



BUCKLEY CITY COUNCIL AGENDA

Tuesday, September 9, 2025, at 6:00 P.M.

Multi-Purpose Center, 811 Main Street

Next Ordinance #07-25, Next Resolution #25-06, Next Agenda Bill #25-043

Or Via Zoom:

<https://us02web.zoom.us/j/83366597529?pwd=N2hMTmh5eEZ4TGpJd2dpbFp0cnkvdz09>

Call-in Number: 253-215-8782

Meeting ID: 833 6659 7529 Meeting Passcode: 863441

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll call
3. Agenda Modifications
4. Announcements, Appointments and Presentations

B. PUBLIC COMMENTS - *Time Limit of Three Minutes* (Citizens wishing to speak are Encouraged to sign up at City Hall by Wednesday prior to the Council Meeting)

C. COMMITTEE REPORTS

1. Mayor's Report	Burkett
2. Senior Citizens Advisory Commission	

D. CONSENT AGENDA

- a. Approve Minutes of April 1, 2025, City Council Study Session
- b. Approve Minutes of May 13, 2025, City Council Meeting
- c. Approve Minutes of May 27, 2025, City Council Meeting
- d. Claims & Payroll

E. REGULAR AGENDA

1. ORDINANCE

- a. ORD No. ____-25: Amending BMC 6.04.050(8) Related to Business Licensing

2. UNFINISHED BUSINESS

- a. Donation and Construction Agreement with Pedals for the People for a Pump Track Facility

F. STAFF REPORTS

1. City Administrator Update

G. PUBLIC COMMENTS - *Time Limit of Three Minutes*

H. COUNCIL MEMBER COMMENTS & GOOD OF THE ORDER

- a. Reschedule of November 11, 2025, City Council Meeting

I. ADJOURNMENT

B. PUBLIC COMMENTS

C. COMMITTEE REPORTS

D. CONSENT AGENDA

**CITY COUNCIL
STUDY SESSION
April 1, 2025**

ATTENDEES: Council members Smith, Arsanto, Burbank, Anderson and Bergerson.

Also, in attendance were: City Administrator Brunell, Director of Parks and Recreation Snodgrass and Deputy City Clerk Clark.

Mayor Pro Tem Smith called the regularly scheduled meeting to order at 6:00 PM.

FFA Presentations:

Enumclaw High School FFA performed a debate representing farmland owners, housing developments expanding, and project managers of the construction company.

The debate was about the opportunity of growth vs. lasting harm on the town and agriculture.

EHS FFA did a fabulous job and council members asked questions to the students and were very impressed with how well they did.

Review of BDA Art Application:

Director of Parks and Recreation Snodgrass updated Council that on March 17th the Citizens Advisory Commission reviewed the application for the *People on the Plateau Series: Kempinski Drugstore* and they evaluated the proposal based on its alignment with the Public Art Policy adopted July 2024. The *People on the Plateau Series: Kempinski Drugstore* is the first application to be reviewed.

The *People on the Plateau Series: Kempinski Drugstore* is a public art project proposed by the Buckley Downtown Association. The installation will feature a historical metal-printed photograph located at 691 Main Street, facing Cedar Street.

The project aims to celebrate Buckley's rich history while fostering community pride, a sense of belonging, and cultural appreciation. This will be brought to Council at the April 8th meeting for adoption. Council member Smith stated he agrees the policy limits allowed should be for relevant historical art for Buckley only.

Park and Fire Impact Fees:

Annie Sieger from Sieger Consulting presented a slideshow regarding Park and Fire Impact Fees. The presentation included:

- About impact fees and setting the rates
- Impact Fee Rate Study Approach
- Expected Population and Employment Growth
- Parks Impact Fee Update
- Fire Impact Fee Rate Study
- Current Call Volume for Fire
- Estimating Increase in Call Volume Based on Growth
- Apparatus and Equipment Needs

Council discussed the slideshow and gave their opinions. Council member Arsanto stated he would like to have a further discussion at an upcoming study session regarding funding for the Fire Dept.

With nothing further, the Study Session was adjourned at 7:26 PM.

City Administrator

Mayor

Prepared by: Jessica Clark, Deputy City Clerk

DRAFT

City Council
May 13, 2025

Mayor Burkett called the regularly scheduled meeting to order at 6:00 PM.

Upon roll call the following members were present: Smith, Anderson, Arsanto, Burbank, Bergerson, and Green.

Also present were: City Administrator Brunell, Finance Director Hines, Police Chief Alfano, City Engineer Miller, Firefighter Smith, Public Services Director Banks, and City Clerk Zumek.

Council member Anderson moved to excuse Council member Bender. Council member Arsanto seconded the motion. Motion carried.

Mayor Burkett asked if there were any other additions, deletions, or changes to the amended agenda.

Council member Smith moved to approve the agenda as amended. Council member Arsanto seconded the motion. Motion carried.

Announcements, Appointments, and Presentations:

Street Naming Presentation – Gene Smith

Mayor Burkett shared some history regarding Gene Smith's contributions to the City of Buckley and presented the family with a certificate and replica of the street sign that will be placed in a new housing development in Buckley.

CITIZEN PARTICIPATION

Sandra Anderson – Ms. Anderson came to share her concerns with the bee keeping setbacks in the Code and requested that Council look at doing an update.

Carolyn Harding – Ms. Harding shared as the Chamber President she wanted to thank the City staff for getting the new banners hung up and she is looking forward to hearing from the City attorney on the agreement for the speakers and hopes this can happen before log show weekend.

COMMITTEE REPORTS

Mayor's Report: Mayor Burkett shared that due to the sale of two large businesses in Buckley, REET dollars are up.

Development Services, Utilities & Transportation

Council member Arsanto shared that the Committee met today and discussed the following:

- Vactor truck purchase update
- Two new Utility Workers start on June 2nd
- Six-Year Transportation Improvement Plan
- ADA and Sidewalk project
- Speed limit plan
- Photo enforcement
- Buckley Gas & Coffee

Senior Citizen Advisory Commission:

Council member Bergerson shared that the Commission met on May 7th and discussed the following:

- Director Snodgrass shared sample reports that the County requires regarding the Senior Center.
- Senior Center Coordinator provided the Commission with May and June activities for the Senior Center.
- Director Snodgrass reviewed the Strategic Planning Goals and Objectives and the draft of the new Volunteer Handbook.

CONSENT AGENDA

Council Member Smith moved to approve the Consent Agenda. Council member Green seconded the motion. Motion carried.

- a. Final Acceptance – Foothills Trail Parking Lot Project
- b. Final Acceptance – Mundy Loss Road Storm Project
- c. Claim check numbers 69297 through 69368 in the amount of \$708,765.80 for the period of April 8, 2025, through April 21, 2025; and payroll check numbers 412729 through 41821 in the amount of \$1284,327.08, and ACH payroll in the amount of \$483,109.70 for April 22nd through May 12th; and claim check numbers 69369 through 69434 in the amount of \$138,687.23 for April 22nd through May 12, 2025, are hereby approved and ordered paid this 13th day of May 2025.
- d. Approve Minutes of January 14, 2025, City Council Meeting
- e. Approve Minutes of January 28, 2025, City Council Meeting
- f. Approve Minutes of February 11, 2025, City Council Meeting

REGULAR AGENDA

Purchase of Springbrook Cirrus Financial Software

Council member Burbank moved to Approve the Purchase of Springbrook Cirrus Software. Council member Anderson seconded the motion. Motion carried.

STAFF REPORTS

1st Quarter Public Safety Report

Police Chief Alfano stated that his report was included in the Council packet and he would be happy to answer any questions.

City Administrator Update

City Administrator Brunell shared that the Spring Community Newsletter went to the printer today. The new website will launch on May 28th. The new camera at the skate park has been installed and the Grand Opening of the Doc Tait Pavilion will be on August 7th.

CITIZEN PARTICIPATION

Meagan Rhodes – Ms. Rhodes shared her concerns with folks turning in or out of the new McDonalds the wrong way.

Council Member Comments & Good of the Order:

Council member Smith shared that he feels we should look at updating the beehive setback. He also stated that if any photo enforcement was allowed, it would have to be with Washington State Patrol as Highway 410 is a State Highway. Police Chief Alfano shared that WSDOT will not allow cameras on lights on State highways.

Council member Arsanto moved to adjourn. Council member Smith seconded the motion. Motion carried.

With nothing further, the meeting was adjourned at 6:27 PM.

Mayor

City Administrator

Prepared by: Treva Zumeck, City Clerk/HR Administrator

**City Council
May 27, 2025**

Mayor Burkett called the regularly scheduled meeting to order at 6:00 PM.

Upon roll call the following members were present: Smith, Burbank, Bergerson, Green, and Bender (via Zoom).

Council member Burbank moved to excuse Council members Anderson and Arsanto. Council member Smith seconded the motion. Motion carried.

Also present were: City Administrator Brunell, Public Services Director Banks, Fire Chief Skogen, Police Chief Alfano, Firefighter Smith, Senior Planner Farnsworth, City Engineer Miller (via Zoom), and City Clerk Zumeck.

Mayor Burkett asked if there were any other additions, deletions, or changes to the agenda.

Council member Smith moved to approve the agenda as amended. Council member Green seconded the motion. Motion carried.

Announcements, Appointments, and Presentations:

Mayor Burkett read and presented a Proclamation to Representatives Penner. Unfortunately Representative Stokesbary was unable to join us tonight.

Representative Penner expressed his appreciation and thanked everyone for their hard work in convincing the State not to close Rainier State School.

Several employees of Rainier State School, community members, clients of Rainier State School and Council shared their thanks and appreciation for all of the hard work by everyone involved.

COMMITTEE REPORTS

Mayor's Report: Mayor Burkett shared that the siding and the steps are being installed at City Hall.

REGULAR AGENDA

Public Hearing: Comprehensive Plan Update

Mayor Burkett convened the Public Hearing at 6:31 PM.

Senior Planner Farnsworth provided a brief presentation on the Comprehensive Plan and what has been updated since the last time it was brought before Council.

Josh Hosford – Mr. Hosford shared that he is the President of Citizens Alliance for Property Rights. He thanked Mr. Farnsworth for his presentation and shared his concern for what he feels is the biggest change since the plan was adopted in December is the 30-50 units being changed to 15-40 and feels the City was not transparent about this change.

Sandra Anderson - Ms. Anderson shared her concerns with the Fire Risk Mitigation and that the roads would not accommodate everyone trying to get out in the event of a major fire.

Upon no further testimony, Mayor Burkett closed the Public Hearing and reconvened the Council meeting at 6:39 PM.

License Agreement between the City of Buckley and the Buckley Chamber of Commerce (Audio Speakers)

Council member Burbank moved to Approve the License Agreement between the City of Buckley and the Buckley Chamber of Commerce. Council member Smith seconded the motion. Motion carried.

Interlocal Agreement with DSHS for Protection Services

Council member Green moved to Approve the Interlocal Agreement for Fire Protection and Emergency Medical Services with DSHS (Rainier School). Council member Bergerson seconded the motion. Motion carried.

STAFF REPORTS

City Administrator Update: City Administrator Brunell shared that the Spiketon Bridge opening was supposed to be this summer but has run into some soil issues.

City Clerk Zumeck shared that the Passport event went great and over 100 passport applications were processed.

CITIZEN PARTICIPATION

Sandra Anderson - Ms. Anderson shared that she was before Council again to request that they discuss changing the Code regarding beehive setbacks.

Council Member Comments & Good of the Order:

Council member Smith shared his concerns with the updates to the Comprehensive Plan regarding the Racially Disparate Impact Report.

Council member Green asked if the language in #4 could be adjusted. Mr. Farnsworth shared that it had already been adjusted and if we change it any more, it will not be accepted by the Department of Commerce.

Council member Bergerson asked if the City Hall Open House was still scheduled for June 17th? City Administrator Brunell shared that yes, it tentatively.

Council member Smith moved to adjourn. Council member Green seconded the motion. Motion carried.

With nothing further, the meeting was adjourned at 6:49 PM.

Mayor

City Administrator

Prepared by: Treva Zumeck, City Clerk/HR Administrator

CITY OF BUCKLEY			
Payroll and Claims/Treasurer Checks -August 2025			
September 9, 2025 Council Meeting			
FUND #	FUND NAME	AMOUNT	ITEM
001	General Fund	\$ 430,002.34	Payroll
		\$ 302,354.96	Claims/Treasurer Checks
003	GF Cumulative Reserve	\$ -	Claims/Treasurer Checks
004	Cemetery	\$ -	Claims/Treasurer Checks
007	Police Equip. Maintenance Reserve	\$ -	Payroll
		\$ 768.48	Claims/Treasurer Checks
008	Railroad ROW	\$ 30.02	Payroll
		\$ -	Claims/Treasurer Checks
030	Fire Equipment & EMS Reserve	\$ -	Claims/Treasurer Checks
035	Park Construction	\$ -	Claims/Treasurer Checks
101	Street Operations	\$ 8,177.26	Payroll
		\$ 9,261.17	Claims/Treasurer Checks
102	Street Capital Improvement	\$ 11,848.56	Claims/Treasurer Checks
103	Transportation Benefit District	\$ -	Claims/Treasurer Checks
105	EMS	\$ 56,967.23	Payroll
		\$ 10,635.68	Claims/Treasurer Checks
109	Criminal Justice		Payroll
			Claims/Treasurer Checks
134	Fire Dept Facility Maint & Cap Imp	\$ 4,190.80	Claims/Treasurer Checks
136	Visitor Promotion	\$ 530.36	Claims/Treasurer Checks
202	Fire Station Construction Bond	\$ -	Claims/Treasurer Checks
307	Capital Improvement	\$ 147,826.63	Claims/Treasurer Checks
308	Comp Plan Capital Improvements		Payroll
		\$ 14,987.48	Claims/Treasurer Checks
401	Natural Gas Operations	\$ -	Claims/Treasurer Checks
402	Water Sewer Operations	\$ 128,556.75	Payroll
		\$ 89,985.30	Claims/Treasurer Checks
403	Solid Waste	\$ -	Claims/Treasurer Checks

FUND #	FUND NAME	AMOUNT	ITEM
405	Sewer Construction	\$ 2,765.24	Claims/Treasurer Checks
406	Water Construction	\$ 2,343.38	Claims/Treasurer Checks
407	Storm Drain Operation & Maint	\$ 35,464.27	Payroll
		\$ 6,560.16	Claims/Treasurer Checks
408	Stormwater Construction	\$ 978.78	Claims/Treasurer Checks
430	Utility Equipment Reserve	\$ -	Claims/Treasurer Checks
631	Municipal Court Trust	\$ -	Claims/Treasurer Checks
632	Custodial Activities	\$ 11,763.24	Claims/Treasurer Checks
	Total Payroll	\$ 659,197.87	
	Total Claims & Treasurer Checks	\$ 616,800.22	
	Date Approved by Council -		Finance Director, Sandi Hines
Payroll =	August- mid-month draw & end of month		
Claims =	August- all batches		

D. REGULAR AGENDA



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT:	Agenda Date: September 9, 2025 AB25-043		
ORD No. <u>07-25</u> : Amending BMC 6.04.050(8) Related to Business Licensing	Department/Committee/Individual	Created	Reviewed
	Mayor		X
	City Administrator		X
	City Attorney		X
	City Engineer		
	City Clerk	X	X
	Finance Dept		
	Building Official		
	Fire Dept		
	Parks & Recreation		
	Building & Planning		
	Police Dept		
	Municipal Court		
	PW/Utilities		
Cost Impact: N/A			
Fund Source: N/A			
Timeline: Beginning January 1, 2026			
Staff Contact: City Clerk Zumeck			
Attachments: Ordinance			
SUMMARY STATEMENT: The 2018 Business License minimum threshold included a mandatory definition of "engaging in business" and a \$2,000 minimum threshold (or occasional sale) to establish when out-of-town or transient businesses are required to be licensed. All business license cities adopted the model by January 1, 2019 per RCW 35.90.080. Effective January 1, 2026, the City Business License Model Threshold for out-of-town businesses will increase from the current \$2,000 to \$4,000. The attached Ordinance updates BMC 6.04.050(8) to reflect this update.			
COMMITTEE REVIEW AND RECOMMENDATION: N/A			
RECOMMENDED ACTION: Move to Adopt Ordinance No. 07-25 Amending BMC 6.04.050(8) Related to Business Licensing.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

CITY OF BUCKLEY, WASHINGTON
ORDINANCE NO. ___-25

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, AMENDING BMC 6.04.050(8) TO INCREASE THE THRESHOLD FOR OUT OF CITY BUSINESSES AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, BMC 6.04.050(8) currently allows "any person or business whose annual value of products, gross proceeds of sales or gross income of the business in the city is equal to or less than \$2,000 and who does not maintain a place of business within the city shall be exempt from the general business license; and

WHEREAS, the 2018 model threshold that set the amount at \$2,000 has been amended to \$4,000 effective January 1, 2026;

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

Section 1 BMC 6.04.050(8) is hereby amended to provide as follows:

(8) Any person or business whose annual value of products, gross proceeds of sales or gross income of the business in the city is equal to or less than \$2,000 \$4,000 and who does not maintain a place of business within the city shall be exempt from the general business license requirements.

Section 2. If any sentence, clause, or phrase of the Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentence, clauses or phrases be declared unconstitutional or otherwise invalid.

Section 3. Effective date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force January 1, 2026.

Introduced, passed and approved this 26th day of August 2025.

Beau Burkett, Mayor

ATTEST:

Treva Zumeck, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: _____
EFFECTIVE: January 1, 2026



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION						
SUBJECT: Donation and Construction Agreement with Pedals for the People for a Pump Track Facility	Agenda Date: September 9, 2025 AB25-044					
Cost Impact: N/A	Department/Committee/Individual	Created	Reviewed			
Fund Source: N/A	Mayor		X			
Timeline: 2Years	City Administrator		X			
	City Attorney		X			
	City Engineer					
	City Clerk		X			
	Finance Dept					
	Building Official					
	Fire Dept					
	Parks & Recreation					
	Building & Planning					
	Police Dept					
	Municipal Court					
	PW/Utilities					
Staff Contact: City Administrator Brunell						
Attachments: Memo and Donation and Construction Agreement						
SUMMARY STATEMENT: The City has received a proposal from the nonprofit organization <i>Pedals for the People</i> to donate a community pump track located between the Doc Tait Pavilion and the Veterans Memorial, in the area between SR-410 and River Road. Approval of the agreement will reserve this land for pump track use for two (2) years. If constructed, the land will remain reserved for up to twenty (20) years.						
Per the agreement, Pedals for the People must complete construction of the project site within one (1) year of approval of all required permits, or two (2) years from execution of the agreement, whichever is later, unless extended by Council action. While construction is donated, the City will assume maintenance and operations. The final design must also be approved by City Council prior to permitting.						
COMMITTEE REVIEW AND RECOMMENDATION:						
RECOMMENDED ACTION: Move to Approve the Donation and Construction Agreement with Pedals for the People for a Pump Track Facility.						
RECORD OF COUNCIL ACTION						
Meeting Date	Action	Vote				



TO: City Councilmembers
FROM: Courtney Brunell, City Administrator
DATE: September 2, 2025
SUBJECT: Pump Track Donation – Review

Background: At the December 3, 2024 Study Session, the City Council reviewed a proposal for a community-donated pump track to be located east of the Veterans Memorial, near Jefferson Street and the Foothills Trail. Since that time, staff have worked closely with Jalen Johansen and the nonprofit Pedals for the People (PFP) to draft an agreement for Council's consideration.

This item last came before Council on July 1, 2025, when the draft Donation and Construction Agreement was presented. The City Attorney has reviewed the final version of the agreement, attached, and no changes have been suggested since the July meeting.

The next step is Council approval to reserve this space for this purpose. Tonight provides another opportunity for discussion. If no changes are requested, the agreement will return to Council for action on September 9, 2025.

Summary: A pump track is a looped recreational facility designed for riders of all skill levels using bicycles, scooters, skateboards, and rollerblades. The project aligns with the City's Parks, Recreation, and Open Space (PROS) Plan goals and reflects strong community interest in fitness-oriented amenities.

Pedals for the People will be responsible for fully funding and constructing the project through private fundraising and volunteer partnerships. The City will waive applicable permit fees, grant temporary construction access, and assume long-term maintenance of the facility once complete.

Next Steps:

1. Review proposed pump track location during the September 2 study session
2. Tentative action- September 9, 2025

Attachments

1. July 1, 2025 Staff Memo

2. Final Draft Donation and Construction Agreement
3. Conceptual Site Plan
4. Example Concept Design Drawings, Coldstream Pump Track
5. Map of City owned parcels
6. December 3, 2024 Staff Memo

**DONATION AND CONSTRUCTION AGREEMENT
BETWEEN
PEDALS FOR THE PEOPLE
AND
THE CITY OF BUCKLEY
REGARDING A PUMP TRACK FACILITY**

This Donation and Construction Agreement, hereinafter “Agreement,” made and entered into this _____ day of _____, 2025 by and between the City of Buckley, a Washington municipal corporation (the “CITY”) and Pedals for the People, a non-profit corporation (the “PFP”).

WHEREAS, the PFP wishes to design and fund a pump track for the City of Buckley composed of a continuous loop of banked turns, mounds, and features designed for cyclists, skateboarders, rollerbladers, and scooter riders (the FACILITY) for the CITY in exchange for building the FACILITY on CITY property, CITY maintenance of the FACILITY and use of the FACILITY; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements hereinafter set forth, the parties agree as follows:

I. Responsibilities of EMBA:

1. Overall Project Responsibilities. PFP agrees to design, do all permitting work and fund the construction of the FACILITY at “S River Ave.” as generally depicted in Exhibit A.
2. Design. The final plans and specifications for the FACILITY must receive the prior written approval of the City Council. The written approval of the City Engineer is required for all construction documents and final selections of building materials prior to construction, which approval shall not be unreasonably delayed or withheld.
3. Funding Responsibilities. PFP shall be responsible for funding all phases of construction without cost to CITY, including preparation and submission of all required development permit applications, permit application fees, site survey, site preparation, grading, concrete, lighting, signage, building construction and fixtures and furnishings, construction supervision and utility connections, along with payment of all permit application and utility construction fees.
4. Site Restoration. PFP must complete construction of the project site within one year of approval of all required permit applications or two years from execution of this Agreement, whichever is later. PFP shall restore the project site to its preexisting condition upon thirty days written demand from the City should it fail to meet these timelines.

Prevailing Wage/Bidding Laws. PFP shall conform to all prevailing wage and bidding laws to perform the work required by this Agreement. It is understood that PFP plans to use a third party subcontractor, Johansen Construction, to do work on a volunteer basis to avoid bidding and prevailing requirements as authorized by RCW 35.21.278. PFP is responsible for entering into an agreement with Johansen Construction as its subcontractor that assures conformance to RCW 35.21.278.

5. **Insurance**. PFP and/or its subcontractors as necessary to cover all necessary work shall procure and maintain for the duration of the site work, if applicable, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the PFP, its agents, subcontractors, representatives, or employees subject to the following terms:

A. No Limitation

PFP's maintenance of insurance as required by the agreement shall not be construed to limit the liability of PFP to the coverage provided by such insurance, or otherwise limit the CITY's recourse to any remedy available at law or in equity.

B. Minimum Scope of Insurance

PFP shall obtain insurance of the types described below:

a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. CITY shall be named as an insured under the PFP's Commercial General Liability insurance policy with respect to the work performed for the CITY.

c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.'

C. Minimum Amounts of Insurance

PFP shall maintain the following insurance limits:

a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

b. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

D. Other Insurance Provision

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

E. Acceptability of Insurers

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

F. Verification of Coverage

PFP shall furnish CITY with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the PFP before commencement of the work.

G. Notice of Cancellation

PFP shall provide CITY with written notice of any policy cancellation, within two business days of their receipt of such notice.

H. Failure to Maintain Insurance

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

6. **Independent Contractor.** PFP is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to PFP

(including but not limited to any member, officer, volunteer or employee of PFP), any sick leave, vacation pay, overtime or any other benefit applicable to employees of CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to PFP which may arise as an incident of PFP performing services for CITY. CITY shall not be obligated to pay industrial insurance for the services rendered by PFP.

7. **Nondiscrimination.** PFP agrees not to discriminate against any client, employee or applicant for employment, or for services because of race, creed, color, national origin, marital status, sex, age or handicap, except for a bona fide occupational qualification with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, a layoff or termination, rates of pay or other forms of compensation, selection for training, rendition of services. PFP understands that if it violates this provision, this agreement may be terminated by the CITY and further that PFP shall be barred from performing any services for the CITY now or in the future unless a showing is made satisfactory to the CITY that discriminatory practices have been terminated and that recurrence of such action is unlikely.

During the performance of this agreement, PFP, for itself, its assignees and successors in interest agrees as follows:

- A. **COMPLIANCE WITH REGULATIONS:** PFP shall comply with applicable Regulations relative to nondiscrimination, and the American Disabilities Act of 1992, as amended.
- B. **NONDISCRIMINATION:** PFP, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, creed, color, sex, age, marital status, national origin or handicap except for a bona fide occupational qualification in the selection and retention of subcontractors, including procurements of materials and leases of equipment. PFP shall not participate either directly or indirectly in the discrimination prohibited by applicable Regulations.
- C. **INFORMATION AND REPORTS:** PFP shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by CITY to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of PFP is in the exclusive possession of another who fails or refuses to furnish this information, PFP shall so certify to CITY and shall set forth what efforts it has made to obtain the information.
- D. **SANCTIONS FOR NONCOMPLIANCE:** In the event of PFP's noncompliance with the nondiscrimination provisions of this agreement, CITY shall impose such sanctions as it may determine to be appropriate, including, but not limited to cancellation, termination or suspension of the agreement, in whole or in part.

- E. UNFAIR EMPLOYMENT PRACTICES: PFP shall comply with RCW 49.60.180 and Executive Order number E.O. 77-13 of the Governor of the State of Washington which prohibits unfair employment practices.
8. Encumbrances and Liens. Neither PFP nor anyone claiming by, through, or under PFP shall have the right to file or place any mechanic's lien or any other lien of any kind or character whatsoever upon the FACILITY, the underlying real property, or any CITY property. Notice is hereby given that no contractor, subcontractor, or anyone else who may furnish any materials, service, or labor for any improvements, alterations, repairs, or any part thereof shall at any time be or become entitled to any lien thereon. For the further security of CITY, PFP covenants and agrees to give actual notice thereof in advance to any and all contractors and subcontractors who may furnish or agree to furnish any such material or labor and further agrees to include such a provision in every agreement made with contractors and subcontractors in connection with FACILITY improvements and to require the general contractor to include such a provision in every agreement with a subcontractor in connection with the improvements.
9. Ownership Interest. PFP asserts no ownership interest in any FACILITY improvements created by this Agreement. No PFP ownership interest in the FACILITY or any CITY property shall be created by this Agreement. Any materials permanently affixed to the FACILITY site by PFP as part of site preparation work shall be deemed owned by the CITY. CITY retains full naming rights of the FACILITY, to be exercised at any time.

II. Responsibilities of CITY:

1. Permit Fees. Upon City Council approval of project design and submission of required permit applications, CITY shall waive all fees associated with permit review.
2. Access. Upon approval of required permits required for work on City property, CITY agrees to provide PFP a temporary construction easement to those portions of CITY owned property located at S. River Ave. PFP shall be responsible for securing the easement area from public access. PFP takes the construction easement area "as is" and is responsible for protecting itself from any hazards or other sources of damage. PFP shall indemnify and hold harmless CITY from any damages incurred from its use of the easement area and/or any damage to third parties, including PFP subcontractors, resulting from PFP's construction activities. This hold harmless and indemnification is not intended to limit PFP's general indemnification obligations under Paragraph III1 of this Agreement.
3. Maintenance/Repair. CITY shall maintain the FACILITY after acceptance by the City Council consistent with how it maintains other similar improvements in the City. PFP

understands that beyond the obligations set by this Agreement, maintenance, repairs and replacement of the FACILITY improvements are at the CITY's sole discretion and are subject to funding approved by the City Council. CITY shall commit the FACILITY to its intended use for at least a period of 20 (twenty) years since completion of FACILITY construction as consistent with applicable law and safe use and provided the City doesn't incur any extraordinary costs in maintaining or repairing the FACILITY.

III. Mutual Obligations.

1. Indemnification. PFP agrees to release, indemnify, defend, and hold harmless CITY, its elected officials, employees, officers, representatives, and volunteers from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, taxes, losses, fines, fees, penalties, expenses, attorney's or attorneys' fees, costs, and/or litigation expenses to or by any and all persons or entities, arising from, resulting from, or related to the negligent acts, errors or omissions of PFP in its performance of this Agreement or a breach of this Agreement by PFP, except for that portion of the claims caused by CITY's sole negligence.

CITY agrees to release, indemnify, defend, and hold harmless PFP, its employees, officers, representatives, and volunteers from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, taxes, losses, fines, fees, penalties, expenses, attorney's or attorneys' fees, costs, and/or litigation expenses to or by any and all persons or entities, arising from, resulting from, or related to the negligent acts, errors or omissions of CITY in its performance of this Agreement or a breach of this Agreement by CITY, except for that portion of the claims caused by PFP's sole negligence.

Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, (Validity of agreement to indemnify against liability for negligence relative to construction, alteration, improvement, etc., of structure or improvement attached to real estate...) then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the PFP and the City, its officers, officials, employees and volunteers, PFP's liability shall be only to the extent of PFP's negligence.

It is further specifically and expressly understood that the indemnification provided in this Agreement constitute PFP's waiver of immunity under the Industrial Insurance Act, RCW Title 51, solely for the purposes of this indemnification. The Parties have mutually negotiated and agreed to this waiver. The provisions of this section shall survive the expiration or termination of this Agreement.

2. Disputes. Any dispute concerning questions of fact in connection with the work not disposed of by agreement between PFP and CITY shall be referred for determination to the

CITY Administrator, whose decision in the matter shall be final and binding upon the parties to this agreement, subject to mediation/arbitration as described below.

In the event the parties cannot agree upon a resolution of a dispute, the same shall be settled by mediation/arbitration pursuant to RCW Chapter 7.04, et. seq. except as herein modified. Such mediation/arbitration shall be before one disinterested mediator/arbitrator, if one can be agreed upon, otherwise before three disinterested arbitrators, one named CITY, one by PFP, and one by the two thus chosen. If all arbitrators have not been appointed within ten (10) days after written notice of demand for arbitration is given by one party to the other, then either party may apply to the Pierce County Superior Court, upon not less than (5) days written notice to the other, for appointment of the necessary arbitrators remaining to be appointed, and the judicial appointment shall be binding and final. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of the State of Washington as applied to the facts found by him/her or them. The arbitrator or arbitrators may grant injunctions or other relief in such controversy or claims. The decision of the arbitrator or arbitrators shall be final, conclusive and binding on the parties and a judgment may be obtained in any court having jurisdiction.

3. Notices. Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears below (as modified in writing from time to time by such party), and given personally, by registered or certified mail, return receipt requested, or by nationally recognized overnight courier service. Time period for notices shall be deemed to have commenced upon the date of receipt. Email and telephone may be used for purposes of administering the Agreement, but should not be used to give any formal notice required by the Agreement.

CITY OF BUCKLEY

City Administrator
933 Main St.
Buckley, WA 98321
Phone: (360) 761-7802

PFP

4. Complete Agreement. This agreement represents the entire integrated agreement between CITY and the PFP, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.
5. Severability. If a court of competent jurisdiction holds any provision of the Agreement to be illegal, invalid, or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of the Agreement conflicts with any statutory provision of the State of

Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

PFP:

CITY:

CITY OF BUCKLEY

By:

Mayor

Title:

Date

Date

ATTEST/AUTHENTICATED:

Treva Percival, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

Proposed S River Ave Asphalt Pump Track

