



Members: Barbara Bitetto, Pat Cole (Alternate), Patrick Reed, Earle Stuard

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

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.

You are invited to a Zoom webinar.

When: January 5, 2022 05:30 PM Pacific Time (US and Canada)

<https://sumnerwa-gov.zoom.us/j/89801371870>

Meeting ID: 898 0137 1870

One tap mobile

+12532158782,,89801371870# US (Tacoma)

+13462487799,,89801371870# US (Houston)

Dial by your location

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+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

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Meeting ID: 898 0137 1870

Find your local number: <https://sumnerwa-gov.zoom.us/u/kbs2CDu45x>

CALL TO ORDER

Roll Call: Barbara Bitetto, Pat Cole (Alternate), Patrick Reed, Earle Stuard

COMMITTEE BUSINESS

1. Set Committee Meeting Date and Time
2. Ordinance No. 2607 Amending SMC 8.2 Public Records Code
3. Resolution No. XXXX - Accept Pierce County LTAC Grant (Stay in Sumner Campaign)
4. Resolution No. XXXX - Accept Pierce County LTAC Grant (Sumner Main Street Design Project)
5. Motion: Associate Engineer Compensation Approval

6. Ordinance No. 2804 2021/2022 Biennial Budget Amendment

REPORTS

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

ADJOURNMENT



FINANCE & PERSONNEL COMMITTEE MEETING

DATE: January 5, 2022

AGENDA BILL: 21-1840

SUBJECT: Set Committee Meeting Date and Time

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:

Currently, the Finance & Personnel Committee meets the first Wednesday of each month at 5:30 PM PST. For the first meeting of 2022, the Committee needs to affirm or change the standing meeting day/time.

COUNCIL COMMITTEE/STUDY SESSION: MEETING/STUDY SESSION DATE: 1/5/2022 COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:



SUBJECT: Ordinance No. 2607 Amending SMC 8.2 Public Records Code

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. XXXX - Public Records Code Revised

STAFF CONTACT: Michelle Converse, City Clerk

SUMMARY BACKGROUND:

The state legislature updated various sections of RCW 42.56 (Public Records) in 2019. While incorporating the legislative changes into our code, there was the need for clean-up and clarification in order to reflect our current method of fulfilling public records requests.

Some areas of significant adds/changes/deletions include:

- Refers the requestor to use the NextRequest portal on the City's website.
- Update the fee schedule (1.18.100). Updated in accordance with RCW 42.56 to include Body Worn Cameras recording/footage redactions.
- Updated exceptions (1.18.120). These are now adopted by reference as outlined in RCW 42.56.

COUNCIL COMMITTEE/STUDY SESSION:

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: Finance & Personnel

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Ordinance No.: XXXX - amending Sumner Municipal Code sections of Chapter 8.2, substantially in the form as approved by the City Attorney.

ORDINANCE NO. 2607
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, ~~AMENDING ORDINANCE NO 2607 AND SUMNER MUNICIPAL CODE RELATED TO PUBLIC RECORDS REQUESTS, WHICH AMENDS SUMNER MUNICIPAL CODE SECTIONS 1.18.040; 060; 070; 080; 090; 100; AMENDS SECTIONS 1.18.050; 070; 080; 090; and SMC 1.18.100 OF THE SUMNER MUNICIPAL CODE AND ADDS SECTION 1.18.105 AND ADDSING SECTION 1.18.120, OF THE SUMNER MUNICIPAL CODE,RELATED TO THE CITY'S PUBLIC RECORDS.~~

~~WHEREAS, Section 1.18.010 establishes the findings necessary to comply with State law regarding the fulfillment of public records requests in accordance with the Public Records Act; 42.56 RCW;~~

~~WHEREAS, in 2019, the state legislature updated various sections of The Public Records Act were amended or added effective July 23, 2017, August 7, 2017, and most recently 2019, in an effort to improve public records administration, requiring updates to the Sumner Municipal Code; and~~

~~WHEREAS, as a result of these amendments or additions to the Revised Code of Washington, the Sumner Municipal Codes requires updating in order to reflect those changes; and~~

~~WHEREAS, from time to time, it is also necessary to internally update and 'clean-up' original ordinances to incorporating new technology, websites, or and different and/or more efficient processes consequences of made necessary by world-wide pandemics, and;~~

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

Section 1. Adoption. Sumner Municipal Code Chapter 1.18 shall be amended as follows, including the addition of ~~Section 1.18.105~~ and Section 1.18.120:

1.18.010 Findings.

A. RCW ~~42.56.070~~(1) requires all cities and public agencies to maintain and make available a current index of various public records.

B. RCW ~~42.56.070~~(4) provides that if maintaining such an index would be unduly burdensome, a city need not maintain such an index but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome.

C. The City of Sumner is comprised of numerous departments, and their divisions and subdivisions, which maintain separate databases and/or record keeping systems and would makes it extremely difficult, if not physically impossible, and would interfere with city operations to compile an index.

D. Because the City has records which are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome, if not physically impossible, to maintain a central index of records.

E. The City produces or receives an uncountable number of records each day and maintains an uncountable number of records in numerous City files.

F. The development and maintenance of a city index would be extremely costly and would provide little benefit to the public compared to the expense in maintaining the index.

G. The City's operations do not allow for the addition, revision, or reassignment of duties of existing personnel so that an index may be developed and maintained.

H. Anticipated City revenues do not allow for additional staff for the purpose of creating and maintaining such an index.

I. Pursuant to RCW chapter 42.56 RCW, the City of Sumner will disclose all public records, including any indexes that are maintained by the City, to the extent such records or indexes are not exempt from disclosure pursuant to RCW chapter 42.56 RCW or other applicable laws. (Ord. 2228 § 1 (part), 2007)

Commented [MB1]: Why is the RCW behind the code number? Traditionally it should read RCW Chapter 42.56.

1.18.020 Public records index – Order – Maintenance not required.

Pursuant to RCW 42.56.070(4), the City Council orders the following:

A. The City of Sumner is not required to maintain a current index of public records due to findings of the City Council that the requirement to do so is unduly burdensome and would interfere with city operations and such a list is nearly impossible to create and/or maintain; and

B. Pursuant to RCW chapter 42.56 RCW, the City of Sumner shall disclose all public records and any indexes of public records maintained by the City to the extent not exempt from disclosure pursuant to RCW chapter 42.56 RCW or other applicable laws. (Ord. 2228 § 1 (part), 2007)

1.18.030 Public records disclosure – Purpose.

The purpose of this chapter is to establish the procedure for obtaining public records from the City of Sumner as required by RCW chapter 42.56 RCW as currently enacted or hereafter amended. The City of Sumner will disclose all public records, as defined by state law, to the extent records are not exempt from disclosure pursuant to RCW chapter 42.56 RCW or other applicable laws. (Ord. 2350 § 1, 2011; Ord. 2228 § 1 (part), 2007)

1.18.040 Public records officer.

A. The city clerk, who is the records management officer for the City, is hereby designated as the City's public records officer. The city administrator is authorized to establish and implement policies and procedures for responding to requests for public records to be consistent with those set forth in this chapter.

B. Any person requesting public records of the City should contact the public records officer at:

City Clerk
City of Sumner
1104 Maple Street, Suite 200
Sumner, WA 98390
[253-299-5500 \(Ph\)](tel:253-299-5500) [253-863-8300](tel:253-863-8300)
253-299-5509 (Fax)

Information is also available at the City's web site at
www.ci.sumner.wa.us www.sumner.wa.gov. (Ord. 2607, 2228 § 1 (part), 2007)

1.18.050 Production of public records – Generally.

A. Unless exempt from disclosure pursuant to RCW chapter 42.56 RCW, as currently enacted or hereafter amended, or other applicable federal or state law, public records shall be available for inspection and copying. The City may make public records available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Failure of the City to fully comply with any provision of this chapter shall not result in any liability imposed upon the City other than that outlined in RCW chapter 42.56 RCW, as currently enacted or hereafter amended.

B. The City need only disclose records to the extent required by state or federal law and nothing in this policy shall be interpreted as requiring the disclosure of any record that is not subject to disclosure by state or federal law. Generally, any record, or portion thereof, which is exempt from disclosure, will not be disclosed, and information contained in the records may be removed to the extent necessary or permissible by law. The City is not required to create records or documents in response to a request for public records that do not exist at the time the request is made.

C. State law does not require the City to retain and/or maintain every public record it has ever created or used. The City of Sumner has adopted a retention schedule that has been approved by the State Records Committee. (Ord. 2228 § 1 (part), 2007)

D. The City is not required to retain records held by volunteers who (A) do not serve in an administrative capacity; (B) have not been appointed by the City to an agency board, commission, or internship; and (C) do not have a supervisory role or delegated City authority.

E. Third party notice. In the event that the requested records contain information that affects individuals named in the records and/or may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for the affected third party to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request. The requestor shall be notified that the City has issued notice to an affected third party.

Commented [MB2]: When do we capitalize "C" in City? Asking b/c it is inconsistent in this code.

1.18.060 Requests for public records.

A. In order to track and promptly respond to all requests for public records, such requests shall be made in writing and delivered in person, by fax, ~~or~~ by mail or through the records request portal, on the City's website. The City encourages requestors to send formal requests for public records by means other than general e-mail because of the risk that the e-mail will be misdelivered or screened out and the City cannot guarantee that an e-mail request for records will be received and processed properly.

B. A variety of records are available on the City's website at: www.sumner.wa.gov. To the extent practical, the City will store, maintain, and make its commonly requested records available electronically on its website. The City maintains an open public record portal at <https://sumnerwa.nextrequest.com/> and will respond to most requests through the portal for those seeking responsive records in electronic format. The public records officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records and may provide records through other means (ie, via email).

C. The city will provide a public records request form that may be used by those requesting public records. The public records request form is available and can be downloaded from the city's website at www.ci.sumner.wa.us. In lieu of submitting the request for public records on the City's ~~form~~ website the request may also be submitted in other written format but must contain the following information:

1. The date of the request;
2. The name of the requestor;
3. The full address of the requestor;
4. The telephone number of the requestor [or email address](#);
5. A complete description of the requested record;
6. The title and date of the requested record, if known;
7. The location of the requested record, if known; and
8. Whether the requestor intends to inspect the records or to obtain a copy of the records, at the cost set forth in SMC [1.18.100](#).

[D.C.](#) Requests for public records shall be submitted to the city clerk, or to a designated city employee pursuant to subsection [\(E.D\)](#) of this section. The city clerk may authorize other city employees to make the initial response pursuant to SMC [1.18.070](#) to a request for public records. All requests shall comply with subsections (A) and [\(C.B\)](#) of this section.

[E.D.](#) The following designated city employees may receive public record requests directly for the specific records identified in this subsection for each designated employee.

1. The records clerk of the police department, if the request is to inspect and/or copy ~~a police or incident report~~ [records prepared and/or retained by the Sumner Police Department](#).
2. The records clerk of the Sumner Municipal Court if the request is to inspect and/or copy documents [contained in a particular Sumner Municipal Court case file or other records prepared and/or retained by the within the control of the court](#).

If the record requested is not identified in subsections [\(E.D\)](#)(1) and [\(E.D\)](#)(2) of this section, or the requestor is unsure of where to file the request, the request shall be filed with the city clerk/public records officer. If a request for a police or municipal court document is made to the city clerk/public records officer, it will be redirected to the applicable department for processing. (Ord. 2350 § 2, 2011; Ord. 2228 § 1 (part), 2007)

[F.E. Over the counter records.](#)  [SHARE](#)

Each city department may designate within its own department certain “over the counter” records available to the public for immediate inspection without the requirement of a formal public records request as set forth in this section. In the event a copy of such “over the counter” records is requested, and if the requested record is an eight-and-one-half-by-14-inch page or smaller, the department may provide the first 25 pages free of charge. However, if the photocopies exceed 25 pages, a public disclosure request will then need to be completed and the applicable duplication cost paid.

1.18.070 Initial response to request.

A. The City shall make an initial response to the request for public records within five business days of receipt of the request, not including the day the request was received as provided by RCW 1.12.040. In the event a request for public records is received after 5:00 p.m., the request shall be deemed to have been received on the next business day. Depending upon the nature of the request, the Ceity may respond initially by:

1. Producing the record after the payment of applicable fees, if any;
2. Acknowledging in writing the Ceity’s receipt of the request accompanied by an estimate of the time necessary for further response;
3. Denying the request in writing accompanied by an explanation of the basis for the denial;
4. Acknowledging in writing that the records responsive to the request are available for inspection; or copying, and that pursuant to SMC 1.18.100 a deposit is required for copies; or
5. Acknowledging that the Ceity received the request and asking that the requestor provide clarification of a request that is unclear, accompanied by, to the greatest extent possible, a reasonable estimate of the time necessary for further response should the requestor not respond with clarification. City staff shall not be obligated to interpret such a broad, general request in order to decipher which specific documents may be of interest to the requestor and the Act does not allow a requestor to search through the City’s files for records which cannot be identified or described to the Ceity. If the requestor fails to respond to an agency request for clarification, and the entire request is unclear, the city need not respond to the request. If any portion of the request that is clear, the city must respond to that/those portions.

Commented [MC3]: This might be contradicting from the previous statement. So, if a request is received after hours, it counts as receiving it the next business day and therefore, doesn't count until day 2...

Commented [MB4]: This is the first time in this chapter that we refer to the Public Records Act, will a lay person know that this “Act” refers to the Public Records Act? Perhaps we should put it in the “findings.”

B. In the event that the requestor completes the City's standard public records request form, the City may return a copy of the request to the requestor with an estimation of time necessary to provide a final response to the request. This indication on the form of the estimation of time constitutes and satisfies the City's initial response required within five days of receipt of the public disclosure request. Records provided in response to a public records request shall be those documents of record available for disclosure as of the date of the request. (Ord. 2228 § 1 (part), 2007)

Commented [MC5]: I have never done that, nor, have I seen it done. It's always been a 5-day letter.

C. The City is not obligated to create a new record to satisfy a record request; however, the City may, in its discretion, create such a new record to fulfill the request where it may be easier for the City to create a record responsive to the request to collect and make available voluminous records that contain small pieces of information responsive to the request.

1.18.080 Final response to request.

A. A public disclosure request is not continuing in nature. In the event additional records are created after the date of the requestor's original public records request, the requestor will need to submit a new request. Any records or portions of records disclosed by the City will be provided to the requestor in the same format as they are retained; provided, that any disclosable records contained on a computer or other electronic or mechanical device shall, at the discretion of the City, be provided in printed form, on ~~disk~~, USBs, or in another format. Requestors shall not be permitted to access or 'plug into' city networks or systems or copy records using personal devices or equipment such as USBs or scanners, which must be connected to city equipment in order to copy records.

B. If the requestor specifies a format in which the records should be disclosed, the City will disclose the records in the requested format if:

1. It is determined that disclosable records exist;
2. The City is capable of providing the records in the format requested;
3. The format requested is reasonable and does not require additional staff time; and
4. The requestor pays all required fees, as specified in SMC 1.18.100 below.

C. The City's response to the request shall be deemed complete and final upon:

1. Requestor's inspection of the records;

2. In the event photocopies were requested, upon notification to the requestor that the photocopies requested are available for pickup and payment. (Ord. 2228 § 1 (part), 2007); or

3. In the event electronic records were requested, upon notification to the requestor that the electronic records have been emailed or otherwise transmitted to the requestor.

1.18.090 Inspection of records.

A. In the event a requestor chooses to inspect records, the City shall notify the requestor once the records which respond to the request are available for inspection. The records will be available for inspection during customary office hours. Records that have been pulled for inspection shall be made available to the requestor for a period of no more than 30 calendar days. In the event a requestor fails to contact the city clerk or designated records clerk within 30 calendar days of being notified that the records are available for inspection: (A) the records shall be returned to the originating department; and (B) the requestor will need to submit a new request for the records and the process will begin anew. If an installment response to a records request is not viewed within 30 calendar days, the City is not obligated to fulfill the balance of the request. (Ord. 2228 § 1 (part), 2007)

B. In the event the requestor requests electronic records, the City shall email or otherwise utilize a secure file transfer site to electronically transmit the responsive records to the requestor for viewing. The electronic records will be available for a period of no more than 30 calendar days. In the event the requestor fails to contact the city clerk or designated records clerk within 30 calendar days of being notified that the electronic records have been transmitted: (A) the link to the records, if sent using the secure file transfer site, shall expire; and (B) the requestor will need to submit a new request for the records and the process will begin anew. If an installment response to a request for electronic records is not viewed or opened within 30 calendar days, the City is not obligated to fulfill the balance of the request.

C. The City, and its officials, agents, employees or custodians shall not be liable, nor shall a cause of action exist, for loss or damage based on release of a public record if the City, official, agent, employee or custodian acted in good faith in attempting to comply with the Public Records Act.

D. If, after the public records officer has informed the requestor that the City has provided all available records, the City then becomes aware of additional responsive documents that existed

on the date of the request, the Public Records Office will promptly inform the requestor of the additional documents and provide them on an expedited basis.

1.18.100 Fees.

–There shall be no fee for inspecting public records or locating public documents and making them available for copying, except as follows:

A. **Paper Copies.** If the request exceeds ~~twenty-five~~25 pages, the City may charge up to fifteen cents (\$0.15) per page (~~per side, if double-sided~~). If, at the City’s discretion, materials need to be copied by an outside source either due to volume, current workload of city staff, or for any other reason, or if agency equipment must be used to fulfil the request, the requester will be charged the actual amount incurred and/or invoiced to the City in fulfilling such request,

B. **Scanned Documents.** The City may charge up to ten cents (\$0.10) per page for all requests wherein public records are scanned into an electronic format, or for the use of agency equipment to scan the records into electronic format.

C. **Emailed Documents.** The City may charge up to five cents (\$0.05) per every four electronic files or attachments uploaded to email, cloud-based data storage services, or other means of electronic delivery, except as explicitly described in subsection D below.

D. **Electronic Records.** The City may charge up to ten cents (~~\$0.10~~) per gigabyte for the transmission of public records in an electronic format or for the use of city equipment to send the records electronically. Fees under this section shall also include the actual cost of materials used to transmit the electronic records (CD, ~~thumb drive~~USBs, etc.). ~~Requestors shall not be permitted to supply their/its own copying material for use by the City.~~

E. **Customized Service Charge.** The City may charge requestor a customized service charge if the City estimates that the request will require the use of information technology expertise to prepare data ~~compilations, or~~compilations or provide customized electronic access services when such compilations and ~~automized~~customized access services are not used by the City for other city purposes. The customized service charge may reimburse the agency up to the actual cost of providing the services described in this section. Before assessing a customized service charge, the city clerk or designated public records officer shall notify the requestor of the customized service charge to be applied to the request, with an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate of the cost of the charge, and must provide the requestor with an opportunity to amend the request in order to avoid or reduce the cost of the customized service charge.

F. Body Worn Camera Recordings/Footage (as defined by RCW 42.56.240(14)(g)(i) – redactions \$0.60 per minute if video is to be provided. The City may charge the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure to the extent necessary to comply with the exemptions in this chapter or any applicable law. Based on the costs associated with redaction, including the software and staff time, the charge levied will be .60 per minute of recording requested. The City shall charge the actual cost of digital storage media or device for transmitting the requested recordings.

However, if a request for body camera footage pursuant to RCW 42.56.240(14) is made by:

- a person directly involved in an incident recorded by the requested body worn camera recording; or
- an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording; or
- a person or their attorney who requests a body worn camera recording relevant to a criminal case involving that person; or
- the executive director from either the Washington State Commission on African American Affairs, Asian Pacific American Affairs, or Hispanic Affairs; or
- an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States Department of Justice settlement agreement (subject to an explanation as to the relevancy of the requested body worn camera recording to the cause of action)

then, the requester shall be exempt not be subject to paying from redaction costs.

GF. Alternative Charge. The City may charge a flat fee of up to two dollars (\$2.00) for any request where the City reasonably estimates and documents that the costs outlined above are clearly equal to or more than two dollars. If the City elects to charge the flat fee for an initial installment of a request produced in installments, the City shall not charge any additional fee(s) for subsequent installments on the same request.

GH. Deposit Required; When. In the event that it is estimated that the copying fees applicable to a particular records request exceed \$25.00, or if the request requires the use of information technology expertise to prepare data compilations or provide customized electronic access services, the City, at its discretion, may require the requestor to deposit a sum equal to 10

percent of the estimated cost prior to copying of the records. In the event the City makes a response to a request available on a partial or installment basis, the City may charge for each part of the response as it is provided to the requestor. If an installment response to a records request is not claimed or paid for within 30 calendar days, the City is not obligated to fulfill the balance of the request

I.H. Postage and Mailing Supplies. Postage is charged at the actual postage costs of such postage, and envelopes and/or packaging are charged at the actual costs of those supplies.

I.J. Accepted Payments. All payments shall be made by cash, [debit or credit card](#), money order, or check payable to the City of Sumner [or through the city's records portal, located on the city's website](#). ~~G.~~ The City has the authority to waive copying fees as described in this section. If the responsive documents are pages that are eight and one-half by 14 inches or smaller, the department may provide the first 25 pages free of charge. (Ord. 2228 § 1 (part), 2007)

1.18.105 Denial of request for all records or bot requests.

A public records request must be for identifiable records. The City may deny a request for all or substantially all records prepared, owned, used or retained by the City not relating to a particular topic. The City may also deny automatically generated (bot) requests received from the same requestor within a 24-hour period, if the request is deemed by the City to cause excessive interference with the other essential functions of the agency. For purposes of this section, "bot" shall mean a request that the City reasonably believes was automatically generated by a computer program or script.

1.18.110 Review of public records request denials.

A. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the public records officer for review of that decision. The petition shall include a copy or reasonably identify the written statement by the public records officer or designee denying the request.

B. The public records officer, in conjunction with the city administrator [and city attorney](#), will consider the petition and will either affirm or reverse the denial of the public records request.

C. Any person may obtain court review of denials of public records requests pursuant to RCW [42.56.550](#). (Ord. 2228 § 1 (part), 2007)

1.18.120 Exemptions

In addition to the exemptions authorized by and outlined in RCW 42.56, ~~The City adopts by reference the exemptions from public disclosure contained in Chapter 42.56 RCW~~ all other exemptions permitted by the Revised Code of Washington, and outlined in the list of exemptions kept by the City, including any future amendments thereto or recodification thereof, along with any other exemption or exception to the Public Records Act provided by law. Upon request the list is available from the records officer.

Commented [MC6]:

Commented [MC7]: I don't think we should reference one specific MRSC document for exceptions – would this statement be sufficient, or could we reference MSRC in general?

Section 2. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance or the validity of its application to other person's circumstances.

Section 3. Effective Date. This ordinance shall be effective five (5) days from and after its passage approval and publication as provided by law.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

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 August, 2017.

Mayor William L. Pugh

ATTEST:

APPROVED AS TO FORM:

City Clerk, Michelle Converse, CMC

City Attorney, Andrea Marquez

SUBJECT: Resolution No. XXXX - Accept Pierce County LTAC Grant (Stay in Sumner Campaign)

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. 2022_LTAC_PBA_City of Sumner - Draft

STAFF CONTACT: Carmen Palmer, Communications Director

SUMMARY BACKGROUND:

Of the 7% lodging tax collected at Sumner properties, 2% comes to Sumner for allocation and spending through its shared Hotel-Motel Occupancy Tax while 5% goes to Pierce County for allocation and spending. Each year, Sumner participates in Pierce County's grant process to access a portion of these funds to drive future overnight stays in Sumner, generating future revenue and support for local businesses.

This item accepts one of two 2022 grants, utilizing funds that go to Pierce County. These grants were approved by the Pierce County Lodging Tax Advisory Committee in Spring 2021 and confirmed by the Pierce County Council as part of their budget process in Fall 2021.

This grant is in the Individual Leisure Marketing category for Pierce County tourism grants. It is to promote a marketing campaign to Stay in Sumner when visiting Mount Rainier. Geotracking data from Travel Tacoma shows that Mount Rainier is one of the main destinations for people already staying in Sumner. Using that data, this campaign will drive further visits, using the geotracking data to target specific markets with the goal of generating 900 room nights. When guests book two nights in a participating Sumner hotel, they receive the 7-day pass to visit Mount Rainier for free. Partners for this campaign include Sumner's Holiday Inn Express & Suites, Travel Tacoma and Visit Rainier. This funding is for advertising, collateral and fulfillment. The Sumner Lodging Tax group allocated a companion \$13,000 to purchase the passes, a cost that the Sumner City Council confirmed in the mid-biennial budget adjustment in December 2021.

COUNCIL COMMITTEE/STUDY SESSION: Finance and Personnel Committee

MEETING/STUDY SESSION DATE: 1/5/2022

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

A motion accepting the 2022 Pierce County Lodging Tax Grant of \$35,000 for the Stay in Sumner campaign and authorizing the Mayor and City Administrator to execute any and all documents necessary to effectuate the contract, substantially in a form as approved by the City Attorney.

Title: Stay in Sumner Campaign
Funding Source: Tourism 170-00
Start Date: January 1, 2022
End Date: December 31, 2022
FY/\$: FY 22 \$35,000
Contractor: City of Sumner
Address: 1104 Maple St
Sumner, WA 98390
Contact: Carmen Palmer
Telephone: (253) 299-5503
Email: carmenp@sumnerwa.gov

PUBLIC BENEFIT AGREEMENT

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

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

The term of this Agreement shall commence on January 1, 2022 and shall, unless terminated or renewed elsewhere in the Agreement, terminate on December 31, 2022.

The maximum consideration for the initial term of this Agreement or for any renewal term shall not exceed \$35,000 (Thirty-Five Thousand dollars and 00/100).

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

I. GENERAL TERMS AND CONDITIONS

A. Scope of Contractor's Services.

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

B. Accounting and Payment for Contractor Services.

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

compensate the Contractor no more often than MONTHLY through the County voucher system for the Contractor's service as set forth in the Budget attached to and incorporated in this Agreement.

C. Assignment and Subcontracting.

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

D. Independent Contractor.

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

E. No Guarantee of Employment.

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

F. Taxes.

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

gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

G. Insurance Requirements

1. Throughout the life of this Agreement the Contractor and its Subcontractors shall, at their own expense, maintain general liability insurance with an insurance carrier licensed to do business in the State of Washington, and with minimum coverage as follows: Bodily Injury Liability and Property Damage Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate, with a deductible of not greater than \$5,000.
2. Where automobiles are used in conjunction with the performance of this Agreement throughout the life of this Agreement the Contractor and its Subcontractors shall, at their own expense, maintain automobile liability insurance with an insurance carrier licensed to do business in the State of Washington and with minimum coverage as follows: Bodily Injury Liability and Property Damage Liability Insurance, \$1,000,000 each occurrence or combined single limit coverage of \$1,000,000.
3. General liability insurance and, if applicable, automobile liability insurance coverage shall be provided under a comprehensive general and automobile liability form of insurance, such as is usual to the practice of the insurance industry, including, but not limited to all usual coverage referred to as Personal Injury--including coverage A, B and C. If applicable, automobile liability insurance shall include coverage for owned, non-owned, leased or hired vehicles.
4. Pierce County shall be named as an additional insured on all required policies except automobile insurance and all such insurance as is carried by the Contractor shall be primary over any insurance carried by Pierce County. The Contractor shall provide a certificate of insurance to be approved by the County Risk Manager prior to contract execution.
5. Pierce County shall have no obligation to report occurrences unless a claim is filed with the Pierce County Auditor; nor shall Pierce County have an obligation to pay premiums.
6. In the event of nonrenewal or cancellation of or material change in the coverage required, thirty (30) days written notice will be furnished Pierce County prior to the date of cancellation, change or nonrenewal, such notice to be sent to the Pierce County Risk Manager, 955 Tacoma Ave South, Suite 303, Tacoma, WA 98402.
7. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

H. Bond.

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

I. Regulations and Requirement.

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

J. Right to Review.

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

K. Defense & Indemnity Agreement.

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

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

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

L. Industrial Insurance Waiver.

With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this Agreement.

M. Withholding Payment.

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

N. Future Non-Allocation of Funds.

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

O. Contractor Commitments, Warranties and Representations.

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

P. Ownership of Items Produced.

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

Q. Property.

It is the County's policy that non-expendable property required for this project not be purchased with County funds. When specialized equipment is necessary and purchase of such equipment is approved by the Contracting Officer, it shall be detailed in the contract budget. Such property shall be properly accounted for and maintained.

R. Patent/Copyright Infringement.

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

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

S. Modifications.

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

T. Termination for Default.

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

U. Termination for Public Convenience.

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

V. Disputes.

1. General. Differences between the Contractor and the County, arising under and by

virtue of the Agreement Documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Contracting Officer, shall be final and conclusive.

2. Notice of Potential Claims. The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Contracting Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
3. Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

W. Equal Opportunity, Nondiscrimination & Affirmative Action.

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

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

X. Waiver.

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

Y. Waiver of Non-Competition.

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

Z. Official Benefits Prohibited.

No federal, state or local elected or appointed official, nor members of their families, nor their business associates, shall be admitted to any share or part of the funds provided

by this Agreement, nor to any benefit to arise therefrom.

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

AA. Confidentiality.

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

BB. Notice.

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

CC. Venue and Choice of Law.

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

DD. Severability.

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

EE. Survival.

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

FF. Entire Agreement.

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

II. STATEMENT OF WORK

A. County Responsibilities.

To accomplish the intent of this agreement, the County:

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

B. Contractor Responsibilities.

1. **Scope of work.** The Pierce County Tourism Strategic Plan directs funding recipients to implement programs that support four key priorities: generates incremental overnight stays, leverages proven or identified demand generators, identifies specific target markets, and provides a balanced funding approach via specific funding allocation categories. The Contractor shall plan, administer, implement, and complete the following project(s) in 2022 which support these four priorities:

- Individual Leisure Marketing: Stay in Sumner Campaign

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

2. If the event or activity related to any of the projects listed above is modified or canceled due to COVID-19 restrictions, Contractor will reduce expenditures or not expend any funds related to the event/project. The Contractor and Economic Development Department staff will communicate at least monthly regarding project and COVID-19 updates to make timely funding adjustments to the projects as necessary.
3. Comply with all noted regulations, requirements and conditions of the Agreement.
4. Evidence contract compliance by accomplishment of the above described project or program in the manner specified and in accordance with the project schedule.
5. Complete reports and provide information as required by the County to demonstrate compliance with regulations, eligibility, goals and objectives including:
 - **Contractor may be asked to provide an in-person presentation to the LTAC Committee regarding project progress; Contractor will be notified by the Economic Development Department regarding date and time of presentation if applicable.**
 - **Provide Quarterly Written Progress Reports using reporting template provided by Pierce County Economic Development Department:**
 - Due by the following dates:
 - April 15, 2022 (covering Jan 1-Mar 31)
 - July 15, 2022 (covering Apr 1-Jun 30)
 - October 15, 2022 (covering Jul 1-Sept 30)
 - January 15, 2023 (covering Oct 1-Dec 31), including a year-end

report card

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

III. COMPENSATION AND FINANCIAL REQUIREMENTS

A. Reimbursement.

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

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

B. Use of Funds.

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

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

C. Refunds.

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

D. Multiple Source Funding.

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

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

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

☒ **CORPORATION:**

City of Sumner
Print Name of Corporation

Signature of Corporate Officer Date

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

91-6001282 277-000-014
EIN UBI

☐ **PARTNERSHIP:**

Name of Partnership

Authorized Signatory Date

Print name and Title of Authorized Signatory

☐ **SOLE PROPRIETORSHIP**

Business Name

Print Owner Name

Signature of Owner Date

Owner SSN/EIN

PIERCE COUNTY:

Approved:

Department Director Date

Approved:

Finance Date

Approved:

County Executive (over \$250,000) Date

Approved as to form only:

Deputy Prosecuting Attorney Date

ATTACHMENT 1

Public Benefit Agreement Budget
Agreement with: City of Sumner
Project: Stay in Sumner Campaign
FY22 AMOUNT: \$35,000

<u>ACTIVITY</u>	<u>COUNTY</u>	<u>OTHER</u>	<u>TOTAL</u>
Personnel/Contract Staff (see budget detail on next page)	\$ ---	\$ ---	\$ ---
Administration (see budget detail on next page) <i>(insurance is not an eligible cost)</i>	\$ ---	\$ ---	\$ ---
Marketing (see budget detail on next page)	\$35,000	\$13,000	\$48,000
GRAND TOTAL	\$35,000	\$13,000	\$48,000

Signature: _____

Date: _____

Phone: _____

**Pierce County Lodging Tax
2022 Individual Leisure Marketing Budget Detail
For City of Sumner**

Pierce County Lodging Tax (LTAC)	
2022 Individual Leisure Marketing Budget Detail	
For City of Sumner	
Item Description	Stay in Sumner Campaign
PERSONNEL:	
Salaries and benefits	-
ADMINISTRATION:	
Administration expenses	-
MARKETING:	
Advertising (social media, display, TV, radio, print, direct mail)	27,000
Collateral Material Design/Development	2,000
Stock photo/video	
Other (specify): Partner with Travel Tacoma for fulfillment/further detailed cell phone data tracking	3,000
Other (specify): Partner with Visit Rainier for fulfillment/promotion	3,000
MARKETING TOTAL:	\$ 35,000
GRAND TOTAL:	\$ 35,000

SUBJECT: Resolution No. XXXX - Accept Pierce County LTAC Grant (Sumner Main Street Design Project)**CATEGORY:** Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. 2022_LTAC_PBA_City of Sumner_AssetDev - Draft

STAFF CONTACT: Carmen Palmer, Communications Director

SUMMARY BACKGROUND:

Of the 7% lodging tax collected at Sumner properties, 2% comes to Sumner for allocation and spending through its shared Hotel-Motel Occupancy Tax while 5% goes to Pierce County for allocation and spending. Each year, Sumner participates in Pierce County's grant process to access a portion of these funds to drive future overnight stays in Sumner, generating future revenue and support for local businesses.

This item accepts the second of two 2022 grants, utilizing funds that go to Pierce County. These grants were approved by the Pierce County Lodging Tax Advisory Committee in Spring 2021 and confirmed by the Pierce County Council as part of their budget process in Fall 2021.

This grant is in the Asset Development category for Pierce County tourism grants and furthers the work done by UW Tacoma for the Main Street Vision by designing one of the three priorities set out by the Vision. When this application was due in April 2021, the Vision process was not yet complete, so the grant application/funding is vague as to which portion. Since then, we have identified that this funding will design the Alley Activation portion of the three recommendations. Most design processes are costing closer to \$100,000 now, so Sumner Lodging Tax also allocated another \$25,000 if needed to ensure funding was sufficient to complete this design project in 2022. Sumner Lodging Tax also allocated a companion \$100,000 for the design of Heritage Park, another portion of the Main Street Vision. Both those allocations were confirmed by Sumner City Council as part of the mid-biennial budget adjustment in December 2021.

COUNCIL COMMITTEE/STUDY SESSION: Finance Committee**MEETING/STUDY SESSION DATE:** 1/5/2022**COMMITTEE RECOMMENDATION:****STAFF RECOMMENDATIONS/MOTION:**

A motion accepting the 2022 Pierce County Lodging Tax Grant of \$75,000 for Main Street Design and authorizing the Mayor and City Administrator to execute any and all documents necessary to effectuate the contract, substantially in a form as approved by the City Attorney.

Title: Sumner Main Street Design Project
Funding Source: Tourism 170-00
Start Date: January 1, 2022
End Date: December 31, 2023
FY/\$: FY 22 \$75,000
Contractor: City of Sumner
Address: 1104 Maple St
Sumner, WA 98390
Contact: Carmen Palmer
Telephone: (253) 299-5503
Email: carmenp@sumnerwa.gov

PUBLIC BENEFIT AGREEMENT

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

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

The term of this Agreement shall commence on January 1, 2022 and shall, unless terminated or renewed elsewhere in the Agreement, terminate on December 31, 2023.

The maximum consideration for the initial term of this Agreement or for any renewal term shall not exceed \$75,000 (Seventy-Five Thousand dollars and 00/100).

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

I. GENERAL TERMS AND CONDITIONS

A. Scope of Contractor's Services.

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

compensate the Contractor no more often than MONTHLY through the County voucher system for the Contractor's service as set forth in the Budget attached to and incorporated in this Agreement.

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

D. Independent Contractor.

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

E. No Guarantee of Employment.

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

F. Taxes.

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

gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

G. Insurance Requirements

1. Throughout the life of this Agreement the Contractor and its Subcontractors shall, at their own expense, maintain general liability insurance with an insurance carrier licensed to do business in the State of Washington, and with minimum coverage as follows: Bodily Injury Liability and Property Damage Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate, with a deductible of not greater than \$5,000.
2. Where automobiles are used in conjunction with the performance of this Agreement throughout the life of this Agreement the Contractor and its Subcontractors shall, at their own expense, maintain automobile liability insurance with an insurance carrier licensed to do business in the State of Washington and with minimum coverage as follows: Bodily Injury Liability and Property Damage Liability Insurance, \$1,000,000 each occurrence or combined single limit coverage of \$1,000,000.
3. General liability insurance and, if applicable, automobile liability insurance coverage shall be provided under a comprehensive general and automobile liability form of insurance, such as is usual to the practice of the insurance industry, including, but not limited to all usual coverage referred to as Personal Injury--including coverage A, B and C. If applicable, automobile liability insurance shall include coverage for owned, non-owned, leased or hired vehicles.
4. Pierce County shall be named as an additional insured on all required policies except automobile insurance and all such insurance as is carried by the Contractor shall be primary over any insurance carried by Pierce County. The Contractor shall provide a certificate of insurance to be approved by the County Risk Manager prior to contract execution.
5. Pierce County shall have no obligation to report occurrences unless a claim is filed with the Pierce County Auditor; nor shall Pierce County have an obligation to pay premiums.
6. In the event of nonrenewal or cancellation of or material change in the coverage required, thirty (30) days written notice will be furnished Pierce County prior to the date of cancellation, change or nonrenewal, such notice to be sent to the Pierce County Risk Manager, 955 Tacoma Ave South, Suite 303, Tacoma, WA 98402.
7. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

H. Bond.

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

I. Regulations and Requirement.

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

J. Right to Review.

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

K. Defense & Indemnity Agreement.

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

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

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

L. Industrial Insurance Waiver.

With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this Agreement.

M. Withholding Payment.

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

N. Future Non-Allocation of Funds.

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

O. Contractor Commitments, Warranties and Representations.

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

P. Ownership of Items Produced.

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

Q. Property.

It is the County's policy that non-expendable property required for this project not be purchased with County funds. When specialized equipment is necessary and purchase of such equipment is approved by the Contracting Officer, it shall be detailed in the contract budget. Such property shall be properly accounted for and maintained.

R. Patent/Copyright Infringement.

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

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

S. Modifications.

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

T. Termination for Default.

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

U. Termination for Public Convenience.

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

V. Disputes.

1. General. Differences between the Contractor and the County, arising under and by

virtue of the Agreement Documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Contracting Officer, shall be final and conclusive.

2. Notice of Potential Claims. The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Contracting Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
3. Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

W. Equal Opportunity, Nondiscrimination & Affirmative Action.

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

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

X. Waiver.

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

Y. Waiver of Non-Competition.

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

Z. Official Benefits Prohibited.

No federal, state or local elected or appointed official, nor members of their families, nor their business associates, shall be admitted to any share or part of the funds provided

by this Agreement, nor to any benefit to arise therefrom.

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

AA. Confidentiality.

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

BB. Notice.

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

CC. Venue and Choice of Law.

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

DD. Severability.

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

EE. Survival.

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

FF. Entire Agreement.

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

II. STATEMENT OF WORK

A. County Responsibilities.

To accomplish the intent of this agreement, the County:

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

B. Contractor Responsibilities.

1. **Scope of work.** The Pierce County Tourism Strategic Plan directs funding recipients to implement programs that support four key priorities: generates incremental overnight stays, leverages proven or identified demand generators, identifies specific target markets, and provides a balanced funding approach via specific funding allocation categories. The Contractor shall plan, administer, implement, and complete the following project(s) in 2022 which support these four priorities:

- Asset Development:
Sumner Main Street Design Project

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

2. If the event or activity related to any of the projects listed above is modified or canceled due to COVID-19 restrictions, Contractor will reduce expenditures or not expend any funds related to the event/project. The Contractor and Economic Development Department staff will communicate at least monthly regarding project and COVID-19 updates to make timely funding adjustments to the projects as necessary.
3. Comply with all noted regulations, requirements and conditions of the Agreement.
4. Evidence contract compliance by accomplishment of the above described project or program in the manner specified and in accordance with the project schedule.
5. Complete reports and provide information as required by the County to demonstrate compliance with regulations, eligibility, goals and objectives including:
 - **Contractor may be asked to provide an in-person presentation to the LTAC Committee regarding project progress; Contractor will be notified by the Economic Development Department regarding date and time of presentation if applicable.**
 - **Provide Quarterly Written Progress Reports using reporting template provided by Pierce County Economic Development Department:**
 - Due by the following dates:
 - April 15, 2022 (covering Jan 1-Mar 31)
 - July 15, 2022 (covering Apr 1-Jun 30)
 - October 15, 2022 (covering Jul 1-Sept 30)

- January 15, 2023 (covering Oct 1-Dec 31), including a year-end report card
- **Provide Financial Reports:** N/A
- **State Reporting,** Complete and submit the forms required by the Joint Legislative Audit and Review Committee (JLARC).

III. **COMPENSATION AND FINANCIAL REQUIREMENTS**

A. Reimbursement.

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

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

B. Use of Funds.

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

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

C. Refunds.

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

D. Multiple Source Funding.

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

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

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

☒ **CORPORATION:**

City of Sumner
Print Name of Corporation

Signature of Corporate Officer Date

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

91-6001282 277-000-014
EIN UBI

☐ **PARTNERSHIP:**

Name of Partnership

Authorized Signatory Date

Print name and Title of Authorized Signatory

☐ **SOLE PROPRIETORSHIP**

Business Name

Print Owner Name

Signature of Owner Date

Owner SSN/EIN

PIERCE COUNTY:

Approved:

Department Director Date

Approved:

Finance Date

Approved:

County Executive (over \$250,000) Date

Approved as to form only:

Deputy Prosecuting Attorney Date

ATTACHMENT 1

Public Benefit Agreement Budget
Agreement with: City of Sumner
Project: Sumner Main Street Design Project
FY22 AMOUNT: \$75,000

Capital Projects Budget

FUNDING/TIMELINE	Responsible parties, methods, means	Begin (Dates or periods)	End (Dates or periods)	Amount requested from Lodging Funds	Other funds committed -or- proposed	TOTALS
Design & Inspection				\$	\$	\$
Other Consultants	University of Washington Tacoma Urban Studies with KPG	10/01/20	6/15/2021	\$ ---	\$18,000	\$18,000
Permits & Fees				\$	\$	\$
Land Acquisition				\$	\$	\$
Site Development & Landscape	City of Sumner to manage qualified consultant(s)	1/01/22	12/31/022	\$75,000	\$ ---	\$75,000
Buildings (new construction)				\$	\$	\$
Building Renovations (includes access)				\$	\$	\$
Other (specify):				\$	\$	\$
Other (specify):				\$	\$	\$
Other (specify):				\$	\$	\$
TOTAL				\$ 75,000	\$18,000	\$93,000
Signature:			Date:		Phone:	

SUBJECT: Motion: Associate Engineer Compensation Approval

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: Yes

ATTACHMENTS:

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

The City has engaged in an open recruitment process for an Associate City Engineer. This position was originally approved as an August 2021 budget amendment. The candidate will be tasked with leading several large Public Works projects, including the White River Restoration, Operations Facility and Stormwater Utility Budget. The top candidate for this position is currently a Resident Engineer for the Port of Seattle, and has worked there since 2013. The City has had difficulty recruiting qualified applicants for this position in what has become a highly competitive job market. To aid with that challenge, we instituted a hiring incentive bonus that matches the one previously established for lateral police applicants. The 2022 compensation schedule range (65) for Associate City Engineer is \$8,614 (Step 1) to \$10,764 (Step 5). The candidate's current Port of Seattle salary is above our hiring range (even when factoring in the hiring incentive) and the City desires to offer compensation that is commensurate with this candidate's background, education, and experience. Personnel Policies adopted by the Council (2.100.310) requires Council approval for any newly hired employee starting above step 3 in the respective range of the compensation schedule.

COUNCIL COMMITTEE/STUDY SESSION: MEETING/STUDY SESSION DATE: 1/5/2022 COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Authorize the City to compensate the new Associate City Engineer at step 4 of the 2022 band 65 compensation rate.

SUBJECT: Ordinance No. 2804 2021/2022 Biennial Budget Amendment

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: \$147,000

Within Budget Allocation: Yes, as amended

ATTACHMENTS:

1. Ordinance 2804 BA 01182022
 2. 2021 2022 BA 01182022
-

STAFF CONTACT: Cassandra Raymond, Chief Financial Officer, Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

The COVID-19 pandemic has seriously affected Fleet Reserves, rising costs and limited inventory have necessitated a budget adjustment.

Our current bucket truck is a vital piece of equipment that is used by both the Parks and Shops departments. It was scheduled in the budget to be replaced in 2022 but with rising costs, we are \$70k over the original estimate we received in the summer of 2020. With current supply shortages, it will take one year from the order to delivery, but it is important we move forward now to lock in our price. The pandemic has also shifted the work location of many of our field staff. Rather than being all together in the Shops building, they are spread out throughout the city in various satellite locations. This change in location has made it necessary to purchase an additional water quality truck as it is no longer feasible for our two employees to share a single vehicle.

The city plans to increase staffing to specifically focus on additional storm maintenance this summer. This increased staffing will require an additional vehicle. We have the ability to purchase a remaining 2021 model now rather than wait until November for the 2022 models to arrive.

COUNCIL COMMITTEE/STUDY SESSION: MEETING/STUDY SESSION DATE: 1/5/2022 COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

A motion to approve Ordinance No. 2804 amending the 2021/2022 Biennial Budget.

**ORDINANCE NO. 2803
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE 2021-2022 BIENNIAL BUDGET AS ORIGINALLY ADOPTED IN ORDINANCE NO. 2758, APPROVED DECEMBER 7, 2020, AND PREVIOUSLY AMENDED IN ORDINANCE 2762, APPROVED FEBRUARY 16, 2021, ORDINANCE 2771, APPROVED APRIL 19, 2021, ORDINANCE 2786, APPROVED AUGUST 2, 2021, ORDINANCE 2790, APPROVED AUGUST 16, 2021, ORDINANCE 2791, APPROVED AUGUST 16, 2021, ORDINANCE 2797, APPROVED OCTOBER 18, 2021, ORDINANCE 2802, APPROVED DECEMBER 6, 2021, AND ORDINANCE 2803, APPROVED DECEMBER 6, 2021.

WHEREAS, The Sumner City Council approved Ordinance No. 2758 which adopted a biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2762 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2771 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2786 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2790 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2791 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2797 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2802 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

WHEREAS, The Sumner City Council approved Ordinance No. 2803 which amended the 2021-2022 biennial budget for fiscal years 2021-2022; and

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

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

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

Section 1. Amendment. The biennial budget for the City of Sumner for the period January 1, 2021 through December 31, 2022 as contained in the adopted 2021-2022 Biennial Budget for total revenue/sources and expenditures/uses as approved by the City Council, is hereby amended by Total Revenue and Expenditures for each fund as shown on the attached Exhibit A.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

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

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

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 18th day of January, 2022.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

City Attorney Andrea Marquez

Funds	Beginning Fund Balance		Revenues		Expenditures			Ending Fund Balance
	<i>Adopted</i>	<i>Adopted</i>	<i>Previous</i>	<i>01/18/22</i>	<i>Adopted</i>	<i>Previous</i>	<i>01/18/22</i>	<i>Revised</i>
001 General	\$ 5,978,542	\$ 31,643,467	\$ 550,870	\$ -	\$ 31,919,065	924,385	\$ 17,500	\$ 5,311,929
002 General Fund Reserves	980,824	-	-	-	-	-	-	980,824
003 Building Reserves	475,000	200,000	-	-	80,000	150,000	-	445,000
103 Complete Streets	241,851	-	-	-	200,000	41,654	-	197
105 Drug Enforcement	63,457	-	-	-	4,500	-	-	58,957
106 Hotel/Motel	273,747	215,000	25,000	-	106,245	318,000	-	89,502
115 ARPA Funding	-	-	2,910,676	-	-	1,167,000	-	1,743,676
200 Debt Service	2,570,000	527,200	-	-	520,000	-	-	2,577,200
221 LID Guarantee	694,969	-	-	-	-	-	-	694,969
302 Sidewalk	477,769	4,308,069	(310,000)	-	3,524,069	(310,000)	-	1,261,769
305 Real Estate Excise Tax	1,093,200	1,600,000	-	-	-	326,000	-	2,367,200
307 LID Capital Project Fund	9,545	-	-	-	-	-	-	9,545
310 Parks & Trails Capital Fund	544,740	1,237,500	561,000	-	1,237,500	561,000	-	544,740
320 Street Capital Fund	826,206	6,709,520	2,430,700	-	7,679,245	1,131,700	-	1,155,481
325 Facilities Capital Fund	183,773	26,200,000	276,000	-	15,700,000	956,000	-	10,003,773
401 Water	13,477,844	11,104,747	25,000	-	15,719,366	666,490	50,500	8,171,234
402 Wastewater	20,996,349	15,706,582	91,050	-	18,404,296	993,246	17,500	17,378,938
403 Utility Bond Reserves	1,729,536	-	-	-	-	-	-	1,729,536
408 Stormwater	14,788,274	14,201,134	-	-	18,573,507	308,122	61,500	10,046,279
410 Cemetery Operations	31,493	1,352,800	-	-	1,358,895	2,260	-	23,138
415 Cemetery Development	-	-	40,000	-	-	25,000	-	15,000
440 Animal Control	12,239	1,496,319	121,184	-	1,460,055	114,855	-	54,832
501 Unemployment Insurance	43,989	-	-	-	3,055	-	-	40,934
550 Fleet Management	6,261	1,251,664	-	-	1,251,660	690	-	5,575
551 Information Technology	273,009	2,385,042	155,930	-	2,385,040	146,896	-	282,045
555 Equipment Reserve	1,013,749	1,297,245	168,000	147,000	790,000	226,000	147,000	1,462,994
601 Cemetery Endowment	1,472,385	60,000	-	-	-	-	-	1,532,385
603 Alder Ave Remediation	25,649	-	-	-	-	-	-	25,649
605 Development Impact Fees	7,026,351	700,000	-	-	3,397,200	835,000	-	3,494,151
611 Firemen's Pension	11,832	160,000	-	-	160,000	-	-	11,832
Total All Funds	\$ 75,322,583	\$ 122,356,289	\$ 7,045,410	\$ 147,000	\$ 124,473,699	\$ 8,584,298	\$ 294,000	\$ 71,519,285



SUBJECT: Monthly Sales Tax Report

CATEGORY: Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:

Staff will provide a monthly report on sales tax activities and receipts. Information is limited to those with appropriate Department of Revenue information on file.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 1/5/2022

COMMITTEE RECOMMENDATION: Informational only; no action required.

STAFF RECOMMENDATIONS/MOTION:

Informational only; no action required.



SUBJECT: Recruitment & Negotiation Update

CATEGORY: Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

Staff will provide a verbal update on recruitment and negotiation activities.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 1/5/2022

COMMITTEE RECOMMENDATION: Informational only; no action required.

STAFF RECOMMENDATIONS/MOTION:

Informational only; no action required.