CITY OF SUMNER WASHINGTON

CITY COUNCIL MEETING AGENDA
City Hall – 1104 Maple Street
June 5, 2023 6:00 PM

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

https://sumnerwa-gov.zoom.us/j/89688541421
Or One tap mobile :
+12532158782,,89688541421# US (Tacoma)
Or Telephone:
+1 253 215 8782 US (Tacoma)
+1 253 205 0468 US
Webinar ID: 896 8854 1421

CALL TO ORDER

Pledge of Allegiance

Invocation

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

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

CONSENT AGENDA

1. Approval of the minutes from the May 15, 2023 regular council meeting and the May 22, 2023 study session.

PUBLIC HEARING

REGULAR BUSINESS

1. **Unfinished Business**
2. **Public Comment (Limit 3 minutes)**
   Members of the community who wish to give public comment are strongly encouraged to join the meeting via the provided link or by telephone. If you are unable to attend the meeting, please submit your public comment in writing via email to the City Clerk at Michellec@sumnerwa.gov no later than 5:30pm on the day of the meeting. Any written comments received will be read into the record and/or distributed to the City Council. Please contact the City Clerk at 253-299-5590 with any questions.
3. **New Business**

a. Resolution No. 1658 - Accepting US Department of Treasury Grant

b. Ordinance No. 2855 - Amending the 2023/2024 Biennial Budget

c. Resolution No. 1659 - Pierce County Opioid Abatement Council Interlocal Agreement

d. Appointment of Opioid Abatement Council Member and Alternate

4. **Reports**

a. Council
b. City Administrator
c. Mayor

5. **Executive Session**
6. **Adjournment**

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

CITY OF SUMNER WASHINGTON

CITY COUNCIL MEETING
DATE: June 5, 2023
AGENDA BILL: 23-3324

SUBJECT: Approval of the minutes from the May 15, 2023 regular council meeting and the May 22, 2023 study session.

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Regular Meeting Minutes
2. Study Session Minutes

STAFF CONTACT: Michelle Converse, City Clerk

SUMMARY BACKGROUND:

Meeting minutes from the previous two meetings.

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

STAFF RECOMMENDATIONS/MOTION:

Approve as written.

CITY COUNCIL MEETING AGENDA
City Hall – 1104 Maple Street
May 15, 2023 6:00 PM

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

Staff present: Acting City Administrator Andrea Marquez, Public Works Director Mike Dahlem, Community Services Manager Derek Barry, Communications Director Carmen Palmer, Police Chief Brad Moericke and City Clerk Michelle Converse

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

CALL TO ORDER

Pledge of Allegiance Invocation
Roll Call: Bitetto, Brown, Cole, Hochstatter, Neuman, Reed and Stuard

PROCLAMATION

Public Works Appreciation Week was read into the record by Public Works Director Mike Dahlem

CONSENT AGENDA

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

1. Forestry & Parks Commission – Commissioner Removal
2. Approval of checks/electronic payments in the amount of $1,151,469.46
7. Approval of the minutes from the May 1, 2023, regular council meeting and May 8, 2023, study session.

PASSED BY VOICE VOTE

PUBLIC HEARING

There was no Public Hearing tonight.

REGULAR BUSINESS

1. **Unfinished Business**

There was none tonight.

2. **Public Comment**

There was none tonight.

3. **New Business**

a. Ordinance No. 2853 – Parking Code Amendment

MOVED BY NEUMAN SECONDED BY BITETTO TO APPROVE ORDINANCE NO. 2853 – PARKING CODE AMENDMENT.

Police Chief Moericke addressed the council.

Discussion ensued.

PASSED BY ROLL VOTE.

b. Ordinance No. 2843 – Dig Once

MOVED BY STUARD SECONDED BY HOCHSTATTER TO APPROVE ORDINANCE NO. 2843 – DIG ONCE.

Public Works Director Mike Dahlem spoke to the ordinance.

Discussion ensued.

PASSED BY ROLL CALL VOTE 6-1, WITH COUNCILMEMBER NEUMAN VOTED NO.

c. Ordinance No. 2854 – Delegating Authority to Issue LTGO Debt (Cemetery)

MOVED BY BITETTO SECONDED BY STUARD TO APPROVE ORDINANCE NO. 2854 – DELEGATING AUTHORITY TO ISSUE LTGO DEBT (CEMETERY)

Chief Financial Officer Kassandra Raymond addressed the Council.

Discussion ensued.

PASSED BY ROLL CALL VOTE.

4. **Reports**
   a. **Council**

Councilmember Brown would like the heat turned down and "Go Kraken"!

Councilmember Bitetto is looking forward to the ribbon cutting on the High School on Wednesday, May 17, and the Rotary dinner honoring outstanding students.

Councilmember Stuard praised the finance department, he ended his comments by saying that we are very lucky to have Chief Financial Officer Kassandra Raymond on board.

Deputy Mayor Hochstatter thanked staff.

Councilmember Cole congratulated the Finance Department for receiving the Distinguished Budget Presentation Award from the Government Finance Officers Association for the 2023/2024 budget.

Councilmember Neuman echoed Councilmember Stuard's sentiment of the finance department. She ended her comments by wishing the Kraken good luck.

Councilmember Reed thanked staff as well.

City Administrator

City Attorney Andrea Marquez shared the following:

Upcoming Policy Issues:

- May 22, 2023 – Study Session
  - Puyallup Sumner Chamber of Commerce Update
  - Community Court Update
  - Resolution establishing an Opioid Abatement Council ILA
  - Ordinance amending the SMC regarding drugs

- May 29, 2023 – No meeting (Memorial Day and 5th Monday)
- June 5, 2023 – Regular Council Meeting
    - Resolution establishing an Opioid Advisory Council ILA
    - Resolution Accepting Department of Treasury Grant
    - Ordinance Amending the 2023/2024 Biennial Budget relating to Disaster Relief Grants

Miscellaneous:

- Downtown construction continues to make progress. Last week the contractor finished with eastbound Main Street improvements. Today, westbound Main Street was closed to traffic between Alder Avenue and the railroad tracks. The closure is expected to last until late June. Visit our website for updated traffic detour maps and project updates.
- This Wednesday at 4pm the school district will be holding an open house and ribbon cutting for phase 1 of the new Sumner High School. Council and the public have been invited to celebrate this historic milestone.

b. **Mayor**

Mayor Hayden remarked on three items:

Police Week – the official proclamation was read at the last meeting, but she wanted to thank all of our officers again for their service to Sumner and our region.
Coffee Blend and the Food Bank – A big thanks to Dillanos for launching the Mayor's Blend, limited edition coffee. It's described as "full bodied, kind of sweet and a little nutty." One dollar of every bag sold will be donated to the Sumner Food Bank.
Block Party – This Saturday, May 20th from noon-6pm on Ryan Avenue. Come on out and support our local businesses!

5. **Executive Session**

6. **Adjournment**

Mayor Hayden reconvened the regular meeting and then adjourned it at 6:38pm. Councilmembers concurred.

ATTEST:

____

Michelle Converse, City Clerk

____

Kathy Hayden, Mayor

STUDY SESSION MINUTES
City Hall – 1104 Maple Street
May 22, 2023 6:00 PM

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

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

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

CALL TO ORDER

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

COUNCILMEMBER STUARD WAS ABSENT. MOVED BY HOCHSTATTER SECONDED BY BITETTO TO EXCUSE HIM FROM TONIGHT'S MEETING. MOTION PASSED 4-0.

COUNCILMEMBER COLE WAS ABSENT.

COUNCILMEMBER NEUMAN LOGGED IN AT 6:08PM, DUE TO TECHNICAL DIFFICULTIES.

The Mayor announced that Judge Swain was not able to attend tonight's meeting, therefore her item #2, Community Update needs to be removed from the agenda.

MOTION MADE BY DEPUTY MAYOR HOCHSTATTER SECONDED BY BITETTO TO AMEND THE AGENDA AND REMOVE ITEM #2, COMMUNITY COURT UPDATE. PASSED BY VOICE VOTE 5-0.

REGULAR BUSINESS

1. Puyallup Sumner Chamber of Commerce Update

By Tara Doyle-Enneking, Puyallup Sumner Chamber of Commerce President, Justin Jones, Krista Linden and Dave Radcliffe

City Administrator Jason Wilson was informed at 6:30pm that Councilmember Cole had informed staff of her absence from tonight's meeting. MOVED BY BITETTO SECONDED BY NEUMAN TO EXCUSE COUNCILMEMBER COLE FROM TONIGHT'S MEETING. PASSED BY VOICE VOTE.

2. ~~Community Court Update~~
3. Resolution No. 1659 – Pierce County Opioid Abatement Council Interlocal Agreement

CITY ADMINISTRATOR REPORT

ADJOURNMENT

With no additional business, Mayor Hayden adjourned the meeting at 6:52pm.

Attest:

____
Michelle Converse, City Clerk

____
Kathy Hayden, Mayor

CITY COUNCIL MEETING
DATE: June 5, 2023
AGENDA BILL: 23-3241

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 No. 1658 - Accepting US Department of Treasury 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: Do pass

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

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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: Kathy Hayden Signature 4/14/2023 | 10:30 AM PDT Date	DocuSigned by: Chris Green 80B723CCD2564BB... Chris Green, Assistant Director 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.

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**.

Washington State Department of Commerce

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

CITY COUNCIL MEETING
DATE: June 5, 2023
AGENDA BILL: 23-3242

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

BUDGET IMPACT:

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

ATTACHMENTS:

1. Ordinance No. 2855 - Amending the 2023/2024 Biennial Budget

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, receiving the funds from OEDC and then disbursing the funds to the applicants. 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: Do pass

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	Revenues				Expenditures				Ending Fund Balance
	Adopted	*Adopted*	*Previous*	*06/05/23*	*03/20/23*	*Adopted*	*Previous*	*06/05/23*	*03/20/23*	*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

STUDY SESSION
DATE: June 5, 2023
AGENDA BILL: 23-3292

SUBJECT: Resolution No. 1659 - Pierce County Opioid Abatement Council Interlocal Agreement

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. PC Opioid Abatement Council Presentation
2. Opioids Settlement Estimated Total Payments by Year
3. Resolution No. 1659 - Pierce County Opioid Abatement Council Interlocal Agreement

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

As part of the Washington state settlement against the large opioid manufacturers and distributors, the City of Sumner can expect to receive approximately $200,000 in disbursements over the next 17 years. One of the requirements of the One Washington MOU (to which the City is party) is that each large county form an "Opioid Abatement Council" (OAC) to oversee and distribute the funds. The formation of the OAC is occurring via an interlocal agreement between all Pierce County cities receiving funding.

COUNCIL COMMITTEE/STUDY SESSION: Study session 5/22/23
MEETING/STUDY SESSION DATE: 5/22/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Adopt Resolution No. 1659 authorizing the Mayor to sign the Pierce County Opioid Abatement Council Interlocal Agreement.

PIERCE COUNTY OPIOID ABATEMENT COUNCIL

PCOAC

NATURE OF COUNCIL

- Fulfills the requirements under One MOU
- Does not create a separate legal entity
- It is an oversight body and does not control policy or allocation decisions
- Membership from each jurisdiction, although may opt out
- Fulfills the dashboard and publication requirements
- Has an Administrator through Pierce County Auditor

SELECTION OF MEMBERS AND MEETINGS

- Appointment by the legislative body
- Serves three years
- May appoint alternate
- Terms are staggered
- Members will select a chair
- First meeting occurs within 120 days. Convene at least once a year

DUTIES OF PCOAC

OVERSIGHT

ANNUAL REVIEW

PUBLICLY AVAILABLE REPORTS

PUBLIC DASHBOARD

HEARING COMPLAINTS

DUTIES OF PARTIES

- Have a methodology for obtaining proposals for use of funds
- Permit community based input
- Approve/Deny proposals
- Receive funds from Trustee, may pool funds with other parties
- Report to the PCOAC
- If do not retain or pool funds, the funds are reallocated to the other parties
- Maintain Records

ADMINISTRATION

- Pierce County Auditor's Office will perform the administrative functions at the direction of the chair, including:
  - Scheduling meetings,
  - Making reports publicly available,
  - Public dashboard
  - Prepare a report for consideration of the PCOAC at its annual meeting.

ADMINISTRATIVE EXPENSES

10% of funds received are reserved by each party

Costs of administration limited to 10%

Itemized invoices will be provided before the end of each fiscal year

Administrator will bill on a pro-rated amount based on allocation share

PUBLIC RECORDS

- Each party retains their own records
- Administrator is responsible for maintaining and storing PCOAC records.
- Administrator will timely share request with the Parties' Records Coordinator
- Each Records Coordinator notified will cooperate with Administrator, including contacting Council Members to gather records
- Parties are encouraged to notify other parties when they receive a request

INDEMNIFICATON

Parties agree to fully indemnify all other Parties, for all court awarded penalties, costs, and attorneys' fees incurred by another Party resulting from any claims, including under the Public Records Act, brought against a Party/Parties, where the liability is premised upon the sole acts or omissions by the Party or its appointed Council Member. The PCOAC only acts through the Parties and is not a separate legal entity for purposes of any claim.   If more than one Party is held to be at fault, the obligation to indemnify and to pay costs and attorney's fees, will be only to the extent of the percent of fault allocated to each respective Party by a final judgment of the court.

NEXT STEPS

- ILA before Council on June 5, 2023 for consideration
- If passed, nominate/appoint OAC member (and alternate) same night
  - Member can be Councilmember or Staff member
  - 3 year term
  - First meeting within 120 days.
  - One meeting per year minimum

QUESTIONS?

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

PIERCE COUNTY, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$1,158,477.23						$1,158,477.23
2023	$593,628.49	$1,170,239.69	$217,157.43	$196,274.37	$241,366.44	$470,094.76	$2,888,761.18
2024	$743,010.14	$442,218.95	$217,157.43	$196,274.37	$192,429.56		$1,791,090.45
2025	$743,010.14	$459,083.24	$231,564.64	$196,274.37	$384,554.20	$186,916.54	$2,201,403.13
2026	$743,010.14	$16,864.28	$255,479.33	$196,274.37	$384,554.20	$186,916.54	$1,783,098.86
2027	$743,010.14	$16,864.28	$255,479.33	$200,665.21	$441,420.64	$186,916.54	$1,844,356.14
2028	$987,063.04	$16,864.28	$255,479.33	$230,911.02	$452,416.71	$186,916.54	$2,129,650.92
2029	$1,028,081.70		$255,479.33	$230,911.02	$429,813.81	$192,014.45	$2,136,300.31
2030	$1,028,081.70			$230,911.02	$407,210.91	$333,150.84	$1,999,354.47
2031	$864,206.43			$230,911.02	$406,852.19	$333,150.84	$1,835,120.48
2032	$864,206.43			$230,911.02	$406,852.19	$333,150.84	$1,835,120.48
2033	$864,206.43			$230,911.02		$333,150.84	$1,428,268.29
2034	$864,206.43			$230,911.02		$333,150.84	$1,428,268.29
2035	$864,206.43			$230,911.02		$333,150.84	$1,428,268.29
2036	$864,206.43					$666,301.69	$1,530,508.12
2037	$864,206.43						$864,206.43
2038	$864,206.43						$864,206.43
Totals:	$14,681,024.16	$2,122,134.72	$1,687,796.82	$2,833,050.85	$3,747,470.85	$4,074,982.10	$29,146,459.50

* Local Government allocation of LG Share (50%) of Washington State Base
Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

AUBURN, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$10,069.52						$10,069.52
2023	$5,159.84	$10,171.76	$1,887.54	$1,706.02	$2,097.96	$4,086.08	$25,109.20
2024	$6,458.27	$3,843.78	$1,887.54	$1,706.02	$1,672.60		$15,568.21
2025	$6,458.27	$3,990.37	$2,012.77	$1,706.02	$3,342.56	$1,624.68	$19,134.67
2026	$6,458.27	$146.58	$2,220.63	$1,706.02	$3,342.56	$1,624.68	$15,498.74
2027	$6,458.27	$146.58	$2,220.63	$1,744.19	$3,836.84	$1,624.68	$16,031.19
2028	$8,579.58	$146.58	$2,220.63	$2,007.09	$3,932.42	$1,624.68	$18,510.98
2029	$8,936.12		$2,220.63	$2,007.09	$3,735.95	$1,669.00	$18,568.79
2030	$8,936.12			$2,007.09	$3,539.49	$2,895.76	$17,378.46
2031	$7,511.71			$2,007.09	$3,536.37	$2,895.76	$15,950.93
2032	$7,511.71			$2,007.09	$3,536.37	$2,895.76	$15,950.93
2033	$7,511.71			$2,007.09		$2,895.76	$12,414.56
2034	$7,511.71			$2,007.09		$2,895.76	$12,414.56
2035	$7,511.71			$2,007.09		$2,895.76	$12,414.56
2036	$7,511.71					$5,791.51	$13,303.22
2037	$7,511.71						$7,511.71
2038	$7,511.71						$7,511.71
Totals:	$127,607.94	$18,445.65	$14,670.37	$24,624.99	$32,573.12	$35,419.87	$253,341.94

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

BONNEY LAKE, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$19,077.32						$19,077.32
2023	$9,775.63	$19,271.02	$3,576.06	$3,232.17	$3,974.72	$7,741.33	$47,570.93
2024	$12,235.58	$7,282.28	$3,576.06	$3,232.17	$3,168.85		$29,494.94
2025	$12,235.58	$7,559.99	$3,813.31	$3,232.17	$6,332.68	$3,078.06	$36,251.79
2026	$12,235.58	$277.71	$4,207.13	$3,232.17	$6,332.68	$3,078.06	$29,363.33
2027	$12,235.58	$277.71	$4,207.13	$3,304.47	$7,269.13	$3,078.06	$30,372.08
2028	$16,254.55	$277.71	$4,207.13	$3,802.55	$7,450.21	$3,078.06	$35,070.21
2029	$16,930.02		$4,207.13	$3,802.55	$7,078.00	$3,162.01	$35,179.71
2030	$16,930.02			$3,802.55	$6,705.78	$5,486.19	$32,924.54
2031	$14,231.39			$3,802.55	$6,699.87	$5,486.19	$30,220.00
2032	$14,231.39			$3,802.55	$6,699.87	$5,486.19	$30,220.00
2033	$14,231.39			$3,802.55		$5,486.19	$23,520.13
2034	$14,231.39			$3,802.55		$5,486.19	$23,520.13
2035	$14,231.39			$3,802.55		$5,486.19	$23,520.13
2036	$14,231.39					$10,972.38	$25,203.77
2037	$14,231.39						$14,231.39
2038	$14,231.39						$14,231.39
Totals:	$241,760.98	$34,946.42	$27,793.95	$46,653.55	$61,711.79	$67,105.10	$479,971.79

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

EDGEWOOD, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$769.27						$769.27
2023	$394.19	$777.09	$144.20	$130.33	$160.28	$312.16	$1,918.25
2024	$493.39	$293.65	$144.20	$130.33	$127.78		$1,189.35
2025	$493.39	$304.85	$153.77	$130.33	$255.36	$124.12	$1,461.82
2026	$493.39	$11.20	$169.65	$130.33	$255.36	$124.12	$1,184.05
2027	$493.39	$11.20	$169.65	$133.25	$293.12	$124.12	$1,224.73
2028	$655.45	$11.20	$169.65	$153.33	$300.42	$124.12	$1,414.17
2029	$682.69		$169.65	$153.33	$285.41	$127.51	$1,418.59
2030	$682.69			$153.33	$270.40	$221.23	$1,327.65
2031	$573.87			$153.33	$270.17	$221.23	$1,218.60
2032	$573.87			$153.33	$270.17	$221.23	$1,218.60
2033	$573.87			$153.33		$221.23	$948.43
2034	$573.87			$153.33		$221.23	$948.43
2035	$573.87			$153.33		$221.23	$948.43
2036	$573.87					$442.45	$1,016.32
2037	$573.87						$573.87
2038	$573.87						$573.87
Totals:	$9,748.81	$1,409.19	$1,120.77	$1,881.21	$2,488.47	$2,705.98	$19,354.43

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

FIFE, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$31,323.92						$31,323.92
2023	$16,051.05	$31,641.96	$5,871.69	$5,307.04	$6,526.28	$12,710.83	$78,108.85
2024	$20,090.16	$11,957.10	$5,871.69	$5,307.04	$5,203.08		$48,429.07
2025	$20,090.16	$12,413.09	$6,261.25	$5,307.04	$10,397.91	$5,054.01	$59,523.46
2026	$20,090.16	$455.99	$6,907.87	$5,307.04	$10,397.91	$5,054.01	$48,212.98
2027	$20,090.16	$455.99	$6,907.87	$5,425.76	$11,935.52	$5,054.01	$49,869.31
2028	$26,689.07	$455.99	$6,907.87	$6,243.57	$12,232.84	$5,054.01	$57,583.35
2029	$27,798.17		$6,907.87	$6,243.57	$11,621.68	$5,191.85	$57,763.14
2030	$27,798.17			$6,243.57	$11,010.52	$9,008.02	$54,060.28
2031	$23,367.17			$6,243.57	$11,000.83	$9,008.02	$49,619.59
2032	$23,367.17			$6,243.57	$11,000.83	$9,008.02	$49,619.59
2033	$23,367.17			$6,243.57		$9,008.02	$38,618.76
2034	$23,367.17			$6,243.57		$9,008.02	$38,618.76
2035	$23,367.17			$6,243.57		$9,008.02	$38,618.76
2036	$23,367.17					$18,016.05	$41,383.22
2037	$23,367.17						$23,367.17
2038	$23,367.17						$23,367.17
Totals:	$396,958.38	$57,380.12	$45,636.11	$76,602.48	$101,327.40	$110,182.89	$788,087.38

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

GIG HARBOR, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$13,777.43						$13,777.43
2023	$7,059.85	$13,917.31	$2,582.59	$2,334.23	$2,870.50	$5,590.70	$34,355.18
2024	$8,836.40	$5,259.18	$2,582.59	$2,334.23	$2,288.51		$21,300.91
2025	$8,836.40	$5,459.74	$2,753.93	$2,334.23	$4,573.39	$2,222.94	$26,180.63
2026	$8,836.40	$200.56	$3,038.34	$2,334.23	$4,573.39	$2,222.94	$21,205.86
2027	$8,836.40	$200.56	$3,038.34	$2,386.45	$5,249.68	$2,222.94	$21,934.37
2028	$11,738.85	$200.56	$3,038.34	$2,746.16	$5,380.46	$2,222.94	$25,327.31
2029	$12,226.67		$3,038.34	$2,746.16	$5,111.65	$2,283.57	$25,406.39
2030	$12,226.67			$2,746.16	$4,842.84	$3,962.06	$23,777.73
2031	$10,277.75			$2,746.16	$4,838.57	$3,962.06	$21,824.54
2032	$10,277.75			$2,746.16	$4,838.57	$3,962.06	$21,824.54
2033	$10,277.75			$2,746.16		$3,962.06	$16,985.97
2034	$10,277.75			$2,746.16		$3,962.06	$16,985.97
2035	$10,277.75			$2,746.16		$3,962.06	$16,985.97
2036	$10,277.75					$7,924.13	$18,201.88
2037	$10,277.75						$10,277.75
2038	$10,277.75						$10,277.75
Totals:	$174,597.07	$25,237.91	$20,072.47	$33,692.65	$44,567.56	$48,462.52	$346,630.18

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

LAKEWOOD, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$84,168.30						$84,168.30
2023	$43,129.63	$85,022.89	$15,777.41	$14,260.17	$17,536.30	$34,154.38	$209,880.78
2024	$53,982.85	$32,129.09	$15,777.41	$14,260.17	$13,980.83		$130,130.35
2025	$53,982.85	$33,354.35	$16,824.16	$14,260.17	$27,939.50	$13,580.28	$159,941.31
2026	$53,982.85	$1,225.26	$18,561.66	$14,260.17	$27,939.50	$13,580.28	$129,549.72
2027	$53,982.85	$1,225.26	$18,561.66	$14,579.18	$32,071.09	$13,580.28	$134,000.32
2028	$71,714.33	$1,225.26	$18,561.66	$16,776.67	$32,870.00	$13,580.28	$154,728.20
2029	$74,694.51		$18,561.66	$16,776.67	$31,227.80	$13,950.67	$155,211.31
2030	$74,694.51			$16,776.67	$29,585.60	$24,204.83	$145,261.61
2031	$62,788.27			$16,776.67	$29,559.54	$24,204.83	$133,329.31
2032	$62,788.27			$16,776.67	$29,559.54	$24,204.83	$133,329.31
2033	$62,788.27			$16,776.67		$24,204.83	$103,769.77
2034	$62,788.27			$16,776.67		$24,204.83	$103,769.77
2035	$62,788.27			$16,776.67		$24,204.83	$103,769.77
2036	$62,788.27					$48,409.65	$111,197.92
2037	$62,788.27						$62,788.27
2038	$62,788.27						$62,788.27
Totals:	$1,066,638.84	$154,182.11	$122,625.62	$205,833.22	$272,269.70	$296,064.80	$2,117,614.29

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

PUYALLUP, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$61,611.83						$61,611.83
2023	$31,571.22	$62,237.40	$11,549.18	$10,438.55	$12,836.70	$25,001.27	$153,634.32
2024	$39,515.85	$23,518.73	$11,549.18	$10,438.55	$10,234.07		$95,256.38
2025	$39,515.85	$24,415.64	$12,315.41	$10,438.55	$20,451.92	$9,940.87	$117,078.24
2026	$39,515.85	$896.90	$13,587.28	$10,438.55	$20,451.92	$9,940.87	$94,831.37
2027	$39,515.85	$896.90	$13,587.28	$10,672.07	$23,476.28	$9,940.87	$98,089.25
2028	$52,495.43	$896.90	$13,587.28	$12,280.65	$24,061.09	$9,940.87	$113,262.22
2029	$54,676.94		$13,587.28	$12,280.65	$22,858.99	$10,211.99	$113,615.85
2030	$54,676.94			$12,280.65	$21,656.89	$17,718.12	$106,332.60
2031	$45,961.49			$12,280.65	$21,637.81	$17,718.12	$97,598.07
2032	$45,961.49			$12,280.65	$21,637.81	$17,718.12	$97,598.07
2033	$45,961.49			$12,280.65		$17,718.12	$75,960.26
2034	$45,961.49			$12,280.65		$17,718.12	$75,960.26
2035	$45,961.49			$12,280.65		$17,718.12	$75,960.26
2036	$45,961.49					$35,436.23	$81,397.72
2037	$45,961.49						$45,961.49
2038	$45,961.49						$45,961.49
Totals:	$780,787.68	$112,862.47	$89,762.89	$150,671.47	$199,303.48	$216,721.69	$1,550,109.68

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

SUMNER, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$17,353.21						$17,353.21
2023	$8,892.16	$17,529.40	$3,252.87	$2,940.06	$3,615.51	$7,041.70	$43,271.70
2024	$11,129.79	$6,624.14	$3,252.87	$2,940.06	$2,882.47		$26,829.33
2025	$11,129.79	$6,876.76	$3,468.68	$2,940.06	$5,760.36	$2,799.88	$32,975.53
2026	$11,129.79	$252.62	$3,826.91	$2,940.06	$5,760.36	$2,799.88	$26,709.62
2027	$11,129.79	$252.62	$3,826.91	$3,005.83	$6,612.18	$2,799.88	$27,627.21
2028	$14,785.54	$252.62	$3,826.91	$3,458.89	$6,776.90	$2,799.88	$31,900.74
2029	$15,399.97		$3,826.91	$3,458.89	$6,438.32	$2,876.25	$32,000.34
2030	$15,399.97			$3,458.89	$6,099.75	$4,990.38	$29,948.99
2031	$12,945.23			$3,458.89	$6,094.37	$4,990.38	$27,488.87
2032	$12,945.23			$3,458.89	$6,094.37	$4,990.38	$27,488.87
2033	$12,945.23			$3,458.89		$4,990.38	$21,394.50
2034	$12,945.23			$3,458.89		$4,990.38	$21,394.50
2035	$12,945.23			$3,458.89		$4,990.38	$21,394.50
2036	$12,945.23					$9,980.75	$22,925.98
2037	$12,945.23						$12,945.23
2038	$12,945.23						$12,945.23
Totals:	$219,911.85	$31,788.16	$25,282.06	$42,437.19	$56,134.59	$61,040.50	$436,594.35

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

TACOMA, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$525,749.36						$525,749.36
2023	$269,405.21	$531,087.50	$98,552.12	$89,074.80	$109,538.84	$213,342.15	$1,311,000.62
2024	$337,198.78	$200,691.33	$98,552.12	$89,074.80	$87,329.91		$812,846.94
2025	$337,198.78	$208,344.81	$105,090.51	$89,074.80	$174,521.45	$84,827.95	$999,058.30
2026	$337,198.78	$7,653.48	$115,943.66	$89,074.80	$174,521.45	$84,827.95	$809,220.12
2027	$337,198.78	$7,653.48	$115,943.66	$91,067.48	$200,329.03	$84,827.95	$837,020.38
2028	$447,956.81	$7,653.48	$115,943.66	$104,793.88	$205,319.36	$84,827.95	$966,495.14
2029	$466,572.23		$115,943.66	$104,793.88	$195,061.53	$87,141.52	$969,512.82
2030	$466,572.23			$104,793.88	$184,803.70	$151,193.17	$907,362.98
2031	$392,201.04			$104,793.88	$184,640.90	$151,193.17	$832,828.99
2032	$392,201.04			$104,793.88	$184,640.90	$151,193.17	$832,828.99
2033	$392,201.04			$104,793.88		$151,193.17	$648,188.09
2034	$392,201.04			$104,793.88		$151,193.17	$648,188.09
2035	$392,201.04			$104,793.88		$151,193.17	$648,188.09
2036	$392,201.04					$302,386.34	$694,587.38
2037	$392,201.04						$392,201.04
2038	$392,201.04						$392,201.04
Totals:	$6,662,659.28	$963,084.08	$765,969.39	$1,285,717.72	$1,700,707.07	$1,849,340.83	$13,227,478.37

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

OPIOIDS SETTLEMENT ESTIMATED TOTAL PAYMENTS BY YEAR

UNIVERSITY PLACE, WASHINGTON

ESTIMATED ABATEMENT PAYMENTS FROM PIERCE COUNTY*

Payment Year	Distributor	WalMart**	Allergan	Teva	CVS	Walgreens	TOTAL
2022	$5,667.14						$5,667.14
2023	$2,903.97	$5,724.68	$1,062.31	$960.15	$1,180.74	$2,299.65	$14,131.50
2024	$3,634.72	$2,163.29	$1,062.31	$960.15	$941.34		$8,761.81
2025	$3,634.72	$2,245.78	$1,132.79	$960.15	$1,881.20	$914.38	$10,769.02
2026	$3,634.72	$82.50	$1,249.78	$960.15	$1,881.20	$914.38	$8,722.73
2027	$3,634.72	$82.50	$1,249.78	$981.63	$2,159.38	$914.38	$9,022.39
2028	$4,828.60	$82.50	$1,249.78	$1,129.59	$2,213.17	$914.38	$10,418.02
2029	$5,029.26		$1,249.78	$1,129.59	$2,102.60	$939.31	$10,450.54
2030	$5,029.26			$1,129.59	$1,992.03	$1,629.74	$9,780.62
2031	$4,227.60			$1,129.59	$1,990.28	$1,629.74	$8,977.21
2032	$4,227.60			$1,129.59	$1,990.28	$1,629.74	$8,977.21
2033	$4,227.60			$1,129.59		$1,629.74	$6,986.93
2034	$4,227.60			$1,129.59		$1,629.74	$6,986.93
2035	$4,227.60			$1,129.59		$1,629.74	$6,986.93
2036	$4,227.60					$3,259.47	$7,487.07
2037	$4,227.60						$4,227.60
2038	$4,227.60						$4,227.60
Totals:	$71,817.91	$10,381.25	$8,256.53	$13,858.95	$18,332.22	$19,934.39	$142,581.25

* Local Government allocation of LG Share (50%) of Washington State Base Abatement Payments less estimated Government Fee Fund withholding.

** Worst case maximum payment scenario. WalMart payments may be completed in as few as 3 years.

RESOLUTION NO. 1659
CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUMNER AND PIERCE COUNTY, CITIES OF AUBURN, BONNEY LAKE, EDGEWOOD, FIFE, GIG HARBOR, LAKEWOOD, PUYALLUP, TACOMA, AND UNIVERSITY PLACE (COLLECTIVELY "PARTIES") FOR THE CREATION OF PIERCE COUNTY OPIOID ABATEMENT COUNCIL.

WHEREAS, the City of Sumner and the Parties seek to enter into an intergovernmental agreement forming an Opioid Abatement Council (OAC) as required by the One Washington MOU; and

WHEREAS, forming the OAC enables the City of Sumner to receive direct money payments ("Opioid Funds") from settlements and/or judgments made as part of Washington State's Opioid Litigation; and

WHEREAS, the City Council has determined it to be in the best interest of the City of Sumner to enter into said intergovernmental agreement; and

WHEREAS, the City of Sumner is authorized, pursuant to Chapter 39.34 RCW, Interlocal Cooperation Act, to enter into such agreement;

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

Section 1. **Authorization.** That the City Council hereby approves the Interlocal Agreement attached as Exhibit A and incorporated herein by reference for the purpose of the creation of the Pierce County Opioid Abatement Council, and authorizes the Mayor to sign said agreement on behalf of the City of Sumner substantially in a form as approved by the City Attorney.

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

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

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

____
Mayor Kathy Hayden

Attest:

____
Michelle Converse, City Clerk

Approved as to form:

____
Andrea Marquez, City Attorney

INTERLOCAL AGREEMENT BETWEEN PIERCE COUNTY, CITIES OF AUBURN, BONNEY LAKE, EDGEWOOD, FIFE, GIG HARBOR, LAKEWOOD, PUYALLUP, SUMNER, TACOMA, AND UNIVERSITY PLACE, FORMING PCOAC

This Agreement is made and entered into among Pierce County, a political subdivision of the state of Washington, and the municipal corporations of Auburn, Bonney Lake, Edgewood, Fife, Gig Harbor, Lakewood, Puyallup, Sumner, Tacoma, and University Place each a "Party" and collectively "Parties."

SECTION 1. RECITALS

WHEREAS, the State of Washington and 33 of its local political subdivisions, including counties and cities and towns with a population of over 10,000, are engaged in litigation with opioid Distributors and Pharmaceutical Supply Chain Participants ("Opioid Litigation"); and

WHEREAS, the Opioid Litigation is expected to result in settlements and/or judgments with direct money payments to the state and its political subdivisions and this Agreement will apply to all Opioid Funds received pursuant to the Allocation Agreement and as a result of future settlements as defined in the One WA MOU; and

WHEREAS, to comply with the One Washington Memorandum of Understanding between Washington Municipalities ("MOU"), attached hereto with Exhibits A and B, and incorporated by reference, which has been previously approved and executed by the Parties and requires the formation of an Opioid Abatement Council ("OAC"); and

WHEREAS, each Party will receive direct distribution of funds from the Opioid Litigation ("Opioid Funds"), based upon the default methodology set forth at Section C.4 of the MOU, for purposes of future opioid remediation, training, and treatment efforts; and

WHEREAS, because each Party has a greater understanding of its own local impacts and local needs for such future opioid remediation, training, and treatment efforts, the undersigned Parties do hereby adopt and implement this Agreement for the creation of the Pierce County OAC (PCOAC), which is bound by the terms of the Agreement herein, as well as the MOU and exhibits thereto, the settlement Agreement provisions, and any applicable state statute(s); and

WHEREAS, each Party shall select a representative to serve as a Council Member to the PCOAC; and

NOW, THEREFORE, it is hereby agreed by the Parties:

SECTION 2. DEFINITIONS

1. "Opioid Litigation" shall mean the litigation between local Parties and Opioid Distributors and Pharmaceutical Supply Chain Participants, and any other settlements entered pursuant to the MOU.

2. "Approved Purpose(s)" shall mean the strategies specified and set forth in the Opioid Abatement Strategies attached as Exhibit A of the MOU.

3. "Council" or "Council Member" as used throughout this Agreement refers to the body or members to the PCOAC.

SECTION 3. PARTICIPATING ENTITIES

The Parties to this Agreement consist of the political subdivisions entitled to payment of the Opioid Funds derived from the Opioid Litigation conducted by the attorneys identified in the MOU. The Pierce County Parties are Pierce County, and the municipalities of Auburn, Bonney Lake, Edgewood, Fife, Gig Harbor, Lakewood, Puyallup, Sumner, Tacoma, and University Place.

SECTION 4. CREATION OF PIERCE COUNTY OPIOID ABATEMENT COUNCIL

The PCOAC shall be comprised of one member from each Party; each appointed by the governing body. Qualified members may be elected officials or duly appointed employees with experience in the subject matter, subject matter experts or community members. The PCOAC may call upon subject matter experts and/or outside bodies or organizations for advice and input as needed.

A. Selection and Meetings

1. **Selection and Terms** – Each Party shall select their representative to the PCOAC from qualified persons and the representative shall be appointed by the Party's governing body. A Party may choose to leave its positions vacant; however, the Council must have a minimum of five filled positions. Using the same process as the primary member selection process, each Party's governing body may also appoint an alternate to serve where the primary appointment is not available to serve. The term shall be for a period of three years. The terms of each Council Member shall be staggered. The selection of the initial panel will identify the term for each initial Council Member in consultation with the other Parties to ensure a staggering of terms. Nothing prohibits a Council Member from serving multiple terms.

2. **Chair** – The PCOAC Members shall select one person to serve as Chair of the PCOAC whose responsibilities will include the right to conduct meetings as well as act as the representative for the PCOAC in other matters. The Chair shall serve for a term of one year. Nothing prohibits a person from serving multiple consecutive terms as the Chair.

3. **Meetings -** Meetings shall be properly noticed to all Council Members and in compliance with RCW 42.30, the Open Public Meetings Act (OPMA). A quorum consists of a majority of members who may attend either virtually or in person. Actions of the Council may be approved by a simple majority of such quorum. While Council Members are not required to attend or participate in meetings, each Council Member shall be responsible for meeting the annual obligations of MOU Section C.4.j.ii to account for proper expenditure of all distributed Opioid Funds.

   The first meeting shall occur within 120 days of the recording of this Agreement. At the first meeting the Council shall (1) elect a Chair, (2) adopt a date for a regular annual meeting, (3) assign tasks to the Administrator. The Council may adopt rules of procedures governing meetings of the Council, including deciding the total number of meetings held annually.

4. **Structure of Council** - The PCOAC created in this Agreement is not a separate legal or administrative entity within the meaning of RCW 39.34.030(3).

B. Duties of PCOAC

1. **Oversight:** Overseeing distribution of funds from Parties for Approved Purposes.

2. **Annual Review:** Annual review of expenditure reports from Parties for compliance with Approved Purposes and the terms of the settlement.

3. **Publicly Available Reports -** Reporting and making publicly available all decisions on Opioid Fund allocation applications, distributions and expenditures by the PCOAC or directly by Parties.

4. **Public Dashboard**: Developing and maintaining a centralized public dashboard or other repository for the publication of expenditure data from the Parties and for expenditures by PCOAC, which it shall update at least annually.

5. **Data Collection & Guidelines:** Adopt data collection guidelines regarding how Parties share allocation and expenditure data, including the type of data, method, and timing of sharing of data to conduct the annual review. Receive such data to be used for annual report, public dashboard, and if determined to be necessary, report outcomes.

6. **Complaints:** Hearing complaints by Parties regarding alleged failure to (1) use Opioid Funds for Approved Purposes or (2) comply with reporting requirements. If the PCOAC concludes that a Party's expenditure of its allocation of Opioid Funds did not comply with the Approved Purposes listed in Exhibit A, or the terms of this MOU, or that the Party otherwise misused its allocation of Opioid Funds, the PCOAC may take remedial action against the alleged offending Party. Such remedial action is left to the discretion of the PCOAC and may include withholding future Opioid Funds owed to the offending Party or requiring the offending Party to reimburse improperly

expended Opioid Funds back to the PCOAC to be re-allocated to the remaining Parties.

7. **Ending of Agreement** – Within the last five years of this Agreement, the PCOAC shall determine the final reporting cycle and ensure that there are sufficient funds to pay any remaining invoices of the Administrator.

C. Duties of Parties

The Parties are expected to conduct required activities in the method best suited to the needs of their respective Parties. It is not anticipated that the PCOAC dictate methods to member Parties. Each Party is responsible for:

1. Developing a methodology for obtaining proposals for use of Opioid Funds.

2. Ensuring there is opportunity for community-based input on priorities for Opioid Fund programs and services.

3. Receiving and reviewing proposals for use of Opioid Funds for Approved Purposes.

4. Approving or denying proposals for use of Opioid Funds for Approved Purposes.

5. Receiving funds from the Trustee according to the allocation amounts listed in the MOU, for Approved Purposes and expending such funds in accordance with Exhibit A. Nothing in this Agreement prohibits the pooling of funds for designated purposes as outlined in Exhibit A. If a Party chooses to pool funds with another Party or Parties, the pooling agreement shall state which Party is responsible for providing expenditure data to the PCOAC, and the pooling Agreement shall be shared with PCOAC Administrator.

6. Reporting to the PCOAC, in accordance with data reporting guidelines, all decisions on Opioid Fund allocation applications, distributions, and expenditures.

7. If a Party elects neither to retain or pool its settlement allocation, its allocation will be reallocated to the other Parties to this Agreement according to the MOU allocation method.

8. Parties shall maintain all records related to the receipt and expenditure of Opioid Funds in accordance with Washington State retention laws, but for no less than five (5) years and shall make such records available for review by other Parties, the PCOAC, or the public.

9. Public Records Requests: Each party to this Agreement shall be responsible for retaining and producing the records it creates, owns or uses, in accordance with applicable public records access and retention laws and regulations. Nothing in this section is intended to require a Party to collect or produce records that are not prepared, owned, used, or retained by that agency as defined by the Public Records Act (RCW 42.56), other than as provided for herein. Each party shall designate a Records Coordinator. The Administrator shall be responsible for maintaining and storing, in compliance with the state Public Records Act (Chapter 42.56 RCW), those records of the PCOAC that are owned, used, created or obtained by the PCOAC. Upon receipt of a request for PCOAC records, the PCOAC Administrator shall timely share the request with the Parties' Records Coordinator. In the event that the Administrator shares a request for PCOAC records with the Records Coordinator, each Records Coordinator notified by the Administrator shall cooperate with the Administrator as requested to fulfill the request, including contacting their respective Council Members to gather records. Parties who receive requests for PCOAC or records related to PCOAC are also encouraged, but not required, to share those with the Administrator.

SECTION 5. ADMINSTRATION OF PCOAC AND EXPENSES

Pierce County agrees to provide for the administration of the PCOAC through the Pierce County Auditor's Office as outlined in this Agreement. The Pierce County Auditor's Office (Administrator) will serve as the administrator for PCOAC and shall perform all administrative functions, including scheduling of meetings, making reports publicly available, maintaining a public dashboard, preparing a report for consideration of the PCOAC at its annual meeting, and other such tasks as assigned by the Chair.

A. Administrative Expenses

10% of the Opioid Funds received by the Parties will be reserved by each Party, on an annual basis, for administrative costs related to the PCOAC. Administrative costs are limited to 10% and every effort shall be made to keep administrative costs below 10%.

The Administrator shall provide itemized invoices for all administrative expenses to each of the Parties before the end of each fiscal year. Each Party will be billed by the Administrator a pro-rated amount based on the overall percentage each Party annually receives in direct allocation from the Trustee. Any reserved funds that exceed a party's pro-rated share of the administrative costs will be reallocated to each Party for Approved Purposes under the MOU.

B. PCOAC Records Retention

The PCOAC Administrator shall maintain PCOAC records according to Washington State retention laws, but for no less than five (5) years and shall make such records available for review by other Parties or the public. Records requested by the public shall be produced in accordance with the Washington Public Records Act, chapter 42.56 RCW. Nothing in this section supplants any Party's obligations to retain and produce its own records as provided in this Agreement.

SECTION 6. CHAPTER 39.34 REQUIREMENTS

A. Duration – This Agreement shall be effective for the time-period that the Parties receive allocations of Opioid Funds under any of the current Opioid Litigation claims and shall continue to be effective until 36 months after the final distribution of such funds.

B. Structure – The organizational structure of the PCOAC is set forth above.

C. Powers – Each Party shall have the power to allocate, distribute, and manage all funds apportioned to their respective political subdivisions under any and every Agreement to settlement, judgment, or any other method of Opioid Fund allocation provided for in the underlying Opioid Litigation as set forth by the MOU.

D. Purpose – The purpose of the PCOAC herein shall be to ensure future remediation of the opioid abuse epidemic and the distribution and management of the funds identified herein.

E. Financing – The financing of the PCOAC shall be through the Opioid Funds received as a result of the Opioid Litigation identified herein.

F. Termination – This Agreement shall be self-terminating 36 months after the final distribution of funds through or by the Parties to the MOU.

G. Joint Council – The PCOAC shall be responsible for ensuring compliance with MOU, applicable state and federal law, and applicable regulations.

H. Real Property and Personal Property – This Agreement does not contemplate the joint acquisition of property by the Parties.

SECTION 7. INDEMNIFICATION

Parties agree to fully indemnify all other Parties, for all court awarded penalties, costs, and attorneys' fees incurred by another Party resulting from any claims, including under the Public Records Act, brought against a Party/Parties, where the liability is premised upon the sole acts or omissions by the Party or its appointed Council Member. The PCOAC only acts through the Parties and is not a separate legal entity for purposes of any claim. If more than one Party is held to be at fault, the obligation to indemnify and to pay costs and attorney's fees, will be only to the extent of the percent of fault allocated to each respective Party by a final judgment of the court.

SECTION 8. MODIFICATIONS OR AMENDMENTS

This Agreement may be modified or amended upon written agreement by all Parties. Any modifications or amendments must be consistent with the terms of the MOU and Exhibit A.

SECTION 9. HEADINGS

The article headings in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the articles to which they appertain.

SECTION 10. ENTIRE AGREEMENT

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

This Agreement sets forth the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all previous discussions and agreements. Understandings, representations, or warranties not contained in this Agreement, or a written amendment hereto shall not be binding on any Party.

SECTION 11. SEVERABILITY

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

In the event any portion of this Agreement should become invalid or unenforceable, the remainder of the Agreement shall remain in full force and effect.

SECTION 12. NON-DISCRIMINATION

The Parties, their employees, and agents shall not discriminate against any person based on any reason prohibited by Washington state or federal law as adopted or subsequently amended.

SECTION 13. COMPLIANCE WITH LAWS

The Parties shall observe all federal, state, and local laws, ordinances, and regulations, to the extent that they may be applicable to the terms of this Agreement.

SECTION 14. GOVERNING LAW; VENUE

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each Party that this Agreement shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Pierce County, Washington.

SECTION 15. RECORDING

Pursuant to RCW 39.34.040, copies of this Agreement shall be filed with the Pierce County Auditor.

SECTION 16. APPROVAL BY LOCAL POLITICAL SUBDIVISION

Adoption of this Agreement by each Party shall be by resolution and by signature below.

WHEREFORE, the undersigned authorities do hereby approve and adopt the Agreement on the Pierce County OAC (PCOAC) as set forth herein.

Done on this ___ day of _________, 2023.

CITY OF SUMNER WASHINGTON

CITY COUNCIL MEETING
DATE: June 5, 2023
AGENDA BILL: 23-3326

SUBJECT: Appointment of Opioid Abatement Council Member and Alternate **CATEGORY:** Motion

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

ATTACHMENTS:
STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:
As part of the Opioid class action settlements, the City of Sumner entered into the One Washington MOU. One of the requirements in that MOU was that each County over a certain population was required to form an "Opioid Abatement Council" to serve as an oversight committee for the expenditure of the settlement funds by all of the cities within that county. The City Council adopted Resolution 1659 tonight authorizing the Mayor to execute the Interlocal Agreement to form the Opioid Abatement Council, and now the Council needs to appoint a member to serve on the OAC for a 3-year term. Council is also encouraged to appoint an alternate. The member and alternate can be either council or staff members. The process for appointments is as follows: the Mayor will open up nominations for appointments. When all nominations have been made, nominations will be closed. A role call vote will take place, and each Councilmember will state the name of the individual they wish to appoint. If there is a majority for any one individual, that person shall be appointed.

COUNCIL COMMITTEE/STUDY SESSION: Study Session
MEETING/STUDY SESSION DATE: 5/22/2023
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:
Appoint a member and alternate to serve on the Opioid abatement Council for a period not to exceed three-years.

JUNE 2023

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3
			6:00PM **Planning Commission** (Hybrid)		
5	6	7	8	9	10
6:00PM **Regular Council Meeting** (Hybrid)	4:00 PM **Public Works Committee** (Hybrid)	~~5:30PM~~ **CANCELLED** ~~**Finance Committee**~~ ~~(Hybrid)~~	4:30PM **Forestry/Parks Commission** (Hybrid)		
12	13	14	15	16	17
6:00PM **Study Session** (Hybrid)		6:30PM **Design Commission** (Hybrid)			
19	20	21	22	23	24
HOLIDAY **City Hall Closed**	6:00PM **Regular Council Meeting** (Hybrid)	5:30PM **Public Safety Committee** (Hybrid)	5:30PM **Cultural Arts Commission** (Hybrid)		
26	27	28	29	30	
6:00PM **Study Session** (Hybrid)		5:00PM **CD Committee** (Hybrid)			

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

Name: Michelle Converse, CMC
Title: City Clerk

City of Sumner |1104 Maple Street | Sumner, Washington 98390
Ph: (253) 299-5500
Website: **www.sumnerwa.gov**