



Name & Return Address:

City Clerk - City of Sumner

1104 Maple Street

Sumner, WA 98390

Washington State Recorder's Cover Sheet (RCW 65.04) Please print legibly or type information.

Document Title(s) Interlocal Agreement for Pacific's Stewart Road Widening Project Related to Funding and Access Rights
Grantor(s) City of Sumner ____ Additional Names on Page ____ of Document
Grantee(s) City of Pacific ____ Additional Names on Page ____ of Document
Legal Description (Abbreviated: i.e., lot, block & subdivision name or number OR section/township/range and quarter/quarter section) Complete Legal Description on Page ____ of Document
Auditor's Reference Number(s)
Assessor's Property Tax Parcel/Account Number(s)
Non Standard Fee \$50.00 By signing below, you agree to pay the \$50.00 non standard fee. I am requesting an emergency non standard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. _____ Signature of Party Requesting Non Standard Recording NOTE: Do not sign above or pay additional \$50.00 fee if document meets margin/formatting requirements. The Auditor/Recorder will rely on the information provided on this cover sheet. Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

RESOLUTION NO. 1578

CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUMNER AND THE CITY OF PACIFIC FOR PACIFIC'S STEWART ROAD WIDENING PROJECT RELATED TO FUNDING AND ACCESS RIGHTS.

WHEREAS, the City of Sumner and the City of Pacific seek to enter into an intergovernmental agreement enabling the City of Sumner to provide funding and access rights to the City of Pacific specifically for their Stewart Road Widening Project; and

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

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

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

Section 1. Authorization. That the City Council hereby approves the Interlocal Agreement between the City of Sumner and the City of Pacific to provide funding and access rights to the City of Pacific specifically for their Stewart Road Widening Project, a copy of which is attached and incorporated by reference, and authorizes the Mayor to sign said agreement on behalf of the City of Sumner substantially in a form as approved by the City Attorney.

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

ADOPTED AND APPROVED this 19th day of April, 2021.

DocuSigned by:
William L. Pugh
65C9B3CE54AB30F...
William L. Pugh, Mayor

Attest:

DocuSigned by:
Michelle Converse
7842118740454
Michelle Converse, City Clerk

Approved as to form:

Andrea Marquez
OF1EE08B9EA4480...
Andrea Marquez, City Attorney

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF PACIFIC AND
THE CITY OF SUMNER FOR PACIFIC'S STEWART ROAD WIDENING
PROJECT RELATED TO FUNDING AND ACCESS RIGHTS**

THIS AGREEMENT is made and entered into by and between the City of Pacific, a municipal corporation of the State of Washington ("Pacific") and the City of Sumner, a municipal corporation of the State of Washington ("Sumner") (collectively "Parties" or individually a "Party").

RECITALS

A. Stewart Road/8th Street East is an east-west arterial running between West Valley Highway and 182nd Avenue East, through both Pacific and Sumner. Prior to 2002, when Pacific and Sumner annexed the Stewart Road corridor into their jurisdictions, Pierce County financed and constructed a majority of the infrastructure improvements along the Stewart Road/8th Street East arterial. After annexation, the two remaining portions of the arterial, namely one portion being from Valentine Ave SE (136th) to Butte Ave E (138th) and including the removal and replacement the existing Union Pacific Railroad at-grade roadway crossing ("Pacific's Widening Project"), and the other portion being from Butte Ave E (138th) to 140th Ave Ct E and including the replacement of the Stewart Road Bridge over the White River ("Sumner's Bridge Replacement"), are being upgraded from a two-lane roadway to a four-lane roadway with shared use path and constructed by Pacific and Sumner, respectively.

B. Pacific and Sumner are completing improvements that are part of a regional transportation facility that provides cross-valley access between State Route 167 and the North Lake Tapps area and those communities in the valley including Sumner, Auburn, Pacific, and unincorporated Pierce County.

C. Pacific's Widening Project shall commence in Spring 2021 and complete by the end of 2022, whereas Sumner's Bridge Replacement is currently undergoing design efforts with an anticipated construction commencement of 2023.

D. The construction documents for Pacific's Widening Project were completed with additional compatibility work that ensures Pacific's Widening Project is compatible with existing adjacent roadways and future construction of Sumner's Bridge Replacement. Pacific's additional compatibility work elements include (1) raising the elevation of the Stewart Road/Butte Avenue intersection; (2) increasing the height and foundation of retaining walls in preparation for future wall height increases; (3) optimizing the location and foundation depth of signal poles; and (4) adding conduits for a future corridor intelligent transportation systems (ITS) coordination;

E. Sumner has reviewed Pacific's Widening Project documents and believes the additional compatibility work identified above is an efficient and appropriate use of funds that will reduce the scope and overall cost of Sumner's Bridge Replacement.

F. Upon receipt of its most recent engineering estimate, Pacific discovered that it does not have adequate funding to complete Pacific's Widening Project as designed.

G. Pacific's Widening Project has been shown on Sumner's 6-year Transportation Improvement Program (TIP) list since April 2021, in an acknowledgment of the importance of Pacific's Widening Project to the future success of the complete corridor improvements.

H. Sumner requested, and received, an increase in grant funding from the Freight Mobility Strategic Investment Board, in an amount of \$700,000.00 thereby providing Sumner with an opportunity to re-allocate a portion of Sumner's Transportation Impact Fees (TIFs) to help fill the funding gap on Pacific's Widening Project.

I. Sumner has evaluated and determined it is in Sumner's best interest to negotiate an interlocal agreement ("ILA") with Pacific, and to assign funds to Pacific's Widening Project in an amount of no more than Seven Hundred Thousand Dollars and 00/100 (\$700,000.00) of TIFs towards Pacific's Widening Project.

J. The construction of the Pacific's Widening Project in advance of Sumner's Bridge Replacement will maximize compatibility in the use of existing and future facilities and reduce the need for immediate re-work during Sumner's Bridge Replacement, allowing both projects to progress through completion more expeditiously while reducing overall inconvenience to the travelling public.

K. Pursuant to RCW 35A.21.150, Pacific and Sumner each have the legal authority to maintain a transportation system.

L. The Parties are authorized to undertake joint and cooperative action pursuant to RCW 35A.11.040 and Chapter 39.34 RCW.

AGREEMENT

In furtherance of the foregoing and in consideration of the following terms and conditions, the Parties agree as follows:

1. This Agreement shall be effective upon execution by both Parties ("Effective Date") for a term not to exceed six (6) years ("Term"), but said agreement shall terminate upon the earlier of (1) completion of the obligations of the Parties provided for herein, specifically payment of up to \$700,000 from

Sumner to Pacific; (2) pursuant to the conditions set forth in Paragraph 6, below; or (3) the expiration of the Term. This Agreement may be terminated, and all property acquired and used by the Parties disposed, by mutual agreement of the Parties per RCW 39.34.030(3). Unless otherwise expressly provided herein, ownership of any real and personal property acquired or owned by a Party before and during the term of this Agreement shall remain vested in said Party upon termination.

2. The Parties do not by this Agreement create any separate legal or administrative entity. The City of Pacific City Administrator, or his designee shall be responsible for working with the City of Sumner City Administrator, or his/her designee to administer the terms of this Agreement. The Parties do not intend to jointly own any real or personal property as part of this undertaking. The Parties will cooperatively work together to further the intent and purpose of this Agreement.

3. Pacific agrees to construct Pacific's Widening Project, some of which is within the municipal limits of the City of Sumner, and which the Parties agree is necessary and sufficient for Sumner's construction of Sumner's Bridge Replacement: (1) raising the elevation of the Stewart Road/Butte Avenue intersection; (2) increasing the height and foundation of retaining walls in preparation for future wall height increases; (3) optimizing the location and the foundation depth of signal poles; and (4) adding conduits for a future corridor intelligent transportation systems (ITS) coordination.

4. Pacific agrees to invoice Sumner within 120 days of substantial completion of Pacific's Widening Project for appropriate project expenditures up to \$700,000. Pacific hereby represents and warrants that any amounts invoiced to Sumner will be reimbursable and appropriate expenditures of TIFs pursuant to RCW 82.02.050 and SMC 12.36.130, and will have already been approved for payment by the Pacific City Council.

5. Sumner agrees to reimburse Pacific for the amounts invoiced to Sumner pursuant to Paragraph 4 within 45 days of receipt of the invoice from Pacific, in a total amount not to exceed \$700,000 total.

6. Pacific specifically acknowledges that Sumner's commitment of \$700,000 in TIF funding is a direct response to Sumner's increased grant funding awarded to Sumner's Bridge Replacement by the Washington State Freight Mobility Strategic Investment Board (FMSIB) in an amount of \$700,000, and that if the Washington State Legislature fails to approve and appropriate the increased grant award during the 2021 legislative session, the TIF funding commitment from Sumner to Pacific herein shall be void, reimbursable if already paid in whole or part, and this agreement shall have no further force and effect. No penalty or expense shall accrue to Sumner in the event this provision applies.

7. The Parties agree to fund their respective administrative costs and fees, and not seek reimbursement from each other for the same.

8. Pursuant to all applicable regulatory requirements, Pacific shall have the right and privilege to lay down and construct improvements in rights-of-way controlled by Sumner or within Sumner, as may be necessary, convenient, and/or proper in order to provide the improvements required to serve Sumner's Bridge Replacement, and consistent with the terms and conditions set forth herein. The right of way use rights described in this section shall not be deemed or held to be exclusive, and shall not prevent Sumner from entering other agreements or franchises for use of any avenues, streets, highways, road, or other rights-of-way controlled by Sumner that are within the scope of Pacific's Widening Project.

9. Pacific shall, after construction of Stewart Road street improvements within Sumner, restore and tie in the surface of the street, right-of-way, or public property to at least the same condition the property was in immediately prior to any such construction, unless other arrangements are mutually agreed to by the Parties. The Sumner Public Works Director or their designee shall have final approval of the condition of such streets, rights-of-way, and public places after restoration. All concrete encased monuments disturbed or displaced by such work shall be restored pursuant to all federal, state, and local standards and specifications. Pacific agrees to promptly complete all restoration work and to promptly repair any damage caused by such work to Sumner roadway at its sole cost and expense.

10. Pacific shall be required to obtain all applicable permits from Sumner necessary for roadway related work by Pacific in Sumner and/or in Sumner's rights of-way.

11. Indemnification.

11.1. Pacific agrees to indemnify and hold Sumner, its elected officials, officers, employees, agents and volunteers harmless from any and all claims, demands, losses, actions, and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors, or omissions of Pacific, its elected officials, officers, employees, agents, and volunteers, or by Pacific's breach of this Agreement.

11.2. Sumner agrees to indemnify and hold Pacific, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions, and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives arising

from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors, or omissions of Sumner, its elected officials, officers, employees, agents, and volunteers or by Sumner's breach of this Agreement.

11.3. In the event of a claim, loss, or liability based upon the alleged concurrent or joint negligence of the Parties, the Parties shall bear their respective liability, including cost, in accordance with their respective liability established in accordance with the laws of the State of Washington.

11.4. FOR PURPOSES OF INDEMNIFICATION ONLY, THE PARTIES, BY MUTUAL NEGOTIATION, HEREBY WAIVE, AS RESPECTS THE OTHER PARTY ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISIONS OF TITLE 51 RCW.

11.5. The provisions of this section shall survive the expiration or termination of this Agreement with respect to acts and omissions occurring during the term hereof.

12. Pacific shall, for the full Term of this agreement, maintain its membership in the AWC liability risk pool, and Sumner shall, for the full Term of this agreement, maintain membership in the WCIA liability and risk pool or have equivalent limits of liability from another insurance program or liability pool.

13. This Agreement shall be governed in all respects by the laws of the State of Washington. The Venue for any dispute related to this Agreement shall be Pierce County Superior Court, with both Parties expressly agreeing to personal jurisdiction in the same. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party.

14. Neither Party may assign this Agreement or any interest, obligation, or duty therein without the express written consent of the other Party.

15. This Agreement constitutes the complete and final agreement of the Parties, and replaces and supersedes all oral and/or written proposals and agreements heretofore made by the Parties on the subject matter. No provision of this Agreement may be amended or added to except by agreement, in writing, signed by both Parties.

16. This Agreement is executed for the sole and exclusive benefit of the signatory Parties. Nothing in this Agreement, whether express or implied, is intended to confer any right, remedy, or other entitlement upon any person other than the Parties hereto, nor is anything in this Agreement intended to relieve or

discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any Party hereto.

17. Any notice or information required or permitted to be given to the Parties under this Agreement may be sent to the following addresses unless otherwise specified.

City of Pacific

City of Sumner

Attn: Public Works Manager

Attn: Public Works Director

100 3rd Ave, SE

1104 Maple Street, Ste. 260

Pacific, WA 98047

Sumner, WA 98390

18. Signature Authority.

18.1. The City of Pacific Mayor was authorized to execute this Agreement by Resolution No. 2021-740 adopted by a majority of the entire City Council on the 12th day of April, 2021, at a regularly scheduled Council meeting. Pacific shall cause a copy of this fully executed agreement to be recorded with the Pierce County Auditor prior to its entry into force.

18.2. The City of Sumner Mayor was authorized to execute this Agreement pursuant to resolution adopted by a majority of the entire City Council on the 19th day of April, 2021 at a regularly scheduled Council meeting.


19. The terms of this Agreement shall be contemplated by PACIFIC and SUMNER's respective Transportation Improvement Programs and capital facilities plans as required by RCW 82.02.050.

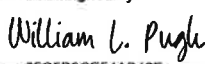
20. Should any clause, phrase, sentence or paragraph of this Agreement or its application be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement or its applications of those provisions not so declared shall remain in full force and effect.

IN WITNESS WHEREOF, authorized representatives of the Parties hereto have signed their names in the spaces below:

CITY OF PACIFIC

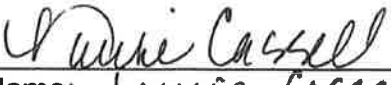
CITY OF SUMNER


Name: Leanne Guier
Title: Mayor

DocuSigned by:

65C9B3CE54AB46E
Name: William L. Pugh
Title: Mayor

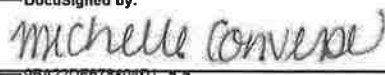
Date: 4/12/2021

Attested to:


Name: Laurie Cassell
Title: City Clerk

Date: 4/20/2021 | 4:40 PM PDT

Attested to:

DocuSigned by:

Name: Michelle Converse
Title: City Clerk