



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.

Please click the link below to join the webinar:

<https://sumnerwa.gov.zoom.us/j/86432665763>

Or One tap mobile: +12532158782,,86432665763# or +12532050468,,86432665763#

Or Telephone: +1 253 215 8782 or +1 253 205 0468

Webinar ID: 864 3266 5763

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. 1648 - Transportation Improvement Board Grant Acceptance (Elm Street Sidewalk)
2. Resolution No. 1650 - Pierce County Grant Acceptance (Ryan House Rehabilitation)
3. Resolution No. 1651 - Setting Public Hearing for 24th Street East Partial Right-of-Way Vacation
4. Resolution No. 1652 - Floodplains By Design Grant Acceptance
5. Biosolids Equipment Modernization Project - Design Supplement
6. Approval of the minutes from the February 6, 2023 regular council meeting and the 13th of February, 2023 joint study session.

PUBLIC HEARING

1. Surplus of Real Property South of 24th Street

REGULAR BUSINESS

1. **Unfinished Business**
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. Ordinance No. 2848 - Zoning Code Text Amendment: Medium Density

Residential/ESUV Accessory Parking

- b. Resolution No. 1649 - Transportation Improvement Board Grant Acceptance (Stewart Road Bridge Replacement)

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. 1648 - Transportation Improvement Board Grant Acceptance (Elm Street Sidewalk)

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1648 - TIB Grant Acceptance (Elm Street Sidewalk)
2. TIB Grant Agreement - Elm Street
3. Project Funding Status Form - Elm Street

STAFF CONTACT: Andrew Leach, Public Works Manager, Michael Kosa, City Engineer

SUMMARY BACKGROUND:

The City of Sumner was awarded an Urban Active Transportation Program (ATP) grant from the Transportation Improvement Board (TIB) to improve pedestrian safety by constructing curb, gutter, curb ramps, and sidewalk on the north side of Elm Street between Wright Avenue and Bonney Avenue. The project will also install a flashing beacon at the crosswalk leading to Seibenthaler Park located at the intersection of Elm Street and Bonney Avenue. Other improvements will include minor roadway widening to accommodate curb and gutter, utility relocates, and stormwater improvements such as catchment conveyance.

This grant provides \$359,200 towards completion of the project. Acceptance of the grant requires the City to enter into a grant agreement.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 2/7/2023

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving the acceptance of \$359,200 in grant funds from the Washington State Transportation Improvement Board for use in the Elm Street Sidewalks project (CIP 23-02), and authorizing the Mayor to execute any and all documents necessary to accept the funds, substantially in a form as approved by the City Attorney.

RESOLUTION NO. 1648

CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING AN URBAN ACTIVE TRANSPORTATION PROGRAM GRANT FROM WASHINGTON STATE'S TRANSPORTATION IMPROVEMENT BOARD.

WHEREAS, the City of Sumner applied for an Urban Active Transportation Program grant from Washington State's Transportation Improvement Board (TIB) to design and construct the Elm Street Sidewalks Project; and

WHEREAS, TIB awarded the City a grant of \$359,200 towards the completion of the Elm Street Sidewalks Project;

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 TIB grant funds and enter into a Grant Agreement 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 Transportation Improvement Board 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 21st day of February, 2023.

Kathy Hayden, Mayor

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney



City of Sumner
P-P-131(P03)-1
Elm Street Sidewalks
Bonney Ave to Wright Ave

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Sumner
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Elm Street Sidewalks, Bonney Ave to Wright Ave (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Sumner, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 65.0155 percent of approved eligible project costs up to the amount of \$359,200, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name



Project Funding Status Form

Agency Name **SUMNER**
Project Name: **Elm Street Sidewalks**
Bonney Ave to Wright Ave

TIB Project Number: **P-P-131(P03)-1**

Verify the information below and revise if necessary.

Email to: Your TIB Engineer

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
SUMNER	193,284	
WSDOT	0	
Federal Funds	0	
TOTAL LOCAL FUNDS	193,284	

Signatures are required from two different agency officials. Email a signed copy of this form to your TIB Engineer.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title

SUBJECT: Resolution No. 1650 - Pierce County Grant Acceptance (Ryan House Rehabilitation)

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1650 - Pierce County Grant Acceptance - Ryan House Rehabilitation
2. Public Benefit Agreement

STAFF CONTACT: Drew McCarty, Engineering Assistant, Alisa O'Haver-Ayala , Associate City Engineer

SUMMARY BACKGROUND:

As part of the efforts to fund construction of the Ryan House Rehabilitation project, the City applied for grant funding from the Pierce County Lodging Tax Program and it includes funding for Phase 1 Construction in the amount of \$400,000. This grant will go towards building renovations, which include structural upgrades, a new roof, and the exterior envelope.

The project is currently in the design phase. Funds are expected to be spent by the end of 2023.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 2/7/2023

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No. 1650 authorizing the Mayor to enter into agreement with Pierce County to receive grant funding in the amount of \$400,000 for the Ryan House Rehabilitation Project (CIP 19-07).

RESOLUTION NO. 1650

CITY OF SUMNER, WASHINGTON

**A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING A
GRANT FROM PIERCE COUNTY**

WHEREAS, the city of Sumner applied for a Pierce County Lodging Tax Grant for the rehabilitation of the Ryan House; and

WHEREAS, Pierce County awarded the City a grant of \$400,000 towards the Ryan House Rehabilitation Project; 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 Pierce County Lodging Tax 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 21st day of February, 2023.

Kathy Hayden, Mayor

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney

Title: Ryan House Rehabilitation Project
Funding Source: Tourism 170-00
Start Date: January 1, 2023
End Date: December 31, 2023
FY/\$: FY 23 \$400,000
Contractor: City of Sumner
Address: 1104 Maple St
Sumner, WA 98390
Contact: Carmen Palmer
Telephone: (253) 299-5503
Email: carmenp@sumnerwa.gov

PUBLIC BENEFIT AGREEMENT

City of Sumner, hereinafter called Contractor, and Pierce County, hereinafter called County, agree as set forth in this Agreement, including:

- I. General Terms and Conditions,
- II. Statement of Work, and
- III. Compensation.

The term of this Agreement shall commence on January 1, 2023 and shall, unless terminated or renewed elsewhere in the Agreement, terminate on December 31, 2023.

The maximum consideration for the initial term of this Agreement or for any renewal term shall not exceed \$400,000 (Four-Hundred Thousand dollars and 00/100).

Contractor acknowledges and by signing this Agreement agrees that the Indemnification provisions set forth in Paragraphs D, F, K, L, R, and AA of Section I, are totally and fully part of this Agreement and have been mutually negotiated by the parties.

I. GENERAL TERMS AND CONDITIONS

A. Scope of Contractor's Services.

The Contractor agrees to provide to the County services and any materials set forth in Section II, Statement of Work during the Agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

B. Accounting and Payment for Contractor Services.

1. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Section III, Compensation and Financial Requirements. Where this Agreement requires payments by Pierce County, payment shall be based upon billings, supported by documentation of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless approved in writing in advance by the official executing this Agreement for Pierce County, (hereinafter referred to as the "**Contracting Officer**") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this Agreement.

2. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor no more often than MONTHLY through the County voucher system for the Contractor's service as set forth in the Budget attached to and incorporated in this Agreement.

C. Assignment and Subcontracting.

No portion of this Agreement may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the Contracting Officer.

D. Independent Contractor.

1. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.
2. The Contractor acknowledges that the entire compensation for this Agreement is specified in Section III and the Contractor is not entitled to any County benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to Pierce County employees. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this Agreement to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.
3. Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

E. No Guarantee of Employment.

The performance of all or part of this Agreement by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

F. Taxes.

1. The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to make withholding for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.
2. The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including,

but not limited to: Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

G. Insurance Requirements

1. Throughout the life of this Agreement the Contractor and its Subcontractors shall, at their own expense, maintain general liability insurance with an insurance carrier licensed to do business in the State of Washington, and with minimum coverage as follows: Bodily Injury Liability and Property Damage Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate, with a deductible of not greater than \$5,000.
2. Where automobiles are used in conjunction with the performance of this Agreement throughout the life of this Agreement the Contractor and its Subcontractors shall, at their own expense, maintain automobile liability insurance with an insurance carrier licensed to do business in the State of Washington and with minimum coverage as follows: Bodily Injury Liability and Property Damage Liability Insurance, \$1,000,000 each occurrence or combined single limit coverage of \$1,000,000.
3. General liability insurance and, if applicable, automobile liability insurance coverage shall be provided under a comprehensive general and automobile liability form of insurance, such as is usual to the practice of the insurance industry, including, but not limited to all usual coverage referred to as Personal Injury--including coverage A, B and C. If applicable, automobile liability insurance shall include coverage for owned, non-owned, leased or hired vehicles.
4. Pierce County shall be named as an additional insured on all required policies except automobile insurance and all such insurance as is carried by the Contractor shall be primary over any insurance carried by Pierce County. The Contractor shall provide a certificate of insurance to be approved by the County Risk Manager prior to contract execution.
5. Pierce County shall have no obligation to report occurrences unless a claim is filed with the Pierce County Auditor; nor shall Pierce County have an obligation to pay premiums.
6. In the event of nonrenewal or cancellation of or material change in the coverage required, thirty (30) days written notice will be furnished Pierce County prior to the date of cancellation, change or nonrenewal, such notice to be sent to the Pierce County Risk Manager, 930 Tacoma Ave South, Tacoma, WA 98402.
7. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

H. Bond.

The Contractor shall maintain, throughout the life of this agreement, an annual fidelity or performance bond in an amount not less than 25 percent of the value of this Agreement. Coverage for employee dishonesty in the amount not less than 25 percent of the value of the Agreement may be maintained in lieu of bond.

I. Regulations and Requirement.

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. Unless specifically noted to the contrary, the Contractor shall obtain all permits, authorities and approvals necessary to implement this project.

J. Right to Review.

1. Whenever the value of this Agreement exceeds \$25,000, the County may require that the Contractor obtain an agency-wide, or program-wide, basic financial audit. The results of that audit shall be immediately reported to the County.
2. This Agreement is subject to review by any Federal or State auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Contracting Officer. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement.
3. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Pierce County, State of Washington, upon request.

K. Defense & Indemnity Agreement.

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elected officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and for damages to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, his/her Subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees.

The preceding paragraph is valid and enforceable only to the extent of the Contractor's negligence where the damages arise out of services or work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, a contract or agreement for architectural, landscape architectural, engineering, or land surveying services, or a motor carrier transportation contract and where the damages are caused by or result from the concurrent negligence of (i) the County or its agents or employees, and (ii) the Contractor or the Contractor's agents or employees

It is further provided that no liability shall attach to the County by reason of entering into this Agreement, except as expressly provided herein.

L. Industrial Insurance Waiver.

With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless

provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this Agreement.

M. Withholding Payment.

In the event the Contracting Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Contracting Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Contracting Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

N. Future Non-Allocation of Funds.

Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the County will not be obligated to make payment for services or amounts after the end of the fiscal period through which funds have been appropriated and allocated, unless authorized by county ordinance. No penalty or expense shall accrue to the County in the event this provision applies.

O. Contractor Commitments, Warranties and Representations.

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

P. Ownership of Items Produced.

All writings, programs, data, public records or other materials prepared by the Contractor and its subcontractors in connection with the performance of this Agreement shall be the sole and absolute property of the County.

Q. Property.

It is the County's policy that non-expendable property required for this project not be purchased with County funds. When specialized equipment is necessary and purchase

of such equipment is approved by the Contracting Officer, it shall be detailed in the contract budget. Such property shall be properly accounted for and maintained.

R. Patent/Copyright Infringement.

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

1. That Contractor shall be notified promptly in writing by County of any notice of such claim.
2. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

S. Modifications.

Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

T. Termination for Default.

1. If the Contractor defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the County's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.
2. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

U. Termination for Public Convenience.

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

V. Disputes.

1. General. Differences between the Contractor and the County, arising under and by virtue of the Agreement Documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Contracting Officer, shall be final and conclusive.
2. Notice of Potential Claims. The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Contracting Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
3. Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

W. Equal Opportunity, Nondiscrimination & Affirmative Action.

The Contractor, its employees, its subcontractors and their employees, by acceptance of this Agreement, certify that they will not engage in any unlawful discrimination, in any work place, during the life of this Agreement.

The Contractor and its subcontractors should make a realistic, good faith effort to employ women, minorities, and Pierce County residents for any new job openings or positions for advancement or training that may become available during the life of this Agreement.

X. Waiver.

Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

Y. Waiver of Non-Competition.

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to Pierce County, and Contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to Pierce County.

Z. Official Benefits Prohibited.

No federal, state or local elected or appointed official, nor members of their families, nor their business associates, shall be admitted to any share or part of the funds provided by this Agreement, nor to any benefit to arise therefrom.

The Contractor hereto shall maintain a Code of Conduct which shall govern his/her performance in the award and administration of this, or any other contracts or procurement actions funded in whole or in part by funds made available hereunder. The Contractor shall not participate in the selection, award, or administration of any such contract if a conflict of interest, real or apparent, would exist.

AA. Confidentiality.

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the Pierce County Prosecuting Attorney or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

BB. Notice.

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the Contractor to the contracting Officer and to the County Purchasing Agent, 615 S. 9th, Tacoma, WA 98405-4673. Notice to the Contractor for all purposes under this Agreement shall be given to the address reflected below. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

CC. Venue and Choice of Law.

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Pierce. This Law of the State of Washington shall govern this Agreement.

DD. Severability.

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

EE. Survival.

The provisions of paragraphs D, E, F, I, J, K, L, M, N, O, P, R, T, U, V, X, Y, AA, and CC of Section I of this Agreement shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

FF. Entire Agreement.

This written Agreement represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

II. STATEMENT OF WORK

A. County Responsibilities.

To accomplish the intent of this agreement, the County:

1. May provide administrative and financial oversight and direction in accordance with established laws and regulations;
2. Shall monitor and evaluate program performance against performance criteria noted in Section B, below;
3. Shall pay, on a timely basis, all requests for payment which are eligible and appropriate for payment and which are supported by sufficient documentation.

B. Contractor Responsibilities.

1. **Scope of work.** The Pierce County Tourism Strategic Plan directs funding recipients to implement programs that support four key priorities: generates incremental overnight stays, leverages proven or identified demand generators, identifies specific target markets, and provides a balanced funding approach via specific funding allocation categories. The Contractor shall plan, administer, implement, and complete the following project(s) in 2023 which support these four priorities:

- Asset Development: Ryan House Rehabilitation Project

Specific budget detail for the project listed above is provided in Attachment 1.

2. If the event or activity related to any of the projects listed above is modified or canceled due to COVID-19 restrictions, Contractor will reduce expenditures or not expend any funds related to the event/project. The Contractor and Economic Development Department staff will communicate at least monthly regarding project and COVID-19 updates to make timely funding adjustments to the projects as necessary.
3. Comply with all noted regulations, requirements and conditions of the Agreement.
4. Evidence contract compliance by accomplishment of the above described project or program in the manner specified and in accordance with the project schedule.
5. Complete reports and provide information as required by the County to demonstrate compliance with regulations, eligibility, goals and objectives including:
 - **Contractor may be asked to provide an in-person presentation to the LTAC Committee regarding project progress; Contractor will be notified by the Economic Development Department regarding date and time of presentation if applicable.**
 - **Provide Quarterly Written Progress Reports using reporting template provided by Pierce County Economic Development Department; due by:**
 - April 15, 2023 (covering Jan 1-Mar 31)
 - July 15, 2023 (covering Apr 1-Jun 30)
 - October 15, 2023 (covering Jul 1-Sept 30)
 - January 15, 2024 (covering Oct 1-Dec 31), including a year-end report card

- **Provide Financial Reports:** N/A
- **State Reporting,** Complete and submit the forms required by the Joint Legislative Audit and Review Committee (JLARC).

III. COMPENSATION AND FINANCIAL REQUIREMENTS

A. Reimbursement.

Contractor agrees to submit reimbursement requests to the County for services rendered under this agreement as follows:

1. Requests shall be submitted on the Contractor's letterhead, and
2. Shall include the Contract No., and
3. Be supported by appropriate documentation of amounts actually incurred, and
4. Where applicable, include actual hours or days worked, and
5. Include the total dollar amount requested.
6. Contractor shall submit payment requests by the 15th of each month following the month in which the expenditures were incurred.

B. Use of Funds.

It is expressly understood that Agreement funds may only be used for expenses, items, activities and costs which are included in the attached Budget. Line item adjustments to the Budget must be in writing and agreed to by the Contracting Officer and the Contractor. County funds shall not be obligated for:

1. Costs incurred prior to the date the Agreement becomes effective unless specifically authorized; or
2. Costs found to be ineligible or inappropriate pursuant to state law and/or applicable regulations.

C. Refunds.

The Contractor shall refund to the County any payment or partial payment expended by the Contractor or its Subcontractors which is subsequently found to be ineligible, inappropriate or illegal. Further, the Contractor shall refund to the County any funds remaining at the end of the period of performance.

D. Multiple Source Funding.

Projects funded by multiple sources, or from multiple funding years shall have relationships and procedures between funding sources clearly documented in the Budget.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2023.

Contractor must complete the tax status information for the business entity. Corporate name must exactly match that which is registered with the Internal Revenue Service.

☒ **CORPORATION:**

City of Sumner
Print Name of Corporation

Signature of Corporate Officer Date

Jason Wilson, City Administrator
Print name and Title of Authorized Signatory

91-6001282 277-000-014
EIN UBI

☐ **PARTNERSHIP:**

Name of Partnership

Authorized Signatory Date

Print name and Title of Authorized Signatory

☐ **SOLE PROPRIETORSHIP**

Business Name

Print Owner Name

Signature of Owner Date

Owner SSN/EIN

PIERCE COUNTY:

Approved:

Department Director Date

Approved:

Finance Date

Approved:

County Executive (over \$250,000) Date

Approved as to form only:

Deputy Prosecuting Attorney Date

ATTACHMENT 1

Public Benefit Agreement Budget
Agreement with: City of Sumner
Project: Ryan House Rehabilitation Project
FY23 AMOUNT: \$400,000

Capital Projects Budget

FUNDING/TIMELINE	Responsible parties, methods, means	Begin (Dates or periods)	End (Dates or periods)	Amount requested from PC Lodging Funds	Other funds committed -or- proposed	TOTALS
Design & Inspection	ARG Design & Feasibility Study - Past funding by PCLTAC	2019	2019		\$100,000	\$100,000
Other Consultants	AKANA Cost Estimate/MIG Landscape Design - Past funding by PCLTAC	2021	2021		\$25,000	\$25,000
Permits & Fees	Included in costs listed below for each part of renovation.					
Site Development & Landscape	MIG estimated at \$488,000. Future phase, no funding identified yet.	2024	2025		\$488,000	\$488,000
Buildings (new construction)						
Building Renovations (includes access)	Structural/Foundational; Roof & Joists; Exterior siding & paint; Mechanical, Electrical & Plumbing; Windows & Doors	2023	2023	\$400,000		\$400,000
Other (specify):	Porch renovation --funded by City of Sumner	2020	2020		\$20,000	\$20,000
Other (specify):	Remove false walls/paneling in cabin & assess further needs - funded by City of Sumner	2022	2023		\$125,000	\$125,000
Other (specify):	New ADA Door Access - funded by Port of Tacoma Local Economic Development	2022	2023		\$15,380	\$15,380
Other (specify):	Kitchen & bath remodel/addition; floors & interiors --Pending request for State of WA Heritage Capital Projects (HCP) grant*	2023	2025		\$304,635	\$304,635
TOTAL				\$400,000	\$1,078,015	\$1,478,015

SUBJECT: Resolution No. 1651 - Setting Public Hearing for 24th Street East Partial Right-of-Way Vacation

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1651- Setting Public Hearing for 24th St. E. Partial Right-of-Way Vacation

STAFF CONTACT: Maili Barber, Deputy City Attorney

SUMMARY BACKGROUND:

This is a resolution declaring the intent of the City Council to fix the time and place for a public hearing to discuss vacating a portion of the public right of way on 24th Street East, in the City of Sumner, Washington. The right of way is known as 24th St. E. with the eastern boundary being the western boundary of Burlington Northern Santa Fe Railway (BNSF) property and the western boundary being 200' due west of the BNSF right-of-way.

The right of way is anticipated to be conveyed to BNSF for development into their proposed staging tracks, and upon vacation, the portion of the road would be equally absorbed by the City-owned parcel(s) to the north and south of the roadway. The City has no further need or use of this portion of the right of way, and the highest and best use of this portion would be a use in support of and in conjunction with the use for BNSF development. Additionally, there are City and private utilities underneath the public right of way, for which the City will reserve an easement.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 2/7/2023

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No. 1651, to set a time for a public hearing related to vacation of the portion of the right of way on the 24th street east between the BNSF rail line and 200 feet west, with reservation of an easement for current City utilities, and authorizing the Mayor to execute the same in a form as approved by the City Attorney.

RESOLUTION NO. 1651

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 a portion of the public right of way on 24th street east, 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 a portion of the public right of way described above; and

WHEREAS, the right of way is known as 24th St. E. with the eastern boundary being the western boundary of Burlington Northern Santa Fe Railway, herein referred to as “BNSF,” property and the western boundary being 200’ due west of the BNSF right of way; and

WHEREAS, the right of way is anticipated to be conveyed to BNSF for development into their proposed staging tracks, and upon vacation, the portion of the road would be equally absorbed by the City-owned parcel(s) to the north and south of the roadway; and

WHEREAS, there are City and private utilities underneath the public right of way, for which the City will reserve an easement; and

WHEREAS, the City has no further need or use of the Right of Way, and the highest and best use of this right of way would be a use in support of and in conjunction with the use for BNSF development; and

WHEREAS, pursuant to RCW 35.79.030, the City Council now desires to set a time for a public hearing related to vacation of the portion of the right of way on the 24th street east between the BNSF rail line and 200 feet west, with reservation of an easement for current City utilities;

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

Section 1. Intent to Vacate a Portion of the Public Right of Way. That it is the intent of the City Council to consider vacating a portion of the public right of way on 24th street east, 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 March 20, 2023 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 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.

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 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 20th day of February 2023.

Kathy Hayden, Mayor

Attest:

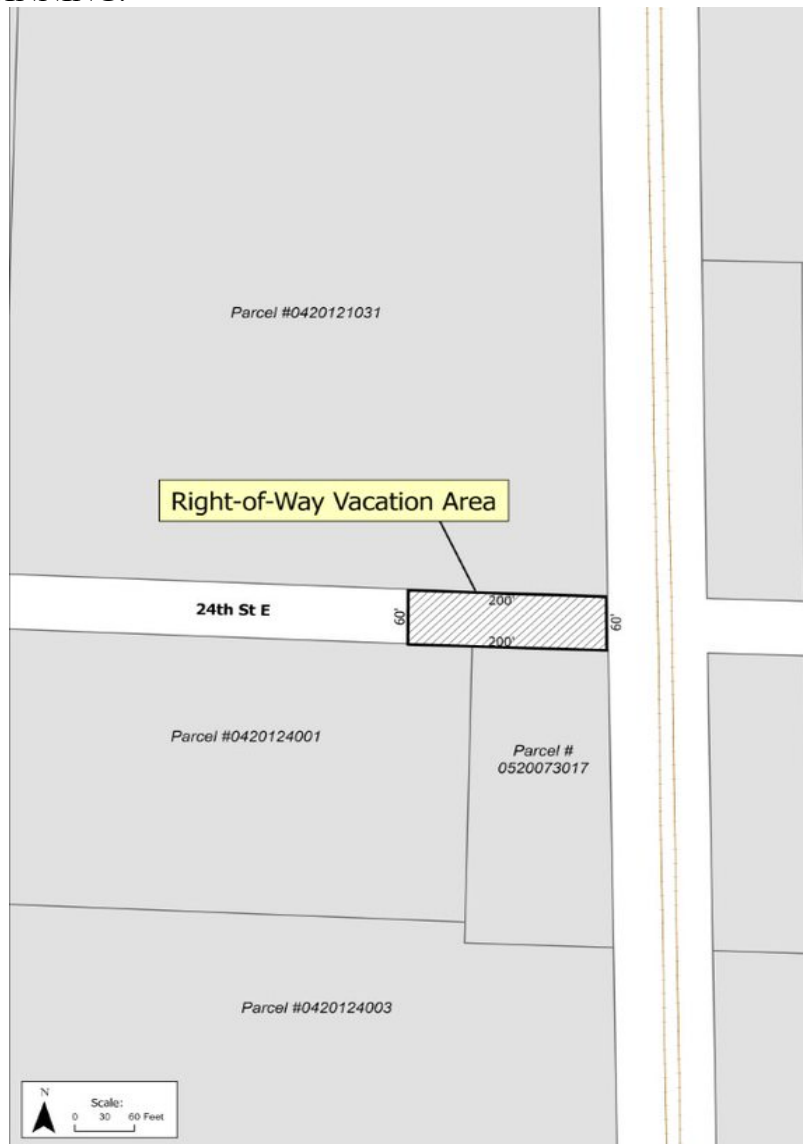
Michelle Converse, City Clerk

Approved as to form:

Andrea Marquez, City Attorney

EXHIBIT A
RIGHT OF WAY LEGAL DESCRIPTIONS AND DEPICTIONS

LOCATED IN THE EAST HALF OF SECTION 12 AND THE WEST HALF OF SECTION 7, TOWNSHIP 20 RANGE 05 EAST OF THE WILLAETTE MERIDIAN, BEGINNING AT THE INTERESECTION OF THE NORTH RIGHT-OF-WAY LINE OF 24TH STREET EAST AND THE WEST RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN SANTA FE RAILROAD, THENCE WESTERLY ALONG THE SAID NORTH RIGHT-OF-WAY LINE TO A LINE 200.00 FEET WEST OF AND PARALLEL WITH THE SAID WEST RIGHT-OF-WAY LINE, THENCE SOUTHERLY ALONG A LINE A LINE 200.00-FEET WEST OF AND PARALLEL WITH THE SAID WEST RIGHT-OF-WAY LINE 60.00 FEET TO THE SOUTH RIGHT-OF WAY LINE OF 24TH STREET EAST, THENCE EASTERLY ALONG THE SAID SOUTH RIGHT-OF-WAY LINE 200.00 FEET TO THE SAID WEST RIGHT-OF-WAY LINE, THENCE NORTHERLY ALONG THE SAID WEST RIGHT-OF WAY LINE TO THE POINT OF BEGINNING.



SUBJECT: Resolution No. 1652 - Floodplains By Design Grant Acceptance

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1652: Floodplains By Design - Grant Acceptance
2. Subrecipient Agreement

STAFF CONTACT: Robert Wright, Environmental & Sustainability Specialist, Mike Dahlem, Public Works Director

SUMMARY BACKGROUND:

The City has received \$1,500,000 towards the construction of the 24th Street Utility Relocation project (CIP 18-03). This grant is a subrecipient agreement with Pierce County, who is the lead applicant for the regional Floodplains by Design grant program. The funds will help offset the stormwater, water, and sewer utilities who have budgeted funds for the relocation. This agreement was mistakenly signed 1/20/2023 before the City Council accepted the funds.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 2/7/2023
--

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No.1652; approving the acceptance of \$1,500,000 in grant funds from Pierce County for use in the 24th Street Utility Relocation project (CIP 18-03), and ratifying previous actions by the Mayor to execute any and all documents necessary to accept the funds, substantially in a form as approved by the City Attorney.

RESOLUTION NO. 1652

CITY OF SUMNER, WASHINGTON

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

WHEREAS, to help accomplish and fund the White River Restoration Project and 24th Street Utility Relocation Project, Pierce County applied for Floodplains by Design; and

WHEREAS, Pierce County received funding on July 1st 2019; and

WHEREAS, Pierce County is passing through the grant funding to the City; 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 Floodplains by Design 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

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney

SUBRECIPIENT AGREEMENT SC-109706

PIERCE COUNTY PLANNING AND PUBLIC WORKS

This contractual subrecipient agreement, referred to as this "Agreement", is comprised of these General Terms and Conditions, any attached Exhibits, and subsequent Amendments. The Agreement is a contract between **PIERCE COUNTY**, subsequently referred to as the "County", and CITY OF SUMNER, subsequently referred to as the "Subrecipient". The Subrecipient agrees to the terms and conditions set forth in this Agreement, including the Exhibits listed below.

Exhibit A Scope of Work

Exhibit B Compensation and Financial Requirements

Exhibit C Applicable Definitions

Exhibit D Right of Entry

1. GENERAL INFORMATION

Subrecipient Name: City of Sumner

Subrecipient Contact Information: Robby Wright, City of Sumner,
robertw@sumnerwa.gov

Subrecipient Unique Identifier: 91-6001282 UBI: 277-000-014

Federally Funded: No

Award Identification Number: SEAFBD-2019-PiCoPW-00059

Pass-through Entity Subaward Number: SC-109706

State Award Date: 07/01/2019

Subaward Period of Performance: November 1, 2022, through June 15, 2023

Funds Available to Subrecipient: \$1,500,000.00

Award Project Description: Floodplains for the Future – Puyallup, White & Carbon Rivers
(Round 4 – 2019-2021)

Name of Primary Awarding Agency: Washington State Department of Ecology
AWD-100678

Name of First Pass Through Entity: Pierce County

Contact Information for Pierce County: Tina Basil, Contract and Monitoring Manager,
pcpwcontractservices@piercecountywa.gov

Research and Development?: No

2. PERIOD OF PERFORMANCE

The period of performance for this Agreement begins November 01, 2022 and ends June 15, 2023. The County reserves the right to extend this Agreement for additional periods. The decision to extend this Agreement is subject to the availability of funding, the continued priority of need for a specific service, and satisfactory performance by the Subrecipient during the period specified in this Agreement. Notification of intent to

contract for additional periods with the Subrecipient will occur prior to the expiration of this Agreement.

3. **CONSIDERATION**

The maximum consideration for this Agreement shall not exceed the amount on Page 1, Section 1; Funds Available to Subrecipient unless modified as per Section 5. Amendments.

4. **FUTURE NON-ALLOCATION OF FUNDS**

Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the County will not be obligated to make payment for services or amounts after the end of the fiscal period through which funds have been appropriated and allocated, unless authorized by county ordinance. No penalty or expense shall accrue to the County in the event this provision applies.

5. **AMENDMENTS**

This agreement may be changed or modified only by written amendment and further signed by the parties hereto, subject to the policies and approvals of the County and the awarding agency.

6. **INSURANCE**

- A. The Subrecipient must provide a commercial general liability insurance policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Subrecipient is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- B. In the event that services delivered pursuant to this agreement involve the use of vehicles, either owned or unowned by the Subrecipient, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a combined single limit for bodily injury and property damage.
- C. The insurance required shall be issued by an insurance company/ies authorized to do business within Washington State.
- D. Upon request, the Subrecipient shall submit to the County a certificate of insurance which outlines the coverage and limits defined above. If a certificate of insurance is requested, the Subrecipient shall submit renewal certificates as appropriate during the term of the contract.

7. **DEFEND, HOLD HARMLESS AND INDEMNIFY**

- A. The Subrecipient, and its officers, agents, employees, subcontractors, and/or consultants, agree to defend, indemnify and save harmless Pierce County and its appointed and elective officers and employees, from and against all loss or

expense including, but not limited to, judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, and its elected or appointed officials or employees, for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Subrecipient, its officers, agents, employees, subcontractors, and/or consultants, successor or assigns, or the County, or its appointed or elected officers, employees or agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, or its appointed or elected officials or employees.

- B. The preceding paragraph is valid and enforceable only to the extent of the Subrecipient's negligence where the damages arise out of services or work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from,
- improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, a contract or agreement for architectural, landscape architectural, engineering, or land surveying services, or a motor carrier transportation contract and where the damages are caused by or result from the concurrent negligence of (i) the County or its agents or employees, and (ii) the Subrecipient or the Subrecipient's agents or employees.
- C. With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the Subrecipient expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Subrecipient. This waiver is mutually negotiated by the parties to this Agreement.
- D. In addition to any other remedy authorized by law, the County may retain so much of the money otherwise due the Subrecipient as deemed necessary by the County to ensure indemnification until disposition has been made of such suits or claims subject to the provisions of this section.
- E. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.
- F. Capital Projects
1. The Subrecipient shall bear sole responsibility for damage to completed portions of the project and to property located off the project caused by erosion, siltation, run-off, or other related items arising during construction of the project.
 2. The Subrecipient shall also bear sole responsibility for any pollution of rivers, streams, ground water, or other waters which may occur as a result of construction operations.

3. The Subrecipient shall exercise all necessary precautions throughout the life of the project to prevent pollution, erosion, siltation, and damage to property.

8. **NON-DISCRIMINATION IN EMPLOYMENT SERVICES**

- A. During the performance of this Agreement, the Subrecipient shall comply with federal, state, and local laws including, but not limited to:
 1. Section 703, Titles VI and VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d and e], the Civil Rights Act of 1991 [42 U.S.C. 1981],
 2. The Americans with Disabilities Act of 1990 (ADA) [42 U.S.C. 12101 *et seq.*],
 3. Sections 503 and 504 of the Rehabilitation Act of 1973 [29 U.S.C. 793 and 794], the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621],
 4. The Age Discrimination Act of 1975 [42 U.S.C. 6102],
 5. The Vietnam Era Veterans Readjustment Assistance Act of 1974 [38 U.S.C. 2011],
 6. Any relevant Executive Order (E.O.) issued by the President of the United States,
 7. The Washington State Law Against Discrimination [Chapter 49.60 RCW], and
 8. Any related provisions of the Washington Administrative Code (WAC) and Revised Code of Washington (RCW), or any subsequent amendments to these provisions.
- B. Requirements of the County's Non-discrimination Plan are incorporated by reference to this Agreement and include but are not limited to paragraphs listed below.
- C. The Subrecipient shall not discriminate against any employee or applicant for employment, nor conduct any unlawful employment practices because of race, color, religion, creed, national origin, sex, sexual orientation, age, marital status, veteran status, or the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person. This requirement does not apply, however, to a religious corporation, association, or educational institution with respect to the employment of individuals of a particular religion to perform work connected with the operation of such corporation, association, or educational institution, in pursuit of its activities.
- D. The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, national origin, sex, sexual orientation, age, marital status, veteran status, or the

presence of any sensory, mental, or physical disability, genetic information, or the use of a trained guide dog or service animal by a disabled person. For newspaper advertisements, the Subrecipient may state that the Subrecipient is an Equal Opportunity Employer, instead of using the longer qualification.

- E. The Subrecipient will not, on the basis of race, color, religion, creed, national origin, sex, age, disability, sexual orientation, marital status, or veteran status:
1. Deny an eligible individual any services or other benefits provided under this Agreement or any subcontracts awarded pursuant to this Agreement;
 2. Provide any services or other benefits to an individual which are different, or are provided in a different manner from those provided to others under this Agreement or any subcontracts awarded pursuant to this Agreement;
 3. Subject an individual to unlawful segregation or separate treatment, or unlawful discriminatory treatment in any manner related to the receipt of any services and/or the use of the Subrecipient's facilities, or other benefits provided under this Agreement; nor
 4. Deny any individual an opportunity to participate in any service provided by this Agreement or afford an opportunity to do so which is different from that afforded others under this Agreement. In determining: (i) the types of service or the benefits to be provided; (ii) the class of individuals to whom, or the situation in which, such services or other benefits will be provided; or (iii) the class of individuals to be afforded an opportunity to participate in any service or other benefits; the Subrecipient will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, religion, creed, national origin, sex, sexual orientation, age, marital status, veteran status, or the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person.
- F. As required by Title III of the ADA regarding places of public accommodation, the Subrecipient will ensure equal opportunity for individuals with disabilities to receive services. The Subrecipient will make reasonable modifications to policies, practices, and procedures that deny equal access to individuals with disabilities.

9. **RELIGIOUS ACTIVITIES**

In accordance with the First Amendment of the United States Constitution and with Article 1, Section 11 of the Washington State Constitution, as a general rule, funds received under this Agreement may not be used for religious activities. The following restrictions and limitations apply to the use of funds provided by Pierce County under this Agreement:

- A. The Subrecipient may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the services funded under this Agreement;
- B. The Subrecipient may engage in inherently religious activities, but such activities must be separated in time or place from the services provided to beneficiaries

under this Agreement and participation in such activities by individuals to receive services under this Agreement must be voluntary.

In performing under this Agreement, the Subrecipient shall not discriminate against an individual beneficiary or a prospective beneficiary of services under this Agreement on the basis of religion or religious belief.

10. DRUG-FREE WORKPLACE

The Subrecipient shall maintain a written drug-free workplace policy, notifying employees that the possession or use of a controlled substance is prohibited in the workplace, and specifying the actions which will be taken against employees for any violation of the policy. The policy shall be developed and prominently posted as soon as practically possible, but no later than sixty (60) calendar days after the effective date of this Agreement.

11. PAYMENT OF TAXES

As a condition of performance of this Agreement, the Subrecipient shall pay all federal, state, and local taxes incurred by the Subrecipient and shall require their payment by any subcontractor or any other person in the performance of this Agreement. Satisfactory performance of this section is a condition precedent to payment by the County under this Agreement.

12. RELATIONSHIP, ASSIGNABILITY, AND SEVERABILITY

The Subrecipient, its employees, agents, consultants, or subcontractors performing work under this Agreement are independent Subrecipients and are not employees or agents of the County in any manner whatsoever. The Subrecipient, its employees, agents, consultants, or subcontractors will not hold itself out as, nor claim to be, an officer or employee of the County for any reason, and will not make any claim, demand, or application to or for any right, privilege, or benefit applicable to an officer or employee of the County including, but not limited to Worker's Compensation coverage, Unemployment Insurance, Social Security, retirement membership or credit, health care, or vacation or sick leave benefits.

The performance of all or part of this Agreement by the Subrecipient shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Subrecipient or any employee of the Subrecipient or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

The Subrecipient shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any person without prior written approval by the County. If any provision of this Agreement, or portion thereof, is found to be invalid, the remainder of this Agreement shall not be affected, providing the remainder continues to conform to applicable federal, state, and local laws and regulations.

13. AUDITS

The Subrecipient shall submit to the County's fiscal representative an independent audit engagement letter and other reports as follows:

- A. Subrecipients that are required to have a single audit (formerly known as A-133 audit), must provide a copy of the independent auditor engagement letter to the County when requested.
- B. When state funds are also to be paid under this Agreement a Schedule of State Financial Assistance must also be included in the audit.
- C. When the Subrecipient is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Subrecipient.
- D. The Subrecipient shall include the above audit requirements in any subcontracts.
- E. Inform the County's fiscal representative in advance of the date and time of the independent auditor's exit interview with the Subrecipient so that a County representative can be present if the County so desires.
- F. Submit the independent Certified Public Accountant (CPA's) auditor's financial statement report, the audit report and the management letter ("collectively referred to as "reports") to the County within thirty (30) calendar days following the issuance of such reports.
- G. Provide comments on any findings and recommendations in the reports, including a plan for corrective action for any findings.
- H. The working papers of the reports must be available to the County.

In the event the Subrecipient's independent auditor does not provide the assurances necessary to satisfy state audit requirements, the County retains the right to request a full audit and the Subrecipient will be responsible for any and all costs incurred in order to provide the required audit and assurances.

The reports will be submitted to the County's fiscal representative annually if the Subrecipient receives an annual audit due to requirements other than stated in this Agreement.

14. **RECORDS AND REPORTS**

- A. The Subrecipient shall retain all books, records, documents, reports, and other data relevant to this Agreement, for a minimum of six (6) years after expiration or termination of this Agreement, unless longer and otherwise provided or required by law. If any audit, claim, litigation, or other legal action involving the records is started before applicable retention dates expire, the records shall be maintained until completion and resolution of all issues arising therefrom or until the end of applicable retention dates, whichever is later.

The Subrecipient shall maintain records and files for this project containing the following items:

- 1. Motions, resolutions, or minutes documenting Board or Council actions.

2. A copy of this Scope and the County's notice to proceed on this project.
 3. Correspondence regarding budget revision requests.
 4. Copies of all invoices and reports submitted to the County for this project.
 5. Copies of approved invoices and warrants.
 6. Records documenting that those costs reimbursed with funding provided under this Scope are allowable in accordance with applicable state or federal funding requirements. Such records include, but are not limited to:
 - a. Personnel costs, payroll time sheets for actual salary and fringe benefit costs. Time sheets must be approved by a supervisor and must document percent of

time charged against this project. Direct salaries and wages of employees chargeable to more than one grant program or other cost objective(s) must be supported by time distribution records.
 - b. Staff travel, documentation of mileage charges for private auto use must include: the destination and starting location, and purpose of trip.
 - c. Copy machine use, postage, telephone use, and office supplies when these costs are shared with other programs and no invoice is available, log sheets or annotated invoices.
 7. Documentation of the solicitation process used to select vendors and subcontractors with original purchase orders and subcontracts when such process is required.
 8. Documentation required by this Agreement if any funds provided under this Agreement are used to acquire equipment.
- B. An adequate audit trail shall be maintained. All transactions are to be clearly documented. The documentation is to be readily available for examination.
- C. The Subrecipient shall clearly separate allowable costs from unallowable costs.
- D. The Subrecipient shall maintain written policy and procedural manuals for all services, information systems, personnel, and accounting/finance in sufficient detail such that operations can continue should staff changes or absences occur.
1. The Subrecipient must establish and maintain an accounting system which adequately and separately identifies all funding sources and all application of funds associated with providing the required services including, but not limited to, local, state, and federal grants, fees,

donations, federal funds, and all other funds, public or private. All costs incurred by the Subrecipient must be accurately identified and recorded even when no revenue is received for services. This accounting system provides the means to gather fiscal data necessary to determine: a) the cost of a unit of service; b) the bid price; and c) if funds were generated in excess of allowable costs.

2. These records shall contain information pertaining to projects, contracts, grants, or sub-grant awards, and all authorizations, obligations, non-obligated balances, assets, outlays, liabilities, expenditures, and revenue.
 3. The Subrecipient shall maintain all books, records, documents, reports, and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in performance of this Agreement. Subrecipients shall maintain their fiscal books, records, documents, and other data in a manner consistent with generally accepted accounting principles.
- E. All records required to be maintained by this Agreement or by state and federal regulations are public records and shall be maintained and released, when requested, in accordance with applicable laws.
- F. The Subrecipient shall submit Quarterly Progress Reports by the tenth (10th) of the month following the end of each quarter, or thirty (30) days after the fully signed agreement has been emailed to the Subrecipient, whichever is later throughout the term of the Agreement, and maintain these records for six (6) years after the term of the Agreement.
- G. The Subrecipient shall complete reports and provide information as required by the County to demonstrate compliance with regulations, goals, and objectives

15. RIGHT TO INSPECTION AND USE OF MATERIALS

- A. County representatives, the State Auditor, and officials of the awarding agency shall have the right to review and monitor the financial and service components of this Agreement. The County's review will occur with reasonable notice, and will include, but is not limited to, on-site inspection by County agents or employees, and inspection of all records or other materials which the County deems pertinent to performance, compliance, or quality assurance in conjunction with this Agreement.
- B. During the term of this Agreement and for one (1) calendar year following termination or expiration of this Agreement, the Subrecipient shall, upon receiving reasonable notice, provide the County with access to its place of business and to its records that are relevant to compliance with this Agreement.
- C. The County may duplicate, use, and disclose in any manner, for any purpose whatsoever and authorize others to so do, all material created under this Agreement and paid for by the County.

16. **DEBARMENT**

The Subrecipient shall assure that, its officers, agents, subcontractors, and consultants shall not fund, contract with, or engage the services of any consultant, subcontractor, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive funds.

The Subrecipient certifies that the Subrecipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the Agreement by any federal department or agency. If requested by the County, the Subrecipient shall complete a Certification Debarment, Suspension, Ineligibility, and Voluntary Exclusion form.

17. **RESOLUTION OF DISPUTES**

- A. A Subrecipient with a complaint involving this Agreement is encouraged to first attempt to resolve the matter with the County informally by communicating by telephone or electronic mail with the appropriate County representative or by meeting with that individual in person. The County representative must send written notification to the Subrecipient, specifying the response to the complaint and the date the informal dispute resolution process concluded. If the informal dispute resolution process is unsatisfactory and the Subrecipient elects to register a formal complaint, a Subrecipient shall submit a detailed written description of the issues which form the basis of the complaint to the Contract & Monitoring Manager at Planning and Public Works, 2702 South 42nd St., Suite 109 Tacoma, WA. The Subrecipient's written complaint must be received by the County within thirty (30) calendar days of the date that the informal dispute resolution process concluded.
- B. Upon receipt of a formal written complaint, the Contract & Monitoring Manager or designee will send a written confirmation to the Subrecipient acknowledging receipt of the complaint within five (5) working days. The Contract & Monitoring Manager or designee shall also contact the Subrecipient to establish a meeting to discuss and seek agreement and resolution of the formal complaint. The meeting shall be held within fifteen (15) working days of receipt of the written complaint. The manager shall issue a written decision regarding the Subrecipient's formal complaint no later than fifteen (15) working days following completion of the meeting.
- C. If agreement and resolution are not reached and the Subrecipient elects to pursue the complaint further, the Subrecipient may, within five (5) working days after receipt of the Contract & Monitoring Manager's written decision, file a written appeal to the Director of Pierce County Planning and Public Works at the address listed in this Agreement. The appeal must state all facts and arguments upon which the appeal is based. The Director or designee will render a written decision within fifteen (15) working days following completion of the meeting.
- D. The Subrecipient may appeal an adverse decision of the Pierce County Planning and Public Works Director to the Pierce County Executive, 930 Tacoma Avenue

South, Room 737, Tacoma, WA 98402. The appeal must be received in writing by the Pierce County Executive within five (5) working days of the Subrecipient's receipt of the Director's decision. Upon receipt of a formal written appeal, the Pierce County Executive or designee will schedule a meeting with the Subrecipient within fifteen (15) working days of receipt of the appeal. The Pierce County Executive or designee will issue a written decision within fifteen (15) working days following completion of the meeting.

- E. In the event that any subsequent litigation should arise concerning this Agreement, the venue of such litigation shall be in the courts of Pierce County. This Agreement shall be governed by the laws of the State of Washington.
- F. All mailings by and to the County required in this section of the Agreement shall be by certified mail with return receipt requested to the Subrecipient's address of record.

18. SUSPENSION, TERMINATION, AND CLOSEOUT

- A. For Convenience – Either the Subrecipient or the County may terminate this Agreement for convenience or without cause by providing written notice at least sixty (60) calendar days prior to the effective date of the termination. If this Agreement is so terminated, the County and Subrecipient shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- B. For Cause – The County may, upon written notice to the Subrecipient, immediately suspend or terminate this Agreement in whole or in part, or withhold any payment of funds in whole or in part, when the County determines, in its sole discretion, that continuation of the Agreement is detrimental to the County's interest, including, without limitation, the occurrence of any-one (1) or more of the following:
 - 1. Expected or actual funding from the state, federal government, or other source(s) is withdrawn, reduced, or limited in any manner after the effective date of this Agreement and prior to its normal completion; or
 - 2. Performance of this Agreement is rendered unfeasible or impossible for any reason; or
 - 3. Subrecipient fails to comply with any of the terms or conditions of this Agreement or when the Subrecipient fails to substantiate Subrecipient's compliance with this Agreement when requested to do so by the County; or
 - 4. Subrecipient uses Agreement funds ineffectively, improperly, or illegally; or
 - 5. Subrecipient provides materials, information, reports, or documentation which are incomplete, incorrect, or false, either knowingly or negligently; or
 - 6. Subrecipient fails to provide services, information, reports, or

documentation required by this Agreement in a timely and reasonable manner; or

7. Subrecipient fails to resolve in a timely fashion audit findings associated with this Agreement which could materially impact performance of this Agreement; or
 8. Subrecipient is unable to carry out the terms and conditions of this Agreement in compliance with applicable local, state, or federal law; or
 9. Any illegal act by the Subrecipient.
- C. The County's forgiveness of the Subrecipient's nonperformance of any provision of this Agreement in one (1) instance does not constitute a waiver of any provision of this Agreement, nor of future nonperformance of the same provision.
- D. If the Subrecipient receives a notice of termination from the County for either convenience or cause or issues a notice of termination to the County, the Subrecipient shall:
1. Stop work on the date and to the extent specified;
 2. Place no further orders or agreements for goods, services, or facilities to complete the work now terminated;
 3. Assign to the County all of the Subrecipient's rights, title, and interest under the orders and agreements placed by the Subrecipient to complete the work now terminated;
 4. Deliver or convey title to:
 - a. Any property produced by the work terminated;
 - b. Any usable personal property in which the County has a secured interest;
 - c. Any usable property carried on the County's inventory; or
 - d. Any real property in which the County, or any entity named by the County, has a secured interest; and
 - e. Send a final billing for the work now terminated to the County within thirty (30) calendar days of the date of termination.
- E. If the County receives a notice of termination from the Subrecipient, or if the County issues a notice of termination to the Subrecipient, the County:
1. Will arrange to take delivery of property or the right, title, or interest of real property conveyed by the Subrecipient in conjunction with this Agreement; and
 2. Will make final payment upon receipt of final billings for all authorized

services, if the Subrecipient has provided documentation that the County's interests are fully protected.

- F. The rights and remedies provided to the County and the Subrecipient in this section are in addition to any other rights and remedies provided by law or under this Agreement. Termination of this Agreement by the County at any time during the term of the Agreement shall not constitute a breach of contract by the County. The Subrecipient may request a reconsideration of the County's decision to terminate this Agreement in accordance with Resolution of Disputes Section listed above.

19. **LOBBYING CERTIFICATION**

The Subrecipient certifies that, to the best of its knowledge and belief:

- A. No appropriated funds have been paid, or will be paid by, or on behalf of the Subrecipient, or officers or employees, to any person for influencing, or attempting to influence an officer or employee of any governmental agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant, loan or cooperative agreement.

20. **GENERAL COMPLIANCE**

Subrecipients with contracts in excess of \$25,000 and with a Contract duration of longer than one hundred twenty (120) calendar days that are not specifically exempted under PCC 2.106.022, shall enroll in the Federal E-Verify Program. The requirement extends to every subcontractor meeting the same criteria. The Subrecipient must provide certification of enrollment in the Federal E-Verify program to the County before execution of this Agreement. The Subrecipient will remain enrolled in the program for the duration of this Agreement. The Subrecipient is responsible for verification of every applicable subcontractor. The County reserves the right to require a copy of the Memorandum of Understanding between the Subrecipient or any Subcontractor and the Department of Homeland Security upon request at any time during the term of this Agreement. Failure to provide this document may result in termination of this Agreement.

21. **SURVIVABILITY**

The terms and conditions contained in the Agreement that by their sense and context are intended to survive the expiration of this Agreement shall so survive. Surviving terms include, but are not limited to: Resolution of Disputes, Defend, Hold Harmless and Indemnification, Right to Inspection, Records and Reports, and Treatment of Assets.

22. **PROPRIETARY SOFTWARE APPLICATIONS**

In the event that the Subrecipient accesses the County's proprietary software applications to perform any work under this Agreement, the Subrecipient shall read and agree to the terms and conditions of the software license agreement, and shall not violate the terms and conditions of the software license agreement including, but not

limited to:

- A. The use of the software application shall be restricted to employees or subcontractors;
- B. The Subrecipient shall not “pirate” or reverse engineer the software application; and/or
- C. Otherwise use the application in any way that may harm the County.

23. LICENSING AND ACCREDITATION STANDARDS

The Subrecipient agrees to comply with all applicable local, state, and federal licensing standards, all applicable accrediting or certification standards, and any other standards or criteria established by the County to ensure quality of services, and to supply proof of said compliance upon demand.

24. TREATMENT OF SUBRECIPIENT ASSETS

- A. Title to all property furnished by the regulating authority shall remain with the regulating authority; and title to all property furnished by the County shall remain with the County.
- B. The Subrecipient shall obtain prior written approval by the County when purchasing non-expendable personal property if the cost of the personal property is to be reimbursed as a direct item of cost under this Agreement. This approval may be accomplished by inclusion in the Agreement Budget.
- C. Title of all non-expendable personal property purchased by the Subrecipient, the cost of which the Subrecipient is reimbursed as a direct item of cost under this Agreement, vest in the Subrecipient.
- D. Any non-expendable personal property furnished to, or purchased by, the Subrecipient, unless otherwise provided herein or approved by the County, be used only for the performance of this Agreement.
- E. As a precedent to reimbursement for the purchase of non-expendable personal property, the Subrecipient agrees to provide all necessary information and documents in order for the County to execute such security agreements and other documents as shall be necessary for the County to protect its interest in such property in accordance with the Uniform Commercial Code as codified in Article 9 of Title 62A RCW.
- F. The Subrecipient will furnish to the County by the fifteenth (15th) day of October, unless otherwise stated, an inventory of any and all property purchased with funds provided by the County for use under the terms of this Agreement. The inventory list shall include all non-expendable personal property, including small and attractive items, purchased with funds provided by the County under the terms of this Agreement. For the purposes of this clause, conducting and providing an inventory consists of sighting, tagging or marking, describing, recording, and reporting the property involved.

- G. The Subrecipient shall be responsible for any loss or damage to property of the County, including all expenses resulting from such loss or damage, which results from negligence, willful misconduct, or lack of good faith on the part of the Subrecipient, or which results from the failure on the part of the Subrecipient to maintain and administer the property in accordance with sound management practices. Furthermore, the Subrecipient shall ensure that all County property in its possession, when returned to the County, shall be in a like condition to that in which it was when furnished to the Subrecipient or the condition in which the property was when acquired by the Subrecipient through purchase, except that in all cases, reasonable wear and tear shall be allowed.
- H. Within three (3) calendar days of discovery of loss or destruction of or damage to County property, the Subrecipient shall notify the County in writing and include appropriate documentation (i.e., police, fire, or accident reports). The Subrecipient shall take all reasonable steps to protect that property from further damage.
- I. Within five (5) working days after termination, or completion of this Agreement, unless otherwise mutually agreed in writing between the Subrecipient and the County, the Subrecipient shall surrender to the County all property of the County.
- J. The County may, at its discretion, abandon in place any property in which title is vested in the County under the terms of this Agreement insofar as permitted by law, rule, or regulation.
- K. Non-expendable personal property acquired by the Subrecipient, the cost of which is reimbursed by the County or the Subrecipient with funds provided through this Agreement, shall be subject to the same constraints, procedures, treatment, handling, disposition, and other matters as specified above. The Subrecipient shall take all steps necessary to ensure that the interest of the County in such property shall be protected and safeguarded.
- L. The Subrecipient will maintain property record cards and property identification tabs as may be directed by the County. This applies only to property purchased with federal, state, and/or County funds specifically designated for such purchase.

25. PROJECT IMPLEMENTATION AND PROGRESS

Failure to lawfully plan, administer, and implement the project or to demonstrate substantial progress within ninety (90) days of the effective date of this Agreement, shall cause the County to re-evaluate the need for and methods of the project. The result of such re-evaluation may necessitate restructuring of the scope, redefinition of milestones and/or units of service or termination of the Agreement for lack of need, ineffective or improper use of funds, and/or failure to implement the project in a timely and reasonable manner.

26. PROCUREMENT AND SUBCONTRACTS

The Subrecipient may, upon the County's prior review and specific written approval of the contract instrument, enter into any contract or procurement action authorized or necessary for the successful completion of this Agreement (other than contracts for

incidental procurements not directly related to the accomplishment of the project which do not require County approval). All procurement actions and contracts other than incidental procurements shall be structured in accordance with applicable state and federal law relating to contracting by public agencies.

27. CONFLICT OF INTEREST AND CODE OF CONDUCT

The County may, in its sole discretion, by written notice to the Subrecipient, terminate this contract if it is found, after due notice and examination by the County or its agent that there is a violation of chapter 42.23 RCW, or any similar statute involving the Subrecipient in the procurement of, or performance of this agreement.

In the event this agreement is terminated as provided above, the County shall be entitled to pursue the same remedies against the Subrecipient as it could pursue in the event of a breach of contract by the Subrecipient. The rights and remedies of the County provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the County makes a determination under this section shall be an issue and may be reviewed as provided in the "resolution of disputes" section of this agreement.

28. PROPERTY, MATERIALS AND OPERATING SUPPLIES

- A. Non-expendable equipment, materials, operating supplies and other assets other than real property, purchased in whole or in part with Agreement funds, whose per unit fair market value (or total value for supplies) at the time of completion of use is in excess of \$5,000 and are to be utilized, maintained, inventoried, controlled and disposed of pursuant to applicable federal regulations.
- B. Any equipment, materials, operating supplies and other assets with per unit fair market value (or total value for supplies) at the time of completion of use of less than \$5,000, may be retained or disposed of by the Subrecipient. The County retains no financial interest in these items.

Note: Any assets whose fair market value is in question should be referred to the County for decision before any disposition action is taken by the Subrecipient.

29. COMPLIANCE WITH LOCAL AND FEDERAL REGULATIONS

The Subrecipient, its consultants, and contractors shall comply with all applicable local, state and federal laws and regulations, whenever and wherever they are applicable, including those listed below. The Subrecipient, its consultants, and contractors shall timely obtain all permits and approvals necessary to lawfully implement the project. The Subrecipient, its consultants, and contractors shall include in all contracts, subcontracts and purchase orders for this project the following list of laws and regulations and shall require compliance with such laws and requirements:

- A. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) relating to non-discrimination in performance of the project and to the benefits deriving from.
- B. Executive Order 11246 dealing with non-discrimination in employment based on sex, sexual orientation, gender identity, or national origin, as amended by Executive Orders 11375, 11478, 12086, and 13672.

- C. The relocation, acquisition and displacement requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- D. The National Environmental Policy Act of 1969 and other statutory environmental requirements.
- E. Executive Orders 11625, 12138 and 12432, and Public Law 98-507, dealing with the use of minority and women owned business enterprises.
- F. The provisions of the Hatch Act limiting political activities of government employees.
- G. The Drug-Free Workplace Act of 1988 (42 U.S.C. 701).
- H. Current EPA general terms and conditions available at:
<https://www.epa.gov/grants/grant-terms-and-conditions>
- I. Current EPA Cybersecurity Condition available at:
<https://www.epa.gov/grants/cybersecurity-grant-condition-other-recipients-including-intertribal-consortia>

Note: A listing of these applicable laws and regulations are to be incorporated in each contract, subcontract and consultant agreement issued by the Subrecipient or its contractors.

30. **COUNTY MONITORING/ASSESSMENT PROCEDURES**

- A. The County will conduct monitoring and performance assessments of all services provided under this Agreement, in the manner and at reasonable times, with reasonable notice, as the County considers appropriate.
- B. Monitoring and assessment activities include, but are not limited to, review of service and financial reports, including all books, records, documents, and other data, facilities, activities, and on-site visits by County staff or their designee, state, or federal representatives.
- C. Unless the County elects to terminate this Agreement for cause, when findings from monitoring efforts or audits show that there are apparent violations of the terms or conditions of this Agreement, the Subrecipient and the County shall negotiate a mutually agreeable plan of action to address the identified problem. If the parties are unable to come to agreement, the Subrecipient may file a complaint, as specified in this Agreement.

31. **RIGHT OF ENTRY-SEE EXHIBIT D**

If the subrecipient will be accessing County owned property in order to complete Tasks, Exhibit D outlines the notification process and standard provisions.

Exhibit A

Scope of Work

This Agreement is between Pierce County and the Subrecipient for the project identified as Floodplains for the Future – Puyallup, White & Carbon Rivers (Round 4 – 2019-2021). This is a partial pass-through of award #SEAFBD 2019 PiCoPW 00059 from Washington State Department of Ecology.

Task and subtask numbers in this Scope refer to specific deliverables within Pierce County's agreement with the Department of Ecology and may not be sequential.

Period of Performance: November 1, 2022, through June 15, 2023.

The subrecipient agrees to provide work for the following Tasks:

- 5.9 Lower White River Restoration at 24th St 2022-2023 Construction to complete the relocation of utilities, including power, water, and sewer lines to outside of the project area. Prior to bid, subrecipient must provide for review Bid Documents, including construction plans and specifications.
- 5.10 Lower White River Restoration at 24th St 2022-2023 Construction (Utility Phase): Provide annotated digital photographs showing conditions before, during, and after construction. Upload to EAGL and notify ECOLOGY Project Manager.

Task 5.9 and 5.10 will restore approximately 162 acres of floodplain on the left bank of the Lower White River as it moves through the City of Sumner, creating 3 new miles of habitat and relocating critical infrastructure (utilities) out of the floodplain.

Responsibilities of Subrecipient:

- Relocate power, water and sewer lines to outside the project area.
- Procure all subcontracted services in compliance with state guidelines.
- Provide procurement documents, construction plans and specifications to Pierce County.
- Follow the Ecology Yellow Book guidelines and the Floodplains by Design 19-21 grant guidelines while implementing work.

Deliverables:

- Procurement documents for all hired services.
- Bid documents including construction plans and specifications for the Utility Phase of construction.
- Annotated digital photographs showing conditions before, during and after construction.

Exhibit B

Compensation and Financial Requirements

1. COMPENSATION

In consideration of the mutual promises given and the benefit to be derived from this Agreement, the County agrees to provide funds up to the amount listed on page 1, Section 1; Funds Available to Subrecipient to accomplish tasks in the scope of services described in Exhibit A – Scope of Work.

Payment will be made upon 100% completion of the following deliverables:

5.9	Lower White River Restoration at 24th St 2022-2023 Construction to complete the relocation of utilities, including power, water, and sewer lines to outside of the project area. Prior to bid, subrecipient must provide for review Bid Documents, including construction plans and specifications.	\$1,499,500.00
5.10	Lower White River Restoration at 24th St 2022-2023 Construction (Utility Phase): Provide annotated digital photographs showing conditions before, during, and after construction. Upload to EAGL and notify ECOLOGY Project Manager.	\$500.00

2. FINANCIAL REQUIREMENTS

A. Applicable Regulations and Restrictions

It is understood that where applicable, funds provided by this Agreement are state funds administered by the County and are subject to requirements for grants-in-aid now in effect or which hereafter may be made applicable by local, state or federal laws or regulations. All of the above are incorporated in this Agreement by reference.

B. Audits and/or reviewed financial statement must be submitted to the County within thirty (30) calendar days of issuance. The review must be conducted in accordance with the Statements and Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants for non-profits or the Government Auditing Standards issued by the Comptroller General of the United States for government entities.

C. Approved Uses, Grant Funds

It is expressly understood that funds may only be used for costs included in the approved project budget and may not be used for the general administration or operation of the Subrecipient and may not replace non-federal funds in any jointly funded project. The Subrecipient shall clearly separate allowable costs from unallowable costs.

D. Inappropriate Funds Obligation

1. Funds shall not be obligated for:
 - a. Any action subsequent to written notification from the county suspending or terminating the Agreement, except as authorized by the County.
2. The Subrecipient shall refund to the County any payment or partial payment expended by the Subrecipient, its Contractors or Consultants which is subsequently found to be ineligible, inappropriate or illegal.

E. Request for Payment

1. Reimbursement requests will not be approved unless Subrecipient submits timely performance reports and all information necessary to demonstrate compliance with regulations, eligibility, goals and objectives.
2. Request for payment by the Subrecipient shall include only the request for payment or reimbursement of cost actually incurred per the approved budget and supported by documentation. All reimbursement requests must be accompanied by copies of substantiating receipts, pay stubs, invoices or other proof of incurred costs and must be signed by a signature authority designee(s). A signature authority designee(s) form must be on file prior to the first contract payment request submission of the contract period. All backup documentation and a signed copy of the contract payment request are to be submitted electronically to pcpwcontractservices@piercecountywa.gov with organization name and service period in the subject line of the Email.
3. The Subrecipient is prohibited from submitting request for payment in excess of actual requirements for carrying out the project.
4. Subject to the terms and conditions of this Agreement, the Subrecipient shall submit an invoice on a monthly basis within twenty-one (21) working days following the month in which the Subrecipient has incurred expenditures for services and costs as outlined in this Agreement. The amount requested must be supported by actual costs incurred and paid for by the Subrecipient/vendor. The County shall issue payment no later than thirty (30) working days after the receipt of complete and accurate billing information as determined by the County. The submission of incomplete or inaccurate billing information may delay the reimbursement process, and shall not be considered a breach of contract.
5. Exceptions to these procedures must be requested in writing and agreed upon between the parties.
6. The County's payment options for Subrecipients includes electronic payments via Automated Clearing House (ACH). The ACH payment is a safe and efficient electronic payment option that credits the Subrecipient's bank account directly and provides for an increase in efficiency for both the Subrecipient and the County. In order to participate in the ACH option,

the Subrecipient is required to complete the County's Supplier ACH Payment Enrollment form and W-9. Each form must be completed in their entirety by the Subrecipient and returned to: Pierce County Finance Department, ATTN: Accounts Payable , 950 Fawcett Avenue, Suite 100 , Tacoma, WA 98402. Enrollment forms are available upon request by e-mailing PCAccountsPayable@piercecounitywa.gov. Once enrolled, the ACH payment process will remain in effect for the Contractor until such time as the County receives written notice of revocation from the Subrecipient

F. Multiple Agency Funding

Projects funded by multiple agencies or sources shall indicate in the project budget the agency or source from which the funds derive and how the funds will be utilized.

Exhibit C

Applicable Definitions

The following terms shall have the following definitions:

"Acquisition Cost" shall mean that amount expended for property, excluding interest, plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of trade-in) of the property traded in. Non-expendable personal property, the value of which was expended when acquired, has a book value of zero (0) when traded in.

"Agreement" shall mean the Basic Agreement and any Statements of Work and Exhibits that are attached to and incorporated by reference to the Basic Agreement.

"BARS" shall mean Budget, Accounting, and Reporting System for counties, cities, and other local governments.

"Business Entity" shall mean any person, or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit with the County. The term business entity shall include, but not be limited to partnerships, corporations, Subrecipients, and subcontractors doing business with the County.

"Client", "Consumer", "Participant", "Patient", or "Recipient" shall mean any individual applying for or receiving services under this Agreement.

"CFR" shall mean Code of Federal Regulations. All references in this Agreement to CFR chapters or sections shall include any successor, amended, or replacement regulation. The CFR may be accessed at <http://www.ecfr.gov>

"Contract" shall mean the Basic Agreement and any Statements of Work and Exhibits that are attached to and incorporated by reference to the Basic Agreement.

"Contract Budget" shall mean the budget incorporated in this Agreement, identifying a plan for the expenditure of contracted funds.

"Cost Reimbursement" shall mean that payment to the Subrecipient is based upon the actual reimbursable costs incurred under this Agreement.

"Debarment" shall mean an action taken by a federal official to exclude a person or business entity from participating in transactions involving certain federal funds.

"E-Verify", PCC 2.106.022 and 2.106.025, shall mean the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Pub. L. No. 104-208, Division C, Title IVY s. 403(a), as amended, and operated by the United States Department of Homeland Security, or a successor electronic verification of work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees pursuant to the Immigration Reform and Control Act of 1986, Pub. L. No. 99-603.

"Fee for Service" shall mean paying the Subrecipient a negotiated fixed rate, based upon performance of a defined unit of service.

"Financial Statement" shall mean a combined report, or separate reports, of financial information prepared by the Subrecipient's accountant that identifies the Subrecipient's financial position, operating results, and other pertinent information. The reporting period of the document(s) shall correspond with the Subrecipient's calendar or fiscal year.

"Independent Auditor" shall mean either a certified public accounting firm or a certified public accountant.

"Information Technology (IT) Purchases" include, but are not limited to, computers, software, desk telephones, and cellular telephones, but do not include keyboards and mouse.

"Non-expendable Personal Property" shall mean tangible personal property having a useful life of more than one (1) year and an acquisition cost of \$5,000.00 or more per unit, unless a greater amount is specified in an Appendix or Work Order.

"PCC" shall mean Pierce County Code.

"Personal Property" shall mean property of any kind, including small and attractive items and IT equipment, except real property.

"Price Related" shall mean a price-analyzed payment structure in which payments are either made as a lump sum, or made at a rate-per-unit basis, and without consideration of the Subrecipient's actual or anticipated costs.

"RCW" shall mean the Revised Code of Washington. All references in this Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. The RCW can be accessed at <http://apps.leg.wa.gov/RCW/>

"Real Property" shall mean any interest in land.

"Regulating Authority" shall mean any federal, state county or local entity which has the ability to enforce laws regulations or requirements upon the Subrecipient.

"Small and Attractive Items" shall mean those items with a value of \$300.00 or more that are particularly vulnerable to loss. Examples of these items include, but are not limited to, communication equipment, cameras, IT accessory equipment such as scanners, office equipment, televisions, cellular telephones, and VCRs.

"Subcontract" shall mean any agreement between the Subrecipient and a Subcontractor or between a Subcontractor and another Subcontractor that is related to this Agreement, provided that the Subcontract does not include the purchase of supplies or support services that do not directly affect the funded services. The terms Subcontract and Subcontracts shall mean Subcontract(s) in any tier.

"Subcontractor" shall mean any person, partnership, corporation, association, or organization, not in the employment of the Subrecipient, who is performing part of the contract or Subcontract from a Subcontractor. The terms Subcontractor and Subcontractors shall mean Subcontractor(s) in any tier. "Subrecipient" shall mean a non-federal and non-state entity that expends federal or state awards received from a pass-through entity to carry out a federal or state program, but does not include an individual that is a beneficiary of such a program. A Subrecipient may also be a recipient of other federal or state awards directly from a federal or

state awarding agency.

"Subrecipient" for purposes of E-Verify, PCC 2.106.022 and 2.106.025, shall mean a person, employer or business entity that enters into a contract or an agreement with the County to perform any service or work, or to provide a certain product in exchange for valuable consideration. For purposes of PCC 2.106.022 and 2.106.025, the term Subrecipient shall **not** include government agencies; legal, architectural and engineering service providers; those whose contracts would be exempt from competitive bidding under PCC 2.106.060 B; those whose contracts issue under PCC 2.106.070, those whose supplies and services are purchased under PCC 2.106.410; regulated providers of insurance, bonding, banking, or investment services; or public utilities.

"Useful Life" of non-expendable personal property shall mean that useful service life as based upon the United States Department of Treasury, Internal Revenue Service, policies on depreciation for tax purposes, unless the Subrecipient or Subcontractor documents in writing some different period that the County agrees to in writing.

"Unit Cost Rate" shall mean a payment mechanism where reimbursable costs incurred in a prior period, divided by the units of service delivered in the prior period and multiplied by the units identified in the current period, determines the total amount paid.

"Vendor" shall mean a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the federal program.

"WAC" shall mean the Washington Administrative Code. All references in this Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation. The WAC can be accessed at <http://apps.leg.wa.gov/wac/>

"Work Order" shall mean a document attached to and incorporated by reference to the Basic Agreement which states the goods, services, and/or benefits to be delivered, and any other terms and conditions that apply to the work.

Exhibit D

Rights of Entry for County Property

If the Contractor wishes to enter into or perform tasks on County owned property in order to complete the Scope of Work, Contractor must request a right of entry from the Project Manager(s) in writing (email is permissible) at least three (3) business days prior to the proposed entry date. Contractor's written request must include the parcel number(s), address(es), purpose of proposed activity, and proposed duration.

After review of Contractor's request, the Project Manager or designee will respond with either a written denial or with a written "short form" right of entry. If the County issues a short form right of entry, that right of entry is issued only on the terms set forth below in the "Standard Right of Entry Provisions." The below "Standard Right of Entry Provisions" are incorporated by reference into any right of entry issued pursuant to this Agreement without the need to set those provisions out in full in the right of entry. The short form right of entry will:

- reference this Agreement by name and County contract number,
- specify the County real property Contractor may enter,
- specify access location and/or method,
- specify permissible purposes for Contractor's entry and use of the property,
- specify authorized duration of Contractor's entry or use, and
- provide any special conditions limiting or restricting Contractor's entry onto or use of the specified real property.

The short form right of entry may be in any written format that includes the information listed above, including an email message.

Project Manager(s) to whom written request must be made. Contractor must provide the written request to all persons listed:

Surface Water Management Division Project Managers:

Kathleen Berger Kathleen.berger@piercecountywa.gov

Helmut Schmidt helmut.schmidt@piercecountywa.gov

Standard Right of Entry Provisions

Grantor: Pierce County, acting through its Planning and Public Works Department

Grantee: Pierce Conservation District

PO Box 1057

Puyallup, WA 98371

1. Grant of Right-of-Entry: Grantor, a municipal corporation and political subdivision of the state of Washington, is the owner of the real property described in any Right of Entry issued pursuant to this Agreement (the Property). Upon issuance of a specific Short Form Right of Entry by the Project Manager referenced by this Agreement, Grantor will grant to Grantee a nonexclusive, temporary right-of-entry, subject to these Standard Right of Entry Provisions and subject to any specific conditions in Short Form Right of Entry. Grantee's intended and actual use of the Property is referred to in these Standard Provisions as "the Activity," and the area to which entry is authorized is referred to as "the ROE Area."

2. Insurance: Grantee shall provide, at its sole expense, Commercial General Liability and Commercial Automobile Liability insurance, each with bodily injury and property damage liability coverage of \$1,000,000 each occurrence OR combined single limit coverage of \$2,000,000 with not greater than a \$1,000 deductible. Pierce County shall be named as an additional insured. Proof of insurance in the form of a certificate shall be provided prior to the execution of this right-of-entry agreement. Grantee shall keep the policy in effect throughout the term of this right-of-entry agreement.

3. General Obligations: Grantee shall bear all costs and expenses related to the Activity. Grantee shall also bear all costs and expenses for any harm or damages, including death at any time that occurs to any officer, employee, or agent of Grantee or to any other Activity participant or to any person affected by the Activity. Grantee, not the Grantor, shall be solely responsible for the safety of the Activity participants and of any person affected by the Activity. Grantee shall take all necessary steps to prevent injury to persons or property, including any necessary or prudent training, orientations, or other meetings. Grantee shall keep the ROE Area clean and free from litter and shall return the ROE Area to its pre-Activity condition prior to the expiration or termination of this right-of-entry agreement. If Grantee fails to do so, Grantee agrees that Grantor may make such appropriate repairs at Grantee's expense. Grantee agrees to promptly pay any bills for such work submitted by Grantor.

4. Prohibited Uses: Grantee shall not use or permit the ROE Area to be used for any purpose other than as expressly set forth in any Right of Entry issued by the Project Manager without the prior written consent of Grantor, which consent may be granted, withheld, conditioned, or delayed by Grantor in its sole and absolute judgment and discretion. Further, Grantee shall not use the ROE Area in violation of any statute, rule, ordinance, permit, order, regulation, or code in effect and applicable to the Property or the Activity. Nor shall Grantee do or permit to be done in, on, under, or about the ROE Area, or any part thereof, or bring into, keep, or permit to be brought into or kept in or about the Property or the ROE Area anything that may constitute a waste, nuisance, or unreasonable annoyance, or that may injure or damage the Property. In addition to the foregoing, Grantee shall not transport, generate, handle, store, or dispose of any Hazardous Substance in, on, under, or about the Property or the ROE Area other than as expressly authorized in this right-of-entry agreement. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous waste, or material which is, or becomes, regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup. Grantee shall hold harmless, protect, indemnify, and defend Grantor from and against any damage, loss, claim, or liability of any kind, type, or nature whatsoever arising out of or relating in any way to any breach of this section, including any attorneys' fees and costs incurred. The indemnity and hold harmless provisions of this section shall survive the expiration or earlier termination of this right-of-entry agreement.

5. Indemnification: Grantee agrees to defend, indemnify, and save harmless the County, its appointed and elected officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorneys' fees and costs, by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, and for damages to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of Grantee, his/her/its subcontractors, successors, assigns, servants, or employees, the County, or its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. If this contract is subject to RCW 4.24.115, as now or hereinafter amended and if the liability results from the concurrent negligence of the County and the Contractor, then the parties agree that this provision is valid and enforceable only to the extent of Contractor's negligence. With respect to the performance of this right-of-entry agreement and as to claims against the County, its officers, agents, and employees, the Grantee expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend, and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Grantee. This waiver is mutually negotiated by the parties to this right-of-entry agreement.

6. Assignment, Termination, and Waiver: This right-of-entry agreement is personal to Grantee and may not be assigned to any other entity or person without prior written consent of the Grantor, which consent may be granted, withheld, conditioned, or delayed by Grantor in its sole and absolute judgment and discretion. In the event of such assignment, this right-of-entry agreement binds any successors or assigns of the parties.

Grantor may, without waiving any right or remedy, terminate this right-of-entry agreement, order Grantee to vacate the Property, or pursue any other legal remedy. Grantor reserves the right to terminate this agreement at any time in its sole discretion. Grantor's failure to promptly exercise any right or remedy under this right-of-entry agreement is not a waiver of any provision of this right-of-entry agreement or remedy available to Grantor.

7. Grantor Access: Grantor reserves and shall at all times have the right to enter upon the Property for any and all purposes not inconsistent with Grantee's right-of-entry and to observe Grantee's activities thereupon.

8. Miscellaneous:

A. Entire Understanding: The terms set forth in this right-of-entry agreement are intended by the parties as a final, complete, and exclusive expression of the terms of their agreement and may not be contradicted, explained, or supplemented by evidence of any prior agreement, any contemporaneous oral agreement or any inconsistent additional terms.

B. Notices: All notices related to this right-of-entry agreement shall be in writing and shall be deemed to have been given or made when mailed, first class, registered or certified mail, postage prepaid, and addressed as listed on page one of this right-of-entry agreement.

C. Choice of Law: This right-of-entry agreement, including all matters of construction, validity, and performance shall be governed, construed, and enforced in accordance with the laws of the State of Washington, as applied to contracts executed and to be fully performed in Washington by citizens of Washington and without reference to principles of conflicts of law. Venue of any action arising out of this right-of-entry agreement shall be had first in the Superior Court of the State of Washington for Pierce County.

D. Attorneys' Fees: In the event of a suit by any party to enforce or to settle any dispute arising out of any provision of this right-of-entry agreement, each party agrees to bear its own costs and attorneys' fees, subject to the limitations set forth in Section 10 of this right-of-entry agreement and RCW 4.84.330.

E. Severability: Each provision of this right-of-entry agreement is intended to be severable, and if any provision hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of this agreement.

9. Signature Authority: By signing the Agreement of which this Exhibit and these Standard Right of Entry Provisions are a part, County and Contractor have agreed to all terms herein and also represent and warrant that all necessary signatures and consents to enter into this right-of-entry agreement and to assume and perform the obligations hereunder have been duly and properly obtained.

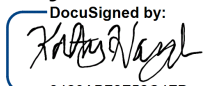
PIERCE COUNTY
Agreement Signature Page

Agreement # SC-109706

IN WITNESS WHERE OF, the parties have executed this Agreement on the days indicated below:

SUBRECIPIENT:

City of Sumner

DocuSigned by:

3420AB72F52C4FD... 1/20/2023

Signature Date
Mayor

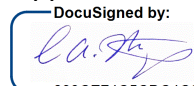
Contact Name: Kathy Hayden, Mayor
Contact Phone Number: 253-299-5790
Contact Email: khayden@sumnerwa.gov

Mailing Address: 1104 Maple Street
Sumner, WA 98390

UBI No.: 277-000-014

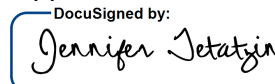
PIERCE COUNTY:

Approved as to form:

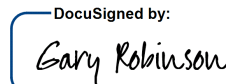
DocuSigned by:

899CE74C5CDC4C6... 1/24/2023

Deputy Prosecuting Attorney Date

Approved:

DocuSigned by:

AF90D0210080455... 1/20/2023

Dept. Director Date

DocuSigned by:

88F99CA97BBD418... 1/20/2023

Finance Director Date

DocuSigned by:

1BD2210628D6495... 1/24/2023

Pierce County Executive Date
(\$250,000 or more)

SUBJECT: Biosolids Equipment Modernization Project - Design Supplement

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$699,950

Within Budget Allocation: Yes

ATTACHMENTS:

1. Biosolids Equipment Modernization Project - Supplement #2 (CIP 21-17)

STAFF CONTACT: Michael Kosa, City Engineer

SUMMARY BACKGROUND:

The City of Sumner, in conjunction with the City of Bonney Lake, operates a Wastewater Treatment Facility (WWTF) that produces a Class A Biosolid that allows for a relatively cost effective disposal of biological waste materials from the WWTF process. The dryer used in the creation of the Class A biosolid is approaching the end of its service life.

Gray and Osborne Inc. (G&O), was selected to provide consulting services through a qualification-based selection process. The consultant has completed a conceptual facility plan and is ready to begin final design. Once final design is complete, the City will have the necessary contract drawings and specifications to advertise for bids and move forward with the dryer procurement and final installation of the new dryer and associated biosolids components. Additionally, there are expenses from a field visit completed jointly by City of Sumner and G&O staff that are captured in this amendment.

The original agreement amount for preliminary design was \$79,600. Supplement #1 was a no-cost supplement executed in December 2022 to extend the agreement expiration date only. This is Supplement #2 of the design agreement.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 2/7/2023

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving a supplement to Gray and Osborne's Consultant Services Contract for the WWTF Biosolids Modernization Project (CIP 21-17), increasing the contract amount by \$699,950 to a total authorized amount not-to-exceed \$779,550, 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.



AMENDMENT NO. 2

NAME OF CONSULTANT, CONTRACTOR OR VENDOR: **Gray & Osborne, Inc.**

CONTRACT NAME & PROJECT NUMBER: **WWTF Equipment Modernization (CIP 21-17)**

ORIGINAL AGREEMENT DATE: **January 25, 2022**

This Amendment is made between the City and the above-referenced Consultant, Contractor or Vendor and amends the original Contract/Agreement and all prior Amendments. All other provisions of the original Contract/Agreement or prior Amendments not inconsistent with this Amendment shall remain in full force and effect. For valuable consideration and by mutual consent of the parties, Consultant, Contractor or Vendor's work is modified as follows:

1. Section I of the Agreement, entitled "Description of Work," is hereby modified to add additional work or revise existing work as follows:

In addition to work required under the original Agreement and any prior Amendments, the Consultant, Contractor or Vendor shall:

See attached Exhibit A & Exhibit B.

2. The contract amount and time for performance provisions of Section II "Time of Completion," and Section III, "Compensation," are modified as follows:

Original Contract Sum, <i>including applicable WSST</i>	\$79,600.00
Net Change by Previous Amendments <i>including applicable WSST</i>	\$N/A
Current Contract Amount <i>including all previous amendments</i>	\$79,600.00

Current Amendment Sum	\$699,950.00
Applicable WSST Tax on this Amendment	\$N/A
Revised Contract Sum	\$779,550.00

Original Time for Completion (insert date)	12/31/2022
Revised Time for Completion under prior Amendments (insert date)	12/31/2024
Add'l Days Required (±) for this Amendment	365 calendar days
Revised Time for Completion (insert date)	12/31/2025

In accordance with Section XIV E of the Contract/Agreement, the Contractor, Consultant or Vendor accepts all requirements of this Amendment by signing below, by its signature waives any protest or claim it may have regarding this Amendment, and acknowledges and accepts that this Amendment constitutes full payment and final settlement of all claims of any kind or nature arising from or connected with any work either covered or affected by this Amendment, including, without limitation, claims related to contract time, contract acceleration, onsite or home office overhead, or lost profits. This Amendment, unless otherwise provided, does not relieve the Contractor, Consultant or Vendor from strict compliance with the guarantee and warranty provisions of the original Agreement.

All acts consistent with the authority of the Agreement, previous Amendments (if any), and this Amendment, prior to the effective date of this Amendment, are hereby ratified and affirmed, and the terms of the Agreement, previous Amendments (if any), and this Amendment shall be deemed to have applied.

The parties whose names appear below swear under penalty of perjury that they are authorized to enter into this Amendment, which is binding on the parties of this contract.

IN WITNESS, the parties below have executed this Amendment, which will become effective on the last date written below.

CONSULTANT, CONTRACTOR OR VENDOR: By: _____ (signature) Print Name: _____ Its _____ (Title) DATE: _____	CITY OF SUMNER: By: _____ (signature) Print Name: <u>Kathy Hayden</u> Its <u>Mayor</u> (Title) DATE: _____
APPROVED AS TO FORM: _____ Sumner City Attorney	CITY OF SUMNER: By: _____ (signature) Print Name: <u>Jason Wilson</u> Its <u>City Administrator</u> (Title) DATE: _____

EXHIBIT A

SCOPE OF WORK

CITY OF SUMNER BIOSOLIDS EQUIPMENT MODERNIZATION PROJECT ENGINEERING DESIGN SERVICES

The services to be furnished by Gray & Osborne under this contract include the necessary engineering tasks for the design of the Biosolids Equipment Modernization Project at the Wastewater Treatment Plant (WWTP) for the City of Sumner. Gray & Osborne, Inc. will provide the necessary civil, mechanical, structural, architectural, and electrical design to adequately show and describe all new facilities and improvements and modifications to the existing WWTP. The design of the new facilities will be consistent with the recommendations presented in the *Draft Wastewater Treatment Plant Facility Plan Amendment No. 3, City of Sumner* (January 2023). The scope of these services will include Project Management (Task 1), preparation of specifications for the procurement of the biosolids drying equipment (Task 2), engineering design services for the Biosolids Equipment Modernization Improvements (Task 3), Environmental Documentation and Permitting (Task 4), Air Emissions Permitting (Task 5) and Quality Assurance/Quality Control (Task 6). The specific tasks in the scope of work for this project are described more fully below. The cost proposal for these services is presented in Exhibit “B”.

Bid and award services are not included as part of this scope. These services will be furnished separately as part of the future construction services scope of work.

BACKGROUND

The elements of this project are identified in the *Biosolids Dryer Alternatives Analysis and Selection Technical Memorandum* (December 2022) and the *Draft Wastewater Facility Plan Addendum 3* (February 2023). These improvements will generally include, but not be limited to the following items:

1. Biosolids Dryer Replacement
 - a. Design a new expansion to the existing Solids Handling Building to house the new biosolids drying equipment, including the thermal fluid heater, biosolids dryer, dried biosolids screening, cooling and conveyance systems. The building expansion will be a single-story structure, equal in height to the existing Solids Handling Building and will be separated into two rooms. One room will house the biosolids dryer, dried biosolids screening, cooling and conveyance equipment, while the other room will house the thermal fluid heater.

- b. The new building expansion will be located on the south side of the existing biosolids haul truck loading bay, in the location of the existing canopy/roof structure, which will require demolition of the existing canopy/roof structure. A new roof will also be designed to cover the open area between the existing Solids Handling Building and new building expansion to the west of the biosolids haul truck loading bay.
 - c. Design the installation of a new continuously fed, indirect biosolids dryer to dry anaerobically digested dewatered biosolids to greater than 90 percent solids, meeting Class A exceptional quality biosolids criteria. The dryer that will be used as the basis of design will be selected via a pre-procurement bidding process and have an evaporative capacity of at least 1,640 lb/hr and a design wet sludge feed rate of 2,100 lb/hr assuming a dewatered cake solids concentration of 20 percent.
 - d. Design the installation of a new 2.5 MMBTU/hr thermal fluid heater capable of utilizing a mixture of digester gas and natural gas.
 - e. Design the installation of dried biosolids conveyance, cooling and screening systems, including recycle of fines and separation of oversize particles.
 - f. Design a bridge crane for the dryer room to facilitate maintenance of the drying equipment.
2. Biosolids Storage Hopper and Dewatered Biosolids Conveyance Modifications
- a. Design the necessary revisions to the existing 50 cubic yard dewatered biosolids storage hopper and conveyors. These modifications are anticipated to include replacement of the existing sludge hopper auger drive motors with new VFD rated motors and the installation of new VFDs to allow the output of these conveyors to be modulated to meet the feed sludge flow rate to the biosolids dryer. Design the necessary revisions or replacement of the existing dryer conveyor to all this conveyor to discharge to the hopper of the new dewatered cake pump(s).

- b. Design the installation of new multi-stage progressing cavity cake pumps(s) to convey dewatered cake to the inlet of the new biosolids dryer.

3. Thickening and Dewatering Polymer Systems

Design the installation of two new automatic polymer preparation/dilution systems to be located in the existing Solids Handling Building in roughly the same location as the existing Fenton dryer. One new polymer system will provide polymer to the new waste activated sludge thickener and will be relatively small system capable of using only emulsion polymer and will not include mixing and aging tanks. The second new polymer system will serve the dewatering operations and will be capable of utilizing either emulsion or dry polymers. This system will include a polymer mix tank, a polymer transfer pump, a polymer aging/feed tank and a post-dilution/polymer feed skid. This polymer system will also be provided with a frame and hoist system to allow utilization of super sacs. This work also includes the demolition of the existing dewatering polymer system.

4. Waste Activated Sludge (WAS) Thickening System

Design the installation of new waste activated sludge (WAS) thickening system in the existing Solids Handling Building. This will involve the design of all mechanical, electrical and control systems for a new rotary screen thickener and the associated thickened WAS pumps. This will also involve the demolition of the existing dissolved air floatation thickener (DAFT) and associated equipment, polymer systems, thickened waste activated sludge pumps that are currently located in Equipment Building 2.

5. Digested Sludge Grinder System

Design the installation of a new in-line sludge grinder on the suction side of the existing digester recirculation pumps. This design shall include piping that will allow the sludge grinder to be bypassed when it is taken out of service for maintenance.

6. Digested Sludge Pump Modifications

Replace the existing gear reducers and drives on the two existing digested sludge pumps to increase the capacity of these pumps and bring them into alignment with the capacity of the larger of the two centrifuges.

7. Future Biosolids Hydrolysis System

The design of the Solids Handling Building improvements shall accommodate the installation of a chemical waste activated sludge hydrolysis system at a future date. It is recommended that this system be piloted prior to installation to ensure that it performs as anticipated, prior to purchase and installation.

8. Solids Handling Building Restroom

Design the installation of a new restroom in the Solids Handling Building to provide staff working in this area easy access to restroom facilities. Work with treatment plant staff to determine the optimal location for these facilities.

9. Sludge Haul Truck Loading Bay Modifications

Design revisions to the haul truck loading system to minimize dust generation and automate load distribution in the haul truck bed/container. These modifications will also include load cells or scales to accurately monitor the weight and distribution of the biosolids in the haul truck bed.

10. Odor Control System Modifications

Design the modifications to the existing odor control system that are required to remove foul air from the off gas from the new biosolids drying equipment. Given that the off-gas flow rate from the new biosolids dryer will be significantly lower than the flow rate from the existing dryer, as will the temperature of the off gases, these revisions are expected to include additional duct work and system balancing.

11. Digester Gas Compressor and Treatment System

Design the installation of a new digester gas compressor and treatment system. The digester gas compressor system will be designed to boost the digester gas pressure to allow it to be blended with natural gas and utilized as a fuel source in the new thermal fluid heater for the biosolids drying operation. The digester gas treatment system will be a hydrogen sulfide scrubber designed for the removal of hydrogen sulfide from the digester gas prior to either being utilized in the thermal fluid heater or flared in the waste gas burner.

12. Waste Gas Burner

Design the installation of a new 4-inch enclosed waste gas burner with a rated capacity of approximately 5,000 cubic feet per hour. The new waste gas burner will have a greater capacity than the existing flare and will meet all applicable Puget Sound Clean Air Agency (PSCAA) regulations.

13. Process/Yard Piping

Design and layout all new and relocated/modified process and yard piping, including drains, potable water, natural gas, digester gas, non-potable water and stormwater piping.

14. Electrical Systems

- a. Design power distribution, controls and instrumentation systems for all modified and new treatment plant components. Design switchgear, motor control centers, control panels, cables, conduit, junction boxes, control stations, heat tracing, and instruments to accommodate the new and modified treatment components and building equipment. New motor control equipment will be installed either in the existing Solids Handling Building Electrical Room or in the existing generator room that will be repurposed into a new electrical room as part of this project.
- b. Design PLC and HMI equipment upgrades to integrate with existing control systems. This scope of work does not include PLC and HMI programming.
- c. Design a new diesel generator to provide standby power to the portions of the liquid stream system that are powered from the Solids Handling Building and to critical solids handling components. The new generator will be housed in its own weather proof acoustic enclosure, will be equipped with a sub-base fuel tank and will be located roughly in the location of the existing diesel fuel storage tank, that will be demolished as part of this project.

15. Site Work

- a. Design new asphalt areas, fencing, and site drainage as needed.
- b. Provide landscaping and irrigation design for the new areas of the treatment plant site consistent with existing landscaping features.

SCOPE OF WORK

The specific tasks in the scope of work for this project are described below.

Task 1 – Project Management

During the course of the design work, Gray & Osborne’s Principal-in-Charge and Project Manager will supervise the design team, coordinate with City Public Works staff, allocate resources, and manage the quality assurance/quality control (QA/QC) program. Periodic meetings with City staff will also be scheduled and conducted. The schedule will be coordinated with the appropriate government agencies.

Task 2 – Biosolids Drying Equipment Procurement Specifications and Contract Documents

Subtask 2-A – Preparation of Biosolids Drying Equipment Contract Documents

Concurrently with beginning on the design of the other elements in the project scope, Gray & Osborne will prepare technical specifications and contract documents to allow the City to pre-purchase the biosolids drying equipment for this project. The specified equipment will include the indirect biosolids dryer, thermal fluid heater, final product screening, cooling and conveying systems, and all related controls and automation. These documents will include provisions to allow the City to assign the procurement contract to the Contractor for supply, installation and start-up and warranty services. Based on the recommendations in the *Biosolids Dryer Alternatives Analysis and Selection Technical Memorandum* (December 2022), two manufacturers will be allowed to bid. These two manufacturers will be Andritz Separation Inc. and Komline-Sanderson Corporation.

Subtask 2-B – Submittals

1. Submit four copies of the draft procurement contract and specifications to the City for review and comment. Respond to review comments and incorporate revisions in the final contract documents.
2. Provide four hard copies and one electronic copy on CD in PDF format of the final procurement contract and specifications to the City.
3. Assist the City with evaluating the bids received based on comparable equipment provided by the manufacturer and provide a letter of award recommendation to the City.

Task 3 – Biosolids Equipment Modernization Improvements Final Design Services

This task will advance the design from the predesign level of completion outlined in the *Draft Wastewater Facility Plan Addendum 3* (February 2023) to the final level of completion for solicitation of bids from qualified construction contractors. Design work shall include all necessary civil, mechanical, structural, architectural, electrical design, project management, and quality assurance/quality control (QA/QC) to adequately show and describe all improvements and modifications to the WWTP, as described below. Plans, specifications, and cost estimates for the work will be prepared in a format for public bid and use by general contractors to perform the required work.

The general scope of design work shall include the following tasks:

Subtask 3-A – Site Visits

Conduct site visits and determine as-built conditions. Gather record drawings, specifications, and other documentation on the existing facility. Discuss project requirements with City Public Works staff.

Subtask 3-B - Geotechnical

Review previous geotechnical studies and provide recommendations for the design of building and structure foundations. Based on the scope of the project it has been assumed that no field exploration of the project areas will be required.

Subtask 3-C – Plans, Specifications, and Cost Estimates

Prepare draft plans, specifications, and cost estimates for the WWTF improvements to approximately 50 percent (cost estimate and plans only), 90 percent (cost estimate, plans and specifications), and 100 percent/final (cost estimate, plans and specifications) levels of completion for review by the City. Include the following items in the engineering documents:

1. Site drawing showing project location.
2. Civil drawings showing location, contours, grading, site work, drainage, retaining walls, road improvements, water supply, natural gas supply, landscaping, and fencing.
3. Mechanical drawings and details including dewatering system feed pumps, dewatered cake pumps, digested sludge grinder, thickening and dewatering polymer systems, waste activated sludge thickener and thickened sludge pump, biosolids drying equipment, dried biosolids screening equipment, thermal fluid heater, conveyors, biosolids haul truck scales, digester gas treatment and booster

equipment, waste gas burner, piping and valve installation, hoists, water supply, natural and digester gas supply, heating and ventilation of the new structures, and other miscellaneous details.

4. Electrical drawings and details including site plans, switchgear, transformers, motor control centers, control panels, electrical disconnects, lighting, telemetry, instrumentation, cable and conduit, single-line diagrams, elementary diagrams, loop diagrams, PLC I/Os, and computer system block diagrams.
5. Structural drawings and details, including the expansion to the existing solids handling building, modifications to the existing solids handling building and haul truck loading bay, and other structures, including all associated building slabs, footings, and foundations.
6. Architectural drawings showing exterior elevations, materials, finishes, and details for all new buildings.
7. Landscape design drawings, including plantings required to match existing conditions.

Subtask 3-D - Meetings

Meet with City staff to review project progress, discuss project issues, and provide design information. Prepare meeting minutes detailing the issues discussed and distribute copies to all members of the project team, along with a list of meeting attendees. A total of 12 (approximately monthly) meetings are assumed.

Subtask 3-E – Submittals

Provide services for preparation of submittals for document review and approval. The following submittals shall be provided to the City and the appropriate agencies for review and approval.

1. City of Sumner – Plans and cost estimate at 50 percent completion; plans, specifications and cost estimate at 90 percent completion; and plans, specifications and cost estimate at 100 percent completion (final). Provide four hard copies and one electronic copy in PDF format to the City. Respond to review comments and incorporate revisions into the final design.
2. Washington State Department of Ecology – Plans and specifications at 90 percent completion for review and comment and final plans and specifications with comments incorporated.

Task 4 –Environmental Documentation and Permitting

Subtask 4-A – Permitting

Provide the following permitting services:

1. State Permitting
 - a. Potential use of a State Revolving Fund Loan from the Department of Ecology will require State Environmental Review Process (SERP) documentation, which includes preparation of a State Environmental Policy Act (SEPA) Checklist, alternatives analysis and financial impacts analysis as documented in the *Wastewater Facility Plan Addendum 3*, and an adequately advertised public hearing to discuss environmental impacts, rate impacts and environmental benefits of the proposed project. We have assumed 40 hours for this work.
 - b. Construction Stormwater Permit (Department of Ecology). We have assumed 8 hours for this work
2. Local Permitting
 - a. Shoreline Substantial Development Permit. We have assumed 20 hours for preparation of the permit application and presentations to the Hearing Examiner.
 - b. Building Permit. We have assumed 8 hours for preparation of the permit application.

Subtask 4-B – Cultural Resources Report

Consult with Department of Archeology and Historical Preservation and any concerned Tribes and perform a cultural resources survey for the project site to establish whether cultural resources exist and if mitigating measures will have to be included in the design. The cultural resources report will be completed in accordance with the National Historic and Preservation Act, Section 106, and will be submitted to the Department of Archeology and Historic Preservation for consultation in accordance with Section 106. The completed report will be submitted to the City and Ecology. We have assumed that no excavation monitoring will be required and have not included excavation monitoring it the scope of design services.

Task 5 – Air Emissions Permitting

The initial task will be to arrange a preapplication meeting with PSCAA to review the project and attempt to obtain guidance on the scope of the applications. Key issues will be to:

- Obtain guidance about whether the updated solids management facilities are included with the wastewater collection treatment and treatment exemption in Regulation 1, §6.03.
- Determine the scope of the BACT evaluation for the WGC and the thermal fluid heater.

Based on available process flow information, identify emissions units. Using applicable emission factors and operating rates, prepare a project emissions inventory.

After completing the emissions inventory, summarize applicable air emissions requirements based on the emissions units identified, estimated emissions, and applicable regulatory requirements.

Prepare a preliminary Best Available Control Technology (BACT) assessment. All new or modified emissions sources are required to use Best Available Control Technology (BACT) to reduce emissions rates, regardless of emissions limits and standards. BACT analysis is conducted by PSCAA during project permitting review. Applicants are generally required to provide information needed by PSCAA for BACT review. Although BACT is determined by PSCAA, permitting is aided if the applicant provides a preliminary BACT analysis as part of the NOC submittal.

We assume low emissions equipment is selected and that it will be accepted by PSCAA as BACT for combustion emissions except SO₂. For SO₂, a preliminary BACT assessment will be included in the application and will provide information on 50 percent, 90 percent, and 99 percent removal of H₂S from the biogas, on both hourly and annual bases. We also assume that emissions of all TAPs will be less than SQERs.

After completing the emissions inventory and applying BACT, we will conduct dispersion modeling to assess potential impacts to air quality. For criteria air pollutants, the modeling evaluation will be a Significant Impacts Analysis, in which predicted incremental ambient impacts from the project are compared with allowable significant impact levels (SILs). If Project impacts are less than all SILs, then no further ambient impacts analysis is needed.

Modeling will be conducted using the AERMOD model (Version 21112 or more recent). AERMOD is EPA's preferred dispersion for industrial air source permitting. AERMOD uses input data prepared by the AERMINUTE, AERMET and AERMAP pre-processor

programs; AERMET and AERMAP produce the input files for meteorological data and terrain characteristics, respectively.

Prior to conducting modeling, we will review modeling procedures and assumptions with PSCAA and the Washington Department of Ecology, as appropriate.

Prepare a notice of construction (NOC) application for submittal to PSCAA. The NOC application will be prepared in draft for review by the City. After receipt of comments, we will prepare a final version of the NOC application for submittal to PSCAA. Payment of all permitting fees will be the responsibility of the City.

Task 6 – Quality Assurance/Quality Control

Oversee quality assurance/quality control reviews of engineering products to include design and constructability reviews, risk management assessment, and identification and review of critical-path items.

SCHEDULE

Assuming a project start date towards the end of February 2023, the following project schedule for the major milestones is proposed.

Submit draft procurement specifications to the City	End of March 2023
Submit Final Procurement Specifications to the City and Advertise for Bid.....	Early April 2023
Open Biosolids Drying Equipment Bids.....	Late April 2023
Submit 50 Percent Plans and Cost Estimate to the City	Late of August 2023
Submit 90 Percent Plans and Specifications to City and Ecology	Early October 2023
Submit Final Plans and Specifications to City and Advertise for Bid	Early February 2024
Open Bids	Early March 2024

BUDGET

Based on the Scope of Work described above, the fee for design services is \$683,500, as shown in Exhibit B.

EXHIBIT A

SCOPE OF WORK

CITY OF SUMNER WASTEWATER FACILITIES PLAN ADDENDUM WWTF BIOSOLIDS MONDERIZATION PROJECT CONTRACT AMENDMENT

FLOW AND LOAD PROJECTION UPDATES AND DRYER INSTALLATION SITE VISITS DECEMBER 21, 2022

The scope of these services are in addition to the previous scope of work for preparing the Wastewater Facilities Plan Addendum, dated December 2022, and include updating the flow and load projections in the *2020 Sanitary Sewer Comprehensive Plan* (BHC Consultants) and a four day trip to visit four existing dryer installations. The services to be furnished by Gray & Osborne are more fully described below in the scope of work.

SCOPE OF WORK

Task 1 – Update Flow and Load Projections

When scoping this project, it was assumed that the flow and load projections presented in the *2020 Sanitary Sewer Comprehensive Plan* (BHC Consultants) would be utilized to estimate the design year the existing treatment facility will reach capacity, which was expected to be beyond the 20-year planning period. After further review of these flow and load projections and more recent flow and load data, it was determined that the flow and load projections needed to be updated for the *Wastewater Treatment Facility Final Comprehensive Facility Plan Addendum 3*. This task includes the additional work to update the flow and load projections.

Task 2 – Site Visits to Existing Dryer Installations

Given the importance of selecting the most reliable and cost-effective dryer equipment for this project, it was deemed appropriate to visit four existing dryer installations in Wisconsin. This task includes 32 hours for the trip and expenses for the consultant and City staff.

BUDGET

Based on the Scope of Work described above, the fee for design services is \$16,450, as shown in Exhibit B.

EXHIBIT B

ENGINEERING SERVICES SCOPE AND ESTIMATED COST

City of Sumner - WWTP Biosolids Equipment Modernization Project Design Services

Tasks	Project Manager Hours	Civil Engineer Hours	Mechanical Engineer Hours	Senior Structural Engineer Hours	Structural Engineer Hours	Architect Hours	Environmental Technician/ Specialist Hours	AutoCAD/ GIS Technician/ Engineer Intern Hours
1 Project Management	100							
2 Biosolids Drying Equipment Procurement Specifications and Contract								
A. Preparation of Biosolids Drying Equipment Contract Documents	24	68						
B. Submittals	4	12						
3 Biosolids Equipment Modernization Improvements Final Design Services								
A. Site Visits	8	8	8		8			
B. Geotechnical	4				4			
C. Plans, Specifications, and Cost Estimates	260	740	120	100	240	120		932
D. Meetings	24	24						
E. Submittals	4	8						
4 Environmental Documentation and Permitting								
A. Permitting	16	8					72	
B. Cultural Resources Report	4							
5 Air Emissions Permitting	16	24						
6 Quality Assurance/Quality Control	12	12	8	12	12	8		12
Hour Estimate:	476	904	136	112	264	128	72	944
Fully Burdened Billing Rate Range:*	\$140 to \$235	\$115 to \$155	\$115 to \$155	\$140 to \$210	\$123 to \$185	\$140 to \$210	\$93 to \$165	\$60 to \$165
Estimated Fully Burdened Billing Rate:*	\$225	\$130	\$155	\$200	\$160	\$190	\$140	\$150
Fully Burdened Labor Cost:	\$107,100	\$117,520	\$21,080	\$22,400	\$42,240	\$24,320	\$10,080	\$141,600

Total Fully Burdened Labor Cost:	\$ 486,340
Direct Non-Salary Cost:	
Mileage & Expenses (Mileage @ current IRS rate)	\$ 710
Printing	\$ 345
Subconsultant:	
Electrical (Connetix, Inc.)	\$ 150,000
Air Quality Permitting (Cole Creek Environmental Associates)	\$ 36,000
Geotechnical (PanGEO, Inc.)	\$ 5,105
Cultural Resources	\$ 5,000
TOTAL ESTIMATED COST:	\$ 683,500

* Actual labor cost will be based on each employee's actual rate. Estimated rates are for determining total estimated cost only. Fully burdened billing rates include direct salary cost, overhead, and profit.

EXHIBIT B

ENGINEERING SERVICES SCOPE AND ESTIMATED COST

*City of Sumner
Wastewater Facilities Plan Addendum
WWTF Biosolids Modernization Project
Contract Amendment*

Flow and Load Projection Updates and Dryer Installation Site Visits

Tasks	Project Manager Hours	Civil Eng. Hours
1 Update Flow and Load Projections		40
2 Site Visits to Existing Dryer Installations	32	
Hour Estimate:	32	40
Fully Burdened Billing Rate Range:*	\$140 to \$235	\$115 to \$155
Estimated Fully Burdened Billing Rate:*	\$225	\$150
Fully Burdened Labor Cost:	\$7,200	\$6,000

Total Fully Burdened Labor Cost: \$ 13,200

Direct Non-Salary Cost:

Mileage & Expenses (Mileage @ current IRS rate) \$ 3,250

TOTAL ESTIMATED COST: \$ 16,450

* Actual labor cost will be based on each employee's actual rate. Estimated rates are for determining total estimated cost only. Fully burdened billing rates include direct salary cost, overhead, and profit.

SUBJECT: Approval of the minutes from the February 6, 2023 regular council meeting and the 13th of February, 2023 joint study session.

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. February 6, 2023 RCM Minutes
2. February 13, 2023 SS Minutes

STAFF CONTACT: Michelle Converse, City Clerk

SUMMARY BACKGROUND:

Meeting minutes from the previous council meetings.

COUNCIL COMMITTEE/STUDY SESSION:

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: Committee Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Approve as presented.



CITY COUNCIL MEETING AGENDA
City Hall – 1104 Maple Street
February 6, 2023 6:00 PM

The city conducted this public meeting using a hybrid model, in-person and on the Zoom platform.

Staff present: City Administrator Jason Wilson, City Attorney Andrea Marquez, Administrative Services Director Jeff Steffens, Development Services Director Doug Beagle, Community Development Director Ryan Windish, Communications Director Carmen Palmer, Police Chief Brad Moericke, Public Works Director Mike Dahlem, Community Services Director Derek Barry and Associate Planner Scott Waller

THE REGULAR MEETING OF THE SUMNER CITY COUNCIL WAS CALLED TO ORDER BY MAYOR HAYDEN AT 6:00PM.

CALL TO ORDER

Pledge of Allegiance

Invocation

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

COUNCILMEMBER NEUMAN WAS ABSENT. PER COUNCIL RULES, THE MAYOR WAS NOTIFIED. MOVED BY HOCHSTATTER SECONDED BY BITETTO TO EXCUSE COUNCILMEMBER NEUMAN FROM TONIGHT'S MEETING.

PASSED BY VOICE VOTE.

PRESENTATION

Employee Recognition Public Works Director Mike Dahlem shared with the Council events of December 27, 2022, when Public Works Field Supervisor Darren Young assisted at the scene of an accident and helped a mother and her young child to safety before their vehicle caught on fire. Mayor Hayden presented Mr. Young with a certificate of appreciation and the Mayor's Thumbs-Up award.

Budget in Brief Chief Financial Officer Kassandra Raymond addressed the council with an overview of the City's budget.

CONSENT AGENDA

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

1. Resolution No. 1647 – Condemnation of Blighted Property (801 Cherry)
2. Approval of the minutes from the regular council meeting of January 17, 2023, and January 23, 2023 study session

PASSED BY VOICE VOTE.

PUBLIC HEARING

There was none tonight.

REGULAR BUSINESS

1. Unfinished Business

2. Public Comment

There was no public comment this evening.

3. New Business

a. Design Commission Appointment - Heath

MOVED BY REED SECONDED BY HOCHSTATTER TO APPROVE THE MAYOR'S APPOINTMENT OF LUKE HEATH TO THE DESIGN COMMISSION FOR A FOUR-YEAR TERM ENDING IN APRIL 2027.

Associate Planner Scott Waller introduced Mr. Heath to the Council and the public.

Mr. Heath addressed the council and thanked them for the opportunity.

PASSED BY ROLL CALL VOTE.

b. Parks & Forestry Commissioner Appointment – Haines

MOVED BY COLE SECONDED BY HOCHSTATTER TO APPROVE THE MAYOR'S APPOINTMENT OF SCOTT HAINES TO THE PARKS & FORESTRY COMMISSION FOR A FOUR-YEAR TERM ENDING IN APRIL 2027.

Community Services Manager Derek Barry introduced Mr. Haines to the Council and public.

Mr. Haines spoke to the council and thanked them for the opportunity to be on the commission.

PASSED BY ROLL CALL VOTE.

c. Resolution No. 1646 – 2023 Refuse and Recycle Rate Increase

MOVED BY BITETTO SECONDED BY HOCHSTATTER TO APPROVE RESOLUTION NO. 1646 – 2023 REFUSE AND RECYCLING RATES.

Administrative Services Director Jeff Steffens addressed the council and introduced District Manager Josh Metcalf from Murrey's Disposal who answered additional questions from council.

PASSED BY ROLL CALL VOTE.

d. Ordinance No. 2846 – Compost Procurement Policy

MOVED BY HOCHSTATTER SECONDED BY BITETTO TO APPROVE ORDINANCE NO. 2846 – COMPOST PROCUREMENT POLICY.

City Administrator Jason Wilson addressed the council.

Discussion ensued and questions answered by both Murrey's Disposal District Manager Josh Metcalf and City Administrator Jason Wilson.

PASSED BY ROLL CALL VOTE.

4. Reports

a. Council

Councilmember Bitetto thanked DM Disposal for their yearly bicycle donation to the Sumner Toy Box. She welcomed the new commission members. Last, she reminded our residents of the Working Families Tax Credit Application. If they would like more information or assistance to contact the Sumner Family Center.

Councilmember Brown thanked the new commissioners.

Councilmember Cole shared information with council regarding the Rainier Cable Commission including, an interlocal agreement and a new channel. Their next meeting is March 15, 2023.

Councilmember Stuard thanked the newest commission members. He ended his comments by expressing thanks to the police and legal departments for their work on the condemnation of 801 Cherry.

Councilmember Reed thanked the new commissioners.

Deputy Mayor Hochstatter had no report tonight.

b. **City Administrator**

City Administrator Jason Wilson shared the following:

Upcoming Policy Issues:

- February 13, 2023 – Study Session
 - Joint meeting with the Pierce County Library Board to review Library Capital Facilities Area (LCFA) proposal
- February 21, 2023 – (Tuesday) Regular Council Meeting
 - Contract Approval for Parks Plan Update
 - Agreement with PSE regarding Stewart Road Bridge Construction
 - TIB Grant Acceptance - Stewart Road Bridge Replacement
 - TIB Grant Acceptance - Elm Street Sidewalk
 - Pierce County LTAC Grant – Ryan House Rehabilitation
 - Floodplains By Design Grant Acceptance – White River Restoration
 - Resolution Setting Public Hearing for 24th St. E. Partial Right-of-Way Vacation
 - Public Hearing for the Surplus of Real Property south of 24th Street
 - Ordinance Amending Medium Density Residential Parking in East Sumner Neighborhood

Commission Updates:

- Planning Commission:
 - The Planning Commission reviewed code amendments related to short subdivisions and pipestem lots. After a public hearing they have recommended adoption to council the code changes related to short subdivisions, raising the threshold from 4 lots to 9 lots. They are still considering the proposed pipestem lot code amendments. In March Council will begin reviewing the proposed code changes.
- Cultural Arts Commission:
 - The commission is accepting proposals for musicians for our Music Off Main Concert Series. Proposals are due February 20th. More information can be found on our website. Also there are currently four openings on the commission. If you are interested in serving on the commission, please apply on our website.

Personnel Issues:

- Retirements:
 - Engineering Technician Monty Brant = 15 Years
 - Parks - Tom Bachman = 22 Years
 - Animal Control Officer Debra Perry = 22 Years
 - Detective Troy Nikolao = 28 Years

c. **Mayor**

Mayor Hayden thanked the commissioners for volunteering. She mentioned she began serving on a commission 15 years ago and look where she ended up!

The Wine Walk is this Saturday February 11, 2023. She hopes that everyone has a safe and great time.

Don't forget to sign up for Sumner Alerts. Information is on our website at www.sumnerwa.gov.

Portland Loo. City crews are working on new restroom in Loyalty Park, the first flush is only weeks away!

5. **Executive Session**

6. **Adjournment**

With no additional business before the council, Mayor Hayden adjourned the meeting at 6:49pm. Councilmembers concurred.

ATTEST:

Kathy Hayden, Mayor

Michelle Converse, CMC City Clerk



The city conducted this public meeting using a hybrid model, in-person and Zoom.

Staff present: City Administrator Jason Wilson, City Attorney Andrea Marquez, Community Development and Economic Director Ryan Windish, Public Works Director Mike Dahlem, Development Services Director Doug Beagle, Administrative Services Director Jeff Steffens and Communications Director Carmen Palmer

This was a joint study session meeting with the Pierce County Library Board and Library Executive Director Gretchen Caserotti.

Mayor Hayden called to order the Joint Study Session, at 6pm.

CALL TO ORDER

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

REGULAR BUSINESS

1. Formation of a Library Capital Facilities Area (LCFA)

CITY ADMINISTRATOR REPORT

ADJOURNMENT

With no additional business, Mayor Hayden adjourned the meeting at 7:49pm.

SUBJECT: Surplus of Real Property South of 24th Street

CATEGORY: Public Hearings

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Map showing 24th St. E. ROW Vacation

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

As part of the BNSF/City projects related to the White River Restoration Project, BNSF will acquire a 200 ft strip of property from the City for the construction of their side tracks. Previously, all of the property north of 24th Street was surplussed, which is a prerequisite to being able to sell City-owned property. The property south of 24th Street now requires surplus, and the future plan for this 200' of property is to convey it to BNSF as part of the future 10-side track project. A public hearing is required prior to Council's ability to vote on the surplus, as the property was originally purchased with utility funds. Tonight's public hearing is an opportunity for Council to hear from the public related to the proposed surplus.

COUNCIL COMMITTEE/STUDY SESSION: F&P Committee

MEETING/STUDY SESSION DATE: 2/1/2023

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Hold required public hearing for the surplus of 200ft of City-owned real property south of 24th Street for purposes of unencumbering the property so that it can be conveyed to BNSF consistent with the City's ongoing negotiations related to the joint City/BNSF staging tracks and White River Restoration Projects.

Parcel #0420121031

Right-of-Way Vacation Area

24th St E

60'

200'

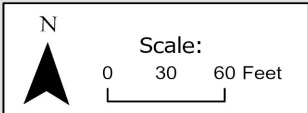
200'

60'

Parcel #0420124001

Parcel #
0520073017

Parcel #0420124003



SUBJECT: Ordinance No. 2848 - Zoning Code Text Amendment: Medium Density Residential/ESUV Accessory Parking

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2848 - Zoning Code Text Amendment, MDR/ESUV Accessory Parking
2. Staff Report MDR/ESUV Parking

STAFF CONTACT: Ryan Windish, Community Development Director

SUMMARY BACKGROUND:

Ordinance No. 2848 would amend the City of Sumner Zoning Code (SMC 18.30) to allow up to 50% of the parking required for a Neighborhood Commercial/East Sumner Urban Village (NC/ESUV) use to locate within abutting Medium Density Residential/ESUV zoned property to accommodate retail, restaurants, and eating and drinking establishments. There is no project associated with this proposed code update at this time.

COUNCIL COMMITTEE/STUDY SESSION: Community Development Committee MEETING/STUDY SESSION DATE: 1/25/2023 COMMITTEE RECOMMENDATION: Do Pass
--

STAFF RECOMMENDATIONS/MOTION:

Move to approve Ordinance No. 2848 amending the Zoning Code regarding accessory parking in the MDR/ESUV zone.

ORDINANCE NO. 2848
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, UPDATING ZONING CODE REGULATIONS FOR THE MEDIUM DENSITY RESIDENTIAL ZONE WITHIN THE EAST SUMNER URBAN VILLAGE AS IT RELATES TO ADJACENT ACCESSORY PARKING AND LANDSCAPING AND CHAPTER 18.30 AND AMENDING SECTION 18.30.030.

WHEREAS, the Sumner Municipal Code allows uses in the Neighborhood Commercial zone within the East Sumner Urban Village overlay that include restaurants and other retail and commercial uses that require accessory parking; and

WHEREAS, the Neighborhood Commercial/East Sumner Urban Village (NC/ESUV) zone generally has a shallow depth as measured from the street, creating limited area for development on single small parcels; and

WHEREAS, to promote services such as pedestrian oriented retail and eating and drinking establishments, adequate parking must be provided; and given the NC/ESUV zone is narrow, and often single parcels have a split zoning, it is necessary to allow a portion of the accessory parking for NC/ESUV uses to be located within the adjacent Medium Density Residential/East Sumner Urban Village (MDR/ESUV) zone; and

WHEREAS, the MDR/ESUV zone allows for accessory parking for residential uses, and that any new parking lot would be required to maintain proper landscaping and screening thereby mitigating adverse impacts associated with the is accessory commercial parking; and

WHEREAS, Pedestrian amenities and open space is required in the City Design and Development Guidelines for both commercial and residential developments and these types of spaces do not create noise, light, glare or other impacts and would be compatible within either a commercial or residential development; and

WHEREAS, the vision for the East Sumner Neighborhood Plan includes restaurants, and other types of uses and mixed use zones where residential is in close proximity, and in some cases constructed over commercial uses, the accessory parking with in the MDR/ESUV would be consistent with the ESNP; and

WHEREAS, the Planning Commission held a duly-advertised public hearing on January 5, 2023 on the proposed amendments; and

WHEREAS, on January 5, 2023 the Planning Commission voted by a 7-0 vote to recommend adoption by the City Council of the proposed allowable use updates to the Zoning Code as set forth in this ordinance; and

WHEREAS, this proposal was forwarded to the Washington State Department of Commerce for the Expedited 15-day State review per the Growth Management Act on December 22, 2022; and

WHEREAS, the Council Community Development Committee on January 25, 2023 approved an amendment to allow up to 50% of the total allowed parking for a retail and eating establishment use within the NC/ESUV to be located on adjacent MDR/ESUV rather than 25 percent; and

WHEREAS, the City Council finds the proposed amendments to be consistent with the Sumner Municipal Code criteria for Zoning Code text amendments and the Comprehensive Plan.

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

Section 1. That Paragraph A, Section 18.30.030 of the Sumner Municipal Code is hereby amended to read as follows:

“18.30.030 Principal and conditional uses.

A. Residential Districts. Permitted principal, accessory, and conditional uses in the ESUV shall be the same as those specified in the underlying zoning districts for the LDR, MDR, and HDR districts, except that:

1. Apartments and multifamily residential uses are allowed as a permitted principal use in the ESUV/MDR and ESUV/HDR districts;

2. Senior housing may be allowed only through a planned residential development, pursuant to chapter 18.24 SMC; ~~and~~

3. Professional offices and services shall not be allowed in the ESUV/MDR or ESUV/HDR district as a conditional use;

4. Accessory parking for retail and eating and drinking establishments within the NC/ESUV zone may be allowed within the adjacent ESUV/MDR zone provided that the portion of the accessory parking within the ESUV/MDR zone is located no more than 100 feet from said use and is no more than 50 percent of the total required parking stalls for said use; and

5. Landscaping, pedestrian amenities and open spaces as required for a retail and eating and drinking establishments within the NC/ESUV zone may be allowed within the adjacent ESUV/MDR up to 50 percent of the total required area.”

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or 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 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 21st day of February, 2023.

Mayor Kathy Hayden

Attest:

Approved as to form:

City Clerk Michelle Converse

City Attorney Andrea Marquez

First Reading: February 21, 2023

Date Adopted:

Date of Publication:

Effective Date:



STAFF REPORT

DATE: January 24, 2023
TO: City Council Community Development Committee
FROM: Ryan Windish, Community Development Director
RE: **Zoning Code Text Amendment – Accessory Parking and Landscaping in Medium Density Residential/East Sumner Urban Village (MDR/ESUV) Zone**

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

In August 2022, the City received a request from a property owner in the East Sumner Neighborhood to convert an existing house to a restaurant. The East Sumner Neighborhood Plan envisions this area having restaurants and other services within walking distance of a rapidly growing residential area. There are around 550 apartments planned in this area over the next 5 years and a restaurant use would be a welcome addition. The property contains a split zoning with Neighborhood Commercial/East Sumner Urban Village (NC/ESUV) fronting the street and the rear one third of the property is zoned Medium Density Residential/East Sumner Urban Village (MDR/ESUV). The restaurant site plan would need to have a portion of the parking lot located in the MDR/ESUV zone, which is a prohibited use at this time. There are also other lots in a similar situation with NC/ESUV on the front and MDR/ESUV in the back. To facilitate these sites developing, the Zoning Code should be amended to allow for an exception in the MDR/ESUV zone for accessory parking from adjacent NC/ESUV uses.

II. DESCRIPTION OF PROPOSAL

The Zoning Code Text Amendment includes the following:

- A. **Accessory Parking Exception.** This amendment would create an exception for accessory parking for adjacent NC/ESUV zone to be accommodated in the MDR/ESUV zone within the East Sumner Neighborhood. The parking area allowed in MDR/ESUV zone would be limited to no more than 25% of the total number of parking spaces for the land use and it would be no more than 100 feet from the NC/ESUV use. The intent is that this would be a limited exception for certain properties and not have an impact throughout much of the City. There are less than 10 properties within the City that would qualify for this exception. [Note: On January 25, 2023 the Council Community Development Committee voted to amend the proposed change and allow for up to 50% of the total number of parking spaces rather than 25%.]
- B. **Landscaping and Pedestrian Amenities.** This amendment would create an exception for up to 50% of the area of required landscaping and pedestrian amenities for NC/ESUV to be located on adjacent MDR/ESUV zoned property.

III. ANALYSIS

The proposed Zoning Code amendments are consistent with the intent and policies of the Comprehensive Plan, including the policies discussed below. Further, the proposal is consistent with the purpose of the

East Sumner Neighborhood Plan where policy state: *"The design of both commercial and residential development should follow a neighborhood friendly scale, use high quality materials, and provide pedestrian amenities along street fronts."*

LAND USE ELEMENT

The proposal is consistent with Comprehensive Plan policies and goals for establishing land uses in appropriate areas. Goals to minimize incompatibility between land use types while allowing for a mix of land uses would be met. Further, the proposal is consistent with the following specific policies:

- 1.1 *Ensure... appropriate transitions so that more intensive uses do not adversely impact adjacent uses.*
- 1.1.1 *Maintain the design guidelines and ordinances to achieve compatible and attractive new residential, commercial, and industrial uses.*
- 1.1.2 *Maintain zoning and subdivision regulations to ensure adequate setbacks, landscaping, and buffering are required where land use conflicts and impacts may occur.*

ECONOMIC DEVELOPMENT ELEMENT

The proposal is consistent with the overall intent of the Economic Development Element as it would support a pedestrian oriented and neighborhood businesses that would add planned for services for retail, restaurants, and eating and drinking establishments. Further, the proposal is consistent with the following specific policies:

- 1.0 *Seek and maintain a strong and diverse economy with a variety of different types and sizes of business, industry and employment.*
- 1.1 *Provide adequate land for different kinds of businesses and development to support this element.*

COMMUNITY CHARACTER ELEMENT

The proposal is consistent with Comprehensive Plan policies and goals for maintaining community character and consistent with the vision in the East Sumner Neighborhood Plan. Goals to minimize incompatibility between land use types while allowing a range of land uses would be met. Further, the proposal is consistent with the following specific policies:

- 1.2 *Endeavor to maintain a complete community, consistent and compatible in character and design, containing housing, shops, work places, schools, parks, civic facilities, and community services essential to the daily life of residents.*
- 1.5 *Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.*

CONCLUSION: The proposed amendment is consistent with the intent and vision of the City's Comprehensive Plan in that the amendments would promote the economic vitality and prosperity of Sumner. It is also consistent with the purpose of the East Sumner Neighborhood plan and reduces conflicts with adjacent multi-family residential uses in MDR/ESUV zones by limiting the maximum parking area to 25 percent of the required parking for the adjacent commercial use and requiring the parking to be within 100 feet of said use. Further, screening requirements remain in place for developments occurring between residential and commercial zones. The proposed amendment includes performance standards to minimize impacts to surrounding and future residential properties, thereby maintaining community character, and protecting the public safety and welfare.

IV. SEPA ENVIRONMENTAL REVIEW

The State Environmental Policy Act (SEPA) analysis of the proposed amendment has been completed. A Determination of Non-Significance was issued on December 16, 2022.

V. PUBLIC & AGENCY COMMENT

No public or agency comments have been received since the publication of this report.

VI. STAFF RECOMMENDATION

Staff recommends approval of the proposal.

VII. PLANNING COMMISSION RECOMMENDATION

Planning Commission voted unanimously on a recommendation to approve on January 5, 2023.

VIII. COMMUNITY DEVELOPMENT COMMITTEE RECOMMENDATION

Do pass recommendation with an amendment to the ordinance to allow up to 50% of the parking from NC/ESUV to be allowed in adjacent MDR/ESUV zone.

IX. EXHIBITS

A. Ordinance No. 2848- Amending the Zoning Code

SUBJECT: Resolution No. 1649 - Transportation Improvement Board Grant Acceptance (Stewart Road Bridge Replacement)

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1649 - TIB Grant Acceptance (Stewart Road Bridge)
2. TIB Grant Agreement - Stewart Road Bridge
3. Project Funding Status Form - Stewart Road Bridge

STAFF CONTACT: Michael Kosa, City Engineer, Drew McCarty, Engineering Assistant

SUMMARY BACKGROUND:

The City of Sumner was awarded an Urban Arterial Program (UAP) grant from the Transportation Improvement Board (TIB) to improve mobility by replacing the existing bridge over the White River, which 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 development of the Sumner/Pacific Manufacturing Industrial Area.

This grant provides \$6,000,000 towards completion of the project. Acceptance of the grant requires the City to enter into a grant agreement.

COUNCIL COMMITTEE/STUDY SESSION: Public Works

MEETING/STUDY SESSION DATE: 2/7/2023

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving Resolution No. 1649 - the acceptance of \$6,000,000 in grant funds from the Washington State Transportation Improvement Board for use in the Stewart Road Corridor Completion: White River Bridge project (CIP 13-08), and authorizing the Mayor to execute any and all documents necessary to accept the funds, substantially in a form as approved by the City Attorney.

RESOLUTION NO. 1649

CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING AN URBAN ARTERIAL PROGRAM GRANT FROM WASHINGTON STATE'S TRANSPORTATION IMPROVEMENT BOARD.

WHEREAS, the City of Sumner applied for an Urban Arterial Program grant from Washington State's Transportation Improvement Board (TIB) to replace the Stewart Road Bridge; and

WHEREAS, TIB awarded the City a grant of \$6,000,000 towards the completion of the Stewart Road Corridor Completion: White River Bridge project;

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 TIB grant funds and enter into a Grant Agreement 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 Transportation Improvement Board 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 21st day of February, 2023.

Kathy Hayden, Mayor

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney



City of Sumner
8-1-131(008)-1
Stewart Road White River Bridge
Butte Ave E to 140th Ave Ct E

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Sumner
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Stewart Road White River Bridge, Butte Ave E to 140th Ave Ct E (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Sumner, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 21.8600 percent of approved eligible project costs up to the amount of \$6,000,000, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name



Project Funding Status Form

Agency Name: **SUMNER**
Project Name: **Stewart Road White River Bridge**
Butte Ave E to 140th Ave Ct E

TIB Project Number: **8-1-131(008)-1**

Verify the information below and revise if necessary.

Email to: Your TIB Engineer

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
SUMNER	2,189,970	
WSDOT	0	
Federal Funds	0	
Pierce County	4,260,000	
City of Auburn	150,000	
FMSIB	3,000,000	
FHWA	4,847,380	
NHFP	7,000,000	
TOTAL LOCAL FUNDS	21,447,350	

Signatures are required from two different agency officials. Email a signed copy of this form to your TIB Engineer.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title