CITY OF AUBURN WASHINGTON	**City Council Meeting** **October 17, 2022 - 7:00 PM** **City Hall Council Chambers** **AGENDA** **Watch the meeting LIVE!** **Watch the meeting video** Meeting videos are not available until 72 hours after the meeting has concluded.

I. **CALL TO ORDER**

II. **LAND ACKNOWLEGEMENT**

We would like to acknowledge the Federally Recognized Muckleshoot Indian Tribe, the ancestral keepers of the land we are gathered on today. We thank them for their immense contributions to our state and local history, culture, economy, and identity as Washingtonians.

III. **PUBLIC PARTICIPATION**

1. Public Participation

The Auburn City Council Meeting scheduled for Monday, October 17, 2022 at 7:00 p.m. will be held in person and virtually.

Virtual Participation Link:

To view the meeting virtually please click the below link, or call into the meeting at the phone number listed below. The link to the Virtual Meeting is:

https://www.youtube.com/user/watchauburn/live/?nomobile=1

To listen to the meeting by phone or Zoom, please call the below number or click the link:

Telephone: 253 215 8782
Toll Free: 877 853 5257
Zoom: https://us06web.zoom.us/j/81850269195

A. **Pledge of Allegiance**

IV. **Roll Call**

V. **ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS**

VI. **APPOINTMENTS**

A. Junior City Council

City Council to approve the appointment of Emily Helms to the Auburn Junior City Council for a two year term to expire December 31, 2023

(RECOMMENDED ACTION: Move to approve the appointment of Emily Helms to the Auburn Junior City Council, for a two year term to expire December 31, 2023.)

B. Parks & Recreation Board

City Council to approve the appointment of Matt Jennings to the Parks & Recreation Board for a three year term expiring December 31, 2024

(RECOMMENDED ACTION: Move to approve the appointment of Matt Jennings to the Parks & Recreation Board, for a three year term to expire December 31, 2024.)

VII. AGENDA MODIFICATIONS

VIII. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Sprint Communications Company, L.P. Franchise Agreement No. FRN21-0003

   A Public Hearing to consider Franchise Agreement No. FRN21-0003 for Sprint Communications Company, L.P.

2. Public Hearing for the 2023 Community Development Block Grant Annual Action Plan

   A Public Hearing for the City of Auburn's Community Development Block Grant 2023 Annual Action Plan

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue.

1. The public can participate in-person or submit written comments in advance.

   The public can provide comments in-person or submit written comments in advance of the scheduled meeting. Participants can submit written comments via mail, fax, or email. All written comments must be received prior to 5:00 p.m. on the day of the scheduled meeting and must be 350 words or less.

   Please mail written comments to:
   City of Auburn
   Attn: Shawn Campbell, City Clerk
   25 W Main St
   Auburn, WA 98001

   Please fax written comments to:
   Attn: Shawn Campbell, City Clerk
   Fax number: 253-804-3116

   Email written comments to:

publiccomment@auburnwa.gov

If an individual requires an accommodation to allow for remote oral comment because of a difficulty attending a meeting of the governing body, the City requests notice of the need for accommodation by 5:00 p.m. on the day of the scheduled meeting. Participants can request an accommodation to be able to provide remote oral comment by contacting the City Clerk’s Office in person, by phone (253) 931-3039, or email to publiccomment@auburnwa.gov

C. **Correspondence - (There is no correspondence for Council review.)**

IX. 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.

1. Finance Ad Hoc Committee (Chair Baggett)

X. 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 September 20, 2022 and September 27, 2022 Special City Council Meetings

B. Minutes of the October 3, 2022 City Council Meeting

C. Claims Voucher (Thomas)

Claims voucher list dated October 17, 2022 which includes voucher numbers 469732 through 469902, in the amount of $4,504,369.72 and three wire transfers in the amount of $707,295.53

D. Payroll Voucher (Thomas)

Payroll check numbers 539421 through 539428 in the amount of $73,958.22, electronic deposit transmissions in the amount of $2,467,575.75 for a grand total of $2,541,533.97 for the period covering September 29, 2022 to October 12, 2022

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

XI. UNFINISHED BUSINESS

XII. NEW BUSINESS

XIII. RESOLUTIONS

A. Resolution No. 5683 (Comeau/Gaub)

A Resolution authorizing the Mayor to enter into a Lease Agreement with S50 Hangars, LLC at the Auburn Municipal Airport

(RECOMMENDED ACTION: Move to adopt Resolution No. 5683.)

B. Resolution No. 5684 (Backus)

A Resolution ratifying the rescission of Emergency Proclamation 2020-02 related to COVID-19

(RECOMMENDED ACTION: Move to adopt Resolution No. 5684.)

XIV. **MAYOR AND COUNCILMEMBER REPORTS**

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. **From the Council**

B. **From the Mayor**

XV. **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.

AGENDA BILL APPROVAL FORM

Agenda Subject:
Public Hearing for Sprint Communications Company, L.P. Franchise Agreement No. FRN21-0003

Date:
September 30, 2022

Department:
Public Works

Attachments:
Draft Ordinance No. 6887

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

City Council to hold a public hearing in consideration of Franchise Agreement No. FRN21-0003 for Sprint Communications Company, L.P.

Background for Motion:

Background Summary:

Section 20.04.040 of the Auburn City Code requires the City to hold a public hearing before granting or denying a franchise agreement. Franchise Agreement No. FRN21-0003 for Sprint Communications Company, L.P. will allow it to continue to operate existing fiber optic telecommunications within the City's public way.

The date of the public hearing was set by consent on October 3, 2022.

Reviewed by Council Committees:

Councilmember: Stearns **Staff:** Gaub

Meeting Date: October 17, 2022 Item Number: PH.1

ORDINANCE NO. 6887

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO SPRINT COMMUNICATIONS COMPANY, L.P. A DELAWARE CORPORATION, A FRANCHISE FOR TELECOMMUNICATIONS.

WHEREAS, Sprint Communications Company, L.P ("Franchisee") has applied to the City of Auburn ("City") for a non-exclusive Franchise for the right of entry, use, and occupation of certain public ways 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 public ways; and

WHEREAS, following proper notice, the City Council held a public hearing on Franchisee's request for a Franchise; and

WHEREAS, based on the 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 to grant the franchise to Franchisee.

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 in this Agreement, the City grants to the Franchisee general permission to enter, use, and occupy the Franchise Area specified in Exhibit "A", attached hereto and incorporated by reference. Franchisee may locate the Franchisee's Facilities within the Franchise Area subject to all applicable laws, regulations, and permit conditions.

B. The Franchisee is authorized to install, remove, construct, erect, operate, maintain, relocate, upgrade, replace, restore, and repair Franchisee's Facilities to provide Franchisee's Services in the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Franchisee Facilities and Franchisee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Franchisee Facilities and Franchisee Services, on public or private property elsewhere within the City.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise

Area, for any purpose that does not interfere with Franchisee's rights under this Franchise.

E. Except as explicitly set forth in this Agreement, this Franchise does not waive any rights that the City has or may acquire with respect to the Franchise Area or any other City roads, public ways, or property. This Franchise will be subject to the power of eminent domain, and in any proceeding under eminent domain, the Franchisee 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 public 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 Franchisee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to Chapter 35.79.030 RCW, within which the Franchisee may continue to operate any existing Franchisee Facilities under the terms of this Franchise for the remaining period set forth under Section 4.

G. The Franchisee 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.

Section 2. Definitions

For the purpose of this agreement and enforcement thereof, definitions of words and phrases shall be in accordance with Auburn City Code 20.02.020. In addition, the following definitions apply:

A. "ACC" means the Auburn City Code.

B. "Franchise Area" means the public ways as specified in Exhibit "A". Franchise Area does not include private property located outside of the public way which the Franchisee may utilize, lease, or otherwise use for placement of Franchisee Facilities with authorization or other permissions from third parties, and including any necessary permits from any regulatory authority.

C. "Franchisee's Facilities" means fiber optic and broadband communications services constructed and operated within the Franchise Area including all cables, wires, conduits, ducts, pedestals, and any associated converter equipment or other items necessary for Telecommunications Services as defined in Chapter 35.99.010(7) RCW, that are located in the Franchise Area.

Franchisee's Facilities do not include facilities used to provide wireless services, including antennas or other equipment, appliances, attachments and appurtenances associated with wireless telecommunications facilities. Franchisee's facilities do not include small wireless facilities, microcell, minor facility, or small cell facilities, as defined in Chapter 80.36.375 RCW. Franchisee's facilities do not include any facilities that are not located within the Franchise Area or that are covered under a separate Franchise Agreement or agreement.

D. "Franchisee's Services" means any telecommunications service, telecommunications capacity, or dark fiber, provided by the Franchisee using Franchisee's Facilities in the Franchise Area, including, but not limited to, the transmission of voice, data or other electronic information, or other subsequently developed technology that carries a signal over fiber optic cable. Franchisee's Services will also include non-switched, dedicated and private line, high capacity fiber optic transmission services to firms, businesses or institutions within the Franchise Area and other lawful services not prohibited by this Ordinance However, Franchisee's Services will not include the provision of "cable services", as defined by 47 U.S.C. §522, as amended, for which a separate franchise would be required.

Section 3. Notice

A. Written notices to the parties shall be sent by a nationally recognized overnight courier or by certified mail to the following addresses, unless a different address is designated in writing and delivered to the other party. Any such notice shall become effective upon receipt by certified mail, confirmed delivery by overnight courier.

City:
Right-of-Way Specialist,
Public Works Department - Transportation
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Telephone: (253) 931-3010;

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

Franchisee:
Sprint Communications Company L.P.
Mailstop: KSOPHT0101-Z2040
6220 Sprint Parkway
Overland Park, KS 66251-2650
Attn: Manager, Wireline Real Estate
Telephone: 913-315-3229
Email: ROWRenewals@t-mobile.com

With a Copy to: Sprint Communications Company L.P. c/o T-Mobile
Attn: Managing Attorney, Real Estate
12920 SE 38th Street
Bellevue, Washington 98006

B. Any changes to the above-stated Franchisee information shall be sent to the City's Right-of-Way Specialist, Public Works Department – Transportation Division, with copies to the City Clerk, referencing the title of this Agreement.

C. The above-stated Franchisee voice telephone numbers shall be staffed at least during normal business hours, Pacific time zone. The City may contact Franchisee at the following number for emergency needs: 800-877-6627, Option 1, provided, however, that the use of such phone number shall not constitute notice pursuant to the term of this Agreement.

Section 4. Term of Agreement

A. This Franchise shall run for a period of five (5) years, from the date of Franchise Acceptance as described in Section 5 of this Agreement. Franchisee may apply for renewal of this Franchise for one additional five year term by filing a complete application not less than 180 days before expiration of this Franchise following the process specified under ACC 20.04 as it now exists or is amended.

B. Automatic Extension. If the Franchisee fails to formally apply for a new franchise agreement prior to the expiration of this Franchise's term or any extension thereof, this Franchise automatically continues month to month until a new franchise agreement is applied for and approved under the then current process or until either party gives written notice at least one hundred and eighty (180) days in advance of intent to cancel this Franchise.

C. Notwithstanding the above provisions, Franchisee may terminate this Franchise at any time with 180 days' written notice. Such termination requires removal of Franchisee's Facilities under ACC 20.02.220.

Section 5. Acceptance of Franchise

A. This Franchise will not become effective until Franchisee files with the City Clerk (1) the Statement of Acceptance (Exhibit "B"), (2) all verifications of insurance coverage specified under Section 16, (3) the financial security specified in Section 17, and (4) payment of any outstanding application fees required in the City Fee Schedule. These four items will collectively be the "Franchise

Acceptance". The date that such Franchise Acceptance is filed with the City Clerk will be the effective date of this Franchise.

B. If the Franchisee fails to file the Franchise Acceptance with the City Clerk within thirty (30) days after the effective date of the ordinance approving the Franchise as described in Section 28 of this Agreement, the City's grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Franchisee shall apply for, obtain, and comply with the terms of all permits required under applicable law for any work done within the City. Franchisee will comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work.

B. Franchisee agrees to coordinate its activities with the City and all other utilities located within the public way within which Franchisee is undertaking its activity.

C. The City expressly reserves the right to prescribe how and where Franchisee's Facilities will be installed within the public way and may require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Franchisee as provided for in Chapter 35.99 RCW.

D. Before beginning any work within the public way, the Franchisee will comply with the One Number Locator provisions of Chapter 19.122 RCW to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City the Franchisee shall have the authority to trim trees upon and overhanging streets, public ways and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Franchisee's Facilities. Franchisee shall be responsible for debris removal from such activities. If such debris is not removed within 24 hours, the City may, at its sole discretion, remove such debris and charge the Franchisee 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 other permits as necessary from the city.

Section 7. Trench Repair for Street Restorations.

A. At any time during the term of this Franchise, if a Franchisee Facility or trench within the Franchise Area causes a street to crack, settle, or otherwise fail, the City will notify Franchisee of the deficiency and Franchisee agrees to restore the deficiency and repair the damage within thirty (30) days of written notice by the City.

B. For purposes of the Section, “street” shall mean all City owned improvements within a public way, including, but is not limited to, the following: pavement, sidewalks, curbing, above and below-ground utility facilities, and traffic control devices.

Section 8. Repair and Emergency Work

In the event of an emergency, the Franchisee may commence repair and emergency response work as required under the circumstances. The Franchisee will 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 Franchisee’s emergency contact phone number for corresponding response activity. The City may commence emergency response work, at any time, without prior written notice to the Franchisee, but will notify the Franchisee in writing as promptly as possible under the circumstances. Franchisee will reimburse the City for the City’s actual cost of performing emergency response work to the extent such emergency response work is required as a direct result of Franchisee’s Facilities. Franchisee will reimburse the City for Franchisee’s proportionate share of any direct and non-direct emergency response cost incurred by the City where the Franchisee’s Facilities are determined by the City to be a contributing factor to such emergency response work.

Section 9. Damages to City and Third-Party Property

Franchisee agrees that if any of its actions, or the actions of any person, agent, or contractor acting on behalf of the Franchisee under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Franchisee will restore, at its own cost and expense, the property to a safe condition. Upon returning the property to a safe condition, the property shall then be returned to the condition it was in immediately prior to being damaged (if the safe condition of the property is not the same as that which existed prior to damage). All repair work shall be performed and completed to the satisfaction of the City Engineer.

Section 10. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility or other franchisee, other than the Franchisee’s, which was installed, constructed, completed or in place prior in time to Franchisee’s application for a permit to construct or repair Franchisee’s Facilities under this Franchise shall have preference as to positioning and location with respect to the Franchisee's Facilities. However, to the extent that the Franchisee's Facilities are completed and installed before another utility or other franchisee's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the Franchisee's Facilities will have priority. These rules governing preference shall continue when relocating or changing the grade of any City road or public way. A relocating utility or franchisee will not cause the relocation of another utility or franchisee that otherwise would not require relocation. This Section will not apply to any City facilities or utilities that may in the future require the relocation of Franchisee's Facilities. Such relocations will be governed by Section 11 and Chapter 35.99 RCW.

B. Franchisee will maintain a minimum underground horizontal separation of five (5) feet from City water, sanitary sewer and storm sewer facilities and ten (10) feet from above-ground City water facilities; provided, that for development of new areas, the City, in consultation with Franchisee and other utility purveyors or authorized users of the public way, will develop guidelines and procedures for determining specific utility locations.

Section 11. Relocation of Franchisee Facilities

A. Except as otherwise so required by law, Franchisee agrees to relocate, remove, or reroute Franchisee's Facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by Chapter 35.99 RCW. Pursuant to the provisions of Section 15, Franchisee 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 Franchisee Facilities is necessitated by a request from a party other than the City, that party shall pay the Franchisee the actual costs associated with such relocation.

Section 12. Abandonment and or Removal of Franchisee Facilities

A. Within one hundred and eighty days (180) of Franchisee's permanent cessation of use of the Franchisee's Facilities, the Franchisee will, at the City's discretion, either abandon in place or remove the affected facilities.

B. Franchisee may ask the City in writing to abandon, in whole or in part, all or any part of the Franchisee's Facilities. Any plan for abandonment of Franchisee Facilities must be approved in writing by the City.

C. The parties expressly agree that this Section will survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Franchisee will underground the Franchisee's Facilities in the manner specified by the City Engineer at no expense or liability to the City, except as may be required by Chapter 35.99 RCW. Where other utilities are present and involved in the undergrounding project, Franchisee will only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Franchisee's Facilities. Common costs will include necessary costs for common trenching and utility vaults. Fair share will be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Franchisee Information

A. Franchisee agrees to supply, at no cost to the City, any information reasonably requested by the City to coordinate municipal functions with Franchisee's activities and fulfill any municipal obligations under state law. Said information will include, at a minimum, as-built drawings of Franchisee's Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, including the City's Geographic Information System (GIS) data base. Franchisee will keep the City informed of its long-range plans for coordination with the City's long-range plans.

B. The parties understand that Chapter 42.56 RCW and other applicable law may require public disclosure of information given to the City.

Section 15. Indemnification and Hold Harmless

A. Franchisee shall defend, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of Franchisee's acts, errors or omissions, or from any activity, work or thing done, permitted, or suffered by Franchisee arising from or in connection with this Franchise Agreement, except to the extent those claims, suits, action, liabilities, losses or damages are caused by the sole negligence or willful misconduct of the City.

However, 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 Franchisee and the City, its officers, officials, employees, and volunteers, the Franchisee's liability hereunder shall be only to the extent of the Franchisee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Franchisee'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.

B. The Franchisee will hold the City harmless from any liability arising out of or in connection with any damage or loss to the Franchisee's Facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, public way, or other property, except to the extent any such damage or loss is directly caused by the negligence of the City, or its agent performing such work.

C. The Franchisee 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 Franchisee, and its agents, assigns, successors, or contractors, will make such arrangements as Franchisee deems fit for the provision of such services. The Franchisee will hold the City harmless from any liability arising out of or in connection with any damage or loss to the Franchisee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 15(A), the Franchisee will indemnify the City against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

Section 16. Insurance

A. The Franchisee shall procure and maintain for the duration of this Agreement and as long as Franchisee has Facilities in the rights-of-way, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Agreement and use of the public way.

B. No Limitation. The Franchisee's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Franchisee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance. The Franchisee shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as a Certificate Holder and included as an additional insured under the Franchisee's Commercial General Liability insurance policy with respect this Franchise Agreement using ISO endorsement CG 20 12 05 09 if the franchise agreement is considered a master permit as defined by RCW 35.99.010, or CG 20 26 07 04 if it is not, or substitute endorsement providing at least as broad coverage.

2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

3. Contractors Pollution Liability insurance shall be in effect throughout the entire Franchise Agreement covering losses caused by pollution conditions that arise from the operations of the Franchisee. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.

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

5. Excess or Umbrella Liability insurance shall be excess over and at least as broad in coverage as the Franchisee's Commercial General Liability and Automobile Liability insurance. The City shall be included as an additional insured on the Franchisee's Excess or Umbrella Liability insurance policy.

D. Minimum Amounts of Insurance. The Franchisee shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than $5,000,000 each occurrence, $5,000,000 general aggregate.

2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of $5,000,000 per accident.

3. Contractors Pollution Liability insurance shall be written in an amount of at least $2,000,000 per loss, with an annual aggregate of at least $2,000,000.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and employer's liability insurance with limits of not less than $1,000,000.00.

5. Excess or Umbrella Liability insurance shall be written with limits of not less than $5,000,000 per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Franchisee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits.

E. Other Insurance Provisions. Franchisee's Commercial General Liability, Automobile Liability, Excess or Umbrella Liability, Contractors Pollution Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance for all alleged and actual negligence and intentional acts arising out of Franchisee operations as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Franchisee's insurance and shall not contribute with it.

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

G. Subcontractors and Independent Contractors. The Franchisee shall cause each and every subcontractor and independent contractor to provide insurance coverage that complies with all applicable requirements of the Franchisee-provided insurance as set forth herein, including limits no less than what is required of Franchisee under this Agreement. The Franchisee shall ensure that the City is a named certificate holder and included as an additional insured on each and every subcontractor's and independent contractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 26.

H. Verification of Coverage. The Franchisee shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of this Agreement. Upon request by the City, the Franchisee shall furnish evidence of all subcontractors' and independent contractors' coverage.

I. Notice of Cancellation. Franchisee shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

J. Failure to Maintain Insurance. Failure on the part of the Franchisee to maintain the insurance as required shall constitute a material breach of Agreement, upon which the City may, after giving five business days' notice to the Franchisee to correct the breach, terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.

K. Franchisee – Self-Insurance. Franchisee will 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. If the Franchisee is self-insured or becomes self-insured during the term of the Franchise Agreement, Franchisee or its affiliated parent entity shall comply with the following: (i) provide the City, upon request, a copy of Franchisee's or its parent company's most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iii) Franchisee assumes all defense and indemnity obligations as outlined in Section 15.

Section 17. Financial Security

The Franchisee will provide the City with a financial security in the amount of Fifty Thousand Dollars ($50,000.00) in the form of a performance bond running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. If Franchisee fails to substantially comply with any one or more of the provisions of this Franchise, beyond all applicable notice and cure periods, the City may recover jointly and severally from the principal and any surety of that financial security any damages suffered by the City as a result Franchisee's failure to comply, 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 Prior to City accessing the Performance Bond, it shall first give Franchisee written notice of its intention to do so and with that notice shall provide to Franchisee written documentation of the loss, damage or expense for which the City seeks compensation from the Performance Bond. Such notice and documentation shall be provided by City as soon as practicable as determined by the City, after the date of the occurrence which gives rise to City's claimed loss, damage or expense. Franchisee specifically agrees that its failure to comply with the terms of Section 20 will constitute damage to the City in the monetary amount set forth in that section. Any financial security will not be construed to limit the Franchisee's liability to the security amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 18. Successors and Assignees

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

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

C. Franchisee and any proposed assignee or transferee will provide and certify the following to the City not less than ninety (90) 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 in the amount established by the City's fee schedule, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

D. Before the City's consideration of a request by Franchisee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee will 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 before transfer does not waive any right to insist on full compliance thereafter.

Section 19. Dispute Resolution

A. In the event of a dispute between the City and the Franchisee arising by reason of this Agreement, the dispute will first be referred to the operational officers or representatives designated by City and Franchisee to have oversight over the administration of this Agreement. The officers or representatives will meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties will 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 will be governed by and construed in accordance with the laws of the State of Washington. If any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue will be exclusively in King County, Washington. The prevailing party in any such action will be entitled to its attorneys' fees and costs.

Section 20. Enforcement and Remedies

A. If the Franchisee willfully violates, or fails to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or fails to comply with any notice given to Franchisee under the provisions of this agreement, the City may, at its discretion, provide Franchisee 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 Franchisee'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 Franchisee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars ($250.00) per day against the financial security set forth in Section 17 for every day after the expiration of the cure period that the breach is not cured.

B. If the City determines that Franchisee is acting beyond the scope of permission granted in this Franchise for Franchisee Facilities and Franchisee Services, the City reserves the right to cancel this Franchise and require the Franchisee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Franchisee's actions are not allowed under applicable federal and state or City laws, to compel Franchisee to cease those actions.

Section 21. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Franchisee will comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations**,** affecting performance under this Franchise. The Franchisee will 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 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 enacted, amended, or adopted after the effective date of this Franchise if it provides Franchisee 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. The amendment will become automatically effective on expiration of the notice period unless, before expiration of that period, the Franchisee 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 Franchisee'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 Franchisee, if the Franchisee fails to comply with such amendment or modification.

Section 22. License, Tax and Other Charges

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

Section 23. Consequential Damages Limitation

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

Section 24. Severability

If any portion of this Franchise is deemed invalid, the remainder portions will remain in effect.

Section 25. Titles

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

Section 26. Implementation.

The Mayor is authorized to implement those administrative procedures necessary to carry out the directions of this legislation.

Section 27. 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 Franchisee's operation of Franchisee’s Facilities are hereby superseded.

Section 28. Effective date.

This Ordinance will 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:

____
Shawn Campbell, City Clerk
APPROVED AS TO FORM:

____
Kendra Comeau, City Attorney

Published: _________________

EXHIBIT "A"

FRANCHISE AREA

Sprint fiber optic cable is located in the Union Pacific Railroad Road property that runs north/south through the City and occupies Five Hundred and Forty-Two (542) +/- linear feet of City public way through six east/west road crossings pursuant to City of Auburn, WA Public Works Department ROW Use Permit No. 87-02 issued September 15, 1987. The specific crossing locations that make up the Franchise Area are adjacent to the Union Pacific Rail line and are as follows:

1. Crossing at S 277th Street, 80 feet 4 inches.
2. Crossing S 285th Street (aka 44th Street NW), 110 feet 4 inches.
3. Crossing 37th Street NW, 90 feet 4 inches.
4. Crossing 29th Street NW, 30 feet.
5. Crossing West Main Street, 90 feet 4 inches.
6. Crossing 15th Street SW, 140 feet 4 inches.

EXHIBIT "B"

STATEMENT OF ACCEPTANCE

Sprint Communications Company L.P., 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.

Franchisee Name: Sprint Communications Company L.P.
Address: 6200 Sprint Parkway; KSOPHD1010-Z2040
City, State, Zip: Overland Park, Kansas 66251

By: ______________________________ Date: _______________________
Name: Mike Simpson
Title: SVP and Chief Procurement Officer

STATE OF _______________)
)ss.
COUNTY OF _____________)

On this ____ day of _______________, 2022, 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: _____________

AGENDA BILL APPROVAL FORM

Agenda Subject:
Public Hearing for the 2023 Community Development Block Grant Annual Action Plan

Date:
October 7, 2022

Department:
Community Development

Attachments:
1. Notice of Public Hearing
2. Draft Community Development Block Grant 2023 Annual Action Plan

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

City Council to hold a Public Hearing for the City of Auburn's Community Development Block Grant 2023 Annual Action Plan.

Background for Motion:

Background Summary:

The City of Auburn's Community Development Block Grant (CDBG) Citizen Participation Plan requires Public Hearings to be held at two key stages of the Annual Action Planning process – prior to development to gain input on what should be included, and after the Action Plan has been drafted. The City of Auburn Human Services Committee held an initial Public Hearing during their August 22, 2021 meeting.

The proposed 2023 Annual Action Plan is a requirement for the Department of Housing and Urban Development's CDBG Program. The Action Plan describes housing and community development needs as well as proposed activities to address those needs. The Action Plan will reflect all public comments received. The Action Plan brings together the planning and funding recommendations for human services, neighborhood revitalization, and capital improvements funded by the Community Development Block Grant program.

The draft plan is posted on the City's Community Services Division webpage, and written copies are available upon request.

Reviewed by Council Committees:

Councilmember:	Stearns	**Staff:**	Tate
Meeting Date:	October 17, 2022	Item Number:	PH.2

Department of Community Development
Community Services Division
25 West Main Street
Auburn, Washington 98001

Contact:
Joy Scott, Community Services Manager.
Phone: (253) 876-1965
Email: jfscott@auburnwa.gov

NOTICE OF PUBLIC HEARING AND PUBLIC COMMENTS SOUGHT REGARDING THE 2023 ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Auburn, Washington — The City Council will conduct a public hearing in the Auburn City Hall Council Chambers, 25 West Main Street, on Monday, October 17, 2022 at 7:00 p.m. or soon thereafter. The purpose of this public hearing is to solicit public comments on the 2023 CDBG Annual Action Plan prior to its submission to the U.S. Department of Housing and Urban Development (HUD).

The proposed 2023 Annual Action Plan is a requirement for the Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) Program. The Action Plan will describe housing and community development needs as well as proposed activities to address those needs. The Action Plan will reflect all public comments received. The Action Plan brings together the planning and funding recommendations for human services, neighborhood revitalization and capital improvements funded by the Community Development Block Grant program. The Plan includes project descriptions, recommended funding and proposed accomplishments for the 2023 program year.

In accordance with 24 CFR 91 of HUD, the City of Auburn solicits comments and public input for its 2023 Community Development Block Grant (CDBG) program.

Copies of the City's 2020-2024 Consolidated Plan and the Draft 2023 Action Plan are available, at no charge, from the City of Auburn's Community Services Department located at 25 W. Main Street, Auburn, 98001. It is also posted on the City's website at www.auburnwa.gov/communityservices.

Interested residents may offer oral comments at the Auburn City Council public hearing on Monday, October 17, 2022 at 7:00pm.

The public can provide comments in-person or submit written comments in advance of the scheduled meeting. Written comments regarding input on needs, priorities, or funding for the 2023 Annual Action Plan may be submitted via mail, fax, or email.

Please mail written comments to:
City of Auburn
Dept of Community Development
Attn: Joy Scott, Community Services Manager
25 W Main St
Auburn, WA 98001

Please fax written comments to:
Attn: Joy Scott, Community Services Manager
Dept of Community Development
Fax number: 253-804-3114

Email written comments to:
Dept of Community Development
jfscott@auburnwa.gov

If an individual requires an accommodation to allow for remote verbal comment because of a difficulty attending a meeting of the board or commission, the City requests notice of the need for accommodation by 3:00 p.m. on the day of the scheduled meeting. Participants can request an accommodation to be able to provide remote verbal comment by contacting the Community Services Manager in person, by phone (253) 876-1965, or email to jfscott@auburnwa.gov.

Comments can also be submitted online, at www.speakupauburn.org/cdbg. Comments will be accepted until 11:59pm on October 17, 2022.

Non-English speaking residents and citizens with speech, sight, or hearing impairments who wish to comment at the public hearing should contact the Auburn Department of Community Development. Each request will be considered individually according to the type of assistance required, the availability of resources, and the financial ability of the City to provide accommodation.

DO NOT PUBLISH BELOW THIS LINE

Please publish in the Seattle Times on September 16, 2022.

Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

Each year the City of Auburn executes specific actions to implement the goals and strategies of the Consolidated Plan for Years 2020-2024. Actions that will be undertaken in 2022 are outlined in this Annual Action Plan.

The City of Auburn anticipates the receipt of $615,000 in Community Development Block Grant (CDBG) funds in 2023. The City is also reprogramming $23,577 of 2021 funds from projects that were underspent in their original program year, primarily from Planning and Administration. These funds, previously highlighted within minor amendments in their original plan year, were set aside to support more substantial projects to be included in a future year. These funds are reflected in the project and activity funding within this Action Plan. In addition to CDBG funds, the City is planned to allocate approximately 1.3% of the City's General Funds to Human Services. The City's Human Services program, housed in the Community Services Division, oversees and is responsible for providing and managing financial resources to more than 30 non-profit agencies that serve the Auburn community. The Community Services division is also responsible for administering the local housing repair program and developing collaborations among community partners to strengthen the response to residents in need.

The 2023 Action Plan proposes to allocate $92,112 of CDBG funds to public services. Consistent with the goals established in the City's Consolidated Plan, these funds will be used to support Homelessness Prevention and Intervention.

Approximately $120,000 of the CDBG funds will be allocated to program administration, which includes planning and administration of the CDBG program overall, citizen participation, reporting, and administration of the City's CDBG-funded Housing Repair Program. $125,000 of the 2023 funding is designated to support sidewalk ADA improvements in low- to moderate-income residential areas. The City will also be making $75,000 available through a competitive RFP process for Microenterprise Assistance. The remaining $202,888 will be allocated to residential rehabilitation, providing free minor home repair services to low- and very low-income Auburn residents.

The City of Auburn is committed to continuing to focus on achieving equitable outcomes for its community members and achieving a greater collaboration among service providers. Overall the implementation of the Consolidated Plan is progressing as planned and the primary activities included are underway.

2. Summarize the objectives and outcomes identified in the Plan

This Action Plan allocates a total of $615,000 dollars in anticipated 2023 Community Development Block Grant funds, to support the Community Development Block Grant program. With the overall goal of reducing the number of people living in poverty within the City of Auburn, the following objectives and outcomes will be employed:

1. Affordable Housing: The City of Auburn will engage in housing activities, collaborations, and partnerships to enhance opportunities for the creation and preservation of affordable housing. The City will plan for and support fair housing strategies and initiatives designed to affirmatively further fair housing choice, and to increase access to housing and housing programs.
2. Ending Homelessness: The City of Auburn will support Public Service activities that work toward the following outcomes: 1) reduce the number of households becoming homeless; 2) reduce the length of time that households are homeless; 3) increase the rate of exits to permanent housing; and 4) reduce the number of households that re-enter the homeless system after exit to permanent housing.
3. Community and Economic Development: In an effort to meet the need of Auburn's economic and demographic growth the City intends to fund programs and activities that will enhance the economy, accessibility, safety, and physical appearance of neighborhoods. Activities that would be eligible for funding include fair housing public services, public infrastructure and ADA improvements for public facilities, microenterprise assistance, and economic development activities. These investments help to ensure equitable opportunities for good health, happiness, safety, self-reliance and connection to community.
4. Planning and Administration: Administer the Community Development Block Grant program to meet the community needs and HUD requirements

To accomplish these outcomes and objectives, the City invests in programs that meet the community basic needs, increase self-sufficiency, provide economic opportunity and develop a safe community.

3. Evaluation of past performance

During the past year Auburn has accomplished significant achievement on its programs and impacted the lives of thousands of residents. In 2021 alone, projects funded by the City completed the following:

- 52 very low- and low-income Auburn homeowners received housing repair services. Roughly 70% of these homeowners were seniors.
- 268 low- to moderate-income Auburn residents impacted by the COVID-19 pandemic received emergency subsistence supports.
- 188 Seniors living in King County Housing Authority properties received food assistance to support needs due to the pandemic.
- 70 Youth experiencing homelessness benefitted from increased access to behavioral health supports.
- 12 individuals economically impacted by covid received job training and placement services.
- 86 low income individuals impacted by the pandemic received childcare services.
- A sidewalk project was completed to support greater ADA accessibility for Auburn residents, with an estimated direct impact for 1,335 residents.

The City of Auburn has prioritized COVID response with CDBG funds over the course of the pandemic. In addition to fully allocating the CDBG-CV funds made available, the City reallocated $205,000 of 2020 CDBG-EN funds to public services directed towards those impacted by the COVID-19 pandemic. The City also applied for and received over $170,000 of CDBG-CV2 funds from the State Department of Commerce to support eviction prevention efforts in the community in 2021 and 2022.

4. Summary of Citizen Participation Process and consultation process

The city is engaged in a public participation process for the 2023 Annual Action Plan, as outlined below:

- Drafts of the Action Plan have been made available for public via mail and on the City's website and notices of its public view were publicized in the local newspaper as of September 16, 2022. Interested community members can provide comment via mail, email, or on the City's public engagement web platform, Speak Up Auburn!, at www.speakupauburn.org/cdbg.
- A public hearing was provided on August 22, 2022, during the City's Human Services Committee meeting to hear public comment and input on priorities to be included in the 2023 Annual Action Plan.

- An additional public hearing will be held on October 17, 2022, during the Auburn City Council meeting, to hear public comment and input on the published draft of the 2023 Annual Action Plan.

The City of Auburn in conjunction with the King County CDBG Consortium consulted with multiple public and private agencies during the development of the consolidated plan. Consultations occurred during regional meetings as well as in individual conversations. Agencies that participated in consultations regarding public services, fair housing, and other topics relevant to the drafting of the 2023 Annual Action Plan included: the South King Housing and Homelessness Partners, local legal assistance providers, other government human service providers and nonprofit agencies delivering services in Auburn and the sub-region.

In addition to conducting consultations during the development of the plan, the City of Auburn collaborates and works closely with numerous coalitions, committees and government entities.

5. Summary of public comments

Public comments received will be reflected here.

6. Summary of comments or views not accepted and the reasons for not accepting them

Public comments received will be reflected here.

7. Summary

Public comments received will be reflected here.

PR-05 Lead & Responsible Agencies - 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	AUBURN	Community Development Department
CDBG Administrator	AUBURN	Community Development Department
ESG Administrator	KING COUNTY	DCHS

Table 1 – Responsible Agencies

Narrative

The City of Auburn, as a member of the King County Consortium, administers its own CDBG funds and prepares its own Consolidated Plan and Annual Action Plans for the administration of those funds.

As a member of the King County Consortium, the City works closely with numerous nonprofit organizations in the region that implement programs funded by the City of Auburn CDBG program. A detailed list of agencies responsible for administering funded programs by CDBG can be found in the Action Plan section of this document.

Consolidated Plan Public Contact Information

Joy Scott

Community Services Manager
City of Auburn
25 West Main Street
Auburn, WA 98001
253.876.1965
jfscott@auburnwa.gov

AP-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

This section describes the community consultation process followed by the City of Auburn in developing the 2023 Annual Action Plan and the coordination with other local governments, the Continuum of Care, service agencies, and community stakeholders. The City of Auburn consulted with multiple public and private agencies as well as community members during the development of the Consolidated Plan.

In addition to conducting consultations during the development of the plan, the City of Auburn collaborates and works closely with numerous coalitions, committees, and government entities throughout the duration of the plan in efforts to enhance strategies and systems to meet established goals and objectives of the plan.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

The City of Auburn works closely with partnering King County jurisdictions, public housing authorities and health providers to develop systems in order to improve the quality of service and access for low-income residents as well as the community as a whole within the city and throughout the region.

The City of Auburn, in partnership with the Seattle-King County Coalition on Homelessness, convenes a monthly group of service providers, faith communities, community advocates, and others, to coordinate efforts on serving individuals experiencing homelessness in South King County. The meeting provides a venue for resource sharing, collaboration, training, and best practice implementation. City staff also participate in regional collaborative and decision making bodies such as the King County Joint Recommendations Committee (JRC) and the South King County Human Services Planners group. The city is a member of the King County Human Services Funder Collaborative, which provides a more streamlined process for human service agencies to access funding from multiple cities.

Additionally, the City participates in monthly Homelessness Action Committee meetings with staff from King County Department of Community and Human Services, Public Health King County, the Housing Development Consortium, Valley Cities, the Multi-Service Center, and the King County Housing Authority to review program progress and delivery of homeless services funded through regional efforts. In addition to these groups, the City's regional collaboration work on affordable housing is supported by the South King Housing and Homelessness Partners, which Auburn and other South King County Cities contribute to in order to build additional capacity to address issues related to housing and homelessness in the South King County region.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

In 2016, King County and All Home, our region's Continuum of Care (CoC) lead agency at the time, launched the Coordinated Entry for All (CEA) system for homeless populations and our region has been refining the system since then. National research identifies coordinated entry as a key component for an effective homeless system because it improves the quality of client screening and assessment, matches clients to appropriately targeted services and resources, and promotes a more efficient use of resources. CEA processes and prioritizes assistance based on vulnerability and severity of service needs to ensure that people who need assistance the most can receive it in a timely manner.

Chronically homeless individuals and families, families with children, veterans, unaccompanied youth, and young adults are a part of the coordinated system. In addition, CEA utilizes regional access points which serve as the primary "front door" for the homeless housing system.

In 2021, the newly-created King County Regional Homelessness Authority (KCRHA) became our CoC lead agency, and has worked to consolidate structures and contracts across King County and Seattle to create greater efficiency and maximize impact.

In 2022, this work continued and Auburn remained a partner in the work of the KCRHA. Auburn's mayor currently sits on the Governance Board of the Regional Homelessness Authority, and staff participate in bi-weekly meetings with KCRHA to collaborate and inform the work they are overseeing, particularly in regards to subregional planning.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The ESG program focuses on assisting people to quickly regain stability in permanent housing after experiencing homelessness or a housing crisis. Auburn does not receive ESG funds directly.

Coordinating with King County's Continuum of Care (CoC) is critical to our region's implementation. The City will continue to look for deeper ways of participating in and collaborating with the Regional Homelessness Authority and its Advisory Committee, which serves as our Continuum of Care.

The City of Auburn supports the continuum of housing including prevention, emergency shelter, and permanent housing. The City provides financial support for these efforts with City general funds and also commits staff and leadership time to the ongoing development and implementation of the system to address the needs of persons experiencing homelessness.

The City participates in and supports numerous coalitions and committees, such as the South King County Forum on Homelessness and the Homelessness Action Committee, focusing on developing resources in South King County. The City also participates in the annual Point in Time Count, which provides invaluable data for planning. The Point In Time Count was conducted utilizing a new methodology in 2022, which included over 500 in depth interviews with individuals experiencing homelessness. KCRHA utilized geographic hubs to reach individuals during this Count. One of the hub locations was located in Auburn. The City provides both CDBG and local funds to agencies that serve chronically homeless individuals and families with children, veterans, and unaccompanied youth.

2. Agencies, groups, organizations and others who participated in the process and consultations

1	**Agency/Group/Organization**	KING COUNTY
	Agency/Group/Organization Type	Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	As a member of the King County Housing Consortium for the purpose of HOME funds, Auburn works closely with King County in the development of the City's and the County's Consolidated Plan. Because the two entities have a cardinal role in each other's program delivery there is active participation from both parties in the development of the plan. Staff from King County and Auburn met regularly prior to and during the development of the plan, and Auburn rotates as a regular voting member of the County’s Joint Recommendations Committee.

2	**Agency/Group/Organization**	KENT
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Lead-based Paint Strategy Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	As members of the Urban County Consortium, Auburn and Kent staff worked closely together during the development of the Consolidated Plan. Staff from both cities attend monthly meetings to discuss human services and housing trends, needs, and progress on ongoing initiatives.
3	**Agency/Group/Organization**	FEDERAL WAY
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Lead-based Paint Strategy Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	As members of the Urban County Consortium, Auburn and Federal Way staff worked closely together during the development of the Consolidated Plan. Staff from both cities attend monthly meetings to discuss human services and housing trends, needs, and progress on ongoing initiatives.

4	**Agency/Group/Organization**	King County Regional Homelessness Authority
	Agency/Group/Organization Type	Planning organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	Auburn participates in monthly meetings convened by the King County Regional Homelessness Authority (KCRHA) on homeless response needs and strategy in SKC, and bimonthly meetings focused on affordable housing data and developments. The information collected by KCRHA helps to inform multiple pieces of our Annual Action Plan, particularly those strategies related to homelessness and affordable housing in our community.
5	**Agency/Group/Organization**	Seattle-King County Coalition on Homelessness
	Agency/Group/Organization Type	Services-homeless Nonprofit agency
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth

	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	Auburn is a member of the Seattle-King County Coalition on Homelessness (SKCCH), and co-convenes a monthly group of service providers working with people experiencing homelessness in our communities. The meetings provide a frequent check-in point, and the opportunity to hear from providers directly on the challenges and trends they're seeing in Auburn. The Coalition on Homelessness' organizational members include agencies and community groups that provide emergency shelter and services, transitional housing, and permanent, supported housing to the roughly 27,000 men, women, and children who are homeless in King County during one year.
6	**Agency/Group/Organization**	South King County Housing and Homelessness Partners
	Agency/Group/Organization Type	Other government - Local Regional organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth

	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	South King Housing and Homelessness Partners (SKHHP) is a coalition formed by an interlocal agreement between the jurisdictions of Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Maple Valley, Normandy Park, Renton, Tukwila, and King County. The agreement allows for South King County jurisdictions to work together and share resources in order to effectively address affordable housing and homelessness. This collaborative model is based on similar approaches used in Snohomish County, East King County, and other areas of the country. The purpose of the coalition is to increase the available options for South King County residents to access affordable housing and to preserve the existing affordable housing stock.

Table 2 – Agencies, groups, organizations who participated

Identify any Agency Types not consulted and provide rationale for not consulting

A wide range of groups and organizations participated in the process including public funders from Washington State and King County partner jurisdictions, public housing authorities, members from the Seattle-King County Housing Development Consortium, stakeholders, housing providers for low-and-moderate income persons, agencies who serve persons who are homeless, and Seattle-King County Public Health. In addition to the consultations referenced above, Auburn, King County and Consortium partner staff coordinate closely with each other and fan out to participate and attend a wide range of standing meetings with city planners, housing and service providers.

The only types of organizations not consulted with were corrections facilities. The rationale for not consulting with these facilities is that the City does not host this type of organization.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	King County Regional Homeless Authority	The goals of Auburn's Strategic Plan overlap with the goals of the CoC to address the needs of homeless residents in the community and reduce the risk of homelessness.

Table 3 - Other local / regional / federal planning efforts

Narrative

AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation
Summarize citizen participation process and how it impacted goal-setting

Public participation plays a crucial role in the success of the City's Annual Action Plan. The goals are to hear the community's feedback and recommendations on how CDBG funds should be invested and how services can coordinate to achieve the greatest impact. In addition to the targeted outreach listed below, the City regularly engages service providers and stakeholders in discussions regarding human services and local economic development needs. Organizations funded by the city are monitored throughout the year and report quarterly on progress, trends, and challenges. City staff co-host a monthly meeting of service providers working with individuals and families experiencing homelessness in the region to gather feedback and support increased capacity building through broad collaboration of regional providers. In addition, City staff meet regularly with other cities in the area and other funders to evaluate gaps in services and seek solutions to local and regional community development challenges.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1.	Public Hearing	Non-targeted/broad community				
2.	Newspaper Ad	Non-targeted/broad community				
3.	Web posting on Speak Up Auburn	Non-targeted/broad community				www.speakupauburn.or/cdbg
4.	Web posting on City's Community Services page	Broad community, Service providers in Auburn				www.auburnwa.gov/community services

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

Introduction

The City of Auburn anticipates funding for the duration of the Consolidated Plan from

- CDBG
- City of Auburn General Fund allocation for Human Services

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	**Public-federal**	Admin and Planning Fair Housing Public Improvements Public Services	**$615,000**	**0**	**$23,577**	**$615,000**	**$1,230,000**	**Auburn is anticipating approximately $615,000 per year in CDBG funds for the remainder of the Consolidated Plan period.**
General Fund	**Public - local**	Public Services	**Estimated: $1,200,000**	**0**	**0**	**Estimated: $1,200,000**	**$2,400,000**	

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City of Auburn relies on CDBG funds to support community and economic development projects and activities in efforts to support low to moderate income populations to become self-sufficient and sustain affordable housing. However, CDBG funds are not the only source of funds the City uses to support community projects and activities. The City's general funds are used to support direct services benefitting Auburn's at risk populations in addition to CDBG funds.

CDBG funds do not require matching funds.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

N/A

Discussion

The City of Auburn will use CDBG funds to support all eligible projects and activities that align with CDBG guidelines and regulations.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Affordable Housing	2020	2024	Affordable Housing Public Housing Homeless Non-Homeless Special Needs		Affordable Housing	CDBG: $202,888	Homeowner Housing Rehabilitated: 65 Household Housing Unit
2	Ending Homelessness	2020	2024	Homeless		Ending Homelessness	CDBG: $92,112	Public service activities other than Low/Moderate Income Housing Benefit: 96 Persons Assisted
3	Community and Economic Development	2020	2024	Non-Homeless Special Needs Non-Housing Community Development		Community and Economic Development	CDBG: $200,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 500 Persons Assisted Microenterprise Assistance: 30 Persons Assisted
4	Planning and Administration	2020	2024				CDBG: $120,000	Other: 0 Other

Table 6 – Goals Summary

Goal Description

1	**Goal Name**	Affordable Housing
	Goal Description	The City of Auburn will engage in housing activities, collaborations, and partnerships to enhance opportunities for the creation and preservation of affordable housing. The City will plan for and support fair housing strategies and initiatives designed to affirmatively further fair housing choice, and to increase access to housing and housing programs.
2	**Goal Name**	Ending Homelessness
	Goal Description	The City of Auburn will support Public Service activities that work toward the following outcomes: 1) reduce the number of households becoming homeless; 2) reduce the length of time that households are homeless; 3) increase the rate of exits to permanent housing; and 4) reduce the number of households that re-enter the homeless system after exit to permanent housing.
3	**Goal Name**	Community and Economic Development
	Goal Description	In an effort to meet the need of Auburn's economic and demographic growth the City intends to fund programs and activities that will enhance the economy, accessibility, safety, and physical appearance of neighborhoods. Activities that would be eligible for funding include fair housing public services, public infrastructure and ADA improvements for public facilities. These investments help to ensure equitable opportunities for good health, happiness, safety, self-reliance and connection to community.
4	**Goal Name**	Planning and Administration
	Goal Description	General administration and project management

AP-35 Projects - 91.420, 91.220(d)

Introduction

Auburn's Annual Action Plan provides descriptions of proposals of how funds will be prioritized to achieve goals identified in the Consolidated Plan. Projects funded by the City will address the priority needs of providing assistance to prevent homelessness, ensure affordable housing and a suitable living environment. Projects and programs are selected through a competitive application process to ensure optimal quality services is provided to the community in use of the funds.

#	Project Name
1	HOUSING REPAIR
2	ADMINISTRATION
3	SOLID GROUND HOUSING STABILITY PROGRAM
5	MICROENTERPRISE ASSISTANCE
6	ADA SIDEWALK IMPROVEMENTS

Table 7 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocations proposed are based on the assessment of Auburn's needs, the resources available in the region, the availability of other funds also focusing on needs, and the purpose of Consolidated Plan funds. In addition to supporting Consolidated Plan goals, the inclusion of microenterprise assistance is responsive to increased need for support post-pandemic that we have seen in our small business community.

Should CDBG revenues exceed the proposed amount, the additional resources shall be allocated in accordance to the following guidelines:

- Fill gaps in human services primarily healthcare, homeless prevention and intervention and affordable housing accessibility.
- Increase funding for community development projects and activities including housing, community facilities and economic development.

If increases are not significant enough to enhance projects or activities funds may be placed in contingency for programming later in the year or the following program year.

Should CDBG revenues come in lower than anticipated; the City will continue with its planned policy and to the extent allowed reduce funding allocations in homeowner rehabilitation projects and administrative activities.

Should CDBG revenues come in less than originally proposed, the City will continue managing the programs with decreased resources to the extent possible and reduce funding allocations in administrative activities and not public services.

AP-38 Project Summary

Project Summary Information

1	**Project Name**	Housing Repair
	Target Area	None
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing
	Funding	CDBG: $202,888
	Description	Maintain the affordability of decent housing for low-income Auburn residents by providing repairs necessary to maintain suitable housing for low income Auburn homeowners.
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	An estimated 65 low- and very low-income families will benefit from the housing repair program. As the City's largest homeless prevention program, housing repair ensures the sustainability of a safe home for some of Auburn's most vulnerable residents. Of the 65 low to moderate income residents who apply for the program, over half of them are of the senior and disabled population.
	Location Description	n/a
	Planned Activities	Activities include minor home repairs.
2	**Project Name**	Administration
	Target Area	None
	Goals Supported	All
	Needs Addressed	Planning and Administration
	Funding	CDBG: $120,000
	Description	General administration and project management

	Target Date	12/31/2022
	Estimate the number and type of families that will benefit from the proposed activities	n/a
	Location Description	n/a
	Planned Activities	General planning and administration of the CDBG programs include: management of the housing repair program, management of all CDBG related finances, all grant reporting, monitoring of subrecipients and providing guidance of program implementation in Auburn.
3	**Project Name**	Solid Ground Housing Stability Program
	Target Area	
	Goals Supported	End Homelessness
	Needs Addressed	Ensure a Suitable Living Environment
	Funding	CDBG: $92,112
	Description	Provide time limited emergency subsistence/rental assistance to Auburn residents paired with supportive services based on the progressive engagement model to support homelessness prevention and increased housing stability. This is a public service activity.
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	60 low to moderate income Auburn residents will benefit from the housing stability program.
	Location Description	n/a
5	**Project Name**	Microenterprise Assistance
	Target Area	

	Goals Supported	Community and Economic Development
	Needs Addressed	Ensure a Suitable Living Environment.
	Funding	CDBG: $75,000
	Description	Make funds available through an RFP process to nonprofit agencies to provide Microenterprise Assistance services to low to moderate income Auburn residents.
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	An estimated 30 low income households will benefit from the proposed activity.
	Location Description	n/a
6	**Project Name**	ADA Sidewalk Accessibility Improvements
	Target Area	none
	Goals Supported	Community and Economic Development
	Needs Addressed	Ensure a Suitable Living Environment
	Funding	CDBG: $148,577

	Description	Provide sidewalk ADA improvements in low- to moderate-income residential areas of Auburn, improving accessibility, safety, and community connectedness.
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	500 low to moderate income Auburn residents will benefit from the improvements.
	Location Description	The specific location of 2023 sidewalk ADA improvement projects has not been finalized, but the City aims to support improvements in low income residential areas, especially in those areas where a project can support greater residential connections to transit and services.
	Planned Activities	TBD

AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The City of Auburn intends on distributing funds throughout the jurisdiction.

Geographic Distribution

Target Area	Percentage of Funds

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

Due to the fact that all areas of Auburn have low to moderate income families dispersed throughout the entire City, the City intends on investing throughout the entire jurisdiction to ensure that all populations throughout the region have access to beneficial programs and housing opportunities.

Discussion

Due to the fact that all areas of Auburn have low to moderate income families dispersed throughout the entire City, the City intends on investing throughout the entire jurisdiction to ensure that all populations throughout the region have access to beneficial programs and housing opportunities.

AP-75 Barriers to affordable housing -91.420, 91.220(j)

Introduction

The City of Auburn will continue to work with service providers, the housing authority and residents in coordination to fully address and develop systems and strategies to promote their efforts in providing sustainable, affordable housing.

Auburn's partnerships with organizations such as the King County Housing Authority, South King Housing and Homelessness Partners, and the Housing Development Consortium of Seattle King County have allowed the City to explore new and innovative strategies to continue to offer affordable housing to its current and prospective residents.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The City of Auburn will continue to look at policies that remove barriers to affordable housing. The City of Auburn's Comprehensive Land Use Plan includes several policies and objectives that will guide the city toward achieving its affordable and fair housing goals. These policies include maintaining flexibility in land use to achieve a balanced mix of affordable housing opportunities. The City will continue to pursue mixed use developments that are consistent with the transportation oriented developments located in Auburn's downtown. The City will look for opportunities with public and private agencies to implement policies and offer programs that help alleviate physical and economic distress, conserve energy resources, improve the quality and quantity of community services, and eliminate conditions that are detrimental to health, safety and public welfare.

In 2019, the Washington State Legislature adopted House Bill 1923, which awarded grants in the amount up to $100,000 to cities for the purpose of increasing residential capacity. The City of Auburn partnered with five other South King County jurisdictions to establish a sub-regional framework of existing conditions. The results of that effort were used to inform and aid in the development of Auburn’s own Housing Action Plan.

Auburn’s Housing Action Plan focuses on encouraging construction of additional affordable and market rate housing in a greater variety of housing types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market.

The Housing Action Plan aims to address the following four goals:

A) Encourage market rate development in Downtown Auburn: more development and denser development

B) Encourage the development of below-market workforce housing in Downtown Auburn

C) Encourage the development of middle housing types in R-5 and R-7 Zones in the Study Area

D) Prevent displacement and encourage the preservation of existing affordable housing

The final Housing Action Plan was adopted by Auburn City Council on July 6, 2021. The City will continue its work in implementing strategies identified in the Housing Action Plan in 2023 and through the remainder of the Consolidated Plan period.

In 2020 the City of Auburn passed an ordinance adopting a new chapter of Rental Housing Code. Included in this ordinance were multiple housing stability strategies, including increased notice of rental increases, a cap on late fees, and a Just Cause Eviction Ordinance that requires landlords to have good cause in order to evict or terminate tenancy of a renter. Just Cause protections are especially helpful in addressing fair housing issues, and this adoption was consistent with the City’s efforts related to the Analysis of Impediments to Fair Housing Choice. This builds on previous protections passed by Auburn City Council, including Source of Income Discrimination protections and enhanced rental inspections. Auburn staff have been involved in local and regional policy conversations exploring opportunities to further support anti-displacement efforts and reduce barriers to affordable housing development within our jurisdiction.

In 2022, the City of Auburn funded Fair Housing Public Services utilizing CDBG funds, consistent with the findings and goals of the City’s adopted Analysis of Impediments to Fair Housing Choice. The City also continues to support proactive landlord and tenant education through outreach and web-based resource supports.

AP-85 Other Actions - 91.420, 91.220(k)

Introduction

The City of Auburn will continue to work with service providers throughout the region in coordination to develop systems and strategies to promote their efforts in providing optimal, easily accessible services. The City will work to reduce the number of families in poverty, sustain relationships with employment training agencies, and work to preserve and increase the affordable housing stock in our community.

Actions planned to address obstacles to meeting underserved needs

By establishing a strong foundation of networks between local service providers, stakeholders and government agencies through committees and coalitions, the City will work in partnership to address obstacles and ameliorate barriers to meeting underserved needs. The collaborated organizations will develop detailed strategic plans that will delegate tasks, build systems and ongoing assessment of service delivery.

Actions planned to foster and maintain affordable housing

The City will continue to maintain the affordability of decent housing for low income Auburn residents by allocating over $200,000 of CDBG funds to the City's Housing Repair Program. The program provides emergency repairs necessary to maintain safe housing for at least 65 Auburn homeowners, many of whom are senior citizens and/or are experiencing barriers to safely accessing their homes due to physical disabilities.

In addition to Auburn's Housing Repair program, the City will maintain affordable housing by continuing to engage and partner with coalitions, committees and other government agencies to integrate and enhance efforts on the issue.

The City has formally adopted a Housing Action Plan, as discussed in AP-75, that is helping to guide current and future efforts in this area. That plan is available to the public on the City of Auburn's website.

Auburn has been participating in multiple robust regional efforts to coordinate affordable housing activities in King County. One of these efforts, The South King Housing and Homelessness Partners (SKHHP) is a coalition formed by an interlocal agreement between the jurisdictions of Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Normandy Park, Renton, Tukwila, and King County. The agreement allows for South King County jurisdictions to work together and share resources in order to effectively address affordable housing and homelessness. This collaborative model is based on similar approaches used in Snohomish County, East King County, and other areas of the country. The purpose of the coalition is to increase the available options for South King County residents to access affordable housing and to preserve the existing affordable housing stock.

Additionally, the City of Auburn has been an active participant in the recently formed Affordable Housing Committee of the Growth Management Planning Council (GMPC), with a City Councilmember sitting on the Committee as an alternate member. The Affordable Housing Committee serves as a regional advisory body to recommend action and assess progress toward implementing the Regional Affordable Housing Task Force (RAHTF) Five Year Action Plan. The Committee functions as a point in coordinating and owning accountability for affordable housing efforts across King County.

Actions planned to reduce lead-based paint hazards

The City of Auburn includes language in its CDBG contracts that require agencies to comply with HUD Lead-Based Paint Regulations (24 CFR Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Sections 4831, et seq.) requiring prohibition of the use of lead-based paint whenever CDBG funds are used. In addition, the City notifies residents of potential lead-based paint hazards when it awards a Housing Repair grant. A copy of the pamphlet – "Protect Your Family from Lead In Your Home" is provided each Housing Repair client when the City conducts the initial inspection of their home.

The city takes additional measures when the age of the home indicates a possible presence of lead-based paint. Before housing repair work commences, the city contracts with a certified provider to undertake lead paint testing. When lead-based hazards are positively identified, the city works with the housing repair client and contractors certified in RRP Lead Abatement to implement the necessary mitigation and safety strategies.

Actions planned to reduce the number of poverty-level families

The City of Auburn's planned actions to reduce the number of poverty- level families within the context of this Annual Action Plan include but are not limited to:

- Allocating over $200,000 to the Housing Repair program, which serves low- and very low-income residents and supports households to remain in safe and affordable housing.
- Allocating over $92,000 to public service activities providing Homelessness Prevention and Intervention services.
- Participate and partner with coalitions, committees and agencies that provide antipoverty services to develop and enhance strategies and efforts to reduce poverty

level families.

- Supporting the development and sustainability of affordable multi-family housing in Auburn.

In addition, the city will continue to support and fund programs serving families living in poverty through a competitive human services funding process.

Actions planned to develop institutional structure

The City's planned actions to address the gaps and weaknesses identified in the strategic plan include:

- Maintaining partnerships with and participating in the South King County Housing and Homelessness Partnership, the Regional Homelessness Authority of King County and other regional human service providers, coalitions and committees who address homeless issues. The City will also continue to work collaboratively with partnering organizations and groups to integrate and enhance services to provide optimal services to individuals and families currently experiencing or at risk of homelessness. In addition the City plans to prioritize General Fund human services dollars for housing and homelessness interventions, and allocate $240,000 to basic needs services such as food, financial assistance, clothing and healthcare.
- Take a comprehensive approach to consolidated and comprehensive planning to include all internal City departments, commissions, committees and task forces.

Actions planned to enhance coordination between public and private housing and social service agencies

The City of Auburn has heavily contributed and intends to continue cultivating relationships between public and private housing and social service agencies. In addition the City will continue to participate in collaborations with the South King County Forum on Homelessness, the South King County Council of Human Services, Seattle-King County Housing Development Consortium and the King County Joint Planners Meeting.

Discussion

The expressed goal of the City's Consolidated Plan is to reduce the number of people living in poverty within Auburn. The City intends to give funding priority to programs that in addition to complying with federal regulations and address a priority a outlined in the Consolidated Plan are consistent with all of the goals and objectives identified.

Program Specific Requirements

AP-90 Program Specific Requirements - 91.420, 91.220(l)(1,2,4)

Introduction

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan
3. The amount of surplus funds from urban renewal settlements
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.
5. The amount of income from float-funded activities

Total Program Income

Other CDBG Requirements

Discussion

AGENDA BILL APPROVAL FORM

Agenda Subject:
Minutes of the September 20, 2022 and September 27, 2022 Special City Council Meetings

Date:
October 12, 2022

Department:
City Council

Attachments:
09-20-2022 Minutes
09-27-2022 Minutes

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Background for Motion:

Background Summary:

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: October 17, 2022

Item Number: CA.A

CITY OF AUBURN WASHINGTON	**Special City Council Meeting** **September 20, 2022 - 5:00 PM** **City Hall Council Chambers** **MINUTES**

I. CALL TO ORDER

A. LAND ACKNOWLEDGEMENT

1. Land Acknowledgement

   We would like to acknowledge the Federally Recognized Muckleshoot Indian Tribe, the ancestral keepers of the land we are gathered on today. We thank them for their immense contributions to our state and local history, culture, economy, and identity as Washingtonians.

B. Roll Call

Councilmembers present: Deputy Mayor James Jeyaraj, Larry Brown, Robyn Mulenga, Chris Stearns, and Yolanda Trout-Manuel. Councilmember Bob Baggett was excused and Councilmember Kate Baldwin arrived at 5:15 p.m.

Department directors and staff members present included: City Attorney Kendra Comeau, Chief of Police Mark Caillier, Assistant Chief of Police Samuel Betz, Director of Public Works Ingrid Gaub, Assistant Director of Engineering Services Jacob Sweeting, Director of Administration Dana Hinman, Director of Human Resources & Risk Management Candis Martinson, Director of Community Development Jeff Tate, Director of Finance Jamie Thomas, Director of Innovation and Technology David Travis, Financial Planning Manager Frank Downard, Business Systems Analyst Chrissy Malave, and City Clerk Shawn Campbell were in Chambers.

C. PUBLIC PARTICIPATION

1. Public Participation

   The meeting was held in person and virtually.

II. DISCUSSION ITEMS

A. 2023-2024 Budget Review (Thomas)

Director Thomas provided Council with the second of three 2023-2024 Preliminary Budget review sessions. She explained tonight will be presentations from Police, Public Works, and Parks, Arts, and Recreation.

Chief Caillier provided Council with a Departmental Overview, the 2021-2022 accomplishments and the 2023-2024 departmental goals. He explained the increase to the baseline budget, the increase for a cost to send new Officers to Basic Academy, the increase in impound fees, and increase in mandated training, and the Police Patrol Vehicle Deployment Program.

Council discussed the Individual Police Vehicle Program, conditions for Individual Police Vehicle Program, response times, procedures for end of shifts, fuel costs for the Individual Police Vehicle Program, and the location of the vehicles.

Director Gaub provided Council with a Departmental Overview, the 2021-2022 accomplishments and the 2023-2024 departmental goals, new request for a full time employee, funding for a Transportation Plan Update, Citywide traffic signal re-lamping project, Traffic Signal Battery Backup Replacement Program, and a one-time adjustment to move money from the General Fund to the Arterial Street Fund.

Manager Mehl provided Council with a Departmental Overview, the 2021-2022 accomplishments, request to convert Museum Curator position from limited term to full time, transferring Museum Operations Expenditures and Revenues to the City, request for two parks maintenance workers, and funding to repair the Veteran's Park Memorial.

Director Gaub and Director Thomas provided Council with an overview of the General Government Capital Project Budget including the Biennial Budget, Street Funds, Sales Tax Levy, Utilities Tax increase, new program request, revenue sources, and new projects.

Manager Mehl provided Council with an overview of the Municipal Parks Fund and the 2023-2024 projects in the fund.

Director Gaub and Director Thomas provided Council with an overview of the Local Revitalization Fund.

Council discussed addiction treatment, homelessness, and climate change.

III. **ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 7:11 p.m.

APPROVED this 17th day of October, 2022.

______________________________	______________________________
NANCY BACKUS, MAYOR	Shawn Campbell, City Clerk

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.

Special City Council Meeting
September 27, 2022 - 5:00 PM
City Hall Council Chambers
MINUTES

I. CALL TO ORDER

Mayor Nancy Backus called the meeting to order at 5:01 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street, and led those in attendance in the Pledge of Allegiance.

A. LAND ACKNOWLEDGEMENT

1. Land Acknowledgement

   We would like to acknowledge the Federally Recognized Muckleshoot Indian Tribe, the ancestral keepers of the land we are gathered on today. We thank them for their immense contributions to our state and local history, culture, economy, and identity as Washingtonians.

B. Roll Call

Councilmembers present: Deputy Mayor James Jeyaraj, Bob Baggett, Kate Baldwin, Larry Brown, Robyn Mulenga, Chris Stearns and Yolanda Trout-Manuel.

Department directors and staff members present include: City Attorney Kendra Comeau, Chief of Police Mark Caillier, Director of Public Works Ingrid Gaub, Director of Parks, Arts and Recreation Daryl Faber, Director of Finance Jamie Thomas, Director of Human Resources & Risk Management Candis Martinson, Director of Community Development Jeff Tate, Director of Innovation and Technology David Travis, Assistant Director of Innovation and Technology Ashley Riggs, Director of Administration Dana Hinman, Chief Equity Officer Brenda Goodson-Moore, Financial Planning Manager Frank Downard, Utility Engineering Manager Ryan Vondrak, Business Systems Analyst Chrissy Malave, and Deputy City Clerk Hannah Scholl.

C. PUBLIC PARTICIPATION

1. Public Participation

   The City Council Meeting was held in person and virtually.

II. **DISCUSSION ITEMS**

A. 2023-2024 Budget Review (Thomas)

Director Thomas provided Council with an overview of the 2023-2024 Biennial Budget including Homelessness Funds, Internal Service Funds, Proprietary Funds, Fiduciary Funds.

Director Hinman provided Council with an overview of Facilities Funds.

Director Travis provided Council with an overview on the Internal Funds for Innovation and Technology, a new request for a new full time employee, and a one-time investment for video cameras at the Auburn Golf Course.

Director Gaub provided Council with an overview of the Equipment Rental and Replacement Fund including funding and four new budget requests.

Director Gaub and Director Thomas provided Council with an overview of the City's Enterprise Funds including Water, Sewer, Storm, and King County Metro. They also discussed two new program requests.

Mayor Backus recessed the meeting for 10 minutes at 6:25 p.m. The meeting reconvened at 6:35 p.m.

Director Gaub provided Council with an overview of the Airport Enterprise Fund including Aviation concerns, and a new program request to increase operational costs in 2023 and 2024.

Director Faber provided Council with an overview of the Cemetery Enterprise Fund including the history of the Cemetery and a request for a new backhoe in 2023.

Director Thomas provided Council with an overview of the Solid Waste Enterprise Fund including the contract for Garbage Collection Services the City has with Waste Management.

Director Thomas provided Council with an overview of Fiduciary Funds including South King Housing and Homeless Partners, Fire Pension, and Cemetery Endowment funds.

Director Thomas reviewed the City’s proposed Budget including the Cumulative Reserve Policy and the Governmental Capital funds.

III. **ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 7:38 p.m.

APPROVED this 17th day of October, 2022.

____________________________ ____________________________

NANCY BACKUS, MAYOR Hannah Scholl, Deputy City Clerk

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CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Minutes of the October 3, 2022 City Council Meeting

Date:
October 12, 2022

Department:
City Council

Attachments:
10-03-2022 Minutes

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Background for Motion:

Background Summary:

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: October 17, 2022

Item Number: CA.B

City Council Meeting
October 3, 2022 - 7:00 PM
City Hall Council Chambers
MINUTES
Watch the meeting LIVE!

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

I. CALL TO ORDER

II. LAND ACKNOWLEDGMENT

We would like to acknowledge the Federally Recognized Muckleshoot Indian Tribe, the ancestral keepers of the land we are gathered on today. We thank them for their immense contributions to our state and local history, culture, economy, and identity as Washingtonians.

III. PUBLIC PARTICIPATION

1. Public Participation

   The meeting was held virtually and in-person.

A. Pledge of Allegiance

Mayor Nancy Backus called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street, and led those in attendance in the Pledge of Allegiance.

IV. Roll Call

Councilmembers present: Deputy Mayor James Jeyaraj, Bob Baggett, Kate Baldwin, Larry Brown, Robyn Mulenga, Chris Stearns and Yolanda Trout-Manuel.

Department directors and staff members present included: City Attorney Kendra Comeau, Real Estate Manager Josh Arndt, Chief of Police Mark Caillier, Director of Public Works Ingrid Gaub, Development Services Manager Jason Krum, Director of Finance Jamie Thomas, Director of Innovation and Technology David Travis, Business Systems Analyst Jonathan Barbano, and City Clerk Shawn Campbell were in Chambers.

V. AGENDA MODIFICATIONS

Mayor's Proclamation regarding Mental Illness Awareness Week, Domestic Violence Awareness Month, and Indigenous Peoples' Day were added to the agenda. Council received an updated version of

Resolution No. 5685 prior to the meeting.

A. Mayor's Proclamation - Mental Illness Awareness Week

Mayor Backus read and proclaimed the Week of October 2nd as Mental Illness Awareness Week. Robin Hinz from the South King County National Alliance on Mental Illness accepted the proclamation and thanked the Mayor and Council for their support.

B. Mayor Proclamation - Domestic Violence Awareness Month

Mayor Backus read and proclaimed the month of October 2022 as Domestic Violence Awareness Month.

C. Mayor's Proclamation - Indigenous Peoples' Day

Mayor Backus read and proclaimed October 10, 2022 as Indigenous Peoples' Day in the City of Auburn. Councilmember Chris Stearns thanked the Mayor for her support of Indigenous Peoples' Day.

VI. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

D. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue.

1. The public can participate in-person or submit written comments in advance.

Janet King provided written comments regarding homeless encampments.

Virginia Haugan 2503 R Street SE, Auburn
Ms. Haugan spoke regarding Resolution No. 5685.

E. Correspondence

There was no correspondence for Council to review.

VII. 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.

1. Finance Ad Hoc Committee (Chair Baggett)

Councilmember Baggett, Chair of the Finance ad hoc committee, reported he and Councilmember Baldwin have reviewed the claims and payroll vouchers described on the agenda this evening and recommended their approval.

VIII. 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 September 19, 2022 Regular City Council Meeting

B. Minutes of the September 26, 2022 Study Session Meeting

C. Claims Voucher (Thomas)

Claims voucher list dated October 3, 2022 which includes voucher numbers 469583 through 469731, in the amount of $5,238,691.74 and three wire transfers in the amount of $744,088.81

D. Payroll Voucher (Thomas)

Payroll check numbers 539415 through 539420 in the amount of $627,008.35, electronic deposit transmissions in the amount of $2,348,341.08 for a grand total of $2,975,349.43 for the period covering September 15, 2022 to September 28, 2022

E. Setting the Date for Public Hearing for Sprint Communications Company, L.P. Franchise Agreement

City Council to set the date for a Public Hearing for Franchise Agreement No. FRN21-0003 for Sprint Communications Company, L.P. for a Telecommunications Franchise

F. Setting the Date for a Public Hearing for the 2023 Community Development Block Grant Annual Action Plan

City Council to set the date for a Public Hearing for the City of Auburn’s Community Development Block Grant 2022 Annual Action Plan

Deputy Mayor Jeyaraj moved and Councilmember Mulenga seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 7-0

IX. UNFINISHED BUSINESS

There was no unfinished business.

X. NEW BUSINESS

There was no new business.

XI. ORDINANCES

A. Ordinance No. 6881 (Thomas)

An Ordinance adding a new section to Chapter 3.23 of the Auburn City Code (ACC) imposing a Transportation Benefit District (TBD) Sales and Use Tax authorized by RCW 84.55 and RCW 36.73

Councilmember Brown moved and Councilmember Trout-Manuel seconded to approve Ordinance No. 6881.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Ordinance No. 6886 (Caillier/Comeau)

An Ordinance amending Section 9.24.020 of the Auburn City Code, and repealing Section 9.24.030 of the Auburn City Code related to the designation and enforcement of anti-drug emphasis areas in the City

Deputy Mayor Jeyaraj moved and Councilmember Mulenga seconded to approve Ordinance No. 6886.

Councilmember Stearns moved and Councilmember Brown seconded to amend Section No. 4 of Ordinance No. 6886 to include "the City shall conduct an equity analysis of the impact of this ordinance".

The Council discussed if the amendment is for an analysis of future data or to compile data from the past, and if there would be a one-time or ongoing analysis.

MOTION TO AMEND CARRIED UNANIMOUSLY. 7-0

Council discussed the ordinance emphasizing the City's commitment to safety in the community.

MOTION AS AMENDED CARRIED UNANIMOUSLY. 7-0

XII. RESOLUTIONS

A. Resolution No. 5680 (Gaub)

A Resolution approving a material change policy as it relates to the Auburn Transportation Benefit District funded projects

Councilmember Brown moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5680.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Resolution No. 5681 (Comeau)

A Resolution amending the City of Auburn Fee Schedule to adjust for 2023 fees

Deputy Mayor Jeyaraj moved and Councilmember Baggett seconded to adopt Resolution No. 5681.

MOTION CARRIED UNANIMOUSLY. 7-0

C. Resolution No. 5685 (Comeau)

A Resolution approving and ratifying the Purchase and Sale Agreement between the City of Auburn and Multicare for Real Property

Deputy Mayor Jeyaraj moved and Councilmember Mulenga seconded to adopt Resolution No. 5685.

Council discussed the funding for the purchase, the budgeting process, and the use of the property.

MOTION CARRIED UNANIMOUSLY. 7-0

D. Resolution No. 5686 (Hinman)

A Resolution adopting the 2023 State Legislative Agenda

Councilmember Stearns moved and Deputy Mayor Jeyaraj seconded to adopt Resolution No. 5686.

MOTION CARRIED UNANIMOUSLY. 7-0

XIII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. From the Council

Deputy Mayor Jeyaraj reported he attended a session of the Civics Academy and the Mexican Independence Day celebration.

Councilmember Baldwin reported she attended the Boeing Additive Manufacturing event and a White River Valley Museum fundraiser.

Councilmember Mulenga reported she will be attending the Valley Regional Fire Authority Budget Meetings over the next two weeks.

Councilmember Stearns reported he is a representative on the National League of Cities (NLC) Indigenous Municipal Officials Organization, he noted the group has lobbied to have full constituency rights with NLC which has been granted.

Councilmember Trout-Manuel reported she met with the Auburn School District regarding the "Handle with Care" program, and attended the National League of Cities Hispanic Elected Local Officials (HELO) group meeting.

B. From the Mayor

Mayor Backus reported she attended the National League of Cities Mayors exchange; the Boeing Additive Manufacturing event; a meeting with King County Executive Dow Constantine, Kent Mayor Ralph and Renton Mayor Pavone to discuss behavioral health services; the Annual Employee Luncheon; a meeting with April Putney and Kent Mayor Ralph to discuss homelessness intervention funding and met with Fred Meyer area businesses regarding emphasis patrols.

XIV. **ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 7:49 p.m.

APPROVED this 17th day of October, 2022.

____________________________ ____________________________

NANCY BACKUS, MAYOR Shawn Campbell, City Clerk

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AGENDA BILL APPROVAL FORM

Agenda Subject:
Claims Voucher (Thomas)

Date:
September 29, 2022

Department:
Finance

Attachments:
No Attachments Available

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Approve Claim Vouchers.

Background for Motion:

Background Summary:

Claims voucher list dated October 17, 2022 which includes voucher numbers 469732 through 469902, in the amount of $4,504,369.72 and three wire transfers in the amount of $707,295.53

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: October 17, 2022

Item Number: CA.C

AGENDA BILL APPROVAL FORM

Agenda Subject:
Payroll Voucher (Thomas)

Date:
September 29, 2022

Department:
Finance

Attachments:
No Attachments Available

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Approve Payroll Vouchers.

Background for Motion:

Background Summary:

Payroll check numbers 539421 through 539428 in the amount of $73,958.22, electronic deposit transmissions in the amount of $2,467,575.75 for a grand total of $2,541,533.97 for the period covering September 29, 2022 to October 12, 2022

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: October 17, 2022

Item Number: CA.D

AGENDA BILL APPROVAL FORM

Agenda Subject: Resolution No. 5683 (Comeau/Gaub)		**Date:** October 12, 2022
Department: Legal	**Attachments:** Resolution No. 5683 S50 Airport Lease	**Budget Impact:** Current Budget: $0 Proposed Revision: $0 Revised Budget: $0

Administrative Recommendation:

Approve Resolution No. 5683.

Background for Motion:

City staff recommend the adoption of Resolution 5683, authorizing the Mayor to enter into a lease agreement with S50 Hangers, LLC at the Auburn Municipal Airport.

Background Summary:

Through their parent company, FBO Partners, S50 Hangars, LLC operates varying lines of businesses in the aeronautical industry, including: consulting, Fixed Base Operations ("FBO") diligence and valuations, and hangar development. Currently, FBO Partners is located on the King County International Airport ("Boeing Field"), but intends to add a location at the Auburn Airport after execution of the lease.

FBO/S50 Hangars will occupy commercial hangar space recently vacated by long-time Airport tenant – Airtech Instruments.

Reviewed by Council Committees:

Councilmember:	Stearns	**Staff:**	Comeau/Gaub
Meeting Date:	October 17, 2022	Item Number:	RES.A

RESOLUTION NO. <u>5683</u>

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH S50 HANGARS, LLC AT THE AUBURN MUNICIPAL AIRPORT

WHEREAS, the Auburn Municipal Airport (the "Airport") has commercial office and hangar space available for lease to private aeronautical-related business; and

WHEREAS, S50 Hangars, LLC is a commercial business interested in leasing office and hangar space on the Airport property for aeronautical business purposes; and

WHEREAS, the Airport, Airport customers and the public would benefit from having S50 Hangars, LLC located on the Airport.

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

<u>Section 1.</u> The Auburn City Council authorizes the Mayor to enter into a commercial lease agreement with S50 Hangars, LLC in substantial conformity with the terms and conditions of the lease agreement attached as "Exhibit A."

<u>Section 2.</u> The Mayor is authorized to implement those administrative procedures and/or execute minor amendments necessary to carry out the directives of this Resolution.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: ____________________________

CITY OF AUBURN

____
NANCY BACKUS, MAYOR

ATTEST:

____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

____
Kendra Comeau, City Attorney

AIRPORT LEASE AGREEMENT BETWEEN THE CITY OF AUBURN AND S50 HANGARS, LLC

THIS LEASE AGREEMENT (the "Lease") is entered into this ____________________, 2022 (the "Lease Date"), by and between the City of Auburn, a Washington municipal corporation ("Landlord," or "City") and S50 Hangars, LLC, a Washington Limited Liability Company (the "Tenant ").

RECITALS:

1. The City owns and operates The Auburn Municipal Airport (Airport) which has space available for lease. RCW 14.08.120(1)(d) authorizes the City to lease Airport property; and

2. The Tenant desires to lease that commercial tenant space on the Airport defined in Article 1.1 below and depicted in Exhibit A, attached; and

3. The City desires to lease to Tenant that commercial tenant space to Tenant based on those terms defined in this lease agreement (Lease); and

4. The Auburn City Council approved the terms of this lease through its enactment of Resolution 5683.

NOW, THEREFORE, in consideration of their mutual promises set out in this Lease, S50 Hangars, LLC and The City of Auburn agree as follows:

ARTICLE 1:
PREMISES LEASED

1.1) For and in consideration of the rent and faithful performance by Tenant of the terms and conditions and the mutual covenants hereof, Landlord agrees lease to Tenant, and Tenant agrees lease from Landlord, the commercial office and shop space located at 2131 E St. NE (the "Premises") in "J" Row Hangar (the "Building") of the Auburn Municipal Airport (the "Airport"), the location of which being generally depicted in **Exhibit A**. The Premises is situated in the City of Auburn, County of King, State of Washington.

1.2) Tenant acknowledges and agrees that it is relying solely on its inspection and investigation of the Premises, and accepts the property "AS-IS, WHERE IS" in its present condition with no warranties of any kind, expressed or implied, either oral or written, made by Landlord or any employee, agent, or representative of Landlord with respect to the physical condition of the

Premises. By execution of this lease, Tenant has inspected the Premises and has determined that the Premises is satisfactory for the purposes of its intended uses, which uses are described in Article 4 below and permitted under this lease. Tenant acknowledges and agrees that neither Landlord nor Landlord's employees, agents, representatives or otherwise have made, and does not make any representations or warranties of any kind or character whatsoever, whether expressed or implied, with respect to the habitability, leaseability or suitability for commercial purposes, merchantability, or fitness for a particular purpose of the Premises. Landlord makes no warranties to the presence or absence of any hazardous substances or wastes as defined by RCW 70A.300.010. Landlord does represent that, to the best of the Landlord's knowledge, without duty of inquiry, there are no hazardous wastes or substances on, in or under the Premises.

1.3) Notwithstanding Article 6.1 herein and **Exhibit B**, no building, structure, or improvements of any kind shall be erected, placed upon, operated, or maintained on the Premises, nor shall any business or operation be conducted or carried on in violation of any ordinance, law, statute, by-law, order, or rule of any governmental agency having jurisdiction thereover.

ARTICLE 2:
TERM

2.1) Initial Term. The initial term of this Lease shall be for Sixty (60) months beginning on __ ________________________ (the **"Commencement Date"**), and terminating at midnight on last calendar day of the sixtieth month (the "Expiration Date"), unless sooner terminated pursuant to any provision of this Lease (the "Initial Term"). If Landlord, for any reason whatsoever, cannot deliver possession of the Premises to Tenant on the Commencement Date, Landlord shall not be subject to any liability nor shall the validity of the Lease be affected; provided, the Term of this Lease shall commence on the date possession is actually tendered to Tenant but the Expiration Date shall not be adjusted.

2.2) Extended Term. Provided that Tenant faithfully performs all of the terms and conditions of this Lease, City grants to Tenant the option to extend the Initial Term for three (3) additional Sixty (60) month terms ("Extended Term(s)"). The Extended Terms must commence immediately following the conclusion of the Initial Term or any subsequent Extended Terms without interruption or a delay. The Extended Terms shall be exercisable only by written notice ("Exercise Notice"), which Tenant must deliver to the Landlord in accordance with Article 12 below, no more than six (6), or less than four (4) calendar months prior to the end of the then existing Term.

Unless specifically cited otherwise, for the purposes of this Lease, the Initial and the Extended Term (as it may be exercised) may both be independently, collectively, and interchangeably referred to as the "Term".

2.3) Default; Rights Personal. Notwithstanding anything in the foregoing to the contrary, at City's option, and in addition to all of City's remedies under this Lease, at law or in equity, the Extended Term shall not be deemed properly exercised if, as of the date Tenant delivers the

Exercise Notice, Tenant has previously been in default under the Lease beyond all applicable notice and cure periods. In addition, each Extended Term is personal to the original Tenant and may not be assigned or exercised, voluntarily or involuntarily, by or to, any person or entity other than the original Tenant, or a related party of the Tenant, hereafter defined as another entity in which the majority shareholder of the Tenant has a 51% or greater ownership in said entity (hereafter "Related Tenant"), and shall only be available to and exercisable by the original Tenant or Related Tenant when the original Tenant or Related Tenant is in actual and physical possession of the Premises.

ARTICLE 3:
RENT AND LEASEHOLD TAX

3.1) Rent. Tenant shall pay to the City of Auburn a monthly "Base Rent" reflective of the following schedule (Base Rent Schedule).

Base Rent Schedule		
Months	With Tenant Improvements (see Art. 6.1)	Without Tenant Improvements
1-12	$1,079.00/mo	$1,079.00/mo
13-24	1,500.00/mo	$2,000.00/mo
25-60	Subject to the Adjustments defined in Article 3.3	

Beginning with the 13th month and continuing through the end of the Initial Term, Base Rent shall be determined by the dutiful performance and completion of those Tenant Improvements identified in **Exhibit B** subject to the terms and conditions outlined in Article 6.1. In addition, Tenant shall also pay a monthly Security Fee of Ten Dollars ($10.00) per door and a statutory leasehold excise tax of 12.84% of the monthly Base Rent and Security Fee imposed by RCW Chapter 82.29A. Base Rent, Security Fee, and Leasehold Excise Tax are collectively referred to as "Rent". Rent shall be paid in full at the office of the Airport Manager or at such other office as may be directed in writing by the Landlord, on the 1st calendar day of the month in advance. Rent shall be paid without notice, demand, offset, abatement or deduction of any kind and should reference: **S50 – 2131 E St NE Lease**. If commencing on a date other than the first (1st) calendar day of the month then the Rent shall be pro-rated on a 30-day per diem basis and paid in full through the end of the current month upon commencement of the Lease.

3.2) Late Charges. Tenant hereby acknowledges that late payments of Rent or any other sums due hereunder will cause the Landlord to incur costs not otherwise contemplated by this Lease. Accordingly, if any installment of Rent or any other sum due from Tenant is not received by the Landlord by the end of the tenth (10th) calendar day of the month after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay the Landlord a late charge equal to 12% of the overdue amount. The Parties agree that such late charge represents a fair and reasonable estimate of the costs the Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by the Landlord in no event constitutes a waiver of Tenant's default with respect to such overdue amount, nor prevent the Landlord from exercising any of the other rights and remedies granted hereunder. In addition to the late charges provided for in this Article, in the event any payments hereunder are not paid within thirty (30) days of when due, interest shall accrue on Rent, or any other sums due hereunder, at the rate of one and one-half percent 1.5% per month from the date due until paid.

3.3) Adjustments. Beginning with the first adjustment on **January 1, following the 25th month** and annually thereafter, the Base Rent shall be adjusted based upon a multiplier equal to the change in the Consumer Price Index ("CPI") for the Seattle-Tacoma-Bellevue area measured from August to August. Annual adjustments shall be computed as follows:

(Percentage change in CPI-W August/August) x (current Base Rent) = (Adjusted Base Rent)

A negative adjustment in the CPI will not constitute a reduction in the Base Rent, rather the amount of Base Rent from the previous year shall remain in effect. Should the Consumer Price Index cease to exist then the City and Tenant agree to utilize a different index that measures substantially the same function.

3.4) Option Terms. The Base Rent payable by Tenant, plus any additional agreed to terms during the applicable Extended Term (the "Option Terms") shall be negotiated by the Parties in the following manner:

1) Within 14 calendar days following the City's receipt of an Article 2.2 Exercise Notice from the Tenant, the City shall propose Option Terms to Tenant for the first calendar year of the coming Extended Term (the "Option Terms Proposal"). The City agrees that at no such time shall the computation of the Base Rent during any Option Terms Proposal monetarily exceed the then-prevailing monthly amount subject to Article 5.1 Holdover.

2) Tenant shall then have 14 calendar days following receipt of the City's Option Terms Proposal to either accept the Proposal or offer a counter proposal (the "Tenants response Notice to City's Option Terms Proposal").

3) Each Party shall continue to diligently negotiate the Option Terms until an agreement on the Option Terms is reached, provided that any Base Rent negotiated as part of the Option Terms must be at least equal to the then-current Base Rent. As used in this paragraph, "Diligently Negotiate" means providing responses and/or counter proposals to the other Party within 14 calendar days of receiving the latest Option Terms Proposal.

4) If the Parties cannot agree upon Option Terms by 30 calendar days before the current Lease term's Expiration Date, then Article 3.5 below shall apply.

3.5) Arbitration for Option Terms. Should the Parties not reach agreement related to the Option Terms by that date which is 30 calendar days prior to the Expiration Date of the then current Term, the Parties mutually agree to have the case resolved through the use of the Judicial Arbitration and

Mediation Services ("JAMS") located in King County, Washington. In the event that JAMS is unable or unwilling to conduct the arbitration provided for under the terms of Article 3.4, the Parties agree to utilize a representative of the American Arbitration Association ("AAA") located in King County, Washington. The Parties agree that arbitration shall be the exclusive remedy hereunder, each Party expressly waives any right it may have to seek redress in any other forum, and any decision and award of the arbitrators shall be binding upon the Parties. Each Party shall bear its own expenses of arbitration, and the expenses of the arbitrators and of a transcript of any arbitration proceeding shall be divided equally between the parties.

ARTICLE 4: PERMISSIBLE USES & SUBLETTING

4.1) Permissible Uses. Tenant shall use the Premises for conducting commercial aeronautical uses only. Tenant acknowledges and agrees that this lease is not subject to RCW 59.18. All Fixed Base Operators (FBO's) or Maintenance and Repair Operations (MRO's) shall be subject to Auburn City Code (ACC) 12.56, the Airport Rules & Regulations, Minimum Standards & Development Standards found online at: https://auburnmunicipalairport.com/documents-and-forms, attached by this reference.

4.2) Subletting. The City and the Tenant both acknowledge that the Tenant intends to sublease a portion of the Premises to third-party subtenants (the "Subtenants"). The City grants this right to the Tenant as a Permissible Use subject to the conditions described in Article 9.5 below. Tenant shall operate and maintain the Premises at its expense, in a manner which will assure the safe, lawful and healthful use of the Premises. Tenant shall not allow derelict aircraft defined by ACC 12.56.385 to be stored at the Premises and shall require that any sublet portions of the Premises be used solely for aeronautical purposes per FAA policy 81 FR 38906 and reasonable ancillary purposes. Tenant agrees that it will not allow activities or conditions at the Premises to unreasonably disturb the operations of the Airport or other occupants and users thereof.

ARTICLE 5: HOLDOVER & ABANDONMENT

5.1) Holdover. If Tenant remains in possession of the Premises beyond the expiration of the then active Lease, Tenant shall be deemed to be Holding Over the Premises and this shall be referred to as the ("Holdover Period"). Rent during the Holdover Period ("Holdover Rent") shall be charged at an amount equal to double the then current monthly Base Rent. The Holdover Rent shall be subject to the Security Fee and State Leasehold Excise Tax described in Article 3.1. Upon agreement of an extension or otherwise new Lease between Tenant and Landlord, Landlord shall pro-rate the Holdover Rent for the Holdover Period. If a new agreement cannot be reached and active negotiations cease to exist, then this Lease shall automatically convert to a month-to-month term with rent continuing at the Holdover Rent amount.

5.2) Abandonment. Abandonment of the leased premises, or vacation or desertion of said Premises for a period of thirty (30) days shall be deemed a default of this Lease and it shall be lawful for Landlord, its attorneys or representative to re-enter into and repossess the Premises.

ARTICLE 6:
TENANT IMPROVEMENTS & MAINTENANCE

6.1) Tenant Improvements. Landlord acknowledges that as part of the Tenants contemplation for leasing the Premises is the ability, though not a requirement, to make certain alterations to the Premises. The Parties agree that any and all alteration (individually and collectively being defined "Tenant Improvements") made to the Premises shall: 1) be approved in writing by the Airport Manager, which approval may be conditioned, but not unreasonably withheld, 2) be completed at the sole expense of the Tenant, 3) obtain all necessary permits, and 4) be done without deduction or abatement of Rent unless otherwise agreed to in this Lease. Notwithstanding the foregoing, the Parties agree that if Tenant completes those Tenant Improvements described in **Exhibit B** by the end of the 12th month of this Lease, then the Base Rent beginning in the 13th month shall be that described as "With Tenant Improvements" in the Base Rent Schedule depicted in Article 3.1. If Tenant fails to complete, or elects not to do those Improvements described in **Exhibit B** than the Base Rent beginning in the 13th month shall be that described as "Without Tenant Improvements" in the Base Rent Schedule. Notwithstanding the foregoing, in the event Tenant proposes and Completes (as defined below) an alternative alteration approved in writing by the Airport Manager, then Tenant shall have been deemed to have met the requirements of "With Tenant Improvements." For those Improvements described in **Exhibit B**, tenant acknowledges that they will still be responsible for; obtaining Airport Manager Approval, the sole cost and expense associated with those Tenant Improvements, and responsible for obtaining all necessary permits. With reference to this Article, the term "Completion" is defined as either; 1) receipt of an approved final inspection from the governing authorities, when the Tenant Improvements require permits, or, 2) when no permit is required, the Tenant Improvements can be used for their intended purpose and only minor items such as touch-up, adjustments, and minor replacements or installations remain to be completed. Tenant shall also supply the Airport Manager with all construction or working drawings, as-builts, specification sheets, warranty information, permit information, contractor information or any other information reasonably required by the Airport Manager in a timely manner. Tenant further acknowledges that this information is considered a reasonable condition to obtaining Airport Manager approval and the Airport Manager may withhold their approval until the Tenant has supplied such information.

6.2) Landlord's Responsibilities. Unless such repair, maintenance and replacement is due to Tenant, its agents, servants or employees negligence, or such repair, maintenance and replacement is to a Tenant installed Improvement or service, Landlord, at their own cost and expense, is responsible for the repair, maintenance and replacement of the Building and of the following Premises components: facade, exterior walls (excepting the sheet rock and any other interior finishes to inside the exterior walls as it may exist), exterior doors (man and rollup), windows, roof, gutters, downspouts, slab foundation, interior structural walls (excepting the sheet rock and any other finishes to the structural walls as it may exist), and all other structural components as they may exist in, on or about the Premises. Landlord is also responsible for the repair and maintenance of all utilities serving the Building and Premises in common. For those utilities that solely service the Premises the Landlord is responsible for the repair, maintenance, and replacement of those utilities up to the Tenant's "Connection Point(s)" (being defined as the point in which delivery of Tenants said utility system connects to the shared system). If Landlord refuses or neglects to complete repairs, either promptly or adequately, Tenant may, but shall not be required to complete the repairs and Landlord shall pay the costs thereof.

6.3) Tenant's Responsibilities. Unless such repair, maintenance and replacement is due to Landlord, its agents, servants or employees negligence, or when such damage is caused by any peril included within the Landlord's property insurance coverage, Tenant, at their own cost and expense, is responsible for the repair, maintenance and replacement of the following Premises components: all Tenant installed Improvements or services, interior walls, interior doors, drywall and other interior finishes of the exterior walls and other structural components, floor coverings, drop ceilings (if any), mechanical components serving solely the Premises including but not limited to: HVAC, plumbing, plumbing fixtures, electrical, wiring, electrical fixtures, all other utilities, and utility facilities serving solely the Premises up to the Connection Point and any other feature, component or finish located in, on or about the Premises and not otherwise noted for Landlord responsibly in Article 6.2. Tenant shall further be responsible for all janitorial needs and supplies to the Premises, which Tenant covenants to keep in a clean, sanitary, and operable condition. If Tenant refuses or neglects to commence or complete any maintenance, repairs, or replacement within thirty days of written notice by the Landlord, Landlord may, but shall not be required to commence or complete the repairs and Tenant shall pay the costs of said maintenance, repair and/or replacement thereof to Landlord plus and additional 10% for administrative and management fees.

6.4) Natural Disaster or Act of God. In the event that the Premises is damaged due to a natural disaster or act of God, if the cost of repairing or reconstructing the Premises to the condition and form immediately prior to such damage or destruction does not exceed thirty-three percent (33%) of the then new replacement cost thereof, then Landlord shall effect such repair, restoration, and reconstruction of the Premises so damaged or destroyed to substantially their condition prior to said damage or destruction in a timely manner. All such work shall be carried out in accordance with plans and specifications prepared by a licensed architect or engineer if such an architect or engineer is reasonably required given the scope and nature of the work. Tenant shall continue to owe Landlord the rent and other monies due under this lease to the extent that the premises remains useable to Tenant (pursuant to Article 4 of this lease) during such period of reconstruction and/or restoration.

6.5) If the cost of repairing, restoring, or reconstructing the Premises to the condition and form immediately prior to such damage or destruction exceeds thirty-three percent (33%) of the then new replacement cost thereof, then Landlord, in its sole discretion may elect by written notice to Tenant given within thirty (30) days after the date of the damage to terminate this Lease. If no notice of termination is given then all obligations set forth in this Lease shall continue, including but not limited to Rent obligations of the Tenant. In no event shall Landlord be responsible for damage to Tenant's personal property located on or within the Premises.

6.6) Damage Due to Fire. If the Premises is damaged or destroyed by a fire that the local fire authority determines the Tenant did not cause, Articles 6.4 and 6.5 above shall apply. If the local Fire Authority determines that the Tenant caused such fire (by itself or through a guest, agent, employee, or otherwise), then Tenant shall pay the cost of repair, restoration, reconstruction, or replacement of the Premises. Repairs, reconstruction, or replacement of the Premises shall be done in a commercially reasonable manner and with the approval of the Landlord and all obligations under this Lease, including Rent shall remain in full force during such period of repair, restoration, reconstruction, or replacement.

ARTICLE 7:
ENVIRONMENTAL PROVISIONS

7.1) Tenant covenants to defend, indemnify, and hold Landlord harmless from any imposition or attempted imposition by any person upon Landlord of any obligation or cost ("liability") of whatever form, including, without limitation, damages; claims; governmental investigations, proceedings or requirements; attorney fees in investigation, at trial or administrative proceeding, or on appeal; witness or consultant costs; or any other liability to the extent that such liability arises from a violation, or from the failure to satisfy a requirement of any environmental or land use law or regulation, proximately resulting from Tenant's use of the Premises during the term of this Lease, and without regard to when the liability is asserted.

7.2) Tenant has inspected the Premises and accepts it in its present condition. Tenant shall not cause the Premises to be contaminated in any way and in the event of contamination shall immediately report such contamination to Landlord and shall cause any such contamination to be remedied by that method recognized by Washington State Department of Ecology and shall indemnify and hold Landlord harmless from all costs involved in implementing the remedy.

7.3) Any other provision of this Lease to the contrary notwithstanding, Tenant's breach of any covenant contained in this Article 9 shall be an Event of Default empowering Landlord, in addition to exercising any remedy available at law or in equity or otherwise pursuant to this Lease, to terminate this Lease and to evict Tenant from the Premises forthwith, or to terminate Tenant's right to possession only without terminating this Lease.

7.4) Tenant shall notify Landlord within twenty-four (24) hours of any release of a reportable quantity of any hazardous substance (as defined by CERCLA, 42 U.S.C. §§9601, et. seq. and/or

RCW 70A.305, the Washington Model Toxics Control Act), or of the receipt by Tenant of any notices, orders or communications of any kind from any governmental entity which relate to the existence of or potential for environmental pollution of any kind existing on or resulting from the use of the Premises or any activity conducted thereon. If Tenant fails to comply with any of the requirements of this article, Landlord may undertake, without cost or expense to Landlord, any actions necessary to protect Landlord's interest including steps to comply with such laws.

ARTICLE 8:
INSURANCE COVERAGE, INDEMNIFICATION / HOLD HARMLESS

8.1) Insurance. This Article 8 may be met by one or more insurance policies of the Tenant, or its Subtenants, as defined in Article 4.1, in a form satisfactory to the City. In accordance with Chapter 1.3 of the *Auburn Municipal Airport's Rules & Regulations, Minimum Standards & Development Standards,* as may be amended from time to time, a copy of which can be found at auburnmunicipalairport.com/documents-and-forms hereby incorporated by this reference, Tenant shall at all times have in effect the following types of minimum amounts of insurance, only as applicable to the business to be conducted by the Tenant:

(I) Commercial General Liability insurance in the amount of $1,000,000 per occurrence and $2,000,000 annual aggregate. Such insurance shall contain contractual liability insurance covering applicable leases, licenses, permits, or agreements.

(II) Commercial/business automobile liability insurance for all owned, non-owned and hired vehicles assigned to or used in performance of commercial aeronautical activities in the amount of at least $1,000,000 each accident. If any hazardous material, as defined by any local, state, or federal authority, is the subject, or transported, in the performance of this contract, a policy must be endorsed with the Insurance Services Office form CA9948 or equivalent.

(III) Special Causes of Loss Property Form covering all improvements and fixtures on the Commercial Airport Operator's premises in an amount no less than the full replacement cost thereof, to the extent of the Commercial Airport Operator's insurable interest in the Premises.

(IV) If the Tenant or Subtenant has employees, worker's compensation insurance is required by law and employer's liability insurance in the amount of $1,000,000 per accident, $1,000,000 disease per person, $1,000,000 disease policy limit is required by the Agreement.

(V) If applicable, Aircraft liability insurance in the amount of at least $1,000,000 per occurrence single limit Bodily Injury and Property Damage Liability including Passengers.

(VI) If applicable, Hangar keeper's liability insurance in the amount of at least $1,000,000 per occurrence, or more as values or Landlord require.

(VII) If applicable, Products-completed operations liability insurance in the amount of at least $1,000,000 per occurrence.

(VIII) If applicable, Tenant shall maintain Environmental Impairment Liability coverage for any underground or aboveground fuel storage facility, tank, underground or aboveground piping, ancillary equipment, containment system or structure used, controlled, constructed, or maintained by Tenant in the amount of $1,000,000 each incident, $2,000,000 aggregate. The policy shall cover on-site and off-site third-party bodily injury and property damage including expenses for defense, corrective action for storage tank releases and tank clean-up for storage tank releases.

8.2) Notwithstanding the foregoing, Tenant shall not be required to procure insurance inapplicable to its aeronautical business operations, on behalf of the aeronautical business operations of its approved Subtenants as defined in Article 4.1 who have been approved by the Airport Manager subject to Article 9.5.1. Tenant will ensure that any Subtenant maintains all insurance requirements for the duration of the Lease. In addition to the types and amounts of insurance required in Article 8.1 above, Tenant and Subtenant shall at all times maintain such other insurance as the Landlord may reasonably determine to be necessary for Tenant's airport activities.

8.3) All insurance shall be in a form and from an insurance company with Best's financial rating of at least an A- (VII). All policies, whether carried by Tenant or Subtenant, except worker's compensation policy, shall name the City and its elected or appointed officials, officers, representatives, directors, commissioners, agents, and employees as "Additional Insured", and the Tenant and/or Subtenant shall furnish certificates of insurances evidencing the required coverage cited herein prior to engaging in any commercial aeronautical activities. Such certificates shall provide for unequivocal thirty (30) day notice of cancellation or material change of any policy limits or conditions.

8.4) The Tenant's (or Subtenants, as applicable) insurance coverage shall be primary insurance as respects Landlord. Any insurance, self-insurance, or insurance pool coverage maintained by Landlord shall be in excess of the Tenant's insurance and shall not contribute with it.

8.5) Indemnification / Hold Harmless. The Tenant shall defend, indemnify, and hold harmless Landlord, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of Tenant's use of Premises, or from the conduct of Tenant's business, or from any activity, work or thing done, permitted, or suffered by Tenant in or about the Premises, except only such injury or damage as shall have been occasioned by the sole gross negligence or willful misconduct of Landlord. Solely for the purpose of effectuating Tenant's indemnification obligations under this Lease, and not for the benefit of any third parties (including but not limited to employees of Tenant), Tenant specifically and expressly waives any immunity that may be granted it under applicable federal, state, or local Worker Compensation Acts, Disability Benefit Acts, or other employee benefit acts. Furthermore, the indemnification obligations under this Lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under Worker Compensation Acts, Disability Benefit Acts, or other employee benefit acts. The parties acknowledge that the foregoing provisions of this Article have been specifically and mutually negotiated between the parties.

ARTICLE 9: ASSIGNMENT AND SUBLETTING

9.1) Assignments. Any assignment by Tenant of its Leasehold Estate in this Lease ("Assignment") to an unaffiliated third party ("Assignee") shall be subject to Landlord's prior written approval as provided herein. For purpose of this Lease, the term "Assignment" shall include a transfer of more than 50% interest in the Tenant entity to a non-affiliated third party. Landlord's review and approval of an Assignment may not be unreasonably withheld, conditioned or delayed if Tenant submits the documentation required in Article 9.2 demonstrating that the Assignment fully satisfies the conditions set forth in Article 9.3 and subject to fees described in Article 9.4.

9.2) Assignment Approval Process. In order to request Landlord's consent to an Assignment, Tenant shall submit to Landlord the following items at least thirty (30) days prior to the proposed effective date of such Assignment:

(a) Evidence that Assignee or its affiliates, members or managers have experience owning or managing comparable types of assets, or have retained a professional management company with experience in the management of comparable types of assets;

(b) The names of the direct owners, shareholders, members or partners that have day-to-day management responsibility of the proposed Assignee and any other information in Tenant's possession or control regarding the qualifications of the proposed Assignee or its direct owners, shareholders, members or partners;

(c) An explanation of the proposed ownership of and managers to be retained by the proposed Assignee;

(d) Pro forma financial and operating statements for Assignee and the Premises for the twelve (12) month period from and after the effective date of the Assignment, together with information on any financing being obtained by Assignee with respect to its acquisition of the Premises;

(e) A copy of the proposed assignment and assumption agreement which shall provide that the Assignee will be bound by all of the provisions, terms, covenants, and conditions of this Lease.

9.3) Conditions for Landlord's Reasonable Approval of Assignment. Landlord shall not withhold, condition, or delay its approval of any proposed Assignment once all of the following conditions are satisfied:

(a) Any Default by Tenant under this Lease will be cured at or prior to the effective date of the Assignment except to the extent the Event of Default is related to a specific covenant, representation or warranty of the transferring entity such that a breach thereof cannot be cured by an Assignee;

(b) The use and occupancy of the Premises by the Assignee will be consistent with Article 4;

(c) Assignee or its affiliates, members or managers have experience owning and managing comparable types of assets, or have retained a professional management company with experience in the management of comparable types of assets;

(d) All of the documentation required under Article 9.2 has been delivered to Landlord;

(e) Assignee's pro forma financial statements, and, if necessary to financially support Assignee's ability to meet its obligations under this Lease, any security being offered, demonstrate that, following the Assignment, the Assignee will have the financial capacity to perform Tenant's obligations under this Lease; and

(f) Assignee shall assume all of Tenant's obligations under this Lease from and after the date of the Assignment.

If the foregoing conditions are not satisfied Landlord may reasonably withhold, condition or delay its consent to an Assignment. If Landlord does not respond to a request for consent within thirty (30) days after receiving a notice from Tenant requesting Landlord's consent to an Assignment, Landlord shall be deemed to have given its consent. Any denial of consent must be in writing and must contain an explanation of those conditions that failed to be met and/or other reasonable grounds on which Landlord has denied consent. Upon consummation of an Assignment to which Landlord has consented (or deemed to have consented), the transferring Tenant shall be released from obligations arising under this Lease from and after the date of such Assignment and, upon written request by the transferring Tenant, Landlord will execute and deliver commercially reasonable documentation in recordable form confirming its consent to the Assignment and release of the transferring Tenant as provided above.

9.4) No Waiver & Assignment Fee**.** Consent of the Landlord to any Assignment shall not operate as a waiver of the necessity for consent to any subsequent Assignment. In connection with each request for Landlord's consent to an Assignment, regardless of whether such Assignment is approved, Tenant shall pay to the Landlord, at the time of Assignment request, the Assignment of Lease fee noted in the most current City of Auburn Master Fee Schedule.

9.5) Subletting. Tenant shall have the right to sublease all or any portions of the Premises (such subleased portion, the "Subleased Space") to Subtenant(s) for use of the Premises consistent with Article 4.2 above; provided that: (a) use by the Subtenant of the Subleased Space must be solely for aeronautical purposes per FAA policy 81 FR 38906, and for use, storage, maintenance and repair of active aircraft and aircraft related equipment by the owners thereof; (b) aircraft cannot be fueled inside the Subleased Space; (c) no overnight sleeping be allowed in the Subleased Space unless it is limited to short-term flight crew quarters for temporary use; (d) all sublease agreements shall be subordinate to and shall have a copy of this Lease attached as reference; (e) each Subtenant shall be subject to obtain insurance pursuant to Article 8 above if as and to the extent applicable to such Subtenant or the Subleased Space; (f) Subtenants and their guests, customers, employees, agents and other related parties shall not conduct business or operations in violation of any ordinance, law, statute, order, or rule of any governmental agency having jurisdiction over the Airport and shall abide by the most current copies of Airport Minimum Operating Standards and the Airport Rules and Regulations, copies of which can be found at auburnmunicipalairport.com/documents-and-forms; and, (g) a financially-redacted copy of the mutually executed sublease shall be delivered to Landlord as soon as reasonably possible.

9.5.1) Sublease Approval. Prior to subletting Subleased Space to a Subtenant, Tenant shall first obtain Landlord's approval of the Subtenant and the Sublease terms ("Sublease Approval"), which Landlord shall not unreasonably withhold. To obtain Landlord's approval, Tenant shall supply to Landlord; (i) the name of the proposed Subtenant, including any Articles of Incorporation as there may exist, the names of the owner(s), executive, and/or governing individuals; (ii) the proposed use of the Subleased Space; (iii) a financially-redacted copy of the proposed sublease terms; and (iv) insurance certificates of the proposed Subtenant applicable to the Subtenant's proposed activities within the requirements of Article 8.1. If Landlord does not provide Tenant a notice disapproving of the Subtenant and Sublease terms ("Sublease Disapproval Notice") within five (5) business days from when requesting Sublease Approval then the Sublease Approval be deemed given.

ARTICLE 10:
UTILITIES

10.1) Tenant is responsible for establishing and maintaining direct accounts with the City of Auburn or any other public or private utility provider for any and all utilities individually charged direct against the Premises. With the exception of the water/sewer utility, which is included as part of the Base Rent, the Tenant is responsible for all other utilities charged against areas beyond the Premises by paying the Tenant's proportionate share of the utilities as determined by the Landlord using typical proportionate share calculations. At a minimum, Tenant covenants to have accounts established for, or pay their proportionate share for the following utilities: power, storm, trash, and recycling.

10.2) Except to the extent caused by the gross negligence or intentional misconduct of Landlord or its agents, employees or contractors, failure by Landlord to any extent to furnish or cause to be furnished the utilities or services described in this Lease, or any cessation or interruption thereof, resulting from any cause, including without limitation, mechanical breakdown, overhaul or repair of equipment, strikes, riots, acts of God, shortages of labor or material, compliance by Landlord with any voluntary or similar governmental or business guidelines, governmental laws, regulations or restrictions, or any other similar causes, shall not render the Landlord liable in any respect for damages to either person or property, for any economic loss or other consequential damages incurred by Tenant as a result thereof, be construed as an eviction of Tenant, result in an abatement of rent, or relieve Tenant from its obligation to perform or observe any covenant or agreement contained in this Lease.

ARTICLE 11:
ESTOPPEL

11.1) Estoppel Certificate. At the request of the Tenant in connection with a transfer of its interest in this Lease, Landlord shall execute and deliver a written statement identifying it as the Landlord under this Lease and certifying:

(I) The documents that then comprise this Lease

(II) That this Lease is in full force and effect

(III) The then current annual amount of rent and the date through which it has been paid

(IV) The expiration date of this Lease

(V) That no amounts are then owed by Tenant to Landlord (or, if amounts are owed, specifying the same)

(VI) To the knowledge of Landlord, there are no defaults by Tenant under this Lease or any facts which but for the passage of time, the giving of notice or both would constitute such a default

(VII) Remaining rights to renew the term of this lease to the extent not theretofore exercised

The party acquiring Tenant's interest in the Lease shall be entitled to rely conclusively upon such written statement.

ARTICLE 12:
NOTICES

Any notice, consent, approval or other communication given by either party to the other relating to this Lease shall be in writing, and shall be delivered in person, sent by certified mail, return receipt requested, sent by reputable overnight courier, or sent by other approved forms of electronic communication (with evidence of such transmission received) to such other party at the respective addresses set forth below (or at such other address as may be designated from time to time by written notice given in the manner provided herein). Such notice shall, if hand delivered or personally served, be effective immediately upon receipt. If sent by certified mail, return receipt requested, such notice shall be deemed given on the third business day following deposit in the United States mail, postage prepaid and properly addressed; if delivered by overnight courier, notice shall be deemed effective on the first business day following deposit with such courier; and if delivered by electronic communication, notice shall be deemed effective when sent.

The notice addresses of the parties are as follows:

To the City:

Real Estate Division
Attn: Josh Arndt / Real Estate Manager
25 West Main St.
Auburn, WA 98001
253.931.3000
Jarndt@auburnwa.gov

With Copies to:

Airport Management
Attn: Tim Mensonides / Airport Manager
2143 E Street NE
Auburn, WA 98002
253.333.6821
Tmensonides@auburnwa.gov

To the Tenant:

S50 Hangars, LLC
Attn: Douglas Wilson / Managing Member
2131 E St NE,
Auburn, WA 98002
206.291.6335
Douglas.Wilson@FBOPartners.com

ARTICLE 13:
INSPECTION, ACCESS AND POSTED NOTICES

Landlord and any of its agents shall at any time upon seventy-two (72) hours advance written notice to Tenant, have the right to go upon and inspect the Premises provided, however, that in the event the Landlord determines, in its sole and absolute discretion, that an emergency situation exists on or adjacent to the Premises, no advance notice to Tenant is required and Landlord may immediately go upon and inspect the Premises. Landlord shall have the right to serve, or to post and to keep posted on the Premises, or on any part thereof, any notice permitted by law or by this Lease, any other notice or notices that may at any time be required or permitted by law or by this Lease. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, or other damages arising out of Landlord's entry on the Premises as provided in this Article except for such damage that is caused directly by, or through the gross negligence of, Landlord, their employees, agents, or representatives.

ARTICLE 14: DEFAULT AND REMEDIES

14.1) Events of Default. Tenant will be in default ("Default") under this Lease if;

(a) any amount of Rent or other sums payable by Tenant to Landlord under this Lease remains unpaid for more than thirty (30) days after the date it is due;

(b) Tenant files a voluntary petition in bankruptcy or makes a general assignment to the benefit of, or a general arrangement with, creditors;

(c) there is an involuntary bankruptcy filed against Tenant that has not been dismissed within sixty (60) days of filing;

(d) Tenant is adjudicated insolvent, or admits, in writing, its inability to pay its obligations in the ordinary course as they come due;

(e) a receiver, trustee, or liquidating officer is appointed for Tenant's business;

(f) if Tenant violates or breaches any of the other covenants, agreements, stipulations, or conditions described in the Agreement;

(g) Tenant Transfer's any portions or interest in this Lease without obtaining prior consent of the Landlord or paying the appropriate transfer fees described in Article 9;

(h) Tenant fails to Complete any of the Tenant Improvements within 12 months after beginning alterations to the Premises.

(i) Tenant fails to comply with the Tenant Improvement process described in Article 6.1.

14.2) Cure of Default. Upon an Event of Default in 14.1, Landlord shall send Tenant written notice of the violation. Upon receipt of such notice, Tenant shall have thirty (30) days to cure the violation. Any violation that continues beyond this 30 day period shall be grounds for Landlord's termination of this Lease. Tenant shall have no ability to cure a 3rd (or subsequent) distinct Event of Default occurring within a 12 month period.

14.3) <u>Termination after Default</u>. Landlord shall not elect to terminate the Lease as a result of any Default described above without first providing Tenant with written notice of Landlord's intent to terminate the Lease ("Termination Notice"); provided that any such termination shall be subject to Landlord compliance with the provisions of Article 14.2. Subject to the preceding sentence and the provisions of Article 14.2, Landlord shall have the rights and remedies provided in this Article 14, in addition to any other right or remedy available by law or equity (all notice and cure periods set forth above are in lieu of and not in addition to any notice required pursuant to applicable unlawful detainer/eviction statutes).

14.4) Upon Termination of this Lease, Landlord may reenter the Premises in the manner then provided by law, and remove or put out Tenant or any other persons or subtenants found therein. No such reentry shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant.

14.5) Upon termination of the Lease as a result of Tenant's Default, the Landlord may elect to re-let the Premises or any part thereof upon such terms and conditions, including rent, term and remodeling or renovation, as Landlord in its sole discretion may deem necessary. Landlord shall also have the right to cause any of Tenant's Subtenants, if any should exist, to direct all future sublease rent payments directly to Landlord until such time as Tenants default has been cured. To the fullest extent permitted by law, the proceeds of any reletting or payments made directly to Landlord by any of Tenant's Subtenants shall be applied: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses incurred in retaking or repossessing the Premises, removing persons or property therefrom, securing new Tenants, and, if Landlord maintains and operates the Premises, the costs thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; and fourth, the remainder, if any, shall be held by Landlord and applied in payment of other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue.

14.6) If Landlord terminates this Lease as provided in this Article, Landlord shall have the right to reenter the Premises and remove all persons, and to take possession of and remove all equipment and trade fixtures of Tenant in the Premises, in the manner then provided by law. Tenant waives all claims associated with Landlord's exercising this right, and shall hold Landlord harmless therefrom. No such reentry shall be considered a forcible entry. If Landlord elects to terminate the Lease, Landlord may also recover from Tenant:

(I) Any earned but unpaid rent under this Lease owing to Landlord at the time of termination;

(II) The amount of rent Landlord would receive under this Lease for a period of 24 months following the date of Termination inclusive of any Security Fees and Leasehold Excise Tax described in Article 3.1 and Adjustments in Article 3.3 above (the parties specifically negotiate and agree that this provision is intended as a liquidated damages clause, and not as a penalty).

(III) Any other amount necessary to compensate the Landlord for any damages caused by the Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom; provided that damages associated with loss of Rent payable hereunder shall be limited to amounts measured in 14.6(II) above; and

(IV) At Landlord's election, such other amounts in addition to or in lieu of the foregoing that may be permitted from time to time by applicable law; provided that damages associated with loss of rent payable hereunder shall be limited to amounts measured in 14.6(II) above.

14.7) Subleases of Tenant should any exist. If Landlord elects to terminate this Lease on account of any Default by Tenant, as set forth in this Article 14, Landlord will have the right to terminate any and all Subleases, consensual agreements, or arrangements for possession entered into by Tenant and affecting the Premises, should any exist subject to the provisions outlined in Article 9 above or, Landlord may in its sole discretion, elect to succeed to Tenant's interest in such subleases, agreements, or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such Subleases, agreements, or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

14.8) Indemnification. Nothing in this Article 14 shall be deemed to affect Landlord's right to indemnification for liability or liabilities arising prior to termination of this Lease for personal injury or property damage under the indemnification provisions or other provisions of this Lease.

14.9) Time is of the essence for this agreement.

ARTICLE 15:
RETENTION OF AIRSPACE

15.1) Landlord retains the public and private right of flight for the passage of aircraft in the airspace above the surface of the property hereinbefore described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or as hereinafter used, for navigation of or flight in said airspace and for use of said airspace for taking off from, landing on or operating at Auburn Municipal Airport.

15.2) Landlord reserves the right to further develop or improve the landing area of the Auburn Municipal Airport as it sees fit, regardless of the desires or view of the Tenant and without interference or hindrance.

15.3) Landlord reserves the right to maintain and keep in repair the landing area of the Auburn Municipal Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the Tenant in this regard.

15.4) This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Auburn Municipal Airport and the United States, relative to the development, operation, and maintenance of the Airport.

15.5) Tenant agrees to comply with the notification and review requirements covered in 14 C.F.R. Part 77 in the event any construction is planned for the Premises, or in the event of any planned modification or alteration of any present or future Improvements or structure situated on the Premises.

15.6) Tenant agrees that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Premises to exceed the established height contours. In the event the aforesaid covenants are breached, Landlord shall give written notice to the Tenant specifying the breach. If Tenant does not take action to correct the breach within ten (10) days of receipt of said notice, the Landlord reserves the right to enter upon the Premises hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Tenant.

15.7) Tenant, by accepting this Lease, agrees that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from Auburn Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, Landlord reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of Tenant.

15.8) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. §40103(e) and/or 49 U.S.C. §41101(c).

15.9) This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, and taking over of the Auburn Airport by the United States during the time of the war or national emergency.

15.10) Landlord reserves the right to take any action it considers necessary to protect the aerial approaches of the Auburn Airport against obstructions, together with the right to prevent Tenant from erecting or permitting to be erected any building or other structure on the Premises which, in the opinion of Airport or the Federal Aviation Administration, would limit the usefulness of the Auburn Airport or constitute a hazard to aircraft.

15.11) Tenant, as well as Tenant's assignees and subleases, and the agents, employees, and customers thereof, shall have the rights of access to and use of all areas and facilities of the Auburn

Airport which are intended for the common use of all Tenants and occupants of the Auburn Airport, including but not limited to the take-off and landing areas, taxi areas, reasonable access thereto from the Premises, and air control facilities.

ARTICLE 16:
FEDERAL AVIATION ADMINISTRATION

16.1) Tenant agrees:

(I) to prevent any operation on the Premises which would produce electromagnetic radiations of a nature which would cause interference with any existing or future navigational aid or communication aid serving Auburn Municipal Airport, or which would create any interfering or confusing light or in any way restrict visibility at the Airport; and

(II) to prevent any use of the Premises, which would interfere with landing or taking off of aircraft at Auburn Municipal Airport, or otherwise, constitute an aviation hazard.

16.2) Landlord reserves the right during the term of this Lease or any renewal and/or extension thereof to install air navigational aids including lighting, in, on, over, under, and across the Premises in the exercise of any of the rights hereof. Landlord agrees to give Tenant no less than ninety (90) days' written notice of its intention to install such air navigational aids.

ARTICLE 17:
NON-DISCRIMINATION

17.1) Tenant for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Premises described in this lease agreement for a purpose for which a Department of Transportation ("DOT") program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed by 49 C.F.R. Part 21 as now enacted or as hereafter amended.

17.2) Tenant for themselves, their personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: 1) no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of said facilities, 2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, and 3) that the

Tenant shall use the Premises in compliance with all other requirements imposed by 49 C.F.R. Part 21 as now enacted or as hereafter amended.

17.3) If the tenant breaches any of the above non-discrimination covenants, Landlord shall have the right to terminate this Lease agreement and to re-enter and repossess said Premises and the facilities thereon, and hold the same as if said lease agreement has never been made or issued. This provision does not become effective until the procedures of 49 C.F.R. Part 21 are followed and completed, including expiration of appeal rights.

17.4) Tenant shall furnish its accommodations and/or services on a fair, equal, and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

17.5) Noncompliance with Article 17 above shall constitute a material breach thereof and, in the event of such noncompliance, Landlord shall have the right to terminate this Lease and the estate hereby created without liability therefor or, at the election of the Landlord or the United States, either or both said Governments shall have the right to judicially enforce the provisions of said Article 17.4.

17.6) Tenant agrees that it shall insert Articles 17.1 – 17.5 in any lease, license, or sublease agreement by which said Tenant grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Premises herein leased.

17.7) The Tenant assures that during this tenancy it will undertake an Affirmative Action program as required by 14 C.F.R. §§152.401-425 to ensure that no person shall on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any covered employment activities. The Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by these regulations. The Tenant assures that it will require that its covered suborganizations provide assurances to the Tenant that they similarly will undertake Affirmative Action programs, and that they will require assurances from their suborganizations, as required by these regulations, to the same effort.

ARTICLE 18: ATTORNEY'S FEES AND COSTS

If by reason of default on the part of either party to this Lease agreement it becomes necessary to employ an attorney to recover any payments due hereunder or to enforce any provision of this Lease, the prevailing party, whether such party be the successful claimant or the party who successfully defended against the claim of the other party, shall be entitled to recover a reasonable attorney's fee and to be reimbursed for such costs and expenses as may have been incurred by such prevailing party.

ARTICLE 19:
MISCELLANEOUS

19.1 Signage. Tenant shall have the right at their sole cost and expenses to install and maintain wall mounted, illuminated or non-illuminated signs on the Building so long as said signage; i) are strictly for the advertisement of Tenants or Subtenants business and business services, ii) are located on the exterior of the Premises, and iii) Tenant obtains the approval of the Airport Manager regarding the look, size and placement of the signage. Any additional mounted or free standing signage shall be subject to separate cost considerations and will be addressed in a separate addendum to this Lease. All signage shall be subject to and in accordance with the ACC 18.56, and Airport design standards, if any. No sign will be allowed that may be confusing to aircraft pilots or automobile drivers or other traffic.

19.2) Security. Landlord shall have no obligation to provide security to the Premises. If reasonably required by Landlord, Tenant shall provide adequate lighting to provide for all-night illumination of the Taxilane apron of all buildings on the Premises, including aprons, aircraft tiedown areas, vehicular parking lots, and pedestrian walkways surrounding the Premises. Tenant may, but need not, employ security persons. If at any time during the term of this Lease, additional security requirements are imposed on the Auburn Municipal Airport by the FAA or any other agency having jurisdiction, and such additional security requirements apply to the Premises, Tenant agrees to comply with said security requirements that affect the Premises, at Tenant 's sole expense, upon being notified of such requirements in writing by Landlord. If Landlord is fined by FAA for a security violation caused by negligence of Tenant, or any of Tenant's sub-Tenants, Tenant shall immediately reimburse Landlord upon demand.

19.3) No Brokers. Tenant represents and warrants to Landlord that it has not engaged any broker, finder or other person who would be entitled to any commission or fees in respect of the negotiation, execution or delivery of this Lease and shall indemnify and hold harmless Landlord against any loss, cost, liability or expense incurred by Landlord as a result of any claim asserted by any such broker, finder or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of Tenant.

19.4) Regulatory Compliance. The Tenant agrees, at its sole cost and expense, to conform to, comply with and abide by all lawful rules, codes, ordinances, requirements, orders, directions, laws, regulations and standards of the United States, the State of Washington, and City of Auburn or agency of any of said entities, including rules and regulations of Landlord, including without limitation those relating to environmental matters, and regulations set forth by the Environmental Protection Agency, now in existence or hereafter promulgated, applicable to the Tenant 's use and operation of said Premises, including the construction of any improvements thereon, and not to permit said Premises to be used in violation of any of said rules, codes, laws or regulations. Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the covenants of this Article.

19.5) Liens & Insolvency. Tenant shall keep the Premises free from any liens. In the event Tenant becomes insolvent, voluntarily, or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for the business of the Tenant, then the Landlord may cancel this Lease at Landlord's option.

19.6) Non Waiver. Waiver by Landlord of any term, covenant or condition herein contained or any breach thereof shall not be deemed to be a waiver of such term, covenant, or condition or of any subsequent breach of the same or any other term, covenant, or condition herein contained.

19.7) Force Majeure. Neither Party shall be held liable or responsible to the other Party or be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the non-performing Party, including fires, floods, earthquakes, embargoes, shortages, epidemics, quarantines, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotion, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority. The non-performing Party shall notify the other Party of such force majeure within ten (10) days after such occurrence by giving written notice to the other Party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect. A Force Majeure event does not include an act of negligence or Intentional Wrongdoing by a Party. The suspension of performance shall be of no greater scope and no longer duration than is necessary and the non-performing Party shall use commercially reasonable efforts to remedy its inability to perform.

19.8) Severability. If any term, covenant, or condition of this Lease (or part thereof) or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease (and/or the remainder of any such term, covenant or condition), or the applicability of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition (or part thereof) of this Lease shall be valid and be enforced to fullest extent permitted by law.

19.9) Choice of Law, Integration, and Interpretation. This Lease and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Washington and venue for any action hereunder shall be in King County, Washington. This Lease, together with any subsequent amendments or addendums, constitutes the entire agreement of the parties and no other understandings, oral or otherwise, regarding this Lease shall exist or bind any of the parties. All captions, headings or titles in the paragraphs or articles of this Lease are inserted for convenience of reference only and shall not constitute a part of this Lease or act as a limitation of the scope of the particular paragraph or articles to which they apply. Construction of this Lease shall not be affected by any determination as to who is the drafter of this Lease, this Lease having been drafted by mutual agreement of the parties.

19.10) Gate Cards. Tenant shall coordinate with the Airport Manager upon Commencement of the Lease to determine and checkout the appropriate number of gate cards needed for sufficient operations at the Airport. Tenant shall be responsible for the management of the gate cards issued and responsible for the actions of any person that gains access using the cards and shall not make the gate cards available to anyone not affiliated with Tenants operations. Tenant shall promptly report any gate cards that have been lost, stolen, or not returned to the Airport Office and must obtain replacement cards per the current fee schedule prices. Upon termination or expiration of the Lease without any extensions thereof, Tenant shall immediately and without notice or demand return the gate cards to the Office of the Airport Manager.

19.11) Gate Codes. Gate codes will be provided for personnel gate access onto the Airport. Gate codes are subject to change as determined and in the sole discretion of the Landlord. Tenant shall be notified prior to changing of the gate codes and it shall be the responsibility of the Tenant to notify their customers and employees of said change. Tenant shall immediately notify the Landlord and the office of the Airport Manager if the codes need to be changed to prevent access from a customer or employee to maintain security.

19.12) Authority. Each party hereto warrants that it has the authority to enter into this Lease and to perform its obligations hereunder and that all necessary corporate action to authorize this transaction has been taken, and the signatories, by executing this Lease, warrant that they have the authority to bind the respective parties.

19.13) Airport Rules and Regulations. Tenant, Tenant's customers, guests, representatives, directors, officers and employees, are subject to and shall at all times abide by the Airport Rules and Regulations as may be amended from time to time. A copy of which are located at auburnmunicipalairport.com/documents-and-forms and are hereby incorporated by this reference.

ARTICLE 20: SIGNATURE

By signing in the space below, the TENANT ACKNOWLEDGES HAVING READ AND UNDERSTOOD AND AGREES TO THE CONTENTS OF THIS AGREEMENT.

[*Signatures on following page*]

Dated and Signed this 29th day of September, 2022.

S50 Hangars LLC,

Douglas Wilson, Managing Member

STATE OF WASHINGTON)

) ss.

County of King)

The undersigned Notary Public hereby ~~certifies~~: That on this 29th day of September 2022, personally appeared before me Douglas Wilson (name), Managing Member (title), to me known to be the individual(s) described in and who executed the within instrument, and acknowledged that he/she signed and sealed the same as his/her free and voluntary act and deed, for the purposes and uses therein mentioned, and on oath stated that he/she was duly authorized to execute said document on behalf of S50 Hangars, LLC.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

ANGELA ELIZABETH KLEIN
Notary Public
State of Washington
Commission # 21027004
My Comm. Expires Sep 17, 2025

Notary Public in and for the State of Washington,

Residing at Puyallup, WA

My commission expires Sept. 17, 2025

Dated and Signed this ______day of _________________, 20______.

CITY OF AUBURN:

____

NANCY BACKUS, Mayor

Approved as to form:

____

Kendra Comeau, City Attorney

STATE OF WASHINGTON)

) ss.

County of _______________)

The undersigned Notary Public hereby certifies: That on this ____ day of _____________, 20____, personally appeared before me ____________________________________ (name), ________________________________(title), to me known to be the individual(s) described in and who executed the within instrument, and acknowledged that he/she signed and sealed the same as his/her free and voluntary act and deed, for the purposes and uses therein mentioned, and on oath stated that he/she was duly authorized to execute said document on behalf of ___________________________.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

____

Notary Public in and for the State of Washington,

Residing at __________________________________

My commission expires ________________________

EXHIBIT A
Premises

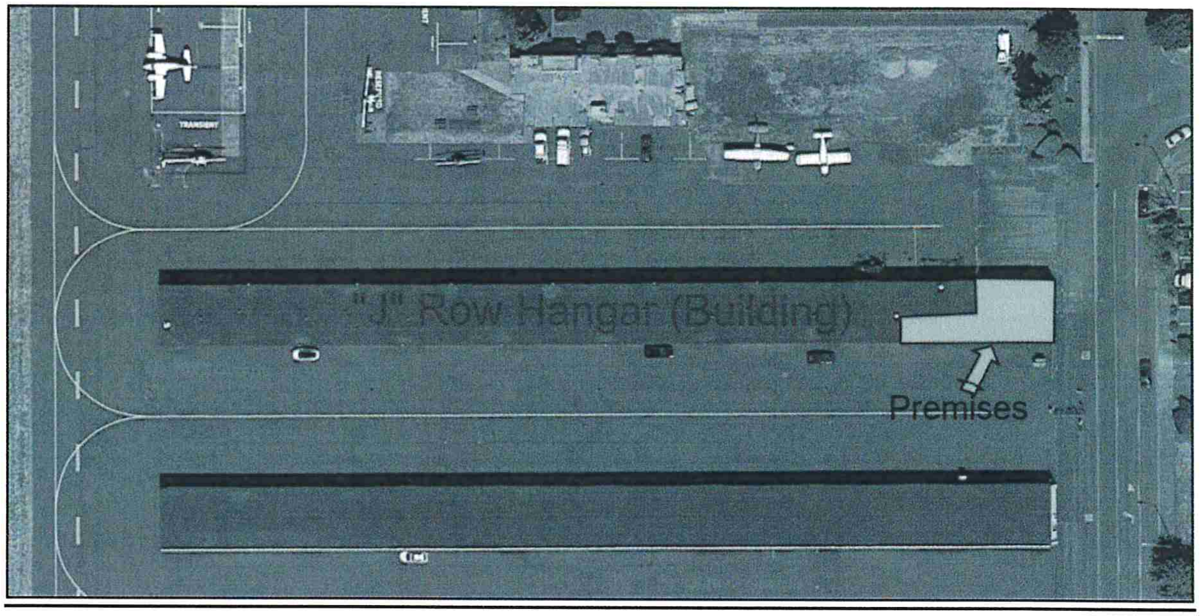

EXHIBIT B

Tenant Improvements to be made for Base Rent reduction (See Base Rent Table in Article 3.1)

- Remove non-load bearing walls that were framed into workspaces/storage, and return the primary footprint to a T-hangar configuration.
- Build two (2) new 13.3' wide doors to match the existing door, inclusive of rollers and hardware, and reinstall in the existing door tracks. Note: Depending on the condition/serviceability of the upper tracks, they may also require replacement. If so, that will also be accomplished.
- Remove all electrical conduit, wiring, boxes, etc. added in the non-load-bearing walls, and cap at the breaker box. This WILL be performed by a licensed electrician.
- Correct leaking plumbing in the included restrooms. This may require new piping, which WILL be independently determined and corrected by a licensed plumber.
- Additional lighting, likely LED for energy efficiency, will also be installed in the newly created hangar bay, consistent with the plans to house an MRO as sublessee.
- Install tie down – on SE corner of the building (tie-down ring details to be mutually agreed upon between airport and tenant)
- Remove/cap east wall water spigot in wash rack

**The above Tenant Improvement items or any alternative alterations described in Article 6.1 are still subject to those conditions and responsibilities also described in Article 6.1.*

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5684 (Backus)

Date:
September 29, 2022

Department:
Administration

Attachments:
Resolution No. 5684
Proclamation

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

City Council to adopt Resolution No. 5684.

Background for Motion:

This resolution ratifies the Mayor's rescission of Emergency Proclamation 2020-02, which declared a state of emergency within the City of Auburn and authorized the use of emergency powers granted under City Code and state law due to the COVID-19 outbreak consistent with the State's orders and actions.

Background Summary:

On February 29, 2020, Governor Jay Inslee declared a state of emergency due to the Covid-19 outbreak. Shortly thereafter, on March 6, 2020, the Mayor proclaimed a state of emergency within the City of Auburn and authorized the use of emergency powers granted under city code and state law, which proclamation was ratified by council per Resolution No. 5504.

During the state of emergency, the City passed several resolutions and ordinances mitigating the impacts of the Covid-19 outbreak, including establishing a moratorium on residential tenant late fees and commercial evictions; extending deadlines to apply for reduced utility rates; waiving late fees and penalties related to utilities and the municipal airport; suspending certain Auburn Valley Humane Society adoption requirements; and temporarily waiving ROW use and permit applications process and fees for temporary restaurants.

In September 2022, Governor Inslee announced that effective October 31, 2022, all COVID-19 emergency proclamations, including the underlying state of emergency, would be rescinded. On October 10, Mayor Backus rescinded Proclamation of Emergency 2020-02, also with an effective date of October 31, 2022.

With the exception of the temporary fee waiver related to specified ROW use and permit applications, all of the mitigation measures taken by the City either expired or were repealed when appropriate. Per Ordinances 6778, 6791, and 6824, the waiver of temporary restaurant ROW use and application fees will expire on November 30, 2022 (30 days after the effective date of Governor Inslee's rescission of the state of emergency.)

Reviewed by Council Committees:

Councilmember:	Jeyaraj	**Staff:**	Backus
Meeting Date:	October 17, 2022	Item Number:	RES.B

RESOLUTION NO. 5684

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RATIFYING THE RESCISSION OF EMERGENCY PROCLAMATION 2020-02 RELATED TO COVID-19

WHEREAS, on February 29, 2020, Governor Jay Inslee declared a state of emergency due to the COVID-19 outbreak; and

WHEREAS, on March 6, 2020, the Mayor proclaimed an emergency within the City of Auburn and issued Emergency Proclamation 2020-02, authorizing the use of emergency powers granted under Chapter 2.75 of the Auburn City Code and Chapter 38.52 of the Revised Code of Washington; and

WHEREAS, Emergency Proclamation 2020-02 was ratified by the Auburn City Council on March 12, 2020, per Resolution No. 5504; and

WHEREAS, pursuant to Resolution No. 5504, the following legislative actions were taken to ameliorate the effects of the COVID-19 pandemic:

> 2020-03, established a temporary 30-day moratorium on residential tenant late fees, ratified via Resolution No. 5506, which has since expired.
>
> 2020-04, established a temporary 30-day moratorium on commercial evictions, ratified via Resolution No. 5508, which has since expired.
>
> Ordinance 6767, temporarily waived late fees and penalties related to utilities or the municipal airport, extended and/or amended by Ordinance No. 6777, Ordinance 6788, Ordinance No. 6802, and was repealed by Ordinance No. 6864.
>
> Ordinance 6768, extended deadlines to renew or apply for reduced utility rates and automatically expired on August 1, 2020.
>
> Ordinance 6778, temporarily waived ROW use permit application process and fees for temporary restaurants, which was extended by Ordinance No. 6791, and Ordinance No. 6824, and is scheduled to automatically expire 30 days after Governor Inslee rescinds the state of emergency related to COVID-19.

Ordinance 6773, temporarily suspending Auburn City Code 6.01.110 requiring spaying and neutering of impounded animals adopted from the Auburn Valley Humane Society, set to automatically expire on the date the Governor rescinds the Stay Home-Stay Healthy Order.

and;

WHEREAS, on September 8, 2022, Governor Jay Inslee announced the recission of all COVID-19 emergency proclamations, including the underlying state of emergency effective October 31, 2022; and

WHEREAS, effective October 31, 2022, the Mayor rescinds the Auburn Proclamation of Emergency 2020-02; and

WHEREAS, it is appropriate to ratify the Rescission of Proclamation of Emergency 2020-02.

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

Section 1. The City Council ratifies the Recission of Emergency Proclamation 2020-02.

Section 2. All sections or subsections of the Auburn City Code authorizing or requiring collection of ROW use permit fees for temporary restaurant uses will be enforced beginning **November 30, 2022** (30 days after recission of Governor Inslee's State of Emergency).

Section 3. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 4. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: ______________________

CITY OF AUBURN

____
NANCY BACKUS, MAYOR

ATTEST:

____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

____
Kendra Comeau, City Attorney

CITY OF AUBURN WASHINGTON

MAYOR NANCY BACKUS
25 WEST MAIN STREET, AUBURN, WA 98001
253-931-3000
AUBURNWA.GOV

2022-01 RESCISSION OF EMERGENCY PROCLAMATION 2020-02

WHEREAS, on February 29, 2020, Governor Jay Inslee declared a state of emergency due to the COVID-19 outbreak; and

WHEREAS, on March 6, 2020, I proclaimed an emergency within the City of Auburn and issued Emergency Proclamation 2020-02, authorizing the use of emergency powers granted under Chapter 2.75 of the Auburn City Code and Chapter 38.52 of the Revised Code of Washington consistent with the Governor's declaration; and

WHEREAS, Governor Inslee has ordered the recission of all COVID-19 related emergency proclamations, including the underlying state of emergency, effective October 31, 2022; and

WHEREAS, it is appropriate to rescind City of Auburn Emergency Proclamation 2020-02, effective October 31, 2022, consistent with the State's actions.

NOW, THEREFORE, I, Nancy Backus, Mayor of the City of Auburn:

Section 1. Rescind Emergency Proclamation issued on March 6, 2020, effective October 31, 2022.

Dated and signed: October 10, 2022

CITY OF AUBURN

Nancy Backus

Nancy Backus, Mayor