

ORDINANCE NO. 2075

CITY OF SUMNER, WASHINGTON

AN ORDINANCE relating to dissolution of Drainage District #11; and

WHEREAS, Drainage District #11 (hereinafter "Drainage District") owns a storm drainage system that operates within the City of Sumner (hereinafter "the City") and areas of unincorporated Pierce County (hereinafter "the County") and serves Drainage District #11 customers; and

WHEREAS, the City of Sumner owns and operates its own storm drainage system for the residents of Sumner that are not within Drainage District #11, and

WHEREAS, the City of Sumner has maintained and operated the drainage system for the customers located in the Drainage District, pursuant to an interlocal agreement; and

WHEREAS, in 1987 the City entered into an Agreement with the Drainage District to operate and maintain the Drainage District's storm drainage system in exchange for remittance of the Drainage District's annual levy assessment; and

WHEREAS, in 1993 the Drainage District and the City renewed the Agreement for a twenty-year period agreeing to continue the arrangement whereby the City would maintain and operate the Drainage District's system with the Drainage District paying the City its annual assessment minus \$2500; and

WHEREAS, the City of Sumner and the Drainage District renewed the Interlocal Agreement in 2000; and

WHEREAS, Pursuant to the "Interlocal Agreement Between the City of Sumner and Drainage District No. 11" filed with the Pierce County Auditor on July 21, 2000, (hereinafter "Interlocal Agreement") the City of Sumner agreed to continue to provide all necessary improvements and repairs to and to maintain and operate the storm drainage system in the Drainage District area; and

WHEREAS, pursuant to the Interlocal Agreement the Drainage District agreed to make ten (10) monthly payments of \$63,500 beginning November 30, 2000 and the City agreed to allow the District a credit on payments based on the general facilities charges (GFC) collected annually from permits issued in the Drainage District area pursuant to the formula established in the Interlocal Agreement; and

WHEREAS, the Drainage District, with the credits allowed for the GFC collected annually from the permits issued in the Drainage District area, has paid all monies due and owing under the Interlocal Agreement; and

WHEREAS, the City of Sumner and the Drainage District agreed, pursuant to the Interlocal Agreement, that upon payments of the monies owed that the City would allow the Drainage District to withdraw from the City pursuant to statute; and

WHEREAS, the City of Sumner and the Drainage District seek, by this Ordinance, to allow the withdrawal of the Drainage District from the City pursuant to the terms and conditions established in the attached "Interlocal Agreement" between the City of Sumner and Drainage District; and


WHEREAS, on November 4, 2003, the commissioners of Drainage District #11 issued a memorandum to the Pierce County Assessor indicating they would not levy the 2004 assessment; and

NOW, THEREFORE,

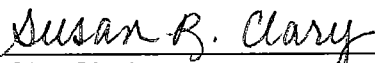
**THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON
DO ORDAIN AS FOLLOW:**

Section 1. That the Mayor is authorized to enter into an Interlocal Agreement between the City of Sumner and Drainage District #11 to allow for the withdrawal of the Drainage District from those areas within the City of Sumner pursuant to RCW 85.38.213.


Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof on this 17th day of February 2004.


Mayor

Attest:


City Clerk

Approved as to form:


City Attorney

First Reading:	02/17/04
Date Adopted	02/17/04
Date of Publication	02/26/06
Effective Date:	03/02/04

ORIGINAL

INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUMNER AND DRAINAGE DISTRICT NO. 11

This Agreement is made and entered into this day by and between the City of Sumner, hereinafter called "City," and Drainage District 11, hereinafter called "District".

WHEREAS, the residents of Sumner and customers of the District desire to have storm drainage provided, and

WHEREAS, the City and the District have provided storm drainage to its residents and customers through a cooperative effort for a number of years;

WHEREAS, the East Sumner Storm Trunk Line (ESSTL) provides storm drainage to these residents and customers;

WHEREAS, the City can and has provided all necessary improvements and repairs to and maintained and operated the storm drainage system and wishes to continue to make all necessary improvements and repairs necessary to maintain and operate the storm drainage system;

WHEREAS, it is in the public interest that the jurisdictions cooperate to provide effective and cost-efficient storm drainage system;

WHEREAS, it is in the best interest of the citizens of Sumner to settle Pierce County Superior Court Cause of Action # 99-2-08472-7;

WHEREAS, pursuant to RCW 39.34 and RCW 35.67.300 the parties are each authorized to enter into an Agreement for cooperative actions:

NOW, THEREFORE, the parties agree as follows:

1. That the District hereby requests that the City provide for all storm drainage within the District including but not limited to all necessary improvements pursuant to the Sumner Comprehensive Storm Drainage Plan, all necessary repairs and maintenance, and to operate the storm drainage system on the District's behalf.

2. That the City agrees to provide for the management of the construction and the maintenance and operation of the storm drainage system pursuant to Sumner Municipal Code Chapters 13.32 and 13.34

3. In consideration of the services provided by the City as set forth herein, the District promises to pay the City for its costs (including direct labor, employees benefits, equipment rental, materials and supplies, utilities and permits) and administrative overhead costs in accordance with the following schedule:

<u>Payment #</u>	<u>Date of Payment</u>	<u>Amount of Payment</u>
1.	November 30, 2000	\$63,500.00
2.	November 30, 2001	\$63,500.00
3.	November 30, 2002	\$63,500.00
4.	November 30, 2003	\$63,500.00
5.	November 30, 2004	\$63,500.00
6.	November 30, 2005	\$63,500.00
7.	November 30, 2006	\$63,500.00
8.	November 30, 2007	\$63,500.00
9.	November 30, 2008	\$63,500.00
10.	November 30, 2009	\$63,500.00

The District has the option of prepaying amounts due and owing to the City at any time.

The City shall allow the District a credit on payments based on the general facilities charges (GFC) collected annually from permits issued in the District pursuant to the following formula: one third of GFC's will be credited toward annual payments.

4. All funds paid by the District to the City shall be used for District related improvements, repairs, maintenance or operations.

5. The boundaries of the District are as set forth in Exhibit A.

6. The District grants the City the right of ingress and egress and the right to use all of its easements, and drainage pipes located in the District, whether located on private property or public right-of-way.

7. The District agrees to defend, protect, and save the City and its elected and appointed officials and its employees and agents, harmless from and against any and all claims, demands, causes of action of any kind or character, including claims for attorney's fees, and the cost of defense thereof, arising in any manner out of the subject matter of this Agreement, except such claims, demands and causes of action caused by the sole negligence of the City, its elected and appointed officials and its employees and agents.

8. The City agrees to defend, protect, and save the District and its elected and appointed officials and its employees and agents, harmless from and against any and all claims, demands, causes of action of any kind or character, including claims for attorney's fees, and the cost of defense thereof, arising in any manner out of the subject

matter of this Agreement, except such claims, demands and causes of action caused by the sole negligence of the District, its elected and appointed officials and its employees and agents.

9. Prior to execution of this Agreement, the District shall provide the City evidence of a comprehensive liability insurance policy with limits of not less than one million dollars (\$1,000,000.00) per occurrence to include bodily injury and property damage covering any potential liability arising under Agreement and shall name the City as an additional insured pursuant to the terms of the Agreement.

10. The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review, or audit by the District or City during the term of this contract and three (3) years after termination.

11. This Agreement may be terminated after payment of the ten annual payments established in Paragraph 3 and upon ninety (90) days written notice received by one party, given by the other. Failure to comply with any of the provisions of the Agreement by the City may constitute a material breach of contract and may be cause for termination. Any termination of this Agreement shall not terminate those obligations of either party matured prior to such termination. Any funds which the City is holding that have not been used as of the effective date of the termination shall be returned to the District.

12. Upon receipt by the City of the ten annual payments as established in Paragraph 3, the City agrees to allow the District to dissolve, pursuant to statute.

13. This Agreement is the complete expression of terms agreed upon and any oral representations or understandings not incorporated herein are excluded.

14. The Agreement may be amended at any time by mutual, written Agreement of the signatories of this Agreement.

15. The parties shall each appoint representatives to review contract performance and resolve problems, which cannot be dealt with by the City and District liaisons. Each party shall notify the other in writing of its designed representatives. Any problem, which cannot be resolved by the parties' designated representatives, shall be referred to the City Administrator and the District Chairperson for settlement.

In witness thereof, the parties have executed this Agreement as of the date set forth above.

DRAINAGE DISTRICT NO. 11

CITY OF SUMNER

Al Nygaard
Jim Skinner
Wazel E. Freese

By: Barbara Skinner
Mayor Barbara Skinner

Attest:

By: Susan R. Clary
City Clerk

Mark J. Bartlett
Attorney for the District

Pat Bosmans
City Attorney

A. Neidert
City Administrator



200403100846 5 PGS
 03-10-2004 02:42pm \$0.00
 PIERCE COUNTY, WASHINGTON

Return Address
 CITY OF SUMNER – CITY CLERK
 1104 MAPLE STREET, SUITE 200
 SUMNER WA 98390

Please print legibly or type information.

<p>Document Title(s) (Or transactions contained therein):</p> <ol style="list-style-type: none"> 1. INTERLOCAL AGREEMENT – CITY OF SUMNER AND DRAINAGE DISTRICT 11 2. 3. 4.
<p>Grantor(s) (Last name first, then first name and initials):</p> <ol style="list-style-type: none"> 1. CITY OF SUMNER 2. DRAINAGE DISTRICT 11 3. 4. <p>5. <input type="checkbox"/> Additional Names on Page ____ of Document</p>
<p>Grantee(s) (Last name first, then first name and initials):</p> <ol style="list-style-type: none"> 1. CITY OF SUMNER 2. DRAINAGE DISTRICT 11 3. 4. <p>5. <input type="checkbox"/> Additional Names on Page - of Document.</p>
<p>Legal Description (Abbreviated: i.e., lot, block, plat; or section, township, range):</p> <p>Legal Description is on Page ____ of Document.</p>
<p>Reference Number(s) (Of documents assigned or released):</p> <p><input type="checkbox"/> Additional Reference Numbers on Page ____ of Document</p>
<p>Assessor's Property Tax Parcel/Account Number</p>
<p>The Auditor/Recorder will rely on the information provided on this cover sheet. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.</p>

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUMNER AND
DRAINAGE DISTRICT NO. 11**

This Agreement is made and entered into this 9th day of MARCH, 2004 by and between the City of Sumner, and hereinafter called "City," Drainage District 11, hereinafter called "District".

WHEREAS Drainage District #11 (hereinafter "Drainage District") owns a storm drainage system that operates within the City of Sumner and areas of unincorporated Pierce County and serves Drainage District #11 customer; and.

WHEREAS the City of Sumner has maintained and operates for the benefit of Drainage District #11 customers the drainage system located in Drainage District #11 pursuant to interlocal agreements; and

WHEREAS portions of Drainage District #11 lie within the City of Sumner and portions lie within Pierce County; and

WHEREAS the City of Sumner, owns and operates Sumner's storm drainage system for the residents of Sumner that are not within Drainage District #11. The City's storm drainage system is separate and independent of the Drainage District's system.

WHEREAS In 1987 the City entered into an Agreement with the Drainage District to operate and maintain the Drainage District's storm drainage system in exchange for remittance of the Drainage District's annual levy assessment.

WHEREAS In 1993 the Drainage District and the City renewed the Agreement for a twenty year period agreeing to continue the arrangement whereby the City would maintain and operate the Drainage District's system with the Drainage District paying the City it's annual assessment minus \$2500; and

WHEREAS City of Sumner and the Drainage District renewed the Interlocal Agreement in 2000; and

WHEREAS, Pursuant to the "Interlocal Agreement Between the City of Sumner and Drainage District No. 11 filed with the Pierce County Auditor on July 21, 2000 the City of Sumner (hereinafter "Interlocal Agreement) agreed to continue to provide all necessary improvements and repairs to and to maintained and operate the storm drainage system in the Drainage District #11 area; and

WHEREAS, pursuant to the Interlocal Agreement the Drainage District agreed to make 10 yearly payments of \$63,500.00 beginning November 30, 2000 and the City agreed to allow the District a credit on payments based on the general facilities charges (GFC) collected annually from permits issued in the Drainage District area pursuant to the formula established in the Interlocal Agreement; and

WHEREAS the Drainage District, with the credits allowed for the GFC collected annually from the permits issued in the Drainage District area, has paid all monies due and owing under the Interlocal Agreement; and

WHEREAS, the City of Sumner and the Drainage District agreed, pursuant to the Interlocal Agreement, that upon payments of the monies owed that the City would allow the Drainage District to dissolve pursuant to statute; and

WHEREAS, the City and Drainage District have determined that it is in the best interest of the parties to allow the Drainage District to withdraw from the City; and

WHEREAS the City of Sumner and Drainage District #11 seek, by Resolution to allow the Drainage District #11 to withdraw from the City; and

WHEREAS, it is in the public interest that the jurisdictions cooperate to provide effective and cost-efficient storm drainage system; and

WHEREAS, it is in the best interest of the citizens of Sumner, the citizens of Pierce County and the customers of Drainage District to dissolve; and;

WHEREAS, pursuant to Chapters 2.25, 39.34 and 85.38 RCW, the parties are each authorized to enter into an Agreement for cooperative actions:

NOW, THEREFORE, the parties agree as follows:

1. That the Drainage District hereby withdraw from the City and that all portions of the Drainage District within the boundaries of the City shall become part of the City's storm drainage system with all rights and responsibilities for the storm drainage system that accrue with ownership of the system; and

2. That all assets of the Drainage District, including the monies from investments and the cash on hand (as determined by the Pierce County Budget and Finance) shall become the property of the City with all rights and responsibilities that accrue to those assets; and that the Drainage District liabilities will be assumed by the City. The Drainage District account receivables which will be turned over to the City for collection and the final costs of the Drainage District #11 commissioner's election and attorneys fees which shall be paid from the Drainage Districts assets prior to dissolving the Drainage District.

3. The boundaries of the District are as set forth in Exhibit A.

4. The Drainage District grants the City any facilities or improvements owned by the Drainage District, the right of way or easements, by either quit claim or deed and ownership rights to any drainage pipes located in the Drainage District, whether located on private property or public right-of-way pursuant to the Drainage District boundaries map (Exhibit A).

5. The City of Sumner will maintain the Drainage District storm drainage system pursuant to state and federal law and will maintain all existing water run-off and water quality level established by law.

6. The Drainage District agrees to defend, protect, and save the City and its elected and appointed officials and its employees and agents, harmless from and against any and all claims, demands, causes of action of any kind or character, including claims for attorney's fees, and the cost of defense thereof, arising in any manner out of the subject matter of this Agreement, except such claims, demands and causes of action caused by the sole negligence of the City, its elected and appointed officials and its employees and agents.

7. The City agrees to defend, protect, and save the Drainage District and its elected and appointed officials and its employees and agents, harmless from and against any and all claims, demands, causes of action of any kind or

character, including claims for attorney's fees, and the cost of defense thereof, arising in any manner out of the subject matter of this Agreement, except such claims, demands and causes of action caused by the sole negligence of the Drainage District, its elected and appointed officials and agents.


In witness thereof, the parties have executed this Agreement as of the date set forth above.

DRAINAGE DISTRICT NO. 11

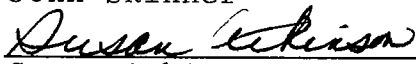
CITY OF SUMNER



Alan Nygaard



John Skinner



Susan Atkinson



Attorney for the District

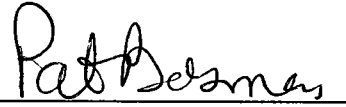
By: 

Mayor Barbara Skinner

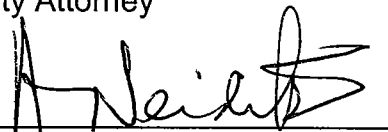
Attest:

By: 

City Clerk



City Attorney



City Administrator