

**RESOLUTION NO. 2926**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF SUMNER FOR FIRE REVIEW SERVICES.**

**WHEREAS**, East Pierce Fire and Rescue (EPFR) has been providing fire plan review services for the City of Bonney Lake; and,

**WHEREAS**, EPFR proposed building permit fee and other inspection fee increases in order to offset budget shortfalls due to providing these services to the City; and,

**WHEREAS**, after City of Bonney Lake staff determined that raising building permit fees was not in the best interests of continued development in Bonney Lake; and,

**WHEREAS**, the City of Bonney Lake and the City of Sumner having notified EPFR that their review services will no longer be necessary have decided that through an Interlocal Agreement between the Cities they will jointly share in the expenses of hiring a City employee to complete fire plan review services for both Cities;

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Boney Lake, Washington, does hereby authorize the Mayor to sign the attached Interlocal Agreement with the City of Sumner for Fire Review Services in the initial amount of \$49,043.60.

**PASSED** by the City Council this **27th** day of **April, 2021**.

DocuSigned by:

*Neil Johnson, Jr.*

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Neil Johnson Jr., Mayor

**AUTHENTICATED:**

DocuSigned by:

*Harwood T. Edvalson*

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Harwood T. Edvalson, City Clerk

City of Bonney Lake, Washington  
**City Council Agenda Bill (AB)**

<b>Department/Staff Contact:</b> Public Services / Ryan Johnstone	<b>Meeting/Workshop Date:</b> 27 April 2021	<b>Agenda Bill Number:</b> AB21-53
<b>Agenda Item Type:</b> Resolution	<b>Ordinance/Resolution Number:</b> 2926	<b>Sponsor:</b>

**Agenda Subject:** Authorizing An Interlocal Agreement with the City of Sumner for Fire Review Services.

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Interlocal Agreement With The City Of Sumner For Fire Review Services.

**Administrative Recommendation:** Approve

**Background Summary:** East Pierce Fire and Rescue (EPFR) has provided plan review services for the City of Bonney Lake as well as the Cities of Sumner, Edgewood, and Milton. Because the City has no agreement in place with EPFR, the City has never paid for these services. In 2020, EPFR reached out to the City to discuss the need to institute a new fee schedule for the provision of these services. This fee schedule included a proposed 40% increase in the building permit fee as well as a base hourly fee for various other reviews. The intent of these increases was to make up a nearly \$1.1 million budget shortfall in EPFR's budget. City of Bonney Lake and Sumner staff reviewed this information and determined that these increases were not in either Cities best interest. Due to these proposed increases, the decision was made to cease using EPFR for fire review services and jointly work with the City of Sumner to share the costs of employing a new City of Sumner employee who will provide these services for both jurisdictions.

**Attachments:** Resolution 2926, Proposed Interlocal Agreement

**BUDGET INFORMATION**

Budget Amount	Current Balance	Required Expenditure	Budget Balance	Fund Source
0	\$3,536.97	\$49,043.60	(\$45,506.63)	<input type="checkbox"/> General <input type="checkbox"/> Utilities <input type="checkbox"/> Other

**Budget Explanation:** The "Current Balance" above shows what has been received up to March 31, 2021 for fire permit fees. The "Required Expenditure" is a pro-rated amount for the remainder of expected costs through 2021.

**COMMITTEE, BOARD & COMMISSION REVIEW**

<b>Council Committee Review:</b>	Finance Committee Date: 13 April 2021	<i>Approvals:</i>	<b>Yes</b>	<b>No</b>
		Chair/Councilmember Justin Evans (Chair)	<input type="checkbox"/>	<input type="checkbox"/>
		Councilmember Terry Carter	<input type="checkbox"/>	<input type="checkbox"/>
		Councilmember Tom Watson	<input type="checkbox"/>	<input type="checkbox"/>
	Forward to:	<b>Consent Agenda:</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 27 April 2021	Tabled to Date:

**APPROVALS**

<b>Director:</b> <i>Ryan Johnstone</i>	<b>Mayor:</b> <i>Neil Johnson Jr.</i>	<b>Date Reviewed by City Attorney:</b> 16 March 2021
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**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF  
SUMNER AND THE CITY OF BONNEY LAKE  
FOR  
FIRE REVIEW SERVICES**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into between the City of Sumner, a Washington municipal corporation (“Sumner”), and the City of Bonney Lake, a Washington municipal corporation (“Bonney Lake”), (collectively, the “Parties” or “Cities” or in the singular “Party or “City”).

WHEREAS, the Parties are “public agencies” as defined by the Interlocal Cooperation Act, Chapter 39.34 RCW, and through the provisions of that chapter are authorized by state law to enter into interlocal agreements on the basis of mutual advantage and for the provision of mutually beneficial or economically efficient services and facilities; and

WHEREAS, the Parties currently both receive fire review of submitted permit applications/plans from East Pierce Fire and Rescue, who has expressed a desire to adopt a new fee schedule for fire review services that is not beneficial to the Parties’ taxpayers; and

WHEREAS, the Cities have similar plan/permit fire review needs and each Party can realize certain economies from sharing resources, thereby providing savings to taxpayers through contracting for shared services; and

WHEREAS, Sumner agrees to hire and manage a full-time employee capable of performing plan/permit fire review services, and Bonney Lake agrees to compensate Sumner for its proportionate share of said building inspector for the services offered and performed on its behalf under this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is agreed between the Parties as follows:

**AGREEMENT**

- 1. Purpose.** It is the purpose of this Agreement to enable the Parties to take advantage of economies of scale by sharing the costs of an employee to conduct fire permit plan review and associated inspections.
- 2. Term of Agreement.** This Agreement shall become effective as of the date this Agreement is approved by the City Councils of Sumner and Bonney Lake. Unless terminated pursuant to the terms of this Agreement, this Agreement shall remain in full force and effect until December 31, 2026. This Agreement shall thereafter automatically renew for additional two (2) year terms, unless earlier terminated subject to the requirements of this agreement.
- 3. Sumner Responsibilities.** Sumner agrees to the following:
  - 3.1 Employee.** Sumner shall advertise for, and hire, one full time employee to perform plan/permit fire review services (hereinafter referred to as the “Plan Reviewer”). Bonney Lake will be afforded the opportunity to participate in the Plan Reviewer selection process. The Plan Reviewer’s duties are outlined on the attached Exhibit A. Sumner

represents and warrants that the Plan Reviewer hired will have and maintain the requisite licensing, certification, training, skill, and experience necessary to provide the services offered under this Agreement. Sumner agrees to consider Bonney Lake’s requirements, and the requirements of this agreement, in selecting and hiring the Plan Reviewer. Sumner shall maintain complete discretion over, and shall be solely responsible for, the Plan Reviewer’s wages, schedule, benefits, management, review, retention and equipment. The Plan Reviewer shall remain under the direct supervision of the City of Sumner, with the job duties and performance subject only to Sumner’s applicable rules and regulations, including Sumner’s personnel policies. Bonney Lake shall not have any managerial authority or control over the Plan Reviewer, subject only to the limited input solicited through section 3.4 below.

The Plan Reviewer shall be exclusively an employee of the City of Sumner, and no employee, independent contractor or agency relationship shall be formed with Bonney Lake by virtue of this agreement, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of fire plan review services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the City of Sumner under any applicable law, rule, or regulation. Nothing in this Agreement is intended to create an interest in or give a benefit to third persons not signing as a party to this Agreement.

- 3.2 Transportation.** Sumner shall provide the Plan Reviewer with an insured City-issued vehicle to be used during any site inspection necessary to carry out the duties of the position for either Bonney Lake or Sumner inspections. The vehicle will display the names or images of both Sumner and Bonney Lake.
- 3.3 Cost Allocation.** Employee costs including but not limited to wages, benefits, training, and supplies shall split using per capita and value of New Construction and Improvements (NC&I) both weighted at 50% on an annual basis.

2021 cost allocations are as follows:

	2020 OFM Population for 2021	% of total population	Weighted at 50%	2020 NC&I for Tax Year 2021	% of NC&I	Weighted at 50%	Cost Share Pop + NC&I
Sumner	10,360	33%	16%	\$ 140,736,860	71%	36%	<b>52%</b>
Bonney Lake	21,390	67%	34%	\$ 56,154,300	29%	14%	<b>48%</b>
Combined	31,750	100%	50%	\$ 196,891,160	100%	50%	<b>100%</b>

The per capita proportion shall be adjusted January 1<sup>st</sup> of each year based on the previous April’s OFM population estimate.

The NC&I proportion shall be adjusted January 1<sup>st</sup> of each year based on the final certification of assessed values provided by the Pierce County Assessor.

Indirect costs, including but not limited to information technology, fleet maintenance, liability insurance and vehicle replacement shall also be shared on a proportional per capita basis. Recurring costs shall be paid in accordance with Section 5 of this Agreement.

Initial startup costs for a vehicle, laptop, monitor, cell phone shall be shared equally at 50%.

- 3.4 Plan Review turnaround.** The Plan Reviewer will use best efforts to review submitted plans, provide comments, and conduct any necessary inspections in accordance with Bonney Lake's standard review practices/timelines, but in no event longer than 45 days after receipt of the plan. In the case of substantial backlog, Plan Reviewer shall have the discretion to prioritize their review services in the order in which the plan was submitted, irrespective of whether the plan is for a Sumner or a Bonney Lake permit.

Bonney Lake shall have authority to establish procedural and time limitations of the Plan Reviewer to ensure the services meet the approval of Bonney Lake. The Plan Reviewer's performance of work for Bonney Lake shall be subject to Bonney Lake's general rights of inspection and review to secure the satisfactory completion thereof. In the event of any concern related to the performance of the Plan Reviewer, or the Plan Reviewer's compliance with Bonney Lake's standard review practices/timelines, the City of Bonney Lake shall submit its concern in writing to the Sumner Development Services Director who shall thereafter work with Bonney Lake in good faith to remedy the issue.

**4. Bonney Lake Responsibilities.** Bonney Lake agrees to the following:

- 4.1 Permit Fees.** Bonney Lake shall collect any applicable permit review fees relevant to permit review conducted by the employee for projects that are within the City of Bonney Lake. No permit fees shall be remitted to Sumner.
- 4.2 Timely Reimbursement.** Bonney Lake shall reimburse Sumner for Bonney Lake's proportion of the Plan Reviewer's Service Fees in accordance with Section 5, below.
- 4.3 Workspace/Technology Access.** Bonney Lake shall provide the employee access to a city facility where the Plan Reviewer can conduct fire plan reviews and meet with applicants. This workspace will be secondary to the Plan Reviewer's workspace at Sumner City Hall, and shall include at a minimum, a workspace, access to wireless internet and an electrical outlet to charge a laptop.

Bonney Lake shall provide access and training to any software needed for the employee to perform fire review services in Bonney Lake.

- 4.4 Establish Standard Review Practices/Timelines.** Bonney Lake may establish and set forth any procedural or timeline specific expectations that will apply to the Plan Reviewer's provision of services to Bonney Lake. In the absence of such procedures/time limits, the Plan Reviewer shall approach, consider and conduct Bonney Lake plan reviews in the same or substantially similar way they approach Sumner plan reviews.

**5. Payment and Funding.** Bonney Lake agrees to pay the City of Sumner for the Plan Reviewer's Service Fees pursuant to the following.

- 5.1 Reimbursement.** Sumner shall invoice Bonney Lake on a quarterly basis for its proportionate share of actual costs incurred under Section 3.3. Within thirty (30) days of receipt of each quarter's invoice, Bonney Lake shall remit payment to Sumner. Payments that are more than thirty (30) days late shall accrue interest at the maximum allowable legal rate. Payment due to the City of Sumner shall be mailed to:

City of Sumner  
Finance Department  
1104 Maple St., Suite 200  
Sumner, WA 98390

- 5.2** The City of Sumner shall maintain adequate records to support billings for services set forth in this Agreement. Said records shall be maintained for a period of six (6) years after completion of this Agreement, or in accordance with the State records retention schedule, whichever is longer. Bonney Lake or its authorized representatives shall have access, during normal working hours, to any Sumner books, documents, papers or records which directly relate to this Agreement.

- 5.3 Billing Disputes.** In the event there is a dispute regarding an invoiced amount by Sumner, the Parties shall make every effort to resolve such dispute by mutual agreement. In the event there is no mutually agreed resolution to the dispute, the Parties shall forward the dispute to each Party's City Administrator for resolution. In the event there is no resolution after review by the Parties' City Administrator, within sixty (60) days the Parties shall seek mediation through a mutually agreed mediation service and each Party shall bear its own costs for mediation. If mediation is unsuccessful, or if either Party fails to cooperate with seeking mediation in a timely manner, either Party may pursue any legal remedy available from a court of competent jurisdiction. Alternatively, an unsuccessful mediation shall be grounds for either Party to terminate this Agreement upon thirty (30) days notice.

## **6. Termination.**

- 6.1 Termination by Notice.** Either Party may terminate its participation in this Agreement by providing the other Party with one-hundred and eighty (180) days advance written notice of the effective date of such termination. The Party providing such notice shall remain responsible for any costs incurred under this Agreement through to the effective termination date.
- 6.2 Termination by Mutual Written Agreement.** This Agreement may be terminated in its entirety at any time by a written agreement executed by both of the Parties.
- 6.3 Termination for Breach.** Either Party may terminate its participation in this Agreement for material breach of the terms of this Agreement upon thirty (30) days advance written notice to the other Party, provided that disputes regarding billing statements shall be handled pursuant to Subsection 5.3 and shall not be deemed a breach of this Agreement except as set forth in Subsection 5.3. Prior to termination for material breach, the non-breaching Party shall provide the other Party notice of the breach and a reasonable opportunity to cure.

**7. Indemnification and Insurance.** Each party to this Agreement shall indemnify, defend and hold the other party and its officers, directors, agents, employees, representatives, vendors, subcontractors and contractors harmless from and against any and all costs, liabilities, suits, losses, damages, claims, expenses, penalties or charges, including, without limitation, reasonable attorneys' fees, court costs, and disbursements, that the other party may incur or pay out by reason of the Plan Reviewer's performance of work for that Party. For example, if the Plan Reviewer commits an allegedly negligent or willful act while conducting plan review activities for Sumner, Sumner shall indemnify, defend, and hold Bonney Lake harmless, and vice versa. Each Party shall provide defense and indemnity for the Plan Reviewer pursuant to their municipal codes (BLMC Chap. 2.52 and SMC 2.118) for acts occurring during the Plan Reviewer's performance of work for that Party. The provisions of this section (Indemnification) shall survive the expiration or earlier termination of this Agreement.

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

**7.2** Nothing contained in this section or this Agreement shall be construed to create a right in any third party to indemnification.

**7.3** Each Party shall maintain customary insurance sufficient to cover liabilities resulting from the Permit Reviewer's performance of duties under this Agreement.

**8. Public Records.** Each Party shall be responsible for fulfilling public records requests received by that Party, and shall use best practices in doing so, including providing the fullest assistance to requesters. The Parties shall cooperate and help each other in fulfilling requests to the extent such cooperation will assist the parties in discharging their duties under the Public Records Act, Chap. 42.56 RCW. Because the Parties are engaged in a joint enterprise, the sharing of records shall not waive the attorney/client or work product privileges that would otherwise apply.

## **9. Miscellaneous**

**9.1 Notices.** Notwithstanding Subsections 3.4 and 4.3 herein, notices provided pursuant to this Agreement shall be provided in writing to the person and address indicated below. Notices shall be deemed delivered three (3) days after placement of the notice in the U.S. Mail, first class postage pre-paid. Courtesy copies of notices may be provided via email transmission but shall not constitute delivery of written notice as set forth herein.

City of Sumner  
Development Services Director  
1104 Maple Street  
Sumner, WA 98390

City of Bonney Lake  
Public Services Director  
9002 Main Street East, Suite 300  
P.O Box 7380  
Bonney Lake, WA 98391

- 9.2 Non-waiver of Breach.** The failure of either Party to insist upon strict Performance of any of the covenants and agreements contained in this Agreement shall not be construed to be a waiver or relinquishment of those covenants, agreements, or options, and the same shall be and remain in full force and effect.
- 9.3 Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Should litigation be sought, suits shall be filed exclusively under the venue, rules, and jurisdiction of the Pierce County Superior Court, Pierce County, Washington.
- 9.4 Assignment.** This Agreement is not assignable by either Party, in whole or in part.
- 9.5 Modification.** No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless made in writing and approved by a majority of the City Council of each city, provided that if the Parties mutually agree a modification is minor and does not substantively alter the Agreement to a significant degree, each Party's City Administrator may approve the change.
- 9.6 Compliance with Laws.** Both Parties agree to comply with all local, federal, and state laws, rules, and regulations that are now effective or in the future become applicable to this Agreement.
- 9.6.1 Nondiscrimination in Employment.** In the performance of this Agreement, neither Party will discriminate against any employee on the grounds of race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age, nor other basis prohibited by state or federal law unless based upon a bona fide occupational qualification. Both Parties shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state, and federal laws prohibiting discrimination in employment.
- 9.6.2 Nondiscrimination in Services.** Neither Party will discriminate against any recipient of any Services provided for in this Agreement on the grounds of race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age, nor other basis prohibited by state or federal law.
- 9.7 Entire Agreement.** The written terms and provisions of this Agreement, together with any exhibits attached hereto, shall supersede all prior communications, negotiations, representations, or agreements, either verbal or written, of any officer, employee, or other representative of each party and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the exhibits are hereby made part of this

Agreement. Should any of the language of any exhibits to this Agreement conflict with any language contained in this Agreement, the language of this document shall prevail.

- 9.8 Severability.** If any provision of this Agreement, in whole or in part, is adjudicated to be invalid, such action shall not affect the validity of any provision not so adjudicated.
- 9.9 Interpretation.** The legal presumption that an ambiguous term of this Agreement should be interpreted against the Party who prepared the Agreement shall not apply.
- 9.10 No Third Party Beneficiaries.** This Agreement is between the Parties only and is not meant to benefit any third party.

**IN WITNESS WHEREOF, the Parties below execute this Agreement, which shall become effective pursuant to the terms of Section 3, herein.**

<p>City of Bonney Lake: <small>DocuSigned by:</small></p> <p>By: <u>Neil Johnson, Jr.</u> <small>20583FB9C281400...</small> (signature)</p> <p>Print Name: Neil Johnson</p> <p>Its Mayor</p> <p>DATE: <u>4/27/2021</u></p>	<p>City of Sumner: <small>DocuSigned by:</small></p> <p>By: <u>William Pugh</u> <small>65C9B3CE54AB46F...</small> (signature)</p> <p>Print Name: William L. Pugh</p> <p>Its Mayor</p> <p>DATE: <u>4/28/2021</u></p>
<p>ATTESTED BY: <small>DocuSigned by:</small></p> <p><u>Harwood T. Edvalson</u> <small>F46A10AD29884A1...</small></p> <p>City Clerk</p>	<p>ATTESTED BY: <small>DocuSigned by:</small></p> <p><u>Michelle Converse</u> <small>9BA22DE678404D1...</small></p> <p>City Clerk</p>
<p>APPROVED AS TO FORM ONLY: <small>DocuSigned by:</small></p> <p><u>Kathleen Haggard</u> <small>80F7D25886FB4A3...</small></p> <p>Kathleen Haggard, City Attorney</p>	<p>APPROVED AS TO FORM ONLY: <small>DocuSigned by:</small></p> <p><u>Andrea Marquez</u> <small>0F1EE08B9EA4480...</small></p> <p>Andrea Marquez, City Attorney</p>

## EXHIBIT A

### PLAN REVIEWER ESSENTIAL JOB DUTIES

- Provides for the plan review and inspection phase of land use/commercial project development to identify potential fire hazards; serves as technical advisor for fire code compliance for commercial and land use inspection.
- Performs inspection of new and existing commercial and residential building premises and building structures for fire hazards and conformance with City and State fire codes, related laws and ordinances.
- Ensure compliance with the International Fire Code as amended by Sumner Municipal Code Chapter 15.24 and Bonney Lake Municipal Code Chapter 15.16.
- Conducts technical site plan review, to include reviewing plans for underground pipe system, building plans, sprinkler plans, fire alarm plans, and suppression system plans.
- Perform fire prevention and life safety inspections in accordance with the International Fire Code.
- Inspects plats, short plats, and business license applications for compliance with fire and building codes and related laws, and ordinances.
- Schedules and coordinates required fire inspections as appropriate; coordinates permit process with appropriate departmental staff at the City of Sumner and the City of Bonney Lake using applicable permitting software.
- Receives, responds to and investigates complaints regarding violations of fire code; provides direction to comply accordingly; takes enforcement action if conditions are not brought to code.
- Reviews site conditions with applicants and/or their consultants to provide options for compliance with applicable regulations related to fire safety.
- Inspects new structures with respect to the construction and maintenance of required life/safety systems and elements to ensure compliance with adopted codes.
- Performs technical fire plan review for all commercial structures and land use permits to determine code compliance and to establish permit conditions.
- Prepares correspondence and fire inspection reports.
- Assists staff in determining occupancy requirements and provides guidance.
- Reviews and inspects special event applications regarding fire safety.
- Monitors the status of permits and performs follow-up contact on projects as needed.
- Discusses items of a sensitive or complex nature with the Department Director.
- Provides new addressing and corrects addressing issues that are discovered.
- Responds to inquiries and complaints concerning plan checks, inspections, and interpretation of codes relating to building construction and permits.
- Issues stop work orders for work commencing without building permits or not in compliance with building codes.
- Follow/adhere to all city policies and procedures, and safety program regulations and requirements.

- Fire Plan review for commercial, multifamily, residential fire sprinkler and associated alarms, civil, plats, etc. projects.
- Field inspections for commercial, multifamily, residential fire sprinkler and associated alarms, civil, plats, etc. projects.