\$0	\$290,000
Right-of-Way	\$0	\$0	\$0
Construction	\$613,000	\$0	\$613,000
Total	\$903,000	\$0	\$903,000

* Project must obligate construction funds by April 30, 2025 to waive the 10% local match requirement for the construction phase.

If you agree to the project summary described above, please sign or electronically sign below and return to Ed Spilker at Ed.Spilker@wsdot.wa.gov.

Concurrence: I agree to the project summary described above.

Approving Authority Name (Print): MICHAEL KOSA, CITY ENGINEER

Approving Authority Signature:  Date: 8-26-2022



Monthly Project Management Report

November 2022

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Major Projects

Project: Stewart Road Bridge Replacement (13-08)		Project Manager: Michael Kosa	Budget: \$33,500,000
Finance: \$6,833,959 STP Grant, \$187,074 City of Sumner, \$4,260,000 Pierce County, \$50,000 Tarragon, \$3,000,000 FMSIB, \$50,000 Port of Tacoma, \$150,000 City of Auburn			
Description: This project will replace the existing two lane bridge over the White River at Stewart Road. The existing bridge will be removed. The new bridge will accommodate four lanes of traffic, and a separated shared use path on the north side of the roadway. Adjacent intersections at Butte Avenue and 140th Street Court East will be modified to accommodate the new roadway grade and lane configurations.			
Schedule/Milestones: ■ Selection of Design Consultant (10/13) ■ Design Consultant Contract Award (12/13) ■ ROW Environmental Review Completed (11/16) ■ Start Final Design (2/21) ☐ ROW Acquisitions (12/22) ☐ Design Complete (10/22) ☐ Construction Contract Award (04/23) ☐ Construction Complete (08/26)		Status: City is Reviewing 90% Design Plans, Acquiring Right-of-Way and Permitting, and Coordinating Utility Relocations City is reviewing 60% Design Plans Developing 60% Design Plans Final Design Kickoff completed, Value Engineering Effort Underway. BergerABAM is completing the environmental design and right-of-way acquisitions. Project is in formal ESA consultations since 2/2019. Project awarded new grants (City of Auburn \$150,000)(Federal STP funds \$4,920,000, construction phase; Port of Tacoma, \$50,000, design phase) Pacific has received full funding for the design, ROW and construction of their adjacent project. The right-of-way services are now under contract. BergerABAM is beginning the preliminary work to engage the property owners. The Scope and Budget for Right of Way services has been received and will go to the 6/19 Council Meeting. The City is currently working with BergerABAM on the Scope & Fee for Right of Way services. The City is working with WSDOT and PSRC to finalize a process that will allow the right of way to proceed concurrent with the environmental studies of the White River currently being undertaken.	
Next Critical Activities (dates): ROW Offers (9/22)			
Next Council Actions (dates): Right-of-Way Acquisition (12/22)			
Next Public Actions (dates):			

Project: East Sumner Neighborhood Stormwater Ponds – Phase II (13-10)		Project Manager: Michael Kosa	Budget: \$2,000,000
Description: Complete the design and construction of a regional stormwater pond and relocation of Salmon Creek on City properties located near Sumner Tapps Hwy, between 64 th St E and 60 th St E.			
Schedule/Milestones: ■ Design Consultant Contract Award (09/13) ■ Design Complete (07/15) ■ Construction Contract Award (08/15) ■ Construction Complete (12/19) ■ Complete Plant Establishments (01/22)		Status: Project in Closeout Project in plant establishment period. Project 90% constructed. 60th reopened to traffic, there are no other major traffic impacts planned during project. Work restarted July 2019. The culvert has been delivered to the site. 60th Street may be closed for culvert installation, depending on contractor availability. Corps permit secured, contractor beginning project restart. The City is currently waiting on permit approval from the Army Corps of Engineers. Permit meeting occurred on site and an ESA consultation is pending. The contractor is currently on winter shutdown. Contractor to start work mid-September. Plantings at the mitigation site are 100% complete. Contractor to provide construction schedule for Mitigation Pond the week of 8/8/16. Contract has been suspended until further notice.	
Next Critical Activities (dates):			
Next Council Actions (dates): Project Acceptance (10/22)			
Next Public Actions (dates):			

Project: 166 th Ave E Widening (13-11)		Project Manager: Michael Kosa	Budget: \$16 Million (10% funded)
Finance: Port of Tacoma \$25,000, \$950,000 City (TIF & Storm), \$1,219,650 (Federal – STP)			
Description: Construct Improvements to 166 th Ave E to decrease congestion and improve safety at 64 th St E and at SR 410 westbound ramps			
Schedule/Milestones: ■ Consultant Award (12/18) ■ Intersection Control Evaluation (6/20) ■ Concept Report Complete (07/20) ☐ Preliminary Design Approval (11/22) ☐ Complete Fish Passage Culvert Design/Permitting (12/22) ☐ WSDOT Preliminary Design Approval (2/23) ☐ Design/ROW Complete (2/25) ☐ Construction Complete (12/27)		Status: Design Development underway for preliminary roadway and culvert/creek design. Updated scope in progress. Concept report approved. Project will contact adjacent property owners, then publicize the findings. Concept Report (Intersection Control Evaluation) being reviewed at WSDOT.	
Next Critical Activities (dates): Preliminary Design Approval (11/22)			
Next Council Actions (dates):			
Next Public Actions (dates):			

Project: Fryar Ave Trail (14-01)		Project Manager: Andrew Leach	Budget: \$5,000,000 (construction unfunded), \$580,000 design, federal and City REET
Finance: \$197,760.00 (CMAQ-Design Only) and \$30,864 (City)			
Description: To design the last missing link of trail in town between Bridge Street Bridge and Fryar Bridge. The trail currently consists of a sidewalk & bike lane.			
Schedule/Milestones: ☒ Selection of Design Consultant (05/14) ☒ Design Consultant Contract Award (05/14) ☒ Consultant Supplement Award (6/21) ☒ Resume Design (7/21) ☐ Design Complete (12/22) ☐ Begin ROW Phase (1/23) ☐ Begin Construction Phase (2/25) ☐ Construction Contract Award (TBD) ☐ Construction Complete (TBD)		Status: The City will be receiving grant funding for the ROW phase of the project. The City is currently moving forward with the design and environmental phases of the project. The City is currently looking at grant opportunities to purchase right of way and moving forward with the environmental phase of the project. The design on this project is moving forward. A few alternatives for the trail layout were reviewed and a final layout was selected. Selecting the final layout will allow for the environmental phase to move forward. The design on this project is on hold until FEMA discussions allow for the trail to be constructed in the floodway. BergerABAM is proceeding with the design.	
Next Critical Activities (dates): Design Complete (12/22)			
Next Council Actions (dates):			
Next Public Actions (dates):			

Project: Left Bank Setback/White River Restoration (14-10)		Project Manager: Alisa O'Haver-Ayala/Robby Wright	Budget: \$60 Million
Description: Enhance nearly 3.2 miles of riverbank. The channel will be widened by up to 200ft landward of the ordinary high to allow capacity for 100-yr event			
Schedule/Milestones: ☒ Selection of Design Consultant (09/14) ☒ Design Consultant Contract Award (09/14) ☒ Design Complete – 24 th St (05/22) ☒ Bid Award – 24 th St (06/22) ☐ Construction Complete (12/25) ☐ ROW Acquisition (TBD) ☐ Construction Contract Award (TBD) ☐ Construction Complete (TBD)		Status: Working through pre-construction and material procurement with the 24 th St Utility Relocation project (CIP 18-03) contractor (Johansen Construction). Construction is expected to start in November 2022. Bids opening on 6/7/22 for 24th St Utility Relocation project (CIP 18-03). Permit Submitted to June Corp April 2021, out for Public Comment Moving from 65% to 90% Plans NSD Consultant Supplement Contract PW committee Meeting August A meeting took place on 5/11 and the next meeting is scheduled for 6/8. Draft Hydraulic and Sediment reports have been presented to the Dialogue Group and the next meeting is scheduled for May 11th. Hydraulic and Sediment models are under review. The dialogue group continues to meet. Consultant has begun hydraulic and sediment work.	
Next Critical Activities (dates):			
Next Council Actions (dates): ROW Acquisition (TBD)			
Next Public Actions (dates):		Two (2) Consultant Service Contracts are going to the 7/18/16 Council Meeting. One is Amendment #2 with West Consultants and the 2nd is with Natural Systems Design.	

Project: Pacific Pointbar / Stewart Setback (14-10)		Project Manager: Alisa O’Haver-Ayala/Robby Wright	Budget: \$59,474,432
Description: Over 30 acres of floodplain reconnection and fish habitat. Installation of a floodwall along 16th and levee along 140th for increased flood protection.			
Schedule/Milestones: ☐ 90% Design Complete (12/22) ☐ Property Acquisitions Complete (12/24)		Status: The contract to demolish the structures on the Bushore and Eagle properties has been awarded. Staff is preparing a notice to proceed authorizing the contractor to move forward with the demolition work.	
Next Critical Activities (dates):			
Next Council Actions (dates):			

Project: Decant Facility (15-02)	Project Manager: Michael Kosa	Budget: \$747,000	Finance: \$390K Ecology Grant
Description: Design and construct upgrades to the Decant Facility. Improvements will include a concrete slab and a pre-engineered metal building.			
Schedule/Milestones: ■ Selection of Design Consultant (10/16) ■ Design Consultant Contract Award (11/16) ■ Design Complete (04/17) ■ Construction Contract Award (09/17) ■ Construction Complete (11/19) ■ Asphalt Contractor Selected (6/21) ■ Start Construction (8/21) ■ Construction Complete (9/21)	Status: Project in closeout Asphalt Paving Complete, Landscaping remaining Asphalt pavement work begins in mid-August Asphalt pavement work advertising for construction as small works project Project awaiting asphalt pavement after SR 410/Traffic Ave Interchange Contractor is complete Project in closeout Working on final Ecology Reimbursement. Stormwater pond construction is complete. Project is entering close-out. Negotiating change order with contractor to construct stormwater pond required by Ecology. Coordinating plans with ecology, plan to construct storm water pond and asphalt paving in 2019. Notified of \$390K Ecology Grant		
Next Critical Activities (dates): Completion Report (7/22)	Building construction complete. Investigating adding asphalt driving surface to project. This project is under construction and the contractor is currently working on final completion and punchlist.		
Next Council Actions (dates): N/A	This project is under construction and the contractor is currently working on floor slabs. This project is under construction and the contractor is currently working on subgrade and foundations. Western Engineering Constructors, Inc., was awarded the construction contract at a Special Council Meeting on 8/14/17.		
Next Public Actions (dates): N/A	Contracts are currently being signed.		

Project: 410/Traffic Ave Interchange (15-04)	Project Manager: Andrew Leach	Budget: \$17,000,000; Construction 100% grant funded
Description: Construct a new overpass for the SR 410/Traffic Ave Interchange to meet the demands of freight and commuter traffic.		
Finance: <i>Design:</i> Sound Transit \$100K, WA State Legislature #1 \$300K, Private Dev. \$75K, Port of Tacoma #1 \$11.5K, City of Sumner \$75K, STP Grant \$313K <i>Construction:</i> FIMSB \$2.5M, Sound Transit \$5.0M, Port of Tacoma #2 \$45k, WA State Legislature #2 \$500K, Private Development \$1.0M, TIB \$3M		
Schedule/Milestones: ■ Selection of IJR Consultant (10/15) ■ Preliminary Design Consultant Contract Award (08/16) ■ Final Design Consultant Contract Award (07/17) ■ Final Design Complete (12/18) ■ Construction Contract Award (07/19) ■ Construction Complete (1/22) □ Project Acceptance (1/23)	Status: City is working on the project closeout process with the contractor. Contract is in the plant establishment period of the project. Contractor has completed final paving. Contractor is now working on streetlights and landscaping. New signals have been installed. Contractor is working near final paving. Contractor is working on new signals on either end of the new bridge. Construction on new bridge has started. Construction has begun, contractor is working on temp water main. Ceccanti, Inc. was awarded the contract at the July 22nd special council meeting. A preconstruction meeting will be scheduled for early August. Bids opened 7/3/19 The final design is currently underway. The consultant agreement with Parametrix has been executed and the final design will begin in July.	

Project: Operations Facilities (17-13)		Project Manager: Alisa O'Haver-Ayala	Budget: \$30-40 Million (General and Utility Funds)
Description: Construct a new operations facility to house the water, sewer, storm and street maintenance staff and equipment. The current shops facility will be modified to house the Parks & Facilities maintenance staff and equipment as well as the community float, 1932 Kenworth fire engine, DARE GTO and the Police Department's impound and oversized evidence.			
Schedule/Milestones: ☒ Consultant Services Contract (08/18) ☒ Design Complete (8/22) ☐ Construction Contract Award (TBD) ☐ Construction Complete (9/24)		Status: Building Permit has been submitted and is in review. Consultant working towards 100% plans and submitting for Building Permit. Open House 9-30-21 4-7 pm onsite Amendment being brought to February PWC for final design and construction management. Review of final concept 11-24-20 Work group session have begun and waiting for review of sessions.	
Next Critical Activities (dates): Property Acquisition		The Consultant contract has been fully executed. Consultant has been selected and working through scope and fee. RFP for Consultant Services to be advertised in February. Properties are under contract with new phase 1 environmental being done soon. Consultant is working on initial diagram/layout of facility. In negotiations with property owners and wrapping up. Design consultant has done 3-D modeling/massing studies at multiple locations. Site locations have been narrowed down and the City is moving forward with contacting property owners.	
Next Council Actions (dates):			

Project: Biosolids Dewatering Improvements (17-18)		Project Manager: Michael Kosa	Budget: \$2,068,000
Description: Procurement and installation of a second centrifuge for the dewatering of biosolids at the Waste Water Treatment Facility. This will also include construction of a structural platform and electrical/telemetry modifications to accommodate the new centrifuge.			
Schedule/Milestones: ☒ Consultant Services Contract (12/17) ☒ Construction Contract Award (09/19) ☒ Construction Complete (12/21)		Status: Project in Closeout (Nov 2020 Update) The new centrifuge is operational. Notice to proceed with construction was issued, effected 11/1/19. Project was awarded in September 2019. Bids for construction were received in August 2019. Project was advertised in July 2019 and bids are requested in August 2019. 95% Plans and Specifications have been submitted to the City for review. Gray and Osborne is finishing up the design. An equipment procurement package has been submitted to the City staff for review. A technical memorandum and draft equipment procurement package was submitted for City review on 3/22/18, and comments returned by the City on 4/10/18. Gray and Osborne has been awarded the design contract and is proceeding with design services. Gray and Osborne has been selected as the most qualified firm to complete this work. Finance has recommended soliciting for Request for Qualifications (RFQ) for this work.	
Next Critical Activities (dates):			
Next Council Actions (dates): Construction Acceptance (10/22)			

Project: Rainier View Covered Court (18-04)	Project Manager: Andrew Leach	Budget: \$970,000
Description: This project consists of renovating the basketball court at Rainier View Park. The court will be covered with a new roof to encourage use in all weather conditions and include ADA upgrades. The court will also be painted to accommodate basketball, volleyball and pickle ball courts. The City has received grant funding from RCO and Washington State's Local Community Project Program.		
Schedule/Milestones: ☒ Consultant Services Contract (10/21) ☐ Design Complete (12/22) ☐ Construction Contract Award (TBD) ☐ Construction Complete (12/23)	Status: The City is moving forward with the design of the project. The Consultant contract has been fully executed.	
Next Critical Activities (dates): Design Complete (12/22)		
Next Council Actions (dates): Construction Contract Award (TBD)		

Project: Sumner Tapps Highway Guardrail Upgrade (19-01)	Project Manager: Alisa O'Haver-Ayala	Budget: \$1,455,300
Finance: City Funds \$112,700, Federal HSIP Funds \$448,600, Federal STP Funds \$749,000		
Description: Evaluate and construct upgrades to existing obsolete guardrail along Sumner-Tapps Highway, resurface Sumner-Tapps Highway		
Schedule/Milestones: ☒ Design Award (12/19) ☒ Design Complete (06/20) ☒ Obligate Construction (8/20) ☒ Award Construction Contract (11/20) ☒ Complete Resurfacing Construction (6/21) ☒ Advertise Guardrail Construction (10/21) ☒ Award Guardrail Construction (1/22) ☒ Complete Guardrail Construction (5/22) ☐ Project Acceptance (10/22)	Status: Guardrail relocation work is complete, project is in closeout. Contractor for Guardrail relocation is making good progress. Aerial utility relocations in the vicinity of the replaced guardrail are ongoing. Resurfacing project in closeout, Guardrail relocation begins in February. Guardrail project bid opening complete, award in January Resurfacing Punchlist in progress Resurfacing Construction Underway Resurfacing scheduled to begin in late April, weather permitting Project delayed until April 2021. Bids opened and came in underbudget. Guardrail portion of project in design. Funding secured for Phase 1 resurfacing construction. Resurfacing project will construct in 2020. Consultant kickoff in February. The survey fieldwork is complete. Consultant agreement at council. Consultant qualifications being evaluated. RFQ is out for advertisement. Funding has been obligated. Staff is working w/ WSDOT to obligate Design funds. Staff is preparing paperwork to add project to federal programming	
Next Critical Activities (dates):		
Next Council Actions (dates):		
Next Public Actions (dates):		

Project: Main St/Wood Ave Intersection Improvements (19-02)		Project Manager: Michael Kosa	Budget: \$209K (Design), \$250K (ROW), \$1.8M (Con.)
Finance: City funds \$1,864,000, Federal STP Funds \$405,000, \$225,000, \$1,330,000.			
Description: Develop design for replacing the obsolete signal and complete ADA upgrades to bring the intersection into compliance			
Schedule/Milestones: ☒ Design Award (10/19) ☒ Begin ROW Acquisition (09/20) ☒ 90% Design (5/21) ☒ Design Complete (6/22) ☒ Complete ROW Acquisition (6/22) ☒ Obligate Construction (8/22) ☒ Advertise for Construction (10/22) ☐ Contract Award (12/22) ☐ Complete Construction (9/23)		Status: Project is out for bid and the Construction Management Services Consultant has been selected. Project to be advertised for construction in October Additional federal funding acquired. WSDOT Review set being developed, 2 of 4 ROW acquisitions complete 90% Design at City for Review Beginning 90% design, ROW acquisition, City funding Construction phase in 2022 Internal review of 30% Design. Additional funding acquired for right of way acquisition phase. Project progressing toward 30% design. Project survey complete in November. Consultant agreement award at Council. Consultant selection completed. Developing consultant agreement. Staff is completing federal obligation paperwork.	
Next Critical Activities (dates): Contract Award (12/22)			
Next Council Actions (dates): Contract Award (12/22)			
Next Public Actions (dates):			

Project: Alder & Kincaid Utility Improvements (19-05)		Project Manager: Alisa O'Haver-Ayala	Budget: \$7,002,990
Description: Replacement of utilities in the Alder and Kincaid Right-of-Way in the vicinity of the Red Apple property. Necessary to replace aging infrastructure and support the town center plan redevelopment.			
Schedule/Milestones: ☒ Select Design Consultant (10/19) ☒ Award Final Design Contract (7/20) ☒ Bid Award (06/22) ☐ Construction Complete (06/23)		Status: Contractor is making progress on installation of waterline and water service connections in Kincaid Avenue, Academy Street, and Park Street. There are some material procurement challenges with the parts for the water service connections. Contractor is making progress on installation of the waterline in Kincaid Avenue, Academy Street, and Park Street. Contractor is approximately 12% complete at the end of September. City gave Notice to Proceed (NTP) to the contractor (Reed) on 8/8/22. Work is progressing on Kincaid Avenue between Main Street and Maple Street. Construction bids opened on 05/19. Pending award.	
Next Critical Activities (Dates): Substantial Completion (6/23)			
Next Council Actions (dates): Project Acceptance (TBD)			
Next Public Actions (dates):		Consultant is packaging phase 1 of the bid set plans/specs with the Academy Street Bike Lanes project for construction under the Town Center: Utility and Woonerf project. Design work has begun to incorporate Main Street Visioning streetscape components along with the Academy Street Bike Lanes within Alder and Kincaid around Heritage Park. Design development work has been completed and staff is recommending a final design contract for council approval. Request for Qualifications were received in August. Staff is working on finalizing the project extents before negotiating a scope and budget with the consultant. Project requirements are being compiled in advance of design consultant selection.	

Project: 160th Retrofit and Pervious Sidewalks (19-08)		Project Manager: Andrew Leach	Budget: \$450,000 (State and City funds)
Finance: Ecology and Complete Street Funds			
Description: Installing pervious sidewalks on 160 th that will fill in the sidewalk gap between the YMCA and main Street			
Schedule/Milestones: ☒ Selection of Design Consultant (09/19) ☒ Design Consultant Contract Award (03/20) ☒ Design Complete (3/22) ☒ Construction Contract Award (4/22) ☐ Construction Complete (11/22)		Status: Project is substantially complete. Construction has begun. Contractor has installed the storm line and is graded for curb and gutter. The project is awarded and awaiting start of construction. Plans have been approved by Ecology. The project will be going out to bid. The 100% plans have been submitted to Ecology for review. 90% Plans have been accepted by Ecology. The City is finalizing the 100% plans and will be sending them to Ecology for review before bidding the project for construction. The 90% design is with Ecology for Review. Design is 30% complete and moving forward to final design.	
Next Critical Activities (dates): Physical Completion (11/22)			
Next Council Actions (dates): Project Acceptance (1/23)			

Next Public Actions (dates): N/A	Starting project design. Grant agreement passed by Council. City is working on grant agreement with DOE. Staff is currently reviewing SOQs to select a design consultant for the project.
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Project: South Tank Seismic Retrofit (19-10)	Project Manager: Andrew Leach/Courtney Littrell	Budget: \$2,463,900
Description: Design and construction of seismic improvements to improve the resiliency of the south tank reservoir.		
Schedule/Milestones: ☒ Select Design Consultant (1/20) ☐ Bid Award (2/23) ☐ Construction Complete (5/23)	Status: Plans and specifications approved by Department of Health, seeking permission to advertise from FEMA A delay in the design was encountered due to damages to the facilities during the Sumner Grade Fire that prevent the tank from being drained. Design work resumed in March 2021.	
Next Critical Activities (Dates): Construction Contract Award (2/23)		
Next Council Actions (dates): Construction Contract Award (2/23)		
Next Public Actions (dates): N/A		

Project: LS #2 and #6 Control Panel Replacement (20-04)	Project Manager: Michael Kosa	Budget: \$1,010,000
Description: Design and installation of replacement control panels at lift stations #2 and #6		
Schedule/Milestones: ☒ Select Design Consultant (10/20) ☐ Bid Award (TBD) ☐ Construction Complete (TBD)	Status: Design is complete. Will advertise as staffing permits.	
Next Critical Activities (Dates):		
Next Council Actions (dates):		
Next Public Actions (dates): N/A		

Project: Rivergrove Community Pedestrian Bridge over SR 410 (20-07)		Project Manager: Andrew Leach	Budget: \$5,000,000
Finance: Sound Transit funds (\$452,000) (Design Only)			
Description: Construct a new pedestrian bridge over SR 410 at Sumner Ave to provide a non-motorized connection to the Rivergrove Neighborhood.			
Schedule/Milestones: ■ Grant Agreement Complete (06/20) ■ RFQ (06/20) ■ Consultant Agreement Award (12/20) ☐ Design Complete (12/24) ☐ Right of Way Acquisition Complete (12/22) ☐ Construction Complete (12/26)		Status: The 30% plans have been reviewed and approved by WSDOT. The 30% plans are complete and have been sent to WSDOT for approval. The Consultant is working towards 30% design of the project. Contract will be awarded at the December Council Meeting The City has completed consultant interviews and will be working with V+M Structural Design to execute a scope and fee. City has advertised a request for qualifications for a project design consultant.	
Next Critical Activities (dates): Consultant Design Supplement (12/22)			
Next Council Actions (dates): Consultant Design Supplement (12/22)			
Next Public Actions (dates):			

Project: Academy Street Bike Lanes (20-08)		Project Manager: Alisa O’Haver-Ayala	Budget: \$1,342,700
Finance: Sound Transit funds (\$875,000)			
Description: Develop an east-west bicycle corridor extending east from the Sumner Sound Transit Station to Wood Avenue.			
Schedule/Milestones: ■ Grant Agreement Complete (06/20) ■ RFQ (06/20) ■ Consultant Agreement Award (10/20) ■ Preliminary Design Complete (3/21) ■ Public Outreach (04/21) ■ Design Complete (4/22) ■ Construction Contract Award (06/22) □ Construction Complete (06/23)		Status: Contractor is making progress on installation of waterline and water service connections in Kincaid Avenue, Academy Street, and Park Street. There are some material procurement challenges with the parts for the water service connections. Contractor has completed the waterline installation on Academy Street between Kincaid and Alder. Water services connections are still to be completed. Contract awarded to Reed Construction. Notice to Proceed (NTP) issued on 8/8/22. Work has started on the Alder/Kincaid Utilities portion of the Town Center: Utilities & Woonerf project, Contractor has not started on Academy Street yet. Construction bids opened on 05/19. Pending award. Consultant is packaging bid set plans/specs with the Alder/Kincaid Utilities project for construction under the Town Center: Utility and Woonerf project. Public Engagement completing, consultant beginning Final Design Consultant beginning conceptual design phase City is evaluating consultant qualifications City has advertised a request for qualifications for a project design consultant.	
Next Critical Activities (dates): Substantial Completion (6/23)			
Next Council Actions (dates): Project Acceptance (TBD)			
Next Public Actions (dates):			

Project: Sidewalk Improvements (20-10)		Project Manager: Andrew Leach	Budget: \$1.7 million
Description: This project provides for the improvement of sidewalk and ADA curb ramps within the Sound Transit Focus Area and Rivergrove Area. The project also includes erosion control, installation of new hydrants, storm utilities and electrical conduit for future street lighting, as well as paving, all in accordance with the Contract Plans, the Contract Provisions, and the Standard Specifications.			
Schedule/Milestones: ☒ Consultant Services Contract (09/20) ☒ Design Complete (05/21) ☒ Construction Contract Award (06/21) ☐ Construction Complete (11/22)		Status: Project has reached substantial completion. Contractor is working on punchlist items. Contractor is steadily moving forward with sidewalk replacement. Contractor is almost complete with the sidewalk work in the Rivergrove Neighborhood. Contractor is currently working on Ryan Ave and Maple Street Construction is set to begin beginning of August Project is out to bid and the construct contract award will go to City Council in 06/21.	
Next Critical Activities (dates): Construction Complete (11/22)			
Next Council Actions (dates): Project Acceptance (2/23)			

Project: Treatment Facility Access Platforms (21-04)		Project Manager: Michael Kosa	Budget: \$135,000
Description: Installation of access platforms at the headworks screens and biosolids dryer.			
Schedule/Milestones: ☒ Select Design Consultant (5/21) ☐ Bid Award (11/22) ☐ Construction Complete (6/23)		Status: The bid package is being prepared to solicit for construction bids. Staff has reviewed 90% design drawings.	
Next Critical Activities (dates):			
Next Council Actions (dates): N/A			

Project: Aeration Control Upgrade (21-05)		Project Manager: Michael Kosa	Budget: \$135,000 (Seeking \$34,000 Energy Saving Grants)
Description: Reprogram the blower operation based on Ammonia levels for increased plant efficiency.			
Schedule/Milestones: ■ Select Design Consultant (7/22) □ Bid Award (TBD) □ Construction Complete (TBD)		Status: Grant agreement approved, acquiring equipment The City has identified approximately \$34,000 in energy grant funding available for this project. The design consultant is working on a design report and PSE energy savings grant application for the project.	
Next Critical Activities (dates):			
Next Council Actions (dates): N/A			

Project: ESN Salmon Creek Channel Realignment (21-08)		Project Manager: Michael Kosa	Budget: \$ 380,000 (City Storm Funds)
Description: Reconfigure Salmon Creek to new stream channel, modify fish exclusions, and rehab existing culvert under 60th St.			
Schedule/Milestones: ■ Consultant Agreement (6/21) ■ Design Complete (5/22) □ Construction Contract Award (6/22) □ Construction Complete (12/22)		Status: All bids rejected. Project being revised and will be re-bid in Fall 2022 for Summer 2023 construction. Project pending award Project design underway RFQ Process Completed, Consultant Selected, Design Agreement heading to Council	
Next Critical Activities (dates):			
Next Council Actions (dates):			

Project: Auto Lane Sewer Force Main Replacement (21-09)		Project Manager: Andrew Leach/Courtney Littrell	Budget: \$300,000
Description: Replace portions of the sewer force main extending from Auto Lane into 166th Avenue E.			
Schedule/Milestones: ■Select Design Consultant (6/21) □Bid Award (2/23) □Construction Complete (8/23)		Status: Project design is underway.	
Next Critical Activities (dates):			
Next Council Actions (dates): N/A			

Project: Sumner Tank Recoating (21-10)	Project Manager: Andrew Leach/Courtney Littrell	Budget: \$657,000
Description: Recoating of the Sumner Springs Reservoir.		
Schedule/Milestones: ☒ Select Design Consultant (6/21) ☒ Bid Award (10/22) ☐ Construction Complete (5/23)	Status: Construction contract Awarded to Coatings Unlimited. Work to begin in November 2022. Approved by department of health, pending advertisement 90% plans at Department of Health for Review	
Next Critical Activities (dates):		
Next Council Actions (dates): N/A		

Project: Maple St Ped Signal, Citywide Backplates (21-11)	Project Manager: Alisa O'Haver-Ayala	Budget: \$431,000 (95% federal, 5% city general fund)
Description: Upgrade Traffic Ave and Maple St Crosswalk to a pedestrian signal, install signal backplates.		
Schedule/Milestones: ☒ Programming (9/21) ☒ Consultant Services Agreement (3/22) ☐ Design Complete (9/22) ☐ Construction Contract Award (12/22) ☐ Construction Complete (9/23)	Status: Met with WSDOT for NEPA kick-off. Consultant is continuing design with preferred alternative. Consultant is beginning design. A consultant agreement will be at Council in March. Qualifications of firms are being evaluated. Interviews in January. RFQ advertised Project being programed and obligated to begin the design phase	
Next Critical Activities (dates):		
Next Council Actions (dates):		

Project: Biosolids Dryer Repair and Replacement (21-17)	Project Manager: Michael Kosa	Budget: TBD
Description: Biosolids Equipment Modernization at the Waste Water Treatment Facility.		
Schedule/Milestones: ☒ Consultant Services Agreement (2/22) ☐ Concept Report (12/22) ☐ Construction Contract Award (TBD) ☐ Construction Complete (TBD)	Status: Study in progress, draft study delayed due to non-responsive supplier estimates Dryer Repairs complete A committee consisting of Bonney Lake and Sumner staff have reviewed the Statements of Qualifications received and identified Gray & Osborne as the most qualified firm for this work.	
Next Critical Activities (dates):	A Request for Qualifications to solicit interest from firms in the development, design, and implementation of this project has been published. Project may include the Dryer, Dissolved Air Flotation Thickener, Polymer Feed Systems, and Waste Gas Burner.	
Next Council Actions (dates):		

Project: 24th / 142nd Intersection Treatment (21-20)		Project Manager: Robby Wright	Budget: \$171,100
Description: Add enhanced treatment to untreated storm drains on corner of 142nd and 24th.			
Schedule/Milestones: ■ Consultant Task Order (7/21) □ Construction Start (10/22) □ Construction Complete (2/23)		Status: KPG Task Order / contract request in progress. Scope amended to keep within total task order allowance. 30% Design Completed January 2022. 60% Design in progress	
Next Critical Activities (dates):			
Next Council Actions (dates):			

Project: 63rd St Ct Trunk Line Relocation (CIP 21-21)		Project Manager: Robby Wright	Budget: \$198,900
Description: Reroute existing storm main from under existing building.			
Schedule/Milestones: ■ Consultant Task Order (9/21) □ Design Complete (6/22) □ Construction Award (9/22) □ Construction Complete (3/23)		Status: Preliminary Design concept completed. Scope modified to include enhanced treatment. Utility potholing showed conflicts between proposed storm and existing sewer. Re-planning alternatives to minimize conflicts and disturbance.	
Next Critical Activities (dates):			
Next Council Actions (dates):			

Project: Salmon Creek Culvert Replacements CIP (22-06)		Project Manager: Robby Wright	Budget: \$609,700
Description: Replacement of remaining culverts on Salmon Creek, downstream of Main. Phase 1 will be design & permitting.			
Schedule/Milestones: ☐ Consultant Contract (6/23) ☐ Bid Award (3/23) ☐ Construction Complete (12/24)		Status: 125k Grant request put in to FCZD to help fund design	
Next Critical Activities (dates):			
Next Council Actions (dates):			

Small Works Projects

Project: Roadway Paint Line Application (W-21-07)	Project Manager: Andrew Leach	Budget: \$71,050 (General Funds) (2 years of painting)
Description: Complete annual paint pavement marking		
Schedule/Milestones: ■ Verify Painting Schedule (7/21) ■ Complete Construction (9/21) ■ Select Contractor (7/22) ■ Complete Construction (9/22)	Status: 2023 project scheduled for September County contacted the City to notify of paint shortage, City staff put the work out to bid for contractors, contractor selected and currently being scheduled County to Schedule work in Summer 2021	
Next Critical Activities (dates): N/A		

Project: Crack Seal Application (W-21-06)	Project Manager: Andrew Leach	Budget: \$125,000 (General Funds) (2 years of sealing)
Description: Complete crack sealing application to local roads to preserve roadway surfaces		
Schedule/Milestones: ■ 2021 Project Advertisement (7/21) ■ 2021 Select Contractor (8/21) ■ 2021 Construction Complete (10/21) ■ 2022 Project Advertisement (7/22) ■ 2022 Select Contractor (7/22) ■ 2022 Construction Complete (08/22)	Status: 2022 Work is complete. 2022 work has begun. C.R. Contracting is the low bidder. 2021 work is complete. The project is in the closeout process. Contractor is almost complete with the project. About 2 tons of material are left to be placed. The low bidder was Central Paving, LLC. They are beginning work on 9/1/2021 and expect to be with the project in two weeks. 2021 Project is out to bid. Project being set up. Work areas being identified.	
Next Critical Activities (dates):		
Next Council Actions (dates): N/A		

Project: Pavement Patching/Chip Seal	Project Manager: Andrew Leach	Budget: \$120,000 (General Funds)
Description: Complete pavement repairs by removing and replacing small sections of failed pavement to preserve roadway surfaces		
Schedule/Milestones: ☐ Project Advertisement () ☐ Select Contractor () ☐ Construction Complete ()	Status: Project pushed to 2023 Project being set up. Work areas being identified. Project may be pushed back to 2022.	
Next Critical Activities (dates):		
Next Council Actions (dates): N/A		

Other Projects

Project: Intelligent Transportation System (ITS) Study (21-07)		Project Manager: Michael Kosa	Budget: \$35,000 (General Fund)
Description: Analyze existing ITS system citywide, identify and prepare planning level cost estimates for system improvements.			
Schedule/Milestones: ☐ Study Begins (TBD) ☐ Study Complete (TBD)		Status: Project delayed due to staffing situation Consultant selected, negotiating scope for study	
Next Critical Activities (dates):			
Next Council Actions (dates):			