



The city is conducting this public meeting using a hybrid model. The public is welcome to attend tonight's meeting in-person at City Hall (Council Chambers), or virtually by using the meeting access link below.

<https://sumnerwa.gov.zoom.us/j/82283374110>

One tap mobile: US: +12532158782,,82283374110# or +16699006833,,82283374110#

Or Telephone: 1 253 215 8782

Webinar ID: 822 8337 4110

CALL TO ORDER

Pledge of Allegiance

Invocation

Roll Call: Bitetto, Brown, Cole, Hochstatter, Neuman, Reed and Stuard

The following items are distributed to Councilmembers in advance for study and review, and the recommended actions will be accepted in a single motion. Any item may be removed for further discussion if requested by a Councilmember.

CONSENT AGENDA

1. Resolution No. 1642 - Nisqually Jail Services Agreement
2. Resolution No. 1643 - Department of Commerce Grant Acceptance
3. Stewart Road Bridge Easement Acquisition: Potelco
4. Resolution No. 1644 - Grant Acceptance: Systemic Horizontal Curve and Roadway Safety Improvements
5. Approval of the regular council meeting and special study session minutes of October 17, 2022 and minutes from the 24th of October 2022, study session.
6. Main and Wood Intersection Improvements - Construction Management Services Agreement

PUBLIC HEARING

1. Ordinance No. 2838 - 2023/2024 Biennial Budget
2. Riverwalk Trail Vacation Public Hearing

REGULAR BUSINESS

1. Unfinished Business

- a. Resolution No. 1640 - Tax Year 2023 Ad Valorem Property Tax

2. Public Comment (Limit 3 minutes)

Members of the community who wish to give public comment are strongly encouraged to join the meeting via the ZOOM link or by telephone. If you are unable to join the meeting, please submit your public comment in writing via email to the City Clerk at Michellec@sumnerwa.gov no later than 5:30pm on the date of the meeting. Any written comments received will be read into the record and provided to the City Council. Please contact the City Clerk at 253-299-5590 with any questions.

3. New Business

- a. Appointment of Cultural Arts Commissioner (A. VanLierop)
- b. Resolution No. 1641 - Terminating Covid-19 Emergency Proclamation

4. Reports

- a. Council
- b. City Administrator
- c. Mayor

5. Executive Session

6. Adjournment

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact the City Clerk at (253) 299-5590, 24 hours in advance.

SUBJECT: Resolution No. 1642 - Nisqually Jail Services Agreement

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: Yes

ATTACHMENTS:

1. Resolution No. 1642 Nisqually Jail Services Agreement
2. Nisqually Jail Services Agreement - Sumner 2022

STAFF CONTACT: Brad Moericke, Police Chief

SUMMARY BACKGROUND:

The City is seeking to contract for additional detention options for the care and control of our misdemeanor defendants. Yakima County Corrections has elected not to renew our Jail Services Agreement effective December 31, 2022. The Nisqually Tribal Detention and Corrections Facility opened in 2014 and has the capacity to house 288 inmates and is utilized by tribal and non-tribal entities for corrections. Nisqually has the current present capacity to accept Sumner inmates.

COUNCIL COMMITTEE/STUDY SESSION: Public Safety
--

MEETING/STUDY SESSION DATE: 10/19/2022
--

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Adopt Resolution No.1642 authorizing the Mayor to enter into the attached Nisqually Jail Services Agreement.

**RESOLUTION NO. 1642
CITY OF SUMNER, WASHINGTON**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO A JAIL SERVICES
AGREEMENT FOR THE HOUSING OF INMATES IN THE NISQUALLY JAIL.**

WHEREAS, the City of Sumner desires to have available jail facilities to provide for the custody and care of our misdemeanor inmates; and

WHEREAS, the Nisqually Indian Tribe owns and operates a detention and corrections center located at 11702 Yelm Hwy SE in Olympia; and

WHEREAS, both the City of Sumner and the Nisqually Indian Tribe desire to enter into a jail services agreement for the housing of Sumner inmates; and

WHEREAS, such agreements are authorized pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, and the Cities and Counties Jails Act, Chapter 70.48 RCW; and

WHEREAS, the Sumner City Council Public Safety Committee recommended approving this resolution during their committee meeting on October 19, 2022.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON
DOES RESOLVE AS FOLLOWS:**

Section 1. The Mayor is authorized to enter into the Jail Services Agreement providing for the housing of inmates in the Nisqually Detention and Corrections Center substantially in a form as approved by the City Attorney.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

APPROVED AND ADOPTED this 7th day of November 2022.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, CMC, City Clerk

City Attorney Andrea Marquez

NISQUALLY JAIL SERVICE AGREEMENT

THIS AGREEMENT is made and entered into on this 7th day of November 2022, by and between the Nisqually Indian Tribe, a Federally Recognized Indian Tribe, hereinafter referred to as "Nisqually" and the City of Sumner, hereinafter referred to as "Sumner." This agreement is for the housing of inmates of Sumner in the Nisqually Detention and Corrections Center hereinafter referred to as "jail" pursuant to Chapters 39.34 and 70.48 RCW.

THE PARTIES HEREBY AGREE as follows:

1. SERVICE. Nisqually shall care for prisoners placed in the custody of officers of the Nisqually Jail and cooperate with the City to arrange for video hearings. The term "prisoner" shall include any person arrested, sentenced by the court or held under authority of any law or ordinance of Sumner;
2. REFUSAL OF PRISONERS. The Nisqually Police Chief or the Nisqually Corrections Director shall have the right to refuse to accept custody if in their opinion the prisoner does not meet medical (or other) criteria for booking. The Nisqually Corrections Director may also refuse to accept custody of a prisoner if doing so would result in overcrowding of the jail, or health, safety or security risks. Nisqually similarly shall have no obligation to receive a Sumner prisoner into custody absent proper documentation providing a legal basis for confining the prisoner. Sumner shall immediately transport any prisoner that is refused booking off the Nisqually Reservation. The parties agree that dumping of inmates denied booking on or near the Nisqually Reservation shall be grounds for immediate for-cause termination of this Agreement.
3. CARE. "Care" shall mean to provide room and board; to provide for the prisoner's physical needs; to retain the prisoner in custody; and to supervise and maintain proper discipline and control. In addition, prisoners housed pursuant to this Agreement shall be subject to the same rules and regulations required of other prisoners housed in the Nisqually Jail. Such rules and regulations shall comport with Washington state law, and federal law regarding issues of civil rights and due process of prisoners.
4. DURATION OF CONTRACT. The of this agreement shall be for five (5) years, beginning December 1, 2022, which term shall automatically extend for no more than two (2) additional five (5) year terms absent written notice provided in writing at least six months prior to the expiration of the current term. The agreement may be terminated without cause by either party by providing the other party with sixty (60) days written notice. Notice shall be deemed proper when provided to:

Jail Services Agreement

Between Nisqually and _____ Page 1

Nisqually

Sumner:
Chief of Police
1104 Maple Street
Sumner, WA 98390

Nisqually:
Chief Executive Officer
Nisqually Indian Tribe
4820 She-Nah-Num Dr. S.E.
Olympia, WA 98513

5. RELEASE. Prisoners will only be released when they have served their full time unless release is authorized by any other provision of this Agreement or is ordered by a court of competent jurisdiction.
6. NO GUARANTEED MINIMUM BED SPACE. Nisqually does not guarantee bed space. Bed space will be provided on a space-available basis. Nisqually shall have sole and unfettered discretion in determining whether or not space is available. Sumner shall immediately transport any prisoner denied booking off the Nisqually Reservation. Dumping of inmates on or near the Nisqually Reservation shall be grounds for immediate termination of this Agreement.
7. RATE/PAYMENT. shall pay to Nisqually the amount of \$130.00 per day (Basic Inmate Rate) per inmate for care. A "day" is the twenty-four hour period beginning at 12:00 a.m. and ending at 11:59 p.m. in the Pacific Time Zone. Basic Inmate Rate will increase by 5% annually on January 1. Sumner shall pay such invoices within 30 days of receipt. Interest at the rate of 12% per annum shall be charged on all past due accounts. Without prejudice to any other contract rights available to it, if Sumner does not pay the invoice within Sixty (60) days of receipt of invoice, Nisqually, acting through its Police Chief, will not accept prisoners until the delinquent amount is paid in full.
8. MEDICAL CARE. Each party shall be responsible for the medical care and medical expenses of prisoners housed pursuant to this agreement as listed in Exhibit A, attached hereto, and incorporated herein; provided that if the prisoner has his or her own medical coverage, Nisqually will coordinate with Sumner so that such insurance may be utilized. In the event that a prisoner requests non-urgent medical care, Nisqually shall contact Sumner for approval. Sumner shall provide Nisqually with the names and telephone numbers of designated contact people who shall be available

Jail Services Agreement

Between Nisqually and _____ Page 2

Nisqually

on a twenty-four hour basis. Failure of Sumner to approve medical care shall relieve Nisqually of liability to Sumner for any injury resulting therefrom. In the event that Nisqually deems a prisoner to be in need of urgent or emergency care, Nisqually shall make the best efforts to contact Sumner, but may take any action it deems necessary to provide the prisoner with the needed care without obtaining prior approval, and said action(s) shall not affect Sumner's responsibility for paying for such medical care as required by this Agreement. Sumner shall reimburse Nisqually promptly for all medical expenses incurred by Nisqually for services that are the responsibility of Sumner under Exhibit A, "Medical Expenses."

9. TRANSPORTATION. Sumner shall be solely responsible for furnishing transportation for prisoners housed pursuant to this Agreement. Sumner may request that Nisqually provide necessary transportation and Nisqually shall make best efforts to provide such transportation, subject to staff availability, but shall not be obligated to provide such transportation. Sumner shall reimburse Nisqually for costs incurred for transportation. Such costs shall include mileage at the rate of \$1.00 per mile, plus labor and overhead (0.5 x labor). Nisqually shall not transport any prisoner without the express agreement of Sumner unless such transportation is required by a court order or because of a medical emergency.
10. CUSTODY TRANSFER. Officers of Sumner placing a prisoner in custody of Nisqually will be required to remain in the immediate presence of the prisoner at all times until relieved of custody by Nisqually Corrections Staff. Booking out and/or release of Sumner's prisoners shall be the responsibility of Sumner Officers. Sumner shall immediately transport any prisoner that is refused booking off the Nisqually Reservation. The parties agree that dumping of inmates denied booking on or near the Nisqually Reservation shall be grounds for immediate for-cause termination of this Agreement.
11. CITY ACCESS TO PRISONERS. All Sumner police officers and investigators shall have the right to interview a prisoner inside the confines of the Nisqually Jail subject only to necessary security rules. Interview rooms will be made available to Sumner police officers in equal priority with those of any other department, including the Nisqually law enforcement personnel.
12. RELEASE OF SUMNER PRISONERS FROM NISQUALLY. No Sumner Prisoner confined in the Nisqually Jail shall be removed therefrom except:
 - a. When requested by Sumner Police Department in writing;
 - b. By Order of the Sumner Municipal Court in those matters in which they have jurisdiction, or upon Order of the Thurston County

District Court or the Thurston County Superior Court in those matters in which said courts have jurisdiction;

- c. For appearance in the court in which a Sumner prisoner is charged;
- d. In compliance with a writ of habeas corpus;
- e. For interviews by the Sumner prosecuting attorney, Sumner appointed public defender, or member of the Sumner Police Department;
- f. If the prisoner has served his sentence or the charge pending against prisoner has been dismissed or bail or other recognizance has been posted as required by the courts.

13. INDEMNIFICATION. Sumner shall protect, defend, save harmless and indemnify Nisqually, its officers, agents and employees, from and against all claims, suits and actions arising from intentional or negligent acts or omissions of Sumner in performance of this Agreement. Sumner's indemnification obligation shall also extend to all claims, suits and actions relating to the medical care of prisoners housed under this Agreement which result from the failure of Sumner to approve such care or for any reason other than injuries and harm resulting from the negligent or intentional acts or omissions of Nisqually or its officers.

14. NOTICE OF CLAIMS. In the event that a claim or lawsuit is brought against Sumner or Nisqually arising from or related to this Agreement, the party shall promptly notify the other party of said claim or lawsuit.

15. INSURANCE. Each party shall obtain and maintain occurrence based insurance that provides liability coverage in the minimum liability limits of ten Million Dollars (\$10,000,000.00) per occurrence and ten Million Dollars (\$10,000,000.00) in the aggregate for its conduct in creating liability exposure related to the confinement of inmates, including general liability, errors and omissions, auto liability and police professional liability. The insurance policy(ies) shall provide coverage for any liability occurrence during the policy period, regardless of when any claim or lawsuit is filed. Further, Sumner will name the Nisqually Indian Tribe, its officers and employees as Additional Insureds, for any acts or omissions by Sumner creating liability or exposure in the performance of this Agreement. Nisqually will similarly list Sumner as an Additional Insured.

15.1 CERTIFICATE OF INSURANCE. Sumner agrees to provide Nisqually with evidence of insurance coverage in the form of a certificate from a solvent insurance provider confirming coverage from a solvent insurance pool which is sufficient to

address the insurance obligations set forth above. A copy of the certificate shall be provided annually and for the duration of this agreement.

16. CHOICE OF LAW. This Agreement shall be interpreted under the laws of the state of Washington.
17. DISPUTE RESOLUTION. If either party disputes any portion of an invoice, they will provide the other party written notice within thirty (30) days. The notice shall detail the amount in question and the grounds for withholding all or a portion of the amount billed or any other basis for the dispute. Authorized representatives of each party shall attempt to resolve the dispute by negotiation within thirty days of notification. If such negotiation is unsuccessful the parties shall apply to Judicial arbitration and Mediation Service (JAMS) or such other alternate dispute resolution as the parties agree, for the appointment of an arbitrator whose decision shall be final and binding on the parties. Each party shall be responsible for paying one-half of the arbitrator's fees. Each party will bear their own costs and legal fees. The arbitrator shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and enforced. This dispute resolution procedure shall only be available for disputes over amounts due for services provided under this agreement.
18. CONSENT TO JURISDICTION AND TRIBE'S EXPRESS LIMITED WAIVER OF SOVEREIGN IMMUNITY

The Nisqually Indian Tribe is a Sovereign Nation with all immunities attendant thereto WITH THE FOLLOWING EXCEPTION THAT THE PARTIES TO THIS AGREEMENT HAVE SPECIFICALLY NEGOTIATED:

The Nisqually Indian Tribe does hereby expressly consent to jurisdiction of the courts of the State of Washington as having exclusive jurisdiction to hear, resolve and enter final judgment on any legal dispute by and between the parties to this agreement and/or their affected officers, officials, and employees, concerning the interpretation of this agreement, enforcement of any of its provisions, and any complaints or counterclaims for monetary damages and/or equitable relief for any alleged or actual breach of any provision of this agreement and/or for the enforcement of any such final judgment entered by any court of the State of Washington regarding such matters.

For this limited purpose only, the Nisqually Indian Tribe does hereby expressly waive its sovereign immunity from suit or defenses in the courts of the State of Washington for any such legal claim or complaint for the interpretation and/or enforcement of this agreement, and/or for any complaints or counterclaims for

monetary damages or equitable relief for any breach of this agreement, and/or for the enforcement of any such final judgment entered by any court of the State of Washington regarding such matters.

19. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is made for the sole benefit of Nisqually and Sumner, and no other person or entity shall have any right, benefit, or interest under or because of this Agreement. No other parties are intended to be, or shall be determined to be, direct or incidental beneficiaries of this Agreement.
20. **NO WAIVER.** The failure to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provisions. Further, any express waiver by any party with respect to any breach of any provision hereunder by any other party shall not constitute a waiver of such party's right to thereafter fully enforce each and every provision of this Agreement.
21. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the Parties and may be changed only by an agreement in writing signed by the Parties.
22. **INVALID PROVISIONS.** Should any provisions of this Agreement be held invalid, the remainder of the Agreement shall remain in effect.

[THIS SPACE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on this date, the
____ day of _____, 2022.

CITY OF SUMNER:

NISQUALLY TRIBE

Kathy Hayden, Mayor

CEO NISQUALLY TRIBE

ATTEST:

Michelle Converse, City Clerk

APPROVED AS TO FORM:

Andrea Marquez, City Attorney

EXHIBIT A
MEDICAL EXPENSES

NISQUALLY TRIBE SHALL BE RESPONSIBLE FOR:

- Initial Screening - Intake Screening
- Nurse Sick Call
- Physician Sick Call
- Physical if housed longer than 14 days
- Routine lab work that can be completed in the facility
- Routine medications, other than biologicals / non-formulary medications
- Mental health assessments and basic services that can be provided in-facility

CITY OF SUMNER SHALL BE RESPONSIBLE FOR:

- Pre-booking medical
- Urgent Care Facility Visits
- Emergency Room Visits
- Hospitalizations, including the cost of security provided by Nisqually Personnel. Agency will reimburse Nisqually for each attending officer at the time-and-one-half overtime rate of \$48.50 per hour.
- Non-Formulary / Biological Medications
- Ultrasounds
- Ambulance Services
- Body Cavity Collection of Evidence / Searches
- OB/GYN Care / Prenatal Care
- Vision
- Dental
- Mental Health
- Long Term Care
- Auxiliary lab work and X-Rays
- Other Specialty and all services provided outside the facility

SUBJECT: Resolution No. 1643 - Department of Commerce Grant Acceptance

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1643 - Department of Commerce Grant Acceptance
2. Commerce Letter of Award to Sumner

STAFF CONTACT: Ann Siegenthaler, Senior Planner

SUMMARY BACKGROUND:

The City of Sumner is required by RCW 36.70A.130(5)(a) to review and, if needed, revise its comprehensive plan and development regulations by December 31, 2024, to ensure they comply with the Growth Management Act (GMA). The Washington State Department of Commerce has made available a \$125,000 grant to assist in completing this update work. This funding is reserved for the City as a non-competitive formula grant. Due to the state biennial split, one-half of this funding, or \$62,500 is available to reimburse related periodic update project costs from July 1, 2022 to June 30, 2023 and the second half of the funding will be available beginning July 1, 2023 to December 2024. Commerce will sign a grant agreement with the City this fall. All related GMA update project costs incurred by the City, beginning July 1, 2022, will be eligible for reimbursement.

COUNCIL COMMITTEE/STUDY SESSION: CD Committee

MEETING/STUDY SESSION DATE: 10/26/2022

COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Approve Resolution No. 1643 - authorizing the Mayor to execute an agreement with the Department of Commerce accepting \$125,000 in grant funding in a form as approved by the City Attorney.

**RESOLUTION NO. 1643
CITY OF SUMNER, WASHINGTON**

**A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING A
GRANT FROM THE WASHINGTON STATE DEPARTMENT OF COMMERCE.**

WHEREAS, the Washington State Growth Management Act requires that the City of Sumner complete a Periodic Update to the City's Comprehensive Plan and other related plans by December 31, 2024; and

WHEREAS, to assist in the costs to the City for the mandatory update to the Comprehensive Plan the Department of Commerce will be providing a grant in the amount of \$125,000 to the City; and

WHEREAS, the City received an Award Letter for this non-competitive grant on July 18, 2022 from the Department of Commerce; and

WHEREAS, City Council acceptance of the grant and authorization for the Mayor to execute a grant agreement is required by law; and

WHEREAS, it is in the City's interests to accept the grant funds and enter into any necessary grant agreements regarding the same.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON:

Section 1. That the City Council of the City of Sumner, Washington, does hereby accept the \$125,00 grant and authorizes the Mayor to execute any necessary funding agreements, and any and all documents necessary to carry out and effectuate the grant acceptance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Effective Date. This resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED AND APPROVED this _____ day of _____, 2022.

Kathy Hayden, Mayor

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

July 18, 2022

The Honorable Kathy Hayden
Mayor of Sumner
1104 Maple Street
Sumner, Washington 98390

RE: 2024 Growth Management Act Periodic Update Grants

Dear Mayor Hayden:

The City of Sumner is required by RCW 36.70A.130(5)(a) to review and, if needed, revise its comprehensive plan and development regulations by June 30, 2024, to ensure they comply with the Growth Management Act (GMA).

We are pleased to inform you that, based on your population size, that \$125,000 has been reserved for the City of Sumner as a grant to assist in completing your update work. This funding is reserved for the city as a non-competitive formula grant. Due to the state biennial split, one-half of this funding, or \$62,500 is available to reimburse related periodic update project costs from July 1, 2022 to June 30, 2023. Commerce will sign a grant agreement with you by this fall. All related GMA update project costs incurred by your jurisdiction, beginning July 1, 2022, will be eligible for reimbursement. Therefore, you will not need to delay work on the update grant until the contract is signed.

In addition to this financial assistance, Growth Management Services will continue to provide technical assistance for you during this periodic update process, until your scheduled update deadline, and our professional senior planners are ready to assist you with any questions. Please feel free to contact your assigned senior planner with any questions.

Your first grant deliverable will be the completion and submittal of the periodic update checklist, which we provide for review for your comprehensive plan and development regulation. You may find a copy of the checklist and instructions on our webpage here:

<https://www.commerce.wa.gov/serving-communities/growth-management/periodic-update/>

In order to receive this funding, please complete the GMA Update Grant Application materials. These materials are located on the Growth Management Services grants webpage located at

<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-grants/>

We request application materials please be returned by **September 30, 2022**. As soon we receive your submitted application, we will begin preparing your contract and negotiate your final scopes of work.

If you have questions regarding this grant program or receiving technical assistance regarding your update, please contact Keri Sallee, at (360) 725-3064, or keri.sallee@commerce.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Andersen". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Dave Andersen, AICP
Managing Director, Growth Management Services

cc: Ryan Windish

SUBJECT: Stewart Road Bridge Easement Acquisition: Potelco

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$200,000

Within Budget Allocation: Yes

ATTACHMENTS:

1. Easement Documents (Redacted)
-

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

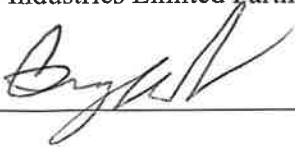
THE GRANTOR, Potelco Industries Limited Partnership, a Washington Limited Partnership, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue to us therefrom, do by these presents grant and convey to City 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.

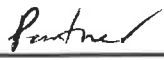
It is also understood and agreed by the property owner that the City shall not be responsible for replacing or restoring any structures, fences, retaining walls, shrubbery, hedges, landscaping or any other items found within the described easement after working in this area and shall hold the City harmless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



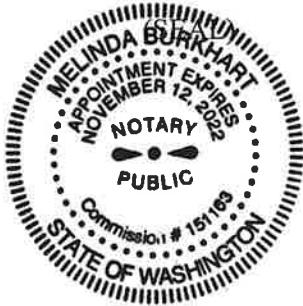
By: Gary Tucci

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

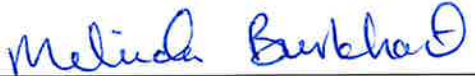
Date

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.





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).

Utility Easement for transfer.docx

1 of 4

DATED this 11th day of October, 2022.

Potelco Industries Limited Partnership

[Signature]

By: Gary Tucci

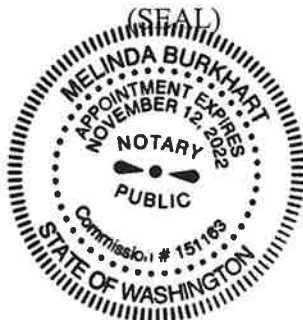
It's: [Signature]

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

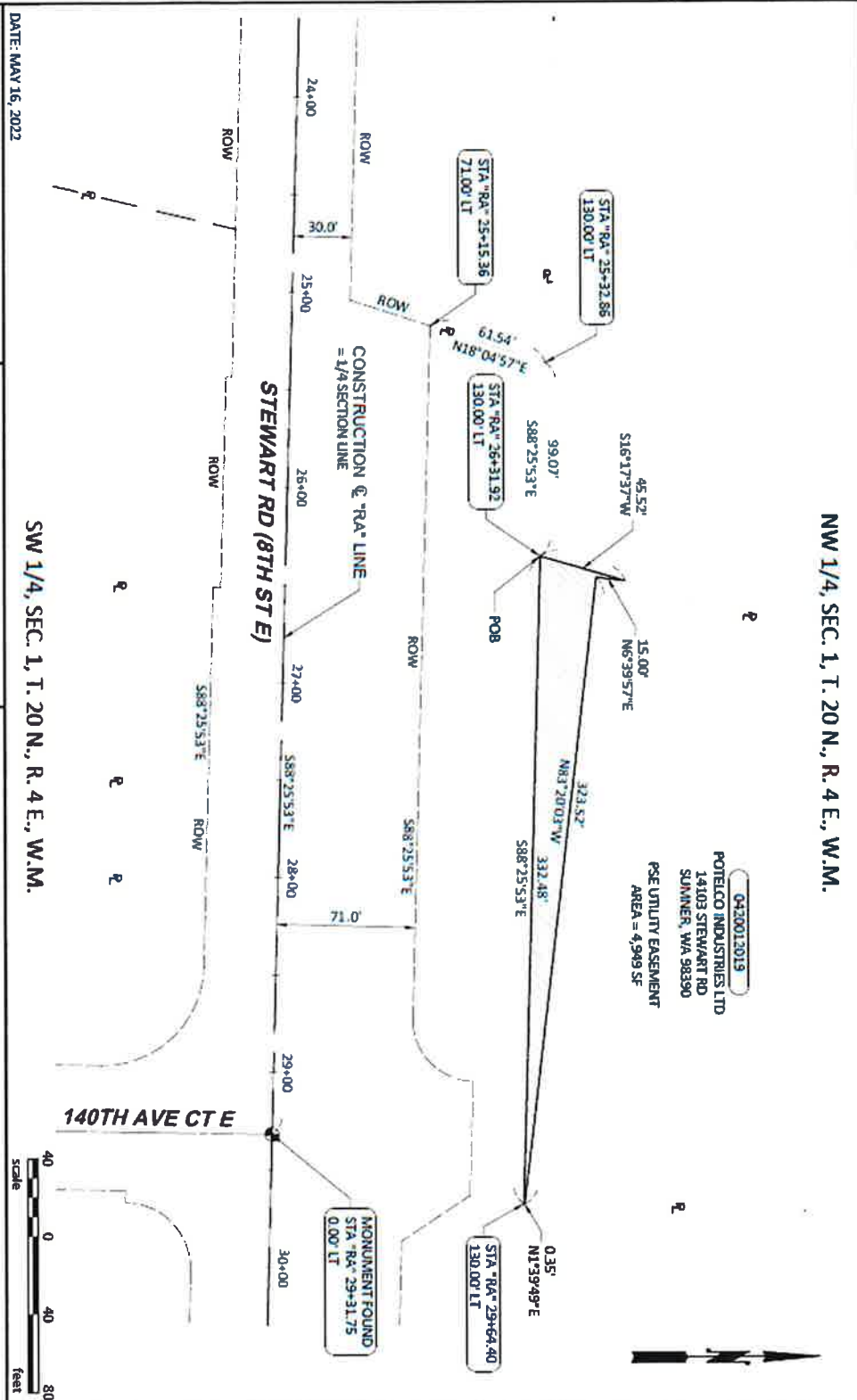
THAT PORTION OF THE SE 1/4 OF THE NW 1/4 OF SECTION 01, TOWNSHIP 20 NORTH, RANGE 04 EAST, W.M., PIERCE COUNTY, WASHINGTON LYING WITHIN THE RIGHT-OF-WAY OF STEWART RD SE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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.

By: Gary Friel
Its: Robert

Mike Dahlem
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 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.



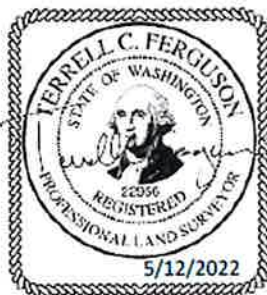
Melinda Burkhardt

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
		By: Gary Tucci Its: Governor	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			
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	TOTAL AMOUNT PAID \$ 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. <i>Gray Tucci</i>		
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 ☐ 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. [Redacted]		Requester's name and address (optional)
6 City, state, and ZIP code <i>Payallup, WA 98374</i>		
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								
[Redacted]								
or								
Employer identification number								

Part II Certification

Under penalties of perjury, I certify that:

- 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
- 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
- I am a U.S. citizen or other U.S. person (defined below); and
- 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 ► <i>[Signature]</i>	Date ► <i>10/11/22</i>
-----------	---	------------------------

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: Resolution No. 1644 - Grant Acceptance: Systemic Horizontal Curve and Roadway Safety Improvements

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1644 - Grant Acceptance: Systemic Horizontal Curve and Roadway Safety Improvements
2. 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 to adopt Resolution No.1644; 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," substantially in a form as approved by the City Attorney.

RESOLUTION NO. 1644

CITY OF SUMNER, WASHINGTON

**A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING A
GRANT FROM FHWA'S HIGHWAY SAFETY IMPROVEMENT PROGRAM**

WHEREAS, The Highway Safety Improvement Program (HSIP) is a core Federal-aid program with the purpose to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned roads and roads on tribal land; and

WHEREAS, to help to reduce the severity and frequency of crashes in roadway curves and lane departures, the City of Sumner applied for HSIP funds; and

WHEREAS, on September 13, 2022 the City was awarded \$903,000 for roadway systemic horizontal curve and roadway departure safety improvements; and

WHEREAS, City Council acceptance of the grant and authorization for the Mayor to execute a grant agreement is required by law; and

WHEREAS, it is in the City's interests to accept the grant funds and enter into any necessary grant agreements regarding the same.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF SUMNER, WASHINGTON:**

Section 1. That the City Council of the City of Sumner, Washington, does hereby accept the Highway Safety and Improvement Program grant and authorizes the Mayor to execute any necessary funding agreements, and any and all documents necessary to carry out and effectuate the grant acceptance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Effective Date. This resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED AND APPROVED this _____.

Kathy Hayden, Mayor

Approved as to form:

Attest:

Michelle Converse, City Clerk

Andrea J. Marquez, 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

SUBJECT: Approval of the regular council meeting and special study session minutes of October 17, 2022 and minutes from the 24th of October 2022, study session.

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. October 17, 2022 Regular Council Meeting Minutes
2. October 17, 2022 Special Study Session Minutes
3. October 24, 2022 Study Session Minutes

STAFF CONTACT: Michelle Converse, City Clerk

SUMMARY BACKGROUND:

Minutes from the previous meetings.

COUNCIL COMMITTEE/STUDY SESSION: MEETING/STUDY SESSION DATE: COMMITTEE RECOMMENDATION:
--

STAFF RECOMMENDATIONS/MOTION:

Approve as written.

CALL TO ORDER

Pledge of Allegiance

Invocation

Roll Call: Bitetto, Brown, Cole (arrived at 6:09pm), Hochstatter, Neuman, Reed and Stuard

COUNCILMEMBER REED WAS ABSENT.

MOVED BY HOCHSTATTER SECONDED BY NEUMAN TO EXCUSE COUNCILMEMBER REED FROM TONIGHT'S MEETING.

CONSENT AGENDA

MOVED BY HOCHSTATTER SECONDED BY BITETTO TO APPROVE THE CONSENT AGENDA CONSISTING OF THE FOLLOWING:

1. Stormwater Capacity Grant Acceptance
2. Sumner Springs Reservoir Recoat - Construction Contract Award
3. Town Center : Utility & Woonerf - PSE Agreement Schedule 74 Design Work
4. Town Center : Main and Wood PSE Agreement: Schedule 74 Design Work
5. Resolution No. 1639 - Setting Public Hearing Riverwalk Trail Vacation
6. Purchase & Sale Agreement - Nordyke Acquisition: 16602 64th ST E
7. Approval of the regular council meeting minutes from October 3, 2022, special study session of October 3, 2022 and October 10, 2022 study session

PASSED BY VOICE VOTE.

PUBLIC HEARING

1. Public Hearing: Resolution No. 1640 - Tax Year 2023 Ad Valorem Property Tax
MAYOR HAYDEN OPENED THE PUBLIC HEARING AT 6:04PM.

Chief Financial Officer Kassandra Raymond addressed the council.

The City Clerk received eight comments from the following opposed to the suggested increase: Andy Elfers, Bertie Enslow, Jody Howell, Linda Melton, Lyle Melton, Samantha Bianco, Susan and Benjamin Mendoza and Susan Atkinson. Their comments were not read into the record but are attached to these minutes.

The following citizens were at the meeting and spoke in opposition of the Resolution:

Ken Colon, Kincaid Avenue

Pam Johnson, Main Street

Dave Baker, Alder Avenue

With no additional comments from the public, Mayor Hayden closed the hearing at 6:22pm.

REGULAR BUSINESS

1. Unfinished Business

There was no Unfinished Business tonight.

2. Public Comment

No Public Comment tonight.

3. New Business

a. Pierce County Regional Council Representative Selection

MOVED BY HOCHSTATTER SECONDED BY BITETTO TO SELECT A SUMNER REPRESENTATIVE AND ALTERNATE(S) (IF NECESSARY) FOR THE PIERCE COUNTY REGIONAL COUNCIL.

City Administrator Jason Wilson addressed the Council.

DEPUTY MAYOR HOCHSTATTER NOMINATED COUNCILMEMBER NEUMAN. COUNCILMEMBER COLE SECONDED THE NOMINATION.

City Administrator Wilson clarified the process stating the nominations wouldn't need a motion and a second, as Deputy Mayor Hochstatter's original motion opened the topic up to debate, if there was no one else interested, they could close the debate.

PASSED 5-1 WITH COUNCILMEMBERS BITETTO, COLE, HOCHSTATTER, NEUMAN AND STUARD VOTING YES AND COUNCILMEMBER BROWN VOTING NO.

City Administrator Wilson then reminded the Council of the need for an alternate should the representative be unable to attend the meetings. DEPUTY HOCHSTATTER VOLUNTEERED TO BE THE ALTERNATE.

PASSED 5-1 WITH COUNCILMEMBERS BITETTO, COLE, HOCHSTATTER, NEUMAN AND STUARD VOTING YES AND COUNCILMEMBER BROWN VOTING NO.

b. Council Committee Selection

MOVED BY DEPUTY MAYOR HOCHSTATTER SECONDED BY STUARD TO CHOOSE REPLACEMENT COMMITTEE ASSIGNMENTS FOR THE REMAINDER OF THE 2022-2023 TERM.

City Administrator Jason Wilson address council.

DEPUTY MAYOR HOCHSTATTER SUGGESTED CURRENT COMMITTEE ALTERNATES MOVE INTO THE PERMANENT MEMBER POSITION. COUNCILMEMBER BROWN DECLINED. COUNCILMEMBER NEUMAN VOLUNTEERED TO BE THE COUNCILMEMBER ON THE PUBLIC SAFETY COMMITTEE.

COUNCILMEMBER STUARD WILL BE A PERMANENT MEMBER OF THE FINANCE & PERSONNEL COMMITTEE, COUNCILMEMBER NEUMAN WILL BECOME A MEMBER OF THE PUBLIC SAFETY

COMMITTEE AND COUNCILMEMBER BITETTO WILL BECOME A PERMANENT MEMBER OF THE AMERICAN RESCUE PLAN COMMITTEE.

PASSED BY ROLL CALL VOTE.

c. **Ordinance No. 2836 – 2023 Utility Rates**

MOVED BY STUARD SECONDED BY HOCHSTATTER TO ADOPT ORDINANCE NO. 2836 - 2023 WATER, SEWER, AND STORMWATER UTILITY RATE ADJUSTMENTS AND AUTHORIZE STAFF TO UPDATE THE SUMNER UTILITY RATE AND FEE SCHEDULE ACCORDINGLY.

Public Works Director Mike Dahlem addressed the Council.

Discussion ensued.

Ken Colon, Kincaid Avenue spoke against the item.

PASSED BY ROLL CALL VOTE.

d. **Ordinance No. 2837 - Amending the 2021/2022 Biennial Budget**

MOVED BY BITETTO SECONDED BY HOCHSTATTER TO APPROVE ORDINANCE NO. 2837 AMENDING THE 2021/2022 BIENNIAL BUDGET.

Chief Financial Officer Kassandra Raymond addressed the Council.

PASSED BY ROLL CALL VOTE.

e. **Sumner Texaco Heritage Park Remediation - Consultant Services Amendment**

MOVED BY BITETTO SECONDED BY HOCHSTATTER TO APPROVE AN AMENDMENT TO PBS'S CONSULTANT SERVICES CONTRACT FOR THE SUMNER TEXACO HERITAGE PARK REMEDIATION (CIP 22-04), INCREASING THE CONTRACT AMOUNT BY \$122,222 TO A TOTAL AUTHORIZED AMOUNT NOT-TO-EXCEED \$226,995, AND AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE AMENDMENT, SUBSTANTIALLY IN A FORM AS APPROVED BY THE CITY ATTORNEY.

Associate City Engineer Alisa O'Javer-Ayala spoke to the item.

Discussion ensued.

Pam Johnson, Main Street and Ken Colon, Kincaid Avenue, both spoke in opposition of the project/amendment.

PASSED BY A ROLL CALL VOTE.

4. **Reports**

a. **Council**

Councilmember Neuman thanked the audience for their participation in tonight's meeting.

Councilmember Cole, Bitetto, and Deputy Mayor Hochstatter had no reports to night.

Councilmember Stuard also appreciates the public participation. He invited the public to attend the council's study

session, where they thoroughly review, ask questions, etc. all items that will be on upcoming regular council meetings. While comments from the public are not allowed at study session, it is a chance to better understand projects, and other items that are happening around Sumner prior to the regular council meeting.

Councilmember Brown commented on the amount of dog poop that he notices while he walks his dog – please clean up after your dog! He is sure these dogs aren’t walking themselves.

b. City Administrator

City Administrator Wilson reviewed the following items:

Upcoming Policy Issues:

- October 24th Study Session
 - 2024 Comprehensive Plan Amendments Cycle Introduction
 - 2023/24 Budget Review
 - Reserve Funds
 - General Fund Reserve (002)
 - Building Reserve (003)
 - REET (305) Fund
 - Special Revenue Funds:
 - 106 Tourism Tax Fund (recap from LTAC action)
 - 115 ARPA Fund
 - Fiduciary Funds:
 - 611 Firefighter’s Pension Fund
 - Property Tax Discussion
 - Budget Wrap Up – Final Questions/Discussion
 - Revisit Council Strategic Reserve for Suggestions
- November 7th Regular Council Meeting
 - 2023-2024 Biennial Budget Public Hearing
 - ROW Vacation for Riverwalk Trail Public Hearing
 - Resolution Terminating the Covid-19 Emergency Proclamation
 - Easement Agreements with Potelco for the Stewart Road Bridge
 - Dept of Commerce Grant Acceptance 2024 Comprehensive Plan
 - Nisqually Jail Services Agreement
 - Resolution setting the 2023 Ad Valorem Property Taxes

Personnel Issues: Hired Lucas Devore as an Entry Level Police Officer. Lucas will be attending the academy in November.

Policy Follow-Up: The Finance Department released \$50,132 in American Rescue Plan Act funds to support Utility Payment Assistance. All the Business Grant recipients have signed their agreements and the money has been distributed. All the recipients have expressed their sincere gratitude. Copies of their appreciation notes will be distributed to council.

c. Mayor

Mayor Hayden continued on Councilmember Stuards’ report. By the time we get to a council meeting, the information coming before the council has been reviewed at numerous study sessions and committees. They are studied to death. She did express her thanks for the public attending tonight’s meeting.

5. Executive Session

6. Adjournment

With no additional business before the council, Mayor Hayden adjourned the meeting at 7:05pm. Councilmembers concurred.

ATTEST:

Kathy Hayden, Mayor

Michelle Converse, CMC City Clerk

DRAFT



Mayor Hayden called to order the Special Sumner City Council Study Session of October 17, 2022, at 7:25pm.

Staff present: City Administrator Jason Wilson, City Attorney Andrea Marquez, Community Development Director Ryan Windish, Public Works Director Mike Dahlem, Administrative Services Director Jeff Steffens, Police Chief Brad Moericke, Chief Financial Officer Kassandra Raymond, and City Engineer Michael Kosa

Council present: Bitetto, Brown, Cole, Hochstatter, Neuman and Stuard

COUNCILMEMBER REED WAS ABSENT.

MOVED BY HOCHSTATTER SECONDED BY NEUMAN TO EXCUSE COUNCILMEMBER REED.

PASSED BY VOICE VOTE.

SPECIAL STUDY SESSION BUSINESS

1. 2023-24 Departmental Budget Presentations

ADJOURNMENT

With no further business before the Council, Mayor Hayden adjourned the meeting at 8:29pm. Councilmembers concurred.

Kathy Hayden, Mayor

Attest:

Michelle Converse, City Clerk



Mayor Hayden called to order the Sumner City Council Study Session of October 24, 2022, at 6:00pm.

Staff present: City Administrator Jason Wilson, City Attorney Andrea Marquez, Community Development Director Ryan Windish, Public Works Director Mike Dahlem, Administrative Services Director Jeff Steffens, Police Chief Brad Moericke, Chief Financial Officer Kassandra Raymond, and City Engineer Michael Kosa

Council present: Bitetto, Brown, Cole, Hochstatter, Neuman, Reed and Stuard

STUDY SESSION BUSINESS

1. 2024 Sumner Comprehensive Plan Update – Cycle Opening
2. 2023-24 Departmental Budget Reviews

ADJOURNMENT

With no further business before the Council, Mayor Hayden adjourned the meeting at 7:48pm. Councilmembers concurred.

Kathy Hayden, Mayor

Attest:

Michelle Converse, City Clerk

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 with 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 car 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: Ordinance No. 2838 - 2023/2024 Biennial Budget

CATEGORY: Public Hearings

BUDGET IMPACT:

Expenditure Required: Per Exhibit

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2838 - 2023/2024 Biennial Budget

STAFF CONTACT: Cassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:

Under Revised Code of Washington 35A.34, the City is required to hold both a preliminary and a final hearing on the budget. This is the first hearing, with the final hearing scheduled for December 5, 2022. Adoption of the 2023/2024 Biennial Budget is scheduled for December 5, 2022.

The 2023/2024 Biennial Budget has been made available to the Public via the City's official website and the City's Sumner Connects project pages.

The 2023/2024 Biennial Budget has been reviewed in City Council Study Session on September 12, 2022, September 19, 2022, September 26, 2022, October 3, 2022, October 10, 2022, October 17, 2022, and October 24, 2022. Additionally, a public hearing on ad valorem property tax revenue was held on October 17, 2022.

The 2023/2024 Biennial Budget for all budgeted funds includes \$216,925,099 in regular revenues and beginning fund balance, and \$216,925,099 in appropriated expenditures and ending fund balance.

COUNCIL COMMITTEE/STUDY SESSION: City Council Study Sessions and Special Study Sessions

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Conduct public hearing for the 2023/2024 Biennial Budget.

**ORDINANCE NO. 2838
CITY OF SUMNER, WASHINGTON**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, ADOPTING THE 2023-2024 BIENNIAL BUDGET.**

WHEREAS, State law, Chapter 35A.33 RCW, requires the City to adopt a budget and provides procedures for the filing of estimates, a preliminary budget, deliberations, public hearings, and final fixing of the budget; and

WHEREAS, a preliminary budget for the fiscal years 2023 through 2024 has been prepared and filed; and

WHEREAS, public hearings were conducted for the purpose of fixing the final budget; and

WHEREAS, the City Council has deliberated and made adjustments and changes, as necessary and proper.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON
DO ORDAIN AS FOLLOWS:**

Section 1. Adoption by Reference. The 2023-2024 Biennial Budget for the City of Sumner, covering the period from January 1, 2023 through December 31, 2024, with regular revenues and beginning fund balances of \$216,925,099 and expenditures and ending fund balance of \$216,925,099, is hereby adopted.

Section 2. Summary of Revenues and Expenditures. The 2023-2024 Biennial Budget sets forth totals of estimated revenues and expenditures by fund and is as follows:

		Beginning Fund		Revenues	Expenditures	Ending Fund
		Balance				Balance
Funds		<i>Adopted</i>		<i>Adopted</i>	<i>Adopted</i>	<i>Adopted</i>
General	001 General	\$ 13,438,000	\$	40,605,142	\$ 40,305,513	\$ 13,737,629
	002 General Fund Reserves	980,824		-	-	980,824
	003 Building Reserves	450,756		200,000	390,000	260,756
Spec. Rev.	103 Complete Streets	-		-	-	-
	105 Drug Enforcement	65,510		-	4,000	61,510
	106 Occupancy Tax Fund	262,600		205,000	338,156	129,444
	115 ARPA Fund	680,624		-	50,100	630,524
Debt Svc	200 Debt Service	2,570,000		465,800	496,100	2,539,700
	221 LID Guarantee	691,569		-	-	691,569
Capital	302 Sidewalk	412,457		530,000	880,000	62,457
	305 Real Estate Excise Tax	851,288		1,600,000	550,000	1,901,288
	310 Parks & Trails Capital Fund	423,721		4,868,061	5,131,106	160,676
	320 Street Capital Fund	7,709,379		17,364,200	24,625,588	447,991
	325 Facilities Capital Fund	2,926,457		515,000	565,000	2,876,457
Enterprise	401 Water	13,219,995		10,189,150	20,279,605	3,129,540
	402 Wastewater	9,286,248		15,566,163	21,270,227	3,582,184
	403 Utility Bond Reserves	1,731,342		-	-	1,731,342
	408 Stormwater	8,227,784		38,031,772	42,369,254	3,890,302
	410 Cemetery Operations	74,238		1,498,200	1,425,316	147,122
	415 Cemetery Development	208,994		300,000	300,000	208,994
	440 Animal Control	94,087		2,093,628	2,062,680	125,035
Internal Service	501 Unemployment Insurance	9,351		-	3,991	5,360
	550 Fleet Operations	94,835		1,498,570	1,551,411	41,994
	551 Technology Services	479,281		3,264,440	3,336,088	407,633
	555 Fleet Replacement	1,942,959		2,126,935	1,770,000	2,299,894
Fiduciary	601 Cemetery Endowment	1,545,873		33,000	-	1,578,873
	605 Development Impact Fees	6,898,068		500,000	998,833	6,399,235
	611 Firemen's Pension	29,798		164,000	160,000	33,798
Total All Funds		\$ 75,306,038	\$	141,619,061	\$ 168,862,969	\$ 48,062,130

Section 2. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance or the validity of its application to other person's circumstances.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. Effective Date. This Ordinance shall become effective five (5) days from and after its passage, approval, and publication as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 5th day of December, 2022.

Mayor Kathy Hayden

ATTEST:

City Clerk Michelle Converse, CMC

APPROVED AS TO FORM:

City Attorney Andrea Marquez

SUBJECT: Resolution No. 1639 - Setting Public Hearing for Riverwalk Trail Vacation**CATEGORY:** Public Hearings

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1639 - Setting Public Hearing for Riverwalk Trail Vacation
2. Riverwalk Trail Section Map (1)
3. Riverwalk Trail Easement Agreement

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

Back in 1993, a trail section adjacent to the Riverwalk Condominiums was dedicated to the City of Sumner as public right of way – please see attachment titled Trail Easement. Public right of way is essentially the granting of an exclusive easement to the public for so long as is necessary to serve a public purpose. The ‘trail’ sections that connect this stretch of right of way are all privately owned and/or are not open to the public given the nature of the underlying utility property (put another way, the City does not own or otherwise have a right to use any of the ‘trail’ sections that abut the one by Riverwalk Condominiums). In 2001, nearly a decade after this stretch of trail was dedicated to public use, the City and the Riverwalk Condominium Association entered into an agreement whereby the HOA took on the obligation to create an annual planting program and maintain responsibilities related to the landscaping and vegetation on and around the paved trail, and the City took on the responsibility to “maintain and repair paved walkway” in a condition that is safe for foot traffic. See attachment titled Riverwalk Native Growth Easement Agreement

Throughout the years since the 2001 agreement, in part due to turnover on both the HOA board/condominium ownership and changing City staff, there has been substantial confusion regarding each party’s role and maintenance responsibilities. In 2010, the City’s then Public Works Director wrote a letter to the HOA describing the City’s intention to remove the paved surface due to unsafe conditions caused by the failure to maintain the root systems of the trail-adjacent trees. Also, “private property” and “no trespassing” signage was installed by the HOA at some point, leading the public to believe the trail section is not open for their free use. That is problematic, as the City has been expending public money to maintain the paved surface, but unfortunately it is not being utilized by the public – rather it appears to be more heavily used by occupants/owners of the Riverwalk Condos. In recent conversations related to the future of the City’s trail system, the City determined that it is not the safest or most feasible option to continue the City’s trail system through that location to HWY 162 like was once anticipated. Instead, the City has shifted its focus and resources to designing a safe connection between the Sumner Link Trail system that ends at Traffic Avenue, over the river, connecting to Puyallup’s Riverwalk trail (to keep the trail systems contiguous, but also safe). The decision not to continue the trail system in your location leaves the City, and its users with an island of paved trail, without any public access to either side of it, leading to nowhere. The City, in communication with the HOA, has decided to vacate the landlocked trail section back to the HOA, reserving only a public access easement as required by the Shoreline Management Act (permit for HOA's development along the shoreline). The vacation will be free of charge given the complexities of the dual maintenance and management responsibilities outlined in the easement.

Pursuant to RCW 35.79.030, tonight's public hearing is an opportunity for the Council to hear from the public related to the proposed trail vacation. Any comments received in writing will be distributed to the Council prior to the hearing and will be part of the meeting minutes.

COUNCIL COMMITTEE/STUDY SESSION: Public Works MEETING/STUDY SESSION DATE: 10/4/2022 COMMITTEE RECOMMENDATION: Do-Pass
--

STAFF RECOMMENDATIONS/MOTION:

Hold required public hearing.

RESOLUTION NO. 1639

CITY OF SUMNER, WASHINGTON

A RESOLUTION declaring the intent of the City Council to fix the time and place for a public hearing to discuss vacating the public trail section running adjacent to the River Walk Condominium complex and along the Puyallup River, in the City of Sumner, Washington, as more particularly set forth herein.

WHEREAS, this is a Council-initiated effort to discuss the potential vacation of the public trail section described above; and

WHEREAS, the trail section is a dedicated public right-of-way, dedicated to the City by the Riverwalk Condominium Association at the time of development, but the section of trail does not connect to any other of the City's trail systems (landlocked from public access from either direction), and in an isolated section of paved trail that, due to its location, is not currently being accessed or utilized by the public as expected, and is no longer part of the City's future trail system expansions; and

WHEREAS, the City's maintenance of the paved trail section is expensive and is not providing the public as a whole with the benefit of that expenditure; and

WHEREAS, this trail section vacation is being pursued to enable the City to implement its trail system plan by expanding other sections of the trail adjacent to the River to provide a comparable, but more accessible and convenient trail system and access to the Puyallup River in another location in the City; and

WHEREAS, pursuant to RCW 35.79.030, the City Council now desires to set a time for discussing the option of vacating the unused trail section back to the River Walk Homeowners Association with reservation for a mandatory public access easement as required by the Shoreline Management Act;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON

Section 1. Intent to Vacate Trail Section. That it is the intent of the City Council to consider vacating the public trail section adjacent to the River Walk condominiums, and as depicted on the attached Exhibit A, which is attached hereto and made part hereof.

Section 2. Public Hearing Date/Time and Notice. That during the regular council meeting on November 7, 2022 at the hour of 6:00 p.m., at the City Hall, 1104 Maple Street, Sumner, Washington, is the time and place set for the public hearing regarding the above-described trail vacation, and that the City Clerk is hereby directed to post notices setting forth the time and place of said hearing as required by RCW 35.79.020, and as further required by RCW 35.79.035.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering;

or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. Effective Date. This resolution shall become effective immediately upon adoption.

ADOPTED AND APPROVED this 17th day of October, 2022.

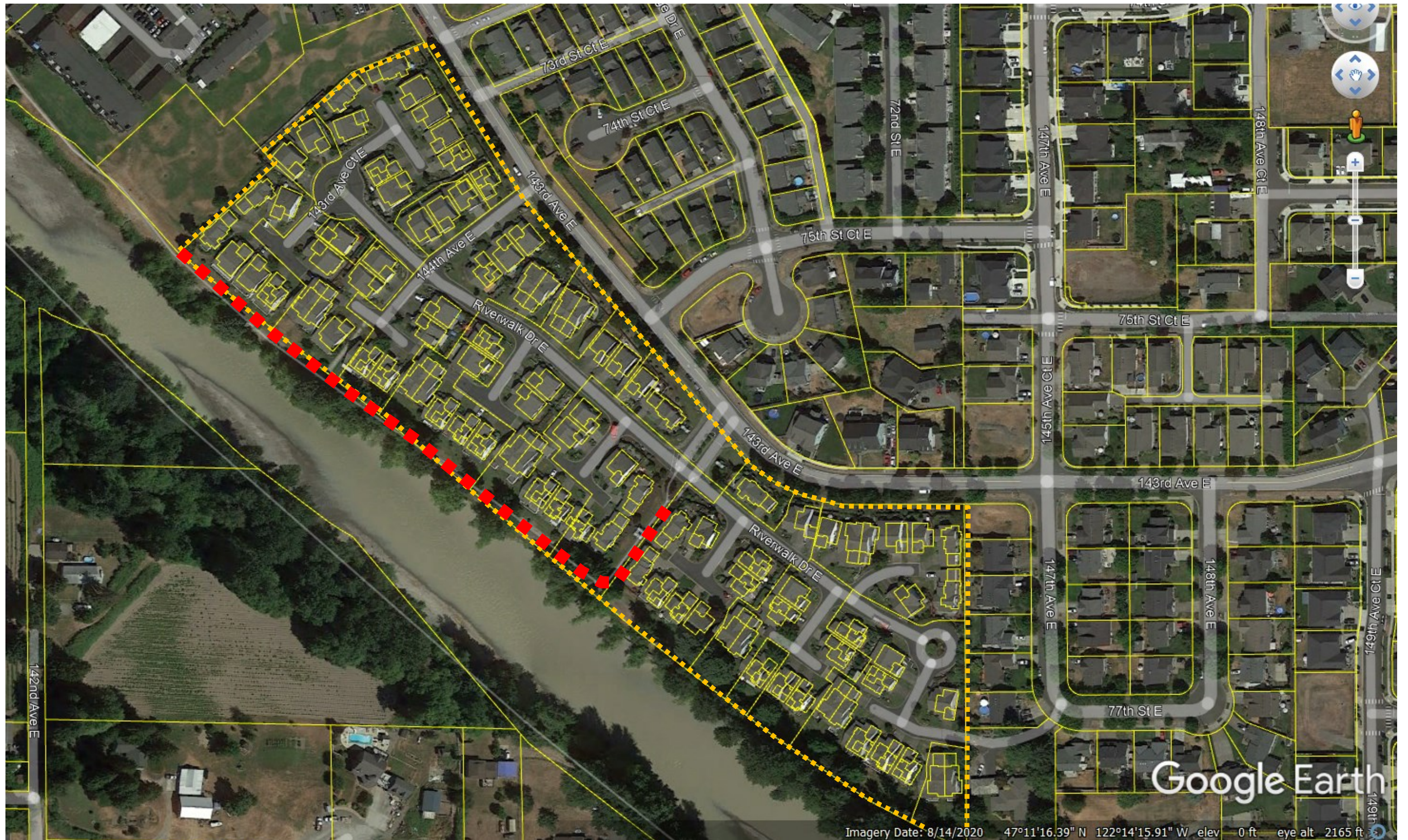
Kathy Hayden, Mayor

Attest:

Michelle Converse, City Clerk

Approved as to form:

Andrea Marquez, City Attorney



9301250374

EASEMENT

THE GRANTOR, RIVERGROVE DEVELOPMENT, A GENERAL PARTNERSHIP, FOR A VALUABLE CONSIDERATION FROM THE CITY OF SUMNER, DOES HEREBY GRANT, SELL AND CONVEY TO THE CITY OF SUMNER, A MUNICIPAL CORPORATION, GRANTEE, ITS SUCCESSORS AND ASSIGNS, A PERMANENT EASEMENT AND RIGHT-OF-WAY, UNDER, THROUGH AND ACROSS THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN PIERCE COUNTY, WASHINGTON, TO-WIT:

BEGINNING AT THE SOUTHWEST CORNER OF A. H. WOOLERY DONATION LAND CLAIM SITUATED IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN; THENCE S 0° 45' 40" E AT A RIGHT ANGLE TO THE SOUTH LINE OF SAID DONATION LAND CLAIM, 869.15 FEET; THENCE S 63° 10' 14" E 8.00 FEET TO THE TRUE POINT OF BEGINNING OF A 15.00 FOOT EASEMENT, LYING 7.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE; THENCE N 63° 10' 14" W, 191.74 FEET; THENCE N 52° 55' 35" W, 195.78 FEET; THENCE N 51° 00' 04" W, 284.85 FEET; THENCE N 53° 30' 18" W, 397.80 FEET; THENCE N 54° 50' 46" W, 116.79 FEET; THENCE N 55° 04' 02" W, 105.60 FEET; THENCE N 52° 24' 57" W, 106.52 FEET; THENCE N 57° 47' 22" W, 10.56 FEET; THENCE N 60° 21' 27" W, 86.23 FEET; THENCE N 51° 40' 00" W, 54.31 FEET; THENCE N 46° 22' 15" W, 68.31 FEET; THENCE N 38° 07' 04" W, 62.00 FEET TO THE TERMINUS POINT OF THIS EASEMENT.

EXCEPT THEREFROM ANY PORTION LYING OUTSIDE OF THE FOLLOWING DESCRIBED PARCEL;

BEGINNING AT THE SOUTHWEST CORNER OF A. H. WOOLERY DONATION LAND CLAIM; THENCE S 0° 45' 40" E AT A RIGHT ANGLE TO THE SOUTH LINE OF SAID DONATION LAND CLAIM, 292.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF RIVERGROVE DRIVE, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE S 0° 45' 40" E, 588.28 FEET; THENCE N 62° 42' 53" W, 189.30 FEET; THENCE N 56° 32' 57" W, 200.79 FEET; THENCE N 52° 55' 06" W, 281.72 FEET; THENCE N 50° 07' 44" W, 416.40 FEET; THENCE 51° 37' 18" W, 581.76 FEET; THENCE N 47° 15' 07" E, 220.00 FEET; THENCE N 42° 44' 53" W, 27.50 FEET; THENCE N 47° 15' 07" E, 199.20 FEET; THENCE N 67° 12' 08" E, 137.39 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF RIVERGROVE DRIVE; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE, S 32° 52' 55" E, 300.11 FEET; THENCE S 40° 52' 55" E, 565.45 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS POINT BEARING N 49° 07' 05" E 255.00 FEET AND THROUGH A CENTRAL ANGLE OF 49° 52' 45" FOR AN ARC DISTANCE OF 221.99 FEET; THENCE N 89° 14' 20" E 183.32 FEET TO THE TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH THE FOLLOWING DESCRIBED EASEMENT, BEGINNING AT THE SOUTHWEST CORNER OF A. H. WOOLERY DONATION LAND CLAIM; THENCE S 0° 45' 40" E AT A RIGHT ANGLE TO THE SOUTH LINE OF SAID DONATION LAND CLAIM, 292.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF RIVERGROVE DRIVE; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE, S 89° 14' 20" W 183.32 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS

EXCISE TAX EXEMPT: DATE 1-25-93
Pierce County

By *[Signature]* Auth. Sig

For reference only, not for re-sale.

9-

POINT BEARING N 0° 45' 40" W 255.00 FEET AND THROUGH A CENTRAL ANGLE 48° 06' 11" FOR AN ARC DISTANCE OF 214.09 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1° 46' 34" FOR AN ARC DISTANCE OF 7.90 FEET; THENCE N 40° 52' 55" W 93.64 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE TO THE WEST HAVING A RADIUS POINT BEARING S 49° 07' 05" W 20.00 FEET AND THROUGH A CENTRAL ANGLE OF 78° 07' 05" FOR AN ARC DISTANCE OF 27.27 FEET; THENCE S 37° 14' 09" W 42.79 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE TO THE NORTH HAVING A RADIUS POINT BEARING N 52° 45' 51" W 20.00 FEET AND THROUGH A CENTRAL ANGLE OF 93° 41' 45" FOR AN ARC DISTANCE OF 32.71 FEET; THENCE S 6° 48' 58" W 98.48 FEET; THENCE S 36° 29' 42" W 164.34 FEET; THENCE S 53° 30' 18" E 10.00 FEET; THENCE N 36° 29' 42" E 164.95 FEET; THENCE N 64° 36' 52" E 88.81 FEET; THENCE NORTHERLY ALONG A NON-TANGENT CURVE CONCAVE TO THE EAST HAVING A RADIUS POINT BEARING N 38° 47' 22" E 20.00 FEET AND THROUGH A CENTRAL ANGLE OF 88° 26' 47" FOR AN ARC DISTANCE OF 30.87 FEET; THENCE N 37° 14' 09" E 27.16 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS POINT BEARING S 52° 45' 51" E 20.00 FEET AND THROUGH A CENTRAL ANGLE OF 100° 06' 22" FOR AN ARC DISTANCE OF 34.94 FEET TO THE POINT OF BEGINNING.

FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND/OR REPAIR, AND/OR REPLACEMENT OF A PUBLIC ACCESS EASEMENT UTILITY, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS TO AND FROM SAID EASEMENT AND RIGHT-OF-WAY, FOR ALL PURPOSES NECESSARY AND RELATED THERETO.

DATED THIS 22nd DAY OF January, 1993.

RIVERGROVE DEVELOPMENT,
A GENERAL PARTNERSHIP

BY: [Signature]

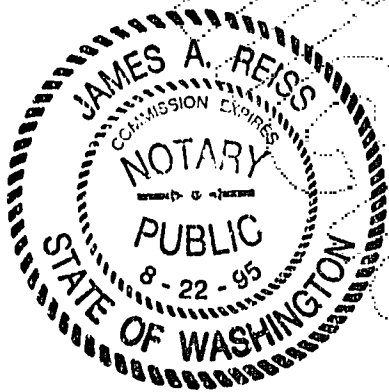
93 JAN 25 PM 2:26
RECORDED
BRIAN SONNITAG
AUDITOR PIERCE CO. WASH.

9301250374

STATE OF WASHINGTON)
COUNTY OF PIERCE)

On this 22ND day of JANUARY, 1993, before me personally appeared JAMES K. REASE to me known to be the person who executed the foregoing instrument, and who being duly sworn by me, did depose and say that HE IS A partner in the general partnership known as RIVERGROVE DEVELOPMENT and that HE IS duly authorized to sign the same and duly acknowledged to me that HE executed the same as the free and voluntary act and deed of said partnership, for the uses and purposes mentioned therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



James A. Rease

NOTARY PUBLIC in and for the State of
Washington, residing at: TACOMA
My Commission Expires: 8/22-95

For reference only, not for re-sale.

SUBJECT: Resolution No. 1640 - Tax Year 2023 Ad Valorem Property Tax

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No 1640 - 2023 Ad Valorem Property Tax Levy

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:

RCW 84.55.120 mandates a public hearing on revenue sources for the upcoming year's budget, including consideration of any potential increases in property tax revenues. The hearing process provides Sumner residents with the opportunity to voice their opinions prior to the adoption of the property tax levy. The required hearing about the property tax levy was held October 17, 2022.

In accordance with RCW 84.55.120, the Mayor of the City of Sumner must certify to the Pierce County Assessor-Treasurer and the Pierce County Council that the City of Sumner requests the following property tax amounts to be collected in 2023:

A total levy of \$4,661,530, which includes a 9.5% increase over the prior year's collections as authorized by RCW, plus revenues resulting from new construction and improvements (\$165,081), and administrative refunds (\$5,883).

In authorizing this action, it is the Council's intent that:

1. Of the effective levy rate, \$0.066352 per \$1,000 of assessed valuation shall be committed to leveraging funding opportunities (e.g. grants) for street/transportation projects, in an amount equal to \$330,000.
2. Of the effective levy rate, \$0.070373 per \$1,000 of assessed valuation, in an amount equal to \$350,000, shall be reserved for Council appropriation in a future biennial budget cycle.

The 2022 levy rate of \$0.99 (rounded) per \$1,000 of assessed valuation was based on an overall City assessed valuation of \$4,283,202,012. Based on the 2022 preliminary certification from Pierce County for tax year 2023, the 2022 assessed valuation for 2023 taxes is estimated at \$4,973,477,995, resulting in a preliminary levy rate for tax year 2023 of \$0.97165 (rounded) per \$1,000 of assessed valuation.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee October 5, 2022

Study Session October 10, 2022, October 24, 2022

MEETING/STUDY SESSION DATE: 10/10/2022

COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No.1640 Tax Year 2023 Ad Valorem Property Tax.

**RESOLUTION NO. 1640
CITY OF SUMNER, WASHINGTON**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, RELATING TO AD VALOREM PROPERTY TAXES; ESTABLISHING THE AMOUNT TO BE COLLECTED IN 2023 BY TAXATION ON THE ASSESSED VALUATION OF THE PROPERTY OF THE CITY; AND SETTING THE LEVY FOR THE YEAR 2023.

WHEREAS, the Sumner City Council attests that the City of Sumner population is 10,500; and

WHEREAS, the Sumner City Council has properly given notice of the public hearing held October 17, 2022, to consider the City of Sumner's ad valorem property tax for the 2023 budget, pursuant to RCW 84.55.120; and

WHEREAS, the City of Sumner's highest lawful levy is \$4,840,979.26 with the actual levy amount from the previous year being \$4,258,173; and

WHEREAS, the City Council, after conducting the required public hearing and after duly considering all relevant evidence and testimony presented, determined that the City of Sumner requires a regular levy of \$4,832,497, which includes an increase in property tax revenue from the previous year, amounts resulting from the addition of new construction and improvements to property, administrative refunds, and an increase in the value of state-assessed property, and amounts authorized by law as a result of any annexations that have occurred and refunds made; and

WHEREAS, the City Council is hereby establishing a policy that approximately \$0.066352/\$1,000 of this property tax levy, for a dollar amount equal to amount established in the 2022 property tax levy, shall be used only for street improvements and further directs staff to establish a committed reserve account in the appropriate fund to segregate these funds from any other general fund dollars and that these funds are restricted from any other purpose without city council approval; and

WHEREAS, the City Council hereby establishing a policy that approximately \$0.070373/\$1,000 of this property tax levy, for a dollar amount equal to \$350,000, shall be reserved for Council appropriation in a future biennial budget cycle, and further directs staff to establish a committed reserve account in the appropriate fund to segregate these funds from any other general fund dollars and that these funds are restricted from any other purpose without city council approval; and

WHEREAS, the Sumner City Council finds that to best protect the public health, safety, and welfare, to best protect the City's future property tax levy capacity, to best serve the citizens of Sumner by maintaining an appropriate level of service throughout the City, to appropriately discharge the City's expected expenditures and obligations, and to best serve the citizens of Sumner through a continued commitment throughout the city, substantial needs exists to increase its tax levy authority over last year.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AS FOLLOWS:

Section 1. Property Tax Levy. The City Council adopts the substantial need findings above, and further finds that in light of substantial increases in costs to maintain and operate basic infrastructure, including streets, realized and anticipated loss of state shared revenues, as well as inflationary impacts

on the cost to provide essential public safety services, parks and recreation programs, information technology, planning, building services, and administration services, the City Council finds that there is in fact a substantial need for additional revenue, great enough to justify an increase in property taxes.

The legally maximum authorized levy is \$4,840,979.26. The required regular property tax levy needed by the City of Sumner of \$4,661,530 is hereby authorized for the levy to be collected in the 2023 tax year. The dollar amount of the increase of the actual levy amount from the previous year is \$403,357. This is a 9.5% increase from the previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, newly constructed wind turbines, any increase in the value of state assessed property, any annexations that have occurred and refunds made.

Section 2. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. This resolution shall become effective immediately upon adoption.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 7th day of November, 2022.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

City Attorney Andrea Marquez

Levy Certification

Submit this document, or something similar, to the **county legislative authority on or before November 30** of the year preceding the year in which the levy amounts are to be collected.

Courtesy copy may be provided to the county assessor.

This form is not designed for the certification of levies under RCW 84.52.070.

In accordance with RCW 84.52.020, I _____ (Name),
_____, (Title), for _____ (District name),
do hereby certify to the _____ (Name of county) County legislative authority
that the _____ (Commissioners, Council, Board, etc.) of said district requests
that the following levy amounts be collected in _____ (Year of collection) as provided in the district's
budget, which was adopted following a public hearing held on _____ (Date of public hearing).

Regular levies

Levy	General levy	Other levy*
Total certified levy request amount , which includes the amounts below.		
Administrative refund amount		
Non-voted bond debt amount		
Other*		

Excess levies

Levy	General (n/a for school districts)	Bond	Enrichment (school districts only)	Cap. project	Other levy*
Total certified levy request amount , which includes the amounts below.					
Administrative refund amount					
Other*					

*Examples of other levy types may include EMS, school district transportation, or construction levies.
Examples of other amounts may include levy error correction or adjudicated refund amount. Please include a description when using the "other" options.

Signature: _____ **Date:** _____

To request this document in an alternate format, please complete the form dor.wa.gov/AccessibilityRequest or call 360-705-6705. Teletype (TTY) users please dial 711.

SUBJECT: Appointment of Cultural Arts Commissioner (A. VanLierop)

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Commission Application
-

STAFF CONTACT: Ryan Windish, Community Development Director

SUMMARY BACKGROUND:

The Mayor is seeking the confirmation of her appointment of Anne VanLierop to a 4-year term on the Cultural Arts Commission.

Ms. VanLierop is the owner of VanLierop Garden Market and has numerous years of community involvement. She is currently a board member of Sumner Main Street Association and has historical experience of downtown events, not to mention daily interaction with customers, residents and other business owners.

The Sumner Cultural Arts Commission consists of 15 members who are appointed by the Mayor and confirmed by the City Council. The members are to be selected without respect to political affiliations and serve without compensation.

COUNCIL COMMITTEE/STUDY SESSION:
--

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: N/A

STAFF RECOMMENDATIONS/MOTION:

Approve the Mayoral appointment of Anne VanLierop to the Cultural Arts Commission for a term of four years, expiring in April of 2026.

From: [Lana Hoover](#)
To: [Kathy Hayden](#); [Michelle Converse](#)
Cc: [REDACTED]
Subject: FW: Anonymous User completed Commission Application
Date: Thursday, September 29, 2022 10:48:19 AM

Hello,

I have contacted Anne letting her know we have received her application for the Cultural Arts Commission. Mayor Hayden, do you want to review the application (scroll all the way down). Michelle, can I get your help scheduling an interview if we want to move forward with her application? We currently have three vacancies on the commission. I have also cc'd Chair Sue Larson and Vice-Chair Sheila Mellen on this email.

Thank you,

Lana Hoover

Community Relations Specialist

City of Sumner

1104 Maple St., Sumner, WA 98390

253.299.5781

253.266.4904

www.sumnerwa.gov



From: Lana Hoover
Sent: Tuesday, September 21, 2022 10:37 AM
To: [REDACTED]
Subject: Commission Application

Hello Anne,

Thank you for your application for the Cultural Arts Commission.

As you know, the Cultural Arts Commission is a great group of residents, artists, and volunteers whose mission is to contribute to the quality of life and environment through art experiences, programs, or visuals. The Commission is instrumental in bringing the Music Off Main series, Nights on Ryan markets, Chalk Art Festival, have commissioned and installed numerous art pieces and murals within the City, and much more. The Commissions goals, values, and projects are a huge benefit they are to the city and community.

This Commission is made up of a 15-member board (when full) and meets monthly on the 4th Thursday of the month for a general meeting at 5:30 PM virtually or in person at City Hall. Depending on what events, programs, or sub-committees you choose to be involved in, there also are many other events that require volunteer opportunities from the commissioners.

As I mentioned, we do have a few vacancies we are trying to fill, so I will be submitting all the applications to Mayor Hayden this week. Once she has had a chance to review it, our City Clerk Michelle Converse will be contacting all applicants to schedule interviews. In other words, we will be in touch soon.

Thank you,

Lana Hoover

Community Relations Specialist

City of Sumner

1104 Maple St., Sumner, WA 98390

253.299.5781

253.266.4904

www.sumnerwa.gov



From: Michelle Converse <MichelleC@sumnerwa.gov>

Sent: Monday, September 19, 2022 11:10 AM

To: Lana Hoover <Lanah@sumnerwa.gov>

Subject: FW: Anonymous User completed Commission Application

From: Sumner Connects <notifications@engagementhq.com>

Sent: Friday, September 16, 2022 6:06 AM

To: Michelle Converse <MichelleC@sumnerwa.gov>

Subject: Anonymous User completed Commission Application

EXTERNAL EMAIL

Anonymous User just submitted the survey Commission Application with the responses below.

I am interested in serving on the following:

Arts & Culture Commission

Name:

Anne VanLierop

Phone Number:

[REDACTED]

Email Address

[REDACTED]

Address:

[REDACTED] Sumner WA 98390

Occupation (if retired, please indicate former occupation or profession):

Owner VanLierop Garden Market: floral, garden and greenhouse year round growing/retail

Education:

Puyallup High School, Class of 1982 Highline Community College AA Interior Design Class
17 Washington Agriculture Forestry Education Foundation

Professional or community involvement:

Volunteer at Concordia Lutheran School 5 years, and Charles Wright Academy 14 years,
Board Member Pt. Defiance Flower & Garden Show 5 years, Volunteer Coordinator South
Kitsap High School 5 years, South Kitsap Little League Fundraising 8 years, Sumner Main
Street current Board Member, Gig Harbor Open Studio Tour Host current

Why are you interested in serving on this commission?

As a Main Street business and Ryan Ave property owner, I have historical experience in
downtown events and daily communication year round with residents, customers and other
business owners. I feel that communication and collaboration between Main Street and other
vested community groups, could be a critical improvement point for successful events in the
future, for all involved!

Have you previously served on a City of Sumner commission?

No

|

SUBJECT: Resolution No. 1641 - Terminating Covid-19 Emergency Proclamation

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No 1641 - Terminating Covid-19 Emergency Proclamation

STAFF CONTACT: Jason Wilson, City Administrator

SUMMARY BACKGROUND:

In March 2020, at the beginning of the Covid-19 pandemic, Mayor William Pugh declared a state of emergency in the City of Sumner. The pandemic's impacts are decreasing, and in response to Governor Jay Inslee's termination of the state emergency declaration on October 31, it is appropriate to terminate the City's emergency proclamation. The City continues to experience the staffing effects of the pandemic, and therefore it is maintaining emergency sick leave for recently vaccinated and/or boosted employees who test positive for COVID-19 through June 30, 2023.

COUNCIL COMMITTEE/STUDY SESSION: Finance and Personnel Committee

MEETING/STUDY SESSION DATE: 11/2/2022

COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Adopt Resolution No.1641 terminating the City's emergency proclamation related to the Covid-19 pandemic.

**RESOLUTION NO. 1641
CITY OF SUMNER, WASHINGTON**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, TERMINATING THE LOCAL EMERGENCY DECLARED IN
RESPONSE TO THE COVID-19 PANDEMIC AND ANY ASSOCIATED
EMERGENCY ORDERS.**

WHEREAS, on February 29, 2020, Washington State Governor Jay Inslee issued a proclamation declaring a State of Emergency in all counties of the state of Washington in response to the COVID-19 pandemic; and

WHEREAS, on March 11, 2020, Mayor William L. Pugh issued a local declaration of emergency; and

WHEREAS, that emergency declaration is in effect until terminated by the Mayor or by the adoption of a City Council resolution; and

WHEREAS, as the pandemic gets more under control and businesses reopen and increase their operational capacity, and as more people in the City of Sumner are vaccinated, children are returning to school, public events re-commence, and as people travel again, it is apparent that the need for a local emergency declaration is decreasing; and

WHEREAS, the Federal Government has provided an unprecedented level of funding to local governments to have available to recover from the COVID-19 pandemic and its related economic and social impacts as quickly and as strongly as possible; and

WHEREAS, on October 31, 2022, Governor Jay Inslee terminated the State of Washington's Covid-19 state of emergency and related emergency orders.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Termination of Emergency Proclamation. The Mayor and City Council hereby terminate the emergency proclamation declared by Mayor William L. Pugh, and any other emergency orders and policies that are derived from or related to those emergency declarations, except those policies that are necessary for the continued protection of the public's health and that of the City's employees, listed in Exhibit A, which shall expire on June 30, 2023.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors, or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Effective Date. This resolution shall become effective immediately upon adoption.

APPROVED AND ADOPTED this 7th day of November, 2022.

Kathy Hayden, Mayor

ATTEST:

Michelle Converse, CMC, City Clerk

APPROVED AS TO FORM:

Andrea Marquez, City Attorney

RESOLUTION NO. 1641
EXHIBIT A

Emergency Sick Leave:

Employees who have received a COVID-19 vaccine (primary or booster) may be eligible for up to 40 hours of Emergency Sick Leave in order to assist in covering the required isolation period. To be eligible the employee must have received a COVID-19 vaccine (primary or booster) within the previous six (6) months prior to the employee testing positive for COVID-19.

Proof of a positive test, along with a vaccination record, must be provided to Human Resources to qualify for the Emergency Sick Leave. If an employee tests positive more than once, additional Emergency Sick Leave will be provided if proof of a positive test and vaccination record is provided. Emergency Sick Leave is intended to be used immediately following a positive test result. Any unused leave will expire once an employee is able to fully return to work.

NOVEMBER 2022

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5
	4:00PM Public Works Committee (Virtual/ff conf room)	5:30PM Finance Committee (Virtual/ff conf room)	6:00PM CANCELLED Planning Commission (Virtual/Chambers)		
7	8	9	10	11	12
6:00PM Regular Council Meeting (Virtual/Chambers)		6:30PM Design Commission (Virtual/chambers)	4:30PM Forestry/Parks Commission (Virtual/ff conf room)	HOLIDAY – CITY HALL CLOSED	
14	15	16	17	18	19
6:00PM Study Session (Virtual/Chambers)		5:00PM Public Safety (Virtual/ff conf room)			
21	22	23	24	25	26
6:00PM - CANCELLED Regular Council Meeting (Virtual)		5:00PM (Date Change) CD Committee (Virtual/ff conf room)	HOLIDAY – CITY HALL CLOSED 5:30PM CANCELLED Cultural Arts Commission (Virtual)		
28	29	30			
6:00PM Study Session (Virtual/Chambers)	4:00PM Public Works Committee (Virtual/ff conf room) DATE CHANGE – NO DEC. MTG	5:00PM CD Committee (Virtual/ff conf room)			

*Meeting dates and times may change. Please contact City Hall to confirm this information prior to any meeting you plan to attend. **These meetings are accessible to persons with disabilities.** For individuals who require special accommodations, please contact City Hall at (253) 299-5500, 24 hours in advance.*

Name: Michelle Converse, CMC

Title: City Clerk

City of Sumner
1104 Maple Street
Sumner, Washington 98390
Ph: (253) 299-5590 Fax: (253) 299-5509
Website: **www.sumnerwa.gov**