FINANCE & PERSONNEL COMMITTEE AGENDA
CITY HALL – 1104 MAPLE STREET
MAY 3, 2023 5:30 PM

Members: Barbara Bitetto, Pat Cole (Chair), Earle Stuard

Staff Liaison: Administrative Services Director Jeff Steffens, Chief Financial Officer Kassandra Raymond

AMENDED AGENDA

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 (first floor conference room), or virtually by using the meeting access link and additional information located on the city's website, and on tonight's meeting agenda.

Microsoft Teams meeting
Join on your computer, mobile app or room device
Click here to join the meeting
Meeting ID: 238 515 954 792
Passcode: jadjG4
Download Teams | Join on the web
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+1 323-886-6453,,163835506# United States, Los Angeles
Phone Conference ID: 163 835 506#
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CALL TO ORDER

Roll Call: Barbara Bitetto, Pat Cole, Earle Stuard

COMMITTEE BUSINESS

1. Discussion: Ryan House Condition Assessment
2. Discussion: Bill Heath Sports Complex
3. Resolution No. 1658 Accepting US Department of Treasury Grant
4. Ordinance No. 2855 Amending the 2023/2024 Biennial Budget
5. Ordinance No. 2854 Delegating Authority to Issue LTGO Debt (Cemetery)

REPORTS

1. Monthly Sales Tax Report
2. Recruitment & Negotiation Update

ADJOURNMENT

CITY OF SUMNER WASHINGTON

FINANCE & PERSONNEL COMMITTEE MEETING
DATE: May 3, 2023
AGENDA BILL: 23-3220

SUBJECT: Discussion: Ryan House Condition Assessment **CATEGORY:** Information Only

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BUDGET IMPACT:

Expenditure Required: None Within Budget Allocation: N/A

ATTACHMENTS:
STAFF CONTACT: Jason Wilson, City Administrator

SUMMARY BACKGROUND:

In 2019 with the assistance of ARG, the City conducted a feasibility study and planning effort to restore the Ryan House. In 2022 the Sumner Historical Society vacated the house so that restoration work could begin. In late 2022 the city selected WJE to complete the final design documents necessary for construction of the vision established in the 2019 plan. Now that the house is vacant, WJE has been able to complete a more thorough structural assessment. Staff will be discussing the results with the committee and proposing a decision path forward.

COUNCIL COMMITTEE/STUDY SESSION: **Finance & Personnel Committee**
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Information Only

CITY OF SUMNER WASHINGTON

FINANCE & PERSONNEL COMMITTEE MEETING
DATE: May 3, 2023
AGENDA BILL: 23-3231

SUBJECT: Discussion: Bill Heath Sports Complex **CATEGORY:** Information Only

BUDGET IMPACT:
Expenditure Required: None Within Budget Allocation: N/A

ATTACHMENTS:
STAFF CONTACT: Jason Wilson, City Administrator

SUMMARY BACKGROUND:
Staff will be providing Council with information regarding a potential partnership with the Sumner Bonney Lake School District on the future of the Bill Heath Sports Complex.

COUNCIL COMMITTEE/STUDY SESSION: **Finance and Personnel Committee**
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:
Information Only

SUBJECT: Resolution No. 1658 Accepting US Department of Treasury Grant **CATEGORY:** Resolution

BUDGET IMPACT:
Expenditure Required: $884,104 Within Budget Allocation: Yes, as amended.

ATTACHMENTS:
1. Resolution 1658 DOC Grant

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:
On October 28, 2022, Sumner experienced a destructive fire on Main Street. Several businesses were impacted, and are still recovering. Staff has worked with the Washington State Department of Commerce Office of Economic Development and Competitiveness (OEDC) to identify financial resources for recovering businesses. With staff, OEDC solicited applications from businesses impacted by the Main Street Fire and other disaster events, and subsequently awarded grant funds of $884,104 to successful applicants. The grant source is US Department of Treasury SLFRF (ARPA) funds, passing through Washington State Department of Commerce. The City of Sumner will act as the pass-through agent for the grant, disbursing the funds to the applicants with reimbursement from the OEDC.

Of the grant award, $661,298 is awarded to nine (9) Sumner businesses. Additionally, the City of Sumner is eligible for $20,000 to offset administrative costs of disbursing the awards. All funds will be disbursed to applicants by May 31, 2023.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:
Approve Resolution No. 1658 accepting the US Department of Treasury grant through the Washington State Department of Commerce.

RESOLUTION NO. 1658
CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING A GRANT FROM THE US DEPARTMENT OF THE TREASURY, THROUGH THE WASHINGTON STATE DEPARTMENT OF COMMERCE FOR DISASTER RELIEF

WHEREAS, The City of Sumner experienced a destructive fire in the downtown area on October 28, 2022; and

WHEREAS, The Washington State Department of Commerce (Office of Economic Development and Competitiveness) facilitates federal funding through the United States Department of Treasury; and

WHEREAS, to help accomplish and fund financial assistance to businesses impacted by the Sumner Fire and other disaster events, the City of Sumner coordinated with the Washington State Department of Commerce (the funding agency) to solicit and facilitate business applications for disaster relief; and

WHEREAS, the Department of Commerce has selected eligible businesses for federal general grant disaster relief awards in the amount of $884,104; and

WHEREAS, the City of Sumner will act as a pass-through agency to disburse relief funds as awarded by the Washington State Department of Commerce, receiving an administrative fee of $20,000, for a total grant funding of $904,104; 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. **Acceptance.** That the City Council of the City of Sumner, Washington, does hereby accept the Statewide Disaster Relief Grant (Exhibit A) 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 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 3. **Effective Date.** This Resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED AND APPROVED this 5th day of June, 2023.

____
Mayor Kathy Hayden

ATTEST:	**APPROVED AS TO FORM:**
________________________________	________________________________
City Clerk Michelle Converse, CMC	City Attorney Andrea Marquez

Federal General Grant with

City of Sumner, WA

through

Washington State Department of Commerce

Office of Economic Development & Competitiveness (OEDC)

Grant Number:
23-732C0-037

For

Statewide Disaster Relief Grant funding distribution to eligible Washington State small business applicants impacted by natural disaster or comparable human-caused disaster between October 1, 2021 and March 31, 2023.

Dated: Upon final signature

Washington State Department of Commerce

Table of Contents

Washington State Department of Commerce

Face Sheet

Grant Number: 23-732C0-037

Washington State Department of Commerce
Office of Economic Development & Competitiveness (OEDC)
Statewide Disaster Relief Grant

☒**Subrecipient**
☐**Contractor**

1. Grantee City of Sumner, WA 1104 Maple Street Sumner, WA 98390	**2. Grantee Doing Business As (as applicable)** City of Sumner, WA 1104 Maple Street Sumner, WA 98390
3. Grantee Representative Ryan Windish Community & Economic Development Director (253) 299-5524 ryanw@sumnerwa.gov	**4. COMMERCE Representative** Alison Mitchell Program Dev. & Contracts Mgr (564) 669-1417 Alison.Mitchell@commerce.wa.gov

5. Grant Amount	**6. Funding Source**	**7. Start Date**	**8. End Date**
$904,104.00	**Federal:** ☒ **State:** ☐ **Other:** ☐ **N/A:** ☐	Upon final signature	June 30, 2023

9. Federal Funds (as applicable)	**Federal Agency:**	**ALN**	**Indirect Rate**
$9,700,000	US Dept. of Treasury	21.027	N/A

10. Tax ID #	**11. SWV #**	**12. UBI #**	**13. UEI #**
91-6001282	SWV0007719-00	277-000-014	Q3ZKNC1EXZC9

14. Grant Purpose
Statewide Disaster Relief Grant funding distribution to eligible Washington State small business applicants impacted by natural disaster or comparable human-caused disaster between October 1, 2021 and March 31, 2023.

COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grantee Terms and Conditions including Attachment "A" – Scope of Work; Attachment "B" – Budget

FOR GRANTEE	**FOR COMMERCE**
Kathy Hayden, Mayor	DocuSigned by: Chris Green 80B723CCD2564BB...
DocuSigned by: Kathy Hayden Signature	Chris Green, Assistant Director
4/14/2023 | 10:30 AM PDT Date	4/17/2023 | 6:54 AM PDT Date
	APPROVED AS TO FORM ONLY **BY ASSISTANT ATTORNEY GENERAL** **APPROVAL ON FILE**

Washington State Department of Commerce

Special Terms and Conditions

1. AUTHORITY

Funding for this Grant has been provided in the 2021-2023 biennial state budget pursuant to Federal grants to Washington State under the American Rescue Plan Act of 2021 (ARPA or "Act"), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq. The parties anticipate that funding under this Grant that is unexpended in the 2021-23 state biennium may be re-appropriated in future biennia, subject to Federal requirements.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDING

Federal Award Date: 05/14/2021
Federal Award Identification Number (FAIN): SLFRO0002
Total amount of the federal award: $2.2 Billion
Awarding official: US Dept. of Treasury

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs or projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

"This project was supported by Grant No. SLFRO0002 awarded by US Dept. of Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Dept. of Treasury. Grant funds are administered by the Statewide Disaster Relief Grant, Washington State Department of Commerce."

3. EXTENSION OF GRANT UPON REAPPROPRIATION

Notwithstanding General Term and Condition No. 5 the End Date of this Grant **may be extended upon written notice to Grantee from Commerce** for a period of time consistent with the effective date of any re-appropriation of funds, and/or with terms reflecting new Federal requirements for ARPA funds, if any. In Commerce's sole discretion, after review of any funding re-appropriation terms and applicable Federal law or guidance, a contract amendment in accordance with General Term and Condition No. 5 may be required to extend the End Date.

4. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

5. PERIOD OF PERFORMANCE, COSTS INCURRED, REIMBURSEMENT

Period of Performance, The initial period of performance for this award begins on the date hereof and ends on June 30, 2023.

Costs Incurred Period. As set forth in Treasury's implementing regulations, Grantee may use funds awarded under ARPA to cover eligible costs incurred during the period that begins on October 1, 2021, and ends on March 31, 2023. Pursuant to Federal rules, a cost shall be considered to have been incurred if the Grantee has incurred an obligation with respect to such cost by June 30, 3023.

All change orders for which reimbursement is requested must be executed on or before June 30, 2023.

Reimbursement Period. All requests for reimbursement of eligible costs incurred between October 1, 2021 and June 30, 2023 payable from ARPA funds must be submitted to COMMERCE by the **earlier of** May 31, 2023 or 30 days prior to the Contract End Date.

6. COMPENSATION

COMMERCE shall pay an amount not to exceed $904,104.00 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based on the following rates or in accordance with the following terms: Contractor’s compensation for services rendered shall be based on the schedule set forth in Budget.

7. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE by May 15, 2023.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number 23-732C0-037. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of $50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.
The Grantee must invoice for all expenses from the beginning of the Grant through June 30, regardless of the Grant start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees/subcontractors.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

8. SUBGRANTEE/SUBCONTRACTOR DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subgrantees/subcontractors and the portion of Grant funds expended for work performed by subgrantees/subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subgrantees/subcontractors. “Subgrantees/subcontractors” shall mean subgrantees of any tier.

9. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee, or agents of either, while performing under the terms of this Grant. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall provide COMMERCE thirty (30) calendar days’ advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at COMMERCE’s request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days’ advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including Contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than $1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subgrants.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantee, 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.

Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than $1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under Grant to the Grantee. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

A. The amount of fidelity coverage secured pursuant to this Grant shall be $100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.

B. Subgrantees that receive $10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the Grantee as beneficiary.

10. FRAUD AND OTHER LOSS REPORTING

Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

11. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS

A. Contractor agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Grantee also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Grantee shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

B. Federal regulations applicable to this award include, but are not necessarily limited to the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

x. Prohibition on certain telecommunications and video surveillance services or equipment 2 CFR § 200.216.

C. Statutes and regulations prohibiting discrimination applicable to this award include, but are not necessarily limited to the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

12. FEDERAL EXCLUSION

These terms add to the terms in Section 10 Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion — Primary and Lower Tier Covered Transactions in General Terms and Conditions. The Grantee also agrees to access the Federal Exclusion List at www.sam.gov and provide Federal Exclusion documentation to Commerce and to keep a copy on file with the Grantee's project records.

13. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

By signing this Grant, the Grantee accepts the requirements stated in 48 CFR 52.204-7 to register with the System for Award Management at the SAM website (https://www.sam.gov). To register in SAM, a valid Unique Entity Identifier (UEI) is required. The Grantee is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Grantee must remain registered in the SAM database after the initial registration. The Grantee is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Grantee shall provide evidence documenting registration and renewal of SAM registration to Commerce.

In the event of the Grantee's noncompliance or refusal to comply with the requirement stated above, Commerce reserves the right to suspend payment until the Grantee cures this noncompliance.

14. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

General Terms and Conditions

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" or "Department" shall mean the Washington Department of Commerce.

C. "Grant" or "Agreement" or "Contract" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Grant shall be the same as delivery of an original.

D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.

E. "Modified Total Direct Costs" (MTDC) shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000.

F. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

G. "State" shall mean the state of Washington.

H. "Subaward" shall mean an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

I. "Subrecipient" shall mean a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

J. "Subgrantee/subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee" and "subcontractor" means any tier.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State

Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by COMMERCE.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

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

6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys' fees and costs.

9. AUDIT

If the Grantee is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

- **A.** Submit to COMMERCE the reporting package specified in Uniform Guidance 2 CFR 200, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- **B.** Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to the Federal Audit Clearinghouse.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION- PRIMARY AND LOWER TIER COVERED TRANSACTIONS

- **A.** Grantee, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief they:

i. Are not presently debarred, suspended, proposed for debarment, and declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

iv. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

C. The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.

D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ii. Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such Grantee shall attach an explanation to this Grant.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;

ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and

iii. All Personal Information in the possession of the Grantee that may not be disclosed under state or federal law.

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

12. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the Grantee terminate this Grant if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Grantee in the procurement of, or performance under this Grant.

Specific restrictions apply to Granting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their subgrantee(s) must identify any person employed in any capacity by the state of Washington that worked with the COMMERCE program executing this Grant, including but not limited to formulating or drafting the legislation, participating in procurement planning and execution, awarding Grants, and monitoring Grant, during the 24-month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

In the event this Grant is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the Grant by the Grantee. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the “Disputes” clause of this Grant.

13. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered “works for hire” under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

14. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Grant number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

15. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant or agreement, for the same services or expenses.

16. GOVERNING LAW AND VENUE

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

17. INDEMNIFICATION

To the fullest extent permitted by law, Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the Grant. “Claim” as used in this Grant, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney’s fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

Grantee’s obligation to indemnify, defend, and hold harmless includes any claim by Grantee’s agents, employees, representatives, or any subgrantee or its employees.

Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee’s or any subgrantee’s performance or failure to perform the Grant. Grantee’s obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

Grantee waives its immunity under Title 51 RCW, Industrial Insurance, to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

18. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent Grantee relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

19. INDIRECT COSTS

Grantee shall provide their indirect cost rate that has been negotiated between their entity and the Federal Government. If no such rate exists a de minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

20. INDUSTRIAL INSURANCE COVERAGE

Grantee shall comply with all applicable provisions of Title 51 RCW. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to Grantee by COMMERCE under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I’s rights to collect from the Grantee.

21. LAWS

Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

22. LICENSING, ACCREDITATION AND REGISTRATION

Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

23. LIMITATION OF AUTHORITY

Only the Authorized Representative or the Authorized Representative’s delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Grant is not effective or binding unless made in writing and signed by the Authorized Representative.

24. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further Grants with COMMERCE. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this Grant may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Grant.

25. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;

B. Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:

- **i.** A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
- **ii.** A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
- **iii.** A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Grantee is not in compliance with this provision.

26. POLITICAL ACTIVITIES

Political activity of Grantee's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

27. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

All Grantees must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

Under this Grant, including Contractor and subrecipients or subcontractors of any tier, must follow the procurement standards in 2 CFR §§ 200.318 through 200.327, including ensuring that the procurement method used for the contracts are appropriate based on the dollar amount and conditions specified in 2 CFR § 200.320.

The Grantee's procurement system should include at least the following:

A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of Grants using federal funds.

B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

C. Minimum procedural requirements, as follows:

i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
iii. Positive efforts shall be made to use small and minority-owned businesses.
iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
v. Grants shall be made only with reasonable subgrantees who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
vi. Some form of price or cost analysis should be performed in connection with every procurement action.
vii. Procurement records and files for purchases shall include all of the following:

1) Grantee selection or rejection.

2) The basis for the cost or price.

3) Justification for lack of competitive bids if offers are not obtained.

viii. A system for Grant administration to ensure Grantee conformance with terms, conditions and specifications of this Grant, and to ensure adequate and timely follow-up of all purchases.

D. Grantee and Subgrantee must receive prior approval from COMMERCE for using funds from this Grant to enter into a sole source Grant or a Grant where only one bid or proposal is received when value of this Grant is expected to exceed $5,000.

Prior approval requests shall include a copy of proposed Grants and any related procurement documents and justification for non-competitive procurement, if applicable.

28. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

29. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

30. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

The Grantee 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 Grant, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, 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.

31. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

32. RIGHT OF INSPECTION

The Grantee shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

33. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may terminate the Grant under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

34. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

35. SITE SECURITY

While on COMMERCE premises, Grantee, its agents, employees, or subgrantees shall conform in all respects with physical, fire or other security policies or regulations.

36. SUBGRANTING

The Grantee may only subgrant work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subgranting, the Grantee shall maintain written procedures related to subgranting, as well as copies of all subgrants and records related to subgrants. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subgranting procedures as they relate to this Grant; (b) prohibit the Grantee from subgranting with a particular person or entity; or (c) require the Grantee to rescind or amend a subgrant.

Every subgrant shall bind the Subgrantee to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subgrantee fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subgrantee to assure fiscal conditions of this Grant. In no event shall the existence of a subgrant operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subgrant shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subgrantee's performance of the subgrant.

37. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

38. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

39. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

40. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

41. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the

Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

A. Stop work under the Grant on the date, and to the extent specified, in the notice;

B. Place no further orders or subgrants for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subgrants, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

42. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.

B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant.

E. All reference to the Grantee under this clause shall also include Grantee's employees, agents or subgrantees/subcontractors.

43. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Washington State Department of Commerce

Attachment A: Scope of Work

In the 2022-23 biennium, the state legislature created a small business disaster fund consisting of two funding cycles, one to cover the historic flooding in Northwest Washington ($10 million) and a second $10 million to provide financial relief to small businesses in other parts of the state that have been impacted by qualifying disasters.

Grantees, are responsible for facilitating Statewide Disaster Relief Fund grant disbursements.

Awards are based on applications received and the identified economic losses in the affected small business communities. Example of eligible events include the economic disruptions caused by the business district fires in Friday Harbor and Sumner, the wildfires and closures affecting Highway 2, and any damages caused by king tides in communities that border waterways that occurred between October 2021 and March 2023.

The goal of this funding is to provide financial assistance in the form of grants to Eligible Businesses. Grant funds may be used for **payroll, utilities and rent, marketing and advertising, building improvements or repairs, replacing damaged inventory and equipment, and other operations and business expenses.**

Objectives

All applications from businesses that the Grantee is providing assistance on, must be thoroughly reviewed to prevent fraud, make sure the businesses meet eligibility requirements provided by the state and are distributed equitably, and that award recipients receive their funds quickly and efficiently.

Grantee will provide documentation in the form of a final report outlining outreach and marketing efforts to small business to increase awareness and understanding of the program, and overall program benefit to receive the full administrative cost allocation. *Template for this report will be provided by Commerce through Smartsheet.* The Final Report is necessary to track application outcomes for compliance purposes. This includes the issuance of end of the year tax forms, such as 1099s and other legal documents related to the acceptance of grants by the awardees.

Tasks include, but are not limited to:

- Grantees must publicize and market the grant opportunity to maximize awareness in the affected business community.
- Outreach must include historically underserved and underrepresented business communities, including segments of the population whose first language is not English. Commerce is committed to providing diverse, equitable and inclusive access to its grant opportunities.
- Provide Smartsheet application link to business affected by natural or other qualifying disaster
- Respond to questions/requests from applicants and stakeholders within a reasonable time, either by phone or email;
- Provide technical assistance
- Notify applicants of grant awards and conduct necessary follow-up by phone and email to non-responsive applicants. Outreach may take multiple attempts to reach non-responsive applicants.
- Provide funds disbursement and required tax and compliance reporting, including the following by May 31, 2023:
  - Disbursement of funds to grantees electronically, such as Automated Clearing House (ACH) payment or by paper check if necessary. Electronic transfer of grant funds is preferred. Federal

Unique Entity Identifier (UEI) Numbers are required and must be documented prior to disbursement of funding.

- Delivery of attestation forms and required 1099 tax reporting forms and other compliance or required reporting documents in compliance with the IRS deadline.

At the close of the program, the Grantee will be expected to provide a final list of awardees, and amount dispersed. Any funds not able to be dispersed must be returned to Commerce

To ensure program integrity and administer fraud prevention, including the following:

- The Grantee must develop a process to confirm the identity of applicants, ensure that duplicate awards are not made;

- The Grantee must establish effective internal controls through the maintenance of records, appropriate policies and procedures to account for spending and distribution of federal funds;

- The Grantee will immediately report to Commerce any suspicion or evidence of fraud involving employees, contractors, or applicants. Any data gathered must be stored in a system that meets the State of Washington and Department of Commerce security and privacy requirements. Commerce will require review and approval to ensure such system meets requirements. Requirements include policies, standards, laws, Revised Code of WA (RCW), WA Administrative Code (WAC), principles, etc. including but not limited to:

  -OCIO 141.10 (https://ocio.wa.gov/policy/securing-information-technology-assets-standards).
  -WA State Agency Privacy Principles (https://watech.wa.gov/sites/default/files/public/privacy/WSAPP.pdf)
  -Data must be protected and shared only in accordance with a data sharing agreements (RCW 39.26.340) established with Commerce and successful bidder.

Final Report

Following program completion, a final impact report template will be provided by Commerce through a Smartsheet link. Final report is required to be completed by **June 15, 2023**.

Attachment B: Budget

Upon execution of this contract, Eligible Applicant/ADO must provide two separate invoices for release of funds:

- Eligible Business Grant Award
- Eligible Applicant/ADO Administrative Fee

Business Name	Funds ADO to Release
My Pampered Life Seattle	$15,741.00
Five12 Apparel LLC Five12	$150,000.00
Around the Clock Child Care Center Inc	$150,000.00
Duhsan Inc Sunbow Food Mart	$30,660.00
Whispering Hills Market LLC	$76,135.00
Valley Social LLC Valley Social Wine Bar	$104,141.00
MODE Boutique LLC	$45,009.00
Louie & Louie II, LLC Ruston Christin Childcare & Preschool	$17,541.00
Attichansen, LLC The Attic	$100,000.00
Ashley's Room Consignment LLC	$75,000.00
Joseph C Meyer Main Street Tattoo	$95,272.00
The High Road Institute, LLC	$24,605.00

Eligible Business Grant Awards:	$884,104.00
Eligible Applicant/ADO Administrative Fee:	$20,000.00
Total funding of Eligible Applicant/ADO Contract:	$904,104.00

CITY OF SUMNER WASHINGTON

FINANCE & PERSONNEL COMMITTEE MEETING
DATE: May 3, 2023
AGENDA BILL: 23-3235

SUBJECT: Ordinance No. 2855 Amending the 2023/2024 Biennial Budget **CATEGORY:** Ordinance

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BUDGET IMPACT:
Expenditure Required: $884,104 Within Budget Allocation: Yes, as amended

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ATTACHMENTS:
1. Ordinance 2855 BA 06052023

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:
On October 28, 2022, Sumner experienced a destructive fire on Main Street. Several businesses were impacted, and are still recovering. Staff has worked with the Washington State Department of Commerce Office of Economic Development and Competitiveness (OEDC) to identify financial resources for recovering businesses. With staff, OEDC solicited applications from businesses impacted by the Main Street Fire and other disaster events, and subsequently awarded grant funds of $884,104 to successful applicants. The grant source is US Department of Treasury SLFRF (ARPA) funds, passing through Washington State Department of Commerce. The City of Sumner will act as the pass-through agent for the grant, disbursing the funds to the applicants with reimbursement from the OEDC. Resolution No. 1658 will come before City Council to formally accept the grant.

The proposed budget amendment programs the grant award of $904,104 ($884,104 distribution plus $20,000 administrative award) and the pass-through expenditure of $884,104.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:
Approve Ordinance No. 2855 amending the 2023/2024 Biennial Budget

ORDINANCE NO. 2855
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE 2023-2024 BIENNIAL BUDGET AS ORIGINALLY ADOPTED IN ORDINANCE NO. 2838, APPROVED DECEMBER 5, 2022, AND PREVIOUSLY AMENDED IN ORDINANCE 2849, APPROVED MARCH 20, 2023.

WHEREAS, The Sumner City Council approved Ordinance No. 2838 which adopted a biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2838 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, RCW 35A.34 provides procedures for adopting, managing, and amending a biennial budget; and

WHEREAS, RCW 35A.34.130 requires that the adopted biennial budget be subject to a mid-biennial review and modifications as needed; and

WHEREAS, The City of Sumner experienced a destructive fire in the downtown area on October 28, 2022; and

WHEREAS, The City of Sumner has coordinated with the Washington State Department of Commerce to accept, by separate Council resolution, a federal general disaster relief grant on behalf of the businesses impacted by the Sumner Main Street Fire and other disaster events; and

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

Section 1. **Amendment.** The biennial budget for the City of Sumner for the period January 1, 2023 through December 31, 2024 as contained in the adopted 2023-2024 Biennial Budget for total revenue/sources and expenditures/uses as approved by the City Council, is hereby amended by Total Revenue and Expenditures for each fund as shown on the attached Exhibit A, including acceptance of the Department of Commerce grant funding.

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

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

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 5th day of June, 2023.

Mayor Kathy Hayden

ATTEST:

City Clerk Michelle Converse, CMC

APPROVED AS TO FORM:

City Attorney Andrea Marquez

Funds	Beginning Fund Balance Adopted	Revenues Adopted	Revenues Previous	Revenues 06/05/23	Revenues 03/20/23	Expenditures Adopted	Expenditures Previous	Expenditures 06/05/23	Expenditures 03/20/23	Ending Fund Balance Revised
001 General	11,300,000	$ 41,287,140	$ -	$ 904,104	$ -	$ 40,975,513	$ 11,025	$ 884,104	$ 11,025	$ 11,620,602
002 General Fund Reserves	980,824	-	-	-	-	-	-	-	-	980,824
003 Building Reserves	450,756	200,000	-	-	-	390,000	-	-	-	260,756
103 Complete Streets	-	-	-	-	-	-	-	-	-	-
105 Drug Enforcement	65,510	-	-	-	-	4,000	-	-	-	61,510
106 Hotel/Motel	262,600	205,000	-	-	-	338,156	-	-	-	129,444
115 ARPA Funding	680,624	-	-	-	-	50,100	-	-	-	630,524
200 Debt Service	2,570,000	465,800	-	-	-	496,100	-	-	-	2,539,700
221 LID Guarantee	691,569	-	-	-	-	-	-	-	-	691,569
302 Sidewalk	412,457	530,000	553,200	-	553,200	880,000	553,200	-	553,200	62,457
305 Real Estate Excise Tax	851,288	1,600,000	-	-	-	550,000	-	-	-	1,901,288
310 Parks & Trails Capital Fund	423,721	4,868,061	-	-	-	5,131,106	-	-	-	160,676
320 Street Capital Fund	7,709,379	17,364,200	1,480,000	-	1,480,000	24,625,588	1,674,000	-	1,674,000	253,991
325 Facilities Capital Fund	50,000	515,000	400,000	-	400,000	565,000	400,000	-	400,000	-
401 Water	13,219,995	10,189,150	-	-	-	20,279,605	-	-	-	3,129,540
402 Wastewater	9,286,248	15,566,163	-	-	-	21,270,227	-	-	-	3,582,184
403 Utility Bond Reserves	1,731,342	-	-	-	-	-	-	-	-	1,731,342
408 Stormwater	8,227,784	38,031,772	-	-	-	42,424,254	50,000	-	50,000	3,785,302
410 Cemetery Operations	74,238	1,498,200	-	-	-	1,425,316	8,500	-	8,500	138,622
415 Cemetery Development	208,994	300,000	-	-	-	300,000	-	-	-	208,994
440 Animal Control	94,087	2,093,628	-	-	-	2,062,680	7,300	-	7,300	117,735
501 Unemployment Insurance	9,351	-	-	-	-	3,991	-	-	-	5,360
550 Fleet Management	94,835	1,498,570	-	-	-	1,551,411	-	-	-	41,994
551 Information Technology	479,281	3,264,440	-	-	-	3,336,088	15,000	-	15,000	392,633
555 Equipment Reserve	1,942,959	2,126,935	-	-	-	1,770,000	-	-	-	2,299,894
601 Cemetery Endowment	1,545,873	33,000	-	-	-	-	-	-	-	1,578,873
605 Development Impact Fees	6,898,068	500,000	-	-	-	998,833	1,480,000	-	1,480,000	4,919,235
611 Firemen's Pension	29,798	164,000	-	-	-	160,000	-	-		33,798
Total All Funds	$ 70,291,581	$ 142,301,059	$ 2,433,200	$ 904,104	$ 2,433,200	$ 169,587,969	$ 4,199,025	$ 884,104	$ 4,199,025	$ 41,258,846

FINANCE & PERSONNEL COMMITTEE MEETING
DATE: May 3, 2023
AGENDA BILL: 23-3162

SUBJECT: Ordinance No. 2854 Delegating Authority to Issue LTGO Debt (Cemetery) **CATEGORY:** Ordinance

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BUDGET IMPACT:
Expenditure Required: Issuance costs TBD Within Budget Allocation: Yes as issued

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ATTACHMENTS:
1. Bond Ordinance--City of Sumner--LTGO Bond 2023 (Delegation)_USW_Active01_506625738_1

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:
At its March 27, 2023 Study Session, staff presented City Council with a history and needs analysis of facility improvements at the Sumner Cemetery. The proposed project will construct an approximately 4,800 ft^2 building on the Cemetery property. This building will provide storage, office/breakroom space, an information technology/mechanical area, and restrooms/shower facilities. This building will also house Parks employees/equipment until construction of a Public Works Operations Facility.

The Study Session presentation included several financing options, with a staff recommendation (concurred by City Council) to pursue debt issuance through private placement. The City has retained services of D.A. Davidson (placement agent) and K&L Gates (bond counsel) to develop the debt issuance. Ordinance No. 2854 outlines the conditions and use of the proposed debt issuance, and delegates to designated staff the authority to finalize the final terms of the issue within the parameters established by the Ordinance.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:
Approve Ordinance No. 2854 Delegating Authority for the sale, execution, and delivery of the Cemetery Building bond.

CITY OF SUMNER, WASHINGTON

LIMITED TAX GENERAL OBLIGATION BOND, 2023

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SUMNER, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A LIMITED TAX GENERAL OBLIGATION BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED $3,050,000 TO PROVIDE FUNDS TO FINANCE THE CEMETERY BUILDING PROJECT AND OTHER CAPITAL PROJECTS OF THE CITY; AND DELEGATING CERTAIN AUTHORITY TO APPROVE THE FINAL TERMS OF THE BOND TO THE DESIGNATED REPRESENTATIVE IN CONNECTION WITH THE SALE.

APPROVED ON MAY 15, 2023

PREPARED BY:

K&L GATES LLP

CITY OF SUMNER, WASHINGTON
ORDINANCE NO. ____

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* This Table of Contents and the cover page are not a part of this ordinance; they are included for convenience of the reader only.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SUMNER, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A LIMITED TAX GENERAL OBLIGATION BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED $3,050,000 TO PROVIDE FUNDS TO FINANCE THE CEMETERY BUILDING PROJECT AND OTHER CAPITAL PROJECTS OF THE CITY; AND DELEGATING CERTAIN AUTHORITY TO APPROVE THE FINAL TERMS OF THE BOND TO THE DESIGNATED REPRESENTATIVE IN CONNECTION WITH THE SALE.

WHEREAS, the City of Sumner, Washington (the "City") is in need of constructing and equipping a new facility at the cemetery for City use and other capital projects (the "Project"); and

WHEREAS, the City is authorized by Title 35 and ch. 39.46 to issue general obligation bonds payable from, *inter alia*, regular tax levies of the City; and

WHEREAS, the City Council (the "Council") has determined that all or a portion of the costs of the Project should be financed through the issuance of a limited tax general obligation bond of the City in the principal amount of not to exceed $3,050,000 (the "Bond"); and

WHEREAS, the Council has determined to delegate to certain City officials the authority, for a limited time, to solicit proposals and accept a proposal for the purchase of the Bond and approve the final principal amount, the interest rate, maturity date, and prepayment provisions of the Bond authorized herein under such terms and conditions as are approved by this ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DOES ORDAIN, as follows:

Section 1. Definitions. As used in this ordinance, unless a different meaning clearly appears from the context:

Approved Proposal means the winning proposal submitted for the Bond and all terms stated therein and may include a separate agreement, at the option of and approved by the Designated Representative.

Bond means the City of Sumner, Washington Limited Tax General Obligation Bond, 2023, to be issued in the aggregate amount of not to exceed $3,050,000 issued pursuant to this ordinance.

Bond Counsel means K&L Gates LLP.

Bond Fund means the Limited Tax General Obligation Bond Redemption Fund, 2023 created pursuant to Section 9 of this ordinance.

Bond Register means the registration records maintained by the Bond Registrar for the purpose of identifying ownership of the Bond.

Bond Registrar, initially, means the Chief Financial Officer. At any time following the issuance of the Bond, however, the Chief Financial Officer may determine to appoint a different Bond Registrar, including, but not limited to the fiscal agent of the State of Washington. The term ***Bond Registrar*** also shall include any successor Bond Registrar appointed by the Chief Financial Officer as permitted by law.

Chief Financial Officer means the duly qualified, appointed and acting Chief Financial Officer of the City, or any other officer who succeeds to the duties now delegated to that office.

City means the City of Sumner, Washington, a municipal corporation of the State of Washington.

City Administrator means the duly qualified, appointed and acting City Administrator of the City, or any other officer who succeeds to the duties now delegated to that office.

Closing Date means the date of issuance and delivery of the Bond to the Purchaser.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Council means the City Council as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

Designated Representative means any of the following: (a) the Mayor, (b) the Chief Financial Officer, (c) the City Administrator or (d) any official or employee of the City designated in writing by any of the foregoing.

Final Maturity Date means the date as determined in the Approved Proposal, but no later than July 1, 2033.

First Interest Payment Date means the first interest payment date for the Bond set forth in the Approved Proposal.

Mayor means the duly qualified, elected and acting Mayor of the City, or any other person who succeeds to the duties now delegated to that office.

Placement Agent means D.A. Davidson & Co., Seattle, Washington.

Principal Payment Dates mean the dates on which principal of the Bond is payable in accordance with the Approved Proposal.

Project means the construction and equipping of a new cemetery facility for City use and other capital projects.

Project Fund means the fund maintained pursuant to Section 7 of this ordinance.

Purchaser means the initial purchasing entity or bank purchaser of the Bond.

Registered Owner means the person named as the registered owner of a Bond in the Bond Register.

Rule means the SEC's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SEC means the United States Securities and Exchange Commission.

Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this ordinance;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(e) All references herein to "articles," "sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Project; Authorization of Bond and Bond Details.

(a) *Project.* The City shall construct and equip a new cemetery facility for City use and provide funds for other capital projects (the "Project"). The proceeds of the Bond shall be used to fund or reimburse the City for the costs of the Project and for the costs of selling the Bond.

(b) *Authorization of Bond and Bond Details*. For the purpose of funding or reimbursing the costs of the Project and paying the costs of issuance related thereto, the City shall issue its limited tax general obligation bond in the principal amount of not to exceed $3,050,000 (the "Bond").

The Bond shall be designated as the "City of Sumner, Washington, Limited Tax General Obligation Bond, 2023," shall be dated as of the Closing Date, shall be fully registered as to both principal and interest, shall be issued as a single fully registered bond, and shall be numbered in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification.

The Bond shall bear interest at the per annum rate(s), payable on the date(s) and maturing in principal amount(s) set forth in the Approved Proposal, pursuant to Section 10 of this ordinance.

Section 3. Registration, Exchange and Payments. The City's Chief Financial Officer shall act as Bond Registrar. The duties of the Bond Registrar hereunder shall be limited to authenticating the Bond and to remitting money to the Purchaser on the payment dates as provided therein. Principal of and interest on the Bond shall be payable in lawful money of the United States of America. Installments of principal of and interest on the Bond shall be paid by check, wire, or electronic transfer on the date due to the Purchaser; *provided, however,* upon final payment of all installments of principal and interest thereon, the Bond shall be submitted to the Bond Registrar for cancellation and surrender.

The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bond and to carry out all of the Bond Registrar's powers and duties under this ordinance.

The Bond shall not be transferable, except in whole to a financial institution subject to the further limitations set forth in the Approved Proposal.

Section 4. Prepayment. The Bond shall be subject to prepayment, if any, as provided in the Approved Proposal.

Section 5. Form of Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1 [$3,050,000]

STATE OF WASHINGTON

CITY OF SUMNER

LIMITED TAX GENERAL OBLIGATION BOND, 2023

INTEREST RATE: _______% per annum

MATURITY DATE: [July 1, 2033]

REGISTERED OWNER: ________________
____
____

TAX IDENTIFICATION #: _______________

PRINCIPAL AMOUNT: [THREE MILLION FIFTY THOUSAND] AND NO/100 DOLLARS

THE CITY OF SUMNER, WASHINGTON, a municipal corporation organized and existing under and by virtue of the laws and Constitution of the State of Washington (the "City"), hereby acknowledges itself to owe, and for value received promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount specified above, together with interest thereon, at the Interest Rate, which interest shall be payable [semi][annually] on _____ 1 and ________ 1 of each year until paid, commencing on _________ 1, 202__. Principal shall be repaid in annual installments as provided on Exhibit A attached hereto. Interest shall be calculated on the basis of [a 360-day year consisting of twelve 30-day months]. The final payment of all outstanding principal, together with interest thereon, shall be due on [July 1, 2033].

Both principal of and interest on this bond are payable in lawful money of the United States of America. Payments made to the Registered Owner shall be applied first to accrued interest and then to principal as of the date such payment is actually received by the Registered Owner. Installments of the principal of and interest on this bond shall be paid by check or draft of the Chief Financial Officer of the City (the "Bond Registrar") mailed on the date such principal and interest is due or by electronic funds transfer made on the date such interest is due to the Registered Owner at the address appearing on the Bond Register. Upon final payment of all installments of principal and interest thereon, this bond shall be submitted to the Bond Registrar for cancellation and surrender.

This bond may be prepaid in accordance with the following terms; _____________.

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and Ordinance No. _____ duly passed by the City Council on May 15, 2023 (the "Bond Ordinance"). Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is issued pursuant to the Bond Ordinance for providing funds to acquire land for City use and for other capital projects of the City.

By the Bond Ordinance, the City has irrevocably covenanted that, unless the principal of and interest on this bond are paid from other sources, it will make annual levies of taxes without limitation as to rate or amount upon all of the property in the City subject to taxation for the payment of debt service on the Bond in amounts sufficient to pay such principal and interest as provided in the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and for the payment of such principal and interest.

This bond has been designated by the City as a "qualified tax-exempt obligation" for investment by financial institutions under Section 265(b) of the Code.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Sumner, Washington, has caused this bond to be signed on behalf of the City with the manual or facsimile signature of the Mayor, to be attested by the manual or facsimile signature of the Clerk of the City, and a facsimile of the seal of the City to be impressed, imprinted or otherwise reproduced hereon, as of this _____ day of ________, 2023.

[SEAL]

CITY OF SUMNER, WASHINGTON

By /s/ manual or facsimile signature
Mayor

ATTEST:

/s/ manual or facsimile signature
City Clerk

The Certificate of Authentication for the Bond shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _______________

This bond is the bond described in the within-referenced Bond Ordinance as the City of Sumner, Washington Limited Tax General Obligation Bond, 2023, dated ________, 2023.

CHIEF FINANCIAL OFFICER OF THE
CITY OF SUMNER, as Bond Registrar

By ______________________________
Authorized Signer

* * * * * * * * * *

Exhibit A
Debt Service Schedule

Section 6. Execution of Bond. The Bond shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk, and the seal of the City shall be impressed, imprinted or otherwise reproduced thereon. The Bond shall not be valid or obligatory for any purpose or entitled to the benefits of this ordinance unless and until a Certificate of Authentication, in the form hereinbefore recited, has been manually executed by or on behalf of the Bond Registrar or its duly designated agent.

In case either of the officers who shall have executed the Bond shall cease to be an officer or officers of the City before the Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, the Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond may be signed and attested on behalf of the City by such persons who at the date of the actual execution of the Bond are the proper officers of the City, although at the original date of the Bond any such person shall not have been such officer of the City.

Section 7. Project Fund; Disposition of Bond Proceeds. The proceeds of the Bond shall be deposited into a project account and used to pay or reimburse the City for the costs of acquiring the land for City use, other capital projects of the City and to pay costs of issuance of the Bond.

The Chief Financial Officer shall invest the net proceeds of the Bond in such obligations as may now or hereafter be permitted to cities of the State of Washington by law and that will mature prior to the date on which such money shall be needed. Earnings on such investments, except as may be required to pay rebatable arbitrage pursuant to the Federal Tax Certificate, if any, may be used for City purposes or transferred to the Bond Fund for the uses and purposes therein provided.

Section 8. Tax Covenants; Special Designation.

(a) *Arbitrage Covenant.* The City hereby covenants that it will not make any use of the proceeds of sale of the Bond or any other funds of the City which may be deemed to be proceeds of the Bond pursuant to Section 148 of the Code which will cause the Bond to be an "arbitrage bond" within the meaning of said section and said regulations. The City will comply with the requirements of Section 148 of the Code (or any successor provision thereof applicable to the Bond) and the applicable regulations thereunder throughout the term of the Bond.

(b) *Designation under Section 265(b) of the Code.* The City hereby designates the Bond as a "qualified tax-exempt obligation" for purchase by financial institutions pursuant to Section 265(b) of the Code. The City does not anticipate that it will issue more than $10,000,000 in qualified tax-exempt obligations during the year 2023 (excluding obligations permitted by the Code to be excluded for purposes of the City's qualification as a qualified small issuer).

Section 9. Bond Fund and Provision for Tax Levy Payments. A special fund of the City known as the "Limited Tax General Obligation Bond Redemption Fund, 2023" which fund or account may be designated or re-designated in accordance with the practices of the City from time to time (the "Bond Fund"), is hereby authorized to be established and maintained in the office of the Chief Financial Officer of the City. The taxes hereafter levied for the purpose of paying principal of and interest on the Bond and other funds to be used to pay the Bond shall be deposited in the Bond Fund no later than the date such funds are required for the payment of principal of and interest on the Bond. Money in the Bond Fund not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City funds.

The City hereby irrevocably covenants and agrees for as long as the Bond is outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with all other revenues and money of the City legally available for such purposes, to pay the principal of and interest on the Bond as the same shall become due. All of such taxes so collected and any other money to be used for such purposes shall be paid into the Bond Fund.

The City hereby irrevocably pledges that the annual tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to cities without a vote of the people, and that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bond will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bond as the same shall become due.

Section 10. Sale of the Bond The Council has determined that it would be in the best interest of the City to delegate to the Designated Representative for a limited time the authority, working with the City's Placement Agent, to solicit proposals from financial institutions and review and select a financial institution as the Purchaser. The actions of the Designated Representative in reviewing and approving a term sheet distributed to financial institutions is hereby ratified and approved. The Designated Representative is further authorized to approve the final principal amount, interest rate, maturity dates, including the Final Maturity Date, the Principal Payment Dates and the First Interest Payment Date, prepayment provisions and other terms and conditions of the Bond so long as (i) the principal amount of the Bond does not exceed $3,050,000; (ii) the interest rate of the Bond, if issued as a fixed rate per annum, does not exceed 5.50%, or if issued as a variable rate, uses an index approved by the Designated Representative; (iii) the true interest cost of the Bond does not exceed 5.50%; and (iv) the maximum term of the Bond shall be no later than July 1, 2033. Upon approval of the final terms, the Designated Representative will execute a certificate confirming the final sales terms which certificate shall be made available to the Council.

The authority granted to the Designated Representative by this section shall remain in effect until December 31, 2023. If the sale for the Bond has not been completed by December 31, 2023, the authorization for the issuance of the Bond shall be rescinded, and the Bond shall not be issued nor its sale approved unless the Bond shall have been re-authorized by ordinance of the City. The ordinance reauthorizing the issuance and sale of the Bond may be in the form of a new ordinance repealing this ordinance in whole or in part or may be in the form of an amendatory ordinance establishing terms and conditions for the authority delegated under this section.

Upon the adoption of this ordinance, the proper officials of the City including the Designated Representative, are authorized and directed to undertake all other actions necessary for the prompt sale, execution and delivery of the Bond and further to execute all closing certificates and documents required to effect the closing and delivery of the Bond in accordance with the terms of the Approved Proposal. In furtherance of the foregoing, the Designated Representative is authorized to approve and enter into agreements for the payment of costs of issuance, including the fees and expenses specified in the Approved Proposal, including fees and expenses of the Purchaser and other retained services, including Bond Counsel, Placement Agent, and other expenses customarily incurred in connection with issuance and sale of the Bond.

Section 11. Undertaking to Provide Information. The City is exempt from the ongoing disclosure requirements of the Rule by reason of the exemption set forth in subsection (d)(1) of that Rule with respect to the issuance of securities in authorized denominations of $100,000 or more. If approved in the Approved Proposal, the City may undertake to provide certain City operational or financial information to the Purchaser during the term of the Bond.

Section 12. Ordinance and Laws a Contract with the Purchaser. This ordinance is adopted under the authority of and in full compliance with the Constitution and laws of the State of Washington. In consideration of the loan made by the Purchaser, evidenced by the Bond, the provisions of this ordinance and of said laws shall constitute a contract with the Purchaser, and the obligations of the city and its Council under said laws and under this ordinance shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein and in the Bond set forth shall be for the equal benefit of the Purchaser and any permitted transferee or assignee.

Section 13. Ratification; General Authorization. The Mayor, City Administrator and Chief Financial Officer and other appropriate officers of the City are authorized to take any actions and to execute documents as in their judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 14. Severability. If one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

Section 15. Effective Date. This ordinance shall be effective five days from its passage and publication as required by law.

PASSED by the City Council of the City of Sumner, Washington, and approved by its Mayor at a regular meeting of said Council held this 15th day of May, 2023.

CITY OF SUMNER, WASHINGTON

____
Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

____
City Attorney

First Reading:	***May 15, 2023***
Date Approved:	***May 15, 2023***
Date of Publication:	***___________, 2023***
Effective Date:	***___________, 2023***

CERTIFICATE

I, the undersigned, City Clerk of the City of Sumner, Washington (the “City”) and keeper of the records of the City Council (the “Council”), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. ____ of the City Council (the “Ordinance”), duly passed at a regular meeting thereof held on the 15th day of May, 2023.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the City Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of May, 2023.

____
City Clerk

506625738.1

FINANCE & PERSONNEL COMMITTEE MEETING
DATE: May 3, 2023
AGENDA BILL: 23-3159

SUBJECT: Monthly Sales Tax Report

CATEGORY: Information Only

BUDGET IMPACT: N/A

ATTACHMENTS:
STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:
Staff will review monthly sales tax reporting. This is a regular reporting item. Please note, this report is provided only to those who have a WA State Department of Revenue Secrecy Affidavit Confidential Affidavit on file.

COUNCIL COMMITTEE/STUDY SESSION: **Finance & Personnel Committee**
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION: Informational only; no Committee action required.

STAFF RECOMMENDATIONS/MOTION:
Informational only; no further action required.

CITY OF SUMNER WASHINGTON

FINANCE & PERSONNEL COMMITTEE MEETING
DATE: May 3, 2023
AGENDA BILL: 23-3160

SUBJECT: Recruitment & Negotiation Update | **CATEGORY:** Information Only

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BUDGET IMPACT: N/A

ATTACHMENTS:
STAFF CONTACT: Jeff Steffens, Administrative Services Director

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SUMMARY BACKGROUND:
Staff will provide a verbal update on recruitment and negotiation activity.

COUNCIL COMMITTEE/STUDY SESSION: **Finance & Personnel Committee**
MEETING/STUDY SESSION DATE: 5/3/2023
COMMITTEE RECOMMENDATION: Informational only; no Committee action required.

STAFF RECOMMENDATIONS/MOTION:
Informational only; no Committee action required.