



CITY COUNCIL MEETING AGENDA

City Hall – 1104 Maple Street

September 7, 2021 6:00 PM

On June 30th, Governor Inslee issued the "Washington Ready" guidelines, effectively re-opening the State of Washington and removing the Covid-19 restrictions. The City of Sumner looks forward to welcoming members of the public to its meetings in-person, but until further notice will continue to conduct its meetings 100% virtually, using the ZOOM platform. The public is invited to attend using the ZOOM meeting access information below.

<https://sumnerwa-gov.zoom.us/j/87416586392>

Or One tap mobile :

US: +12532158782,,87416586392# or +13462487799,,87416586392#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592

Webinar ID: 874 1658 6392

CALL TO ORDER

Pledge of Allegiance

Invocation - Pam Osborne

Roll Call: Bitetto, Brown, Hamilton, Hayden, Hochstatter, Neuman and Reed

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

CONSENT AGENDA

1. Approval of checks and electronic payments in the amount of \$1,004,475.38.
2. Approval of the minutes from the August 16, 2021 regular council meeting and August 23, 2021 study session.
3. Pandemic Policy Update

PUBLIC HEARING

REGULAR BUSINESS

1. **Unfinished Business**
 - a. Resolution No.1590 - Authorizing the Surplus of the Main Street East Properties
2. **Public Comment (Limit 3 minutes)**

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

3. New Business

- a. Ordinance No. 2787- Amending Sumner Municipal Code 12.60-Park Rules
- b. Purchase and Sale Agreement Main Street East Property
- c. Purchase and Sale Agreement Fryar Avenue Library Building
- d. Restated Lease Agreement between City and Pierce County Library re: Fryar Avenue building

4. Reports

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

5. Executive Session - To discuss with legal counsel potential litigation per RCW 42.30.110(1)(i) and collective bargaining matters – RCW 42.30.140(4).

6. Adjournment

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



CLAIMS VOUCHER
APPROVAL
City of Sumner Finance
Department

The following check/electronic payments are approved for payment:

Accounts Payable Check #:	From: 26346	To: 26442	\$307,651.93 *
AP Electronic (EFTs) Payments:	From: 270	To: 271	\$5,967.00
AP Wire(s):	From: 15127	To: 15128	\$4,653.62
Payroll DD Numbers:	From: 49233	To: 49364, 3993	\$312,066.20
Payroll Check(s):	From: 46624	To: 46624	\$7,473.97
Payroll Wire(s):	From: 3990 - 3992,	To: 3994 - 4002	\$366,662.66
		TOTAL	\$1,004,475.38

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the service rendered, or the labor performed as described herein, and that the claim is a just, due, and unpaid obligation against the City of Sumner and I am authorized to authenticate and certify to said claim.

Chief Financial Officer

Date

We, the undersigned Finance & Personnel Committee of the Sumner City Council, Sumner, Washington, do hereby certify that the check numbers and electronic payments listed above are approved for payment in the amount of \$1,004,475.38 this 16th day of August 2021.

Chair

Date

Member

Date

Member

Date

* Includes \$58.55 in Use Tax and (\$2,349.00) in Check Voids.

SUBJECT: Approval of the minutes from the August 16, 2021 regular council meeting and August 23, 2021 study session.

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Regular Council Meeting Minutes - August 16, 2021
2. Study Session Minutes - August 23, 2021

STAFF CONTACT:

SUMMARY BACKGROUND:

Meeting minutes from previous council meeting/study session.

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

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Approve as written.

**CITY OF SUMNER
Council Meeting
Minutes – August 16, 2021**

CALL TO ORDER

The Sumner City Council met in regular session at 6:01pm, with Mayor William L. Pugh presiding. City Hall remains closed during Governor Inslee's "Washington Ready" order, a consequence of the Covid-19 pandemic. The Mayor, Council and staff members attended through ZOOM either telephonically or through their computer. The public was allowed to attend via ZOOM, PCTV livestream and by telephone.

Staff present via electronic device: City Administrator Jason Wilson, City Attorney Andrea Marquez, Community Development Director Ryan Windish, Public Works Director Mike Dahlem, Administrative Services Director Jeff Steffens, Chief Financial Officer Kassandra Raymond, and City Clerk Michelle Converse.

Mayor and Councilmembers present via electronic device: Mayor Bill Pugh, Councilmembers Bitetto, Brown, Hamilton, Hayden, Hochstatter, Neuman and Reed.

CONSENT AGENDA

COUNCILMEMBER NEUMAN REMOVED ITEM #6, RESOLUTION NO. 1594 – PSE ENERGY CONSERVATION GRANT AGREEMENT – LIGHTING, RECUSING HERSELF.

MOVED BY HAYDEN, SECONDED BY HAMILTON TO APPROVE THE CONSENT AGENDA ITEMS 1-5 AND 7-12 AS LISTED BELOW:

1. Approval of checks and electronic payments in the amount of \$1,096,543.89.
2. Approval of the minutes from the August 2, 2021 regular council meeting and the August 9, 2021 study session
3. Quit Claim Deed to Sumner Bonney Lake School District of unperfected Mason Street Right-of-Way
4. Floodplains by Design Grant Agreement Amendment
5. Resolution No. 1589 - Pollution Prevention Assistant (PPA) Partnership - Interagency Agreement Authorization
6. Resolution No. 1594 - PSE Energy Conservation Grant Agreement - Lighting
7. Sumner Tapps Highway Resurfacing- Consultant Supplement
8. Resolution No. 1591 - Recreation & Conservation Office Grant Agreement - Rainier View Park Covered Court
9. Resolution No. 1592 - Interlocal with East Pierce Fire and Rescue for Fire Safety Inspections
10. Axon Sales Agreement: Body Worn Cameras
11. Resolution No. 1593 - Housing Action Plan Prioritization
12. Ordinance No. 2788 - Updating Director Authority

PASSED BY VOICE VOTE.

COUNCILMEMBER NEUMAN TURNED OFF HER VIDEO FEED.

ITEM #6 RESOLUTION NO. 1594 – PSE ENERGY CONSERVATION GRANT AGREEMENT – LIGHTNING.

MOVED BY HAYDEN SECONDED BY HOCHSTATTER TO APPROVE CONSENT AGENDA ITEM #6, RESOLUTION NO. 1594 – PSE ENERGY.

PASSED BY VOICE VOTE.

COUNCILMEMBER NEUMAN REJOINED THE MEETING.

PUBLIC HEARING

Surplus by Intergovernmental Transfer of Main Street East Properties for Sumner Library Branch

MAYOR PUGH OPENED THE HEARING AT 6:09pm.

City Attorney Andrea Marquez addressed the Council.

The City owns vacant parcels addressed 15208, 15216 and 15126 Main Street East, located directly across Main Street from the Fred Meyer shopping complex (the Main Street East properties). The city acquired the Main Street East Property in 2018 with the goal of working with the Pierce County Library System to relocate from its current location on Fryar Avenue (in a building owned jointly by the library and the city) to the more centrally located and accessible Main Street East Property. The library is a Washington public library municipal corporation and has expressed an interest in purchasing the Main Street Property for a new Sumner library branch. That enables the city to sell the property through a process called an intergovernmental transfer. Prior to having the ability to sell the property, the city must surplus it, and due to its value, a public hearing is required. Tonight's public hearing is an opportunity to hear from the public about the proposed surplus of the parcels.

Megan Morton – read her comments into the record. (attached)

Mayor Pugh will pass her comments onto the library to ensure they continue to be good neighbors.

Georgia Lomax, Pierce County Library Director, was also in attendance at the hearing, wanted to assure their neighbors the library will maintain the grass with the same commitment as the city.

MAYOR PUGH CLOSED THE HEARING AT 6:13pm.

UNFINISHED BUSINESS

None tonight.

PUBLIC COMMENT

Sumner Main Street Association President Jill Sparks updated council on events the Association has organized downtown.

NEW BUSINESS

Ordinance No. 2790 - American Rescue Plan Act Fund Initial Allocation

MOVED BY REED, SECONDED BY HAYDEN TO ADOPT ORDINANCE NO. 2790, ALLOCATING ARPA FUNDS AS DESIGNATED.

City Administrator Jason Wilson addressed the council.

The American Rescue Plan Act (ARPA) committee reviewed several possible uses of ARPA funds and has recommended initial allocations that address immediate needs to respond to the pandemic. The proposed ordinance would allocate \$1,062,000 under the following ARPA categories:

Direct Response to Covid-19 and/or Economic Impact:	\$960,000
Infrastructure Investments:	\$102,000

The attached staff report details the expenditures and applicability to ARPA fund guidelines.

If approved, the remaining ARPA balance is \$1,848,676 for future use. The ARPA continues to meet and discuss future allocation recommendations.

Discussion ensued.

PASSED BY VOICE VOTE.

Alder Kincaid Utility Improvements – Consultant Services Amendment

MOVED BY HOCHSTATTER, SECONDED BY HAYDEN TO APPROVE AN AMENDMENT TO BCRA'S CONSULTANT SERVICES CONTRACT FOR THE ALDER KINCAID UTILITIES IMPROVEMENTS PROJECT (CIP 19-05), INCREASING THE CONTRACT AMOUNT BY \$205,630 TO A TOTAL AUTHORIZED AMOUNT NOT-TO-EXCEED \$512,995.00, 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.

Associate City Engineer Jason Van Gilder addressed the council.

The City of Sumner has previously contracted with BCRA for the design of utility improvements in the downtown area generally bounded by Main Street, Ryan Avenue, Park Street, and Cherry Avenue. The City has also completed a Main Street Visioning Study with conceptual improvements in areas that would be within this project boundary. Staff has identified the possibility that the Main Street Visioning improvements could be constructed efficiently and expeditiously by incorporating them into the Alder Kincaid improvements project.

This contract supplement would authorize BCRA to incorporate the Main Street Visioning improvements planned within the Kincaid Avenue and Cherry Avenue right of way into the Alder Kincaid Utility Improvement project.

Passed by voice vote.

Ordinance No. 2791 - Budget Amendment Authorized FTEs

MOVED BY REED, SECONDED BY NEUMAN TO ADOPT ORDINANCE NO. 2791, AMENDING THE AUTHORIZED FTE COUNT IN THE 2021-22 BIENNIAL BUDGET.

City Administrator Jason Wilson addressed the council.

Staff is proposing two staffing changes to address capacity needs in public records and human resources.

Records

The City is responsible for ensuring access to all types of public records. Currently the city is in the process of moving network files to the cloud via SharePoint. For over 25 years each department had their own network file. A lot of data has been saved that is beyond retention. In addition to electronic files, the city has a lot of paper files, particularly in the CD, DS and PW departments. These files are largely kept offsite, but a number of files remain in City Hall. For at least five years the City Clerk, IT and administrative staff have encouraged departments to review files and dispose of unnecessary files.

Unfortunately, staffing capacity has greatly hindered that effort. As we move towards greater collaboration and cloud computing, the need to address the growing records is becoming increasingly time sensitive.

Later this year, the police department will be implementing Body Worn Cameras (BWCs). The addition of BWCs will create a new type of record that the public can request. While the police department will have access to BWC records for administrative use, court discovery and public records requests will be the responsibility of the legal department. It is estimated that responding to BWC public records requests will be up to half an FTE.

Hybrid meetings will require a staff member to coordinate each meeting. This will be particularly challenging for regular council meetings, planning commission and design commission meetings. There is not currently staff member capacity to perform this function at all meetings.

Staff recommends hiring a records officer or similar title that would be responsible for the above duties. Funding for this position would come from a vacant plans reviewer position in development services, therefore no additional costs to the general fund.

Human Resources

The pandemic and associated labor market has highlighted the challenges of a small HR department. To date the city has conducted 24 recruitments, this is significantly higher than previous years. Complicating the recruitment process is the difficult labor market caused by the pandemic--positions are taking longer to fill and salaries are becoming more contested. By 2023 the city anticipates a minimum of 11 retirements, and it could be as high as 21. These numbers include up to six police officers who are eligible (and have indicated such) that will be retiring. Recruitments for police officers are much more labor intensive due to the smaller applicant pool. The pandemic has also greatly increased the human resource department workload in responding to ever-changing guidelines, accommodation requests and policy changes. This has resulted in the delay of critical work such as payroll implementation, leave program reviews, HR management software, Learning Management Program implementation and salary studies. Additional pressure has been related to the unfunded mandates from the State such as leave law changes that have made protected leave difficult to administer, police personnel record changes and new safety laws/programs.

The Society for Human Resources Management (SHRM) recommends 2.57 FTE HR personnel per 100 FTEs. Sumner currently has 1:120 ratio. If you factor in the Administrative Services Director at 1/3 the ratio improves slightly to 1.33:120--still well below SHRM's recommendation.

Staff recommends adding an HR Generalist position that would start Q4 of 2021. This position would primarily focus on recruitments and management of the city's safety and training programs. Due to the impacts of the pandemic, the ARPA committee has recommended that the initial salary costs for 2021-2023 (\$300k) be paid for with ARPA funds. Future costs of the position would be paid by the General Fund and allocated through the indirect cost allocation model.

Discussion ensued.

PASSED BY VOICE VOTE.

COUNCIL REPORTS

Deputy Mayor Hayden is enjoying getting back to activities and events.

Councilmembers Reed, Hamilton and Hochstatter had nothing to report tonight.

Councilmember Brown gave a special thanks to Lyle and Darren, employees of the Public Works department. They were very responsive to his situation and took the time to explain what they were doing and answered his questions.

Councilmember Neuman seconded what the Deputy Mayor said, she added there is joy to feeling normal again. Just because we are getting back to events, etc., that still doesn't mean people shouldn't get the vaccine. There are new variants and it's affecting our children. She ended her comments by reminding everyone to remain cautious.

Councilmember Bitetto is pleased to hear about the continued work on the property transfer to the library.

CITY ADMINISTRATOR

City Administrator Jason Wilson updated the council on the following:

Upcoming Policy Issues:

- Next Week's Study Session
 - Ordinance No. XXXX – Mandatory Emergency and Transitional Housing Zoning Code Updates (ESSHB 1220)
 - Houston Road Annexation Petition Discussion
 - Pandemic Response Policy Update
 - Executive Session - Labor
- August 30th is a 5th Monday—enjoy the night off.
- Next Regular Council Meeting on Tuesday September 7th
 - Resolution declaring the Main Street East property as surplus and authorizing the Intergovernmental Transfer
 - Resolution Adopting the Main Street Visioning Plan
 - Purchase and Sale Agreements between the Pierce County Library and City for the Main Street East and Fryar Avenue properties.
 - Lease Amendment between City and Pierce County Library District for Fryar Avenue Library Building
 - Ordinance No. amending the Park Rules

Personnel Issues:

- Cemetery Manager Scott DeCarteret is retiring at the end of the month.
- Three new positions started today:
 - Cemetery admin assistant
 - Lateral police officer
 - Fleet mechanic

Miscellaneous:

- COVID Cases continue to increase. We are monitoring it closely and are starting to see the impacts among our staff.

MAYOR REPORT

Mayor Pugh spoke about the hiring process and what a significant undertaking it is. He thanked HR Manager Adrienne McNeilly and everyone involved in that process.

September 7, 2021, will be a big night noting the major milestone of transferring property to the library.

He ended his comments by sharing the meaning behind “Blue Moon” because there will be one on Sunday, August 22, 2021.

EXECUTIVE SESSION

There was none scheduled.

ADJOURNMENT

With no further business before the Council, the Mayor adjourned the meeting at 6:55pm Councilmembers concurred.

ATTEST:

William L. Pugh, Mayor

Michelle Converse, CMC City Clerk

Good afternoon!

I'd like to submit input for tonight's city council meeting. It's my understanding that meetings are still virtual via Zoom.

Here is our short submission. Do we get to read it? Or is it read for us?

Good evening Sumner City Council and elected leadership,

My husband and I moved to beautiful Sumner almost 6 years ago. We are located on the other side of the fence to the property that is ear marked for the new library. We are parents of 5 young children who have been library mice since infancy. We take them to all the local libraries, and have many conversations about the crowd that is often outside the buildings.

We worry about the switch in ownership of the land. Currently, when the grass is tall enough to camouflage the campsites, a simple phone call to the city of Sumner's project manager is able to get the grass mowed in a very short amount of time. Not only do they manage the vegetation in a timely manner, but they pick up the tarps and garbage quickly.

It is our understanding from the city of Sumner and Pierce County Library System that funding for the library is years out. We are concerned that during this time of vacant land that we are attracting homeless camp sites and that we will lose the land management.

Thanks for being a great town to raise our family in.

Megan Morton

SUMNER CITY COUNCIL
Minutes – Study Session
August 23, 2021

As a result of the Governor’s “Washington Ready” order, the Sumner City Council held its study session virtually via ZOOM meetings with Mayor William L. Pugh presiding.

Mayor Pugh called the meeting to order at 6:00pm.

Councilmembers present: Bitetto, Brown, Hamilton, Hayden, Hochstatter, Neuman and Reed.

Staff present: Administrative Services Director Jeff Steffens, City Attorney Andrea Marquez, Community Development Director Ryan Windish, Development Services Director Doug Beagle, City Engineer Michael Kosa and Associate Planner Ann Seigenthaler

REGULAR BUSINESS

1. Annexation Request – Houston Road Parcels
2. Mandatory Emergency and Transitional Housing Zoning Code Updates (ESSHB 1220)
3. Pandemic Policy Update

CITY ADMINISTRATOR REPORT

AGENDA SETTING

EXECUTIVE SESSION

ADJOURNMENT

When there was no further business before the Council, the meeting adjourned at 6:50pm.

ATTEST:

City Clerk Michelle Converse, CMC

Mayor William L. Pugh

SUBJECT: Pandemic Policy Update

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Pandemic Policy Amended
-

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

As the magnitude of the COVID-19 pandemic evolves, the City finds it necessary to occasionally update our Pandemic Response Policy. This update will incorporate the City's new Telework Policy and Telework Agreement and Request Form into the Pandemic Policy. Staff will also provide the Council with an update on current City Hall hours and proposed changes to onsite staffing levels in light of the increasing case counts due to the Delta Variant.

The Sumner Municipal Code allows the Mayor to set rules and regulations governing the response to the emergency which must be ratified by the full Council.

COUNCIL COMMITTEE/STUDY SESSION: Study Session

MEETING/STUDY SESSION DATE: 8/23/2021

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Approve as written.



RULES AND REGULATIONS GOVERNING COVID-19 PANDEMIC

Updated August 17, 2021

1. PURPOSE: Following a Proclamation of Emergency, and pursuant to the City's Emergency Management Policy (SMC 2.76) and the powers vested in the Mayor following a Declaration of Emergency, this policy was created to provide guidance in the event a pandemic illness is expected to or currently is taking place that may affect the operations of the City of Sumner and pose a risk to staff and the community at large. These rules are specific to this instance, are subject to revision at the Mayor's discretion, and shall not be interpreted to set any precedent the emergency or disaster for which they are specifically implemented.
2. SCOPE: This policy applies to all City of Sumner departments and employees, irrespective of exempt or non-exempt status or membership in any union within the City of Sumner.
3. DEFINITIONS:
 - A. City Hall Public Access Restrictions: the closure of City Hall and all other City Facilities from public access but shall not mean the closure of business operations inside City Facilities or the City.
 - B. Shelter in Place Closure: Means an order by the Governor, state or local department of health, or other entity with authority, prohibiting Washingtonians from leaving their homes except for absolutely necessary purposes and where City employees are expected to work remotely if capable and continue to report to work if unable to work remotely so as to continue the provision of necessary and essential governmental services.
 - C. City Facility Complete Closure: a complete closure of all services as ordered by the Governor, state or local department of health, or other entity with authority, where City employees are not expected to work remotely, except those essential governmental services necessary for the life and safety of the City and its community members.
 - D. Epidemic: a widespread occurrence of an infectious disease in a community at a particular time.
 - E. Pandemic: a disease that is prevalent over a region, country, or the world as declared by any national, state or local health department (see 6A below).
4. REFERENCES:
 - A. Chapter 7.05 RCW – Local Health Departments
 - B. Chapter 7.08 RCW – Combined City-County Health Departments
 - C. Chapter 70.26 RCW – Pandemic Influenza Preparedness
 - D. Chapter 2.76 SMC – Emergency Management
 - E. City of Sumner Comprehensive Emergency Management Plan (2013)
 - F. City of Sumner Personnel Policies
 - G. Washington Department of Health: doh.wa.gov
 - H. Tacoma Pierce County Health Department: tpchd.org

5. POLICY: It is the policy of the City of Sumner to take all appropriate measures needed to address a pandemic. Protecting the community and City staff are the top priority and this policy establishes some of the actions that may be taken, and the authority granted to address a pandemic.
6. PROCEDURES: The following procedures are created to minimize disease exposure and maintain continuity of City operations in the event that a pandemic becomes a threat to City employees, their families, and the community at large.
 - A. Declaration of Pandemic: Public health professionals at organizations such as the Centers for Disease Control and Prevention (CDC), Washington State Public Health Department, and/or Tacoma/Pierce County Health Department may declare that a pandemic or related public health emergency exists. Such declarations may contain instructions to both private and public sector entities which will be followed by the City as applicable.
 - B. Procedures to help minimize the spread of germs: Employees are urged to practice standard Non-Pharmaceutical Interventions (“NPI’s”), including wearing a face covering, covering coughs by coughing into their elbows or into a tissue, regular hand washing, regular use of alcohol hand sanitizer, and avoiding touching eyes, nose, or mouth. Hands and work surfaces should be disinfected frequently. Employees are also urged to utilize physical distancing such as maintaining a distance of six feet from others when practical to do so. In the event that it is not possible to physically distance, employees are required to wear PPE when interacting with other employees, citizens and customers. All employees will be required to comply with any personal protective equipment requirements as outlined by any federal, state or local health official or authority. Employees who do not feel comfortable following requirements should request a medical accommodation through Human Resources which will require a doctor’s certification per City of Sumner Personnel Policy sections 2.2.1 – 2.2.3.
 - C. During times of Declaration of Pandemic:
 - i. Employees who have a communicable illness or are experiencing flu-like symptoms are encouraged to stay home, take accrued leave and consult their physician.
 - ii. Employees reporting to work who exhibit symptoms of a communicable illness will be sent home by a supervisor after consultation with the HR Department, and encouraged to consult their physician. The employee shall be required to utilize accrued leave, if any, pursuant to the Personnel Policies or applicable collective bargaining agreement if they are sent home due to symptoms of an illness.
 - iii. If the illness of an employee or member of an employee’s household interferes with reporting to work in a timely manner, the employee is responsible for notifying their supervisor pursuant to the provisions of the Personnel Policies or applicable collective bargaining agreement. Employees must not return to work until they have been free of illness symptoms (fever, chills, sore throat, loss of taste or smell etc.) following the current CDC or Health Department guidelines, or deemed no longer infectious by a medical professional (i.e. negative test result).

- iv. Employees are required to utilize their accrued sick or vacation leave, compensatory time, floating holidays, management leave, banked holiday leave or any other paid leave accrued by the employee while recovering from or caring for a spouse, dependent, or any other covered person recovering from illness, consistent with Section 8.3 of the Personnel Policy.
- v. When traveling internationally, employees are required to follow any local, state, or federal quarantine guidelines before returning to in person work. Employees are required to utilize their accrued sick or vacation leave, compensatory time, floating holidays, management leave, banked holiday leave or any other paid leave accrued by the employee while on travel related quarantine.
- vi. When quarantine of an employee is ordered by State or County Health Officials due to a pandemic illness, any accrued leave may be taken for the period of quarantine
- vii. Employees who stay home due to the closure of a dependent's school for a health reason shall be permitted to use any accrued leave consistent with Section 8.3 of the Personnel Policy).
- viii. Employees who have exhausted all accrued leave of any type to cover their pandemic related absence may be eligible for Shared Leave as outlined in Section 8.6 of the Personnel Policy. Alternatively, employees who have exhausted all accrued leave may elect to take leave without pay (LWP) for a pandemic related absence with pre-approval from the City Administrator consistent with Section 8.12 of the Personnel Policy.
- ix. At the Discretion of the Mayor, City Administrator or their designee, City Hall may alter its business practices, hours of business, and services provided. Examples of potential measures that could be taken include but are not limited to:
 - a. The City may implement temporary emergency procedures to minimize in-person contact between employees. Such measures may include greater use of e-mail, phone, and teleconferences as opposed to in-person meetings and contact.
 - b. Reduced Counter Service: The City may alter how it conducts business with the public by limiting or halting services at counters/areas of the City Hall and other facilities where front-line services are typically provided.
 - c. Telecommuting: Some staff, with the ability and technical capability to work from home, may be pre-authorized or assigned by their supervisor to work from home on a partial or full-time basis. The

Mayor, City Administrator or their designee shall have the authority to set the minimum and maximum number of weekly telework shifts. All other provisions of the City's Telework Policy shall remain in place including the requirement to complete a Telework Authorization and Agreement form. .

7. City Service Levels

A. City Hall Public Access Restrictions

- i. **Purpose:** To maintain the provision of services and operations while ensuring proper physical distancing. During this response level, all normal city services are provided, but may be provided by phone, e-mail or by appointment.
- ii. **Staffing:** Most City Hall employees will continue to work from home, including answering their desk lines and public lines that are routed to them. If someone comes to City Hall and needs service that can't be provided over the phone or online, a staff member, after determining that the customer's request is not something that can be handled by means other than in-person, may greet and escort them into the building for service. Employees should doorway triage—if the customer is exhibiting cold/flu symptoms ask them to leave and provide services in some other manner and maintain proper physical distancing techniques while providing service. Additionally, the employees at work are a resource for the employees working from home and should be utilized to provide in person services if needed.

While a City Hall Public Access Restriction is in place, employees may come into City Hall to pick up additional work, drop off work product, get IT services, etc, but while in City Hall, employees are required to limit all in-person contact, wear a face covering if mandated and be sure to practice good hygiene.

Typical staffing during City Hall Public Access Restriction, should include:

- 1 Police Records Specialist
- 1 Employee capable of issuing a permit and answering permit questions (as determined by Development Services Director)
- 1 Employee capable of taking payments (as determined by Administrative Services Director)
- 1 Engineer (as determined by PW Director)
- 2 Engineer Technicians¹
- 1 Building Official²
- 1 IT Employee
- 2 Department Directors per day (as determined by the City Administrator)

¹ Work cannot be done from home

² May work partially from home

- The Police Chief or Deputy Chief will rotate days
- The City Administrator and Communications Director will work 2 days in the office

Staffing can be adjusted as necessary based on current health department guidance or community spread of the virus.

- iii. **Supervision:** Directors (either directly or through first line supervisors) need to be checking in with their employees daily to discuss workload and understand what challenges (if any) they are having.
- iv. **Compensation:** During a public access restriction there is no additional compensation provided. Use of accrued leave or emergency sick leave are the same as those outlined in section 6.C.
- v. **Signage:** A City Hall Public Access Restricted sign should be placed on the main door. Services provided by appointment only. Sign should include a main number that routes through the City phone tree and provide information about online services. Deliveries should be instructed to press the call button Monday - Friday 8:00am – 5:00pm. *When possible, staff should ship Amazon.com deliveries to the locker or personal items to your home.*
- vi. **Modifications:** During a public access restriction, these procedures and staffing requirements will be reviewed weekly and adjusted as necessary. Employees will need to monitor email communication from Executive staff or HR regarding any procedure adjustments to ensure they are following required procedures.

B. Shelter in Place Closure:

- i. **Purpose:** To maintain the provision of services and operations while ensuring proper physical distancing. During this response level, all normal city services are provided, but may be provided by phone, e-mail and by appointment only.
- ii. **Staffing:** All City Hall employees, capable of performing their job function remotely will be required to work remotely. Employees who cannot work remotely and are thus asked to report to work but *choose not* to report to work will be required to use accrued leave (any form).

Staff who are unable to perform their job functions remotely (determined and pre-authorized by a Department Director or City Administrator) or who are asked to report to City Hall shall be expected to report to work and will receive additional compensation as listed in section B(iii).

Non-City Hall Staff (Shops, Parks, Cemetery, Facilities, WWTF) shall continue to report to work as normal and will receive additional compensation as listed in section B(iii). Employees who choose not to report to work will be required to use

accrued leave (any form).

- iii. **Compensation:** During a shelter in place closure, employees required to physically report to work shall be paid an additional 5% of the employee's regular pay for essential work performed. The 5% shall be paid in full day increments.
- iv. **Signage:** A City Hall Public Access Restricted sign on main door. Services provided by appointment only. Sign should include a main number that routes through the City phone tree and provide information about online services. Deliveries should be instructed to press the call button Monday - Friday 8:00am – 5:00pm. *When possible, staff should ship Amazon.com deliveries to the locker or personal items to your home.*

C. City Facility Complete Closure:

- i. **Purpose:** To maintain only essential and emergency services.
- ii. **Staffing:**

Situation non-essential employees will be required to stay home and shall be compensated according to section C(iii). Employees are not expected or allowed to work remotely unless pre-authorized.

Situation-Essential Staff (determined to be minimum staffing necessary to provide essential services as determined by a Department Director or City Administrator) will be required to work and shall be compensated according to section C(iii).

- iii. **Compensation:**

Situation non-essential employees will receive closure pay (regular wages). Closure pay will only be made available to staff who are scheduled to work on the day(s) on which the City Facilities are closed. Those who are on a planned absence, such as vacation leave and were not recalled back to work will not receive Closure Pay. Any employee already on sick leave shall be eligible for Closure Pay in lieu of continued use of sick leave once closure pay is in effect. If an employee is using emergency sick leave under the Families First Coronavirus Response Act (FFCRA), that leave shall be used first prior to moving in a closure pay status.

Situation-Essential Staff (determined to be minimum staffing necessary to provide essential services as determined by the Department Director) will be paid an additional ½ of the employee's regular hourly rate of pay for work carried out during a City Facility Complete Closure.

Situation-Essential Director and Deputy Director staff will receive a 5% (five percent) salary increase for hours worked during a City Facility Full Closure in 40-hour increments.

8. Safe Start and Re-Opening of City Hall

Purpose: To maintain the provision of services and operations while ensuring proper physical distancing between both employees and the public and ensure compliance with any phased re-opening restrictions implemented by any federal, state or local health official or authority. During this response level, City Hall will slowly be increasing staffing levels and customer access based on the Safe Start reopening phases outlined by the Washington State Governor. The City Hall reopening plan will begin when the county enters Phase II of the Safe Start plan. During Phase I, the City will follow the Shelter in Place provisions.

- i. **Staffing:** As the Washington State Governor transitions the state through the various stages of the Safe Start program, the staffing levels at City facilities will be permitted to gradually increase. While the state or county may move to a particular phase on a specific day, the Mayor will determine what day City Staff move to the same phase to ensure that all health department guidance can adequately be met. During any phase of a City Hall Reopening Restriction, City Hall and any field staff previously identified as being unable to work remotely will continue to work at their assigned location/facility, working their regular schedule. Any employees who are unable or unwilling to report to their designated work location will generally be required to use accrued leave, unless pre-approved to telework by their department director.

For Phase II and III, in an effort to reduce the number of staff in the building on any given day while still providing appropriate levels of service, the City Administrator will divide City Hall Staff into two work teams (Daffodil and Rhubarb). Employees will continue to work their normal schedule (including alternative work schedules if applicable) but will only work on-site in City Hall on the days their team is assigned. Team Daffodil will be responsible for staffing City Hall on Mondays and Tuesdays, Team Rhubarb will be responsible for staffing City Hall on Wednesdays and Thursdays. Friday will be reserved for deep cleaning and only those City Hall employees who cannot work from home will be allowed in the building. City Hall staff shall only be allowed in City Hall on their assigned workdays based upon their assigned team, whether the entry into City Hall is for work or otherwise. Once assigned to a work group, employees will not be able to switch work groups without approval of the City Administrator. Employees who are unable or unwilling to report to their designated work location on their scheduled day will generally be required to use accrued leave, unless pre-approved to telework by their department director.

Employees who are not stationed at City Hall may be required to report to a different work location in order to assist with physical distancing.

- a. Phase II - When the Governor formally announces that the state has transitioned into Phase II, most staff will continue to work remotely. City Hall will be staffed based on the assigned team/day of the week at levels listed in the public access restricted (section 7.A).
- b. Phase III –When the Governor formally announces that the state has transitioned into Phase III, City Hall on-site staffing will increase beyond the staffing levels set forth in phase II. City Hall Staff will continue to work their regular schedule but will only be allowed to work in-person at City Hall on their assigned days according to the above-identified teams with a required minimum staffing level equal to Phase II. Employees who choose not to physically report to work on their team’s assigned day(s) will be required to use accrued leave, unless pre-approved to telework by their department director.
- c. Phase IV –**Current Phase at time of adoption**City Hall in-person staffing will be at roughly half of normal staffing levels. Employees will continue to work their normal schedules but will only work in-person at City Hall on their team’s assigned days, consistent with Phase III. Employees will now be required to be in the office on their teams’ assigned days. Employees who choose not to physically report to work on their team’s assigned day(s) will be required to use accrued leave.

Beginning September 7th, 2021 Employees must report to work unless they have an approved telework agreement on file with the City.

To increase physical distancing, customers will continue to be encouraged to conduct city business over the phone or online. If a customer is exhibiting cold/flu symptoms they will be asked to leave, and services will be provided in some other manner. Customers allowed into City facilities will be required to maintain proper physical distancing techniques while receiving service, and will be required to comply with any personal protective equipment requirements as outlined by any federal, state or local health official or authority.

During any phase, while a City Hall Re-Opening Restriction is in place, employees shall not come into City Hall to pick up additional work, drop off work product, get IT services, etc, on a day that their team is not assigned to be working on-site, except with prior authorization from the City Administrator.

- ii. **Supervision:** During any phase of the City Hall Re-Opening restriction, Directors (either directly or through first line supervisors) need to be checking in with their employees daily to discuss workload and understand what challenges (if any) they are having.

- iii. **Compensation:** During any phase of the City Hall Re-Opening restriction, no employee shall receive additional compensation beyond their normal rate of pay or authorized overtime. Use of accrued leave or emergency sick leave are the same as those outlined in section 6.C.

- iv. **Public Access:**
 - Phase I: Closed. Public assistance for permitting by appointment only.
 - Phase II: Closed. Public assistance by appointment only—only for services not available online.
 - Phase III: Open four days a week, Monday-Thursday, hours determined by Mayor.
 - Phase IV: No restrictions, open four days a week, Monday-Thursday 7:30am – 5:30pm, and remote only on Fridays.

- v. **Workplace Modifications:**
 - a. Signage will be placed throughout city facilities reminding employees and citizens to follow proper physical distancing guidelines.
 - b. Temporary “occupancy” restrictions will be established for common areas such as conference rooms and the employee breakroom.
 - c. Employees will be encouraged to hold meetings virtually and eat lunch at their own workspaces.
 - d. Outside travel will be restricted without prior approval.
 - e. Hallways will be designated as one way only to provide proper physical distancing.
 - f. Temporary protective barriers will be installed at customer facing counters to provide an additional level of safety for those employees dealing directly with the public.
 - g. A six-foot physical distancing mark will be placed on the floor for citizens to stand behind when waiting to be helped at public counters.
 - h. Employees will be encouraged to wash their hands throughout the workday.
 - i. Employees will be responsible for wiping down their workplace at least once per day.
 - j. Employees using “pooled” vehicles will be required to wipe down touched surfaces with provided disinfectant wipes or spray.
 - k. Additional sanitization services will occur on Fridays at all city facilities, focusing on “high touch” surfaces such as banisters, door handles and countertops.
 - l. All employees, regardless of work location will be subject to health screenings and PPE use as required by the State Department of Health, Labor and Industries or any federal, state or local health official or authority.

- vi. **Modifications:** During a City Hall Re-Opening restriction, these procedures and staffing requirements will be reviewed weekly and adjusted as necessary based on federal, state or local health official or authority.

9. Miscellaneous Provisions

- i. **Special Event Permits:** Staff is authorized to deny a request for a special event permit if the event for which the permit is requested is (1) contrary to public health guidance, (2) in violation of a Governor's order, or (3) when the City or applicant cannot safely accommodate or manage the event, in the sole discretion of the Mayor.
- ii. **Temporary Use Permits:** Temporary uses permitted per SMC 18.36.020 for existing eating and drinking establishments shall be allowed to exceed the 3-week limit (SMC 18.36.020.C.) during the scope of the City's pandemic emergency declaration to accommodate new or expanded outdoor seating. All building and fire code requirements must be met. Temporary uses may be allowed in off-street parking areas, provided all established parklet ROW use regulations are met. Temporary uses related to outdoor restaurant seating shall be on the same legal lot as the existing business or may be located offsite only upon proof of authorization of an abutting parcel owner.
- iii. **Late Fee/Penalty Waivers:**
 - a. **Property Leases:** The City currently leases City-owned property to a number of small businesses that may be negatively impacted by the loss of income associated with the Covid-19 pandemic. The City's Finance Department shall not enforce or attempt to collect late fees imposed by any lease agreement of City-owned property incurred between the effective date of the City's Proclamation of Emergency (March 11, 2020) and the earlier of: (1) Termination of the City's Proclamation of Emergency; or (2) September 30, 2021.
 - b. **Gambling Taxes:** The City collects Gambling Tax from a number of small businesses that may be negatively impacted by the loss of income associated with the Covid-19 pandemic. The City's Finance Department shall not enforce or attempt to collect late fees imposed by SMC 3.08.060 for Gambling Taxes owed to the City incurred between the effective date of the City's Proclamation of Emergency (March 11, 2020) and the earlier of: (1) Termination of the City's Proclamation of Emergency; or (2) September 30, 2021.
 - c. **Commercial Parking Taxes:** The City collects Commercial Parking Tax from a number of small businesses that may be negatively impacted by the loss of income associated with the Covid-19 pandemic. The City's Finance Department shall not enforce or attempt to collect late fees imposed by SMC 3.26.060 for Commercial Parking Taxes owed to the City incurred between the effective date of the City's Proclamation of Emergency (March 11, 2020) and the earlier of: (1) Termination of the City's Proclamation of Emergency; or (2) September 30, 2021.
- iv. **Vaccinations:** The City will not require, but highly encourages employees to receive the coronavirus vaccine. Employees should use the Washington State Department of Health

Phase Finder Tool to determine their vaccine eligibility. To incentivize employee vaccinations, any employee who provides Human Resources proof of an initial dose will receive one additional eight (8) hour floating holiday. Part-time employees would receive a prorated portion of eight (8) hours. The floating holiday must be used by the end of 2021. Unused floating holiday time will be forfeited to the City. Upon separation the floating holiday shall not be paid out. Use should be scheduled in advance and is subject to approval by the employee's supervisor.

Approved by:

DocuSigned by:
William L. Pugh
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Mayor William L. Pugh

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Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Zones OBO City of Sumner:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: noelc@sumnerwa.gov

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To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at noelc@sumnerwa.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to noelc@sumnerwa.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

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SUBJECT: Resolution No.1590 - Authorizing the Surplus of the Main Street East Properties

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1590 - Main Street Library Property

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

The City owns vacant parcels addressed 15208, 15216 and 15126 Main Street East, located directly across Main Street from the Fred Meyer shopping complex (the Main Street East Properties). The City acquired the Main Street East Property in 2018 with the goal of working with the Pierce County Library System to relocate from its current location on Fryar Avenue (in a building owned jointly by the Library and the City) to the more centrally located and accessible Main Street East Property. The Library is a Washington public library municipal corporation and has expressed an interest in purchasing the Main Street Property for a new Sumner library branch. Prior to having the ability to sell the property, the City must surplus it. A public hearing on this surplus was held on August 16, 2021. This resolution will authorize the surplus, and allow the Mayor to proceed with an intergovernmental transfer of the property to the Library on mutually-agreeable terms.

COUNCIL COMMITTEE/STUDY SESSION: Study Session
--

MEETING/STUDY SESSION DATE: 7/12/2021

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Motion to approve Resolution No. 1590 surplus the Main Street East Properties and Authorizing the Mayor to proceed with an Intergovernmental Transfer of the properties to the Pierce County Library.

**RESOLUTION NO. 1590
CITY OF SUMNER, WASHINGTON**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AUTHORIZING THE SURPLUS OF PIERCE COUNTY PARCEL NOS. 0520197015; 0520193060; 0520197014 BY INTERGOVERNMENTAL DISPOSITION.

WHEREAS, the City owns vacant parcels addressed 15208, 15216 and 15126 Main Street East, located directly across Main Street from the Fred Meyer shopping complex (the Main Street Property); and

WHEREAS, the City acquired the Main Street Property in 2018 with the goal of working with the Pierce County Library System (“Library”) to relocate from its current location on Fryar Avenue (in a building owned jointly by the Library and the City) to the more centrally located and accessible Main Street Property; and

WHEREAS, the Library is a Washington public library municipal corporation and has expressed an interest in purchasing the Main Street Property for purposes of relocating the Sumner Library branch to a location that can better serve the needs of the community; and

WHEREAS, the Main Street Property is currently vacant and the City is undertaking efforts to remediate environmental contamination caused by the property’s prior residential and business uses; and

WHEREAS, the property is surplus to the City’s needs; and

WHEREAS, the City has determined that it is appropriate to cause an intergovernmental transfer of the property to the Library for the fair market value of the property, with appropriate and reasonable offsets due to the additional contamination remediation necessary, as said conveyance serves the public interest and needs of both the Library and the City; and

WHEREAS, that in accordance with RCW 39.33.020, a duly-noticed public hearing regarding the City Council’s intention to surplus this property and dispose of it by intergovernmental transfer to the Library did occur in the City of Sumner on August 16, 2021.

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

Section 1. Surplus Authorized. In accordance with the authority granted by RCW 35A.11.010, RCW 39.33, and Sumner Municipal Code 3.36.150, Parcel Nos. 0520197015; 0520193060; 0520197014, as shown in Exhibit A, are declared surplus and the Mayor is hereby authorized and directed to surplus the property and pursue an intergovernmental disposition of the property to the Library, on such terms and conditions as agreed upon by the parties, and in accordance with the process adopted by Sumner Municipal Code.

Section 2. Ratification. The City Council by approval of this Resolution hereby ratifies and confirms any and all acts consistent with the authority and prior to the adoption of this Resolution.

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

Section 4. Effective Date. This Resolution shall take effect and be in force immediately upon its passage.

APPROVED AND ADOPTED this 7th day of September, 2021.

Mayor William L. Pugh

ATTEST:

APPROVED AS TO FORM ONLY:

City Clerk Michelle Converse, CMC

City Attorney Andrea Marquez

EXHIBIT "A"
LEGAL DESCRIPTION

15126 15206 15216

For APN/Parcel ID(s): 0520197014, 0520197015 and 0520193060

Parcel A:

Beginning at a point on the South line of W.E. Daniel County road, 726 feet East and 30 feet South of the Northwest corner of Lot 4, Section 19, Township 20 North, Range 5 East of the Willamette Meridian, in Pierce County, Washington;

Thence East 132 feet;

Thence South 389 feet;

Thence West 132 feet;

Thence North 389 feet to the point of beginning.

Parcel B:

Lot 3, Pierce County Short Plat Number 8106300321, according to map thereof recorded June 30, 1981, in Pierce County, Washington.

Parcel C:

Lot 2, Pierce County Short Plat Number 8106300321, according to map thereof recorded June 30, 1981, in Pierce County, Washington.

SUBJECT: Public Comment (Limit 3 minutes)

CATEGORY:

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

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT:

SUMMARY BACKGROUND:

COUNCIL COMMITTEE/STUDY SESSION:

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: Committee Do-Pass

STAFF RECOMMENDATIONS/MOTION:

SUBJECT: Ordinance No. 2787- Amending Sumner Municipal Code 12.60-Park Rules

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2787
-

STAFF CONTACT: Derek Barry, Community Services Manager

SUMMARY BACKGROUND:

In recognition of several of the 2018 Parks & Trail Plan update's Themes and Guiding Principles of: Fun & Friendly, Beautiful & Clean, Safe & Comfortable, Support of Active, Healthy Lifestyles the Forestry & Parks Commission and staff recommend prohibiting smoking in our parks and trails.

COUNCIL COMMITTEE/STUDY SESSION: Community Development Committee 7/28/21 - Do Pass

Public Safety Committee 8/18/21 - Do Pass

MEETING/STUDY SESSION DATE: 7/28/2021

COMMITTEE RECOMMENDATION: Committee Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Motion to approve Ordinance No 2787 amending Park Rules and Sumner Municipal Code 12.60

ORDINANCE NO. 2787
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING SUMNER MUNICIPAL CODE SECTION 12.60.040K “GENERAL PARK, TRAIL, AND FACILITY RULES” RELATING TO THE RULES FOR THE CITY’S PARKS, TRAILS, AND FACILITIES.

WHEREAS, Sumner Municipal Code Chapter 12.60.040, “General park, trail, and facility rules” Section K outline the general rules of Sumner’s parks, trails and facilities; and

WHEREAS, from time to time, code provisions are reviewed and updated to refine language and to reflect modifications in policies, practices and state law so as to increase the clarity and effectiveness of the Sumner Municipal Code and ensure it remains compliant and enforceable;

WHEREAS, RCW [70.160.130](#) prohibits smoking in public places;

WHEREAS, the City Council desires that the regulations regarding the rules of parks, trails and facilities be updated to more accurately reflect current needs of the community; and

WHEREAS, this Ordinance was presented to the Community Development Committee during the July 28, 2021 meeting, during which the committee gave the ordinance a do-pass; and

WHEREAS, this Ordinance was presented to the Public Safety Committee during the August 18, 2021 meeting, during which the committee gave the ordinance a do-pass.

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

Section 1. Chapter 12.60.040K of the Sumner Municipal Code, “General park, trail, and facility rules” is hereby amended as follows;

K. No person shall ~~possess or~~ open and/or consume any alcoholic beverages or open and/or consume any marijuana, marijuana-infused product, or marijuana concentrates (RCW [69.50.445](#)), or use tobacco products including but not limited to cigarettes, vapor electric cigarettes, cigars, pipes, or any other smoking device, or chewing tobacco in any public park, along the City’s trail system and property adjacent thereto, or within 25 feet of any City facility.

Section 2. Severability – Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

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

Section 4. Effective Date. This ordinance shall be in full force and effect 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 7th day of September 2021.

Mayor William L. Pugh

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse

City Attorney Andrea Marquez

Date Adopted:

Date of Publication:

Effective Date:

SUBJECT: Purchase and Sale Agreement Main Street East Property**CATEGORY:** Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Sumner Main Street Properties PSA

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

In 2018, the City purchased the Main Street East properties for \$1,075,000 with the intention that the property would be used to re-locate the Sumner library branch to a more central and easily accessible location. Since purchasing the property, the City has invested approximately \$275,000 to demolish old structures, clear vegetation and begin remediation of known environmental contamination in the groundwater. The City's total interest in the Main Street Property is approximately \$1,350,914.

The City and the Library each own a 1/2 interest in the current Fryar Avenue building, where the Sumner library branch is currently located. In 2018, the building appraised for \$1,250,000 - making each party's 1/2 interest valued at \$625,000.

As consideration for the purchase of the Main Street East properties, the Library has agreed to (1) take responsibility for the remainder of the clean-up efforts through to an NFA from the Department of Ecology and (2) deed back to the City its 1/2 interest in the Fryar Avenue building, allowing it to be sold or re-developed consistent with the City's Town Center Plan. This would result in a net purchase price of the Main Street Property of \$525,914, as described in the chart below.

City Investment	\$ 1,350,914.00
Fryar Ave Building Ownership	\$ (625,000.00)
Revised Value of Main Street Property	\$ 725,914.00
Clean Up Costs	\$ (200,000.00)
Revised Purchase Price	\$ 525,914.00

COUNCIL COMMITTEE/STUDY SESSION: Study Session**MEETING/STUDY SESSION DATE:** 7/12/2021**COMMITTEE RECOMMENDATION:** Committee Do-Pass**STAFF RECOMMENDATIONS/MOTION:**

A motion approving the Purchase and Sale Agreement for the sale via Intergovernmental Transfer of Parcel Nos. 0520197015, 0520193060 and 0520197014 to the Pierce County Library District for a total amount of Five Hundred Twenty Five Thousand, Nine Hundred Fourteen Dollars and 00/100 (\$525,914.00) and authorizing the Mayor to execute any and all documents necessary to effectuate the transaction.

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter “Agreement”) is entered into by and between the **CITY OF SUMNER**, a municipal corporation and political subdivision of the state of Washington (hereinafter “Seller”) and the **PIERCE COUNTY LIBRARY SYSTEM**, a Washington public library municipal corporation (hereinafter “Purchaser”). Seller and Purchaser may hereinafter collectively be referred to as “Parties” or individually as a “Party.”

AGREEMENT

FOR AND IN CONSIDERATION of the mutual promises and covenants contained herein, the sufficiency of which is unconditionally acknowledged by Seller and Purchaser, the Parties agree as follows:

1. **The Property.** Seller agrees to sell to Purchaser, and Purchaser agrees to buy from Seller, the following property (collectively, the “Property”):

- a. **Real Property.** The real property located in Pierce County, Washington commonly known as 15208, 15126 & 15216 Main Street E, Sumner, Washington (identified by parcel numbers 0520197015, 0520197014 and 0520193060), each of which is legally described on the attached Exhibit A (“Land”), together with (i) all buildings and improvements constructed or located on the Land (the “Improvements”), and (ii) all easements and rights benefiting or appurtenant to the Land, including, without limitation, all water rights and water stock, and all mineral and hydrocarbon rights, if any, owned by Seller (collectively the “Real Property”). The legal description is subject to verification upon receipt of the preliminary commitment for title insurance described in Section 6 below.
- b. **Personal Property.** All of the personal property situated in or about the Real Property owned by Seller (“Personal Property”).

2. **Purchase and Sale.** Seller shall sell and convey to Purchaser, and Purchaser shall purchase and accept from Seller, upon the terms, covenants, and conditions set forth in this Agreement, all of Seller’s right, title, and interest in and to the Property, including all after-acquired title. Seller warrants that Seller has full right, title, authority, and capacity to execute this Agreement and sell the Property. Purchaser warrants that Purchaser has full right, title, authority, and capacity to execute this Agreement and purchase the Property.

3. **Purchase Price and Payment.** The total purchase price for the Property is ONE MILLION THREE HUNDRED FIFTY THOUSAND NINE HUNDRED AND FOURTEEN DOLLARS (\$1,350,914.00), less (i) an off-set in the amount of SIX HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$625,000) for Seller’s purchase of Purchaser’s one-half interest in the buildings located generally at 1116 Fryar Avenue, Sumner, Washington pursuant to that certain Real Estate Purchase and Sale Agreement between the Parties of even date herewith (“Fryar Avenue PSA”), and (ii) an off-set in the amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) constituting consideration for the additional environmental cleanup costs necessary to achieve a No Further Action Letter from the Department of Ecology, for a total adjusted purchase price of FIVE HUNDRED TWENTY FIVE THOUSAND NINE HUNDRED AND FOURTEEN DOLLARS \$525,914.00 (hereinafter “Purchase Price”). The Purchase Price will be paid by Purchaser to Seller by cashier’s check, certified check, or wire transfer of immediately available funds at closing. Within three business days of full execution of this Agreement (“Mutual Acceptance”), Purchaser shall deliver in cash to Chicago Title Insurance Company, 1142 Broadway, Suite 200, Tacoma, Washington 98402,

Attention: Rob Hainey ("Escrow Agent" or "Title Company"), the legal consideration for this Agreement (the "Consideration") in the amount of ONE HUNDRED DOLLARS (\$100.00). Escrow Agent will hold the Consideration as a deposit toward the Purchase Price. Except as otherwise provided herein, should this Agreement be terminated, the Consideration will be returned to Purchaser within three (3) days of any such termination.

4. Feasibility. Purchaser's obligations under this Agreement are contingent upon Purchaser's satisfaction with each of the contingencies set forth in Sections 4.1 through 4.4 (collectively, the "Inspection Contingencies") in its sole and absolute discretion.

4.1 Physical Inspection. Following the date of Mutual Acceptance, Purchaser and its employees, agents and consultants will have the right, from time to time prior to the Closing, to enter upon the Property to examine the same and the condition thereof and to conduct such surveys and to make such engineering and other inspections, tests and studies as Purchaser determines to be reasonably necessary, all at Purchaser's sole cost and expense. Purchaser will give Seller at least 48 hours advance written notice of such examinations or surveys and will conduct such examinations or surveys during normal business hours to the extent practicable. Seller shall have the right, at its option, to have a representative present at all such inspections, examinations and surveys. Purchaser will indemnify, defend, and hold Seller harmless from and against any claims for injury or death to persons or damage to property, including reasonable attorneys' fees and litigation costs, arising out of any such action; provided, Purchaser shall not be liable for any lost profits or inconvenience costs incurred by Seller or any third party arising out of Purchaser's review or access to the Property in compliance with this Agreement. Further, the foregoing indemnity does not apply to: (i) any loss, liability, cost or expense to the extent arising from, or related to, the grossly negligent or willful acts or omissions of Seller; (ii) any diminution in value in the Property arising from, or related to, matters discovered by Purchaser during its investigation of the Property; (iii) any preexisting condition; (iv) any latent defects in the Property discovered by Purchaser; and (v) the release or spread of any hazardous materials or regulated substances which are discovered (but not deposited) on or under the Property by Purchaser, except to the extent that the activities of Purchaser exacerbated such condition or were caused by Purchaser prior to or during its access, investigations and/or tests of the Property. Purchaser shall maintain commercial general liability and property damage insurance insuring Purchaser (and naming Seller as an additional insured) against any liability arising out of any entry onto or inspections of the Property. Such insurance shall be in the amount of not less than Two Million Dollars US (US \$2,000,000.00) combined single limit for injury to or death of one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence. Purchaser may satisfy the limits of liability required herein with a combination of Primary, umbrella and/or excess policies of insurance. Purchaser agrees upon request to provide evidence of such insurance to Seller prior to any inspection of the Property. Purchaser shall conduct all audits, examinations and inspections of the Property in a manner that will not harm or damage the Property. Purchaser shall restore the Property to its condition prior to any such audits, examinations or inspections immediately after conducting the same and repair immediately any damage to the Property caused by Purchaser. Purchaser agrees not to conduct any drilling or boring at the Property without the prior written consent of Seller, which consent may be withheld by Seller in its sole discretion. The provisions of this Section 4.1 shall survive the termination of this Agreement.

4.2 Title. Title shall have been found acceptable, or been made acceptable, in accordance with the requirements and terms of Section 5 below.

4.3 Environmental. Purchaser may, at its election in its sole discretion, obtain, at Purchaser's expense, a current ASTM Phase I &/or II environmental site assessment for the Property, performed by an environmental consultant acceptable to and for the benefit of and reliance on by Purchaser. Purchaser shall have the right to perform a Phase II environmental assessment of the Property and/or a Geotech physical inspection of the Property provided that Seller shall be provided a written copy of Purchaser's proposed scope of investigation, including the location of any sampling, and the proposed remediation for any invasive testing or inspection, at least two (2) business days prior to Purchaser's initiation of such investigation. Purchaser shall not perform its proposed investigation without Seller's approval of the scope of such physically invasive testing or inspections in its reasonable discretion. Purchaser agrees to restore the Property to the substantially same condition that existed before such inspections at Purchaser's sole cost and expense upon completion of any such inspection.

4.4 Inspection Contingency Date. The Inspection Contingency Date shall be 14 days following the later of: (a) Mutual Acceptance hereof; and (b) Sumner City Council's approval hereof (the "Inspection Contingency Date"). All the contingencies set forth above are specifically for the benefit of the Purchaser, and the Purchaser shall waive or deem satisfied any contingency by written notice to Seller no later than the Inspection Contingency Date.

4.5 Notice to Proceed. Subsequent to the foregoing investigation, if Purchaser, in its sole discretion, and for any reason or no reason at all, decides to proceed with the purchase of the Property, then Purchaser will so notify Seller in writing on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date (the "Notice to Proceed"). If Purchaser in its sole discretion, decides that it will not proceed with the purchase of the Property, Purchaser will on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date give notice to Seller that it is terminating this Agreement. If Purchaser fails to deliver a Notice to Proceed to Seller on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date, Purchaser will be deemed to have notified Seller on the Inspection Contingency Date that Purchaser elects not to proceed with the purchase of the Property and elects to terminate this Agreement pursuant to this Section 4.5. If this Agreement is not terminated by Purchaser, or deemed terminated by Purchaser, on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date, then the entire Consideration shall be non-refundable to Purchaser except as otherwise provided in this Agreement, all contingencies described in this Section 4 shall be deemed to be fully and finally satisfied, and this Agreement shall remain in full force and effect. If this Agreement is terminated or deemed terminated by Purchaser on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date, the Consideration, and any interest accrued thereon, shall be immediately released to Purchaser without the need for approval from any other party, including without limitation, Seller, and upon return, neither party will have any further rights or obligations regarding this Agreement or the Property except those obligations which expressly survive termination. Purchaser's election to proceed with the acquisition of the Property will not be deemed to affect or to vitiate Seller's representations and covenants or the conditions precedent to Closing.

4.6 Qualified Waiver of Right to Receive Seller Disclosure Statement. PURSUANT TO RCW CH. 64.06, AS AMENDED BY CHAPTER 64, LAWS OF 2010, PURCHASER HEREBY EXPRESSLY WAIVES THE RIGHT TO RECEIVE A SELLER'S DISCLOSURE STATEMENT ("FORM 17") REFERRED TO THEREIN WITH RESPECT TO THE PROPERTY, EXCEPT FOR THE SECTION OF FORM 17 ENTITLED "ENVIRONMENTAL" AND THE SAME MUST BE COMPLETED BY SELLER. Purchaser further agrees that any information discovered by Purchaser concerning the Property shall not obligate the Seller to prepare and deliver to Purchaser a revised or updated Seller Form 17. Purchaser hereby waives any right to receive an updated or revised Seller

Form 17, regardless of the source of any new information. PURCHASER HEREBY WAIVES, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, THE RIGHT TO RESCIND THIS AGREEMENT PURSUANT TO ANY PROVISION OF RCW CH. 64.06. THIS WAIVER OF THE RIGHT TO RESCIND APPLIES TO ANY SELLER FORM 17 PROVIDED TO PURCHASER AND APPLIES PROSPECTIVELY TO ANY UPDATED OR REVISED SELLER FORM 17 THAT MAY SUBSEQUENTLY BE PROVIDED BY SELLER TO PURCHASER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING.

5. Closing of Fryar Avenue PSA. The Parties hereby agree that the closing of the purchase and sale transaction contemplated by this Agreement is contingent upon the closing of the purchase and sale transaction contemplated by the Fryar Avenue PSA, and the closing of both transactions shall take place concurrently. The Parties agree that if the Fryar Avenue PSA is terminated for any reason, this Agreement will also terminate, the Consideration will be released to the Party entitled thereto, and neither party will have any further rights or obligations regarding this Agreement or the Property except those obligations that expressly survive termination.

6. Conveyance of Title. Seller shall convey title to the Property to Purchaser by Statutory Warranty Deed, in a form substantially similar to the attached Exhibit B (hereinafter "Deed"). Unless otherwise specified herein, Seller shall deliver marketable title to the Property to Purchaser at closing, free and clear of all liens and encumbrances except those specifically accepted by Purchaser in writing. Financial encumbrances to be discharged by Seller, if not discharged sooner, shall be paid from Seller's funds at closing.

7. Closing; Possession. Closing shall occur upon payment of the Purchase Price to Seller from Purchaser and delivery of the executed Deed from Seller to Purchaser (hereinafter "Closing Date"), but in no event later than thirty (30) days after (a) Mutual Acceptance, and (b) Sumner City Council's approval hereof, and shall occur concurrently with the closing of the Fryar Avenue PSA. The Parties agree to execute any and all documents necessary to effectuate the intent of this Agreement. Purchaser shall be entitled to possession of the Property as of the Closing Date, unless otherwise agreed between the Parties in writing.

8. Title Insurance. Seller shall furnish and pay for a preliminary commitment for an ALTA Standard Form Owner's Policy of Title Insurance from Title Company, containing no exceptions other than those agreed upon as "Permitted Exceptions" by the Purchaser from those provided for in such Standard form. Seller shall provide Purchaser with a copy of the preliminary commitment for title insurance prior to closing. As used herein, "Permitted Exceptions" means only: (i) liens for real property taxes and assessments not then delinquent; (ii) the exceptions shown on Schedule B of the Title Commitment referenced as General Exceptions; (iii) any Special Exception shown on the Title Commitment which Buyer approves; and (iv) any matters which would be shown by an inspection or a survey of the Property.

9. Approval by the Sumner City Council. The Parties acknowledge that this Agreement shall not be deemed accepted by or binding on the Seller until approved by the Sumner City Council, if at all, in an open public meeting, which meeting shall take place on September 7, 2021.

10. Seller Warrants. Seller warrants that Seller knows of no material structural or hidden defects except the previously revealed environmental contamination that is undergoing active remediation which shall become the responsibility of Purchaser as of the Closing Date; and Seller has not received any notice from any governmental agency of any violation of laws relating to the Property.

11. Risk of Loss.

11.1 Condemnation. If, prior to the Closing, all or a “Material Portion” (as defined herein) of the Property is taken by condemnation or eminent domain (or is the subject of a pending or contemplated taking which has not been consummated), Seller shall promptly notify Purchaser in writing of such fact. Purchaser shall have the option to terminate this Agreement by giving written notice to Seller not later than five (5) days after Seller’s delivery of such notice and the Closing Date shall be extended, if necessary, to provide sufficient time for Purchaser to make such election, but in no event more than thirty (30) days. Purchaser shall not have any right to terminate this Agreement as a result of any taking of any portion of the Property that is not a Material Portion. If Purchaser does not elect to nor has the right to terminate this Agreement, Seller shall assign and turn over to Purchaser, and Purchaser shall be entitled to receive and keep, all awards for the taking by condemnation and Purchaser shall be deemed to have accepted the Property subject to the taking without reduction in the Purchase Price. As used herein, the term “Material Portion” shall mean (i) any portion having a value in excess of ten percent (10%) of the Purchase Price; (ii) all accesses between the Property and public streets; or (iii) so much of the parking as to render the Property out of compliance with applicable law. Notwithstanding this provision, Seller agrees not to exercise its rights of eminent domain against this Property once under a mutually executed and approved (by City Counsel) Agreement. Provided, Purchaser shall not use its power of condemnation to circumvent the mutually agreed upon terms provided for herein.

11.2 Casualty. If, prior to the Closing, the Property is damaged as a result of any earthquake, hurricane, tornado, flood, landslide, fire or other casualty (any of the foregoing, a “Casualty”), Seller shall promptly notify Purchaser of such fact. If the cost to repair such damage exceeds the Material Damage Threshold, Purchaser shall have the option to terminate this Agreement by giving written notice to Seller not later than five (5) days after Seller’s delivery of such notice. If the cost to repair such damage exceeds all available insurance proceeds (together with the deductible under the applicable insurance policy) by an amount in excess of the Material Damage Threshold, Seller shall have the option to terminate this Agreement by giving written notice to Purchaser not later than five (5) days after Seller’s delivery of such notice. In either case, the Closing Date shall be extended, if necessary, to provide sufficient time for either party to make such election, but in no event more than thirty (30) days. Neither party shall have any right to terminate this Agreement as a result of any damage to any portion of the Property if the cost of repair is not in excess of the Material Damage Threshold. If neither party elects nor has the right to terminate this Agreement, then (i) Seller shall assign and turn over, and Purchaser shall be entitled to receive and keep, all insurance proceeds payable with respect to such damage or destruction (which shall then be repaired or not repaired at Purchaser’s sole option and cost), (ii) the parties shall proceed to the Closing pursuant to the terms hereof without modification of the terms of this Agreement, and (iii) Purchaser shall receive a credit against the Purchase Price in an amount equal to the deductible under Seller’s insurance applicable to the subject Casualty. As used herein, the term “Material Damage Threshold” shall mean damage or destruction the cost of repair of which is reasonably expected to exceed ten percent (10%) of the Purchase Price.

11.3 Termination. If either party terminates this Agreement under this Section, the Consideration will be returned to the Purchaser and neither party shall have any further rights or obligations to the other except that which has been made to expressly survive the termination of this Agreement.

12. Operations Prior to Closing. During the period from the date of Mutual Acceptance to the Closing Date (the “Executory Period”), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and “all risk” insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief. Seller shall execute no contracts, leases or other agreements regarding the Property during the Executory Period that are not terminable without penalty on thirty (30) days or less notice, without the prior written consent of Purchaser, which consent may be withheld by Purchaser at its sole discretion.

13. Closing Costs & Prorations. Seller shall pay its own attorney fees, the recording fees, and for an ALTA Standard Form Owner’s Policy of Title Insurance. Purchaser shall pay its own attorney and professional fees, and all other costs and expenses allocated to Purchaser through the Closing. The Parties shall split equally any applicable escrow fees or other charges necessary to effectuate the transaction. Any taxes, liens, assessments, insurance, or charges imposed by law upon the Property shall be prorated as of the Closing Date, with such prorations to be a final settlement between the Parties.

14. Notices. Except as specifically set forth herein, any demand, request or notice which either Party desires or may be required to make or deliver to the other shall be in writing and shall be deemed given when personally delivered, or when delivered by private courier service (such as Federal Express), or three days after being deposited in the United States Mail first class, postage prepaid and addressed as follows:

SELLER	PURCHASER
Jason Wilson City Administrator City of Sumner 1104 Maple Street Sumner, WA 98390	Georgia Lomax Executive Director Pierce County Library System 3005 112th St. E. Tacoma, WA 98446
	With a copy to: Jemima J. McCullum, Esq. Gordon Thomas Honeywell LLP 1201 Pacific Avenue, Suite 2100 Tacoma, WA 98401 Email: jmccullum@gth-law.com

The foregoing addresses may be changed by written notices to the other Party as provided herein.

15. Brokers. Each Party represents and warrants to the other that no broker has been involved in this transaction. If any claims for brokerage commissions or finder’s fees or like payment arise out of or in connection with the transaction provided herein, and in the event any claim is made, all such claims shall be handled and paid by the Party whose actions or alleged commitment form the basis of such claim, and the Party whose actions or alleged commitment form the basis of a claim shall indemnify, defend, protect and hold harmless the other Party from and against any and all such claims or demands, including without limitation any attorneys’ fees or costs incurred in connection therewith. The representations provided in this Section shall survive the Closing or the termination of this Agreement.

16. Time. Time is of the essence in every provision herein contained.

17. **Binding Agreement.** This Agreement shall inure to the benefit of and be binding upon the heirs, personal representative, successors, and assigns of the Parties.

18. **Attorneys' Fees.** In the event of any litigation regarding the rights and obligations of the Parties under this Agreement, the prevailing Party shall recover its costs and attorneys' fees, including such costs and attorneys' fees for appeals.

19. **Negotiation and Construction.** This Agreement was negotiated by the Parties and shall be construed according to its fair meaning and not strictly for or against either Party.

20. **Entire Agreement.** This Agreement contains the entire understanding between the Parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof, except to the extent reference to the Fryar Avenue PSA (and that certain Restated Lease Agreement described therein) is necessary to interpret this Agreement. There are no other representations, agreements, or understandings, oral or written, between the Parties relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the Parties.

21. **Counterparts.** This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete Agreement.

22. **Further Assurances.** In addition to the actions recited herein and contemplated to be performed, executed, and/or delivered by Seller and Purchaser, Seller and Purchaser agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Closing or after the Closing any and all such further acts, instruments, deeds and assurances as may be reasonably required to consummate the transaction contemplated hereby.

23. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

24. **Miscellaneous.** The provisions of this Agreement are not intended to create any third-party beneficiary contract rights, and therefore none should be deemed created by this Agreement. The Agreement between the Parties is only intended to create rights and/or obligations as between the signatory Parties. This Agreement is entered into and shall be governed by the laws of the State of Washington. The failure of either party to insist upon strict performance of this Agreement shall not affect the right of that Party to insist upon strict performance at a later time. The Parties shall not be deemed to be agents of each other for purposes of this Agreement. Each Party hereto assumes liability for its own negligence, errors and omissions. The venue for any litigation arising out of this Agreement shall be in Pierce County Superior Court.

25. **Business Days.** In the event any date described in this Agreement relative to the performance of actions hereunder by Buyer, Seller and/or Escrow Agent falls on a Saturday, Sunday or legal holiday, such date shall be deemed postponed until the next business day thereafter.

[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]

SELLER'S SIGNATURE PAGE

CITY OF SUMNER,
a municipal corporation and political subdivision of the state of Washington

Approved as to legal form only:

Andrea Marquez Date
City Attorney

Final Action:

William L. Pugh Date
Mayor

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared William L. Pugh, known to me to be the Mayor of the City of Sumner, Washington, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE
PRINTED NAME: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT: _____
MY COMMISSION EXPIRES: _____

PIERCE COUNTY LIBRARY SYSTEM,
a Washington public library municipal corporation

[illegible]

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE
PRINTED NAME: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT: _____
MY COMMISSION EXPIRES: _____

EXHIBIT A
LEGAL DESCRIPTION

Parcel A:

Lot 2 of Short Plat recorded June 3, 1981 under Recording No. 8106300321, records of Pierce County; Situate in the County of Pierce, State of Washington.

Parcel B:

Lot 3 of Short Plat recorded June 3, 1981 under Recording No. 8106300321, records of Pierce County; Situate in the County of Pierce, State of Washington.

Parcel C:

Beginning at a point on the South line of W.E. Daniel County Road, 726 feet East and 30 feet South of the Northwest corner of Government Lot 4, Section 19, Township 20 North, Range 5 East, W.M.; thence East 132 feet, thence South 389 feet; thence West 132 feet; thence North 389 feet to the point of beginning; Situate in the County of Pierce, State of Washington.

Subject to: This conveyance is subject to covenants, conditions, restrictions, easements and environmental contamination, if any, affecting title, which may appear in the public record or title documents, including those shown on any recorded plat, survey, or revealed in any environmental report solicited by either party hereto.

APNs: 0520197015; 0520193060; 0520197014

EXHIBIT B
STATUTORY WARRANTY DEED

After recording return document to:
Pierce County Library System
3005 112th St. E.
Tacoma, WA 98446

DOCUMENT TITLE:	Statutory Warranty Deed
GRANTOR(S):	City of Sumner, a Washington municipal corporation
GRANTEE(S):	Pierce County Library System, a Washington public library municipal corporation
ABB. LEGAL DESCRIPTION:	Lots 2 and 3 Short Plat 8106300321 and Ptn. SW 19-20N-5E
ASSESSOR'S TPN:	0520197015; 0520193060; 0520197014

STATUTORY WARRANTY DEED

The Grantor, the City of Sumner, a Washington municipal corporation, for valuable consideration acknowledged by Grantor, hereby convey(s) and warrant(s) to the **Pierce County Library System, Grantee**, a Washington public library municipal corporation, the following described real property situated in Pierce County, in the State of Washington:

Parcel A:

Lot 2 of Short Plat recorded June 3, 1981 under Recording No. 8106300321, records of Pierce County; Situate in the County of Pierce, State of Washington.

Parcel B:

Lot 3 of Short Plat recorded June 3, 1981 under Recording No. 8106300321, records of Pierce County; Situate in the County of Pierce, State of Washington.

Parcel C:

Beginning at a point on the South line of W.E. Daniel County Road, 726 feet East and 30 feet South of the Northwest corner of Government Lot 4, Section 19, Township 20 North, Range 5 East, W.M.; thence East 132 feet, thence South 389 feet; thence West 132 feet; thence North 389 feet to the point of beginning; Situate in the County of Pierce, State of Washington.

Subject to: This conveyance is subject to covenants, conditions, restrictions, easements and environmental contamination, if any, affecting title, which may appear in the public record or title documents, including those shown on any recorded plat, survey, or revealed in any environmental report solicited by either party hereto.

GRANTOR:
CITY OF SUMNER,
a municipal corporation and political subdivision
of the state of Washington

William L. Pugh, Mayor
Date: _____

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared William L. Pugh, known to me to be the Mayor of the City of Sumner, Washington, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE
PRINTED NAME: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT: _____
MY COMMISSION EXPIRES: _____

SUBJECT: Purchase and Sale Agreement Fryar Avenue Library Building

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Sumner Fryar Avenue Property PSA

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

In 2018, the City conducted an appraisal of the Fryar Avenue Library location and valued the building at \$1,250,000. As an off-set to the purchase price for the Main Street East properties (new library location), the Library is releasing their one-half interest in the Fryar Ave building, valued at \$625,000 to the City, who after the conveyance, will own the building and underlying property in fee.

For additional background, please see the summary provided for the immediately preceding item - Purchase and Sale Agreement for the Main Street East Properties.

COUNCIL COMMITTEE/STUDY SESSION: Study Session

MEETING/STUDY SESSION DATE: 7/12/2021

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

A motion approving the Purchase and Sale Agreement between the City and the Pierce County Library for the acquisition of the Library's half interest in the Fryar Avenue Building valued at \$625,000.00 and authorizing the Mayor to execute any and all documents necessary to effectuate the transaction.

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter "Agreement") is entered into by and between the **PIERCE COUNTY LIBRARY SYSTEM**, a Washington public library municipal corporation (hereinafter "Seller") and the **CITY OF SUMNER**, a municipal corporation and political subdivision of the state of Washington (hereinafter "Purchaser"). Seller and Purchaser may hereinafter collectively be referred to as "Parties" or individually as a "Party."

AGREEMENT

FOR AND IN CONSIDERATION of the mutual promises and covenants contained herein, the sufficiency of which is unconditionally acknowledged by Seller and Purchaser, the Parties agree as follows:

1. **The Property.** Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the following property (collectively, the "Property"):

a. **Library Buildings.** Seller's undivided one-half interest in the library buildings ("Buildings") located on the real property commonly known as 1116 Fryar Avenue, Sumner, Washington, identified as parcel number 0420247003, which is legally described on the attached Exhibit A ("Land"). For avoidance of doubt, this Agreement applies only to Seller's undivided one-half interest in the Buildings and does not include the underlying Land.

b. **Personal Property.** All of Seller's interest, if any, in the personal property located in or about the Buildings.

2. **Purchase and Sale.** Seller shall sell and convey to Purchaser, and Purchaser shall purchase and accept from Seller, upon the terms, covenants, and conditions set forth in this Agreement, all of Seller's right, title, and interest in and to the Property, including all after-acquired title. Seller warrants that it has full right, title, authority, and capacity to execute this Agreement and sell the Property. Purchaser warrants that it has full right, title, authority, and capacity to execute this Agreement and purchase the Property.

3. **Purchase Price and Payment.** The total purchase price for the Property is SIX HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$625,000.00) (hereinafter "Purchase Price"), which is based upon the May 4, 2018 appraisal in the amount of ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$1,250,000.00) obtained by Purchaser. The Purchase Price may be paid by Purchaser to Seller as an off-set to the purchase price on Seller's purchase of parcel numbers 0520193060, 0520197015 and 0520197014 pursuant to that certain Real Estate Purchase and Sale Agreement between the Parties of even date herewith ("Main Street PSA"). Within three business days of full execution of this Agreement ("Mutual Acceptance"), Purchaser shall deliver in cash to Chicago Title Insurance Company, 1142 Broadway, Suite 200, Tacoma, Washington 98402, Attention: Rob Hainey ("Escrow Agent"), the legal consideration for this Agreement (the "Consideration") in the amount of ONE HUNDRED DOLLARS (\$100.00). Escrow Agent will hold the Consideration as a deposit toward the Purchase Price. Except as otherwise provided herein, should this Agreement be terminated, the Consideration will be returned to Purchaser within three (3) days of any such termination.

4. **Notice to Proceed.** If Purchaser, in its sole discretion, and for any reason or no reason at all, decides to proceed with the purchase of the Property, then Purchaser will so notify Seller in writing ("Notice to Proceed") on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date defined in the Main Street PSA. If Purchaser in its sole discretion, decides that it will not proceed

with the purchase of the Property, Purchaser will, on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date give notice to Seller that it is terminating this Agreement. If Purchaser fails to deliver a Notice to Proceed to Seller on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date, Purchaser will be deemed to have notified Seller on the Inspection Contingency Date that Purchaser elects not to proceed with the purchase of the Property and elects to terminate this Agreement pursuant to this Section 4. If this Agreement is not terminated by Purchaser, or deemed terminated by Purchaser, on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date, then the entire Consideration shall be non-refundable to Purchaser except as otherwise provided in this Agreement and this Agreement shall remain in full force and effect. If this Agreement is terminated or deemed terminated by Purchaser on or before 5:00 p.m. Pacific Time on the Inspection Contingency Date, the Consideration, and any interest accrued thereon, shall be immediately released to Purchaser without the need for approval from any other party, including without limitation, Seller, and upon return, neither party will have any further rights or obligations regarding this Agreement or the Property except those obligations that expressly survive termination. Purchaser's election to proceed with the acquisition of the Property will not be deemed to affect or to vitiate Seller's representations and covenants or the conditions precedent to Closing.

5. **Closing of Main Street PSA.** The Parties hereby agree that the closing of the purchase and sale transaction contemplated by this Agreement is contingent upon the closing of the purchase and sale transaction contemplated by the Main Street PSA, and the closing of both transactions shall take place concurrently. The Parties agree that if the Main Street PSA is terminated for any reason, this Agreement will also terminate, the Consideration will be released to the Party entitled thereto, and neither party will have any further rights or obligations regarding this Agreement or the Property except those obligations that expressly survive termination.

6. **Conveyance of Title.** Seller shall convey title to the Property to Purchaser by Quit Claim Deed, in a form substantially similar to the attached Exhibit B (hereinafter "Deed"). Unless otherwise specified herein, Seller shall deliver marketable title to the Property to Purchaser at closing, free and clear of all liens and encumbrances except those specifically accepted by Purchaser in writing. Financial encumbrances to be discharged by Seller, if any and if not discharged sooner, shall be paid from Seller's funds at closing.

7. **Closing; Possession.** Closing shall occur upon payment of the Purchase Price to Seller from Purchaser and delivery and recording of the executed Deed from Seller to Purchaser (hereinafter "Closing Date"), but in no event later than thirty (30) days after (a) Mutual Acceptance and (b) Sumner City Council's approval hereof, and shall occur concurrently with the closing of the Main Street PSA. The Parties agree to execute any and all documents necessary to effectuate the intent of this Agreement. Purchaser shall be entitled to possession of the Property as of the Closing Date, unless otherwise agreed between the Parties in writing.

8. **Approval by the Sumner City Council.** The Parties acknowledge that this Agreement will not be deemed accepted by or binding on Purchaser until approved by the Sumner City Council, if at all, in an open public meeting, which shall take place on September 7, 2021.

9. **Seller Warrants.** Seller warrants that it knows of no material structural or hidden defects in the Property; and Seller has not received any notice from any governmental agency of any violation of laws relating to the Property.

10. **Risk of Loss.** Risk of loss of or damage to the Property until the Closing Date will be governed by (1) that certain Agreement for Purchase and Expansion of the Sumner Branch Library

dated October 19, 1992 between the Parties (“1992 Agreement”) and (2) that certain Memorandum of Lease dated September 28, 1995 between the Parties (“Lease”). Thereafter, Purchaser shall bear the risk of loss.

11. Operations Prior to Closing. During the period from the date of Mutual Acceptance until the Closing Date, the Parties will operate and maintain the Property in the ordinary course of business pursuant to the terms and conditions of the 1992 Agreement and the Lease.

12. Closing Costs and Prorations. Seller shall pay its own attorney and professional fees and the recording fees. Purchaser shall pay its own attorney and professional fees, and all other costs and expenses allocated to Purchaser through the Closing. The Parties shall split equally any applicable escrow fees or other charges necessary to effectuate the transaction. Any taxes, liens, assessments, insurance, or charges imposed by law upon the Property shall be prorated as of the Closing Date, with such prorations to be a final settlement between the Parties.

13. Notices. Except as specifically set forth herein, any demand, request or notice which either Party desires or may be required to make or deliver to the other shall be in writing and shall be deemed given when personally delivered, or when delivered by private courier service (such as Federal Express), or three days after being deposited in the United States Mail first class, postage prepaid and addressed as follows:

PURCHASER	SELLER
Jason Wilson City Administrator City of Sumner 1104 Maple Street Sumner, WA 98390	Georgia Lomax Executive Director Pierce County Library System 3005 112th St. E. Tacoma, WA 98446
	<u>With a copy to:</u> Jemima J. McCullum, Esq. Gordon Thomas Honeywell LLP 1201 Pacific Avenue, Suite 2100 Tacoma, WA 98401 Email: jmccullum@gth-law.com

The foregoing addresses may be changed by written notices to the other Party as provided herein.

14. Brokers. Each Party represents and warrants to the other that no broker has been involved in this transaction. If any claims for brokerage commissions or finder’s fees or like payment arise out of or in connection with the transaction provided herein, and in the event any claim is made, all such claims shall be handled and paid by the Party whose actions or alleged commitment form the basis of such claim, and the Party whose actions or alleged commitment form the basis of a claim shall indemnify, defend, protect and hold harmless the other Party from and against any and all such claims or demands, including without limitation any attorneys’ fees or costs incurred in connection therewith. The representations provided in this Section shall survive the Closing or termination of this Agreement.

15. Time. Time is of the essence in every provision herein contained.

16. Binding Agreement. This Agreement shall inure to the benefit of and be binding upon the heirs, personal representative, successors, and assigns of the Parties.

17. **Attorneys' Fees.** In the event of any litigation regarding the rights and obligations of the Parties under this Agreement, the prevailing Party shall recover its costs and attorneys' fees, including such costs and attorneys' fees for appeals.

18. **Negotiation and Construction.** This Agreement was negotiated by the Parties and shall be construed according to its fair meaning and not strictly for or against either Party.

19. **Entire Agreement.** This Agreement, together with the Restated Lease Agreement between Seller and Purchaser related to the Property, in a form substantially similar to the attached Exhibit C, contains the entire understanding between the Parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof, except to the extent reference to the Main Street PSA is necessary to interpret this Agreement. There are no other representations, agreements, or understandings, oral or written, between the Parties relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the Parties.

20. **Counterparts.** This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete Agreement.

21. **Further Assurances.** In addition to the actions recited herein and contemplated to be performed, executed, and/or delivered by Seller and Purchaser, Seller and Purchaser agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Closing or after the Closing any and all such further acts, instruments, deeds and assurances as may be reasonably required to consummate the transaction contemplated hereby.

22. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

23. **Miscellaneous.** The provisions of this Agreement are not intended to create any third-party beneficiary contract rights, and therefore none should be deemed created by this Agreement. The Agreement between the Parties is only intended to create rights and/or obligations as between the signatory Parties. This Agreement is entered into and shall be governed by the laws of the State of Washington. The failure of either Party to insist upon strict performance of this Agreement shall not affect the right of that Party to insist upon strict performance at a later time. The Parties shall not be deemed to be agents of each other for purposes of this Agreement. Each Party hereto assumes liability for its own negligence, errors and omissions. The venue for any litigation arising out of this Agreement shall be in Pierce County Superior Court.

24. **Business Days.** In the event any date described in this Agreement relative to the performance of actions hereunder by Seller, Purchaser or Escrow Agent falls on a Saturday, Sunday or legal holiday, such date will be deemed postponed until the next business day thereafter.

[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]

CITY OF SUMNER,
a municipal corporation and political subdivision of the state of Washington

Approved as to legal form only:

Andrea Marquez
City Attorney

Date _____

Date

Final Action:

William L. Pugh
Mayor

Date

[illegible]

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared William L. Pugh, known to me to be the Mayor of the City of Sumner, Washington, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE _____
 PRINTED NAME: _____
 NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
 RESIDING AT: _____
 MY COMMISSION EXPIRES: _____

PIERCE COUNTY LIBRARY SYSTEM,
a Washington public library municipal corporation

Georgia Lomax
Executive Director

Date

[illegible]

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Georgia Lomax, known to me to be the Executive Director of the Pierce County Library System, a Washington public library municipal corporation, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE
PRINTED NAME: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT: _____
MY COMMISSION EXPIRES: _____

EXHIBIT A
LEGAL DESCRIPTION

An undivided one-half (1/2) interest in the 10,600 square foot library building ONLY, located upon the following described real property, situated in the City of Sumner, County of Pierce, State of Washington:

Lot 3 of Short Plat No. 77-208, as recorded in Book 15 of Short Plat, at page 51, records of Pierce County, State of Washington.

EXHIBIT B
QUIT CLAIM DEED

After recording return document to:
City of Sumner
1104 Maple St.
Sumner, WA 98390

DOCUMENT TITLE:	Quit Claim Deed
GRANTOR(S):	Pierce County Library System, a Washington public library municipal corporation
GRANTEE(S):	City of Sumner, a Washington municipal corporation
ABB. LEGAL DESCRIPTION:	Bldg. upon Lot 3 of Short Plat No. 77-208
ASSESSOR'S TPN:	0420247003

QUIT CLAIM DEED

The Grantor, the Pierce County Library System, a Washington public library municipal corporation, for valuable consideration acknowledged by Grantor, hereby conveys and quit claims to the **City of Sumner, Grantee**, a Washington municipal corporation, the following described real property situated in Pierce County, in the State of Washington:

An undivided one-half (1/2) interest in the 10,600 square foot library building ONLY, located upon the following described real property, situated in the City of Sumner, County of Pierce, State of Washington, together with all after acquired title of the grantor in said undivided one-half (1/2) interest of said building:

Lot 3 of Short Plat No. 77-208, as recorded in Book 15 of Short Plat, at page 51, records of Pierce County, State of Washington.

GRANTOR:
PIERCE COUNTY LIBRARY DISTRICT,
a Washington public library municipal corporation

Georgia Lomax, Executive Director

Date: _____

[illegible]

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Georgia Lomax, known to me to be the Executive Director of the Pierce County Library System, a Washington public library municipal corporation, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE _____
 PRINTED NAME: _____
 NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
 RESIDING AT: _____
 MY COMMISSION EXPIRES: _____

EXHIBIT C
RESTATED LEASE AGREEMENT

SUBJECT: Restated Lease Agreement between City and Pierce County Library re:
Fryar Avenue building

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Lease Agreement Sumner to PCLS

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

The Library operates a branch within the City of Sumner on real property located at 1116 Fryar Avenue, Sumner, WA, which is owned by the City of Sumner ("Fryar Property"). The Library's use of this property is governed by an agreement and subsequent MOU between the Parties that were executed on October 19, 1992 and September 28, 1995 respectively. Pursuant to that lease agreement and MOU, the City leases to the Library the Fryar Property, at no cost, and the City and Library each own fifty percent of the building thereon. The Library has now outgrown its space at the Fryar Property and the building, which was originally constructed in 1979 and is nearing a condition that will require substantial renovations to keep it operable, so both the City and the Library desire to relocate the Sumner branch to a new location and facility. On September 7, 2021, the City Council approved the sale of the Main Street East Properties to the Library, a condition of which is that the Library would convey back to the City its half interest in the Fryar Avenue building. While the Library designs and constructs the new Sumner library branch upon their new property, they desire to continue to lease the entirety of the Fryar Avenue building. This arrangement requires a new and restated lease agreement between the City and the Library on the following agreed terms: 3-year term, \$1.00 annual rent (in acknowledgement of the 50-year pre-paid lease agreement from 1992), with all non-structural maintenance and insurance responsibilities being the Library's obligation. All other terms and conditions are outlined in the attached restated lease agreement.

COUNCIL COMMITTEE/STUDY SESSION: Study Session

MEETING/STUDY SESSION DATE: 7/12/2021

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Motion to Approve the Restated Lease Agreement between the City of Sumner and the Pierce County Library on the terms and conditions outlined in the agreement, and authorizing the Mayor to execute the same in a form as approved by the City Attorney.

AMENDED AND RESTATED LEASE AGREEMENT

THIS LEASE (the “Lease” or this “Agreement”) is made and entered into this ____ day of September, 2021, by and between the **CITY OF SUMNER**, a municipal corporation and political subdivision of the state of Washington ("Landlord,") and **THE PIERCE COUNTY LIBRARY SYSTEM**, a Washington Public Library Municipal Corporation ("Tenant").

W I T N E S S E T H :

1. Purpose. On October 19, 1992, Landlord and Tenant entered into that certain Agreement for Purchase and Expansion of the Sumner Branch Library. And, on September 28, 1995, the Parties entered into a Memorandum of Lease, which was recorded with the Pierce County Auditor on October 25, 1995 under recording no. 9510250168. Collectively, the 1992 and 1995 agreements shall be referred to herein as the “Original Lease”. This Amended and Restated Lease Agreement is intended to repeal and entirely replace the Original Lease which shall upon execution hereof become null and void.

2. Property Leased. Landlord hereby leases, lets and demises unto Tenant and Tenant hereby leases from Landlord the property located at 1116 Fryar Avenue, Sumner, Washington, and legally described as follows:

Lot 3 of Short Plat No. 77-208, as recorded in Book 15 of Short Plat, at page 51, records of Pierce County, State of Washington.

Hereinafter, said property will be referred to as, the “Premises” or “leased premises”.

3. Rental Term.

(a) Initial Term. The initial term of this lease shall be for three (3) years, unless earlier terminated with sixty (60) days minimum prior written notice, beginning on the ____ day of _____, 2021 (the “Commencement Date”), and terminating at midnight on _____, 2024 (the “Expiration Date”) (collectively, the period between the Commencement Date and the Expiration Date will herein be referred to as, the “Term”). The term may be extended by the Tenant up to two times of six (6) months each, if reasonably necessary primarily due to financing or construction related reasons including but not limited to those related to funding, fundraising, construction delays related to COVID-19, material shortage or supply issues, labor issues, and events of force majeure. If the term is so desired to be extended, Tenant shall give Landlord no less than thirty (30) days’ prior written notice, and, provided Tenant is not in default, the Lease shall be so extended on the same terms provided herein, except as modified hereby as to the length of the Term. Each such extension shall be referred to herein as a “Renewal Term.” For purposes of this paragraph, the term, “force majeure” means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence, making the means of performance objectively impossible. Force Majeure events include acts of God, war, strikes, riots, fire, floods, epidemics, pandemics, or other similar occurrences.

(b) Immediate Move-In. Landlord shall provide Tenant with the keys to the building and the alarm code upon signing of the Lease, and Tenant may begin moving into the building as of that date. Notwithstanding the foregoing, Landlord shall ensure that the Premises are in broom clean

condition at the time of delivery to Tenant and the term of the Lease shall not commence until the Premises are delivered in such condition. Tenant shall be responsible for payment of all utilities upon receiving the keys and alarm code.

4. Rent and Payments.

Initial Term Base Rent. The base rent for the initial term of the Lease shall be \$1.00 per year payable annually on or before the first day of each lease year during the lease term, which rent Tenant covenants and agrees to pay. The base rent will not increase during the initial three (3) year term or either Renewal Term. This Base Rent is in recognition of the Original Lease and the terms discussed in that certain Real Estate Purchase and Sale Agreement, dated September __, 2021, whereby the Tenant sold its one-half interest in the Premises to the Library under the terms stated therein. The Initial Term Base Rent stated herein does not violate public gifting laws.

5. Quiet Enjoyment. Landlord warrants title and quiet enjoyment of the Premises. As long as Tenant is in compliance with the provisions hereof, Landlord shall defend Tenant against any hindrance, interruption, objection or molestation by any person claiming title or rights in the Premises.

6. Use. The Tenant shall use the leased premises for the operation of a library or other reasonable permitted use. The Tenant shall not use or occupy or permit the leased premises to be used or occupied, nor do or permit anything to be done in or on the leased property, in a manner which will in any way violate any certificate of occupancy affecting the leased premises, or make void or voidable any insurance with respect thereto, or which will make it impossible to obtain fire or other insurance, or which will cause or be likely to cause structural damage to the building or any part thereof, or which will constitute a public or private nuisance, and shall not use or occupy or permit the leased premises to be used or occupied in any manner which will violate any present or future laws, rules or regulations of any governmental authority, including zoning.

7. No Representations. Neither the Landlord nor its agents have made any representations with respect to the leased premises except as expressly set forth herein, and no rights, easements or licenses are acquired by the Tenant by implication or otherwise except as expressly set forth in the provisions of this lease. TAKING OF POSSESSION OF THE PREMISES BY THE TENANT SHALL BE CONCLUSIVE EVIDENCE THAT THE TENANT ACCEPTS THE SAME "AS IS" AND THAT THE PREMISES WERE IN GOOD CONDITION AT THE TIME POSSESSION WAS TAKEN.

8. Maintenance and Repair.

(a) Obligations of Tenant. Tenant shall, at its sole expense, maintain the interior portions of the building on the Premises referenced in this lease in good condition and promptly make all non-structural repairs and replacements necessary to keep the Premises in safe operating condition, including the entire interior of the building, floors, and glass/windows, but Landlord shall be responsible for all exterior portions of the building, and those portions which lie partially within and partially outside of the interior portions of the building, the roof structure, subfloor, foundation, exterior walls, and capital repairs and replacements to the heating, ventilation, air conditioning ("HVAC") equipment at the Premises, any repairs or changes needed to comply with code requirements, and the grounds of the Premises, including the sidewalks, landscaping and parking lot areas (collectively "Landlord's Repair Items"), which Landlord shall maintain in good condition

and repair at Landlord's expense. Should any Landlord Repair Item exceed the cost of Fifty Thousand Dollars (\$50,000.00), the Parties agree to meet in advance of the repair and confer about the item to determine whether there are appropriate alternatives to the City expenditure that will satisfy both Parties, including but not limited to cost sharing or relocation. Landlord shall maintain the landscaping, the parking lot, and the sidewalks in safe operating condition. Tenant shall not damage any Landlord's Repair Items and shall promptly repair any damage or injury done thereto caused by Tenant or its employees, officers, agents, servants, contractors, customers, clients, visitors, guests, or other licensees or invitees. Notwithstanding anything in this Section to the contrary, Tenant shall not be responsible for any repairs to the Premises made necessary by the negligence or willful misconduct of Landlord or its employees, officers, agents, servants, contractors, customers, clients, visitors, guests, or other licensees or invitees therein. Except as expressly provided otherwise herein, Tenant shall be responsible for any and all improvements to be made to the Premises to bring them up to the standards necessary for compliance with all code and licensing for the daycare business to be conducted by Tenant.

(b) Upon Expiration of Lease. Upon expiration of the Term, as the same may be extended, whether by lapse of time or otherwise, Tenant shall promptly and peacefully surrender the Premises, together with all keys, to Landlord in as good condition as when first leased by the Tenant from Landlord or as thereafter improved, reasonable wear and tear excepted.

(c) Obligations of Landlord. The Obligations of Landlord are set forth in Section 8(a) above, but Landlord shall not be responsible for any repairs to the Premises made necessary by the negligence or willful misconduct of Tenant or its agents, employees, contractors or invitees therein.

(d) Landlord's Right to Repair. If Tenant fails to keep, repair, and maintain the leased premises as required in this Section 7, then Landlord may, at its option, following thirty (30) days' prior written notice to Tenant in which the failure is specifically identified, put or cause the same to be put in the condition and state of repair agreed upon, and in such case Tenant shall promptly pay and reimburse the entire cost thereof to Landlord. The notice requirement in the preceding sentence may be shortened or given by telephone or facsimile transmission (as the circumstances may require or permit) if the repair presents an emergency which requires immediate correction. Failure of Tenant to pay within ten (10) days of receipt of written notice from Landlord shall be considered to be a default or breach within the meaning of Section 20.

9. Alterations and Additions. Tenant shall make no alterations, additions or improvements to the leased premises, nor shall Tenant make any alteration of or changes to the Buildings' electrical service or plumbing system, without first obtaining Landlord's written consent, which consent will not be unreasonably withheld. The term "Alterations" shall not include the installation of shelves, movable partitions, Tenant's equipment and trade fixtures that may be performed without damaging existing improvements or the structural integrity of the Premises and Landlord's consent shall not be required for Tenant's installation or removal of those items. All alterations, additions or improvements approved by Landlord shall be installed by Tenant at its sole cost and in compliance with all laws, orders and regulations of any applicable governing body, and Tenant at its expense, shall furnish to Landlord a set of plans showing all such changes. All alterations, additions or improvements made by Tenant shall become the property of Landlord upon their incorporation into either Building or the Land. Tenant shall, however, at the end of the Term remove all of its trade fixtures, and promptly repair any damages caused by such removal. Tenant shall have the right to place and install personal property, trade fixtures, machinery, equipment, and other temporary

installations in and upon the Premises and fasten the same to the Premises. All personal property, equipment, machinery, trade fixtures and temporary installations whether acquired by Tenant at the commencement of the Term or placed or installed on the Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord.

10. Utilities. The Tenant shall pay all charges for all utilities serving the Premises, including, but not limited to, telecommunications, internet, security system monitoring, water, electricity, heat, telephone, garbage and other utilities and charges which shall be charged against the leased Premises during the full term of this lease and all renewals thereof.

11. Insurance.

(a) Types of Insurance. At all times during the term of this lease or of any extension thereto, the Tenant shall, at its sole cost and expense and as additional rent, maintain in full force and effect the following insurance:

(i) Public liability insurance with a minimum coverage of Two Million Dollars (\$2,000,000.00) for personal injury or death and full replacement value for property damage arising out of any one occurrence;

(ii) Fire and extended coverage insurance in an amount of the greater of One Million Dollars (\$1,000,000.00) or the full replacement value of the leased premises and the contents of the leased premises, including all personal property, fixtures, and Tenant improvements and trade fixtures.

(b) Jointly. All policies of insurance required to be maintained by the Tenant shall name the Tenant and the Landlord, jointly as insureds as their respective interests may appear.

(c) Certificates of Insurance. All insurance required to be maintained by the Tenant under this lease shall be effected with insurers authorized to transact business in the State of Washington and with a company acceptable to the Landlord. On the effective date of this lease, and thereafter not less than fifteen (15) days prior to the expiration dates of the existing policies furnished pursuant to this paragraph, certificates evidencing the required insurance shall be delivered by the Tenant to the Landlord. Within fifteen (15) days after the premium on each such policy shall become due and payable, evidence shall be supplied to the Landlord of such payment.

(d) Cancellation Notice. All insurance required to be maintained by the Tenant shall include a ten (10) day cancellation notice to Landlord.

(e) Waiver of Subrogation Clause. Any policy of insurance carried by either the Landlord or the Tenant shall, to the extent available, contain a waiver of subrogation clause on the part of the insurer.

12. Indemnity and Non-Liability.

(a) Tenant Indemnity. Tenant agrees to indemnify and hold Landlord harmless against any and all liability arising in any manner out of Tenant's occupancy, irrespective of negligence other than Landlord's negligence and of whether the claims be for damages to property or for personal injury of any persons, including death.

(b) Landlord Not Liable. Except to the extent of claim arising out of Landlord's gross negligence or intentional misconduct, neither the Landlord nor the Landlord's agents or employees shall be liable for any personal injury or death to the Tenant, its officers, agents and employees, or to any other person in or about the leased premises, or for any damage or loss to any property of the Tenant or of any other occupant of any part of the leased premises, irrespective of how such injury or damage may be caused, whether from action of the elements or acts of negligence of occupants of adjacent properties. Landlord shall not be liable for any defect in the construction or condition of the leased premises, including any common areas, whether known or unknown, or for damages by storms, rain or leakage.

(c) Waiver of Subrogation. Landlord and Tenant hereby release one another from every and all right, claim and demand or liability for any loss or losses occasioned by fire and such items as are included under the normal coverage clauses of property insurance policies and any losses resulting from business interruption at the Premises or loss of rental income from the Premises occasioned by fire and such other items as are included under the normal coverage of property insurance policies, provided such releases do not in any manner void or significantly increase the cost of the property insurance policies carried by the respective parties. Each party shall exert its best efforts to cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other party.

(d) Waiver of Worker's Compensation Immunity. Tenant's indemnification obligations contained in this Lease shall not be limited by any worker's compensation, benefit or disability laws, and Tenant hereby waives any immunity that Tenant may have under the Industrial Insurance Act, Title 51 RCW and any similar or successor worker's compensation, benefit or disability laws. This waiver is for the exclusive benefit of Landlord and is not intended, and shall not be construed, to be for the benefit of any employee of Tenant.

13. Subordination. This lease is subject to and is hereby subordinated to the lien of all existing and future mortgages, deeds of trust and other encumbrances placed by the Landlord or for the Landlord's benefit upon the leased premises or the property of which said Premises are a part. Although no instrument or act on the part of the Tenant shall be necessary to effectuate such subordination, the Tenant agrees, nevertheless, to execute and deliver such further instruments subordinating this lease to the lien of any such mortgage or deed of trust as may be reasonably requested by the mortgagee.

14. Attornment. Tenant shall in the event of the sale or assignment of Landlord's interest in the building of which the leased premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of a power of sale under any mortgage or deed of trust made by Landlord covering the leased premises, attorn to the purchaser and recognize such purchaser as the Landlord under this lease thereafter.

15. Inspection.

(a) Inspect Leased Premises. Landlord may, upon twenty-four (24) hours' notice to Tenant, visit the leased premises at any reasonable time for the purpose of determining Tenant's compliance with provisions of this Lease and to inspect the Premises, and Landlord may be accompanied by any person or persons who may have an interest in the purpose of the Landlord's visit, provided that Landlord shall use all reasonable efforts to minimize interference with Tenant's use and enjoyment of the Premises.

(b) Necessary Repairs. Landlord, its employees or agents shall be permitted to enter the leased premises upon twenty-four (24) hours' notice to Tenant for the purpose of making any necessary repairs to the leased premises and performing any work therein that may be necessary by reason of the Tenant's default or otherwise under the terms of this lease. Nothing herein shall imply any duty upon the Landlord to do any such work, and the performance thereof by the Landlord shall not constitute a waiver of the Tenant's default. The Landlord shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business, or other damage to the Tenant or the subtenants or assignees of the Tenant by reason of making such repairs or the performance of any such work in or on the leased premises, or on account of bringing materials, supplies, and equipment into or through the leased premises during the course of such work, and the obligations of the Tenant under this lease shall not thereby be affected in any manner; however, Landlord shall use all reasonable efforts to minimize interference with Tenant's use and enjoyment of the Premises.

16. Right to Show Property. Tenant shall permit inspection of the leased premises by or on behalf of prospective purchasers of the property, during business hours, at any time during the lease term or any extension thereof. During the three months prior to the expiration of the term of this lease or of any extension thereof, Tenant shall permit inspection of the leased premises during reasonable hours by or on behalf of prospective tenants and Landlord shall have the right to display "For Rent" signs on the leased premises.

17. Signs. Tenant shall not display or erect any lettering, sign, advertisement, awning or other projection in or on the leased premises, or in or on the building of which it forms a part, or any window thereof, without the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

18. Tenant's Default.

(a) Events of Default. The following events are deemed to be events of default under this lease:

(i) If the Tenant shall be in default of the performance of any covenants of this lease, other than the covenants for the payment of base rent or additional rent, and if such default is not cured within twenty (20) days after written notice thereof is given by the Landlord; or if such default should be of such a nature that it cannot be cured completely within such twenty (20) day period, if the Tenant shall not have promptly commenced within such twenty (20) day period or shall not thereafter proceed with reasonable diligence and in good faith to remedy such default;

(ii) If the Tenant shall be adjudged a bankrupt, make a general assignment for the benefit of creditors, or take the benefit of any insolvency act, or if a receiver or trustee in bankruptcy shall be appointed for the Tenant's property and such appointment is not vacated within thirty (30) days (for these purposes the "Tenant" shall mean the Tenant who is then in possession of the leased premises);

(iii) If this lease shall be assigned or the leased premises sublet other than in accordance with the terms of this lease and such default is not cured within twenty (20) days after written notice to the Tenant;

(iv) If the Tenant shall be in default of the payment of any base rent or additional rent

and such default is not cured within five (5) days after mailing of written notice thereof by the Landlord.

(b) Entry Upon Default. If any of the above events of default are not cured within the period stated above, then Landlord may immediately or at any time thereafter and without further notice or demand enter into and upon the leased premises or any part thereof and take absolute possession of the same, fully and absolutely without such reentry working a forfeiture of the rents to be paid or of the covenant or covenants to be performed by the Tenant and any guarantors for the full term of this lease, and Landlord may further, strictly at Landlord's election, lease or sublease the Premises or any part thereof on such terms and conditions and for such rents and for such period of time as the Landlord may elect, and after crediting the rent actually collected by the Landlord for such reletting against the rental stipulated to be paid under this lease by the Tenant, collect from Tenant any balance due on the rent reserved under this lease, plus all additional costs to Landlord of reletting the Premises. Tenant shall pay any such deficiency each month as the amount thereof is ascertained by Landlord, without the necessity of separate enforcement proceedings.

(c) Additional Rent. Tenant agrees to pay as additional rent any and all sums which may become due by reason of the failure of Tenant to comply with all the covenants of this lease..

(d) Landlord May Correct Deficiency. Without in any way limiting the above remedies in the event of default, if Tenant shall default in the performance of any covenant or condition in this lease required to be performed by the Tenant, Landlord may, at its option and upon twenty (30) days written notice to the Tenant, or without notice if in the Landlord's opinion an emergency exists, perform such covenant or condition for the account and at the expense of Tenant. If Landlord shall incur any such expense to remedy a default, Tenant shall reimburse the Landlord for all sums paid to effect such cure. Should the Tenant, pursuant to this lease, become obligated to reimburse or otherwise pay the Landlord any sum of money under this provision, the amount thereof shall be deemed additional rent and may, at the option of the Landlord, be added to any subsequent installment of rent due and payable under this lease, and Landlord shall have all the remedies for default in payment of rent provided for otherwise in this section. The provisions of this paragraph shall survive the termination of this lease.

(e) Not Exclusive Remedies. The statement of specific remedies as set forth above is not exclusive, and the Landlord shall, at its option, have available any and all other remedies for default available to it under the laws of the State of Washington.

19. Surrender of Premises. The Tenant shall on the last day of the Term, or upon the sooner termination of the Term, peaceably and quietly surrender the leased premises to the Landlord, broom clean, in as good condition as it was at the beginning of the term of the lease, reasonable use, wear and tear excepted. Any property not removed by Tenant upon surrender of the lease shall become the property of the Landlord.

20. Covenants Real. Every covenant in this lease shall be deemed and treated to be a covenant real running with the Premises during the term hereof, and shall extend to the heirs, legal representatives, successors and assigns of the parties. No change in the Landlord's ownership of the Premises, or rights to the rents payable hereunder, however accomplished, shall operate to enlarge the obligations or reduce the rights of the Tenant. No change in the Landlord's ownership in the Premises shall be binding upon Tenant for any purpose until Tenant shall have been given notice thereof.

21. Liens. Tenant shall keep the leased premises free from any liens arising out of any work performed, materials furnished or obligations incurred by the Tenant.

22. Trade Fixtures and Equipment. Tenant may remove its equipment, machinery and trade fixtures at the end of this lease and at any time prior thereto, but shall, at its own cost and expense, repair any and all damaged to the leased premises caused by such removal.

23. Removal of Alterations. Landlord shall notify Tenant at least thirty (30) days prior to the expiration of the initial lease term or extension thereof, as applicable, which of any of the alterations or improvements previously made by Tenant to the leased premises must be removed. Failure of Tenant to remove any alterations and improvements designated by Landlord for removal shall be deemed a holding, and Tenant shall be liable for rent for the period of time beyond the expiration of the applicable lease term before they are removed. Tenant agrees to restore the leased premises to their condition prior to the making of such alterations or improvements designated for removal by the Landlord, excepting ordinary wear and tear, risks covered by fire and extended coverage insurance and acts of God. If Tenant fails to restore the leased premises to their former condition, Landlord may do so, and Tenant shall be liable for all costs and expenses thereof, together with rent until all work has been completed. If Landlord fails to notify Tenant at least thirty (30) days prior to the expiration of the initial lease term or extension thereof, as applicable as to which alterations and improvements must be removed, then Tenant shall have no obligation for removal.

24. Attorneys' Fees. In any action brought to enforce any provision of this lease, the prevailing party shall be entitled to recover from the other party all reasonable costs and reasonable attorneys' fees incurred by the prevailing party.

25. Construction. This lease is being entered into and shall be construed in accordance with the laws of the State of Washington. Venue of any action brought to enforce any terms of this Lease shall lie in Pierce County.

26. Notices. Notices provided for herein may be mailed to the parties at the addresses specified herein or at such other addresses as the parties may from time to time hereafter specify in writing.

Landlord: City of Sumner
Jason Wilson, City Administrator
1104 Maple Street
Sumner, WA 98390

Tenant: Pierce County Library System
Georgia Lomax, Executive Director
3005 112th St E
Tacoma, WA 98446

27. Severability. If any term, covenant, condition or provision of this Agreement, or the application of this Agreement to any person or circumstance shall be determined invalid or unenforceable, the remaining provisions of this Agreement shall not be affected and shall be deemed valid and fully enforceable to the extent permitted by law.

28. Benefit. This Agreement shall not be assignable by either party and shall be binding

upon and inure to the benefit of the parties hereto, their respective heirs and successors.

29. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

30. Alternative Dispute Resolution.

(a) Negotiation. In the event there is a dispute among the parties arising out of or relating to this Agreement, the parties shall attempt in good faith to resolve that dispute promptly by negotiation. Any party may give each other party written notice that a dispute exists (a "Notice of Dispute"). The Notice of Dispute shall include a statement of such party's position. Within ten (10) days of the delivery of a Notice of Dispute, the parties will meet at a mutually acceptable time and place, and attempt to resolve the dispute. All documents and other information or data on which each party relies concerning the dispute shall be furnished or made available on reasonable terms to each other party at least five (5) business days before the first meeting of the parties.

(b) Mediation. If the dispute has not been resolved by negotiation within twenty (20) days after the delivery of a Notice of Dispute, the parties agree that all disputes or claims relating to this Agreement shall be submitted to Judicial Arbitration & Mediation Services, Inc. ("JAMS") for mediation. Either party may commence mediation by providing to JAMS and the other party a written request for mediation, describing the subject of the dispute and the relief requested. The mediation session shall be conducted in Pierce County, Washington. The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel and in scheduling the mediation proceedings. If the parties are unable to agree on the mediator, then the mediator shall be selected by JAMS. The parties agree to participate in the mediation in good faith, and to share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties or by the mediator are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving any of the parties, provided that evidence otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

31. Other Documents. Each party undertakes to execute such additional or other documents as may be required to fully implement the intent of this Agreement.

32. Paragraph Headings, Gender and Number. Paragraph headings are not to be construed as binding provisions of this Agreement; they are for the convenience of the parties only. The masculine, feminine, singular and plural of any word or words shall be deemed to include and refer to the gender and number appropriate in the context.

33. Signature by Facsimile. The parties agree that the facsimile transmission of any signed original document shall constitute a valid signature of that document. At the request of any other party, the party signing by facsimile will confirm facsimile transmitted signatures by signing an original document at a later date, upon reasonable notice.

34. Interpretation. All parties participated in the negotiation and preparation of this Agreement. Accordingly, this Agreement shall not be construed either for or against any party, but this Agreement shall be interpreted and construed in accordance with the general tenor of the language

in an effort to reach an equitable result. The parties expressly waive and repudiate any rule of law which attaches any significance to which party prepared this Agreement.

35. No Third-Party Beneficiaries. No provision of this Agreement is intended nor shall any provision of this Agreement be interpreted to create any benefit to any person or entity not a party to this Agreement.

Signatures Appear on Next Page

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared William L. Pugh, known to me to be the Mayor of the City of Sumner, Washington, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE
PRINTED NAME: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT: _____
MY COMMISSION EXPIRES: _____

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Georgia Lomax, known to me to be the Executive Director of the Pierce County Library System, a Washington public library municipal corporation, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE
PRINTED NAME: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT: _____
MY COMMISSION EXPIRES: _____

SEPTEMBER 2021

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4
		5:30PM Finance Committee (Virtual)	6:00PM Planning Commission (Virtual)		
6	7	8	9	10	11
CITY HALL CLOSED HOLIDAY OBSERVED	4:00 PM Public Works Committee (Virtual) 6:00PM Regular Council Meeting (Virtual)	CANCELLED 6:30PM Design Commission (Virtual)	4:30PM Forestry/Parks Commission (Virtual)		
13	14	15	16	17	18
6:00PM Study Session (Virtual)	6:00PM American Rescue Plan Act Committee (Virtual)	5:00PM Public Safety (Virtual)			
20	21	22	23	24	25
6:00PM Regular Council Meeting (Virtual)		5:00PM CD Committee (Virtual)	5:30PM Arts Commission (Virtual)		
27	28	29	30		
6:00PM Study Session (Virtual)					

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

Name: Michelle Converse, CMC

Title: City Clerk

City of Sumner
1104 Maple Street
Sumner, Washington 98390
Ph: (253) 299-5500 Fax: (253) 299-5509
Website: **www.sumnerwa.gov**