



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/84141683437>

Or One tap mobile :

+12532158782,,84141683437# US (Tacoma)

+12532050468,,84141683437# US

Or Telephone:

+1 253 215 8782 US (Tacoma)

+1 253 205 0468 US

CALL TO ORDER

Roll Call: Bitetto, Bowman, Clerget, Cole, Elfers, Kenna and Reinke

CONSENT AGENDA

1. 2024 Sidewalk Repair Program - Change Order
2. Resolution No. 1707 - Transportation Improvement Board Complete Streets Grant Acceptance
3. Biosolids Dryer Procurement Thermal Fluid Heater Modification - Change Order #1
4. Steffens Employment Agreement Amendment
5. Water Rights Pilot Project - Consultant Services Contract Amendment
6. South Tank Retrofit - Design Consultant Contract Amendment
7. White River Restoration Project - Plant Procurement
8. Resolution No. 1706 - Amending the Interlocal Agreement (ILA) with East Pierce County Interlocal Coalition (EPIC) for Emergency Management
9. City Hall Access Control and Intrusion - Goods and Services Contract
10. Approval of the Council meeting minutes from November 18, 2024 regular meeting, special study session and the December 2, 2024 regular council meeting.

PUBLIC HEARING

1. Ordinance No. 2915 - Sumner Library Development Agreement

SPECIAL BUSINESS

1. **Unfinished Business**
 - a. Ordinance No. 2905 - 2025/2026 Biennial Budget
 - b. Ordinance No. 2910 - 2023/2024 Final Budget Amendment
2. **Public Comment (Limit 3 minutes)**

Members of the community who wish to give public comment are strongly encouraged to join the

meeting via the ZOOM link or by telephone. If you are unable to join the meeting, please submit your public comment in writing via email to the City Clerk at Michellec@sumnerwa.gov no later than 4:00pm on the day of the meeting. Any written comments received will be provided to the City Council and attached to the meeting minutes. Please contact the City Clerk at 253-299-5590 with any questions.

3. New Business

- a. Operations Facility Phase 3 - Construction Contract
- b. **Reports**
 - c. Council
 - d. City Administrator
 - e. Mayor

EXECUTIVE SESSION

ADJOURNMENT

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

SUBJECT: 2024 Sidewalk Repair Program - Change Order

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$43,290.00

Within Budget Allocation: Yes

ATTACHMENTS:

1. Change Order #3 - Additional Commercial Driveway Approaches

STAFF CONTACT: Courtney Littrell, Engineering Specialist

SUMMARY BACKGROUND:

The 2024 Sidewalk Repair Program consists of replacing sidewalks within the City that are failing due to street tree damages, installing sidewalks where there are existing sidewalk gaps, replacing sidewalks as part of the Helping Homeowners Program, and replacing sidewalk panels inside the Wastewater Treatment Facility. These sidewalk replacements also include a number of ADA curb ramp upgrades due to the location of the repairs. These sidewalk replacements will take place in different areas of the City, with the locations of the street tree damage being focused on equity.

This change order adds three additional commercial driveway approaches at 1302 Puyallup St that are not ADA compliant, of which the sidewalk surrounding each driveway approach is being replaced. The original contract amount with previous change orders was \$659,437.49 and the change order adds \$43,290.00 for a total contract cost of \$702,727.49. With a 5% contingency for any future change orders, the new authorized amount is \$737,863.86.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving a change order to Asphalt Patch Systems, Inc.'s Construction Contract for the 2024 Sidewalk Repair Program (CIP 23-03), increasing the contract amount to a total authorized amount not-to-exceed \$737,863.86, and authorizing the Mayor and City Administrator to execute any and all documents necessary to effectuate the amendment, substantially in a form as approved by the City Attorney.

CHANGE ORDER NO. #03: Additional Commercial Driveway Approaches

NAME OF CONTRACTOR, CONSULTANT, OR VENDOR: **Asphalt Patch Systems, Inc.**

CONTRACT NAME & PROJECT NUMBER: **2024 Sidewalk Repair Program, CIP 23-03**

ORIGINAL CONTRACT DATE: **July 8, 2024**

This Change Order amends the above-referenced contract; all other provisions of the contract that are not inconsistent with this Change Order shall remain in effect. For valuable consideration and by mutual consent of the parties, the project contract is modified as follows:

1. Section I of the Agreement, is hereby modified as follows:

Adding additional quantities to Bid Item B5 “Commercial Cement Conc. Driveway Removal, SY” to increase the quantity total from 60 square yards to 188 square yards, at a unit price of \$70.00 per square yard. This includes the addition of removal of three commercial driveway approaches that were not originally scoped in the project.

Adding additional quantities to Bid Item B6 “Commercial Cement Conc. Driveway Approach, SY” to increase the quantity total from 60 square yards to 188 square yards, at a unit price of \$200.00 per square yard. This includes the addition of three commercial driveway approaches that were not originally scoped in the project.

New Pay Item CO03-B1, “Removing Asphalt Conc. Pavement, LS” is added at a lump sum price of \$1,320.00 to the contract to compensate the Contractor for additional costs associated with the removal of approximately 30 square yards of asphalt at the driveway approaches that are being replaced.

New Pay Item CO03-B2, “HMA Cl. ½” PG 64-22, LS” is added at a lump sum price of \$7,410.00 to the contract to compensate the Contractor for additional costs associated with installation of approximately 30 square yards of asphalt at the roadway and replaced driveway approaches.

2. The contract amount and time for performance provisions of are hereby modified as follows:

Original Contract Sum, including applicable alternates and WSST	\$ 608,940.39
Net Change by Previous Change Orders (incl. applicable WSST)	\$ 50,497.10
Current Contract Sum (incl. Previous Change Orders)	\$ 659,437.49

Current Change Order	\$ 43,290.00
Applicable WSST Tax on this Change Order	\$ 0
Revised Contract Sum	\$ 702,727.49

Original Time for Completion	100 Working Days
Revised Time for Completion under prior Change Orders	100 Working Days
Days Required $\pm$ for this Change Order	0 Working Days
Revised Time for Completion	100 Working Days

The Contractor accepts all requirements of this Change Order by signing below. Also, pursuant to the above-referenced contract, Contractor agrees to waive any protest it may have regarding this Change Order and acknowledges and accepts that this Change Order constitutes final settlement of all claims of any kind or nature arising from or connected with the work described in this Change Order, including, without limitation, claims related to contract time, contract acceleration, onsite or home office overhead, or lost profits.

The parties whose names appear below represent that they are authorized to enter into this contract modification, which is binding on the parties of this contract.

3. The Contractor will adjust the amount of its performance bond (if any) for this project to be consistent with the revised contract sum shown in section 2, above.

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

CONTRACTOR: By: _____ (signature) Print Name: _____ Its _____ (Title) DATE: _____	CITY OF SUMNER: By: _____ (signature) Print Name: _____ Its _____ (Title) DATE: _____
	APPROVED AS TO FORM: _____ Sumner City Attorney

SUBJECT: Resolution No. 1707 - Transportation Improvement Board Complete Streets Grant Acceptance

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1707 - Transportation Improvement Board Complete Streets Grant Acceptance

STAFF CONTACT: Courtney Littrell, Engineering Specialist

SUMMARY BACKGROUND:

The City of Sumner was awarded a Complete Streets grant from the Washington State Transportation Improvement Board (TIB) to improve pedestrian safety by upgrading various intersections along Main Street.

This grant provides \$747,214.00 towards completion of the project. Acceptance of the grant requires the City to enter into a grant agreement.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving the acceptance of \$747,214.00 in grant funds from the Washington State Transportation Improvement Board (TIB) for use in the Main St Crossings project (CIP 24-09), and authorizing the Mayor to execute any and all documents necessary to accept the funds, substantially in a form as approved by the City Attorney.

RESOLUTION NO. 1707

CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING A COMPLETE STREETS PROGRAM GRANT FROM WASHINGTON STATE'S TRANSPORTATION IMPROVEMENT BOARD FOR THE MAIN ST CROSSINGS PROJECT.

WHEREAS, the City of Sumner applied for a Complete Streets grant from Washington State's Transportation Improvement Board (TIB) to construct the Main St Crossings project; and

WHEREAS, TIB awarded the City a grant of \$747,214 towards the completion of the Main St Crossings project;

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

WHEREAS, it is in the City's interests to accept the TIB grant funds and enter into a Grant Agreement regarding the same;

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

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

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

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

ADOPTED AND APPROVED this 9th day of December, 2024.

Kathy Hayden, Mayor

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney

Exhibit A

City of Sumner
C-P-131(004)-1
Main St Crossings
Alder Ave to 162nd Ave E

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Sumner
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Main St Crossings, Alder Ave to 162nd Ave E (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Sumner, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 76.2666 percent of approved eligible project costs up to the amount of \$747,214, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW and/or chapter 47.04 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

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

3.0 PROJECT DOCUMENTATION

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

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

4.0 BILLING AND PAYMENT

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

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

5.0 TERM OF AGREEMENT

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

6.0 AMENDMENTS

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

7.0 ASSIGNMENT

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

8.0 GOVERNANCE & VENUE

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

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

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

9.2 DEFAULT

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

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

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

9.3 TERMINATION

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

9.4 TERMINATION FOR NECESSITY

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

10.0 USE OF TIB GRANT FUNDS

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

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060 and/or WAC 479-10-575. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.

12.0 INDEPENDENT CAPACITY

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

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

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

14.0 DISPUTE RESOLUTION

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

15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington and/or 47.04 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

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

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

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name

SUBJECT: Biosolids Dryer Procurement Thermal Fluid Heater Modification - Change Order #1

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$545,310.00

Within Budget Allocation: Yes, as amended

ATTACHMENTS:

1. Biosolids Dryer Procurement Thermal Fluid Heater Modification - Change Order #1

STAFF CONTACT: Ryan Johnstone, Public Works Deputy Director - Operations

SUMMARY BACKGROUND:

The Biosolids Equipment Modernization Project is replacing major components involved in the processing of wastewater sludge at the Wastewater Treatment Facility to a Class A Biosolids product. One of the pieces of equipment to be replaced is the biosolids dryer. Due to the long lead time necessary to manufacture the dryer and in order to not delay once in construction, the decision was made to procure the dryer in advance of the construction phase of the project. The procurement advertisement began March 13, 2024 and bids were opened on April 16th, 2024. Two bids were received with Komline-Sanderson Corporation being the lowest responsive bidder.

This change order adds a new Thermal Fluid Heater, Thermal Fluid Heater Control Panel, Isolation and Control Valves, and Exhaust Stack. The original contract amount was \$4,905,600.00, and the change order adds \$545,310.00 for a total contract cost of \$5,450,910.00.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving a change order to Komline-Sanderson Corporation's Procurement Contract for the WWTF Equipment Modernization Project (CIP 21-17), increasing the contract amount by \$545,310.00 to a total authorized amount not-to-exceed \$5,450,910.00, and authorizing the Mayor and City Administrator to execute any and all documents necessary to effectuate the amendment, substantially in a form as approved by the City Attorney.

CHANGE ORDER NO. #01: Thermal Fluid Heater Modification

NAME OF CONTRACTOR, CONSULTANT, OR VENDOR: **Komline-Sanderson Corporation**

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

ORIGINAL CONTRACT DATE: **April 12, 2024**

This Change Order amends the above-referenced contract; all other provisions of the contract that are not inconsistent with this Change Order shall remain in effect. For valuable consideration and by mutual consent of the parties, the project contract is modified as follows:

1. Section I of the Agreement, is hereby modified as follows:

a. Biosolids Heater Addition:

New equipment, "Thermal Fluid Heater, Thermal Fluid Heater Control Panel, Isolation and Control Valves, and Exhaust Stack", are added at a lump sum price of \$498,000 to the procurement contract.

2. The contract amount and time for performance provisions of are hereby modified as follows:

Original Contract Sum, including applicable alternates and WSST	\$ 4,905,600.00
Net Change by Previous Change Orders (incl. applicable WSST)	\$ 0
Current Contract Sum (incl. Previous Change Orders)	\$ 4,905,600.00

Current Change Order	\$ 498,000.00
Applicable WSST Tax on this Change Order	\$ 47,310.00
Revised Contract Sum	\$ 5,450,910.00

Original Time for Completion	400 Calendar Days
Revised Time for Completion under prior Change Orders	400 Calendar Days
Days Required $\pm$ for this Change Order	0 Calendar Days
Revised Time for Completion	400 Calendar Days

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

CONTRACTOR:	CITY OF SUMNER:
By: _____ <i>(signature)</i>	By: _____ <i>(signature)</i>
Print Name: _____	Print Name: _____
Its _____ <i>(Title)</i>	Its _____ <i>(Title)</i>
DATE: _____	DATE: _____
	APPROVED AS TO FORM: _____ Sumner City Attorney

SUBJECT: Steffens Employment Agreement Amendment

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Steffens 2024 Amendment

STAFF CONTACT: Jason Wilson, City Administrator

SUMMARY BACKGROUND:

The Mayor desires confirmation of her appointment of Jeff Steffens to the position of Deputy City Administrator.

Mr. Steffens has worked for the city for 22 years, serving in various roles. For the past five years, Mr. Steffens has served as the Administrative Services Director, overseeing the finance, human resources and information technology departments. Additionally, he is responsible for emergency management and several contract services. Mr. Steffens has excelled in this role and continually looks for ways to expand his knowledge while providing excellent service to our community. The job title change better reflects his broad areas of responsibility, while providing a more transparent job title for our internal and external stakeholders.

Mr. Steffens holds a Masters of Public Administration from Seattle University and an undergrad in Business Administration from Western Washington University.

This appointment is subject to council confirmation and approval of the Deputy City Administrator's employment agreement. Mr. Steffens in his current role already has an employment agreement with the City, therefore the Mayor is only seeking an amendment to change his job title. All other provisions of his prior employment agreement remain unchanged.

COUNCIL COMMITTEE/STUDY SESSION: Executive Session Review

MEETING/STUDY SESSION DATE: 12/2/2024

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

A motion authorizing the Mayor to execute an employment agreement amendment with Mr. Steffens, substantially in a form approved by the City Attorney.

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT entered into on this ____ day of December 2024, by and between the **CITY OF SUMNER**, Washington, a non-charter optional municipal code city (hereinafter referred to as “City”), and **JEFFREY STEFFENS**, (hereinafter referred to as “Mr. Steffens”).

WHEREAS, in 2020 the City entered into an employment agreement (“Employment Agreement”) with Mr. Steffens employing him as the Administrative Services Director for the City of Sumner, Washington, as provided by the Personnel Regulations of the City of Sumner and the Revised Code of Washington 35A.12.020, as hereafter amended, respectively; and

WHEREAS, pursuant to Section 14 of the Employment Agreement the City and Mr. Steffens have the right to amend or modify the terms and conditions of the original agreement; and

WHEREAS, it is the desire of the Council and Mayor of the City of Sumner to amend Mr. Steffens’ job title, duties and responsibilities and promote him to Deputy City Administrator; and

WHEREAS, Mr. Steffens desires to continue his employment with the City performing the roles and responsibilities of Deputy City Administrator; and

NOW, THEREFORE, the parties hereby amended the Employment Agreement, as follows:

1. All references to Administrative Services Director shall be replaced with Deputy City Administrator.
2. Section 1. Employment is hereby amended to read as follows:
 - 1.0 Continuation of Employment: The City hereby agrees to continue to employ Mr. Steffens as Deputy City Administrator and Mr. Steffens hereby agrees to accept such employment in accordance with the terms and conditions of this Agreement as hereinafter set forth and shall commence on December 10, 2024.
3. Section 2. Duties. is hereby amended to read as follows:

2.0 Duties: Mr. Steffens shall perform the duties of Deputy City Administrator as specified in Exhibit “A” of this Agreement attached hereto, Chapter 35A.12 RCW, the Personnel Regulations of the City of Sumner, Sumner Municipal Code 2.16.100 all as currently adopted or hereafter amended, and perform the other legally permissible and proper duties and functions assigned by the Mayor from time to time.

4. Except as expressly amended herein, all other terms and provisions of the 2020 Employment Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed as of this _____ day of December, 2024.

CITY OF SUMNER

EMPLOYEE

Kathy Hayden, Mayor

Jeffrey Steffens

Attest:

Approved as to form:

Michelle Converse, CMC, City Clerk

Andrea Marquez, City Attorney



City of Sumner Deputy City Administrator

EXHIBIT A

CLASS CODE	1167	SALARY	\$206,178.96 Annually
BARGAINING UNIT	Non-Union	ESTABLISHED DATE	November 11, 2024

Description

This is a full-time Fair Labor Standards Act exempt position. Attendance at evening meetings is required, and the employee is subject to after-hours emergency contact. The incumbent in this position is not a Civil Service employee.

General Purpose:

This is a highly responsible supervisory, administrative and professional position directing and managing the activities of the Administrative Services Department, or other departments as assigned, and serves as the City Administrator in their absence. Work includes responsibility and budgeting for fiscal services, human resources, risk management, safety, information technology, contract services, court administration and other programs as identified by the City Administrator. This position is responsible for overall direction and strategy related to the assigned functions in accordance with established professional and administrative standards, municipal ordinances and general policies.

Under the general supervisory direction of the City Administrator, the Deputy City Administrator assumes responsibility for carrying out departmental operations in accordance with federal, state, and city laws and general city policy. Initiative and judgment are used in providing expert advice and policy recommendations to the City Administrator, City Council and Mayor. Work is reviewed through periodic reports on the status of programs and operations. The incumbent directs supervisory, professional, technical, and clerical staff, directly and indirectly. This position will assume the duties of the City Administrator in their absence.

Examples of Duties

The job duties and responsibilities represented in this job description in way imply that these are the only duties to be performed. Employees occupying the position will be required to follow any other job-related instructions and to perform any other job-related duties requested by a supervisor. While requirements may be representative of minimum levels of knowledge, skills and abilities to perform this job successfully, the employee will possess the abilities or aptitudes to perform each duty with advanced proficiency.

- Establishes goals and objectives for the department to ensure compliance with the policy directives of the Mayor and City Council and all applicable local, state or federal laws, rules, and regulations.
- Provides strategic leadership and policy recommendations for areas of responsibility including fiscal services, human resources, risk management, information technology, contract services including municipal court, senior center and indigent defense, and other programs as identified by the City Administrator.
- Provide interdepartmental coordination.

- Serves as the city's risk manager including coordination of claims through the city's insurer and making determinations of settlement consistent with city code. Ensures that city assets are properly insured. Serves as the city's primary delegate to the city's insurance pool.
- Responsible for monitoring city-wide employee performance and corrective action to ensure consistent policy enforcement and remedies.
- Develops, maintains and distributes employee personnel policies. Ensures city policies are current and in compliance with new legislation, case law or best practice. Provides training related to policy changes.
- Develops, interprets and implements plans, policies and procedures to accomplish departmental goals and objectives.
- Supervises the activities of department personnel to include scheduling, assignment and review of work; providing assistance; administering discipline; evaluating performance and making hiring, termination, and pay change recommendations.
- Provides professional, technical and advisory assistance to other departments on issues related to the department assigned.
- Prepares and submits reports and grants to support department activities.
- Maintains reasonable, predictable, and regular attendance during the standard work week.
- Develops, recommends and monitors the department budget including the incorporation of individual division budgets by reviewing past expenditure, analyzing future needs and making determinations regarding the necessary resources to accomplish departmental goals. Approves expenditures to ensure compliance with budgetary guidelines.
- Represents the department at City Council, commission, and other meetings to present the department's plans and accomplishments and to discuss the development and implementation of programs, policies, etc.
- Works closely with private developers, professional consultants, special interest groups, and other government entities to coordinate activities related to department functions.
- Responds to citizen concerns and issues and determines appropriate resolutions to maintain positive community/customer relations for the department and City.
- Develops and implements plans, policies and procedures to ensure smooth and continued business operations of their department in the event of an emergency.
- May oversee preparation of the agenda for City Council meetings, consulting with the Mayor and department heads as needed to identify appropriate issues to include on the agenda; reviews and approves staff reports and recommendations; assumes full responsibility for such actions in the absence of City Administrator.
- Assists the Mayor and City Administrator in the development, implementation, and coordination of policies and programs relating to publications, distribution of City program information, intergovernmental relations, and interdepartmental special studies. Counsels and assists other departments in matters relating to public relations and grants.

Qualifications

Education and Experience:

Any combination equivalent to the following criteria:

- Bachelor's degree in finance, human resources, public administration or other closely related field from an accredited college or university. A Master's degree in Public Administration, Business Administration or related field is preferred.
- Five years of progressive responsibility in any of the above mentioned fields, with at least three years of management level experience in a public agency.
- Department Director level experience that is directly related to finance, human resources, information technology with a public agency is highly desirable.

Special Requirements:

- The candidate must successfully pass a background investigation, and must be bondable.
- A valid Washington State Driver's license is required.

Necessary Knowledge, Skills and Abilities:

Knowledge of:

- Principles, procedures, and practices related to the field;
- Federal, state, and local laws relating to comprehensive and current planning, growth management, building standards, and related issues;
- Environmental impact assessments;
- Municipal organization and department operations;
- Fiscal and budget management principles, practices and procedures;
- Personnel supervision, training and performance evaluation processes, and related city policies and procedures.

Skills:

- Exercise sound judgment in evaluating situations and making decisions;
- Establish and maintain effective working relationships with City personnel, outside agencies, and the general public;
- Guide, direct, and motivate employees;
- Communicate effectively, both orally and in writing; and Effectively delegate duties and responsibilities.

Ability to:

- Develop and implement policies and procedures for the effective management of the department and plan, assign and direct the work of the department;
- Effectively train, supervise and evaluate department personnel or direct division managers/supervisors, directly or indirectly, in these activities;
- Work with media and public information technologies and all city staff to develop appropriate public information;
- Effectively present plans, programs and recommendation to the City Administrator, the City Council and the public;
- Establish cooperation and effective communication within the Development Services Department and between other City departments, outside agencies, private organizations and the public;
- Establish and maintain sound management practices within the department and exercise initiative and judgment in all aspects of department management.
- Communicate effectively orally and in writing;
- Establish and maintain effective working relationships with staff, other government officials and agencies, elected officials, administrators and the general public.
- Solve problems through innovation, collaboration and solicitation of ideas/input from others.
- Maintain reliable and dependable attendance.
- Contribute to achieving the City's Mission, Vision and Values.

Physical Requirements

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Positions in this class typically require: stooping, kneeling, crouching, reaching, mobility, fingering, grasping, talking, seeing, hearing, and repetitive motions. Sedentary work: Exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects, including the human body. Sedentary work involves sitting, most of the time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met. Some positions may require greater periods of walking and/or standing.

Work Environment:

Work may be performed both indoors and outdoors, in varying conditions where inclement weather may be encountered. Typical work is conducted indoors in an office environment subject to regular interruptions and noise. Exposure to dust, chemicals, hazardous fumes and odors may occur. Position may require call out in support of 24-hour, 7-day a week operations.

SUBJECT: Water Rights Pilot Project - Consultant Services Contract Amendment

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$123,393

Within Budget Allocation: Yes, as amended

ATTACHMENTS:

1. Water Rights Pilot Project - Consultant Services Contract Amendment Scope & Fee
-

STAFF CONTACT: Ryan Johnstone, Public Works Deputy Director - Operations

SUMMARY BACKGROUND:

Currently two amendments have been executed for this project extending the contract completion date to December 31, 2024 and increasing the budget by \$15,052. Contract total authorized to date is \$237,172. The reason for this amendment is that work will extend beyond the end of 2024 and while the scope of effort remains generally unchanged, extra work not anticipated when the scope of work was initially developed is now required. The extra work includes added analyses, such as analyzing the potential effects of using additional sources of water for mitigation, having to re-accomplish some work due to project modifications, such as previous work on the net ecological benefit needing to redone due to changes in the proposed habitat project, and revisions to Terraphase's concept and understanding of the degree of analysis and mitigation planning required for the Foster pilot projects due to changes in Ecology and Tribal actions.

Work remaining includes completion of the net ecological benefit analysis, complete the modeling analysis and the mitigation plan, draft the Reports of Examination, participate in remaining meetings (including meeting preparation) and miscellaneous project management, and completion of review of the SES model. Terraphase estimates they need \$123,393 to finish this project. In addition, Terraphase has requested that the contract completion date be extended to December 31, 2026 and that use of their 2024 and 2025 fee schedules be permitted.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving a supplement to Terraphase's Consultant Services Contract for the Pilot Project (CIP 04-02), increasing the contract amount by \$123,393 to a total authorized amount not-to-exceed \$360,565, and authorizing the Mayor and City Administrator to execute any and all documents necessary to effectuate the amendment, substantially in a form as approved by the City Attorney.



AMENDMENT NO. 3

NAME OF CONSULTANT, CONTRACTOR OR VENDOR: **Robinson Noble**

CONTRACT NAME & PROJECT NUMBER: **2019-2020 Pilot Project (CIP 04-02)**

ORIGINAL AGREEMENT DATE: **April 23, 2019**

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

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

See Exhibit A

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

Original Contract Sum, <i>including applicable WSST</i>	\$222,120.00
Net Change by Previous Amendments <i>including applicable WSST</i>	\$15,052.00
Current Contract Amount <i>including all previous amendments</i>	\$237,172.00

Current Amendment Sum	\$125,393.00
Applicable WSST Tax on this Amendment	\$N/A
Revised Contract Sum	\$362,565.00

Original Time for Completion (insert date)	12/31/2021
Revised Time for Completion under prior Amendments (insert date)	12/31/2024
Add'l Days Required (±) for this Amendment	730 days
Revised Time for Completion (insert date)	12/31/2026

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

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

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

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

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

October 16, 2024

Mr. Ryan Johnstone
Public Works Deputy Director - Operations
City of Sumner
1104 Maple Street, Suite 260
Sumner, WA 98390

sent via email to ryanj@sumnerwa.gov

Subject: Change order request for Foster pilot water rights project

Dear Ryan:

As you know, Robinson Noble (RN), a wholly owned subsidiary of Terraphase Engineering Inc. (Terraphase), has been working on the City's Foster pilot water rights project for several years. Our contract on this project was signed on April 23, 2019 with a budget of \$222,120 (including a \$40,000 management reserve) and a completion date of December 31, 2021. In 2021, the contract was amended to extend the completion date to December 31, 2024. A second amendment was signed in 2022 adding \$15,052 to the budget, bringing the total budget to \$237,172, and allowing RN to charge the project at its 2022 fee schedule.

Based on my accounting as of October 9, we have \$29,787 remaining in the authorized budget and \$44,907 left in the budget if the full reserve management portion is authorized (\$24,880 of the reserve management budget was authorized previously). This will not be enough budget to finish the project. Additionally, the work will extend beyond the year.

Reason for Amendment Request

The project was delayed largely due to the need to use the recently released U.S. Geological Survey groundwater model of the region, known as the Southeast Sound (or SES) model. While the model files were released last spring, the reports related to the model were only published last month. When the project was originally scoped, the SES model was scheduled to be released in 2019 or 2020. We are now working with the model to determine the timing and areal footprint of impairment from the City's proposed water rights to be used to develop a final mitigation plan. Once the mitigation plan is complete, we will work on drafting the reports of examination (ROEs) for the water rights. I anticipate at least another year will be needed before the final ROEs are accepted by the Department of Ecology (Ecology).

In addition to extending the completion date for the project, extra work not anticipated when the scope of work was initially developed is now required. This includes: 1) added analyses, such as analyzing the effects of using the Sonoco Well for mitigation; 2) having to re-accomplish some work due to project modifications, such as previous work on the NEB needing to be redone due to changes in the proposed habitat project; and 3) revisions to our concept and understanding of the degree of analysis and mitigation planning required for Foster pilot projects due to changes in Ecology and Tribal actions, for example, Ecology changing their concept of model error. Essentially while the general scope hasn't changed over the years, the details of the work necessary to complete that scope has changed considerably. These factors have led to many more hours being needed to complete the scope of work than originally anticipated.

Based on my understanding of the work remaining to be completed, I anticipate finishing the project will cost approximately \$168,300. This includes about \$68,000 for ESA to complete their work on the net ecological benefit (NEB) analysis and assist with the mitigation plan, \$36,500 for us to complete the modeling analysis and the mitigation plan, roughly \$39,000 to draft the ROEs, some \$21,500 for meetings (including meeting preparation) and miscellaneous project management, and \$3,000 to complete our review of the SES model (this was a separate project formerly being charged to our on-call contract with the City; however, as that contract is no longer active, Michael Kosa agreed we should finish this work and charge to the Foster pilot project). Factoring in the remaining current budget and assuming we can use the full management reserve, I estimate we need a budget increase of \$123,393.

Further, with the timeline being extended, we are now charging our work on a fee schedule that is nearly 3 years old. As you know, there was a period of inflation since then. While I do not yet have our 2025 fee schedule available, I'd like to be able to change to Terraphase's 2024 fee schedule for the rest of this year and to our 2025 fee schedule for work accomplished next year. In both cases, I can offer the City a 10% discount off our normal fee schedule. I've attached our 2024 fee schedule for your review.

Requested Changes

For the reasons outlined above, we are requesting the contract be amended to 1) add \$125,393 to the budget, 2) extend the completion date to ~~June 30,~~ 2026, and 3) allow the use of Terraphase's 2024 and 2025 fee schedules.

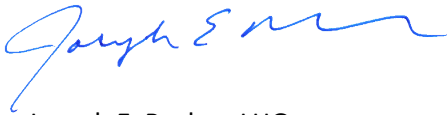
December 31

Closing

Terraphase is grateful for the opportunity to offer our services on this important project. If you have any questions or comments regarding this request, please contact me at 253-970-3100 or by email at joseph.becker@terrphase.com

Sincerely,

for Terraphase Engineering Inc.



Joseph E. Becker, LHG
Senior Principal Hydrogeologist

Attachment:

2024 Terraphase Fee Schedule with 10% Discount

cc: Robby Wright



2024 Standard Schedule of Charges with 10% Discount/15% ODC

Labor Classification	Standard Hourly Rate	Hourly Rate with 10% Discount
Senior Principal	\$303	\$272.70
Principal Engineer/Scientist	\$286	\$257.40
Senior Associate Engineer/Scientist	\$266	\$239.40
Associate Engineer/Scientist	\$250	\$225.00
Senior Project Engineer/Scientist	\$235	\$211.50
Project Engineer/Scientist	\$219	\$197.10
Senior Staff 2 Engineer/Scientist	\$202	\$181.80
Senior Staff 1 Engineer/Scientist	\$183	\$164.70
Staff 2 Engineer/Scientist	\$164	\$147.60
Staff 1 Engineer/Scientist	\$144	\$129.60
Senior Technician	\$149	\$134.10
Technician 3	\$129	\$116.10
Technician 2	\$109	\$98.10
Technician 1	\$91	\$81.90
Senior Editor/Senior Project Coordinator	\$158	\$142.20
Editor 2/Project Coordinator 2/Accountant 2	\$140	\$126.00
Editor 1/Project Coordinator 1/Accountant 1	\$117	\$105.30
Administrator/Project Assistant/Billing Specialist	\$98	\$88.20

Labor Charges

All time will be recorded and charged to nearest 0.1 hour. Expert testimony at trials, hearings and depositions will be billed at 150% of the standard hourly rate. For each day when testimony is provided, a minimum of 8 hours will be billed. Preparatory time will be billed at standard rates.

Expenses

Subcontractor fees and other direct costs, such as air travel, project supplies and rental equipment, etc. will be itemized and billed at our cost plus a fifteen percent handling charge. Vehicle mileage when itemized is billed at the standard government rate in effect at the time of travel (www.gsa.gov/mileage).

Payment

Payment is to be made to Terraphase Engineering Inc. as follows:

Check Payments:	Wire/ACH Payments:
Terraphase Engineering Inc. P.O. Box 102399 Pasadena, CA 91189-2399	Terraphase Engineering Inc. JPMorgan Chase Bank Account Number 217693099 Routing Number 322271627

Payment is due within 30 days of receipt of invoice. A service charge of 1.5% per month or the allowable legal rate may be charged on amounts that are past due for more than 30 days.

Annual Escalation

Rates are subject to revision by annual calendar year escalation in January. Rates on invoices will reflect rates in effect at time of invoicing.

SUBJECT: South Tank Retrofit - Design Consultant Contract Amendment

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$79,851.00

Within Budget Allocation: Yes

ATTACHMENTS:

1. South Tank Retrofit - Design Consultant Contract Amendment Scope & Fee

STAFF CONTACT: Andrew Leach, Associate Engineer

SUMMARY BACKGROUND:

The City's South Tank Reservoir is a 2.0 million gallon water tank that was built in 1972. In March 2021, the City performed an investigation of the condition of the tank and determined the interior and exterior coatings have a limited remaining life span. This project will remove and replace the interior and exterior coatings of the tank. In May 2021, a seismic analysis of the tank was performed, and the analysis recommended that the tank be strengthened with seismic retrofit upgrades. The project will install the recommended upgrades.

RH2 Engineering, Inc. was previously selected via a qualification-based selection process to provide consulting design services. The City's current agreement with RH2 is a maximum amount payable of \$111,415.00. An amendment for \$79,851.00 has been negotiated with RH2 for this additional work. The additional work consists of support with construction contract administration and observation, submittal reviews, performing special inspections and material testing.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion approving an amendment to RH2 Engineering, Inc.'s Consultant Services Contract for the South Tank Retrofit (CIP 19-10), increasing the contract amount by \$79,851.00 to a total authorized amount not-to-exceed \$191,266.00 , and authorizing the Mayor and City Administrator to execute any and all documents necessary to effectuate the amendment, substantially in a form as approved by the City Attorney.



AMENDMENT NO. 3

NAME OF CONSULTANT, CONTRACTOR OR VENDOR: **RH2 Engineering, Inc.**

CONTRACT NAME & PROJECT NUMBER: **South Tank Seismic Retrofit (CIP 19-10)**

ORIGINAL AGREEMENT DATE: **June 22, 2020**

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

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

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

Se Exhibit A

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

Original Contract Sum, <i>including applicable WSST</i>	\$111,415.00
Net Change by Previous Amendments <i>including applicable WSST</i>	\$N/A
Current Contract Amount <i>including all previous amendments</i>	\$111,415.00

Current Amendment Sum	\$79,851.00
Applicable WSST Tax on this Amendment	\$N/A
Revised Contract Sum	\$191,266.00

Original Time for Completion (insert date)	12/31/2021
Revised Time for Completion under prior Amendments (insert date)	12/31/2024
Add'l Days Required (±) for this Amendment	365 calendar days
Revised Time for Completion (insert date)	12/31/2025

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

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

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

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

CONSULTANT, CONTRACTOR OR VENDOR: By: _____ <i>(signature)</i> Print Name: <u>Geoff Dillard</u> Its <u>Director</u> <i>(Title)</i> DATE: _____	CITY OF SUMNER: By: _____ <i>(signature)</i> Print Name: <u>Kathy Hayden</u> Its <u>Mayor</u> <i>(Title)</i> DATE: _____
CITY OF SUMNER: Approved to Form: _____	CITY OF SUMNER: By: _____ <i>(signature)</i> Print Name: <u>Jason Wilson</u> Its <u>City Administrator</u> <i>(Title)</i> DATE: _____

EXHIBIT A
Scope of Work
Amendment No. 3
City of Sumner
South Tank Reservoir Improvements
Services During Construction
November 2024

Background

The City of Sumner (City) is in the process of improving its South Tank Reservoir (STR) and has requested the assistance of RH2 Engineering, Inc., (RH2) for support with construction contract administration and observation. The proposed improvements to the South Tank Reservoir consist of the following:

- Base Bid – The Base Bid includes improvements to the City’s existing STR, including full containment of the reservoir, seal welding of lapped roof plates, seal welding rafters to the reservoir roof, replacing the reservoir vent, adding lateral bracing to overflow pipe, adding funnel to overflow pipe, adding flexible expansion joints to reservoir inlet, outlet, and drain, and adding a seismically controlled butterfly valve and actuator assembly on the reservoir outlet.
- Schedule B – The Schedule B Bid consists of sand blasting and recoating of the entire reservoir interior and exterior.

The STR is a 2.0 million gallon welded steel American Water Works Association D100 reservoir with a 104-foot diameter and a height of 32 feet.

The selected contractor will have one hundred forty (140) working days to complete the work in compliance with applicable laws and regulations.

This Scope of Work is based upon the submittal reviews, observation, and testing outlined in RH2’s modified Technical Specifications for this project including the following:

- Review the structural and electrical submittals.
- Perform special inspections and material testing.
- Observe the coatings and other materials and determine if they were applied as specified.
- Observe the surface preparation and determine if the application is as specified.
- Observe the dry film thickness (DFT) and determine if the total DFT of each coating system is as specified using wet film and dry film gauges.
- Observe the film characteristics or defects of the coatings that could adversely affect the performance or appearance of the coating systems.
- Check for holidays on the interior steel immersion surfaces using a holiday detector.

The estimated construction duration is based on the one hundred forty (140) working day (twenty-two (22) weeks) schedule outlined in the current construction contract. Paint testing will be performed by Quality Coatings Inspection & Consulting, Inc., (QCIC) as a subconsultant to RH2. Water quality testing will be coordinated by the City and is not included in this Scope of Work.

Task 1 – Site Observation and Construction Contract Administration

Objective: Assist the City with site observation, testing coordination, testing result review, construction contract administration, and coordination with the contractor.

Approach:

- 1.1 Provide additional bidding support to the City and update the plans and specifications as requested.
- 1.2 Review the electrical and structural submittals and provide direction on requests for information (RFIs).
- 1.3 Attend the pre-construction meeting with the City and the contractor. *Four (4) hours are anticipated for this subtask.*
- 1.4 Perform site observation during the construction process and prepare daily observation forms. QCIC will provide coating inspection services for the STR as a subconsultant to RH2. Refer to **Exhibit D** for QCIC's proposal.
- 1.5 Coordinate with the City's testing lab during the construction process. Third-party testing will be scheduled by the City for volatile organic compounds and bacteriological testing. *Eight (8) hours are anticipated for this subtask.*
- 1.6 Attend monthly construction meetings with the City, QCIC, and the contractor. *Five (5) meetings, each lasting three (3) hours (fifteen (15) hours total), have been assumed for this subtask.*
- 1.7 Provide construction contract administration, including addressing RFIs, determining working days, and reviewing submittals, the construction schedule, and pay requests. *Sixteen (16) total hours are anticipated for this subtask.*
- 1.8 Subcontract with CTL for welding, soils, concrete and special inspections and testing.
- 1.9 Attend a walkthrough with the City and the contractor and prepare a punchlist for the contractor. Confirm that the contractor has addressed the punchlist items. *Ten (10) hours are anticipated for this subtask.*
- 1.10 Attend the one (1)-year post-construction meeting. *Four (4) hours are anticipated for this subtask.*

Assumptions:

- *The contractor will be available to provide lifting equipment and operation for observation and testing, if needed. The City will pay for third-party testing lab time and tests directly.*

RH2 Deliverables:

- Review of submittals and pay requests.
- Daily observation forms.
- Test result summary forms.
- Punchlist following walkthrough.

Project Schedule

According to the current construction contract documents, construction will start after November 10, 2024, and be completed by May 31, 2025. The pre-construction meeting and the one (1)-year post-construction meeting should take place before and after these dates, respectively.

EXHIBIT B**Fee Estimate****Amendment No. 3****City of Sumner****South Tank Reservoir Improvements****Nov-24**

Description	Total Hours	Total Labor	Sub Cost	Sub Cost	Total Subconsultant	Total Expense	Total Cost
Classification							

Task 1	Site Observation and Construction Contract Administration	143	\$ 32,366	\$ 3,521	\$ 36,796	\$ 46,365	\$ 1,120	\$ 79,851
1.1	Provide additional bidding support	18	\$ 4,214	\$ -		\$ -	\$ 153	\$ 4,367
1.2	Review submittals and provide direction on RFIs	52	\$ 10,752			\$ -	\$ 269	\$ 11,021
1.3	Attend pre-construction meeting with City and the contractor	4	\$ 1,008			\$ -	\$ 25	\$ 1,033
1.4	Perform site observation	8	\$ 2,016		\$ 36,796	\$ 42,316	\$ 50	\$ 44,382
1.5	Coordinate and schedule testing lab during the construction process	8	\$ 2,016			\$ -	\$ 50	\$ 2,066
1.6	Attend monthly construction meetings	15	\$ 3,780			\$ -	\$ 300	\$ 4,080
1.7	Provide construction contract administration	16	\$ 3,036			\$ -	\$ 96	\$ 3,132
1.8	Special inspections and testing	8	\$ 2,016	\$ 3,521		\$ 4,049	\$ -	\$ 6,065
1.9	Attend punchlist walkthrough with City and the contractor	10	\$ 2,520			\$ -	\$ 103	\$ 2,623
1.10	Attend one (1) year post-construction inspection meeting	4	\$ 1,008			\$ -	\$ 74	\$ 1,082

PROJECT TOTAL	143	\$ 32,366	\$ 3,521	\$ 36,796	\$ 46,365	\$ 1,120	\$ 79,851
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EXHIBIT C
RH2 ENGINEERING, INC.
2025 SCHEDULE OF RATES AND CHARGES

RATE LIST	RATE	UNIT
Professional I	\$174	\$/hr
Professional II	\$192	\$/hr
Professional III	\$214	\$/hr
Professional IV	\$235	\$/hr
Professional V	\$252	\$/hr
Professional VI	\$270	\$/hr
Professional VII	\$295	\$/hr
Professional VIII	\$318	\$/hr
Professional IX	\$328	\$/hr
Technician I	\$136	\$/hr
Technician II	\$148	\$/hr
Technician III	\$167	\$/hr
Technician IV	\$182	\$/hr
Technician V	\$199	\$/hr
Technician VI	\$219	\$/hr
Technician VII	\$238	\$/hr
Technician VIII	\$250	\$/hr
Administrative I	\$91	\$/hr
Administrative II	\$106	\$/hr
Administrative III	\$127	\$/hr
Administrative IV	\$148	\$/hr
Administrative V	\$171	\$/hr
CAD/GIS System	\$27.50	\$/hr
CAD Plots - Half Size	\$2.50	price per plot
CAD Plots - Full Size	\$10.00	price per plot
CAD Plots - Large	\$25.00	price per plot
Copies (bw) 8.5" X 11"	\$0.09	price per copy
Copies (bw) 8.5" X 14"	\$0.14	price per copy
Copies (bw) 11" X 17"	\$0.20	price per copy
Copies (color) 8.5" X 11"	\$0.90	price per copy
Copies (color) 8.5" X 14"	\$1.20	price per copy
Copies (color) 11" X 17"	\$2.00	price per copy
Technology Charge	2.50%	% of Direct Labor
Night Work	10.00%	% of Direct Labor
Mileage	\$0.6700	price per mile (or Current IRS Rate)
Subconsultants	15%	Cost +
Outside Services	at cost	

Rates listed are adjusted annually.



Quality Coatings Inspection and Consulting, Inc.
721 Brickyard Blvd
Sedro Woolley, Washington 98284
Phone: (360) 990-2499
Email: sonny@qcic2.com
www.qualitycoatingsinspection.com

Scope and Fee

Client: RH2

Contact: Dave Matz

Project: Sumner South Tank

Location: Sumner, Washington

Date: November 5, 2024

Background

Quality Coatings Inspection and Consulting, Inc. (QCIC) has been providing third party coatings inspection services in all industries such as water, wastewater, refinery, pipeline, and marine since 2006. QCIC's team is comprised of mostly Level 3 inspectors, each holding additional certificates such as marine, nuclear, and bridge.

Today's high-performance coatings, particularly water tank coatings, can have an expected life expectancy of 20+ years. This is achieved by ensuring all the parameters of the specification, manufacturer's guidelines, and industry testing standards (ASTM, SSPC, NACE, AWWA) are followed. QCIC helps this process by observing, documenting and recording the contractor's process.

Scope

QCIC is providing this scope and fee for coatings inspection services for the Sumner South Tank coatings project. Scope and fee will be based on 35 hold point inspections. Hold Point inspection requires the inspector to be onsite at pre-determined points during the surface preparation and coating process. Hold Points are typically as follows:

- Surface preparation prior to prime coat application
- Inspection of prime coat
- Stripe coat inspection (if stripe coat is required)
- Intermediate coat inspection
- Finish coat inspection

During coating periodic inspections are typically scheduled to monitor, document and record that environmental conditions are maintained during application of coatings, coatings being used are as specified and within shelf-life, mixing and thinning are per manufacturer's written instructions.

The following are some items checked while onsite

- Blotter test in accordance with ASTM D 4285
- Checking environmental conditions to ensure they are adequate for surface preparation and coating
- Profile measurements of prepared surfaces
- Visual inspection of prepared surfaces to ensure it meets the specification requirements
- Document coatings and batch #'s

- Dry film thickness measurements in accordance with SSPC-PA 2
- Holiday testing in accordance with NACE SP0188
- Photo documentation and a detailed daily inspection report

Inspection Estimate

Travel Time	NC
Travel Miles	\$131.32/day
Onsite Inspection	\$920.00/day
Per Visit Estimate	\$1,051.32
35 Visits	\$36,796.20

Additional Notes

- Travel time will not be billed for this project
- Travel miles are billed at whatever the current IRS rate is at the time of the project. It is currently \$0.67 per mile
- An onsite inspection is based on 8 hours. This includes travel time, onsite time, and time to prepare a detailed inspection report
- QCIC provides all necessary inspection tools at no additional cost
- Inspection reports are typically submitted within 24 hours of the previous inspection

Regards,



Sonny Mauricio

President/Owner

AMPP Senior Coatings Inspector w/bridge #30209

AMPP Certified Concrete Coatings Inspector

Quality Coatings Inspection and Consulting, Inc.



November 21, 2024

RH2 Engineering, Inc.
1201 Pacific Avenue, Suite 1750
Tacoma, WA 98402

Attn: David Matz PE, LEED AP

RE: **City of Sumner South Tank Retrofit**
Special Inspection & Testing Services

Dear Mr. Matz,

I am pleased to submit our revised proposal to provide special inspection and testing services for the above project.

CERTIFICATIONS:

Our firm is registered with WABO and accredited by AASTHO (R-18), in accordance with the requirements of ASTM E329, D3740 and D3666. We are routinely inspected by, and participate in proficiency testing with CCRL and AMRL. This includes the fields of soils, aggregate, masonry, concrete, and bituminous mixtures. We are also validated by the U.S. Army Corps of Engineers. Our inspectors are certified by ACI, ICC and WABO and many of them have been with us for ten to twenty years. All equipment is calibrated at regular intervals, as required by ASTM and AASHTO. Copies of all calibrations are on file.

ADMINISTRATIVE:

All project management, report preparation, clerical, engineer review of reports, final inspection report and mail distribution costs are included in the hourly/unit rates. There are no hidden charges.

BASIS OF CHARGES:

Four-hour minimum for inspection and field-testing. One-hour minimum for sampling and cylinder pick-up. Time and one half (1.5) for work in excess of eight hours per day and Saturdays. All work performed outside normal working hours (**07:00 hr. to 16:00 hr.**) Monday through Friday will be charge at 1.5 times the standard rate. Double time for Sundays and holidays. Hourly rates and mileage are portal to portal. Terms are thirty (30) days. Twenty-four (24) hour notice is required to schedule technician(s). Rush Laboratory Testing will be billed at 1½ times the applicable standard rate.

Our estimated cost does not include overtime. All parties are aware we are T&M, so you control the actual budget. The actual cost will vary, as our costs are directly dependent upon the contractor and the sub-contractor's schedule.

Our highly trained staff would be delighted to assist you in the successful completion of this project. If you have any questions regarding this proposal or if we may be of service, please call or visit our website at www.ctlwa.com.

Sincerely,

Construction Testing Laboratories, Inc. (CTL)

Jon Price

Digitally signed by Jon Price

Date: 2024.11.21 14:57:22

-08'00'

Chris Pedersen

Operations Manager

e-mail: chrisp@ctlwa.com

phone # 253-383-8778

Jon Price

Technical Director

e-mail: jonp@ctlwa.com



Estimate of Project Costs			
Type of Inspection & Testing	Approximate # of hours/tests	Price per test	Estimated Cost
<u>CONCRETE</u>			
Concrete Technician	4	\$ 89.00	\$ 356.00
Concrete Test Cylinders	5	\$ 27.00	\$ 135.00
Mileage Charge	2	\$ 10.00	\$ 20.00
		SUBTOTAL	\$ 511.00
<u>WELDING/BOLTING</u>			
Welding/Bolting Technician	20	\$ 99.00	\$ 1,980.00
Mileage Charge	5	\$ 10.00	\$ 50.00
		SUBTOTAL	\$ 2,030.00
* Fabrication shop not included, quote upon request.			
<u>SOILS</u>			
Soils Technician	8	\$ 90.00	\$ 720.00
Maximum Density Optimum Moisture-Density Curve (Proctor)	1	\$ 240.00	\$ 240.00
Mileage Charge	2	\$ 10.00	\$ 20.00
		SUBTOTAL	\$ 980.00
ESTIMATED TOTAL COST			\$ 3,521.00

Our estimated cost does not include overtime. All parties are aware we are T&M, so you control the actual budget. The actual cost will vary, as our costs are directly dependent upon the contractor and the sub-contractor's schedule.



Fee Schedule

Item #	Description	Price
Technician/Engineering Personnel		
1	Anchor Pull Testing	\$ 104.00
2	Badges/Safety Classes/Time	\$ 90.00
3	CESCL	\$ 107.00
4	Coring Support Technician	\$ 84.00
5	Coring Technician	\$ 144.00
6	Emergency Lighting Inspection	\$ 89.00
7	Epoxy Bolt/Anchor Bolting/Dowel Inspection	\$ 89.00
8	Fire-Resistant Penetrations and Joints Inspection (FS)	\$ 114.00
9	Floor Flatness	\$ 159.00
10	Hazmat Technician	\$ 126.00
11	High Strength Bolt Inspection	\$ 99.00
12	Infiltration Testing	\$ 92.00
13	Laboratory Technician	\$ 104.00
14	Framing/Nailing Inspection	\$ 89.00
15	Magnetic Particle or Dye Penetrant	\$ 111.00
16	Moisture Vapor Through Floor/Slab	\$ 99.00
	• Calcium Test Kits	\$ 40.00
17	Pachometer Technician	\$ 119.00
18	Piling Inspection	\$ 94.00
19	Post Tension Inspection	\$ 94.00
20	Rebound Number of Hardened Concrete (C-805) (Schmidt Hammer)	\$ 98.00
21	Reinforcing Concrete & Masonry Technician	\$ 89.00
22	Reinforcing Steel Inspection	\$ 89.00
23	Relative Humidity – Concrete Floors	\$ 99.00
	• RH Test Tubes	\$ 50.00
24	Roofing Inspection	\$ 89.00
25	Shotcrete Inspection	\$ 92.00
26	Soils & Asphalt Technician	\$ 90.00
27	Spray- Applied Fire-Resistive Materials Inspection (FP)	\$ 92.00
28	Suspended Ceiling Inspection	\$ 89.00
29	Ultrasonic Test (UT)	\$ 132.00
30	Visual Welding/Structural Steel Inspection	\$ 99.00
31	Wood Moisture Testing (In-Field)	\$ 92.00



Fee Schedule

Item #	Description	Price
Concrete		
32	Cast by Client/Contractor Core Specimens	\$ 65.00
33	Cast by Client/Contractor Cylinder Specimens *if sawing or extra handling is required a minimum rate of \$61.00 each will be charged.	\$ 50.00
34	Clay Lumps & Friable Particles	\$ 150.00
35	Compressive Strength Tests (C-39)	\$ 27.00
36	Flexural Strength, 6"x6"x22" Concrete Beam (C-293)	\$ 75.00
37	Light Weight Pieces (C-123)	\$ 215.00
38	Organic Impurities (C-40)	\$ 125.00
39	Shotcrete Panels: 3 Cores with Compressive Strength	\$ 275.00
	• Additional Cores from Panel	\$ 90.00
40	Sulfate Soundness (C-88) Magnesium, per sample	\$ 395.00
41	Sulfate Soundness (C-88) Sodium, per sample	\$ 430.00
42	Unit Weight of Aggregate (C-29)	\$ 120.00
Masonry		
43	Compressive Strength, Masonry Composite Prisms (UBC-2405)	\$ 80.00
44	Compressive Tests, Masonry Unit (C-140)	\$ 70.00
45	Compressive Tests, Mortar Cubes (C-109)	\$ 27.00
46	Compressive Tests, Mortar or Grout Specimens (UBC-24/23)	\$ 27.00
Soils Mechanics Laboratory Tests		
47	% Organics By Weight (D-2974)	\$ 185.00
48	Aggregate Durability Index (AASHTO T-210)	\$ 235.00
49	Atterberg Limits (D-424), Liquid Limit, Plastic Limit, Plasticity Index	\$ 245.00
50	Flat & Elongated Pieces in Aggregate (ASTM D-4791)	\$ 175.00
51	Fracture Face Count	\$ 120.00
52	Laboratory Determination of Moisture Content (D-2216)	\$ 75.00
53	Maximum Density Optimum Moisture-Density Curve [Proctor] (D-698, D-1557)	\$ 240.00
54	Particle Size Analysis (D-422) Hydrometer (with D-854)	\$ 425.00
55	Particle Size Analysis (D-422) Hydrometer (without D-854)	\$ 325.00
56	Resistance to Abrasion, Los Angeles Machine (C-131, C-535)	\$ 295.00
57	Sand Equivalent (D-2419)	\$ 125.00
58	Sieve Analysis (Add #270, C-136, C-117 [Wet Sieve])	\$ 250.00
59	Sieve Analysis (C-136, C-117 [Wet Sieve])	\$ 220.00
60	Sieve Analysis (C117-T-11 #200 Wash Only)	\$ 125.00
61	Specific Gravity of Soils (D-854)	\$ 250.00
62	Specific Gravity/Absorption of Coarse Aggregate (C-127)	\$ 140.00
63	Specific Gravity/Absorption of Fine Aggregate (C-128)	\$ 195.00
64	Uncompacted Void Content of Fine Aggregate T-304, Specific Gravity Not Included	\$ 160.00
65	Wood Waste (WSDOT)	\$ 110.00
66	WSDOT Degradation	\$ 235.00



Fee Schedule

Item #	Description	Price
Asphaltic Concrete Mixes		
67	Anti-Strip evaluation TSR (D-4867) when performing mix design	\$1,250.00
68	Anti-Strip evaluation TSR (D-4867) without performing mix design	<i>Quote Upon Request</i>
69	Mix Design of Bituminous Mixture by Marshall Method (Does not include anti-strip testing)	\$6,000.00
70	Mix Design by Gyratory Method (SHRP/Superpave) (Does not include anti-strip testing)	\$6,000.00
71	Extraction and Gradation % Bitumen (T-308) (C-136 [West]) Sieve (C-117)	\$ 270.00
72	Gyratory Tests (Superpave) (T-312)	\$ 300.00
73	Hamburg, performed with Mix Design, CTL makes 2 specimens	\$ 950.00
74	Hamburg, performed without Mix Design, CTL makes 2 specimens	<i>Quote Upon Request</i>
75	Hamburg, production sample	\$ 800.00
76	Hamburg, test only, supplier provides 2 specimens	\$ 650.00
77	IDT, performed with Mix Design, CTL makes 3 specimens	\$ 450.00
78	IDT, performed without Mix Design, CTL makes 3 specimens	<i>Quote Upon Request</i>
79	IDT, test only, supplier provides 3 specimens	\$ 250.00
80	CT Index, client provided (core prep time additional cost)(D-8225), per specimen	\$ 125.00
81	CT Index, performed with Mix Design, CTL makes 3 specimens	\$ 575.00
82	Marshall Test, per Molded Specimen ([D-1559] Includes Stability, Flow, and Unit Wt.) per set of 3	\$ 500.00
83	Permeability of Asphaltic Concrete FM 5-565	\$ 500.00
84	Rice Maximum Theoretical Density (D-2041)	\$ 160.00
85	Specific Gravity of Compacted Field Sample (D-2726) WSDOT 704 (Pavement Core)	\$ 85.00
Miscellaneous:		
86	Dry Density of Fireproofing Material	\$ 165.00
87	Ferry Charges	<i>Quote Upon Request</i>
88	Mileage	\$ 0.75
89	Mileage for Magnetic Particle, Dye Penetrant, Ultrasonic Test	\$ 1.15
90	Per Diem (Lodging, Meals, and Etc.)	<i>Quote Upon Request</i>
Basis of Charges (Rate Charges & Notification)		
Four-hour minimum for inspection, sampling, and field testing. One-hour minimum for cylinder pick-up. Time and one half (1.5) for work in excess of eight hours per day and Saturdays. All work performed outside normal working hours (0700 hr. to 1600 hr.) Monday through Friday will be charged at 1.5 times the standard rate. Double time will be charged for Sundays and holidays. Four-hour minimum for weekend and holidays. Hourly rates and mileage are portal to portal. Terms are thirty (30) days. Prices are subject to change without notice. Twenty-four (24) hour notice is required to schedule technician(s). Twenty-four hour notification required for cancellations for night work (at least a four-hour minimum charge would apply without proper notification). All weekend cancellations after close of business Friday will incur at least a four-hour minimum charge. A 3% escalation for hourly and unit prices for multi-year contracts will apply.		
Mail Distribution (Reports)		
All overhead, engineer review of reports, final inspection report, and mail distribution costs are included in the hourly/unit rates.		
Terms of Sale (Payment Due Date/Past Due):		
All invoices are "NET" and payment is due on the 30 th day following the invoice date, unless otherwise stated on the application invoice. An account is considered past due on the 31 st day following the date of invoice. All accounts not paid by due date may be subject to suspension. A late charge of 1.5% per month annual will be imposed on past due accounts. Customers/Clients agree to pay all attorney's fees and costs of collection.		



Fee Schedule

Dispatch Notification

Also, it is the responsibility of the client or designated representative to schedule and/or cancel field work with our office only, not through field personnel. CTL cannot be held responsible for scheduling and/or cancellation of services made through field inspector(s). In addition, twenty-four hour notices are required to schedule or dispatch inspector(s) for inspection and testing services.

Terms, Definitions, & General Conditions

Parties & Scope of Work: Construction Testing Laboratories, Inc. (herein "CTL") is performing the specific inspection, testing, or other services performed by CTL as described in its proposal accepted by the Client, (herein the "Work"), which shall be subject to these Terms, Definitions, and General Conditions. The Client accepts sole responsibility for determining whether the quantity and nature of the Work ordered by the Client is adequate and sufficient for the Client's needs.

Access to Site/Notifications: Client shall arrange and provide access to the site as required for CTL to perform work. Advance notification for inspection and testing services is the responsibility of the client and/or its representative. Inspection or testing services should be requested as far in advance as practical (preferably a minimum of two business days notification). CTL, Inc. has not included in its fee and is not responsible for the cost of restitution of damage that may occur due to work performed. Client agrees to indemnify and save CTL harmless from all claims, suits, losses, costs and expenses, including reasonable attorney's fees, as a result of personal injury, death, or proper damage occurring with respect to CTL's work or arising from subsurface or latent conditions or damage to subsurface, lines or conduits. Client, landowner, and its agents shall accept sole responsibility to notify appropriate agencies in regard to any hazardous substances discovered by CTL on the project site. CTL is expressly relieved from any obligations to report the presence of hazardous substances to any and all regulatory agencies.

Schedule of Work: CTL's work will be accomplished in a timely, workmanlike manner by CTL or its sub-contractor at the prices of fees quoted. If CTL is required to delay commencement of the work or if it is required to stop or interrupt the progress of its work as a result of changes in scope required for any reason by the Client, interruptions in the progress of construction, or causes beyond the control of CTL, additional charges will be applicable and payable by the Client. CTL will provide its professional services to the Client, as defined by its scope of work with that degree of care and will ordinarily exercise under similar circumstances by members of its profession. This representation is in lieu of any warranties or other representations, either expressed or implied. It is also understood and agreed that statements made in CTL reports are opinions-based observations, and should not be construed to be conclusive representatives of fact. If conditions different from what are indicated in the reports come to the Client's attention after receipt of the reports, it is recommended that the Client contact CTL immediately to authorize further appropriate evaluation.

Payment: Client shall be invoiced twice each month for work performed during the preceding month. Client agrees to pay each invoice within 30 days of its receipt. A service charge of 1.5% per month is added to all delinquent accounts. Where legal action, including assertion of lien rights, becomes necessary to obtain payment for services provided, Client agrees to pay all collection costs, including reasonable attorney's fees. CTL's final report will not be submitted until all invoices are paid.

Indemnity: CTL, Inc. agrees to indemnify and hold Client harmless from any and all claims, suits, costs, and expenses subject the foregoing limitations, including reasonable attorney's fees and court costs, but only to the extent of CTL's negligence. Client shall provide same protection to CTL to the extent of its negligence. In the event that Client or its principals shall bring suit, cause of action, claim, or counterclaim against CTL, the party initiating such action shall pay to CTL the costs and expenses incurred by CTL to investigate, answer, and define itself, including reasonable attorney's fees, witness fees, and court costs to the extent that CTL shall prevail in such suit. Notwithstanding in performing services of work, Client and all parties claiming as a result thereof agree that the maximum aggregate amount of liability of CTL and its officers, employees, and agents shall be limited to the total of the fee paid to CTL for its work. CTL may engage the services of other contracts/consultants on behalf of the Client to provide professional services. CTL shall be held harmless, and assumes no liability, for the services of said contractor/consultant. As such, CTL shall be held harmless from any claim which may arise out of the actions of the contractor/consultant.



Fee Schedule

Provisions: all quotations are based upon standard non-overtime hourly rates. If unforeseen circumstances cause CTL to work on Saturdays, Sundays, or after 16:00 hr. and in excess of eight hours Monday through Friday, the non-overtime rates quoted will be multiplied by 1.5 to establish the correct overtime rate. Unless otherwise agreed, this proposal terminates in 60 calendar days from the date of issue unless accepted in writing within said 60 days. CTL may dispose of project inspection files after a period of seven years. Client may request in writing of extend the file retention period to obtain custody in lieu of disposal, subject to mutual agreement upon a retention/custody agreement, including fees to be paid to CTL.

Entire Agreement: This agreement constitutes the entire understanding or the parties and there are no representations, warranties, or understandings made other than those set forth herein. This agreement may be modified only in writing, signed by each of the parties. No work can be performed prior to written acceptance of this proposal. Any controversy of claim arising out of or relating to Terms and General Conditions or breach thereof shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgement upon the award rendered by the arbitration(s) may be entered in any court having jurisdiction hereof. Any such arbitration shall take place in Tacoma, Washington. The prevailing party, as determined by the Arbitrator, shall be awarded its costs and reasonable attorney's fees.

Subcontractors: CTL subcontracts to Certified Inspection Services for the magnetic particle and ultrasonic testing of welds. CTL subcontracts to Spectra Laboratories for analytical testing. CTL reviews subcontractors report for content only.

Term of Sale

Payment Due Date	All invoices are "NET" and payment is due on the 30 th day following the invoice date, unless otherwise stated on the application invoice. An account is considered past due on the 31 st day following the date of invoice.
Past Due Account	All accounts not paid by due date may be subject to suspension. A late charge of 1.5% (18% per month annual) will be imported on past due accounts. Customers agree to pay all attorney's fees and costs of collection.

I/We understand and agree to the foregoing terms of sale and authorize you to obtain such information as you may require concerning this application.

Acknowledgement/Acceptance of Fee Schedule, Terms, Definitions, Term of Sales, and General Conditions

Upon acceptance, please sign and return at your earliest convenience. Also, our office will e-mail you a mail distribution list so copies of reports can be sent to your Engineers/Owners if you so desire. Reports for projects can also be found on our website, www.ctlwa.com, and can be accessed at your convenience.

Agreed on this _____ day of _____

Accepted by _____
Please Print Name and Title

Signature _____

Email Address _____

Firm Name _____
Company Name

Firm Address _____
Billing/Mailing Address

AP Email Address _____

Project Name _____

Jobsite Address _____

Contact No. _____
Cell Phone No. _____ Office Phone No. _____ Office Fax No. _____

SUBJECT: White River Restoration Project - Plant Procurement

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$742,679.92

Within Budget Allocation: Yes

ATTACHMENTS:

1. White River Restoration Project Goods & Services Contract

STAFF CONTACT: Robert Wright, Engineering Specialist

SUMMARY BACKGROUND:

The White River Restoration project will be installing a large number of plants in 2025 and 2026. To secure the necessary quantities of specific plant species, the City requested proposals from nurseries to provide the plant materials during the construction phase. One (1) proposal was received on November 12, 2024 for this project. The proposal was received by Fourth Corner Nurseries, with a proposal amount of \$742,679.92 including tax.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion authorizing the Mayor and City Administrator to execute all necessary contract documents with Fourth Corner Nurseries, in an amount not-to-exceed \$742,679.92 for the White River Restoration Project (CIP14-10), substantially in a form approved by the City Attorney.



GOODS & SERVICES CONTRACT between the City of Sumner and Fourth Corner Nurseries

THIS CONTRACT is made by and between the City of Sumner, a Washington municipal corporation (hereinafter the "City"), and Fourth Corner Nurseries organized under the laws of the State of Washington, located and doing business at 5652 Sand Rd, Bellingham, WA 98226, 208-320-8991, Dylan Levy-Boyd (hereinafter the "Vendor").

CONTRACT

I DESCRIPTION OF WORK.

Vendor shall provide the following goods and materials and/or perform the following services for the City:

See Exhibit A – White River Restoration Project Plant Procurement (CIP 14-10)

Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its unqualified right to obtain these goods, materials, and services through other sources.

II TIME OF COMPLETION. Upon the effective date of this Contract, Vendor shall complete the work and provide all goods, materials, and services within dates outlined in the Request for Proposals.

III. COMPENSATION. The City shall pay the Vendor an amount not to exceed **\$678,246.50**, plus Washington State Sales Tax, if applicable, for the goods, materials, and services contemplated in this Contract. The City shall pay the Vendor the following amounts according to the following schedule:

Vendor shall submit monthly invoices to the City. The City shall pay the first monthly invoice once all required paperwork has been received by the City. In the event that any provision of the City's Goods and Services Contract conflicts with any provision or Term of Contractor's Bid, the City's contract provisions shall govern.

If the City objects to all or any portion of an invoice, it shall notify Vendor and reserves the option to only pay that portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

- A. Defective or Unauthorized Work. The City reserves its right to withhold payment from Vendor for any defective or unauthorized goods, materials or services. If Vendor is unable, for any reason, to complete any part of this Contract, the City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Contract with other sources, from any and all amounts due or to become due the Vendor.
- B. Final Payment: Waiver of Claims. VENDOR'S ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY VENDOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Vendor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Contract.

V. TERMINATION. Either party may terminate this Contract, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Contract.

VI. CHANGES. The City may issue a written amendment for any change in the goods, materials or services to be provided during the performance of this Contract. If the Vendor determines, for any reason, that an amendment is necessary, Vendor must submit a written amendment request to the person listed in the notice provision section of this Contract, section XIV(D), within fourteen (14) calendar days of the date Vendor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Vendor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Vendor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Vendor shall proceed with the

amended work upon receiving either a written amendment from the City or an oral order from the City before actually receiving the written amendment. If the Vendor fails to require an amendment within the time allowed, the Vendor waives its right to make any claim or submit subsequent amendment requests for that portion of the contract work. If the Vendor disagrees with the equitable adjustment, the Vendor must complete the amended work; however, the Vendor may elect to protest the adjustment as provided in subsections A through E of Section VII, Claims, below.

The Vendor accepts all requirements of an amendment by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. An amendment that is accepted by Vendor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

VII. CLAIMS. If the Vendor disagrees with anything required by an amendment, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Vendor may file a claim as provided in this section. The Vendor shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Vendor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Vendor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Vendor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:

1. The date of the Vendor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Contract that support the claim;
4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
5. An analysis of the progress schedule showing the schedule change or disruption if the Vendor is asserting a schedule change or disruption.

B. Records. The Vendor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Vendor's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

C. Vendor's Duty to Complete Protested Work. In spite of any claim, the Vendor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.

D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Vendor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Vendor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

VIII. LIMITATION OF ACTIONS. VENDOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR VENDOR'S ABILITY TO FILE THAT SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

IX WARRANTY. This Contract is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A, Revised Code of Washington. Vendor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Vendor's representations to City. The Vendor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any part of the goods are repaired, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Vendor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Vendor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Vendor shall pay all costs incurred by the City in order to accomplish the correction.

X. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XI. INDEMNIFICATION. The Vendor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole

negligence of the City.

The City's inspection or acceptance of any of Vendor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE VENDOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Contract.

XII. INSURANCE. The Vendor shall procure and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with products and materials supplied to the City.

No Limitation. Vendor's maintenance of insurance as required by the Contract shall not be construed to limit the liability of the Vendor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance.

Vendor shall obtain insurance of the type described below:

Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover products liability. The City shall be named as an insured under the Vendor's Commercial General Liability insurance policy using ISO Additional Insured-Vendors Endorsement CG 20 15 or a substitute endorsement providing equivalent coverage.

B. Minimum Amounts of Insurance

Vendor shall maintain the following insurance limits:

Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products liability aggregate limit.

C. Other Insurance Provisions. The Vendor's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Vendor's insurance and shall not contribute with it.

D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

E. Verification of Coverage. Vendor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Vendor before goods, materials or supplies will be accepted by the City.

F. Notice of Cancellation. The Vendor shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.

G. Failure to Maintain Insurance. Failure on the part of the Vendor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Vendor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Vendor from the City.

XIII. WORK PERFORMED AT VENDOR'S RISK. Vendor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Vendor's own risk, and Vendor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XIV. MISCELLANEOUS PROVISIONS.

A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. Resolution of Disputes and Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Washington, If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Contract, then the following shall be the means for resolving the dispute:

1. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS.

Following mediation, or upon written Contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

2. Should the parties fail to agree upon or be unable to select an arbitrator, then the dispute shall be resolved by filing suit exclusively under the venue, rules and jurisdiction of the Pierce County Superior Court, Pierce County, Washington or the United States District Court, Western District of Washington as appropriate. In any claim or lawsuit for damages arising from the parties' performance of this Contract, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XI of this Contract.

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of the Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

D. Assignment. Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent.

E. Modification. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.

F. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, the terms of this Contract shall prevail.

G. Compliance with Laws. The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this

Contract or accruing out of the performance of those operations.

H. Counterparts. This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.

I. Debarment. The Consultant must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Consultant or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

IN WITNESS, the parties below execute this Contract, which shall become effective on the last date entered below.

CONSULTANT:	CITY OF SUMNER:
By: _____ (signature)	By: _____ (signature)
Print Name: _____	Print Name: <u>Kathy Hayden</u>
Its _____ (Title)	Its <u>Mayor</u> (Title)
DATE: _____	DATE: _____
	By: _____ (signature)
	Print Name: <u>Jason Wilson</u>
	Its <u>City Administrator</u> (Title)
	DATE: _____
	Attest: _____ Approved as to form: _____
	City Clerk _____ City Attorney _____
	DATE: _____ DATE: _____

NOTICES TO BE SENT TO: CONSULTANT: Dylan Levy-Boyd Fourth Corner Nurseries 5652 Sand Rd Bellingham, WA 98226 208-320-8991 dylan@fourthcornernurseries.com	NOTICES TO BE SENT TO: CITY OF SUMNER: Robert Wright, Engineering Specialist City of Sumner 1104 Maple Street Sumner, WA 98390 253-299-5708 robertw@sumnerwa.gov

Species	Common Name	Material Type	Seed Zone	Winter 2025 Quantity	Winter 2026 Quantity	Total (Each)	Unit	Appropriate Seed Zone?	Proposed Unit Price	Cost	Notes/Proposed Adjustments
ACER CIRCINATUM	VINE MAPLE	CONTAINER (AB) 171 CUBIC INCHES	NA	--	20500	20500	EACH	NA	2.11	43255	bid Unit Price for Bareroot stock, Material type does not match type in Appendix A of RFP
ACER MACROPHYLLUM	BIGLEAF MAPLE	CONTAINER (AB) 171 CUBIC INCHES	NA	--	3800	3800	EACH	NA	2.05	7790	bid Unit Price for Bareroot stock, Material type does not match type in Appendix A of RFP
ALNUS RUBRA	RED ALDER	BAREROOT	Puget Sound	4000	2000	6000	EACH	YES OR NO	1.98	11880	YES appropriate seed zone, quantity does not match Appendix A in RFP
ALNUS RUBRA	RED ALDER	CONTAINER (AB) 171 CUBIC INCHES	NA	--	6875	6875	EACH		1.98	13612.5	YES appropriate seed zone, bid Unit Price for Bareroot stock, Material type does not match type in Appendix A of RFP
AMELANCHIER ALNIFOLIA	WESTERN SERVICEBERRY	BAREROOT	NA	--	700	700	EACH	NA	2.11	1477	
ARBUTUS MENSIESII	PACIFIC MADRONE	BAREROOT	NA	--	200	200	EACH	NA		0	Madrone are not suitable for Bareroot production
BETULA Papyrifera	PAPER BIRCH	BAREROOT	NA	2000	--	2000	EACH	NA	1.86	3720	
CAREX OBNUPTA	SLOUGH SEDGE	BAREROOT	NA	45000	5000	50000	EACH	NA	0.76	38000	Quantities do not match Appendix A in RFP
CAREX STIPATA	SAWBEAK SEDGE	BAREROOT	NA	--	4700	4700	EACH	NA	0.76	3572	
CORNUS SERICEA	REDSIER DOGWOOD	1" DIA. 4' LONG LIVESTAKE	NA	12600	1100	13700	EACH	NA		0	not bid at this time, would require subcontractor, but can potentially prepare price if desired
CORYLUS CORNUTA	BEAKED HAZELNUT	BAREROOT	NA	--	19700	19700	EACH	NA	3.49	68753	Dependent on seed availability, total quantity of 5000-10000 more likely
DESCAMPsia caespitosa	TUFTED HAIRGRASS	BAREROOT	NA	15800	4700	20500	EACH	NA	0.76	15580	
ELEOCHARIS PALUSTRIS	COMMON SPIKERUSH	BAREROOT	NA	--	4700	4700	EACH	NA	0.76	3572	
FRANGULA PURSHIANA	CASCARA BUCKTHORN	BAREROOT	NA	400	--	400	EACH	NA	1.86	744	
FRAXINUS LATIFOLIA	OREGON ASH	BAREROOT	NA	900	--	900	EACH	NA	1.86	1674	
FRAXINUS LATIFOLIA	OREGON ASH	CONTAINER (AB) 171 CUBIC INCHES	NA		1000	1000	EACH	NA	1.86	1860	bid Unit Price for Bareroot stock, Material type does not match type in Appendix A of RFP
GLYCERIA GRANDIS	AMERICAN MANNAGRASS	BAREROOT	NA	--	4700	4700	EACH	NA	0.76	3572	
HOLODISCUS DISCOLOR	OCEANSPRAY	BAREROOT	NA	--	23900	23900	EACH	NA	1.92	45888	
LONICERA INVOLUCRATA	TWINBERRY HONEYSUCKLE	BAREROOT	NA	8000	--	8000	EACH	NA	1.86	14880	
MALUS FUSCA	PACIFIC CRABAPPLE	BAREROOT	NA	11000	--	11000	EACH	NA	1.86	20460	Quantities do not match Appendix A in RFP
OEMLERIA CERASIFORMIS	OSOBERRY	BAREROOT	NA	--	7000	7000	EACH	NA	1.98	13860	Quantities do not match Appendix A in RFP
PHILADELPHUS LEWISII	LEWIS' MOCK ORANGE	BAREROOT	NA	--	700	700	EACH	NA	1.98	1386	
PICEA SITCHENSIS	SITKA SPRUCE	BAREROOT	North or South Puget Sound	3000	2800	5800	EACH	YES OR NO	1.92	11136	YES appropriate seed zone, bid Unit Price is for plug-15 1-year old seedling stock
POLYSTICHUM MUNITUM	WESTERN SWORDFERN	CONTAINER (AB) 171 CUBIC INCHES	NA	--	9500	9500	EACH	NA		0	not bid at this time, would require subcontractor, but can potentially prepare price if desired
POPULUS BALSAMIFERA	BLACK COTTONWOOD	BAREROOT	Puget Sound or Chehalis	5000	500	5500	EACH	YES OR NO	1.76	9680	YES appropriate seed zone, quantity does not match Appendix A in RFP
POPULUS BALSAMIFERA	BLACK COTTONWOOD	CONTAINER (AB) 171 CUBIC INCHES	Puget Sound or Chehalis		1000	1000	EACH	YES OR NO	1.76	1760	YES appropriate seed zone, bid Unit Price for Bareroot stock, Material type does not match type in Appendix A of RFP
PSEUDOTSUGA MENZIESII	DOUGLAS-FIR	BAREROOT	Kitsap	--	11400	11400	EACH	YES OR NO	1.92	21888	YES appropriate seed zone, bid Unit Price is for plug-15 1-year old seedling stock
RIBES SANGUINEUM	RED-FLOWERING CURRANT	BAREROOT	NA	--	2400	2400	EACH	NA	1.98	4752	
ROSA NUTKANA	NOOTKA ROSE	BAREROOT	NA	--	35700	35700	EACH	NA	1.92	68544	
ROSA PISOCARPA	CLUSTER ROSE	BAREROOT	NA	11400	--	11400	EACH	NA	1.86	21204	
RUBUS PARVIFLORUS	THIMBLEBERRY	BAREROOT	NA	--	15900	15900	EACH	NA	1.86	29574	
RUBUS SPECTABILIS	SALMONBERRY	BAREROOT	NA	1700	--	1700	EACH	NA	1.86	3162	
SALIX LASIANDRA	PACIFIC WILLOW	1" DIA. 4' LONG LIVESTAKE	NA	7900	1100	9000	EACH	NA		0	not bid at this time, would require subcontractor, but can potentially prepare price if desired
SALIX SCOULERIANA	SCOULER'S WILLOW	1" DIA. 4' LONG LIVESTAKE	NA	3100	2300	5400	EACH	NA		0	not bid at this time, would require subcontractor, but can potentially prepare price if desired
SALIX SITCHENSIS	SITKA WILLOW	1" DIA. 4' LONG LIVESTAKE	NA	25800	2300	28100	EACH	NA		0	not bid at this time, would require subcontractor, but can potentially prepare price if desired
SCHOENOPECTUS ACUTUS	HARDSTEM BULRUSH	BAREROOT	NA	2200	--	2200	EACH	NA	0.76	1672	
SCIRPUS MICROCARPUS	SMALL-FRUITED BULRUSH	BAREROOT	NA	30000	4000	34000	EACH	NA	0.76	25840	Quantities do not match Appendix A in RFP
SPARGANIUM EMERSUM	SIMPLESTEM BUR-REED	BAREROOT	NA	2200	--	2200	EACH	NA	1.76	3872	
SPIRAEA DOUGLASII	HARDHACK	BAREROOT	NA	10000	--	10000	EACH	NA	1.86	18600	Quantities do not match Appendix A in RFP
SPIRAEA DOUGLASII	HARDHACK	CONTAINER (AB) 171 CUBIC INCHES	NA		5000	5000	EACH	NA	1.86	9300	bid Unit Price for Bareroot stock, Material type does not match type in Appendix A of RFP
SYMPHORICARPOS ALBUS	SNOWBERRY	BAREROOT	NA	--	36200	36200	EACH	NA	1.92	69504	
THUJA PLICATA	WESTERN RED CEDAR	BAREROOT	Puget Sound or Twin Harbors	--	1300	1300	EACH	YES OR NO	1.92	2496	YES appropriate seed zone, bid Unit Price is for plug-15 1-year old seedling stock
2025 Delivery		--		242400		1	LUMP SUM		315	15271	\$315 delivery fee for ~5000 bare root plants
2026 Delivery		--			227300	1	LUMP SUM		340	15456	\$335 delivery fee for ~5000 bare root plants
Storage and Delayed Delivery		BAREROOT				200,000	LUMP SUM		29000	29000	

Grand Total	678246.5
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SUBJECT: Resolution No. 1706 - Amending the Interlocal Agreement (ILA) with East Pierce County Interlocal Coalition (EPIC) for Emergency Management

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1706 - Amending the Interlocal Agreement (ILA) with East Pierce County Interlocal Coalition (EPIC) for Emergency Management

STAFF CONTACT: Evan Brazitis, Emergency Management & Safety Coordinator

SUMMARY BACKGROUND:

The City of Sumner is a member of the East Pierce Interlocal Coalition for Emergency Management (EPIC) which was formed in 2021 and is a combination of Emergency Management Departments from seven cities and towns in East Pierce County. The current members are: Sumner, Bonney Lake, Orting, Buckley, Carbonado, Wilkeson and Puyallup, which acts as the lead agency. The primary purpose of this Amendment is to add the Town of South Prairie as a member. Their inclusion in the ILA also modifies the cost distribution of the existing partner agencies.

COUNCIL COMMITTEE/STUDY SESSION: Public Works

MEETING/STUDY SESSION DATE: 12/3/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No. 1706 authorizing the Mayor to amend an interlocal agreement between the City of Sumner and EPIC related to Emergency Management in a form as approved by the City Attorney.

RESOLUTION NO. 1706
CITY OF SUMNER, WASHINGTON

**A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, AMENDING
THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUMNER AND THE
EAST PIRECE INTERLOCAL COLATION FOR EMERGENCY MANAGMENT.**

WHEREAS, the Cities and Towns of Bonney Lake, Buckley, Carbonado, Orting, Puyallup, South Prairie, Sumner, and Wilkeson have the power, authority, and responsibility under Washington law to provide emergency management services within their respective boundaries; and

WHEREAS, the City of Sumner has a fully functional Emergency Management program and trained personnel capable of conducting a full range of emergency management services; and

WHEREAS, Bonney Lake, Buckley, Carbonado, Orting, Puyallup, South Prairie, Sumner and Wilkeson wish to fully cooperate and coordinate emergency management activities that will avoid unnecessary duplication in exchange for the agreed upon compensation; and

WHEREAS, upon adoption of the Amendment to the Interlocal Agreement, the City of Sumner will provide the identified services in exchange for the agreed upon compensation; 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 Amended Interlocal Agreement between the City of Sumner and the East Pierce Interlocal Coalition for Emergency Management attached in Exhibit A, 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 9th day of December 2024.

Attest:

Kathy Hayden, Mayor

Michelle Converse, City Clerk

Approved to as Form:

Andrea Marquez, City Attorney

AMENDMENT #1

INTERLOCAL AGREEMENT BETWEEN THE CITIES OF BONNEY LAKE, BUCKLEY, ORTING, SUMNER, AND
PUYALLUP AND THE TOWNS OF CARBONADO AND WILKESON

THIS AMENDMENT amends that certain Interlocal Agreement services for emergency management between the City of Puyallup ("Puyallup") and the Cities of Bonney Lake, Buckley, Orting, Sumner, and the Towns of Carbonado and Wilkeson ("Parties") that became effective January 2021.

IN CONSIDERATION OF the terms and conditions set forth below, the Parties agree to the amendments to the Agreement as provided for herein.

ENTIRE AGREEMENT. The entire Agreement between the parties with respect to the subject matter hereunder is contained in the Agreement. No amendments to the Agreement shall be binding upon the parties unless such amendment is in writing and executed by the duly authorized representatives of all the parties, provided that if the parties agree a modification is minor and does not substantively alter the Agreement to a significant degree, each party's Chief Administrative Officer may approve the change. The written provisions and terms of this Agreement shall supersede all prior statements of any officer or other representative of the parties, and such prior statements shall not alter this Agreement.

The following Sections and Subsection are hereby included by amendment into the above Interlocal Agreement.

Section 2(g) Puyallup may coordinate the ordering and distribution of resources, as requested, by the Parties.

Section 8(e) The chart marked as Attachment A shall be used to annotate cost distribution between the parties. Attachment A may be updated to reflect current operating costs through approval of the Joint Board. Each Parties governing body delegates updating Attachment A to the Joint Board.

Section 10. The Town of South Prairie is hereby added as a party to this Interlocal Agreement.

Jurisdiction	OFM Population Estimates (as of 2023)	% of Total Population w/o Puyallup	New Position Cost	Share of New Position Cost	Share of approx. \$25K EMPG Funds	Annual Cost of New Position with EMPG Funds Considered
Bonney Lake	23,250	45.9%	\$80,300	\$36,896.74	\$11,487.15	\$25,409.58
Buckley	5,555	10.98%	\$80,300	\$8,815.54	\$2,744.57	\$6,070.98
Carbonado	745	1.47%	\$80,300	\$1,182.28	\$368.08	\$814.20
Orting	9,110	18.00%	\$80,300	\$14,457.17	\$4,500.99	\$9,956.19
Puyallup	43,420	N/A	N/A	N/A	N/A	N/A
South Prairie	645	1.27%	\$80,300	\$1,023.59	318.68	\$704.91
Sumner	10,800	21.34%	\$80,300	\$17,139.13	\$5,335.97	\$11,803.16
Wilkeson	495	0.98%	\$80,300	\$785.54	\$244.57	\$540.98
Total Population	94,020	99%		\$80,300	\$25,000.00	\$55,300.00
Total Population without Puyallup	50,600					

Except as expressly amended herein all other provisions of the Agreement for the provision of emergency management services by the City of Puyallup and the parties shall remain unchanged and in full force and effect.

CITY OF PUYALLUP

Steve Kirkelie
City Manager
City of Puyallup

Approved as to form:

Shawn Arthur, Deputy City Attorney

For: City of Bonney Lake

Attest:

For: City of Buckley

Attest:

For: Carbonado

Attest:

For: City of Orting

Attest:

For: City of Sumner

Attest:

For: Town of South Prairie

Attest:

For: Town of Wilkeson

Attest:

Exhibit A

**INTERLOCAL AGREEMENT BETWEEN THE CITIES OF BONNEY LAKE, BUCKLEY,
ORTING, SUMNER, AND PUYALLUP AND THE TOWNS OF CARBONADO, ~~SOUTH~~
PRAIRIE AND WILKESON.**

THIS AGREEMENT is made and entered into by and between the City of Bonney Lake, City of Buckley, Town of Carbonado, City of Orting, ~~Town of South Prairie~~, City of Sumner, Town of Wilkeson and the City of Puyallup. Each of the entities are municipal corporations, and authorized by the Interlocal Cooperation Act of Chapter 39.34 of the Revised Code of Washington to enter into such agreement.

WHEREAS, the enumerated cities and towns have power, authority and responsibility to provide emergency management services within their respective boundaries; and

WHEREAS, the City of Puyallup has a fully functional Emergency Management program and trained personnel capable of conducting a full range of emergency management functions; and

WHEREAS, the enumerated cities and towns wish to cooperate and coordinate activities that will avoid unnecessary duplication of efforts and expenditures for emergency management services.

NOW, THEREFORE, in consideration of the terms and provisions herein, IT IS AGREED by and between enumerated cities and towns as follows:

1. Emergency Management Personnel.
 - a. The City of Puyallup shall retain and manage a consultant who will collaborate with the other parties to the agreement (hereinafter "Parties"), pursuant to a schedule that is mutually agreeable between the parties, to provide the emergency management services outlined in this agreement.
 - b. The City of Puyallup may hire or provide additional staff to assist in providing the identified emergency management services, if unanimously agreed to by all Parties.
2. The City of Puyallup shall provide, within the capacity of the consultant to provide the services, emergency management services to the Parties as follows:
 - a. Update and present to the State Emergency Management Division (EMD) the City of Puyallup's and the Parties Comprehensive Emergency Management Plan (CEMP) as a coordinated document combining Emergency Support Functions (ESF) where applicable to all of the Parties, and augmenting ESFs for individual cities based on specific identified hazards.
 - b. Coordinate and assist the Parties with the operational planning for emergency operations centers (EOC), evacuation, mass care and sheltering and such other operational plans as agreed to by a majority of the Joint Board (See 4 below).
 - c. Coordinate and arrange for joint emergency management training for the Parties including but not limited to EOC operations with section specific training such as planning, operations, logistics and finance, as well as, mass care and sheltering, evacuation management and operations; the combined and such other

ILA – Emergency Management

emergency management functions and operations as agreed to by a majority of the joint Board (See 4 below).

- i. The training shall include, at a minimum, a one-half to one full day table top/functional exercise for each jurisdiction and a one full day full scale exercise annually which location shall be rotated annually between the Cities based on individual city capacity to host the desired training. The annual full scale training topic and location shall be a decision of joint Board.
 - ii. EOC operational plans training and Incident Command System (ICS) section specific training shall also be offered from time-to-time by the City of Puyallup and made available to the Parties for participation.
 - d. Research, recommend and apply for emergency management grant opportunities on behalf of the Parties to facilitate the purposes of this agreement. The Parties request and agree to allow Puyallup to apply for Emergency Management Performance Grant (EMPG) funding on their behalf to be put toward the salary(s) of positions provided for in the Interlocal Agreement.
 - e. Represent the Parties in meetings with State, County and other emergency management-related organizations to facilitate the purposes of this Agreement.
 - f. Perform other emergency management duties as mutually and unanimously agreed by all the Parties.
3. Indemnity. The Parties shall indemnify each other as follows:
- a. Each Party shall defend, indemnify and hold the other Party/Parties harmless, including the officers, employees and agents of any other Party/Parties, from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from the negligent acts or omissions of its own officers, employees or agents relating to or in the performance of this agreement.
 - b. It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of the immunity under industrial insurance, Title 51 RCW, solely to carry out the purposes of this indemnification clause. The parties further acknowledge that they have mutually negotiated this waiver.
4. No separate legal entity. Pursuant to RCW 39.34.030, this agreement does not establish any separate legal entity to conduct the joint or cooperative undertaking expressed herein. However, this agreement does establish a Joint Board responsible for administering the provisions of the agreement and the application of the same. The Joint Board shall consist of the chief executive/administrative officer or designee for each of the cities and towns. The Joint Board shall meet at least twice per year in June and November. The Joint Board may also conduct business electronically outside of the biannual meetings as needed. Each city or town signatory to the agreement shall have one vote on the Joint Board. In the event of a tie vote on an item before the Joint Board, each individual vote will be weighted based on the population referenced in 8b.

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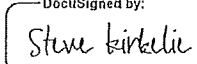
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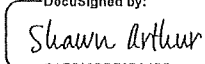
5. Duration and Termination. This agreement shall renew annually. Individual parties who wish to withdraw from the agreement must provide written notice of the intent to withdraw no later than October 30 of the current calendar year. Notice must be provided to each of the Joint Board representatives of the other parties. Upon withdrawal of any party except the City of Puyallup, the other parties may elect to continue this Agreement without the withdrawing party. Withdrawal by the City of Puyallup shall terminate this Agreement.
6. Cooperation. The participating cities and towns shall cooperate to implement and carry out the terms and provisions of this agreement.
7. No discrimination. Each of the cities and towns, for itself, its heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.
8. Payment. The following provisions for payment of the participating cities and towns shall apply:
 - a. The reasonable costs associated with the management and oversight of this Interlocal Agreement, plus all necessary office space and provision of equipment, vehicles, insurance, etc. necessary to support the provisions of the agreement shall be paid by the City of Puyallup.
 - b. The reasonable costs of the consultant, shall be paid by the Parties, excluding the City of Puyallup, proportionately on the basis of population as determined by the April 2020 estimate of population by the WA State Office of Financial Management (OFM), and as adjusted by OFM annually hereafter.
 - c. The Parties agree to reimburse the City of Puyallup for unanticipated and reasonable expenses not identified above that the Joint Board agrees are necessary to execute the provisions of the agreement. Reimbursement shall be on a monthly basis upon receipt of invoice and payable to the City of Puyallup. The Parties shall share the cost on the same basis as provided above in paragraph 8b.
 - d. Should any Party withdraw from this Agreement, the percentage reimbursement shares of the other Parties shall be adjusted on the basis of 8b above so long as the Interlocal Agreement is in effect.
9. Miscellaneous Terms.
 - a. This Agreement shall be deemed to be made and construed in accordance with the laws of the State of Washington; jurisdiction and venue for any action arising out of this Agreement shall be in Pierce County, Washington.

ILA – Emergency Management

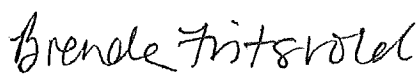
- b. No separate legal entity is created hereby, as each of the parties is contracting in its capacity as a municipal corporation of the State of Washington. The identity of the parties hereto are as set forth hereinabove.
- c. The performances of the parties provided hereby shall be done in accordance with standard operating procedures and customary practices of the parties.
- d. For purposes of the Public Records Act, the public records generated with this agreement shall be the responsibility of the individual cities and towns generating them. No entity has a responsibility to maintain records on behalf of another participating city or town as the result of being a signatory to this Interlocal Agreement.
- e. Unless otherwise specifically provided herein, personal property and any real property to be held in connection herewith, if applicable, shall be held as the separate property of the party or parties in whose name(s) the property is/was acquired.
- f. No provision of this Agreement shall relieve any party of its public agency obligations and/or responsibilities imposed by law.
- g. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time any party shall have the right to terminate the Agreement.
- h. This Agreement constitutes the entire agreement between the parties. There are no terms, obligations, covenant or conditions other than those contained herein. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

IN WITNESS THEREOF, the parties acting in their official capacities have hereby executed this Agreement by affixing thereto the signatures of the proper officers on the date indicated.

DocuSigned by:

 3E28419FE1D84A5...
 Steve Kirkelie
 City Manager
 City of Puyallup

DocuSigned by:

 CA5518BD78BA46C...
 Approved as to form: Shawn Arthur, Deputy City Attorney

For: City of Bonney Lake

Attest:  Attest:

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ILA – Emergency Management

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DocuSigned by:

Steve Kirkelie

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Steve Kirkelie
City Manager
City of Puyallup

DocuSigned by:

Neil Johnson, Jr.

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Neil Johnson
Mayor
For: City of Bonney Lake

Approved as to form:

DocuSigned by:

Shawn Arthur

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Shawn Arthur, Deputy City Attorney

Attest:

Brenda Fritsvald

DocuSigned by:

Harwood T. Edrallon

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ILA - Emergency Management

Steven Johnson
For: City of Buckley
Mayor

Kevin Vesey
For: Carbonado
Mayor

Attest: *Jessie Perreux*

Attest: *Sandi Carlson*
Sandi Carlson

For: City of Orting

For: Town of South Prairie

Attest:

Attest:

For: City of Sumner

For: Town of Wilkeson
Jeff Sellers
Attest: *Jeff W Sellers*
Mayor

Attest:

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ILA – Emergency Management

For: City of Buckley

For: Carbonado

Attest:

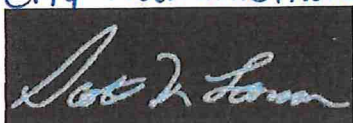
Attest:

For: City of Orting

For: Town of South Prairie

Scott Larson
City Administrator

Attest:



Attest:

For: City of Sumner

For: Town of Wilkeson

Attest:

Attest:

ILA – Emergency Management

For: City of Buckley

For: Carbonado

Attest:

Attest:

For: City of Orting

For: Town of South Prairie

Attest:

Attest:

For: City of Sumner

DocuSigned by:

William L. Pugh

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For: Town of Wilkeson

DocuSigned by:

Michelle Converse

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Attest:

Jurisdiction	OFM Population Estimates (as of April 1, 2020)	% of Total Population w/o Puyallup	New Position Cost	Share of New Position Cost	Share of approx. \$25K EMPG Funds	Annual Cost of New Position with EMPG Funds Considered
Bonney Lake	21,390	45.9%	\$80,300	\$36,823.18	\$11,464.25	\$25,358.92
Buckley	5080	10.89%	\$80,300	\$8,745.29	\$2,722.69	\$6,022.60
Carbonado	685	1.47%	\$80,300	\$1,179.24	\$367.13	\$812.10
Orting	8635	18.51%	\$80,300	\$14,865.27	\$4,628.04	\$10,237.23
Puyallup	42,700	N/A	N/A	N/A	N/A	N/A
Sumner	10,360	22.21%	\$80,300	\$17,834.88	\$5,552.58	\$12,282.30
Wilkeson	495	1.06%	\$80,300	\$852.15	\$265.30	\$586.85
Total Population	89,345	100%		\$80,300	\$25,000.00	\$55,300.00
Total Population without Puyallup	46,645					

SUBJECT: City Hall Access Control and Intrusion - Goods and Services Contract

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$156,000

Within Budget Allocation: Yes

ATTACHMENTS:

1. SSNW Goods and Services Contract

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

This contract valued at \$160,000 includes upgrades to City Hall's access control and intrusion systems. Interior and exterior doors will be outfitted with electronically controlled smart locks and/or smart card readers to enhance the security of our facility. Also included is an intrusion system with monitoring. The majority of this project will be funded by the City's remaining American Plan Act (ARPA) funding.

Security Solutions Northwest was chosen as the vendor as they have worked with the City previously on security and camera projects at the new Cemetery Shops building, City Hall and the Wastewater Treatment Plant. Pricing was obtained through a cooperative purchasing agreement with the Washington School Information Processing Cooperative (WSIPC).

COUNCIL COMMITTEE/STUDY SESSION: Study Session

MEETING/STUDY SESSION DATE: 11/18/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion authorizing the Mayor and City Administrator to execute all necessary contract documents with Security Solutions Northwest, in an amount not-to-exceed \$156,000 for the City Hall Access Control and Intrusion upgrade project, substantially in a form approved by the City Attorney.



GOODS & SERVICES CONTRACT between the City of Sumner and

Security Solutions Northwest LLC

THIS CONTRACT is made by and between the City of Sumner, a Washington municipal corporation (hereinafter the "City"), and Security Solutions Northwest, LLC, organized under the laws of the State of Washington, located and doing business at 1619 N State St, Bellingham, WA 98225 (hereinafter the "Vendor").

CONTRACT

I. DESCRIPTION OF WORK.

Vendor shall provide the following goods and materials and/or perform the following services for the City:

Relating to the following:

1. City Hall Access Control Upgrade Project and Evidence Storage
Intrusion Replacement,
See exhibit A

Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its right to obtain these or similar goods, materials, and services through other sources.

II TIME OF COMPLETION. Upon the effective date of this Contract, Vendor shall complete the work and provide all goods, materials, and services by 5:00 PM March 31st, 2025.

III. COMPENSATION. The City shall pay the Vendor an amount not to exceed **\$160,000.00** for the goods, materials, and services contemplated in this Contract. The City shall pay the Vendor the following amounts according to the following schedule:

Vendor shall submit monthly invoices to the City. The City shall pay the first monthly invoice once all required paperwork has been received by the City. In the event that any provision of the City's Goods and Services Contract conflicts with any provision or Term of Contractor's Bid, the City's contract provisions shall govern.

If the City objects to all or any portion of an invoice, it shall notify Vendor in writing twenty (20) business days before invoice due date for correction and reserve the option to only pay that portion of the invoice not in dispute by the due date of invoice. In that event, the parties will immediately make every effort to settle the disputed portion.

- A. Defective or Unauthorized Work.** The City reserves its right to withhold payment from Vendor for any defective or unauthorized goods, materials or services, provided the Vendor has been notified in writing twenty (20) business days before the invoice due date. If Vendor is unable, , to complete any part of this Contract and all claim provisions in subsections A through E of Section VII, have been exhausted. The City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Contract with other sources, from any and all amounts due or to become due the Vendor for the part of the contract the Vendor has been unable to complete.
- B. Final Payment: Waiver of Claims.** VENDOR'S ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY VENDOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Vendor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Contract.

V. TERMINATION. Either party may terminate this Contract, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Contract.

VI. CHANGES. The City may issue a written amendment for any change in the goods, materials or services to be provided during the performance of this Contract. If the Vendor determines, for any reason, that an amendment is necessary, Vendor must submit a written amendment request to the person listed in the notice provision section of this Contract, section XV(C), within fourteen (14) calendar days of the date Vendor was made aware or became aware of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Vendor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Vendor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Vendor shall proceed with the amended work upon receiving either a written amendment from the City or a written notice to proceed from the authorized City representative before actually receiving the written amendment. If the Vendor fails to require an amendment within the time allowed, the Vendor waives its right to make any claim or submit subsequent amendment requests for that portion of the contract work. If the Vendor disagrees with the equitable adjustment, the Vendor must complete the amended work; however, the Vendor may elect to protest the adjustment as provided in subsections A through E of Section VII, Claims, below.

The Vendor accepts all requirements of an amendment by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. An amendment that is accepted by Vendor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

VII. CLAIMS. If the Vendor disagrees with anything required by an amendment, or another written order, including any direction, instruction, interpretation, or determination by the City, the Vendor may file a claim as provided in this section. The Vendor shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Vendor was made aware or became aware of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Vendor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Vendor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:

1. The date of the Vendor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Contract that support the claim;
4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
5. An analysis of the progress schedule showing the schedule change or disruption if the Vendor is asserting a schedule change or disruption.

B. Records. The Vendor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Vendor's records needed for evaluating the protest. The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

C. Vendor's Duty to Complete Protested Work. In spite of any claim, the Vendor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.

D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Vendor also waives any additional entitlement and accepts from the City any written order (including directions, instructions, interpretations, and determination).

E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Vendor completely waives any claims for protested work and accepts from the City any written order (including directions, instructions, interpretations, and determination).

VIII. LIMITATION OF ACTIONS. VENDOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 365 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR VENDOR'S ABILITY TO FILE THAT SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

IX WARRANTY. This Contract is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A, Revised Code of Washington. Vendor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Vendor's representations to City. The Vendor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work, at the Vendor's sole cost and expense. In the event any part of the goods are repaired, only original replacement parts shall be used, thus, rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Vendor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Vendor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Vendor shall pay all costs incurred by the City in order to accomplish the correction. The Contractor's warranty excludes remedy for damage caused by abuse, improper or insufficient installation by others, improper operation, or normal wear and tear under normal usage. In the event that installation is contracted with the Vendor, materials and equipment will be applied, programmed, installed, connected, erected, used, cleaned, and conditioned in accordance with the Work Order. Warranties will be provided as described in the Work Order, and the City's receipt of a warranty inconsistent with the terms of the Work Order will not constitute acceptance of those terms. This section does not supersede, nor void, any specific material and/or labor warranties provided by individual suppliers, vendors, or manufacturers. The Vendor agrees to assign to City at the time of final completion of the Work, any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such a manner so as to preserve any and all such manufacturer's warranties.

X. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XI. INDEMNIFICATION. The Vendor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of Vendor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

If the claim, suit, or action for injuries, death, or property damage is caused by or results from the concurrent negligence of (1) the Vendor or its officer, employees or agents, and (2) the City its officers, officials, employees and volunteers, this indemnity provision shall be enforceable only to the extent of the negligence of the Vendor, its officers, employees, or agents.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE VENDOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, RCW TITLE 51, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Contract.

XII. INSURANCE. The Vendor shall procure and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with products and materials supplied to the City.

No Limitation. Vendor's maintenance of insurance as required by the Contract shall not be construed to limit the liability of the Vendor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance.

Vendor shall obtain insurance of the type described below:

Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover products liability. The City shall be named as an insured under the Vendor's Commercial General Liability insurance policy using ISO Additional Insured-Vendors Endorsement CG 20 15 or a substitute endorsement providing equivalent coverage.

B. Minimum Amounts of Insurance

Vendor shall maintain the following insurance limits:

Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$1,000,000 products liability aggregate limit. Additionally, Vendor does maintain Umbrella liability, with limit of \$5,000,000 for each occurrence and aggregate limit.

C. Other Insurance Provisions. The Vendor's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Vendor's insurance and shall not contribute to it.

D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

E. Verification of Coverage. Vendor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Vendor before goods, materials or supplies will be accepted by the City.

F. Notice of Cancellation. The Vendor shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.

G. Failure to Maintain Insurance. Failure on the part of the Vendor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Vendor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Vendor from the City.

XIII. WORK PERFORMED AT VENDOR'S RISK. Vendor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. The Vendor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work due to the negligence of the Vendor, its officers, employees, or agents..

XIV. PREVAILING WAGES and BOND.

The Vendor agrees to comply with all state and federal laws relating to the employment of labor and wage rates to be paid. No final payment will be made on this Contract until the contractor and each and every subcontractor has submitted an "Affidavit of Wages Paid" that has been certified by the industrial statistician of the Department of Labor and Industries. Vendor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work. The Statement of Intent to Pay Prevailing Wages shall include the Vendor's registration certificate number and the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020, and the estimated number of workers in each classification. Vendor shall pay prevailing wages in effect on the date the bid is accepted or executed by Vendor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. The latest prevailing wage rate revision issued by the Department of Labor and Industries must be submitted to the City by Vendor. It shall be the responsibility of Vendor to require all subcontractors to comply with RCW Chapter 39.12 and this section of the Contract.

If any portion of the work contemplated herein constitutes a public work, pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish a Goods and Services Contract - 6

performance and payment bond to the City in the full amount of the bid with a surety company as surety, ensuring that the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such Contractor or subcontractors with provisions and supplies for the carrying on of such work. Such bond shall provide that any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original Contractor. In addition, the surety company providing such bond shall agree to be bound to the laws of the state of Washington, and subjected to the jurisdiction of the state of Washington and the Pierce County Superior Court in any proceeding to enforce the bond. This Contract shall not become effective until said bond is supplied and approved by the Engineer and filed with the City Clerk.

In the event that the Compensation called for in Section III of this Contract is less than \$150,000.00, which sum shall be determined after the addition of applicable Washington State sales tax, the Contractor may, prior to the execution to this contract and in lieu of the above mentioned bond, elect to have the City retain 10% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

XV. MISCELLANEOUS PROVISIONS.

A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. Resolution of Disputes and Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Washington, If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Contract, then the following shall be the means for resolving the dispute:

1. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written Contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

2. Should the parties fail to agree upon or be unable to select an arbitrator, then the dispute shall be resolved by filing suit exclusively under the venue, rules and jurisdiction of the Pierce County Superior Court, Pierce County, Washington or the United States District Court, Western District of Washington as appropriate. In any claim or lawsuit for damages arising

from the parties' performance of this Contract, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XI of this Contract.

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of the Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

D. Assignment. Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent.

E. Modification. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.

F. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, the terms of this Contract shall prevail.

G. Compliance with Laws. The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this Contract or accruing out of the performance of those operations.

H. Counterparts. This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.

I. Debarment. The Consultant must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Consultant or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

J. Severability. Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Contract which shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

K. Application of Uniform Guidance. If this contract involves the use, in whole or in part, of federal award(s), provisions (A)-(J) in Appendix II to Part 200 of the Uniform Guidance (2 CFR Ch. 11 (1-1-14 edition)) are hereby incorporated, as applicable, as if fully set forth herein. See attached Exhibit C.

IN WITNESS, the parties below execute this Contract, which shall become effective on the last date entered below.

CONSULTANT: By: _____ <i>Signature</i> Print Name: _____ Its: _____ <i>Title</i>	CITY OF SUMNER: By: _____ <i>Signature</i> Print Name <u>Kathy Hayden</u> Its: <u>Mayor</u> <i>Title</i> By: _____ <i>Signature</i> Print Name <u>Jason Wilson</u> Its: <u>City Administrator</u> <i>Title</i> Attest: _____ Approved as to Form: _____ <i>City Clerk</i> <i>City Attorney</i> Date: _____ Date: _____
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NOTICES TO BE SENT TO: CONSULTANT: Tom McKellar Security Solution Northwest LLC 1619 N State St Bellingham, WA 98225 (206) 513-3405 (telephone)	NOTICES TO BE SENT TO: CITY OF SUMNER: Patrick Skelly City of Sumner 1104 Maple Street Sumner, WA 98390 253-299-5600 (telephone)
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Exhibit A

System Proposal

Scope of Work

Thank you for the opportunity to quote the City Hall Access Control Upgrade project. This proposal provides turnkey pricing for Salto Access Control Upgrade at the following locations and turnkey pricing to replace existing stand alone Bosch System.

- Replace existing Cyberlocks with Salto electronic access control
- 17 traditional doors converted to Salto
- 59 Salto electronic locksets installed - All online via BlueNet
- ADA Integration
- Relocate REX at front door
- Hardwired BlueNet infrastructure
- Install a controller/card reader for door status and change or state at West entry door
- IP/Cell monitoring card included
- One Door Contact, one motion, and one keypad
- Includes Payment & Performance Bond for project per City requirements

This quote is based on the following assumptions:

- Excludes non electrified lock locations (mechanical only take overs)
- Excludes Alerting System
- Excludes 120v connections, if needed
- Option Provided for UHF reader at Vehicle Gate (Budget)
- Excludes wiring/troubleshooting existing wiring
- Excludes 120v connections, if needed

NOTE: SEE THE INCLUSIONS/EXCLUSIONS TABLE IN THIS PROPOSAL FOR ADDITIONAL INCLUSIONS AND EXCLUSIONS, ALONG WITH THE PRODUCT-SPECIFIC ONES LISTED ABOVE

We have been accepted as a provider under WSIPC. www.wsipc.org - SSNW RFP # 22-05

City of Sumner
Patrick Skelly
patrick@sumnerwa.gov

City Hall
1104 Maple St
Sumner, WA 98390

December 4, 2024

Page 2 of 3

BASE SALTO SYSTEM COMPONENTS:

Qty	Description	
1	NEO Cylinder RIM - ANSI	NMB1100N00PPBN
15	Wireless Gateways Nodes	RFNODE3W
1	Wireless Gateways	GATEWAYW3CUS
1	SALTO Neox Padlock G4	NMP4P60150CPB0
3	SALTO Neox Padlock G3	NMP3P48830CPB1
2	BLUEnet Door Controller	CUC1B0GUS
4	NEO Mortise - ANSI	NMM1135N00PMBN
2	NEO Cam Lock cylinder - UNIVERSAL	NMCL122M28CSBA
3	XS4 Original+ Wide Body Escutcheon	AM650G00DBB48E5G
3	Design XS - Mullion Wall Reader	WRDM0M4B
16	Design XS - ANSI Wall Reader	WRDM0A4B
7	CU4000 Controllers - UNIVERSAL	CU4200T00
2	CU4000 Controllers - UNIVERSAL	CU42E0T00
17	XS4 Mortise Locks - ANSI	LA1T0570A21PM8RH
23	XS4 Mortise Locks - ANSI	LA1T0570A21PM8LH
37	XS4 Original+ Wide Body Escutcheon	AM650G00DBB48
8	XS4 Mini ANSI	CM250G70DBB4
8	Cylindrical latches	LC1KC70IM
59	Bluenet Wireless License	SPACE-OPT-0033
59	UA7 Wireless License	UA-SW-LIC-WIRELESS-LOCK
2	UA7 Standard Door License x 10	UA-SW-LIC-10DOORS
3	3 Drawer Filing Cabinet Bar	MAJFB-3L
1	Deadbolt for Closet	4514-04-10B-0
4	Lockdown Buttons	
1	Wire and installation materials	
1	Permit Fees	
1	Labor for Locksmith	
1	Labor for Technician: Install, programming, testing, and training	

INTRUSION SYSTEM COMPONENTS:

1	B8512G-CV	KIT (B8512G, B8103, B444-V, D1640, D101)
1	B942W	COLOR GRAPHIC TOUCH SCREEN KEYPAD WITH PROX (WHITE)
1	ISC-CDL1-WA12G	COMMERCIAL SERIES TRITECH DETECTOR WITH ANTI-MASK 40 BY 40 FT
1	DPDT	Door Contact

SALTO & BOSCH SYSTEM SUBTOTAL: \$142,324.00

+ sales tax

P & P Bond \$3,557.00

+ sales tax

Sales tax @ 9.5% \$13,858.69

SALTO & BOSCH SYSTEM TOTAL: \$159,739.69

THESE ITEMS ARE **EXCLUDED** UNLESS MARKED YES:

Included in Scope:	Yes:	Included in Scope:	Yes:	Included in Scope:	Yes:
Shop Drawings		Panel	X	Fire Permit	
As-Built Drawings		Panel Install	X	Electrical Permit	X
REVIT LOD Design		Panel Program /Test	X	WA Prevailing Wages	X
Data Submittals	X	Fire Stopping		Davis Bacon Wages	
Wire Supply	X	Door Lock Hardware	X	P & P Bond	X
Wire Installation	X	Door Lock Hardware Install	X	Programming	X
Conduit & Installation		120v Power Material & Install		Fire System Testing	
Coring		Provide Lift(s)		Training - On-site 1 hr	X
Devices	X	POE Switches		Training - Remote 1 hr	
Devices Install	X	Magnetic Door Holders		Training - Remote 4 hr	
Devices Program/ Test	X				

TERMS AND CONDITIONS:

- Proposal is valid for 30 days from the date on this proposal
- An authorized purchase order and/or contract will be required to commence work
- A system with monitoring or cloud hosting will require a contract to activate
- Additional work requested beyond the scope of this proposal will be billed at a time & material rate
- Customer to provide robust & reliable Wifi connection if needed; parts needed to connect a cellular communicator with a weak cellular signal will be billed as an additional cost
- Proposal is based on plans noted above. If plans are found to be incorrect or incomplete during the design process, we will bill for the additional time.
- Existing wiring or equipment integrated into this scope of work is assumed to be in working order and supported by the manufacturer, any work and parts needed to upgrade or fix will be billed at a time and material rate
- All work to be performed during SSNW's business hours Monday - Friday 8:00 - 4:30 excluding holidays
- All parts and labor are warranted for one year
- Work will be billed each month in increments proportionate to progress toward completion of the project
- Balance to be billed at the completion of installation, payments are due at net 30 days from invoice date
- Pay Portal Fees are not included and will be billed to customer with a 10% markup

Presented by: _____

Tom McKellar - 206.513.3405

Acceptance: _____

(please sign here)

_____ *Date*

EXHIBIT C

APPENDIX II TO PART 200---CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the City of Sumner under federal award(s) are subject to the following provisions, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964- 1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, the following language is hereby incorporated into the contract as if fully set forth therein:

Application of Uniform Guidance. If this contract involves the use, in whole or in part, of federal award(s), the following provisions (29 CFR, Subtitle A Part 5, Subpart A, § 5.5, subsections (a)(1) – (a)(10)) shall apply:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon

Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The City of Sumner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the City. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the City if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the City, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the City or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in

the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the City may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7.. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other

award covered by 31 U.S.C . 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.



Staff present: Wilson, Marquez, Windish, Palmer, McCurdy, Steffens, Raymond, Walker, Kosa, and Converse

CALL TO ORDER

Deputy Mayor Cole called the meeting to order at 6pm.

Pledge of Allegiance

Invocation by Augustine Ansu

Roll Call: Bitetto, Bowman, Clerget, Cole, Elfers and Reinke

Mayor Hayden was absent.

OATH OF OFFICE

Deputy Mayor Cole invited Matt Kenna to the podium where she administered the Councilmember Oath of Office. Mr. Kenna was appointed to the seat after Councilmember Curt Brown resigned. Mr. Kenna will be serving out the remainder of Brown's term until December 2027.

Councilmember Kenna took his seat on the Dias.

CONSENT AGENDA

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

1. Operations Facility Temporary Construction Easement – Cabrera
2. South Tank Retrofit – Construction Contract Award
3. Resolution No. 1704 – Pierce Conservation District Interlocal Agreement
4. Resolution No. 1703 – Parklet Policy and Program
5. 2025 Legislative Agenda

PASSED BY VOICE VOTE.

PUBLIC HEARING

1. Ordinance No. 2905 – 2025/2026 Biennial Budget

Deputy Mayor Cole opened the Public Hearing at 6:07pm and called on Chief Financial Officer Kassandra Raymond to speak to the item.

Randall Adams, 15013 63rd St Ct E; Sumner spoke.

With no other comments from the public, Deputy Mayor Cole closed the Public Hearing at 6:13pm.

REGULAR BUSINESS

1. Unfinished Business

Nothing tonight.

2. PUBLIC COMMENT

Jan Brenn, Redmond, Washington – returning of donated items.

Nick Bierman, Park Road, Sumner, Washington – returning of donated items.

Jerry Yoder, Lake Tapps, Washington – electric car chargers / donated items.

Randall Adams, 63rd Street Court East, Sumner, Washington – spoke about items in the packet.

3. New Business

a. Ordinance No. 2889 – Battery Energy Storage Systems Code Amendment

MOVED BY REINKE, SECONDED BY BITETTO TO APPROVE ORDINANCE NO. 2889 – BATTERY ENERGY STORAGE SYSTEMS CODE AMENDMENT.

Associate Planner Chrissanda Walker presented the item.

Ms. Walker did point out there was a Scribner's Error made in the Ordinance in the weekly packet. This has since been corrected.

DEPUTY MAYOR COLE ASKED FOR PUBLIC COMMENT.

The following addressed the council on this matter -

Nick Biermann, 5802 Parker Road East, Sumner.

Randall Adams, 15013 63rd Street Court East, Sumner.

Christine Nhan, Local Government Affairs and Public Policy Manager For Puget Sound Energy (comments attached).

PASSED BY ROLL CALL VOTE.

b. Ordinance No. 2900 – Multifamily Residential Infill Code Amendment

MOVED BY ELFERS, SECONDED BY CLERGET TO APPROVE ORDINANCE NO. 2900 – MULTIFAMILY RESIDENTIAL INFILL CODE AMENDMENT.

Economic & Community Development Director Ryan Windish addressed the Council.

DEPUTY MAYOR COLE ASKED FOR COMMENT FROM THE PUBLIC.

Tina Burnett, 228 Sumner Avenue, Sumner.

COMMENTS FROM THE COUNCIL ENSUED.

PASSED BY ROLL CALL VOTE.

- c. **Ordinance No. 2901 – Permit Review & Timelines Zoning Code Text Amendment**
MOVED BY BOWMAN, SECONDED BY ELFERS TO APPROVE ORDINANCE NO. 2901 – Permit Review & Timelines Zoning Code Text Amendment.
Economic & Community Development Director Ryan Windish addressed the Council.

PASSED BY ROLL CALL VOTE.

- d. **Ordinance No. 2912 – Amending Sumner Municipal Code 13.08 Utility Billing and 13.20 Sewer Rates**

MOVED BY BITETTO, SECONDED BY REINKE TO APPROVE ORDINANCE NO. 2901 – AMENDING SUMNER MUNICIPAL CODE 13.08 UTILITY BILLING AND 13.20 SEWER RATES.

Administrative Services Director Jeff Steffens spoke to the item.

DEPUTY MAYOR COLE ASKED FOR COMMENT FROM THE PUBLIC.

Tina Burnett, 228 Sumner Avenue, Sumner.

Randall Adams, 15013 63rd Street Court East, Sumner.

PASSED BY ROLL CALL VOTE.

- e. **Ordinance No. 2911 – Establishing the 2025 Utility Rates**

MOVED BY REINKE, SECONDED BY BOWMAN TO APPROVE ORDINANCE NO. 2911 – ESTABLISHING THE 2025 UTILITY RATES.

Administrative Services Director Jeff Steffens spoke to the item.

DEPUTY MAYOR COLE ASKED FOR COMMENT FROM THE PUBLIC.

PASSED BY ROLL CALL VOTE.

- f. **Ordinance No. 2902 – Group Homes Code Amendment**

MOVED BY CLERGET, SECONDED BY KENNA TO APPROVE ORDINANCE NO. 2902 – GROUP HOMES CODE AMENDMENT

Associate Planner Chrissanda Walker spoke to the item.

DEPUTY MAYOR COLE ASKED FOR COMMENT FROM THE PUBLIC.

Randall Adams, 15013 63rd Street Court East, Sumner.

Councilmember Bowman commented on the topic.

City Administrator Jason Wilson clarified the intent of the ordinance.

PASSED BY ROLL CALL VOTE.

- g. **Ordinance No. 2913 – Significant Industrial User and Industrial Discharge Sewer Fees**

MOVED BY BOWMAN, SECONDED BY CLERGET TO APPROVE ORDINANCE NO. 2913 – SIGNIFICANT INDUSTRIAL USER AND INDUSTRIAL DISCHARGE SEWER FEES.

Public works Director Michael Kosa addressed the Council.

PASSED BY ROLL CALL VOTE.

h. **Ordinance No. 2914 – Hydrant Use and Deletion of Surcharge Area**

MOVED BY BITETTO, SECONDED BY ELFERS TO APPROVE ORDINANCE NO. 2914 – HYDRANT USE AND DELETION OF SURCHARGE AREA.

Public Works Director Michael Kosa addressed the Council.

Council discussion ensued.

PASSED BY ROLL CALL VOTE.

4. **Reports**

a. Council

Councilmember Bitetto it's nice to have a full council, welcome Councilmember Kenna. She continued by commenting on the new covered court at Rainier View Park and how much use it is already getting from the community. She was pleased the School District's Bond passed in the last election, it shows her that the citizens make education a priority.

Councilmember Bowman also welcomed Councilmember Bowman. She also sees people using the covered court. The Councilmember also commented on the School Districts Bond passing and she heard from students how excited they were that their school was finally getting fixed up. She ended her comments by thanking staff for their commitment to not only educate Council but also to make this community a better place.

Councilmember Clerget thanked staff for the prework they do in order to prepare for the meetings and he ended by welcoming Councilmember Kenna.

Councilmember Elfers congratulated Mr. Kenna. He offered condolences to the family of Curt Brown. Mr. Elfers ended his comments by wishing everyone a happy holiday.

Councilmember Kenna he has a care and interest in community and plans on continuing championing the causes of the underserved. His family enjoyed Alice and Wonderland presented by Sumner High School.

Councilmember Reinke, welcomed Councilmember Reinke. He also thanked staff for their hard work especially end of year items. The Budget and the Comprehensive Plans are both immense tasks. Congratulations to the Spartans as they continue their path to the State Championship. Mr. Reinke ended his comments by wishing everyone a good holiday.

b. City Administrator

Upcoming Policy Issues:

- November 25th – Meeting Cancelled
- December 2nd – Regular Council Meeting
 - Public Hearing for the 25/26 Budget
 - Public Hearing for the 2024 Comprehensive Plan Periodic Update
 - Public Hearing Final Budget Amendment
 - Amended Ordinance - Traffic Impact Fees

Miscellaneous:

- November 30th: Small Business Saturday, 10am – 6pm and Bridge Lighting with food trucks and vendors at the Old Cannery from 12-6, bridge lighting at 5pm.
- Curt Brown passing.

c. Mayor

Deputy Mayor Cole also welcomed Councilmember Kenna.

5. Executive Session

There was none tonight.

6. Adjournment

With no additional business before the Council, Deputy Mayor Cole reminded Council and the public of the Special Study Session which will begin in approximately five-minutes. She adjourned the regular meeting at 7:43pm. Councilmembers concurred.

ATTEST:

Pat Cole, Deputy Mayor

Michelle Converse, CMC City Clerk



Puget Sound Energy
P.O. Box 97034
Bellevue, WA 98009-9734
PSE.com

November 18, 2024

Sumner City Council
1104 Maple Street
Sumner, WA 98390
Michellec@sumnerwa.gov

RE: Ordinance No. 2899 – Battery Energy Storage Systems Code Amendment

Dear Members of the City Council:

On behalf of Puget Sound Energy (PSE), I would like to thank you for the opportunity to comment on proposed Ordinance No. 2899 relating to Battery Energy Storage Systems (BESS).

Puget Sound Energy (PSE) is Washington State's largest utility, serving about 1.2 million electric customers and 900,000 natural gas customers across our service territory. For over 150 years, our focus has been consistent on providing safe, reliable, and affordable energy services to the region. PSE is undergoing the most significant transformation in our history as we strive to meet Washington State's clean energy laws. Passed in 2019, the Clean Energy Transformation Act (CETA) commits Washington to phasing out coal by 2025, a carbon-neutral electricity supply by 2030, and 100 percent clean electricity by 2045. CETA includes specific requirements for utilities to meet these goals including ensuring that all customers equitably benefit from the transition to clean energy. Beyond CETA, PSE has set an aspirational goal to be a Beyond Net Zero Carbon utility by 2045. It is our goal to collaborate with customers and industries to identify programs, products, and new technologies that continue to meet their reliability needs while cost-effectively reducing carbon emissions.

In addition to adding new clean energy resources, our region is growing and policy changes at the local, state, and federal levels are driving an increased demand for electricity. As a result, our electric grid is often near capacity, putting people at risk from outages and disruptions. When energy demand surges, BESS can help provide reliable, cost-effective, and immediate power to help avoid outages and rolling blackouts. PSE sees batteries as essential utility infrastructure for our energy future to maintain grid reliability, accommodate increased demand for electricity, and improve the efficiency of intermittent resources like wind and solar.

PSE's efforts include both utility scale and smaller, residential or community-sited batteries. Overall, PSE projects a need for nearly 1,500 megawatts of energy storage by 2030.

BESS are not one-size-fits-all. Across our service area, there are unique geographic and weather challenges, different energy needs, and varying infrastructure. We have an obligation to identify potential impacts that local plans and development regulations may have on our ability to maintain, operate, and plan for the area's electric energy system.

We appreciate the collaborative, solutions-minded approach that the City has taken thus far and understand the City's urgency to establish some clarity around BESS deployment in Sumner. With that said, we believe that the ordinance (as drafted) could be improved in a number of areas. Those suggestions are briefly summarized below and we look forward to working with the City in 2025 to address these.

PSE requests consideration of the following proposals:

- Clarifying the definition of types of BESS uses.
 - We feel that the definitions could be improved and better apply to real-world applications by doing so.
- Allow for BESS as permitted use in M-1, M-2, and MICO Zones.
 - PSE strives to build relationships with municipalities when applying for permits.
 - We recommend utilizing a pre-application review process.
 - This process may also eliminate conditions found in the conditional use permitting process.
- Performance standards for BESS should be consistent with requirements found for other uses in the same zone.
 - Requiring large trees next to electrical infrastructure may cause safety concerns.
 - Trees can provide additional screening and reduce noise as a buffer.
 - However, we recommend rephrasing the 6ft tree requirement to include "vegetative buffers".
 - "Vegetative buffers" provide flexibility and allows vegetation and/or trees to be planted that can safely coexist with electrical infrastructure.
 - Regarding odor, noise, and vibrations as a condition for BESS, existing code addresses odor (18.18.060.I), noise (18.18.060.A), and vibrations (18.18.060.K).
 - Adding additional language may be duplicative in this process
 - The language regarding the "requirement that an applicant evaluate the overall distribution of other BESS facilities and assess undue burden", also seems duplicative as impacts are identified and mitigated under the conditional use process.
 - BESS is still in its infancy and comparing current BESS to newer systems may be difficult as systems in the state are currently in development.

Again, thank you for the opportunity to provide brief comments. We look forward to continued conversations in 2025 surrounding the deployment of BESS infrastructure. If you have any questions, please do not hesitate to contact me at (253) 229-0953 or christine.nhan@pse.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christine Nhan', with a stylized, cursive script.

Christine Nhan
Local Government Affairs and Public Policy Manager
Puget Sound Energy



Staff present: Wilson, Marquez, Kosa, Steffens, Raymond, Harter and Franich

Councilmembers present: Bitetto, Bowman, Clerget, Cole, Elfers, Kenna and Reinke

Mayor Hayden was absent from the meeting. Deputy Mayor Cole presided over the meeting.

THE MEETING WAS CALLED TO ORDER AT 7:46PM BY DEPUTY MAYOR COLE.

SPECIAL STUDY SESSION BUSINESS

1. Ordinance No. 2910 – 2023/2024 Final Budget Amendment
2. 2025/2026 Biennial Budget Review

Discussion for both topics was led by Chief Financial Officer Kassandra Raymond.

ADJOURNMENT

With no additional items for discussion, Deputy Mayor Cole adjourned the meeting at 8:11pm.

Attest:

Pat Cole, Deputy Mayor

Michelle Converse, City Clerk



Staff present: Wilson, Marquez, Moericke, Steffens, Palmer, Raymond, Beagle, Kosa, and Converse

CALL TO ORDER

Deputy Mayor Cole called the meeting to order at 6pm.

Pledge of Allegiance

Invocation by Taylor Ford

Roll Call: Bitetto, Bowman, Clerget, Cole, Elfers, Kenna
and Reinke

Mayor Hayden was absent.

CONSENT AGENDA

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

1. Approval of checks and electronic payments in the amount of \$2,175,497.92
2. Approval of the regular meeting and special study session minutes from November 4, 2024, and the November 12, 2024 study session.

PASSED BY VOICE VOTE.

PUBLIC HEARING

1. 2024 Comprehensive Plan Periodic Update

- a. Ordinance No. 2906 – 2024 Comprehensive Plan volume 1, Draft Environmental Impact Statement Volume II, Transportation Plan and Capital Facilities Plan
- b. Ordinance No. 2907 – Zoning Code Text Amendment on Housing and Land Use Regulations
- c. Ordinance No. 2908 – Zoning Code Text Amendments on Historic & Cultural Preservation Regulations
- d. Ordinance No. 2909 Critical Areas Regulations Amendments

DEPUTY MAYOR COLE OPENED THE PUBLIC HEARING AT 6:03. Community & Economic Development Director Ryan Windish spoke to the topic.

There were questions from Council and comments from the following attendees:

Robyn Honeysett, 1402 East Valley Highway, Auburn

Randall Adams, 15013 63rd Street Court East, Sumner

Nick Biermann, 5802 Parker Road East, Sumner

WITH NO ADDITIONAL COMMENTS FROM THE PUBLIC OR THE COUNCIL, DEPUTY MAYOR COLE CLOSED THE HEARING AT 6:34PM.

2. Ordinance No. 2905 – 2025/2026 Biennial Budget

DEPUTY MAYOR COLE OPENED THE PUBLIC HEARING AT 6:34PM.

Chief Financial Officer Kassandra Raymond addressed the Council.

Randall Adams, 15013 63rd Street Court East, Sumner spoke.

WITH NO ADDITIONAL COMMENTS FROM THE PUBLIC AND NO COMMENTS FROM THE COUNCIL, DEPUTY MAYOR COLE CLOSED THE HEARING AT 6:51PM.

3. Ordinance No. 2910 – 2023/2024 Final Budget Amendment

DEPUTY MAYOR COLE OPENED THE PUBLIC HEARING AT 6:52PM.

Chief Financial Officer Kassandra Raymond addressed the Council.

WITH NO COMMENTS FROM THE PUBLIC OR THE COUNCIL, DEPUTY MAYOR COLE CLOSED THE HEARING AT 7:04PM.

REGULAR BUSINESS

1. Unfinished Business

There was no unfinished business tonight.

2. Public Comment

Randall Adams, 15013 63rd Street Ct E, Sumner

Nick Biermann, 5802 Parker Road East, Sumner

3. New Business

a. Substitute Ordinance No. 2885 – Transportation Impact Fees

MOVED BY CLERGET, TO APPROVE SUBSTITUTE ORDINANCE NO. 2885 – TRANSPORTATION IMPACT FEES. SECONDED BY ELFERS.

Public Works Director Michael Kosa addressed the Council.

Discussion ensued.

PASSED BY ROLL CALL VOTE.

4. Reports

a. Council

Councilmember Bitetto Saturday, November 30th there was a great turnout for the bridge lighting which shows how important events like those are to the community. Congratulations to the High School football team for making it to the finals.

Councilmember Bowman echoed the thoughts of Councilmember Bitetto taking note of the strong community that Sumner is. Thanks to everyone for sharing their true passion about the City we live in. She appreciates it.

Councilmember Clerget thanked everyone for their public comment whether in person or via email on the comp plan and the budget. He reiterated that they are read and taken into consideration when making their decisions.

Councilmember Elfers had a great Thanksgiving and he hopes that everyone did. He also enjoys looking at Christmas lights around the neighborhoods. He mirrored other Councilmembers comments.

Councilmember Kenna congratulated the Sumner High School football team, hopefully they can bring it home. He appreciates the look and feel of Sumner during the holidays. He now enjoys it with his children, realizing these are the memories they will cherish.

Councilmember Reinke he attended the bridge lighting and it is getting bigger and bigger and attracts people from all over. He thinks it's a great event! Thank you to the Old Cannery Furniture Warehouse and Township 20 for their sponsorship of the event. He then made it to the tale end of the football game. The last time the Spartans made it to a state championship was 1977. He invited everyone to the annual Firefighter Pancake Feed the 7th at Station 113, donations go to the Sumner Family Center.

b. City Administrator

Upcoming Policy Issues:

- December 9th – Special Council Meeting
 - Public Hearing on the Library Development Agreement
 - Operations Facility Phase 3 – Construction Contract
 - 2024 Sidewalk Repair Program – Change Order
 - Resolution Accepting a grant - TIB Complete Streets
 - South Tank Retrofit – Consultant Contract Amendment
 - Biosolids Dryer Procurement Contract (CIP 21-17) – Change Order No. 1
 - White River Restoration Project Plant Procurement Contract Award
 - Amendment to the East Pierce Interlocal Coalition for Emergency Management
 - Contract Amendment with Robinson Noble
 - Adoption of the 2025/26 biennial budget
 - 2023/24 Final Budget Amendment
- December 9th – Study Session
 - Comp Plan Review Questions/Wrap Up
- No Meetings until January 6th

Miscellaneous:

- Santa Parade: The parade is this Saturday at 3:30pm. Come out early to visit our downtown merchants and enjoy another popular parade.

c. Mayor

Deputy Mayor Cole hopes that everyone enjoys the holiday season and stays safe!

DEPUTY MAYOR COLE ADJOURNED THE REGULAR COUNCIL MEETING INTO EXECUTIVE SESSION AT 6:23PM FOR A PERIOD OF 10-MINUTES. THERE WILL BE NO ACTION TO FOLLOW.

5. Executive Session

Per RCW 42.30.110(1)(g) - to evaluate the qualifications of an applicant for public employment or to review the performance of a public employee.

The regular meeting was reconvened at 6:33pm.

6. Adjournment

With no additional business before the Council, Deputy Mayor Cole adjourned the regular meeting at 6:33pm. Councilmembers concurred.

ATTEST:

Deputy Mayor Pat Cole

Michelle Converse, CMC City Clerk

DRAFT

SUBJECT: Ordinance No. 2915 - Sumner Library Development Agreement

CATEGORY: Public Hearings

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2915 - Sumner Library Development Agreement
-

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

After the Pierce County Rural Library District purchased a 3-parcel site on Main Street from the City for the new library facility, Sumner voters approved a bond measure for a new public library. The parcels total approximately 1.7 acres and will be consolidated into one lot for the new Sumner Public Library building. The building will be approximately 17,500 SF with additional associated site development. To begin constructing the library, the District applied to the City for a conditional use permit as the site is zoned General Commercial. The City and the District also drafted a development agreement to supplement the permitting process due to the mutual advantages that a development agreement might provide for the public entities. This development agreement vests various city development codes to the current version of the codes and sets other development guidelines. This vesting lasts for 3-5 years, depending on the District's progress toward completing construction of the library, but the agreement preserves the City's authority to address serious threats to public safety at any time. Similarly, transportation and park impact fees are vested at the 2024 rates. The agreement specifically addresses the street parking permitted on Main Street for the new building and defines the public access route from Main Street to the library's parking area, which will be located behind the building. The agreement also requires the District to construct an 8-foot fence where fencing is required between the library site and residential lots. In addition to these development guidelines, the agreement requires the Library to either create a space on the property or provide rotating exhibits that communicate historical information about Sumner to the public. This second, connected agreement, has a 50-year term. As required by City code, the City held a public hearing regarding the development agreement in front of the Sumner Hearing Examiner. At the same hearing, the Examiner also considered the District's application for a conditional use permit. The examiner recommended that the City Council approve the Development Agreement. The Examiner will rule on the District's conditional use permit application after the City Council takes action on the development agreement.

COUNCIL COMMITTEE/STUDY SESSION:
--

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Public Hearing only - item will be moved to a meeting in January for Council approval.

ORDINANCE NO. 2915
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH PIERCE COUNTY RURAL LIBRARY DISTRICT RELATED TO THE DEVELOPMENT OF A NEW SUMNER PUBLIC LIBRARY.

WHEREAS, in the Aug. 1, 2023, primary election, voters in the City of Sumner approved a Library Capital Facility Area (LCFA) and bonds to build a new Sumner Library; and

WHEREAS, the Pierce County Rural Library District purchased adjacent parcels at 15126, 152008, and 15216 Main Street in Sumner for the new public library and has applied for a conditional use permit from the City for building the library at that location; and

WHEREAS, the District is seeking to enter into a development agreement with the City to vest certain zoning and development rules and regulations, including impact fees; and

WHEREAS, the proposed development agreement requires the District to later execute an agreement to provide space at the public library site for a permanent or rotating display exhibiting Sumner's history; and

WHEREAS, development agreements are specifically authorized by RCW 36.70B.170-210 and SMC 18.20 as a proper exercise of a City's police power; and

WHEREAS, a duly noticed public hearing on the development agreement was conducted by the Sumner Hearing Examiner on November 20, 2024; and

WHEREAS, following the public hearing by the Sumner Examiner, the City Council held a duly noticed public hearing regarding the development agreement on December 2, 2024. and

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

Section 1. In accordance with its authority pursuant to SMC 18.20.010, the City Council authorizes the Mayor to execute, on behalf of the City of Sumner, a development agreement with

the Pierce County Rural Library District, which agreement shall substantially conform to Exhibit A, and to execute any and all other related documents necessary to effectuate the agreement.

Section 2. The City Council authorizes the Mayor to execute, on behalf of the City of Sumner, an agreement with the Pierce County Rural Library District requiring the District to exhibit information regarding Sumner's history at the new Sumner public library, which agreement shall substantially conform to Exhibit E of the development agreement.

Section 3. All sections in this ordinance are hereby deemed severable. Any section found invalid or unconstitutional by a court of law with jurisdiction shall not be deemed to invalidate or find unconstitutional other sections in this ordinance.

Section 4. Corrections. The City Clerk or City Attorney are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Effective Date. This ordinance shall become effective five days after publication in the official newspaper of the City of Sumner.

Passed and approved by City Council of the City of Sumner at regularly scheduled open public meeting on the _____ day of _____ 2025.

Kathy Hayden
Mayor, City of Sumner

Approved as to form:

Attest:

Andrea Marquez
City Attorney

Michelle Converse
City Clerk

**DEVELOPMENT AGREEMENT
for the
DEVELOPMENT OF THE PIERCE COUNTY SUMNER LIBIRARY**

Parties: Pierce County Library and the City of Sumner Tax
Parcel Account Nos: 0520197014, 0520197015 and 0520193060
Date: XXXXX, 2025

This Development Agreement (“*Development Agreement*” or “*Agreement*”) regarding development of a new Pierce County Public Library in Sumner, is made by and between the **CITY OF SUMNER**, a Washington municipal corporation (“*City*”) and the **PIERCE COUNTY RURAL LIBRARY DISTRICT**, a Washington county library established pursuant to title 27.12 RCW (“*Library*”). The City and the Library shall be referred to as a “party” or collectively as the “parties” to this Agreement. The “Effective Date” of this Agreement shall be the later date of the parties’ execution of this Agreement.

I. RECITALS

A. RCW 36.70B.170 through .210 authorizes a governmental entity to enter into, as a proper exercise of its police power, a development agreement with an individual or entity having ownership or control of real property within its jurisdiction. The City has codified this police power authority in Sumner Municipal Code (“*SMC*” or “*City Code*”) 18.20.010 through .050.

B. The Library is the owner of approximately 1.67 acres of property in Sumner that is zoned General Commercial under the Sumner Municipal Code. The Property consists of parcel numbers 0520197014, 0520197015 and 0520193060 and is legally described on ***Exhibit A*** and depicted on ***Exhibit B*** (“*Library Site*”). The Library intends to develop the Property for use as a public library and the City hearing examiner may permit development of the Property in that zone for that use. The Library seeks confirmation of the development standards that will apply to development of the new public library.

C. The City issued a final Mitigated Determination of Non-Significance (MDNS), pursuant to the State Environmental Policy Act (SEPA) RCW 43.21C, on November 26, 2024.

D. On November 26, 2024, following a public hearing and completion of the State Environmental Policy Act (“SEPA”) review process, the City’s Hearing Examiner approved this Agreement and granted a Conditional Use Permit (CUP 2024-0007) for the use of the Library Site as a new public library.

E. The approval of this Agreement constitutes a land use decision under RCW Ch. 36.70C.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

1. **Development.** Subject to subsection (2)(g), the Library may develop the Property after the Effective Date of this Agreement with new buildings, outdoor storage, parking, and other site improvements all for the purpose of providing library services to the residents of Sumner and Pierce County ("*Library Development Project*"). The future Development will require the issuance of building and other construction permits pursuant to the Sumner Municipal Code and the provisions of this Agreement. A conceptional plan for the Library Development Project is attached as Exhibit C.

2. **Development Standards.** Except as otherwise provided in this Agreement, the Library Development Project occurring subsequent to the Effective Date shall be governed by this section as well as those City Code provisions identified in subsection (g) that are in effect on the Effective Date.

(a) **Use.** The authorized uses on the property shall be limited to use as a public library and those principal and conditional uses permitted in the General Commercial zone, as identified in the Vested City Code.

(b) **Access.** (i) The requirements of SMC 18.43.100 are modified to relieve the Library from the obligation to grant and record an access corridor easement to permit ingress and egress from parcel 0520197013 and the Library may prevent vehicular ingress and egress from that parcel. The Library shall otherwise comply with the provisions of Chapter 18.43 SMC in effect at the time of the Effective Date.

(ii) If access by the public to the Library Site is provided over parcels 0520193076 and 7001640060 pursuant to recorded access easements, the Library agrees to maintain, restore, reconstruct, and generally keep the Easement Areas, described and depicted in Exhibits A & B, in good condition and repair so that the Easement Areas are safe for pedestrian and vehicular travel (including emergency vehicular travel). The Library shall cut, trim, remove and dispose of any vegetation on the Library Site that interferes with pedestrian and vehicular travel. Maintenance, restoration, and repair work shall be conducted in a good and work-manlike manner and expeditiously prosecuted to completion as not to unreasonably interfere with or hinder use of the Easement Areas. When the Library performs maintenance, repair, restoration, or clearing in the Easement Areas or on its servient property, it will make all reasonable accommodations to minimize interruption of travel over and use of the Areas, including performing, if necessary, the work in stages to insure that at all times a 12-foot drive-aisle is passable. The City assumes no responsibility for the maintenance, repair or restoration of the Easement Areas.

(iii) If access by the public to the Library Site is not granted by recorded easement over parcels 0520193076 and 7001640060, the requirements of 18.43 SMC are modified to allow public access to the Library Site from Main Street and to allow the Library to construct a driveway abutting the Main Street right-of-way. The driveway shall be constructed according to the requirements of the applicable provisions of the SMC and the Sumner Development Specifications and Standard Details. The Library shall

otherwise comply with the provisions of Chapter 18.43.SMC in effect at the time of the Effective Date.

(c) **Parking.** Based on the need for library patrons to quickly deposit borrowed books inside the Library building or in an exterior depository, on-street parking may be installed along the frontage of the Library Site. The on-street parking areas shall conform to the Sumner Development Specifications and Standard Details and the city's SEPA determinations.

(d) **Fence Height.** The City acknowledges and recognizes that SMC 18.12.080J(8) provides an exemption for fence heights associated with public facilities, including libraries. Such facilities are allowed fence heights necessary and appropriate for such facilities. The City, therefore, approves and consents to, and the Library agrees to install, 8-foot fences wherever SMC provisions require the installation of fencing for the Library Development Project. The fencing shall be installed according to the relevant SMC provisions and the Building Code.

(e) **Impact Fees.** The Library shall pay and City shall collect impact fees under Title 12 of the City Code as a condition of Development approvals, subject to the provisions of this Section. The fees (i.e. Park and Transportation) shall be calculated according to the City's current schedule of impact fees in effect on the Effective Date and for a 12-month period thereafter. Impact fees for building permits issued to the Library for the Library site after 12 months following the Effective Date shall be imposed and paid by Library per the then-current schedule of impact fees as it may be amended from time to time.

(g) **Vesting.** The Library Development Project shall vest to the Effective Date of this Development Agreement (the "*Vesting Date*"), as described more particularly below under Section 5. Such vesting shall extend for 5 years from the Effective Date, subject to the reservation of the authority of the City set forth under Section (g)(iii) below.

i. ***Vested City Code.*** Except as otherwise expressly set forth under this Development Agreement, the Vested Codes ("*Vested City Code*") shall consist of the codes, rules, regulations, officially adopted policies, standards and specifications applicable to the Library Development in effect on the Effective Date. The following SMC chapters and titles shall be the Vested City Codes under this Agreement: SMC Ch. 12.02 and the City of Sumner Development Specifications and Standard Details,, Ch. 12.24, Ch. 12.36, Ch 12.38, Ch. 12.42, Ch. 13.28, Ch. 13.30, Ch. 13.36, Ch. 13.48 Ch.15.34, Ch.15.52; Title 16, Ch. 18.02, C.18.04, Ch.18.16 Ch 18.30, Ch. 18.32, Ch.18.41. Ch.18.42, Ch. 18.43, Ch. 18.44, Ch. 18.48, Ch. 18.50, Ch. 18.54, Ch. 18.56, and the City of Sumner Comprehensive Plan, including the Comprehensive Plan Land Use Designation of Public-Private Utilities and Facilities on the School Site.

In addition to the above laws, the Library Development shall be subject and vested to the versions of the International Building Code, International Fire Code, and other building construction codes, such as the Seismic Code, including any fees associated thereunder, in effect in the City at the time of the Library's submittal of a complete building permit application.

A complete copy of the Vested City Code is included as Exhibit D, which shall not be included in the recorded copy of this Agreement but shall be available on file at the Auburn Department of Community Development.

Notwithstanding the foregoing, Developer acknowledges that the Library Development contemplated by this Agreement shall be subject to all other city, state, and federal rules, regulations, and code provisions, including any amendments thereto, that are not identified in this section.

ii. ***Project Approval.*** Without limiting the foregoing, the Library shall have the right to develop the Library Development Project according to the terms and conditions of the following:

- (a) the terms and conditions of this Development Agreement;
- (b) the Mitigated Determination of Non-Significance under SEPA, RCW Ch. 43.21C, for the Library Development Project issued by the City on November 26, 2024; and
- (c) the terms and conditions of approval of the CUP 2024-0007 issued by the City Hearing Examiner by decision dated XXXXXXXXXX, 2024, and which approval and CUP shall be deemed extended concurrent with the Term of this Agreement.

iii. ***Exemptions.*** Amendments, additions, increases or other changes to the following plans, policies, laws, ordinances, regulations, fees and monetary charges adopted by the City following the Effective Date are exempt from the vesting provided in this Agreement:

- (a) Permit application, permit review, and inspection fees applicable to any application for development;
- (b) Water, sewer and stormwater connection charges, general facility charges, and monthly service charges, as the Council may from time to time adopt and/or amend; and
- (c) Impact fees imposed under Title 3 of the SMC, except as otherwise specifically provided in this Agreement;
- (d) The City's authority to require additional SEPA review and/or mitigation under Ch. 43.21C and Ch. 197-11 WAC in connection with applications for development approvals; provided however that the Library Development Project shall be vested to the City's substantive SEPA policies and regulations in effect on the Effective Date;
- (e) Any law, ordinance, rule, regulation or policy adopted by the City pursuant to RCW 36.70B.170(4), following written notice to the Library and an opportunity

to be heard, that the City deems necessary to address a serious threat to public health and safety;

(f) Procedural ordinances or regulations of the City which are not substantive, relating to hearing bodies, notices, applications, findings, records, hearings, reports, recommendations and appeals and any other matter of procedure;

(g) Any plans, policies, ordinances, regulations or Vested City Code that the City must change, or the City reasonably determines to be necessary to change, to comply with, the requirements of any state or federal law or the directive of any state or federal agency or court in order to avoid being in violation of state or federal law or to preserve the City's eligibility to receive shared revenues, grants, or other funding, but only to the extent necessary to comply with such state or federal law, directive, or order. To the extent that the City can comply with such state or federal law, order, or directive by adopting changes to plans, policies, ordinances or regulations that apply prospectively, this exemption shall not apply to permit retroactive changes to the terms, conditions or Vested City Code provisions to which the Library Development Project is vested under this Agreement;

(h) Taxes of any nature of general applicability throughout the City.

iv. ***Subsequent Code Amendments.*** If mutually agreed by the Library and City, the Library may develop the Property in accordance with one or more amendments to the Vested City Code adopted after the Effective Date, without the obligation to comply with other subsequently adopted City Code provisions. The City's decision whether to agree to application of such amendments to the Vested City Code may be made administratively by the City's City Manager. Any such agreement must apply the entirety of an amended City Code section or chapter, as applicable, which shall apply to all future Development from the time of such Code amendment through the Term of this Agreement.

3. **Historic Space.** In consideration for the mutual promises of and certainty provided by this Agreement, the Library agrees to execute a services agreement for the creation and maintenance of "historic space(s)" within the Library for exhibiting Sumner community information and city history. A proposed Historic Space Service Agreement is attached to this agreement as Exhibit E and is incorporated herein.

4. **Term.** This Agreement shall remain in effect for 5 years from the Effective Date ("Term") provided it is not earlier terminated pursuant to this section. The Agreement shall earlier terminate if the Library has not performed the following two conditions within three years from the Effective Date:

(a) Submit to the City a full and complete building permit application for the Library Development Project, as identified in CUP 2024-007; and

(b) Publish a request for bids for the Library Development Project, as identified in CUP 2024-0007.

Any request for an extension of the Term under this Development Agreement shall be subject to submittal of a Type VI Land Use Application under SMC Ch. 18.56, as of the Effective Date of this Development Agreement, and shall be processed for review and determination before the City Council, at a public hearing in accordance with SMC Ch. 18.20, as of the Effective Date of this Development Agreement. In no event shall an extension of the Term be for a period of greater than five (5) years.

5. **Effective Date.** The “Effective Date” of this Agreement shall be the later date of the parties’ execution of this Agreement. Provided, however, in the event of any judicial appeal by a third party of this Agreement in accordance with the Sumner Municipal Code, the Effective Date shall be extended to the date that any such appeal is concluded by mandate to Superior Court upon conclusion of all appellate review. The Library agrees to be solely responsible for, and liable for all risk associated with, and to defend, hold harmless and indemnify the City from and against any and all liability, damages, costs or expenses, including attorney's fees, in the event the Library undertakes any construction activities during any such appeal.

6. **Conforming structures, improvements and uses.** Amendments to the City Code during the Term of this Agreement shall not be deemed to create nonconforming structures, improvements, or uses. Structures, improvements and uses that are consistent with this Agreement shall be considered conforming, and such uses may continue and such structures and improvements may be maintained, repaired, remodeled and replaced, consistent with the standards in Section 2 and the Vested Code, for the Term of this Agreement.

7. **Amendments.** The Library may apply for amendments to this Agreement. “Minor Amendments” are those that do not increase the gross floor area of potential Development by more than 10% or do not significantly increase the environmental impacts of development on the Property, unless those impacts are mitigated to a level that is less than significant. Minor Amendments may include, but are not limited to,

- Deviations from development standards in addition to those provided in Section 2.
- An alteration of the alignment or configuration of a building or facility that does not decrease any setback or materially increase any off-site impacts;
- Any change that does not increase the impervious surface area nor create any significant increase in any off-site impacts or detrimentally impact the surrounding community;
- Any change that does not increase impacts on the transportation network;
- Any change that would allow issuance of an Addendum to the MDNS under the SEPA rules and regulations (RCW ch. 43.21C and WAC ch. 197-11).

Minor Amendments relating to zoning and land use shall be approved administratively by the City Manager and Minor Amendments related to engineering standards by the City’s Public Works Director. The City shall render a decision on such request for a Minor Amendment not more than twenty (20) days after delivery of said Minor Amendment application to the City.

All other amendments are Major Amendments and shall require submittal of a written application by the Library, as a Type VI Application, and shall require review, a public hearing, and recommendation by the Hearing Examiner, and review, public hearing, and approval by the City Council by Ordinance, to the extent required under SMC 18.20 as of the Effective Date of this Development Agreement.

8. **Default and Remedies.**

(a) **Default.** Subject to the notice and opportunity to cure provided in this section, any failure by a Party to perform any material action required under this Agreement shall constitute a default, unless such failure is compelled by order of a court.

(b) **Dispute Resolution.** In the event of any dispute under and prior to any claim of default under this Agreement, the parties, upon the written request of the other party, shall first meet not more than seven (7) business days from the date of such request to seek, in good faith, to resolve such dispute. The City shall direct the appropriate department director or staff member with information relating to such dispute and the Library shall direct the project manager, consultant, and/or an appropriate staff member with adequate technical information or expertise related to such dispute to attend such meeting.

(c) **Notice and Opportunity to Cure.** Except as expressly provided otherwise in this Agreement, no party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within thirty days and diligent prosecution to completion of the cure shall be deemed a cure.

(d) **Rights of Non-Defaulting Party.** Except as set forth herein, a party not in default under this Agreement shall have all rights and remedies provided by law or equity, including without limitation damages, specific performance, or writs to compel performance or require action consistent with this Agreement.

(e) **Attorneys' Fees.** In any action to enforce or determine a party's rights under, this Agreement, the prevailing party shall be entitled to attorney's fees and costs and other professional fees and all other fees and expenses actually incurred and reasonably necessary in connection therewith.

9. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be deemed delivered on the date of hand delivery of the notice or the date that is three days after mailing of the notice by certified or registered mail, return receipt, postage prepaid, to the parties at the addresses set forth below:

If to Owner: Gretchen Caserotti
Executive Director

3005 112th St E Tacoma, WA 98446

If to City: Jason Wilson
City Administrator
1104 Maple Street
Sumner, WA 98390
jasonw@sumnerwa.gov

The Parties, by notice given, may designate any further or different address to which subsequent notices are to be sent.

10. **Specific Performance.** The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties.

11. **Third Party Beneficiaries.** There are no third-party beneficiaries of this Agreement and no party other than the Owner and the City shall be entitled to enforce this Agreement.

12. **Mutual Drafting.** Both the City and Owner have participated fully in the drafting of this Agreement, and the rule of construction of ambiguities against the drafter shall not apply to either Party.

13. **Covenant Running with the Land.** All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law. Each covenant to do or refrain from doing some act on the Property hereunder, (a) is for the benefit of such properties and is a burden upon the Property, (b) runs with the Property, and (c) is binding upon each successive owner during its ownership of Property or any portion thereof, and each person having any interest therein derived in any manner through any owner of the property or any portion thereof, and shall benefit such party and the Property hereunder, and each other person succeeding to an interest in such Property.

14. **Recording.** This Agreement shall be recorded with the Office of the Pierce County Recorder.

15. **Entire Agreement.** This Agreement represents the entire agreement of the Parties with respect to the subject matter of this Agreement. There are no other agreements, oral or written, except as expressly set forth in this Agreement. This Agreement supersedes all previous agreements, oral or written, except as expressly set forth in this Agreement. This Agreement may be modified only by a written instrument duly executed by the Parties following the amendment process described in Paragraph 7 of this Agreement.

16. **Authority.** The obligations to dedicate property, implement mitigation measures, make impact fee or other payments, or to fund or to provide services, infrastructure, or other facilities agreed to by Library in this Agreement are made pursuant to, authorized by and/or are consistent with applicable law, including without limitation RCW 43.21C.060, WAC 197-11-

350, RCW 36.70B.170(4), RCW 82.02.020 and the Washington State and United States Constitutions. Each Party represents and warrants that it has the power and authority, and is duly authorized, to enter into this Agreement on the terms and conditions herein stated, and to deliver and perform its obligations under this Agreement.

17. **Counterparts.** This Agreement may be executed in counterparts, with each Party sending a .pdf of its signature to the other Party by electronic mail transmission. This Agreement, when fully executed and signature pages exchanged as provided herein shall be effective as the original document.

18. **Exhibits.** This Agreement includes the following Exhibits, which are incorporated by reference:

- a. Exhibit A: Legal description of Property.
- b. Exhibit B: Depiction of Property.
- c. Exhibit C: Sumner Library Plans
- d. Exhibit D: Vested Codes
- e. Exhibit E: Historic Space Service Agreement

19. **Indemnification.** Library releases and agrees to defend, indemnify and hold harmless the City and all of its elected and appointed officials and its employees from all liability, claims, causes of action, fees (including reasonable attorneys' and expert fees), penalties, appeals and costs, including but not limited to the costs of defense of any claim or appeal brought by a third party, arising in connection with the approval of or otherwise relating to this Agreement or any Development under this Agreement, except to the extent resulting from the sole negligence of the City or its officers, agents or employees in performance of this Agreement, and except in connection with any action by either Party to enforce this Agreement or in connection with any other matter in which the Library and City are adverse.

20. **Interpretation.** The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the City's authority to enter into development agreements pursuant to RCW 36.70B.170 – .210, except that this Agreement shall be construed to exclude from the scope of this Agreement actions taken by the City through its police power authority, as defined by the Washington State constitution and general law, and other actions that are prohibited by law from being subject to a mutual agreement with consideration.

21. **Non-Enforcement Not Waiver.** Failure by any one of the parties to enforce this entire Agreement or any provision of it with regard to any provision contained herein shall not be construed as a waiver by that party of any right to do so.

22. **City Council Authority.** This Agreement shall be subject to approval by no less than a majority vote of the City Council of the City of Sumner. Absent such approval, this Agreement shall be void and of no further force or effect.

Notary Public in and for the State of Washington,
residing _____ at

Name (printed or typed):

My appointment expires:_____

EXHIBT A

Section 19 Township 20 Range 05 Quarter 33 BEG AT A PT ON S LI OF W E DANIEL CO RD 726 FT E & 30 FT S OF NW COR LOT 4 IN SEC TH E 132 FT TH S 389 FT TH W 132 FT TH N 389 FT TO BEG (DC2135HW5-14-86)

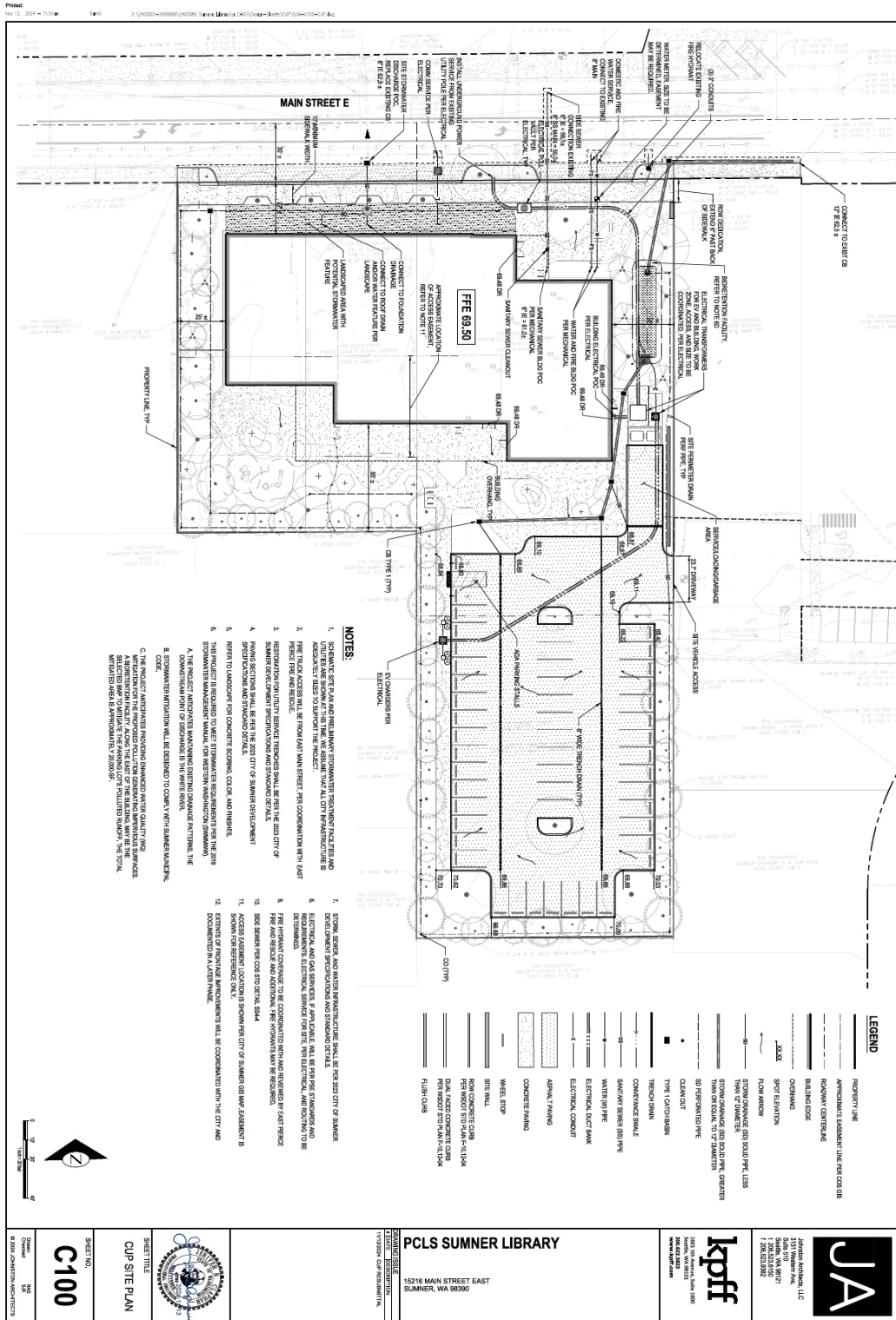
Section 19 Township 20 Range 05 Quarter 33 : L 2 OF SHORT PLAT 81-06-30-0321 OUT OF 3-098

SEG R-0553 DL EMS

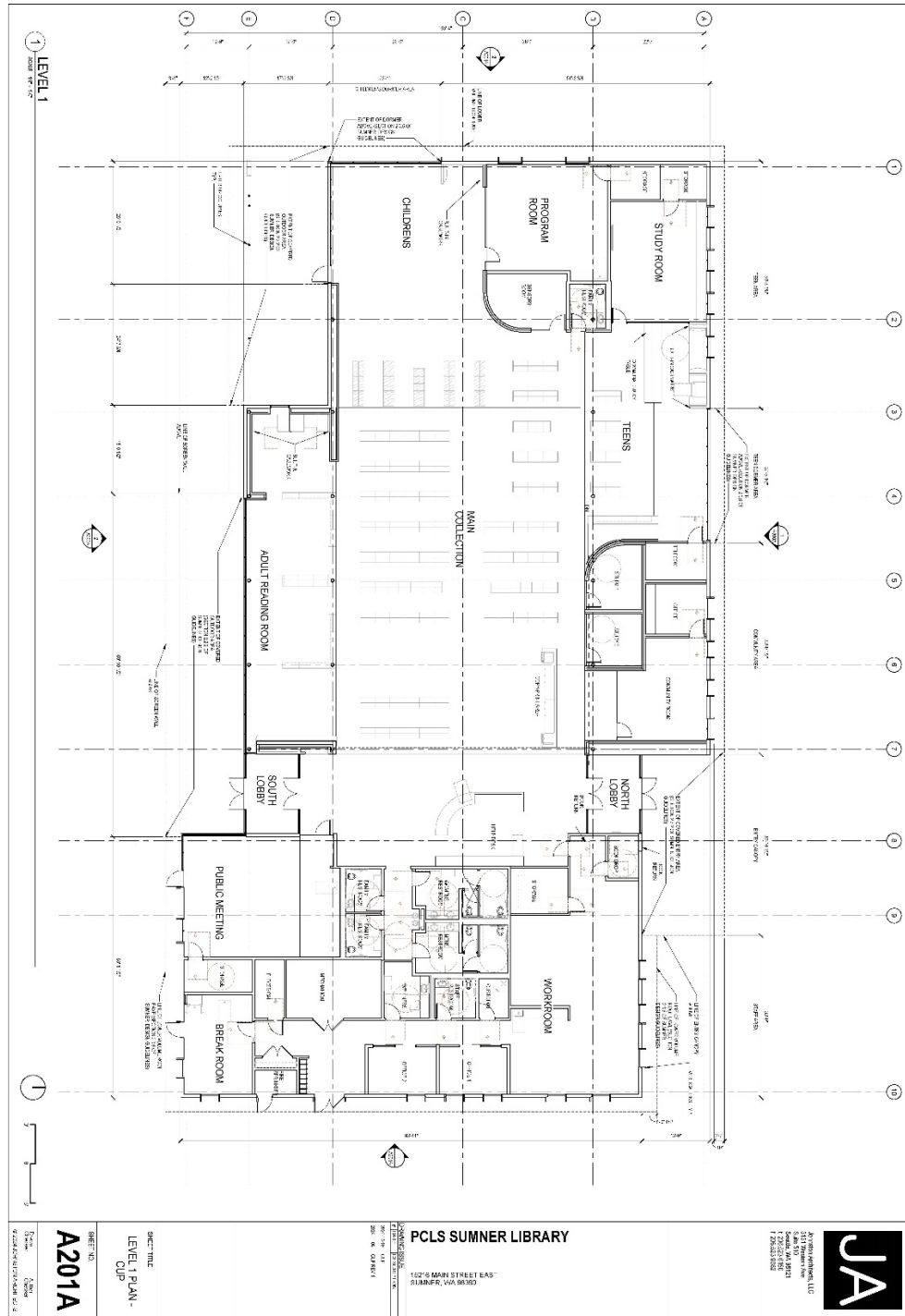
Section 19 Township 20 Range 05 Quarter 33 : L 3 OF SHORT PLAT 81-06-30-0321 OUT OF 3-098

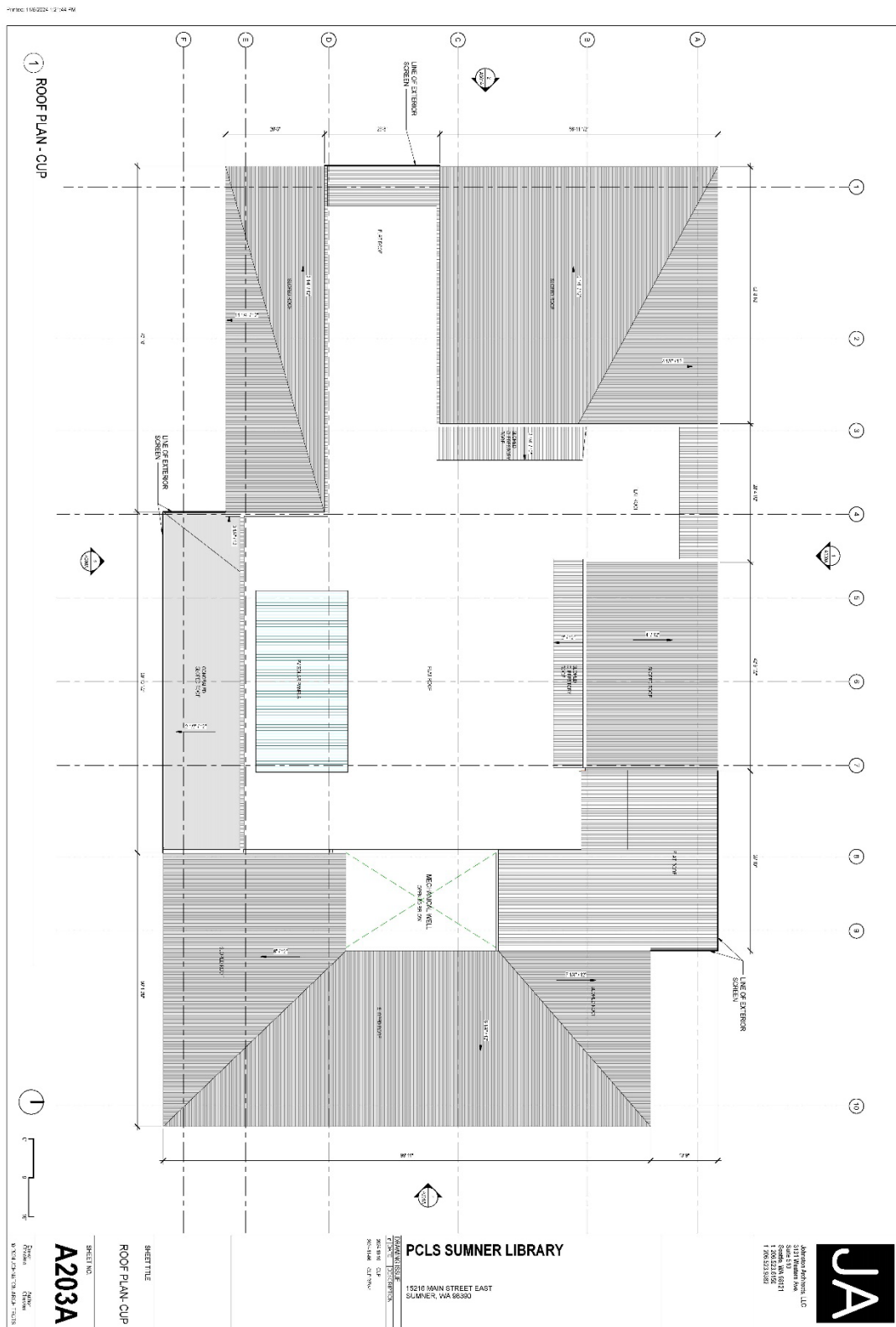
SEG R-0553 DL EMS

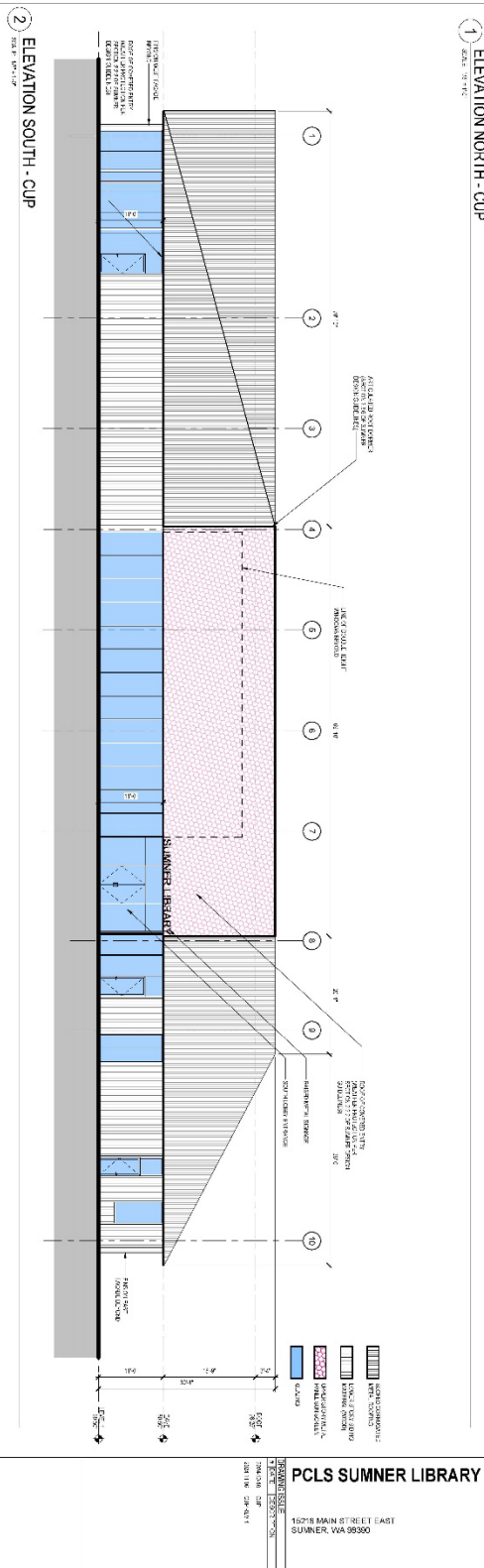
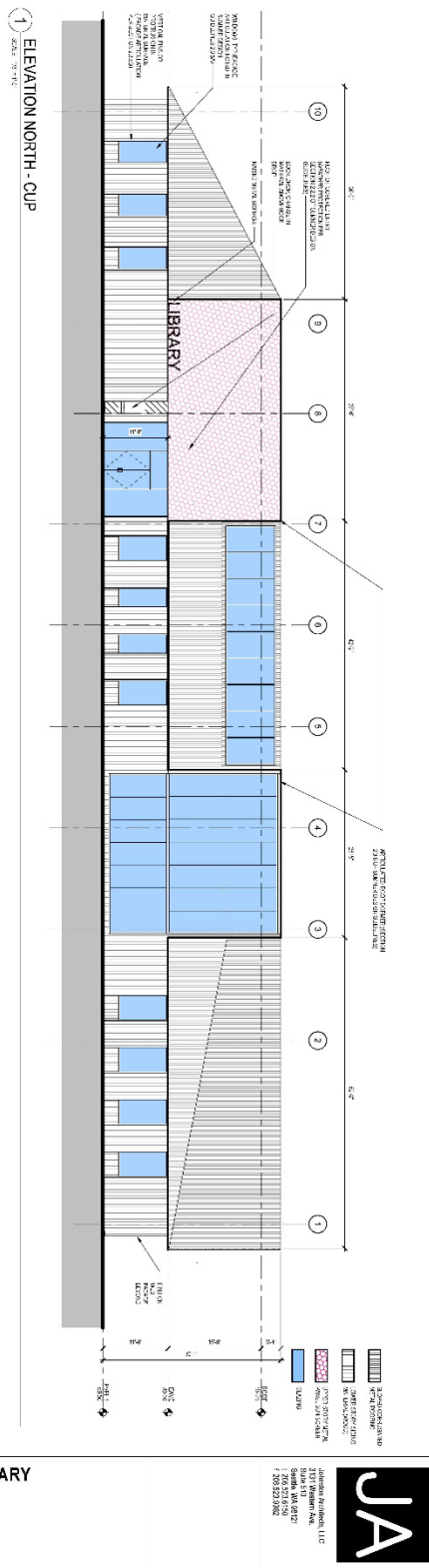
EXHIBIT B



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R LIBRARY



SHEET TITLE





NORTH ENTRY RENDERING



NORTHWEST CORNER RENDERING



SOUTHWEST CORNER RENDERING



SOUTH ENTRY RENDERING



J.A. Architects, LLC
15210 Main Street East
Sumner, WA 98390
Phone: 206.833.3800
Fax: 206.833.3802

PCLS SUMNER LIBRARY

15210 MAIN STREET EAST
SUMNER, WA 98390

DESIGNED BY
J.A. Architects, LLC
15210 Main Street East
Sumner, WA 98390
Phone: 206.833.3800
Fax: 206.833.3802

SHEET TITLE
EXTERIOR VIEWS -
CUP

SHEET NO.
A990A

DESIGNED BY
J.A. Architects, LLC
15210 Main Street East
Sumner, WA 98390
Phone: 206.833.3800
Fax: 206.833.3802

EXHIBIT D

Vested Codes

EXHIBIT E

This exhibit is a draft agreement that is under discussion by the Parties. The substance of the final agreement shall be by mutual agreement of the Parties.

LIBRARY HISTORIC SPACE SERVICES AGREEMENT

THIS SERVICES AGREEMENT (the “*Agreement*”), regarding historic displays at the future Pierce County Public Library in Sumner, is entered into as of _____, 2024 (the “*Effective Date*”) by and between the **CITY OF SUMNER**, a Washington municipal corporation (“*City*”) and the **PIERCE COUNTY RURAL LIBRARY DISTRICT**, a Washington county library established pursuant to title 27.12 RCW (“*Library*”). The City and the Library shall be referred to as a “party” or collectively as the “parties” to this Agreement.

I. RECITALS

II. TERMS AND CONDITIONS

1. **Historic Space.** In consideration for the mutual promises of and certainty provided by the Development Agreement for the development of the Pierce County Sumner Library, the Library agrees to create and maintain a “historic space(s)” at the Sumner Library property for exhibiting Sumner city history information. As the City lacks a public history museum, the purpose of the space is to provide historic information about the city and/or its residents similar to the information provided by the White River Valley Museum except focused on Sumner and its resident or the inhabitants of the vicinity prior to Sumner’s incorporation. The Library’s performance of its obligation is subject to the following terms and conditions.
 - a) The Library shall identify the location of the space. The location may be a single location or several locations and may be either inside or outside the Library building, at the Library’s discretion.
 - b) The locations and content of the exhibits may be fixed, or may change or rotate over time, no less frequently than once a year if the exhibit is not permanent. If the content of the exhibit(s) is fixed for more than a year, the City shall approve the content.
 - c) Library property may not lack a historic display or exhibit for more than two months cumulatively per calendar year.
 - d) If a location consists of a wall, the exhibit space shall be no smaller than 48” x 48”. If the historic space includes a cabinet, it shall be no smaller than 48” x 18”

x 36". If the historic space is an outside display, it shall be no smaller than 100 square feet.

- e) Any exhibit may consist of different mediums, including audio. Any exhibit may be targeted to either adults or children.
 - f) With the Library's consent, which consent shall not be unreasonably withheld, and at least 30 days notice to the Library, the City may control the content and presentation of the historic space display. If the City provides the content of any display space, the City shall do so at its expense and risk. If the City's display is a temporary exhibit, it will comply with the Library's exhibit schedule to create and show the exhibit in the Historic Space. Unless the City selects the content of the exhibit space, the Library shall be responsible for selecting, assembling, installing, and displaying the historic space content at its sole expense and risk. For any display, the City shall in good faith make itself available to assist the Library with the content of displays in the Historic Space(s), including providing topic suggestions to the Library, providing sources of information, and providing design review and suggestions.
2. **Term.** The term of this Agreement shall commence on the Effective Date and shall expire on the fiftieth anniversary (the "*Term*"). The obligations contained in section X shall be effective six months after the City issues the Library a certificate of occupancy and shall remain effective for the Term.
3. **Force majeure.** In the event that a Party is prevented or delayed, directly or indirectly, from the performance of any of its respective obligations hereunder by a Force Majeure Event, then: (a) such Party shall be excused from the performance of such obligations for so long as, and to the extent that, the Force Majeure Event prevents or delays such performance; (b) such failure shall not be deemed to be a breach or default of this Agreement.
- (a) Definition "Force Majeure Event" means any event or circumstance (or combination thereof) and the continuing effects of any such event or circumstance (whether or not such event or circumstance was foreseeable or foreseen by the Parties) that temporarily delays or prevents performance by the Party of any of its respective obligations under this Agreement, but only to the extent that and for so long as: (a) the event or circumstance is beyond the reasonable control of the Party; (b) despite the exercise of reasonable diligence, the event or circumstance cannot be prevented, avoided or stopped by the Party; and (c) the Party has taken all reasonable measures to avoid the effect of the event or circumstance on the Party's ability to perform its obligations hereunder and to mitigate the consequences of the event or circumstance.
- (b) Scope. Force Majeure Events include the following, to the extent the requirements set forth in this section are satisfied: (a) acts of God of any and all kind, including volcanic eruption, landslide, earthquake, flood, lightning, tornado or other unusually severe storm or environmental conditions, perils of the sea, fire or any other acts of nature or natural disaster; (b) accidents, damage or loss of any and all kind, including explosions,

epidemics, pandemics, quarantine or criminal or terrorist acts; (c) strike or labor disturbances or difficulties of any and all kind, including labor or material shortage; (d) act of war (whether declared or undeclared), acts of public enemies, armed conflicts, act of foreign enemy, acts of terrorism (whether domestic or foreign, state-sponsored or otherwise), riot, civil commotion, blockade, insurrection, civil disturbance, revolution or sabotage.

(c) **Insufficient Funding.** Notwithstanding the foregoing, the insufficiency of funds, financial inability to perform or changes in a Party's cost of performing its obligations hereunder shall in no event be considered or constitute a Force Majeure Event.

(d) **Reservation of Rights.** Suspension of any obligation as a result of a Force Majeure Event shall not affect any rights or obligations which may have accrued prior to such suspension or, if the Force Majeure Event affects only some rights and obligations of the Affected Party, any other rights or obligations of the Party.

(d) **Force Majeure Procedures.** Following the occurrence of a Force Majeure Event, the Party shall provide prompt notice to the other Party of the Force Majeure Event, give an estimate of its expected duration and the probable impact on the performance by the Party of its obligations hereunder, exercise all reasonable efforts to continue to perform its obligations hereunder; expeditiously act to correct or cure the Force Majeure Event to the extent such action is within the power of the Party; exercise all reasonable efforts to mitigate or limit damages to the other Party to the extent such action will not adversely affect its own interests; and provide prompt notice to the other Party of the cessation of the Force Majeure Event and the resumption by the Affected Party of the performance of its obligations hereunder.

4. Default and Remedies.

(a) **Default.** Any failure by a Party to perform any material action required under this Agreement shall constitute a default, unless such failure is compelled by order of a court, subject to the notice and opportunity to cure provided in this section.

(b) **Dispute Resolution.** In the event of any dispute under and prior to any claim of default under this Agreement, the parties, upon the written request of the other party, shall first meet not more than seven (7) business days from the date of such request to seek, in good faith, to resolve such dispute. The City shall direct the appropriate department director or staff member with information relating to such dispute and the Library shall direct an appropriate staff member with adequate technical information or expertise related to such dispute to attend such meeting.

(c) **Notice and Opportunity to Cure.** Except as expressly provided otherwise in this Agreement, no party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then

commencement of the cure within thirty days and diligent prosecution to completion of the cure shall be deemed a cure.

(d) **Rights of Non-Defaulting Party.** Except as set forth herein, a party not in default under this Agreement shall have all rights and remedies provided by law or equity, including without limitation damages, specific performance, or writs to compel performance or require action consistent with this Agreement.

(e) **Attorneys' Fees.** In any action to enforce or determine a party's rights under, this Agreement, the prevailing party shall be entitled to attorney's fees and costs and other professional fees and all other fees and expenses actually incurred and reasonably necessary in connection therewith.

5. **Indemnification.** The Library shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Library's performance of this Agreement, except as stated in other sections of this Agreement and for that portion of any injuries or damages caused by the City's sole negligence.

6. **Severability.** Any provision of this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In the event any such provision of this Agreement is so held invalid, the Parties shall, within seven (7) Days of such holding, commence to renegotiate in good faith new provisions to restore this Agreement as nearly as possible to its original intent and effect.

7. **No Assignment.** No Party will assign or otherwise transfer this Agreement or its rights and obligations hereunder without the other Party's advanced written consent. Any attempt to do so is void.

8. **Amendment.** Except as provided herein, no amendment or variation of the provisions of this Agreement shall be binding upon the Parties hereto unless evidenced in a writing which indicates that such writing is intended to amend the terms of this Agreement and is signed by duly authorized officers or representatives of each Party.

9. **Third Party Beneficiaries.** There are no third-party beneficiaries of this Agreement and no party other than the Library and the City shall be entitled to enforce this Agreement.

10. **Mutual Drafting.** Both the City and Library have participated fully in the drafting of this Agreement, and the rule of construction of ambiguities against the drafter shall not apply to either Party.

11. **Entire Agreement.** This Agreement represents the entire agreement of the Parties with respect to the subject matter of this Agreement. There are no other agreements, oral or written, except as expressly set forth in this Agreement. This Agreement supersedes all previous agreements, oral or written, except as expressly set forth in this Agreement.

12. Non-Enforcement Not Waiver. Failure by any one of the parties to enforce this entire Agreement or any provision of it with regard to any provision contained herein shall not be construed as a waiver by that party of any right to do so.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year set forth hereinbelow.

**PIERCE COUNTY RURAL LIBRARY
DISTRICT**, a county library municipal
corporation

By: _____

Its:

Date: _____

Approved as to form:

CITY OF SUMNER, a Washington
municipal corporation

By: _____
Kathy Hayden _____

Its: Mayor

Date: _____

ATTEST:

Michelle Converse, City Clerk

Approved as to form:

Andrea Marquez, City Attorney

SUBJECT: Ordinance No. 2905 - 2025/2026 Biennial Budget

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: Per Ordinance

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No 2905 2025 2026 Biennial Budget

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:

The City of Sumner began the 2025/2026 Biennial Budget process with a City Council retreat on May 4, 2024. The 2025/2026 Biennial Budget is the culmination of months (and in cases of some capital projects, years) of in-depth review and discussion City Council, staff, and the community.

Under Revised Code of Washington 35A.34, the City is required to hold both a preliminary and a final hearing on the budget. Public hearings were held on November 14, 2024 and December 2, 2024. Additionally, a public hearing for the tax year 2025 ad valorem property tax revenue was held on November 4, 2024.

The 2025/2026 Biennial Budget has been made available to the Public via the City's official website and in person at City Hall, 1104 Maple Street.

The 2025/2026 Biennial Budget has been reviewed in City Council Study Session on September 9, 2024, September 16, 2024, September 18, 2024, September 23, 2024, September 30, 2024, October 14, 2024, October 21, 2024, October 30, 2024, November 4, 2024, and November 18, 2024.

The 2025/2026 Biennial Budget for all budgeted funds includes \$344,201,154 in regular revenues and beginning fund balance, and \$344,201,154 in appropriated expenditures and ending fund balance.

COUNCIL COMMITTEE/STUDY SESSION: See Summary Background

MEETING/STUDY SESSION DATE: 12/2/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Motion to Approve Ordinance No. 2905 - 2025/2026 Biennial Budget.

ORDINANCE NO. 2905
CITY OF SUMNER, WASHINGTON

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, ADOPTING THE 2025-2026 BIENNIAL BUDGET.**

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

WHEREAS, a preliminary budget for the fiscal years 2025 through 2026 has been prepared and filed; and

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

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

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

Section 1. Adoption by Reference. The 2025-2026 Biennial Budget for the City of Sumner, covering the period from January 1, 2025 through December 31, 2026, with regular revenues and beginning fund balances of \$344,043,842 and expenditures and ending fund balance of \$344,043,842, is hereby adopted.

Section 2. Summary of Revenues and Expenditures. The 2025-2026 Biennial Budget sets forth totals of estimated revenues and expenditures by fund and is as follows:

		Beginning Fund		Revenues	Expenditures	Ending Fund
		Balance				Balance
Funds		Adopted		Adopted	Adopted	Adopted
General	001 General	\$ 15,063,770	\$	45,331,653	\$ 46,636,320	\$ 13,759,103
	002 General Fund Reserves	980,824		-	-	980,824
	003 Building Reserves	345,756		200,000	340,000	205,756
	004 Capital Reserves	46,792,851		600,000	-	47,392,851
Spec. Rev.	103 Complete Streets	-		-	-	-
	105 Drug Enforcement	67,062		-	5,000	62,062
	106 Occupancy Tax Fund	337,632		320,000	11,000	646,632
	115 ARPA Fund	258,293		-	50,000	208,293
Debt Svc	200 Debt Service	2,050,121		1,576,840	1,618,400	2,008,561
	221 LID Guarantee	691,569		-	-	691,569
Capital	302 Sidewalk	779,515		1,383,682	1,843,682	319,515
	305 Real Estate Excise Tax	1,933,007		1,600,000	-	3,533,007
	310 Parks & Trails Capital Fund	1,772,306		7,458,910	7,949,410	1,281,806
	320 Street Capital Fund	10,609,786		24,308,166	25,808,846	9,109,106
	325 Facilities Capital Fund	589,173		1,353,000	1,020,000	922,173
Enterprise	401 Water	19,482,216		12,782,361	26,281,363	5,983,214
	402 Wastewater	16,680,743		37,096,804	45,031,513	8,746,034
	403 Utility Bond Reserves	1,731,342		-	-	1,731,342
	408 Stormwater	27,371,780		39,997,724	56,185,434	11,184,071
	410 Cemetery Operations	72,310		1,603,200	1,664,149	11,361
	415 Cemetery Development	693,091		-	490,000	203,091
	440 Animal Control	12,783		2,492,544	2,401,161	104,166
Internal Service	501 Unemployment Insurance	7,326		-	-	7,326
	550 Fleet Operations	71,035		1,624,162	1,669,886	25,311
	551 Technology Services	384,808		3,827,680	4,141,430	71,058
	555 Fleet Replacement	1,106,983		1,902,440	615,000	2,394,423
Fiduciary	601 Cemetery Endowment	1,590,876		37,000	-	1,627,876
	605 Development Impact Fees	6,522,175		500,000	440,302	6,581,873
	611 Firefighter's Pension	32,855		173,000	180,000	25,855
Total All Funds		\$ 158,031,988	\$	186,169,166	\$ 224,382,896	\$ 119,818,259

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. 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 5. 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 9th day of December, 2024.

Mayor Kathy Hayden

ATTEST:

City Clerk Michelle Converse, CMC

APPROVED AS TO FORM:

City Attorney Andrea Marquez

SUBJECT: Ordinance No. 2910 - 2023/2024 Final Budget Amendment

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: Per Exhibit

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2910 - 2023/2024 Final Budget Amendment

STAFF CONTACT: Cassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND: The 2023/2024 Biennial Budget was adopted on December 5, 2022, with Ordinance No. 2838. Staff regularly reviews the budget progress as well as any programmatic changes. Based on this review, staff presents the final 2023/2024 budget amendment for consideration. A public hearing on the final budget amendment was held on December 2, 2024. This budget amendment includes:

General Fund (001):

- Reduce \$125,000 contribution to SSHAP and program to 2025;
- Recognize \$1,400 revenue and expenditure for a police equipment grant;
- Program \$7,200 for acquisition of parklet/planter boxes;
- Recognizes increased revenue from electric and natural gas utility tax;

Combined Funds 001 (General), 320 (Street Capital), 401 (Water), 402 (Sewer), and 408 (Stormwater)

- Partially reallocate Washington Street Design from General/Street Capital to utility funds

Combined Funds 001 (General), 320 (Street Capital), 401 (Water), 402 (Sewer), and 408 (Stormwater)

- Recognize transfers in/out and unemployment expense to recognize unemployment claims

Combined Funds 001 (General), 115 (ARPA), and 310 (Parks Capital)

- Returns \$91,000 from Parks Capital to the ARPA Fund resulting from savings on the Portland Loo project;
- Returns \$52,168 from General Fund to the ARPA Fund resulting from unspent BusUp costs;
- Programs \$125,000 from remaining ARPA Funds for City Facility Intrusion and Access Controls;

Combined Funds 003 (Building Reserves), 325 (Facilities Capital)

- Reduce previously approved transfer in/out by \$85,000 resulting in savings from City Hall Roof project.

Combined Funds 200 (Debt Service), 325 (Facilities Capital)

- Move \$39,740 for LTGO 2023 (Cemetery Building) debt service from Fund 325 to Fund 200

Fund 325 (Facilities Capital)

- Recognize long-term debt proceeds from 2023 BAN (Public Works Operations Facility) and expenditure of \$4,334,000

Fund 402 (Sewer)

- Programs \$85,000 for Access Control and \$35,000 for Intrusion Control at the Wastewater Treatment Facility;
- Programs \$66,000 capital contribution from the City of Bonney Lake for their portion of Access and Intrusion Control costs.

Fund 611 (Firefighter's Pension)

- Increase Fire Insurance Premium Tax (revenue) by \$9,500 and Pension & Disability Payments (expenditure) by \$9,500 to recognize actual activity.

Ord No. 2910		
BA 12/02/2024		
	<i>Revenues</i>	<i>Expenditures</i>
General Fund	\$ 151,400	(130,912)
Reserve Funds	-	(85,000)
Special Revenue Funds	143,168	125,000
Debt Service Funds	-	39,740
Capital Funds	4,178,320	4,314,580
Utility Funds	66,000	218,480
Other Enterprise Funds	-	-
Internal Service Funds	31,800	31,800
Fiduciary Funds	9,500	9,500
	\$ 4,580,188	\$ 4,523,188

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee 11/04/2024
City Council Study Session 11/18/2024
MEETING/STUDY SESSION DATE: 11/18/2024
COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Motion to approve Ordinance No. 2910 - Amending the 2023/2024 Biennial Budget

**ORDINANCE NO. 2910
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, ORDINANCE 2855, APPROVED JUNE 5, 2023, ORDINANCE 2858, APPROVED JUNE 20, 2023, ORDINANCE 2866, APPROVED AUGUST 7, 2023, ORDINANCE 2871, APPROVED SEPTEMBER 18, 2023, ORDINANCE 2872, APPROVED OCTOBER 16, 2023, ORDINANCE 2874, APPROVED DECEMBER 11, 2023, ORDINANCE 2883, APPROVED MARCH 18, 2024, ORDINANCE 2890, APPROVED JULY 1, 2024, ORDINANCE 2893, APPROVED JULY 15, 2024, AND ORDINANCE 2897, APPROVED OCTOBER 7, 2024.

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. 2849 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2855 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2858 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2866 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2871 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2872 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2874 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2883 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2890 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2893 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2897 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

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.

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 9th day of December, 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

City Attorney Andrea Marquez

BA 12/09/2024 Funds	Beginning Fund Balance		Revenues			Expenditures			Ending Fund Balance	
	Adopted	Adopted	Previous	12/09/24	10/07/24	Adopted	Previous	12/09/24	10/07/24	Revised
001 General	11,300,000	\$ 41,287,140	\$ 1,919,007	\$ 151,400	\$ -	\$ 40,975,513	\$ 2,723,467	\$ (130,912)	\$ 141,000	\$ 11,089,478
002 General Fund Reserves	980,824	-	-	-	-	-	-	-	-	980,824
003 Building Reserves	450,756	200,000	-	-	-	390,000	-	(85,000)	-	345,756
103 Complete Streets	-	-	500,000	-	-	-	500,000	-	-	-
105 Drug Enforcement	65,510	-	-	-	-	4,000	-	-	-	61,510
106 Hotel/Motel	262,600	205,000	-	-	-	338,156	-	-	75,000	129,444
115 ARPA Funding	680,624	-	-	143,168	-	50,100	124,168	125,000	50,000	524,524
200 Debt Service	2,570,000	465,800	-	-	-	496,100	-	39,740	-	2,499,960
221 LID Guarantee	691,569	-	-	-	-	-	-	-	-	691,569
302 Sidewalk	412,457	530,000	903,200	-	-	880,000	633,200	-	-	332,457
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	6,407,780	-	50,000	5,131,106	5,595,280	91,000	50,000	882,176
320 Street Capital Fund	7,709,379	17,364,200	3,605,753	(70,680)	-	24,625,588	3,687,753	(70,680)	-	365,991
325 Facilities Capital Fund	50,000	515,000	3,386,000	4,249,000	-	565,000	3,286,000	4,294,260	-	54,740
401 Water	13,219,995	10,189,150	-	-	-	20,279,605	529,985	24,540	-	2,575,015
402 Wastewater	9,286,248	15,566,163	36,150	66,000	-	21,270,227	308,110	145,280	(156,000)	3,230,944
403 Utility Bond Reserves	1,731,342	-	-	-	-	-	-	-	-	1,731,342
408 Stormwater	8,227,784	38,031,772	9,500,000	-	-	42,424,254	10,596,985	48,660	-	2,689,657
410 Cemetery Operations	74,238	1,498,200	16,500	-	41,000	1,425,316	25,000	-	41,000	138,622
415 Cemetery Development	208,994	300,000	-	-	-	300,000	-	-	-	208,994
440 Animal Control	94,087	2,093,628	(35,519)	-	-	2,062,680	9,650	-	-	79,866
501 Unemployment Insurance	9,351	-	-	31,800	-	3,991	-	31,800	-	5,360
550 Fleet Management	94,835	1,498,570	-	-	-	1,551,411	-	-	-	41,994
551 Information Technology	479,281	3,264,440	124,650	-	-	3,336,088	139,650	-	-	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	1,123,415	-	-	5,275,820
611 Firemen's Pension	29,798	164,000	-	9,500	-	160,000	-	9,500	-	33,798
Total All Funds	\$ 70,291,581	\$ 142,301,059	\$ 26,363,521	\$ 4,580,188	\$ 91,000	\$ 169,587,969	\$ 29,282,663	\$ 4,523,188	\$ 201,000	\$ 40,142,529

SUBJECT: Operations Facility Phase 3 - Construction Contract

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: \$41,286,931.00

Within Budget Allocation: Yes

ATTACHMENTS:

1. Public Works Contract

STAFF CONTACT: Alisa O'Haver-Ayala , Deputy Public Works Director

SUMMARY BACKGROUND:

The Operations Facility project includes construction of a new public works facility with approximately 102,100 sf of total building space over 6 buildings on a 6.2 Acre site at 14320 29th Street East. The facility will house Public Works, Parks, and Facilities and will include an administration building, vehicle storage, fleet washing, and material storage. The project will also include frontage improvements, landscaping, site lighting and stormwater management.

Five (5) bids were received on November 21st, 2024 for this project. The lowest responsible bidder was submitted by FORMA Construction Company, with a bid amount of \$37,533,572.84. The engineer's estimate was \$40,342,862.00. The total amount being authorized pursuant to this item totals \$41,286,931.00, which is the FORMA bid amount *plus* the standard 10% construction contingency. The contractor will have four hundred and seventy-five (475) calendar days after issuance of the Notice to Proceed to complete the project.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 12/9/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion authorizing the Mayor and City Administrator to execute all necessary contract documents with FORMA Construction Company, in an amount not-to-exceed \$41,286,931.00 for the Operations Facility Phase 3 project (CIP17-13), substantially in a form approved by the City Attorney.

PUBLIC WORKS CONTRACT
between City of Sumner and
Forma Construction Company

THIS AGREEMENT, made and entered into this day _____, between the City of Sumner, a Washington Municipal Corporation (hereinafter City) and Forma Construction Company, (hereinafter the Contractor).

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall do all work and furnish all tools, materials, labor and equipment for

Sumner Operations Facility - Phase 3 (Exhibit A)

in accordance with and as described in the (a) attached plans and specifications and general conditions of the American Institution of Architects (AIA), and (b) all other documents, specifications, provisions and required regulations contained in the Bid Document package provided at bid opening, all of which are considered the "Contract Documents" and are incorporated herein by this reference and made part hereof as if fully set forth in this contract, and, shall perform any changes in the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents excepting only those items mentioned therein to be furnished by the City of Sumner.

II. The City hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner upon the conditions provided for in this contract. The Contractor for himself/herself/themselves, and for his/her/their heirs, executors, administrators, employees, agents, successors, and kin, does hereby agree to the full performance of all the covenants contained in the Contract Documents.

III. Contractor's Employees – Employment Eligibility Requirements (E-Verify).

The Contractor and any subcontractors shall comply with E-Verify as set forth in Sumner Municipal Code Chapter 3.30. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help

employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Contractor shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Contractor shall continue participation in E-Verify throughout the course of the Contractor's contractual relationship with the City. If the Contractor uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such participation to the Contractor. Upon execution of this Contract, the Contractor shall provide proof of compliance with this section by filling out and signing the attached Certification of Compliance with Sumner's Municipal Code 3.30 "E-Verify" attached hereto as Exhibit B.

IV. It is further provided that no liability shall attach to the City of Sumner by reason of entering into this contract except as provided herein.

V. Certified Payroll Reports / Affidavits of Wages Paid. Contractor shall provide weekly certified payroll reports. RCW 39.12.040 requires that every contractor and subcontractor on the project file an Affidavit of Wages Paid soon after the work has been completed. These statements also must be filed with L&I and approved by the Industrial Statistician before being submitted to the agency administering the contract. The City will not release the retainage until the Contractor and subcontractors have filed approved Affidavits of Wages Paid.

VI. Debarment. The Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

VII. Date of Commencement and Substantial Completion: Date of Commencement shall be a date set forth in a Notice to Proceed to be issued by the Owner, expected on or about January of 2025, with on-site construction to commence shortly thereafter; dependent upon the contractor timely providing all required documentation. The Contract Time shall be measured from the date of commencement of the Work, as provided in the Notice to Proceed. Subject to adjustments of the Contract Time, as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the Work within FOUR HUNDRED AND SEVENTY-FIVE (475) CALENDAR DAYS after the date of the Notice to Proceed. The contractor shall be responsible for maintaining site security, erosion control, and compliance with NDPES permit requirements throughout the duration of the project which includes working days, weekends and holidays.

VIII. Liquidated Damages. Delayed Substantial Completion of any phase of the Work will cause substantial damage to the Owner. If the Contractor does not Substantially Complete all of the Work for each phase as provided in Section 011000, Summary, the Owner will be forced to incur substantial expenses. Liquidated damages are applicable to each phase of the Project, and for Final Completion, and not just the ultimate Project Substantial Completion date.

For these reasons, liquidated damages will be assessed as provided below:

The liquidated damages for failure to achieve Substantial Completion Milestone shall be ten thousand dollars (\$10,000.00) per day.

The liquidated damages for failure to achieve Final Completion Milestone shall be two thousand dollars (\$2,000.00) per day.

Contractor should review and understand Section 15.1.6.2 of the A201 General Conditions regarding if and how any adverse weather may or may not extend the date of Substantial Completion, as rain or other adverse weather may be anticipated during the Project and only materially greater than normal inclement weather extending the critical path of the Project will be the basis for an extension of the Contract Time.

IX. Clauses and Provisions: All clauses and provisions that are included in the Invitation to Bid/Advertisement for Bid are incorporated by this reference into this Contract, and such clauses and provisions, including Labor Standards Provisions, shall be passed on by the Contractor to all subcontractors.

X. Application of Uniform Guidance. If this contract involves the use, in whole or in part, of federal award(s), provisions (A)-(J) in Appendix II to Part 200 of the Uniform Guidance (2 CFR Ch. 11 (1-1-14 edition)) are hereby incorporated, as applicable, as if fully set forth herein. *See* attached Exhibit C.

XI. Insurance and Indemnification.

Indemnification / Hold Harmless

The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement and the Contract Documents, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

A. Insurance Term

The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation

Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

Contractors required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City and all other private properties within the project footprint shall be named as additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$25,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until the City has granted substantial completion of the project.

D. Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$2,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate and \$5,000,000 products-completed operations aggregate limit.
3. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

E. City Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

F. Other Insurance Provision

The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

G. Contractor's Insurance for Other Losses

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers, contractors or subcontractors as well as to any temporary structures, scaffolding and protective fences.

H. Waiver of Subrogation

The Contractor and the City waive all rights against each other, any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work contemplated herein. The policies shall provide such waivers by endorsement or otherwise.

I. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

J. Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

K. Subcontractors' Insurance

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

L. Notice of Cancellation

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

M. Failure to Maintain Insurance

This section is intended to supplement the attached specifications and Contract Documents. If any provision in this Section VII conflicts with any provision of the specifications attached hereto, the terms of this contract shall control.

Pursuant to RCW 60.28.011, the City shall withhold up to 5% of the Contract sum, not including sales tax as retainage until the entire scope of work under this Contract is accepted. In lieu of retainage being withheld, Contractor may opt to submit a retainage bond instead covering any or all of the sum.

IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and the Local Agency Approving Authority has caused this instrument to be executed by and in the name of said City of Sumner the day and year first above written.

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NOTICES TO BE SENT TO: CONTRACTOR: Brian Rich, Vice President Forma Construction Company 500 Columbia St NW, Ste 201 Olympia, WA 98501-4447 360-754-5788 brianr@formacc.com	NOTICES TO BE SENT TO: CITY OF SUMNER: Drew McCarty, CACM, Engineering Specialist City of Sumner 1104 Maple Street Sumner, WA 98390 253-299-5719 drewm@sumnerwa.gov
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SUMNER OPERATIONS FACILITY
TCF Architecture No.: 2020-007 / City of Sumner No.: CIP 24-01

Bid Set
October 04, 2024

ADDENDUM 4 – NOVEMBER 15, 2024

SECTION 004113 - BID FORM

PART A - BID PROPOSAL

BASE BID PRICES

Note: Refer to Instructions to Bidders for bid submittal procedures.

PROJECT: City of Sumner Operations Facility (CIP 24-01)

BID DATE: ~~November 19, 2024~~ **November 21, 2024**

TIME: ~~10:00 AM~~ **1 PM**(Pacific Standard Time)

PLACE/TO: Permit Center Counter (located on the second floor)
Sumner City Hall
1104 Maple Street
Sumner, WA 98390

Ladies & Gentlemen:

The Undersigned Bidder declares that the only persons or parties interested in this bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official or representative of the Owner, and that the Bid is made without any connection or collusion with any person submitting or considering the submission of another Bid on this Contract.

The Bidder further agrees that it has exercised its own judgment regarding the interpretation of subsurface information and has utilized all data which it believes pertinent from the Architect, Owner, and other sources in arriving at its conclusions. The Bidder further declares that it has carefully examined the Contract Documents for the Sumner Operations Facility, that it has personally inspected the site, that it has satisfied itself as to the quantities involved, including materials and equipment, and conditions of work and the fact that the description of the quantities of work and materials herein is brief and is intended only to indicate the general nature of the Work contained in the detailed requirements of the Contract Documents, and that this Bid is made according to the provisions and under the terms of the Contract Documents, which are hereby made a part of this Bid.

The Undersigned Bidder states that it has the ability and means to complete the Work in a timely manner and proposes to furnish all labor, materials, machinery, tools, and other means of construction, and to perform all work required by and in strict accordance with the Contract Documents for the following sums:

DO NOT INCLUDE SALES TAX EXCEPT AS DESCRIBED IN PARAGRAPH 1.1 BID.

ADDENDUM 4 – NOVEMBER 15, 2024

1.1 BID:

AMOUNTS BID INCLUDE ALL WORK SHOWN ON THE DRAWINGS AND SPECIFIED IN THE BIDDING AND CONTRACT DOCUMENTS. **Note that in Schedule "B" below, Bidders shall include all applicable B&O, Use, and Sales Taxes in Bid Items 4-6 per tax rule 171 (WAC 458-20-171) for work within ROW (excluding sanitary sewer and water). See 012100 Allowances and 012200 Unit Prices for the descriptions of Allowances and Unit Prices below.**

Schedule A

1) Phase 3 Sumner Operations Facility Bid:	\$ 33,877,872.00
2) Allowance #1 (Contingency):	\$ 30,000.00
3) Unit Price #1:	\$ 35,000.00
Sales Tax on items 1-3 above:	\$ 3,224,572.84
SUB-TOTAL BID - SCHEDULE A (Line Items 1- 3 + Sales Tax)	\$ 37,167,444.84

Schedule B

4) Frontage Improvements:	\$ 326,128.00
5) Allowance #2 (Contingency):	\$ 30,000.00
6) Unit Price #2:	\$ 10,000.00
SUB-TOTAL BID – SCHEDULE B (Line Items 4-6)	\$ 366,128.00
TOTAL BASE BID (Schedule A (including sales tax) + Schedule B Total)	\$ 37,533,572.84
Thirty seven million, five hundred thirty three thousand, Five hundred seventy two Dollars ^{84/100} (\$)	

1.2 ALLOWANCES: See Section 012100 "Allowances" for a description of each Allowance. Include allowance amounts as indicated in 1.1 "Bid" above.

Allowance #1: Over-Excavation and Disposal of Petroleum Contaminated Soil and Replacement with Satisfactory Soil Material - Operations Facility.

Allowance #1 Price Bid: \$30,000.00 (INCLUDED IN LINE ITEM 2 ABOVE)

Allowance #2: Over-excavation and Disposal of Petroleum Contaminated Soil and Replacement with Satisfactory Soil Material – Frontage Improvements.

Allowance #2 Price Bid: \$30,000 (INCLUDED IN LINE ITEM 5 ABOVE)

ADDENDUM 4 – NOVEMBER 15, 2024

- 1.3 UNIT PRICES:** Refer to Section 012200 "Unit Prices for a more complete description of Unit Price work. Include unit price total dollar amounts as calculated below, in the Bid

Unit Price 1: Over-excavation and Disposal of Unsuitable Soil and Replacement with Suitable Soil Material - Operations Facility.

Unit Price Bid: \$ 50.00 per cubic yard x 700 cubic yards =
\$ 35,000.00 (USE THIS TOTAL IN LINE ITEM 3 ABOVE)

Unit Price 2: Over-excavation and Disposal of Unsuitable Soil and Replacement with Suitable Soil Material – Frontage Improvements.

Unit Price Bid: \$ 50.00 per cubic yard x 200 cubic yards=
\$ 10,000.00 (USE THIS TOTAL IN ITEM 6 ABOVE)

1.4 TRENCH EXCAVATION SAFETY COSTS:

Included in Line Items 1 and 4 in the bid above, is the amount for Trench Excavation Safety for any trenching exceeding a depth of four feet. In accordance with Chapter 39.04 RCW and WAC 296-155-850, all costs for adequate trench safety systems are required to be identified in this Bid. The Bidder certifies that the following amount is thus included in the Total Base Bid for Trench Excavation Safety Provisions. If no amount is entered, the Owner will presume that the Bidder represents that there are no Trench Excavation Safety costs for this Project.

Trench Safety System Costs Included are:

\$ 15,000.00

1.5 TIME OF COMPLETION

The work of the Contract shall commence on the issue date of Owner's written Notice of Intent to Award Contract, and shall reach Substantial Completion, all as required in the Owner / Contractor Agreement included in Division 0 Section "Public Works Contract", and as required in Division 1 Section "Summary."

1.6 CONTRACT, BONDS & INSURANCE

Should the Undersigned be notified of the acceptance of this bid within 60 days after the time set for opening bids, the Undersigned agrees to execute a Contract for the above Work, for a compensation computed from the above sums, and to furnish performance, payment and maintenance bonds and insurance certificates as required by the Contract Documents.

EXHIBIT B

CITY OF SUMNER

**CERTIFICATION OF COMPLIANCE WITH SUMNER MUNICIPAL CODE CHAPTER 3.30
“E-VERIFY”**

As the person duly authorized to enter into such commitment for

_____,
Forma Construction Company

I hereby certify that the Company or Organization named herein will

(check one box below)

☐ Be in compliance with all of the requirements of City of Sumner Municipal Code Chapter 3.30 for the duration of the contract entered into between the City of Sumner and the Company or Organization.

OR

☐ Hire no employees for the term of the contract between the City and the Company or Organization.

NAME

TITLE

DATE

EXHIBIT C

APPENDIX II TO PART 200---CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the City of Sumner under federal award(s) are subject to the following provisions, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964- 1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, the following language is hereby incorporated into the contract as if fully set forth therein:

Application of Uniform Guidance. If this contract involves the use, in whole or in part, of federal award(s), the following provisions (29 CFR, Subtitle A Part 5, Subpart A, § 5.5, subsections (a)(1) – (a)(10)) shall apply:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon

poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The City of Sumner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or

development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the City. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the City if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the City, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the City or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the

contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the City may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7.. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.