

City Council Meeting
November 7, 2016 - 7:00 PM
Auburn Community and Event Center
AGENDA

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Meeting videos are not available until 72
hours after the meeting has concluded.

I. CALL TO ORDER

- A. **Pledge of Allegiance**
- B. **Roll Call**

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

- A. GIS Day Proclamation
Mayor Backus to proclaim November 16, 2016 as GIS Day in the city of Auburn.
- B. Small Business Saturday
Mayor Backus to proclaim November 26, 2016 as Small Business Saturday in the City of Auburn and encourage residents to support our local retail establishments.
- C. Auburn Mountainview High School Stress Less Week
Mayor Backus to proclaim November 7-11, 2016 as Stress Less Week in the City of Auburn.

III. APPOINTMENTS

IV. AGENDA MODIFICATIONS

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

- 1. **Public Hearing on 2017-2018 Preliminary Biennial Budget (Coleman)**
City Council to conduct a public hearing to receive public comments, proposals and suggestions on the 2017-2018 Preliminary Biennial Budget.
- 2. **Public Hearing for Franchise Agreement No. 16-54 for Northwest Pipeline LLC* (Snyder)**
City Council to conduct a public hearing in consideration of Franchise Agreement No. 16-54 for Northwest Pipeline LLC
- 3. **Public Hearing on Ordinance No. 6624 ratifying the Franchise Agreement with Lakehaven Utility District* (Heid)**
City Council to conduct a public hearing on the ordinance ratifying the

Franchise Agreement with Lakehaven Utility District adopted by Resolution Number 3650.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

C. Correspondence

There is no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

VII. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

A. Minutes of the October 17, 2016 City Council Meeting*

B. Claims Vouchers (Coleman)

Claims voucher numbers 441129 through 441394 in the amount of \$2,871,150.58 and seven wire transfers in the amount of \$257,919.84 and dated November 7, 2016.

C. Payroll Vouchers (Coleman)

Payroll check numbers 536814 through 536844 in the amount of \$703,151.81 and electronic deposit transmissions in the amount of \$1,429,248.29 for a grand total of \$2,132,400.100 for the period covering October 13, 2016 to November 2, 2016.

D. Call for Public Hearing on 2017-2018 Preliminary Biennial Budget (Coleman)

City Council to call for a public hearing to be held November 21, 2016 to receive public comments and suggestions with regard to development of the preliminary 2017-2018 Biennial Budget.

(RECOMMENDED ACTION: City Council approve the Consent Agenda.)

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

X. RESOLUTIONS

A. Resolution No. 5253* (Snyder)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to negotiate agreements and execute documents necessary to acquire property rights related to City Project CP1218 – Auburn Way South Corridor Safety Improvements, Muckleshoot Plaza to Dogwood Street SE

(RECOMMENDED ACTION: City Council adopt Resolution No. 5253.)

XI. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on their significant City-related activities since the last regular Council meeting.

A. From the Council

B. From the Mayor

XII. ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing on 2017-2018 Preliminary Biennial Budget

Date:

October 28, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council to conduct a public hearing to receive public comments, proposals and suggestions on the 2017-2018 Preliminary Biennial Budget.

Background Summary:

All persons interested are encouraged to participate in this public hearing by making comments, proposals, and suggestions to the City Council and Mayor to consider prior to adoption of the City of Auburn's 2017-2018 Biennial Budget.

Reviewed by Council Committees:**Councilmember:****Staff:**

Coleman

Meeting Date: November 7, 2016

Item Number: PH.1



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing for Franchise Agreement No. 16-54 for Northwest Pipeline LLC

Date:

October 6, 2016

Department:

CD & PW

Attachments:

[Draft Ordinance No. 6619](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to hold a public hearing in consideration of Franchise Agreement No. 16-54 for Northwest Pipeline LLC.

Background Summary:

Per Auburn City Code Chapter 20.06.030 a public hearing shall be held to consider Franchise Agreement No. 16-54 for Northwest Pipeline LLC to operate within the City's rights-of-way natural gas transmission and distribution pipeline within the City of Auburn. The date of the public hearing was set by Resolution No. 5250 on October 17, 2016.

Reviewed by Council Committees:**Councilmember:****Staff:**

Snyder

Meeting Date: November 7, 2016

Item Number: PH.2

ORDINANCE NO. 6 6 1 9

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO NORTHWEST PIPELINE LLC, A DELAWARE LLC, A FRANCHISE FOR GAS

WHEREAS, Northwest Pipeline LLC ("Grantee") has applied to the City of Auburn ("City") for a non-exclusive Franchise for the right of entry, use, and occupation of certain public right(s)-of-way within the City, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those right(s)-of-way; and

WHEREAS, following proper notice, the City Council held a public hearing on Grantee's request for a Franchise, at which time representatives of Grantee and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Grantee.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, DO ORDAIN as follows:

Section 1. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the right(s)-of-way and/or other public property specified in Exhibit "A", attached hereto and incorporated by reference (the "Franchise Area").

B. The Grantee is authorized to install, remove, construct, erect, operate, maintain, relocate and repair the types of facilities specified in Exhibit "B", attached hereto and incorporated by reference, and all necessary appurtenances thereto, ("Grantee Facilities") for provision of those services set forth in Exhibit "C" ("Grantee Services") in, along, under and across the Franchise Area.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 1 of 28

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on public or private property elsewhere within the City. This Franchise is intended to convey only a limited right and interest and is not a warranty of title or interest in the City's right-of ways. The Agreement does not convey any right to Grantee to install Grantee Facilities on or to otherwise impact, city-owned or leased properties, easements, or rights-of way outside the ones identified in Exhibit A.

D. This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the City or its predecessors to use any property, Right-of-Way, easement, right, interest or license for any purpose whatsoever, including the right of the City to use same for any purpose it deems fit, including the same or similar uses allowed the Grantee hereunder. The City may at any time grant authorization to use the Right-of-Way for any purpose not incompatible with the Grantee's authority under this Agreement and for such additional franchises as the City deems appropriate.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads, rights-of-way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, the Grantee acknowledges its use of the Franchise Area shall have no value.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any right-of-way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to RCW 35.79.030, within which the Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. The Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to the City and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

H. This Franchise is subject to the provisions of Auburn City Code ("ACC"), including specifically ACC Chapter 20.10, "CONDITIONS OF PUBLIC

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 2 of 28

WAY AGREEMENTS, FRANCHISES, AND FACILITIES LEASES”, and all federal and state laws, codes and regulations as currently exist or as amended. However, if the provisions of city code, as amended or superseded, conflict with any terms and conditions of this agreement, the provisions of this agreement shall govern. A conflict does not exist where this agreement is silent about a condition or matter addressed by city code.

Section 2. Notice

A. Whenever this Franchise calls for notice to or notification by any party, the same (unless otherwise specifically provided) shall be in writing and directed by certified mail to the recipient at the address set forth in this Section. If the date for making any payment, notice, or performing any act is a legal holiday, payment or notice may be made or the act performed on the next succeeding business day which is not a legal holiday.

City: Engineering Aide,
Community Development and Public Works Department
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Telephone: (253) 931-3010; Fax: (253) 931-3048

with a copy to: City Clerk
City of Auburn
25 West Main Street
Auburn, WA 98001-4998

Grantee: Land Department
Northwest Pipeline LLC
P.O. Box 58900
Salt Lake City, UT 84158
Telephone: (800) 453-3810

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 3 of 28

B. Any changes to the above-stated Grantee information shall be sent to the City's Engineering Aide, Community Development and Public Works Department, with copies to the City Clerk, referencing the title of this agreement.

C. The above-stated Grantee voice and fax telephone numbers shall be staffed at least during normal business hours, Pacific time zone.

Section 3. Term of Agreement

A. This Franchise shall run for a period of 10 (ten) years, from the date of execution specified in Section 5.

B. Renewal Option of Term: The Grantee may renew this Franchise for an additional ten (10) year period upon submission and approval of the application specified under ACC 20.06.130, as it now exists or is amended, within the timeframe set forth therein (currently between 180 and 240 days prior to expiration of the then-current term). Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall submit those materials that differ from the previous materials or as deemed necessary by the City to address changes in the Grantee Facilities or Grantee Services, or to reflect specific reporting periods mandated by the ACC.

C. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

Section 4. Definitions

For the purpose of this agreement:

"ACC" means the Auburn City Code.

"Emergency" means a condition of imminent danger to the health, safety and welfare of persons or property located within the City including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 4 of 28

“Maintenance or Maintain” shall mean examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

“Relocation” means permanent movement of Grantee facilities required by the City, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

“Rights-of-Way” means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-ways and similar public properties and areas.

“Grantee Facilities” means, collectively, any and all natural gas systems owned or operated by Grantee, including but not limited to gas pipes, pipelines, mains, laterals, conduits, feeders, regulators, valves, meters meter-reading devise, fixtures, communication systems, and any and all other equipment appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing for the purpose of transmission of natural gas, whether the same be located over or under ground.

“Hazardous Substance” shall specifically include, but shall not be limited to, petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state.

“Operate” or “Operations” shall mean the operation, use, and maintenance of Grantee Facilities, pursuant to the terms of this Agreement.

“Party” or “Parties” means collectively the City and Grantee, and individually either the City or Grantee.

“Public Works Project” means, any City capital improvement or the construction, relocation, expansion, repair, maintenance, or removal of any part of the Public Way or City-owned facilities located on or in the Public Way for: parks; streets; sidewalks; curbs; pedestrian and/or vehicle traffic; sewers, storm water drains; water facilities, and; City owned fiber optic cable, conduit or network facilities.

“Third Party” means any person, party, or entity other than the City and Grantee.

“FERC” means the Federal Energy Regulatory Commission, or such other successor regulatory agency having jurisdiction over interstate pipeline companies.

Section 5. Acceptance of Franchise

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit “D,” and incorporated by reference, (2) all verifications of insurance coverage specified under Section 17, (3) the financial guarantees specified in Section 18 and (4) payment of any outstanding application fees per the City fee schedule. These four items shall collectively be the “Franchise Acceptance”. The date that such Franchise Acceptance is filed with the City Clerk shall be the effective date of this Franchise.

B. Should the Grantee fail to file the Franchise Acceptance with the City Clerk within thirty (30) days after the effective date of the ordinance approving the Franchise Agreement, the City’s grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Grantee shall apply for, obtain, and comply with the terms of all permits required under ACC Chapter 12.24 for any work done upon Grantee Facilities. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders, as they now exist or as may be hereafter amended or superseded, in undertaking such work, which shall be done in a thorough and proficient manner.

Grantee’s work within the Public Way which directly affects Grantee’s construction, operation, and maintenance of Grantee Facilities shall be performed in accordance with Federal law and regulation.

B. Grantee agrees to coordinate its activities with the City and all other utilities located within the public right-of-way within which Grantee is under taking its activity. Such efforts shall include, at a minimum, reasonable and diligent efforts to keep the other party and other utilities within the Public Way informed of its intent to undertake such construction work.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 6 of 28

C. In addition to complying with ACC 20.10.80, as hereafter amended or superseded, Grantee Facilities shall be located and maintained within the Right-of-way so as not to interfere with the reasonable ingress or egress to the properties abutting the right-of-ways as they exist at the time of installation of the Grantee Facilities. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public right-of-way and may from time to time, pursuant to the applicable sections of this Franchise, require at the expense of the Grantee, the removal, relocation and/or replacement thereof, subject to any approval or modification of the City's requested removal, relocation or replacement by the FERC pursuant to 18C.F.R.157.

D. Grantee shall continuously be a member of the State of Washington One Number Locator service under RCW 19.122, or an approved equivalent as determined by the City, and shall comply with all such applicable rules and regulations. Before commencing any work within the public right-of-way, the Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City and in accordance with City ordinances, Grantee shall have the authority to reasonably trim trees upon and overhanging streets, public rights-of-way, and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, the City may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

H. Markers demarcating the pipeline's location shall be placed on the surface at least every 100 yards so as to provide clear warning of the presence of the pipeline but in a manner that does not interfere with trails or other public uses in that area. Additionally, Grantee shall place continuous underground markers demarcating the pipeline's location each time Grantee digs to the pipeline for any reason.

Section 7. Repair and Emergency Work

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 7 of 28

that the Grantee shall notify the City telephonically during normal business hours (at 253.931.3010 and during non-business hours at 253-876-1985 as promptly as possible before such repair or emergency work commences, and in writing as soon thereafter as possible. Such notification shall include the Grantee's emergency contact phone number for the corresponding response activity. For any emergency or after normal business hour issues involving the Grantee's facilities which requires the Grantee's immediate response the City shall contact the Grantee at 801-584-6949, which is operated 24 hours a day, seven days a week. If, in the opinion of the City Director of Community Development & Public Works, the City Engineer, or the Mayor, an emergency presents a serious and immediate danger to the public health, safety and welfare, they, separately or together, may take reasonable immediate action to mitigate the damage. All costs associated with such actions will be the sole responsibility of the Grantee, and the Grantee shall reimburse the City for such costs within thirty (30) days after receipt of an itemized bill. Grantee will not be held liable for damages as a result of the City's repair and emergency work that arise out of the negligent acts or willful misconduct of the City, its successors, assigns, permittee, agents or contractors.

Section 8. Damages to City and Third-Party Property

A. Grantee agrees that if any of its actions under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the satisfaction of the City Engineer.

B. The City may at any time perform or have performed any and all work that it considers necessary to restore to a safe condition any area within the Public Way disturbed by Grantee in the performance of this Agreement. Grantee shall pay all reasonable costs of such work upon demand of the City.

C. All survey monuments which are disturbed or displaced by Grantee in its performance of any work under this Agreement shall be referenced and restored by Grantee, as per WAC 332-120, as from time to time amended, and all pertinent federal, state, and local standards and specifications.

Section 9. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility, other than the Grantee's, which was installed, constructed, completed or in

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 8 of 28

place prior to the execution of this Franchise shall have preference as to positioning and location with respect to any new or relocated Grantee Facilities. However, to the extent that the Grantee Facilities are completed and installed prior to another private utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any City road or right-of-way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require relocation. This Section shall not apply to any City facilities or utilities that may in the future require the relocation of Grantee Facilities. Such relocations shall be governed by Section 11.

B. When constructing new facilities, or replacing or reconstructing facilities, Grantee shall maintain a minimum underground horizontal separation of ten (10) feet from City water and five (5) feet from City sanitary sewer and storm sewer facilities; provided, that for development of new areas, the City, in consultation with Grantee and other utility purveyors or authorized users of the Public Way, will develop and follow the City's determination of guidelines and procedures for determining specific utility locations, subject additionally to this agreement .

Section 10. Grantee Information

A. To the extent City agrees to take the protective steps described in Section 10(C) Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City Engineer to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under state law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, and maps and plans showing the general location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, reasonably compatible with the City's data base system, as now or hereinafter existing, including the City's geographic information Service (GIS) data base. If said electronic format is not compatible then Grantee will supply hard copies to scale and size requested by the City. Grantee shall keep the City Engineer informed of its long-range plans for coordination with the City's long-range plans.

B. Upon the City's reasonable request, in connection with the design of any Public Works Project, Grantee shall verify the location of its underground Facilities within the Public Way by excavating (e.g., potholing) at no expense to the City. In the event Grantee performs such excavation, the City shall not

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 9 of 28

require any restoration of the disturbed area in excess of restoration to the same condition as existed immediately prior to the excavation.

C. The parties understand that Washington law limits the ability of the City to shield from public disclosure any information given to the City. Grantee shall clearly mark any information that it provides to the City as "Proprietary" information if Grantee believes that disclosure of that information would be exempt under the trade secrets exemption in RCW 42.56.270. The City agrees that if it receives a request for Grantee's proprietary information, it will initially assert the exemption under 42.56.270, and will notify Grantee of the request. The City shall not initiate legal action to prevent disclosure of Grantee's proprietary information. If a requestor files a lawsuit to compel disclosure, Grantee agrees to defend the action at Grantee's sole expense. Grantee shall indemnify and hold harmless the City for any loss or liability for fines, penalties, and costs (including attorney fees) imposed on the City because of non-disclosures requested by Grantee under Washington's open public records act, provided the City has notified Grantee of the pending request or Grantee is made aware of the request or claim.

Section 11. Relocation of Grantee Facilities

A. Except as otherwise required by law, Grantee agrees to relocate, remove, or reroute its facilities within one hundred eighty (180) days, and the terms of its FERC Certificate, of being ordered by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Such alternate location for relocation of Grantee's facilities shall be determined and approved jointly by the City and Grantee at no cost to the City. Pursuant to the provisions of Section 16, Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the Public Way.

B. If a readjustment or relocation of the Grantee Facilities is necessitated by a request from a party other than the City, that party shall pay the Grantee the actual costs thereof. Any contractor doing work pursuant to contract with the City shall not be considered a Third Party for purposes of this section.

C. Any condition or requirement imposed by the City upon any Third Party (including, but not limited to, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits obtained

pursuant to any zoning, land use, construction or other development regulation) which requires the relocation of Grantee's Facilities within the Rights-of-Way shall be a condition or requirement causing relocation of Grantee's Facilities to occur subject to the provisions of Subsection B above; provided, however in the event the City reasonably determines and notifies Grantee that the primary purpose of imposing such condition or requirement upon such Third party is to cause or facilitate the construction of a Public Works Project to be undertaken within a segment of the Right-of-Ways on the City's behalf and consistent with the City's Capital Facility Plan or Transportation Improvement Program, then Grantee shall relocate its Facilities within such segment of the Rights-of-Way in accordance with this Agreement.

D. As to any relocation of Grantee's Facilities whereby the cost and expense thereof is to be borne by Grantee in accordance with this Section 11, Grantee may, after receipt of written notice requesting such relocation, submit in writing to the City alternatives to relocation of its Facilities. Upon the City's receipt from Grantee of such written alternatives, the City shall evaluate such alternatives and shall advise Grantee in writing if one or more of such alternatives are suitable to accommodate the work which would otherwise necessitate relocation of Grantee's Facilities. In evaluating such alternatives, the City shall give each alternative proposed by Grantee full and fair consideration with due regard to all facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. In the event the City determines that such alternatives are not appropriate, Grantee shall relocate its Facilities as otherwise provided in this Agreement.

E. Nothing in this Section 11 shall require Grantee to bear any cost or expense in connection with the relocation of any Facilities under benefit of easement independent of this Agreement or other rights not arising under this Agreement, nor shall anything in this Section 11 require the City to bear any such cost or expense. Nothing in this Section 11 shall be construed to be a waiver of any right of either Grantee or the City to contest any claim or assertion by the other of responsibility to pay such cost or expense.

F. Subject to ACC 20.10.160, in the event of an emergency posing a threat to public safety or welfare requires the relocation of Grantee's Facilities within the Rights-of-Way, the City shall give Grantee notice of the emergency as soon as reasonably practicable. Upon receipt of such notice from the City (and subject to the issuance of any necessary order(s) of the Federal Energy Regulatory Commission), Grantee shall endeavor to respond as soon as reasonably practicable to relocate the affected Facilities.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 11 of 28

Section 12. Abandonment and or Removal of Grantee Facilities

A. Subject to ACC 20.10.130, within one hundred and eighty days (180) of Grantee's permanent cessation of use of the Grantee Facilities, or any portion thereof, the Grantee shall (subject to any necessary approval(s) and/or order(s) to be provided by FERC concerning abandonment), at the City's discretion, either abandon in place or remove the affected facilities. Grantee will remove the facilities if the City deems removal reasonably necessary. Abandonment or removal shall be at the sole cost and expense of Grantee. Any Facilities left in place shall be made inert by purging all natural gas from such Facilities (including displacement of natural gas with an appropriate inert gas) and disconnecting and sealing such Facilities, all in compliance with applicable regulations and industry standards. The City's consent shall not relieve Grantee of the obligation and/or costs to subsequently remove or alter such Facilities in the event the City reasonably determines that such removal or alteration is necessary or advisable for the health and safety of the public, in which case Grantee shall perform such work at no cost to the City. The obligations contained in this Section shall survive the expiration, revocation, or termination of this Agreement.

Section 13. Encroachment Management

Grantee shall manage and inspect encroachments as defined by federal and applicable state and local laws, rules, regulations and industry standards, as now enacted or hereinafter amended, and any other future laws or regulations that are applicable to Grantee, the Facilities, and business operations. Upon notification to Grantee of planned construction by another within ten (10) feet of Grantee's pipeline, Grantee shall flag the precise location of its Facilities before the construction commences, provide a representative to inspect the construction when it commences, and periodically inspect thereafter to ensure that Grantee's pipeline is not damaged by the construction.

Section 14. Emergency Management, Leaks, Ruptures, and Emergency Response.

A. Upon the request of the City, Grantee shall meet with the Valley Regional Fire Authority, the Auburn Police Department, and the City's Emergency Management Office to coordinate emergency management operations at the request of the City, Grantee personnel shall actively participate

with the Valley Regional Fire Authority and the City in emergency preparedness drills or planning sessions.

B. Grantee shall have in place, at all times during the term of this Agreement, a system for remotely monitoring pressures and flows across the Public Way.

C. During the term of this Agreement, Grantee shall have a written emergency response plan and procedure for locating leaks and ruptures and for shutting down valves as rapidly as possible.

D. Upon acceptance of this Agreement, Grantee shall provide, for the City's review, a copy of its emergency response plans and procedures, including, but not limited to, emergency rupture response. If the parties disagree as to the adequacy of Grantee's emergency response plan, the parties will submit the plan to independent, third party review. If the review recommends that Grantee make modifications or additions to Grantee's emergency response plan, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the recommendations, Grantee shall provide a written report to the City explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over whether to follow the recommendations. Upon completion of the review of Grantee's emergency plans and procedures set forth in this section, Grantee shall provide a copy of the plans and procedures to the City and to the Valley Regional Fire Authority.

E. Grantee's emergency plans and procedures shall designate Grantee's responsible local emergency response officials and a direct twenty four (24) hour emergency contact number for the control center operator. Grantee shall, after being notified of an emergency, cooperate with the City and make every effort to respond as soon as possible to protect the public's health, safety and welfare.

F. Grantee shall be solely responsible for all its necessary costs incurred in responding to any leak, rupture or other release of natural gas from Grantee's Facilities, including, but not limited to, detection and removal of any contaminants from air, earth or water, and all remediation costs.

G. If requested by the City in writing, Grantee shall provide a written summary concerning any leak or rupture within thirty (30) days concluding Grantee's prompt investigation, including, but not limited to, the leak or rupture's

date, time, amount, location, response, remediation and other agencies Grantee has notified.

H. The City may request that any substantial leak or rupture be investigated by the WUTC or PHSMA. Grantee shall be solely responsible for paying all of the costs and expenses incurred in investigating the occurrence and reporting the findings. Grantee shall meet and confer with the WUTC or PHSMA following their investigation to address whether any modifications or additions to Grantee's pipeline(s) and/or Facilities may be warranted

I. If the WUTC or PHMAS recommends that Grantee make modifications or additions to Grantee's pipeline(s) and/or Facilities, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the WUTC or PHMAS's recommendations, Grantee shall provide a written report to the City explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over whether to follow the consultant's recommendations.

Section 15. Maintenance, Inspection, and Testing.

Grantee shall remain solely and separately liable for the operation, testing, maintenance, replacement and/or repair of the pipeline or other activities permitted under this Agreement. Grantee shall operate, maintain, inspect, and test the Facilities in full compliance with all applicable federal, state, and local laws, rules, regulations, and industry standards, as now enacted or hereinafter amended, and any other future laws or regulations that are applicable to Grantee, the Facilities, and business operations.

Section 16. Indemnification and Hold Harmless

A. The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance under this Franchise, except to the extent such costs, claims, injuries, damages, losses, suits, or liabilities are caused by the sole negligence or wrongful misconduct of the City.

B. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee Facilities caused

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 14 of 28

by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, right-of-way, or other property, except to the extent any such damage or loss is directly caused by the sole negligence or wrongful misconduct of the City, or its agent performing such work.

C. The Grantee acknowledges that neither the City nor any other public agency with responsibility for firefighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), the Grantee shall indemnify the City against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities caused by the City's failure or inability to provide such services.

D. Acceptance or inspection by the City of any work performed by the Grantee shall not be grounds for avoidance of this section.

E. In addition to the promise of indemnification required by ACC 20.10.230, Grantee shall indemnify, defend and hold the City, its appointed and elective officials, agents, officers, employees, and volunteers harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorney's fees, made against the City on account of violation of any environmental laws applicable to the Grantee Facilities, or from any release of natural gas or Hazardous Substances on or from the Grantee Facilities. This indemnity includes, but is not limited to: (a) liability for a governmental agency's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; and (d) liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws.

F. The Grantee, further agrees to indemnify, hold harmless and defend the City against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of the Grantee's facilities as the result of any interruption of service due to damage or destruction of the Grantee's facilities caused by or arising out of activities conducted by the City, its officers, agents, employees, or contractors, except to

the extent any such damage or destruction is caused by or arises from the sole negligence or any willful or malicious actions on the part of the City, its officers, agents, employees, or contractors.

G. 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 damages to property caused by or resulting from the concurrent negligence of the Grantee and the City, its officers, officials, employees, and volunteers, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 17. Insurance

A. The Grantee shall maintain or cause to be maintained for the duration of this Franchise, 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 Grantee, its agents, representatives, or employees in the amounts and types set forth below. The required Commercial General Liability limit can be met under a combination of primary and excess liability policies:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$2,000,000.00 (two million dollars) per accident. 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.

2. Commercial General Liability insurance with limits no less than \$100,000,000.00 (one hundred million dollars) each occurrence, \$100,000,000.00 (one hundred million dollars) general aggregate and a \$100,000,000.00 (one hundred million dollars) products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01, or an equivalent occurrence based form, or on a claims made form with tail coverage of three years and a retroactive date to cover the services provided pursuant to this agreement and shall cover liability arising from premises,

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 16 of 28

operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise using ISO Additional Insured Endorsement CG 20 10 and Additional Insured-Completed Operations endorsement CG 20 37 or substitute endorsements providing similar coverage.

3. The Grantee's general liability coverage, proof of which is provided by Grantee to the satisfaction of the City, shall evidence sudden and accidental pollution limit of \$10,000,000.00.

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

B. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. The Grantee's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance and shall not contribute with it.

2. The Grantee's insurance (with the exception of Workers' Compensation) shall be endorsed to provide the City thirty (30) days' prior written notice of cancellation.

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

D. Verification of Coverage. Grantee shall furnish the City with documentation of insurer's A.M. Best rating and with original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

E. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by the City.

F. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 18. Performance Security

The Grantee shall provide the City with a financial guarantee in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or which shall annually automatically renew over, the term of this Franchise, in a form and substance acceptable to the City. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered jointly and severally from the principal and any surety of such financial guarantee any damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 22 (Enforcement & Remedies) shall constitute damage to the City in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit the Grantee's liability to the guarantee amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 19. Relationship of the Parties

A. Nothing in this Agreement shall be construed to create or confer any right or remedy upon any person(s) other than the City and Grantee. No action may be commenced or prosecuted against any Party by any Third Party claiming as a Third Party beneficiary of this Agreement. This Agreement shall not release or discharge any obligation or liability of any Third Party to either Party.

B. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency relationship, or joint venture or to impose a trust, partnership, or agency duty, obligation or liability on or with regard to any party. Each party shall be individually and severally liable for its own duties, obligations, and liabilities under this Agreement.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 18 of 28

C. Grantee accepts any privileges granted by the City in an "as is" condition. Grantee agrees that the City has never made any representations, implied or express warranties or guarantees as to the suitability, security or safety of Grantee's location of facilities or the facilities themselves in public property or rights of way or possible hazards or dangers arising from other uses of the public rights of way or other public property by the City or the general public. Grantee shall remain solely and separately liable for the function, testing, maintenance, replacement and repair of the pipeline or other activities permitted under this Agreement.

D. Except as specifically provided herein, this Agreement shall not create any duty of the City or any of its officials, employees or agents and no liability shall arise from any action or failure to act by the City or any of its officials, employees or agents in the exercise of powers reserved to the City. Further, this Agreement is not intended to acknowledge, create, imply or expand any duty or liability of the City with respect to any function in the exercise of its police power or for any other purpose. Any duty that may be deemed to be created in the City shall be deemed a duty to the general public and not to any specific party, group or entity.

Section 20. Successors and Assignees

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated without the express prior consent of the City by ordinance.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to the City not less than sixty (60) days prior to the proposed date of transfer: (a) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 19 of 28

D. Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee shall file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

Section 21. Dispute Resolution

A. In the event of a dispute between the City and the Grantee arising by reason of this Agreement, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case, and such fees shall be included in the judgment.

Section 22. Enforcement and Remedies

A. If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or should it fail to heed or comply with any notice given to Grantee under the provisions of this agreement, the City may, at its discretion, provide Grantee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may, at its discretion, either (1)

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 20 of 28

revoke the Franchise with no further notification, or (2) claim damages as provided in ACC 20.10.340 per day against the financial guarantee set forth in Section 18 for every day after the expiration of the cure period that the breach is not cured.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, the City reserves the right to cancel this Franchise upon thirty days (30) written notice to Grantee and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Grantee's actions are not allowed under applicable federal and state or City laws, to compel Grantee to cease such actions.

Section 23. Compliance with Laws and Regulations

A. In carrying out any authorized activities under the privileges granted herein, Grantee shall meet accepted industry standards and comply with all applicable laws, rules, and regulations, of any governmental entity with jurisdiction over the pipeline and its operation (specifically including, but not limited to, all requirements, rules, regulations, and orders of FERC and the applicable provisions of the City's comprehensive plan). This shall include all applicable laws, rules and regulations existing at the Effective Date of this Franchise or that may be subsequently enacted by any governmental entity with jurisdiction over Grantee or the pipeline(s) and the Facilities. Furthermore, notwithstanding any other terms of this agreement appearing to the contrary, the Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City Ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, the Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the

City may enact the proposed amendment, by incorporating the Grantee's concerns to the maximum extent the City deems possible.

C. The City may terminate this Franchise upon thirty (30) days written notice to the Grantee, if the Grantee fails to comply with such amendment or modification.

Section 24. License, Tax and Other Charges

This Franchise shall not exempt the Grantee from any future license, tax, or charge which the City may hereinafter adopt pursuant to authority granted to it under state or federal law for revenue or as reimbursement for use and occupancy of the Franchise Area.

Section 25. Consequential Damages Limitation

Notwithstanding any other provision of this Agreement, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 26. Force Majeure

In the event that either Party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that Party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a Third party; or any failure or delay in the performance by the other party, or a Third Party who is not an employee, agent or contractor of the Party claiming a Force Majeure Event, in connection with this Agreement. Upon removal or termination of the Force Majeure Event, the Party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement. The Parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event. The occurrence of a Force Majeure Event shall not alter or impair any of the provisions concerning liability and/or insurance as provided in this Agreement.

Section 27. Severability & Survival

In the event that a court or agency of competent jurisdiction declares a material provision of this Franchise to be invalid, illegal or unenforceable, the parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the parties as reflected herein. If severance from this Franchise of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Franchise, either party may apply to a court of competent jurisdiction to reform or reconstitute the Franchise so as to recapture the original intent of said particular provision(s). All other provisions of the Franchise shall remain in effect at all times during which negotiations or a judicial action remains pending.

All provisions, conditions and requirements of this Agreement that may be reasonably construed to survive the termination or expiration of this Agreement shall survive the termination or expiration of the Agreement. Subject to Section 15 above, the Parties' respective rights and interests under this Agreement shall inure to the benefit of their respective successors and assigns.

Section 28. Titles

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

Section 29. Implementation.

The parties each represent and warrant that they have full authority to enter into and to perform this Agreement, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Agreement, except such as may be routinely required and obtained in the ordinary course of business.

Whenever this Agreement sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of this Agreement.

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 23 of 28

Section 30. Entire Agreement

This Agreement, as subject to the appropriate city, state, and federal laws, codes, and regulations, and the attachments hereto represent the entire understanding and agreement between the parties with respect to the subject matter and it supersedes all prior oral negotiations between the parties. All previous Agreements between the parties pertaining to GRANTEE's operation of its pipeline(s) and/or Facilities are hereby superseded.

Section 31. Effective date.

This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 24 of 28



Exhibit A

KING COUNTY

LEMON TREE LN

AUBURN WAY

ACADEMY DR

1355

53RD ST

BRIDGET AVE

RANDALL AVE

1354

182ND AVE

65TH ST

LAKE TAPPS PKWY

ELAINE CT

1353

SUMNER TAPPS HWY

PIERCE COUNTY

Legend

- Mileposts
- Abandoned Pipeline
- Active Pipeline
- Retired Pipeline
- Streets
- Parcels
- City of Auburn
- County Boundary

0 1,250 2,500 5,000 Feet

DRAWING NO.

REFERENCE TITLE

**NORTHWEST PIPELINE GP
LOCATION MAP
STREET DATA
CITY OF AUBURN**

KING & PIERCE COUNTIES, WASHINGTON



NO.	DATE	BY	REVISION NUMBER	W.O. NO.	CHK.	APP.	DWG. BY:	CCS	DATE:	10/8/08	ISSUED FOR BID:	SCALE:	1:25,000
			Ordinance No. 6619				CHK BY:		DATE:		ISSUED FOR CONTS:		
			PH.2 Franchise Agreement No 16-54				APPR. BY:		DATE:		DRAWING NUMBER:	Auburn	Page 30 of 71
			August 29, 2016								K:\Mapping Projects\Auburn_CityofMapping\ArcGIS\Auburn.mxd		SHEET 1 OF 1

Exhibit "B"

Description or plans of facilities that are in the ground:
26inch, 30inch and 36inch diameter high pressure natural gas transmission pipelines, together with cathodic protection equipment and appurtenances.

DRAFT

Exhibit "C"

Description of services offered from facilities in Exhibit B to customers within the Auburn City Limits: High pressure natural gas transmission pipeline services for local natural gas distribution companies, powerplants or other industrial users.

DRAFT

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 27 of 28

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

_____, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

[Grantee]

By: _____ Date: _____
Name:
Title:

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 20xx, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____, residing at _____

MY COMMISSION EXPIRES: _____

Ordinance No. 6619
Franchise Agreement No. 16-54
August 29, 2016
Page 28 of 28



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing on Ordinance No. 6624 ratifying the Franchise Agreement with Lakehaven Utility District

Date:

September 21, 2016

Department:

City Attorney

Attachments:

[Ordinance No. 6624](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council conduct the public hearing. The ordinance will appear on the November 21, 2016 agenda.

Background Summary:

During review of existing franchise agreements, the City determined that the Lakehaven Utility District franchise agreement was adopted by resolution instead of ordinance. Because resolutions are adopted with a less formalized procedure, there is no evidence that the Lakehaven Utility District franchise agreement was adopted in conformity with statutory procedural requirements that typically accompany an ordinance.

Ratification of the Resolution Number 3650 by Ordinance will ensure compliance with the statutory procedural requirements for franchise agreements, including publication of notice, and a public hearing. The terms of the agreement will remain unchanged.

Reviewed by Council Committees:**Councilmember:****Staff:**

Heid

Meeting Date: November 7, 2016

Item Number: PH.3

ORDINANCE NO. 6 6 2 4

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON, RATIFYING
THE FRANCHISE AGREEMENT WITH LAKEHAVEN
UTILITY DISTRICT ADOPTED BY RESOLUTION
NO. 3650**

WHEREAS, the Lakehaven Utility District currently owns, operates, and maintains a water system within the City of Auburn's public rights-of-way within the City of Auburn corporate boundary; and

WHEREAS, in 2004, the City and Lakehaven Utility District negotiated a franchise agreement that was approved by the City Council through Resolution Number 3650; and

WHEREAS, Revised Code of Washington 35A.47.040 includes certain procedural requirements not typically followed when adopting a resolution; and

WHEREAS, the City wishes to ensure that the benefits and obligations inured to Lakehaven Utility District through Resolution Number 3650 are not invalidated by any procedural deficiency; and

WHEREAS, ratification of Resolution Number 3650 by this Ordinance will resolve any omission in the procedural requirements of RCW 35A.47.040 and conform to the City's standard practice of franchise adoption by ordinance; and

WHEREAS, following proper notice, the City Council held a public hearing on ratification of Resolution Number 3650; at which time interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that Resolution Number 3650 be ratified.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Grant of Franchise The provisions of Resolution Number 3650, attached hereto as Exhibit A and incorporated herein by this reference, are hereby adopted as if fully set forth herein.

Section 2. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

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

Section 4. Effective date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____

RESOLUTION NO. 3 6 5 0

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT BETWEEN THE LAKEHAVEN UTILITY DISTRICT AND THE CITY OF AUBURN, ALLOWING THE LAKEHAVEN UTILITY DISTRICT TO CONNECT, INSTALL, OPERATE, MAINTAIN AND REPAIR WATER SYSTEM, FACILITIES, AND APPURTENANCES IN, OVER, ALONG, ACROSS AND UNDER THE FRANCHISE AREA FOR THE PURPOSE OF PROVIDING WATER SERVICE

WHEREAS, the Lakehaven Utility District currently owns, operates, and maintains a water system within Auburn's public right of way located in the franchise area; and

WHEREAS, the Lakehaven Utility District is seeking a new comprehensive franchise with Auburn for public water facilities installed within Auburn's current and future public right of way; and

WHEREAS, in order to maintain control over the use of City of Auburn right-of-ways by utilities operating within the City of Auburn, it is appropriate to enter into franchise agreements with such utilities; and

WHEREAS, Lakehaven Utility District is such a utility, and has negotiated this franchise agreement with the City of Auburn acceptable to both parties; and

WHEREAS, the City of Auburn has determined that it is in the best interests of the public to grant the Lakehaven Utility District a water franchise on the terms and conditions set for in this Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

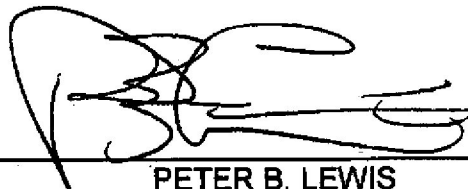
Section 1. The Mayor of the City of Auburn is herewith authorized to execute a Franchise Agreement between the Lakehaven Utility District and the City of Auburn in substantial conformity with the Agreement attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

Section 2. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. This resolution shall be in full force and effect upon passage and signatures hereon.

DATED this 2nd day of February, 2004.

CITY OF AUBURN



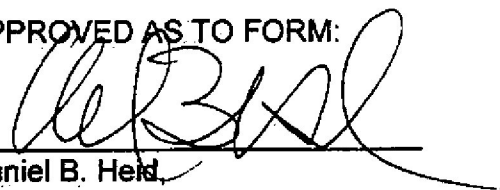
PETER B. LEWIS
MAYOR

ATTEST:



Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Held
City Attorney



20041108001724

PACIFIC NW TIT AG
PAGE 001 OF 010
11/08/2004 14:48
KING COUNTY, WA

34.00

Return Address:
Auburn City Clerk
City of Auburn
25 West Main St.
Auburn, WA 98001

RECORDER'S COVER SHEET

Document Title(s) (or transactions contained therein):

Franchise Agreement (Resolution No. 3650)

16/34 PNWT
W 9249-12

Reference Number(s) of Documents assigned or released:

☐ Additional reference #'s on page _____ of document

Grantor(s)/Borrower(s) (Last name first, then first name and initials)

Auburn, City of

Grantee/Assignee/Beneficiary: (Last name first)

1. Lakehaven Utility District

Legal Description (abbreviated: i.e. lot, block, plat or section, township, range)

PER RCW 39.34

☐ Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number

N/A

☐ Assessor Tax # not yet assigned

EXHIBIT "A"

CITY OF AUBURN, WASHINGTON WATER FRANCHISE AGREEMENT WITH THE LAKEHAVEN UTILITY DISTRICT

THIS FRANCHISE AGREEMENT, made and entered into this 23rd day of September, 2004, by and between the CITY OF AUBURN, Washington and the LAKEHAVEN UTILITY DISTRICT:

WITNESSETH:

WHEREAS, the Lakehaven Utility District currently owns, operates, and maintains a water system within Auburn's public right-of-way located in the franchise area; and

WHEREAS the Lakehaven Utility District is seeking to establish a comprehensive franchise with the City of Auburn for water system lines within Auburn's current and future public right-of-way; and

WHEREAS, in order to maintain control over the use of City of Auburn rights-of-way by utilities operating within the City of Auburn, it is appropriate to enter into franchise agreements with such utilities; and

WHEREAS, Lakehaven Utility District is such a utility, and has negotiated this franchise agreement with the City of Auburn acceptable to both parties; and

WHEREAS, the City of Auburn has determined that it is in the best interests of the public to grant the Lakehaven Utility District a franchise on the terms and conditions set forth in this franchise agreement.

NOW, THEREFORE THE CITY OF AUBURN AND THE LAKEHAVEN UTILITY DISTRICT AGREE AS FOLLOWS:

SECTION 1 DEFINITIONS

Where used in this franchise agreement ("Franchise"), the following definitions shall apply:

1.1 "Franchisee" means the Lakehaven Utility District, a Washington municipal corporation, and its respective successors and assigns.

1.2 "City" means the City of Auburn, a Washington municipal corporation.

1.3 "Franchise Area" means all of the public roads, streets, avenues, alleys, highways, and other rights-of-way of the City as now laid out, platted, dedicated or improved; and any and all public City roads, streets, avenues, alleys, highways, and other rights-of-way that may hereafter be laid out, platted, dedicated or improved within the area in which the City has jurisdiction, as described in Attachment 1 and as depicted in

Attachment 2, both attachments attached hereto, which is by this reference incorporated as if fully set forth herein; provided, that the Franchise Area shall not include or convey any right to the Franchisee to install facilities on, or to otherwise use, City owned or leased properties; and provided that the terms of this franchise (i.e., permitting and enforcement) shall not apply to those public roads, streets, avenues, alleys, highways, and other rights-of-way that may hereafter be laid out, platted, dedicated or improved within the area as described in Attachment 1 and depicted in Attachment 2 until such time that the City has assumed jurisdiction thereof.

1.4 "Facilities" means the Franchisee's water system, lines, mains, pump stations, appurtenances, and all other necessary or convenient appurtenances for the purpose of providing water service.

SECTION 2 FRANCHISE GRANT

Subject to the terms and conditions set forth in this Franchise, the City grants to the Franchisee the right to construct, own and maintain its Facilities, including, but not limited to, water pipelines, pump stations, and appurtenances within the City's public right-of-way and the Franchisee's water service area. In exercising authority to construct and install its Facilities and to excavate trenches in City roads for the purposes of constructing, installing, operating, maintaining, removing, and replacing its Facilities, and making connections between the same to the dwellings and other buildings of the consumers, the Franchisee shall be governed by and conform to the general rules adopted by the Public Works Department of the City, and the Franchisee, at no expense to the City, shall complete all work and shall replace and restore the City roads to the condition of the City roads existing immediately prior to such disturbance; PROVIDED, HOWEVER, that no such work shall be done prior to the obtaining of a permit therefor issued by the City's Public Works Director (hereinafter "Director"), which permit shall set forth conditions pertaining to the work to be done and specifications for the restoration of the roads to the same condition as they were immediately prior to such work. If the Franchisee does not repair the City roads to the satisfaction of the Director, the City may, at its sole discretion, repair such City roads, or cause them to be repaired, and the Franchisee hereby agrees to reimburse the City for the cost of such work, including reasonable overhead costs.

SECTION 3 FRANCHISE TERM

This Franchise shall take full force and effect five calendar days after being approved by the City, and shall be valid for a period of 25 years, expiring in 2029; provided, that this Franchise shall not take effect and the Franchisee shall have no rights under this Franchise unless the Franchisee files a written acceptance of this Franchise with the City pursuant to Section 4 of this Franchise.

SECTION 4 ACCEPTANCE BY FRANCHISEE OF TERMS AND CONDITIONS

The full acceptance of this Franchise and all of its terms and conditions shall be filed with the City Clerk within forty-five (45) days from the date of the resolution approving this Franchise by the Franchisee's duly elected Board of Commissioners. Full acceptance of this Franchise is a condition precedent to its taking effect, and unless this Franchise is

accepted within the time specified, this grant will be null and void and have no force or effect.

SECTION 5 NON-EXCLUSIVE FRANCHISE

This Franchise is not exclusive. It does not prohibit the City from granting franchises for other public or private utilities in, over, along, across, and under any City property, including the Franchise Area. This Franchise does not prevent or prohibit the City from constructing, altering, maintaining or using any of the Franchise Area. The City retains full power to make all changes, relocations; repair, maintenance or other work to or in the Franchise Area as the City deems fit.

SECTION 6 JURISDICTION

This Franchise is intended to convey limited rights and interest only as to those roads and rights-of-way in which the City has an actual interest within the Franchise Area. It is not a warranty of title or of interest in City road rights-of-way. None of the rights granted to the Franchisee shall affect the jurisdiction of the City over City road rights-of-way or the City's power to perform work upon its roadways, rights-of-way or appurtenant drainage facilities including by constructing, altering, renewing, paving, widening, grading, blasting or excavating. The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

SECTION 7 REGULATION OF USE AND CONTROL

This Franchise does not deprive the City of any powers, rights, or privileges it now has or may later acquire in the future to regulate the use of and to control the City road rights-of-way covered by this Franchise. The City reserves the right and power at all times to exercise its police powers with respect to the time, manner and location of the placement of the Franchisee's Facilities.

SECTION 8 EMINENT DOMAIN

This Franchise and the limited rights and interests granted by this Franchise are subject to the exercise of eminent domain. In the event of an exercise of eminent domain by the City, the value to be attributed to all the rights and interests granted under this Franchise shall not exceed the actual amount the Franchisee paid to the City in obtaining this Franchise.

SECTION 9 VACATION

If at any time the City vacates any City rights-of-way covered by this Franchise, the City will not be held liable for any damages or loss to the Franchisee by reason of such vacation. The City may, after giving thirty (30) days written notice to the Franchisee, terminate this Franchise with respect to any City road or rights-of-way vacated. However, should Franchisee notify the City that an easement is required for existing or proposed facilities within the proposed vacation area, the City shall withhold approval of such vacation until the Franchisee has notified the City that the necessary easement(s) have been secured, or provisions otherwise made to maintain the viability and use of existing Facilities.

SECTION 10 ENFORCEMENT

The City's failure to enforce any provision of this Franchise does not constitute a waiver of its right to enforce that provision or any other provision of this Franchise.

SECTION 11 INDEMNITY AND HOLD HARMLESS

11.1 The Franchisee shall defend, indemnify and hold harmless the City, its appointed and elected officials, and its employees and agents from and against liability for all claims, actions, injuries, demands, liabilities, losses, costs, damages and judgments, including costs of defense thereof, (collectively referred to as "damages") for injury to persons, death or property damage caused by, arising out of, or incidental to the Franchisee's exercise of the rights and privileges granted by this Franchise, except for damages caused by or arising out of the City's sole negligence. In the event that any such claim or demand for damages is presented to or filed with the City, or if any suit or action is initiated against the City based on such claims or demands for damages, the City shall promptly notify the Franchisee of the claim, demand, suit or action and the Franchisee shall have the right, at its election and its sole cost and expense, to settle and compromise such claim, demand, suit or action, or defend the same at the Franchisee's sole cost and expense.

11.2 If it is determined that RCW 4.24.115 applies to this Franchise, the Franchisee agrees to defend, hold harmless and indemnify the City to the maximum extent permitted under that statute, and specifically for the Franchisee's negligence concurrent with that of the City to the full extent of the Franchisee's negligence.

SECTION 12 INSURANCE

12.1 The Franchisee shall keep a policy of insurance in force with a minimum limit of five million dollars (\$5,000,000.00). Verification of insurance coverage is a condition precedent to the effectiveness of this Franchise.

12.2 The insurance shall be maintained in full force and effect at the Franchisee's sole expense throughout the term of the Franchise, and, should such insurance be terminated, this Franchise shall terminate as of the date of the termination of insurance coverage.

12.3 The coverage provided by the Franchisee's insurance policies shall be primary to any insurance maintained by the City, except as to losses or damages attributable to the sole negligence of the City. Any insurance maintained by the City that might relate to this Franchise shall be in excess to the Franchisee's insurance and shall not contribute with or to it. The City has no obligation to report occurrences to the insurance companies unless a claim is filed with the City's City Council; and the City has no obligations to pay the Franchisee's premiums.

12.4 The Franchisee shall be solely and completely responsible to perform all work related to this Franchise in compliance with all applicable federal, state, county and city statutes, rules, regulations, ordinances, orders and codes. The Franchisee's attention is directed to the requirements of the Washington Industrial Safety and Health Act, Chapter 49.17 RCW. The Franchisee shall be solely and completely responsible for

safety and safety conditions on its job sites and for its work within the Franchise Area, including the safety of all persons and property during performance of any works therein. The services of the City or City's consultant personnel in conducting construction review of the Franchisee's work relating to the Franchise is not intended to include review of the adequacy of the Franchisee's work methods, equipment, scaffolding, or trenching, or safety measures in, on or near such Franchise Area or job site. The Franchisee shall provide safe access for the City and its inspectors to adequately inspect the work and its conformance with applicable statutes, ordinances, rules, regulations, and the Franchise.

SECTION 13 INSTALLATION, REPAIR, REMOVAL OR RELOCATION

13.1 The Franchisee shall, at no expense to the City, expeditiously repair all existing Facilities that it owns within the Franchise Area, including any damage caused directly or indirectly by its Facilities, all appurtenant Facilities and service lines connecting its system to users, if the City requires such repair for any reasonable purpose.

13.2 The Franchisee shall, at no expense to the City, adjust, remove or relocate existing Facilities within the Franchise Area, including all appurtenant Facilities and service lines connecting its system to users, if the City determines such adjustment, removal or relocation is reasonably necessary to allow for an improvement or alteration planned by the City. The City shall give the Franchisee written notice of such requirement as soon as practicable. The written notice shall include all available information, such as plans and specifications, as is reasonably necessary for the Franchisee to plan for such adjustment, removal or relocation.

13.3 Franchisee's Facilities shall be constructed, installed, maintained and repaired within the Franchise Area so as to provide safety of persons and property, and not interfere with the free passage of traffic, all in accordance with the laws of the State of Washington, and the ordinances, resolutions, rules and regulations of the City.

13.4 For projects that are a part of the City's capital improvement program, in addition to any other notice given to the Franchisee, the City shall provide a copy of the capital improvement plan and six (6) year transportation improvement plan when requested. Further, the City shall provide a horizontal plan and vertical profile of the roadway and drainage facilities within it, both existing and as proposed by the City, and the proposed construction schedule. The initial design information shall be given at least one hundred and eighty (180) days before construction is scheduled to begin, except in cases of urgent construction or emergencies. The Franchisee shall respond to this notice, and to any later notices of revised designs, within twenty (20) days of the date of the notice, by providing to the City the Franchisee's best available information as to the location of all the Franchisee's Facilities, including all appurtenant Facilities and service lines connecting its system to users, and all Facilities that it has abandoned, within the area proposed for the project.

13.5 The City shall offer the Franchisee the opportunity to participate in the preparation of bid documents for the selection of a contractor to perform the public works project as well as all required adjustments, removals or relocations of the Franchisee's Facilities. The City shall have sole authority to choose the contractor to perform such

work. Such bid documents shall provide for an appropriate cost allocation between the parties. In addition to the Franchisee's allocation of contractor costs, the Franchisee shall reimburse the City for all costs, to include but not be limited to legal, engineering, inspections, administration and/or soils testing, related to the Franchisee's work and reasonably incurred by the City in the administration of such joint construction contracts. Such costs shall include the direct salary cost of the time of City professional and technical personnel, including the City's consultants, spent productively engaged in such work, plus overhead costs at the standard rate charged by the City on other similar projects. The specific terms of the joint participation on any public work shall be as set forth in a written agreement between the parties.

13.6 It is understood that emergency situations may arise that could threaten public health and/or continued operation of the Franchisee's utility system and the Franchisee may be unable to notify the City in the manner prescribed in Section 14 of this Franchise. In such a situation the Franchisee shall immediately correct the hazardous situation and continue to use best efforts to contact the City staff. The Emergency Phone Number for the City of Auburn is (253) 931-3048, and that for the Lakehaven Utility District is (253) 941-1516. Dialing 911 is advised for emergency situations that may result in imminent threats to life and/or property.

SECTION 14 REQUIREMENT OF CONSTRUCTION PERMITS

14.1 The Franchisee has the right, privilege and authority to enter the City road rights-of-way for the purpose of constructing, installing, operating, maintaining, replacing or repairing its Facilities on the condition that it obtains construction, excavation, and right-of-way use permits issued by the City. Any work performed, whether by Franchisee, its contractors, or third parties, shall include necessary paving, patching, grading and any other reasonably necessary repair or restoration to the City rights-of-way. All work shall be done to the City's satisfaction.

14.2 All equipment, pipelines and appurtenances which are used in the construction, installation, operation, maintenance or repair of the Franchisee's Facilities and which are located within the City road rights-of-way and owned by the Franchisee shall be considered to be part of the Franchisee's system and shall be the responsibility of the Franchisee. All permits for the construction, installation, operation, maintenance or repair of the Franchisee's system shall be applied for and given in the name of the Franchisee, who will be responsible for all work done under the permit. The Franchisee remains responsible whether the work is performed by the Franchisee, its contractors, or by third parties.

14.3 When required by the City's Public Works Director, the Franchisee shall post a bond to the City in the amount sufficient for any road repair or restoration. The amount of the bond shall be set by the City and must be filed with the City before a permit will be issued.

SECTION 15 PERFORMANCE OF WORK

15.1 Any work performed by the Franchisee in the Franchise Area shall conform to all City ordinances and requirements including, but not limited to, Auburn City Code and the City's Design and Construction Standards in force when the work is performed. All traffic control shall conform to the current edition of the Manual of Uniform Traffic Control Devices in force when the work is performed.

15.2 If work performed under this Franchise makes it necessary to turn off or diminish water pressure or potential flow to any fire hydrant, the Franchisee shall notify the City's Fire Department by telephone and by written notice, that water pressure or fire flow conditions have been affected. Except in the case of an emergency, the notice shall be provided at least 48 hours prior to the water pressure or potential flow being suspended or diminished. If more than one fire hydrant will be affected, the Franchisee shall provide a map of the affected area to the Fire Department. Out-of-service fire hydrants must be identified as not operational by covering with a properly secured burlap or plastic bag. Fire hydrants should be returned to full service as soon as reasonably possible or no longer than two working days from the date service was suspended or diminished. The Franchisee shall notify the City's Fire Department when the hydrant(s) is/are returned to full service.

SECTION 16 RESTORATION OF CITY RIGHTS-OF-WAY

After performing work on, under or adjacent to City road rights-of-way, the Franchisee is responsible for and shall leave all City road rights-of-way in the condition of the City road rights-of-way existing immediately prior to such disturbance. If the Franchisee, its contractors, or third parties working under permit should fail to diligently restore City road rights-of-way to the satisfaction of the City, the City may make such repairs or restorations as are necessary to return the City road rights-of-way to a condition reasonably comparable to the condition of the City road rights-of-way existing immediately prior to such disturbance. Upon presentation of an itemized invoice for repairs or restorations, including all applicable costs, both direct and indirect, to include, but not be limited to, the cost of labor, tools, materials and equipment, the Franchisee shall pay the invoice within sixty-five (65) days of its receipt and approval.

SECTION 17 INFORMATION ON LOCATION OF FACILITIES

The Franchisee shall provide the City with all information requested by the City regarding the location of the Franchisee's current Facilities, including, but not limited to, copies of all record drawings for such Facilities. If the Franchisee performs any work to install, repair, reconstruct, or replace Facilities in the Franchise Area after this Franchise's effective date, the Franchisee shall provide the City with all information requested by the City regarding the location of those Facilities, including, but not limited to, copies of record drawings.

SECTION 18 COORDINATION OF WORK IN FRANCHISE AREA

To facilitate the coordination of work in City rights-of-way, if either the Franchisee or the City plans to make excavations in the Franchise Area, the party planning such excavation shall provide written notice to the other of the planned excavation, affording the other party the opportunity to share in the excavation; provided, that (1) such joint use shall not unreasonably delay the work of the party causing the excavation to be made, (2) such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties, and (3) either party may deny such request for safety reasons.

SECTION 19 BLASTING REQUIREMENTS

The Franchisee's right to construct, install, operate, maintain and repair Facilities does not preclude the City, its agents or contractors from blasting, grading, or doing other road work contiguous to the Franchisee's Facilities. When practical, the City shall give the Franchisee forty-eight (48) hours notice of blasting or excavating.

SECTION 20 SURVEY MARKERS AND MONUMENTS

Before any work is performed under this Franchise, the Franchisee shall establish two or more reference marks to all monuments and markers of every nature relating to subdivisions, plats, rights-of-way, and all other surveys. The reference points shall be located so that they will not be disturbed during any of Franchisee's operations under this Franchise. The method of referencing monuments or other markers or points shall be approved by the City before placement. The replacement of all markers or monuments disturbed during any construction of the Franchisee shall be made as promptly as conditions permit. The cost of monuments or markers lost, destroyed, or disturbed and the expense or replacement with approved markers or monuments shall be borne by the Franchisee.

SECTION 21 RESERVATION OF RIGHTS

21.1 The City reserves the right to impose, to the extent authorized by law, a utility tax on the Franchisee and/or to charge the Franchisee a reasonable fee for services provided or rights granted under this Franchise.

21.2 The Franchisee agrees that it shall be subject to all authority now or later possessed by the City or any other governing body having competent jurisdiction to fix just, reasonable and compensatory rates for services under this Franchise.

21.3 The City reserves the right, upon thirty (30) days written notice to the Franchisee, to amend or modify the provisions or conditions of this Franchise to conform to any state, county, federal, or City statute, ordinance, rule or regulation. The City may terminate this Franchise upon thirty (30) days written notice to the Franchisee if the Franchisee fails or refuses to comply with such amendment or modification.

SECTION 22 ASSIGNMENT

The Franchisee shall not have the right to assign this Franchise without the written consent of the City. No assignment shall be effective unless an acceptance by the assignee of all rights, conditions, terms, provisions and responsibilities contained within the Franchise, as well as surety bonds which the City deems necessary to be posted, are received as allowed by law. The City's approval of the assignment may be made subject to the assignee's acceptance of new or modified terms of the Franchise.

SECTION 23 PENALTY FOR VIOLATION OF CONDITIONS

If the Franchisee fails to comply with any material term, condition or responsibility under this Franchise, the City may provide the Franchisee with written notice of the City's intent to revoke the Franchise if the Franchisee's failure is not cured within thirty (30) days of the date of the notice. During the thirty (30) days following the date of the notice, the Franchisee shall have the opportunity to remedy the failure to comply. A public hearing shall be scheduled before the Auburn City Council at least thirty (30) days following the notification on the issue of the revocation. If at the hearing, the City Council finds that grounds exist to revoke the Franchise under this paragraph and that the revocation is in the public interest, the City Council may by resolution revoke the Franchise. The revocation shall be effective ninety (90) days after the public hearing.

SECTION 24 EXPIRATION AND RENEWAL

24.1 If the Franchisee requests a renewal of this Franchise prior to its expiration date, which renewal shall be granted, on terms reasonable to the parties, unless the City can demonstrate, in good faith, that such renewal would be contrary to its operation of the right of way, the City may, at the City's sole discretion, extend the term of this Franchise for up to one year beyond the expiration date to allow for processing of the renewal. If the City elects to extend the term of this Franchise, written notice of the extension shall be provided to the Franchisee prior to the Franchise expiration date.

24.2 If the Franchisee has not requested a renewal of this Franchise prior to its expiration date, the City has the right, upon thirty (30) day's prior notice to the Franchisee, to remove or relocate any of the Franchisee's Facilities as is reasonably necessary for the public's health, welfare or safety, or for the construction, alteration, or improvement of the Franchise Area, or for the construction or installation of lines or facilities of other franchise holders. The Franchisee shall be liable for costs incurred in any removal or relocation of the Franchisee's Facilities under this section.

24.3 Upon the expiration of this Franchise, the Franchisee shall continue to be responsible for the operation and maintenance of the Franchisee's existing facilities in the Franchise Area, but shall not have the right to provide additional services. This Section and Sections 11, 13, 14, 15, 16, 18, and 20 of this Franchise shall continue in force until such time as the Franchisee's Facilities are abandoned to the City's satisfaction.

SECTION 25 COMPLIANCE WITH LAWS

The Franchisee shall conform to all applicable federal, state and local laws and regulations including, but not limited to, the State Environmental Policy Act and the City's Environmental Standards and Ordinances.

SECTION 26 NON-DISCRIMINATION CLAUSE

In all hiring or employment made possible or resulting from this Franchise, there shall be no discrimination against any employee or applicant for employment because of sex, sexual orientation, age, race, color, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupation qualification. No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Franchise on the grounds of sex, sexual orientation, race, color, national origin, age, except minimum age and retirement provisions, marital status, or the presence of any sensory, mental or physical handicap.

SECTION 27 NOTICE

All notices between the two agencies hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

City of Auburn:
City Engineer
25 West Main Street
Auburn, WA 98001-4998
Tel: 253-931-3010

Lakehaven Utility District:
General Manager
31627 1st Ave South
PO Box 4249
Federal Way, WA 98063-4249
Tel: 253-941-1516

or to such other representative addresses as either party may hereafter from time to time designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing. If an emergency situation develops, it is recommended that the City or the Franchisee call 911 to solicit an emergency response.

SECTION 28 ATTORNEYS' FEES

If either party shall be required to bring any action to enforce any provision of this Franchise, or shall be required to defend any action brought by the other party with respect to this Franchise, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in trial court and in appellate courts.

SECTION 29 SEVERANCE

If any term, provision, condition or portion of this Franchise is held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise which shall continue in full force and effect, unless the dominant purpose of the Franchise would be prevented or the public interest would no longer be served, as determined by the City.

SECTION 30 EFFECTIVE DATE

The resolution approving the Franchise, having been introduced at least five days prior to its date of passage and submitted to the city attorney, and being approved by at least a majority of the entire city council at a regular city council meeting, shall take effect and be in force five calendar days after its passage and approval by both parties to this Franchise.

SECTION 31 EXISTING UTILITIES

This Franchise shall govern existing and future water system facilities currently owned, operated and maintained by Lakehaven Utility District within the City of Auburn.

SECTION 32 DISPUTE RESOLUTION

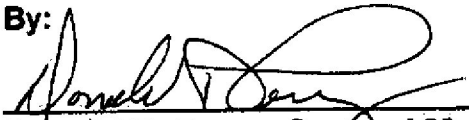
In the event that a dispute arises with regard to the terms of this Franchise Agreement, either party may request that the dispute be submitted to non-binding mediation or arbitration prior to court action. Such request for non-binding mediation or arbitration shall be made in writing and mailed by first class, U.S. Mail to the other party. The mediator or arbitrator shall be chosen by agreement of the parties. Either party may refuse to submit to the dispute resolution process. Refusal to engage in the dispute resolution process shall not prejudice the refusing party in any way.

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

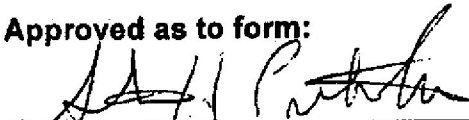
LAKEHAVEN UTILITY DISTRICT

Approved by Resolution No. 2004-1006 of the Lakehaven Utility District, Federal Way, Washington, at its regular meeting held on the 8th day of January, 2004.

By:


Donald T. Perry, General Manager
Lakehaven Utility District

Approved as to form:


Steven H. Pritchett, General Counsel
Lakehaven Utility District

CITY OF AUBURN

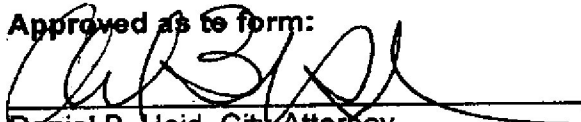
By:


Peter B. Lewis, Mayor
City of Auburn

Attest:


Danielle Daskam, City Clerk

Approved as to form:


Daniel B. Heid, City Attorney

AUBURN RESOLUTION NO: 3650

LAKEHAVEN REFERENCE NUMBER: 2004-1006

Exhibit "A", Auburn Resolution No. 3650
Auburn - Lakehaven Water Franchise
Page 12 of 12

Attachment 1

Auburn Ordinance No. 3650

Description of Lakehaven Utility District's Water Franchise Area

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 23, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE NORTH ALONG THE WEST LINE OF SAID SECTION 23 TO THE NORTHWEST CORNER OF SAID SECTION 23 AND THE SOUTHEAST CORNER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 15 TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 15;

THENCE NORTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 15 TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE NORTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 10 TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE NORTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 3 TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M.;

THENCE NORTHERLY ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SAID SECTION 34;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID SOUTHEAST QUARTER OF SAID SECTION 34 TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M.;

THENCE EASTERLY ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 35 TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M.;

THENCE EASTERLY ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36 TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SAID SECTION 36;

THENCE SOUTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 36 TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE SOUTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 1 TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 1;

THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 1 TO THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

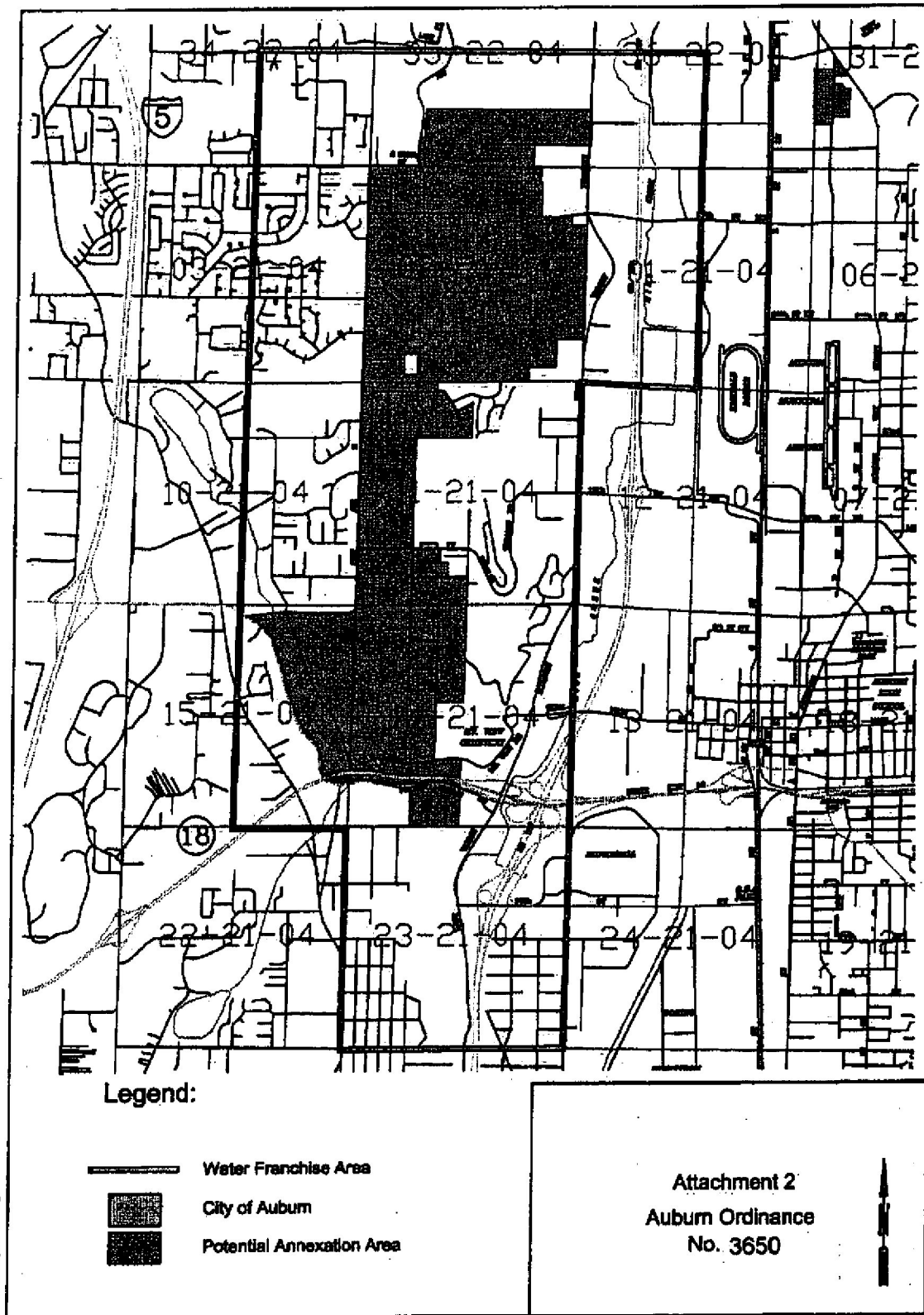
THENCE SOUTHERLY ALONG THE EAST LINE OF SAID SECTION 11 TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE SOUTHERLY ALONG THE EAST LINE OF SAID SECTION 14 TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.;

THENCE SOUTHERLY ALONG THE EAST LINE OF SAID SECTION 23 TO THE SOUTHEAST CORNER OF SAID SECTION 23;

THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 23 TO THE POINT OF BEGINNING.

SITUATE IN KING COUNTY, WASHINGTON.





AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the October 17, 2016 City Council Meeting

Date:

November 1, 2016

Department:

Administration

Attachments:

[Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:****Staff:**

Meeting Date: November 7, 2016

Item Number: CA.A



City Council Meeting
October 17, 2016 - 7:00 PM
Auburn Community and Event Center 910
9th Street SE
MINUTES

I. CALL TO ORDER

A. Pledge of Allegiance

Mayor Nancy Backus called the meeting to order at 7:00 p.m. in the Auburn Community and Events Center located at 910 9th Street SE in Auburn. Mayor Backus led those in attendance in the Pledge of Allegiance.

B. Roll Call

City Councilmembers present: Deputy Mayor Largo Wales, Bob Baggett, Claude DaCorsi, John Holman, Bill Peloza, Yolanda Trout-Manuel and Rich Wagner.

Mayor Nancy Backus was in attendance, and the following department directors and staff members were present: City Attorney Daniel B. Heid, Parks, Arts and Recreation Director Daryl Faber, Finance Director Shelley Coleman, Community Development and Public Works Director Kevin Snyder, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Police Commander Mark Caillier, Human Resources and Risk Management Director Rob Roscoe, Innovation and Technology Director Paul Haugan, Director of Administration Dana Hinman, and City Clerk Danielle Daskam.

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

A. Auburn High School DECA National DECA Month

Mayor Backus to proclaim November 2016 as DECA Month in the city of Auburn.

Mayor Backus read and presented a proclamation declaring November 2016 as DECA Month in the city of Auburn to Auburn High School students Diego Izquierdo, Alycia Miller, Jake Willroth, and Marcus Martin. The students were accompanied by their Advisor, Janet Tarsi, who was in the audience.

Alycia Miller spoke briefly regarding the benefits of DECA.

B. Auburn Mountainview High School DECA Week

Mayor Backus to proclaim October 23-29, 2016, as DECA Week in the city of Auburn.

Mayor Backus read and presented a proclamation declaring October 23-29, 2016 as DECA Week in the city of Auburn to Auburn Mountainview High School students Emily Watling and Emily Cookston. The students were accompanied by their Advisor, Derek Enz.

C. Auburn Mountainview High School Entrepreneurship Week

Mayor Backus to proclaim November 14-20, 2016 as Global Entrepreneurship Week in the city of Auburn.

Mayor Backus read and presented a proclamation declaring November 14-20, 2016 as Global Entrepreneurship Week in the city of Auburn to Auburn Mountainview High School students Emily Cookston and Emily Watling.

D. Pregnancy and Infant Loss Awareness Month

Mayor Backus to proclaim, October 2016, as Pregnancy and Infant Loss Awareness Month in the city of Auburn.

Mayor Backus proclaimed October 2016 as Pregnancy and Infant Loss Awareness Month in the city of Auburn.

III. APPOINTMENTS

There was no appointment for Council consideration.

IV. AGENDA MODIFICATIONS

There was no change to the agenda.

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. 2017-2018 Preliminary Biennial Budget (Coleman)
City Council to conduct a public hearing on October 17, 2016 to receive public comments, proposals and suggestions with regard to the 2017-2018 Preliminary Biennial Budget, including revenue estimates and possible increases in property taxes.

Finance Director Shelley Coleman, using a PowerPoint presentation, reviewed the 2017 -2018 Preliminary Biennial Budget, budget review and adoption timeline, and the property tax levy.

This evening is the first public hearing on the preliminary budget. Two additional hearings will be held on November 7th and November 21st. Council approval of the property tax levy and the budget is anticipated at the November 21, 2016 Council meeting.

Director Coleman displayed a summary of the 2017 City-wide Budget of \$184 million in expenditures with an additional \$82 million in fund balances. The 2018 Citywide Budget includes \$190 million in expenditures with an additional \$74 million in fund balances.

Using charts and graphs, Director Coleman reviewed the 2017-2018 General Fund revenues and the 2014 through 2018 General Fund revenues. During the 2017-2018 biennium, property taxes comprise 31 percent of General Fund revenues while sales taxes comprise 23 percent of General Fund revenues.

Director Coleman reviewed the new programming included in the General Fund as well as new programming in other funds.

Director Coleman reviewed contractual cost increases included in the biennial budget, including labor cost increases, medical and pension plan increases, increases in service and supply contracts, and increased costs associated with Valley Communications, public defense, and King County District Court.

Director Coleman reviewed sales tax trends and cautioned Council that sales tax revenues are slowing, the state sales tax credit sunsets in 2018 (\$2.0 million impact), and the impact of the State's action to fund the McCleary decision is unknown at this time.

Director Coleman reviewed new revenues for the 2017-2018 Biennial Budget including banked property tax, increased cable utility tax, and the receipt of a COPS grant.

Director Coleman reviewed the property tax levy. The 2017-2018 Biennial Budget is predicated on utilizing \$2.4 million of banked capacity. The 2017 levy will be \$20,663,200.00, not including new construction. New construction is estimated at \$200,000.00. The total levy for 2017 is \$20,863,200.00. The levy impact on a \$400,000.00 home in 2017 is \$888.00 compared to \$820.00 in 2016. The levy impact for 2018 is \$856.00.

Mayor Backus opened the public hearing at 7:30 p.m. No one in the audience requested to speak, and the hearing was closed.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

No one in the audience requested to address the Council.

C. Correspondence

There was no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendations to the City Council, if any.

Councilmember Baggett reported on behalf of the Finance ad hoc committee that reviews claims and payroll vouchers. Councilmember Baggett reported he and Councilmember Wagner reviewed the claims and payroll vouchers as presented and described on this evening's agenda and recommend their approval.

VII. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

A. Minutes of the October 3, 2016 City Council Meeting

B. Claims Vouchers (Coleman)
Claims voucher numbers 440915 through 441128 in the amount of \$3,684,614.19 and four wire transfers in the amount of \$3,894.63 and dated October 17, 2016.

C. Payroll Vouchers (Coleman)
Payroll check numbers 536774 through 536813 in the amount of \$565,088.16 and electronic deposit transmissions in the amount of \$1,429,179.17 for a grand total of \$1,994,267.33 for the period covering September 29, 2016 to October 12, 2016.

- D. Public Works Project No. CP1411 (Snyder)
City Council approve Final Pay Estimate No. 3 to Contract No. 16-14 in the amount of \$57,988.67 and accept construction of Project No. CP1411, Muckleshoot Indian Tribe Master Meters
- E. Call for Public Hearing on Preliminary 2017-2018 Biennial Budget (Coleman)
City Council to call for a public hearing to be held November 7, 2016, to receive public comments and suggestions with regard to development of the preliminary 2017-2018 Biennial Budget.

Deputy Mayor Wales moved and Councilmember Trout-Manuel seconded to approve the Consent Agenda.

Deputy Mayor Wales stated the Consent Agenda includes minutes, claims and payroll vouchers, Public Works Project No. CP1411 final payment, and a call for a public hearing on the 2017-2018 Preliminary Biennial Budget.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. UNFINISHED BUSINESS

There was no unfinished business.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

- A. Ordinance No. 6617 (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, creating new sections 13.48.245, 13.48.246, 13.48.247 and 13.48.425 of the City Code, and amending sections 12.04.010, 13.41.010, 13.41.050, 13.48.005, 13.48.010, 13.48.110, 13.48.180, 13.48.225, 13.48.230, 13.48.240, 13.48.250, 13.48.420, 13.48.440, 15.74.010, 15.74.020, 15.74.050, 17.02.030, 17.09.050, 17.09.070, 17.10.020, 17.10.070, 17.10.120, 17.12.010, 18.50.010 and 18.50.040 of the City Code relating to Low Impact Development

Deputy Mayor Wales moved and Councilmember DaCorsi seconded to adopt Ordinance No. 6617.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Ordinance No. 6622 (Coleman)
An Ordinance of the City Council of the City of Auburn, Washington, authorizing municipal indebtedness and approving the Drinking Water State Revolving Fund Loan Agreement for Coal Creek Springs Transmission Main Replacement

Councilmember Pelosa moved and Councilmember Baggett seconded to adopt Ordinance No. 6622.

In response to a question from Councilmember DaCorsi, Assistant Director of Engineering Services Gaub reported the City is in the process of hiring a consultant for project design; construction will start in 2018.

MOTION CARRIED UNANIMOUSLY. 7-0

- C. Ordinance No. 6623 (Snyder)

An Ordinance of the City Council of the City of Auburn, Washington, approving the Final Plat of Canyon Creek at Peasley - Division 2

Deputy Mayor Wales moved and Councilmember DaCorsi seconded to adopt Ordinance No. 6623.

MOTION CARRIED UNANIMOUSLY. 7-0

XI. RESOLUTIONS

- A. Resolution No. 5250 (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, setting a public hearing to consider a Franchise Agreement with Northwest Pipeline LLC
Deputy Mayor Wales moved and Councilmember Pelloza seconded to adopt Resolution No. 5250.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Resolution No. 5251 (Heid)
A Resolution of the City Council of the City of Auburn, Washington, setting a public hearing to consider a franchise agreement with Lakehaven Utility District
Deputy Mayor Wales moved and Councilmember Pelloza seconded to adopt Resolution No. 5251.

MOTION CARRIED UNANIMOUSLY. 7-0

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on their significant City-related activities since the last regular Council meeting.

A. From the Council

Deputy Mayor Wales reported on her attendance at a domestic violence awareness fundraiser in Bellevue.

Councilmember Pelloza reported on his attendance at the Regional Policy Committee meeting and a Water Resource Inventory Area (WRIA) 9 Forum meeting.

Councilmember Wagner reported on his attendance at a Puget Sound Regional Council Transportation Policy Board meeting, where members discussed transportation integration, air quality and regional economic strategy.

Councilmember DaCorsi reported on his attendance at the Affordable Housing Advisory Board meeting and the Affordable Housing Policy Advisory subcommittee meeting where discussion centered on investment in the Housing Trust Fund. Councilmember DaCorsi also reported on his attendance at the 23rd Annual Affordable Housing Conference.

B. From the Mayor

Mayor Backus reported on her attendance at the Age Wave candidates forum on Washington's aging readiness. Mayor Backus also reported on her attendance at the Regional Economic Development Strategy Alignment planning session with King County Executive Constantine, Seattle

Mayor Murray, Kenmore Mayor Baker and the economic development teams from each city. Mayor Backus announced she recently returned from the signing of an agreement for the City's newest sister city, Mola di Bari, Italy, a city of approximately 25,000 population. While in Mola, she met with the Mayor and other city officials, toured their city and facilities, and discussed opportunities for both cities.

XIII. EXECUTIVE SESSION

At 7:58 p.m., Mayor Backus recessed the meeting to executive session for approximately 30 minutes for the purpose of discussing potential litigation pursuant to RCW 42.30.110(1) (i). City Attorney Heid and Human Resources and Risk Management Director Roscoe attended the executive session. No action is anticipated following the executive session.

At 8:30 p.m., Mayor Backus extended the executive session for an additional five minutes.

Mayor Backus reconvened the regular meeting at 8:35 p.m.

XIV. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 8:35 p.m.

APPROVED THIS 7th DAY OF NOVEMBER, 2016.

NANCY BACKUS, MAYOR

Danielle Daskam, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

November 2, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve the claims vouchers.

Background Summary:

Claims voucher numbers 441129 through 441394 in the amount of \$2,871,150.58 and seven wire transfers in the amount of \$257,919.84 and dated November 7, 2016.

Reviewed by Council Committees:**Councilmember:****Staff:**

Coleman

Meeting Date: November 7, 2016

Item Number: CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

November 2, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve payroll vouchers.

Background Summary:

Payroll check numbers 536814 through 536844 in the amount of \$703,151.81 and electronic deposit transmissions in the amount of \$1,429,248.29 for a grand total of \$2,132,400.100 for the period covering October 13, 2016 to November 2, 2016.

Reviewed by Council Committees:**Councilmember:****Staff:**

Coleman

Meeting Date: November 7, 2016

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Call for Public Hearing on 2017-2018 Preliminary Biennial Budget

Date:

October 28, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council to call for a public hearing to be held November 21, 2016 to receive public comments and suggestions with regard to development of the preliminary 2017-2018 Biennial Budget.

Background Summary:

This is the third and final public hearing held concerning the preliminary 2017-2018 Biennial Budget. All persons interested are encouraged to participate in this public hearing by making comments, proposals, and suggestions to the City Council and Mayor to consider prior to adoption of the City of Auburn's 2017-2018 Biennial Budget.

Reviewed by Council Committees:**Councilmember:****Staff:**

Coleman

Meeting Date: November 7, 2016

Item Number: CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5253

Date:

October 31, 2016

Department:

CD & PW

Attachments:

[Resolution No. 5253](#)
[Right of Way Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5253.

Background Summary:

Resolution No. 5253 authorizes the Mayor to execute documents necessary to acquire property related to the Auburn Way South Corridor Safety Improvements (Muckleshoot Plaza to Dogwood St SE) project.

The property needs for this project include acquisition of a portion of one parcel for right-of-way and acquisition of permanent roadway, slope, and utility easements from another parcel.

The total estimated project costs are \$5,018,982. The right of way phase is anticipated to cost \$88,920 and will be funded with federal grant and City funds.

Reviewed by Council Committees:**Councilmember:****Staff:**

Snyder

Meeting Date: November 7, 2016

Item Number: RES.A

RESOLUTION NO. 5253

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO NEGOTIATE AGREEMENTS AND EXECUTE DOCUMENTS NECESSARY TO ACQUIRE PROPERTY RIGHTS RELATED TO CITY PROJECT CP1218 – AUBURN WAY SOUTH CORRIDOR SAFETY IMPROVEMENTS, MUCKLESHOOT PLAZA TO DOGWOOD ST SE

WHEREAS, the City is committed to constructing project CP1218 – Auburn Way South Corridor Safety Improvements, Muckleshoot Plaza to Dogwood St SE; and

WHEREAS, this project requires the acquisition of real property, including partial acquisitions; and

WHEREAS, this project requires the establishment of permanent easements for roadway and utilities, and temporary easements for construction; and

WHEREAS, the City Council has previously reviewed and approved Resolution No. 4856 that accepted federal funds for this project; and

WHEREAS, real property acquisition costs for this project are included in the approved City budget; and

WHEREAS, the policies and procedures that will be followed in regard to negotiation and purchase for these properties is governed by federal legislation and will be strictly adhered to; and

Resolution No. 5253
November 7, 2016
Page 1

WHEREAS, negotiation and purchase of these properties in an expeditious manner is imperative to the success of this project, and delay in the process would not be in the best interest of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. The Mayor is hereby authorized to negotiate agreements and execute all documents necessary to complete the acquisition of real property required to complete City project CP1218 – Auburn Way South Corridor Safety Improvements, Muckleshoot Plaza to Dogwood St SE, consistent with budgeted funds.

Section 2. That the Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2016.

CITY OF AUBURN

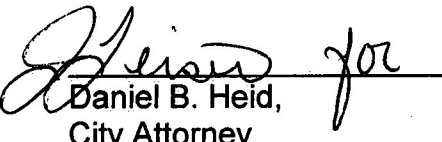
NANCY BACKUS
MAYOR

ATTEST:

Resolution No. 5253
November 7, 2016
Page 2

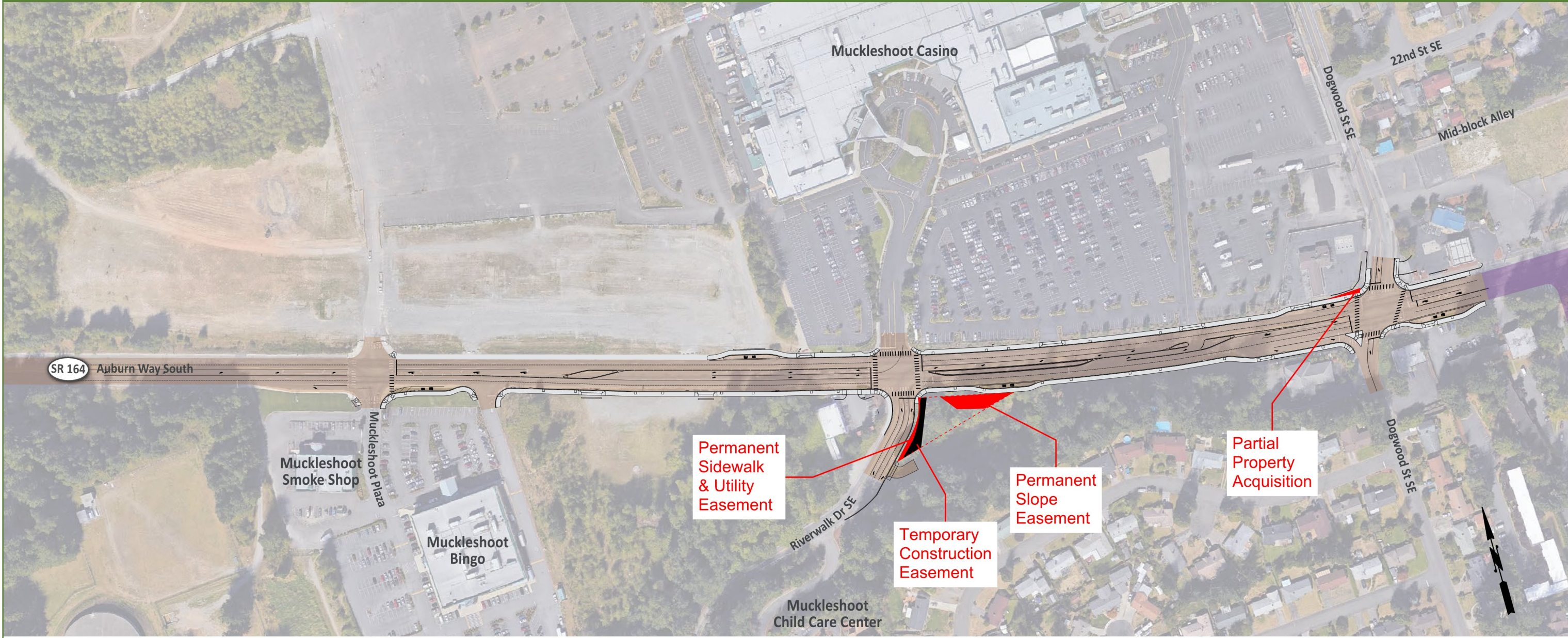
Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:


Daniel B. Heid,
City Attorney

Resolution No. 5253
November 7, 2016
Page 3

CP1218 Auburn Way South Corridor Safety Improvements
Muckleshoot Plaza to Dogwood Street SE



Aerial imagery ©2013 Digital Globe, US Geological Survey, USDA Farm Service Agency, Landsat, map data ©2013 Google

LEGEND

- CP1218 – Auburn Way South Corridor Safety Improvements
Muckleshoot Plaza to Dogwood Street SE
- CP1118 – Auburn Way South Pedestrian Improvements
Dogwood Street SE to Fir Street SE

