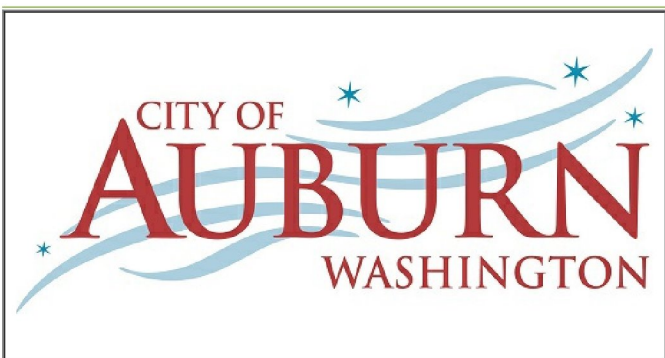


	City Council Meeting October 2, 2023 - 7:00 PM City Hall Council Chambers AGENDA Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
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I. CALL TO ORDER

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 Auburn City Council Meeting scheduled for Monday October 2, 2023 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/84901944869>

A. Pledge of Allegiance

IV. Roll Call

V. ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

A. Indigenous Peoples' Day

Mayor Backus to proclaim October 9, 2023, as "Indigenous Peoples' Day" in the City of Auburn

B. Domestic Violence Awareness Month

Mayor Backus to proclaim October 2023 as "Domestic Violence Awareness Month" in the City of Auburn

VI. **AGENDA MODIFICATIONS**

VII. **CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE**

A. **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.

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

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

VIII. **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 Baldwin)

IX. **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 18, 2023, City Council Meeting

B. Claims Vouchers (Thomas)

Claims voucher list dated September 27, 2023 which includes voucher number 473533 through 473690, in the amount of \$7,760,751.77, five electronic fund transfers in the amount of \$2,269.84, and four wire transfers in the amount of \$914,289.49

C. Payroll Voucher (Thomas)

Payroll check numbers 539525 through 539527 in the amount of \$726,043.71, electronic deposit transmissions in the amount of \$2,523,912.87, for a grand total of \$3,249,956.58 for the period covering September 14, 2023 to September 27, 2023

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

X. **UNFINISHED BUSINESS**

XI. **NEW BUSINESS**

XII. **RESOLUTIONS**

A. Resolution No. 5738 (Gaub)

A Resolution authorizing the Mayor to execute an amendment to the loan agreement between the City and the Community Aviation Revitalization Board relating to Project No. CP2201, Airport T-Hangar Upgrades

(RECOMMENDED ACTION: Move to adopt Resolution No. 5738.)

B. Resolution No. 5739 (Faber)

A Resolution surplusizing and deaccessing the artworks entitled "You Are Here - Millennium Sundial" and "Centennial Mural"

(RECOMMENDED ACTION: Move to adopt Resolution No. 5739.)

C. Resolution No. 5741 (Thomas)

A Resolution authorizing the Mayor to execute an amendment to the agreement between the City of Auburn and Foster Garvey PC for legal services to the City

(RECOMMENDED ACTION: Move to adopt Resolution No. 5741.)

XIII. **MAYOR AND COUNCILMEMBER REPORTS**

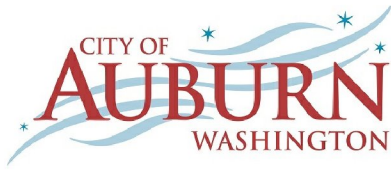
At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. **From the Council**

B. **From the Mayor**

XIV. **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:

Minutes of the September 18, 2023, City Council Meeting

Department:

City Council

Attachments:

[09-18-2023 Minutes](#)

Date:

September 26, 2023

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

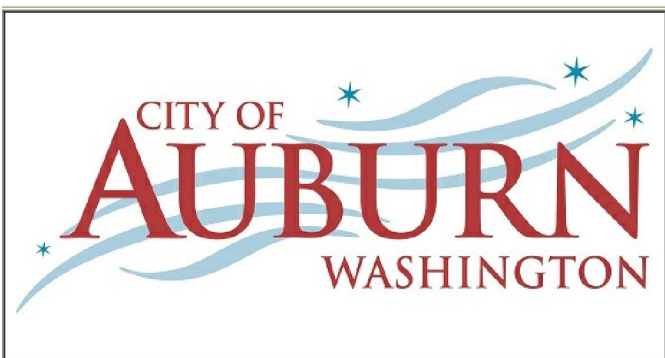
Revised Budget: \$0

Administrative Recommendation:**Background for Motion:****Background Summary:****Reviewed by Council Committees:****Councilmember:**

Meeting Date: October 2, 2023

Staff:

Item Number: CA.A

	City Council Meeting September 18, 2023 - 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.
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I. CALL TO ORDER

II. LAND ACKNOWLEDGMENT

III. PUBLIC PARTICIPATION

1. Public Participation

The City Council Meeting was held in person and virtually.

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, Larry Brown, Bob Baggett, Kate Baldwin, Cheryl Rakes, and Yolanda Trout-Manuel. Councilmember Robyn Mulenga was excused.

Department directors and staff members present included: Senior City Staff Attorney Doug Ruth, Director of Public Works Ingrid Gaub, Chief of Police Mark Caillier, Director of Parks, Arts, and Recreation Daryl Faber, Director of Community Development Jeff Tate, Director of Anti-Homelessness Kent Hay, Business Systems Analyst Chrissy Malave, and Deputy City Clerk Hannah Scholl. Outside Counsel Bob Sterbank attended the meeting virtually.

V. APPOINTMENTS

A. Transportation Advisory Board

City Council to approve the appointment of Emily Helms to the Transportation Advisory Board for a one year term expiring June 31, 2024

Councilmember Baldwin moved and Councilmember Trout-Manuel seconded to appoint Emily Helms to the Transportation Advisory Board for a one-year term to expire on June 30, 2024.

MOTION CARRIED UNANIMOUSLY. 6-0

VI. ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

A. National Recovery Month

Mayor Backus proclaimed September 2023 as "National Recovery Month" in the City of Auburn.

Amran Ahmed with HealthPoint thanked Mayor and Council for the opportunity to speak about HealthPoint.

Kalena Towle with We Care Daily Clinics thanked the City for recognizing National Recovery Month.

Cassandra Jackson with Sound Health thanked Mayor and Council for the opportunity to speak about Sound Health.

Director Hay thanked Health Point, We Care Daily Clinics, and Sound Health for their willingness to help the people in the community.

VII. AGENDA MODIFICATIONS

There were no modifications to the agenda.

VIII. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. 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.

Linda Redman 2704 18th ST SE

Ms. Redman expressed her concerns regarding the World Housing Organization (W.H.O).

Matthew Newman 1252 29th ST SE

Mr. Newman expressed his concerns regarding rent increases in the City of Auburn.

Virginia Haugen 2503 R ST SE

Ms. Haugen expressed her concerns regarding rent increases in the City of Auburn, and concerns regarding the Bridges annexation.

B. Correspondence

There was no correspondence for Council to 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 Baldwin)

Councilmember Baldwin, Chair of the Finance Ad Hoc Committee, reported she and Councilmember Baggett have reviewed the claims and payroll vouchers described on the agenda this evening and recommended their approval.

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 5, 2023, City Council Meeting

B. Minutes of the September 11, 2023, Study Session Meeting

C. Claims Vouchers (Thomas)

Claims voucher list dated September 13, 2023 which includes voucher number 473392 through 473532, in the amount of \$2,744,898.46, one electronic fund transfers in the amount of \$453.00, and two wire transfers in the amount of \$806,559.11

D. Payroll Voucher (Thomas)

Payroll check numbers 539521 through 539524 in the amount of \$79,208.16, electronic deposit transmissions in the amount of \$2,792,931.53, for a grand total of \$2,872,139.69 for the period covering August 31, 2023 to September 13, 2023

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

MOTION CARRIED UNANIMOUSLY. 6-0

XI. UNFINISHED BUSINESS

There was no unfinished business.

XII. NEW BUSINESS

There was no new business.

XIII. RESOLUTIONS

A. Resolution No. 5736 (Tate)

A Resolution resolving to annex certain property, known as "The Bridges" Neighborhood and currently located within the City of Kent, Washington, into the City of Auburn pursuant to RCW 35.10.217(2), and authorizing City Staff to file a Notice of

Intent to Annex with the Washington State Boundary Review Board for King County

Councilmember Brown moved and Councilmember Baggett seconded to adopt Resolution No. 5736.

MOTION CARRIED UNANIMOUSLY. 6-0

B. Resolution No. 5737 (Gaub)

A Resolution authorizing the Mayor to execute an agreement accepting a grant from King County for the Auburn Avenue Theater Project

Councilmember Brown moved and Deputy Mayor Jeyaraj seconded to adopt Resolution No. 5737.

MOTION CARRIED UNANIMOUSLY. 6-0

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

Councilmember Baldwin reported she attended the Postmark Center for the Arts Grand Opening.

Councilmember Brown reported he attended the Postmark Center for the Arts Grand Opening. He thanked Mayor for hosting the Employee Luncheon and thanked the Utilities Department for their hard work.

Councilmember Trout-Manuel reported she attended the King County Best Starts for Kids meeting, Sound Cities Association Domestic Violence Task Force meeting, and the Postmark Center for the Arts Grand Opening.

B. From the Mayor

Mayor Backus had no report.

XV. ADJOURNMENT

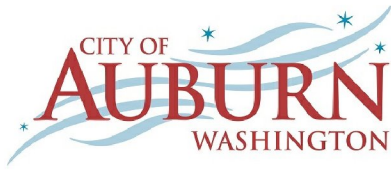
There being no further business to come before the Council, the meeting was adjourned at 7:38 p.m.

APPROVED this 2nd day of October, 2023.

NANCY BACKUS, MAYOR

Hannah Scholl, Deputy City Clerk

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



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)

Date:

September 12, 2023

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 September 27, 2023 which includes voucher number 473533 through 473690, in the amount of \$7,760,751.77, five electronic fund transfers in the amount of \$2,269.84, and four wire transfers in the amount of \$914,289.49.

Reviewed by Council Committees:

Councilmember: Baldwin

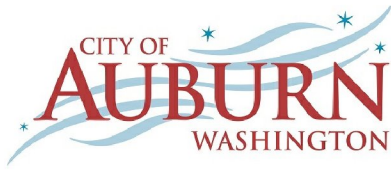
Staff:

Thomas

Meeting Date: October 2, 2023

Item Number:

CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Voucher (Thomas)

Date:

September 12, 2023

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:**Background for Motion:**

Approve Payroll Vouchers.

Background Summary:

Payroll check numbers 539525 through 539527 in the amount of \$726,043.71, electronic deposit transmissions in the amount of \$2,523,912.87, for a grand total of \$3,249,956.58 for the period covering September 14, 2023 to September 27, 2023.

Reviewed by Council Committees:

Councilmember: Baldwin

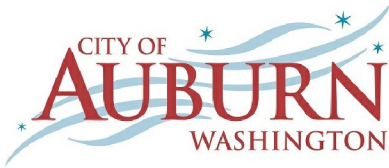
Staff:

Thomas

Meeting Date: October 2, 2023

Item Number:

CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5738 (Gaub)

Department:

Public Works

Attachments:

[Resolution No. 5738](#)

[Agreement](#)

[Exhibit C](#)

[Exhibit E](#)

Date:

September 25, 2023

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council adopt Resolution No. 5738.

Background for Motion:

This Resolution allows the Mayor to accept an increase of \$75,000 to the existing loan amount of \$750,000 for a total loan of \$825,000 to allow for the completion of an upgrade project to enclose existing open T-Hangars at the Auburn Municipal Airport.

Background Summary:

Resolution No. 5738 authorizes the City to accept an additional \$75,000 in low interest loan to complete the upgrade of the existing airport owned hangar Row's G and J. This project is included in the City's adopted capital facility plan.

The current wait time for enclosed hangar space and the Airport is estimated to be between 10 and 15 years. In order to address a portion of this demand and increase revenue at the airport long term, the airport is installing interior walls and exterior doors on hangar row G and replacing existing cloth roll up doors that are beyond their service life on hangar row J.

The City accepted a loan from this project from the Community Aviation Revitalization Board in 2022 in the amount of \$750,000 to complete this project. Consistent with the loan programs policies, the City requested a 10% increase in the loan amount after opening bids for the project which came in just slightly over the anticipated budget. The requested increase is to complete the funding necessary for the project and the Board approved the loan increase on September 7, 2023 for a total loan amount of \$825,000. This project is using \$587,000 in FAA grant funds allocated to the Auburn Airport through the BIL Funding and \$625,000 in Airport funds to complete the funding for this project. Repayment of the loan will begin 1 year after project completion and will be from the increased revenues for hangar rents on these hangars. Budget amendment #3 will be complete the allocation of this additional funding for the project.

Reviewed by Council Committees:

Councilmember: Brown

Staff: Gaub

Meeting Date: October 2, 2023

Item Number: RES.A

RESOLUTION NO. 5738

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY OF AUBURN (THE CITY) AND THE COMMUNITY AVIATION REVITALIZATION BOARD RELATING TO PROJECT NO. CP2201, AIRPORT T-HANGAR UPGRADES

WHEREAS, RCW 47.68.460 establishes the Washington State Department of Transportation (DOT) community Aviation Revitalization Board (CARB) loan program. The program's purpose is to furnish DOT financial loans to public use airports for airport improvements that support general aviation activities. Loans through the CARB program are offered to qualified airports at favorable interest rates; and

WHEREAS, the City previously accepted a \$750,000 loan from CARB through Resolution No. 5641 for this project; and

WHEREAS, the constructions costs of the project came in slightly above the available project budget and the City requested a 10% increase to the loan amount per the policies of the CARB loan program; and

WHEREAS, on September 7, 2023, the CARB awarded the increase to the City; and

WHEREAS, it is in the best interest of the City to use low interest loan monies to finance capital improvements to the Airport Hangars which will generate an increase in revenue to the Airport once completed.

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

Section 1. The Mayor and City Clerk are hereby authorized to execute a loan amendment between the City and the Community Aviation Revitalization Board, in substantial conformity with the agreement attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

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

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

Dated and Signed this _____ day of _____, 2023.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Shawn Campbell,
City Clerk

APPROVED AS TO FORM:

Harry Boesche,
Acting City Attorney

The FIRST AMENDMENT to AGREEMENT GCB3652 entered into between the Washington State Department of Transportation (hereinafter referred to as “WSDOT”), and the City of Auburn (hereinafter referred to as “RECIPIENT”), and/or individually referred to as the “PARTY” and collectively referred to as the “PARTIES,”

RECITALS

WHEREAS, both PARTIES agree to amend AGREEMENT GCB3652 to add \$75,000 in CARB Loan Funds to the Project per written request documenting a 10% increase in project costs as provided in the Aviation Loan Program Procedures Manual (revised August 2022), Chapter 3 – Eligibility Requirements, Page 16.

NOW THEREFORE, the following AMENDMENTS are hereby incorporated into AGREEMENT GCB3652.

AGREEMENT

1. RECITALS are hereby incorporated into this AGREEMENT.
2. Amend Caption heading ‘Loan Amount’ on the first page of the AGREEMENT to read as follows:

Loan Amount: \$825,000.00

3. Amend the existing budget table in EXHIBIT A SCOPE OF WORK, PROJECT SCHEDULE & BUDGET and replace it to read as follows:

Planning & Engineering (P/E)	\$	0.00
Land Acquisition & ROW	\$	0.00
Construction	\$	825,000.00
Project Total	\$	825,000.00

4. Amend EXHIBIT C, LOAN REPAYMENT SCHEDULE, increasing the total amortized loan debt to \$825,000 over a ten (10) year repayment period with annual payments.
5. Add EXHIBIT E, letter dated September 1, 2023, documenting request for an additional \$75,000 (10%) in Community Aviation Revitalization Board (CARB) loan funds to fund the Project.
6. A copy of this AMENDMENT to the AGREEMENT shall be attached to and made a part of the original AGREEMENT. Any references to the “AGREEMENT” shall mean “AGREEMENT as amended.”

7. All other terms and conditions of the original AGREEMENT not hereby amended shall remain in full force and effect. This document may be simultaneously executed in several counterparts, each of which shall be deemed original having identical legal effect.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AMENDMENT the day and year last written below.

**WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION**

By: _____
Ann Richart, Director
WSDOT, Aviation Division

CONTRACTOR

By: _____
Authorized Representative
Title: __Mayor_____

Print Name: __Nancy Backus_____

EXHIBIT C, ESTIMATED LOAN REPAYMENT SCHEDULE - CITY OF AUBURN

ENTER VALUES

Loan amount	\$825,000.00
Annual interest rate	2.00%
Loan period in years	10
Number of payments per year	1
Start date of loan	1/1/2025
Optional extra payments	\$0.00

LOAN SUMMARY

Scheduled payment	\$91,844.39
Scheduled number of payments	10
Actual number of payments	20
Total early payments	\$0.00
Total interest	\$93,443.85

LENDER NAME CARB / WSDOT - Aviation Division

PMT NO	PAYMENT DATE	BEGINNING BALANCE	SCHEDULED PAYMENT	EXTRA PAYMENT	TOTAL PAYMENT	PRINCIPAL	INTEREST	ENDING BALANCE	CUMULATIVE INTEREST
1	1/1/2025	\$825,000.00	\$91,844.39	\$0.00	\$91,844.39	\$75,344.39	\$16,500.00	\$749,655.61	\$16,500.00
2	1/1/2026	\$749,655.61	\$91,844.39	\$0.00	\$91,844.39	\$76,851.27	\$14,993.11	\$672,804.34	\$31,493.11
3	1/1/2027	\$672,804.34	\$91,844.39	\$0.00	\$91,844.39	\$78,388.30	\$13,456.09	\$594,416.04	\$44,949.20
4	1/1/2028	\$594,416.04	\$91,844.39	\$0.00	\$91,844.39	\$79,956.06	\$11,888.32	\$514,459.98	\$56,837.52
5	1/1/2029	\$514,459.98	\$91,844.39	\$0.00	\$91,844.39	\$81,555.19	\$10,289.20	\$432,904.79	\$67,126.72
6	1/1/2030	\$432,904.79	\$91,844.39	\$0.00	\$91,844.39	\$83,186.29	\$8,658.10	\$349,718.50	\$75,784.82
7	1/1/2031	\$349,718.50	\$91,844.39	\$0.00	\$91,844.39	\$84,850.02	\$6,994.37	\$264,868.49	\$82,779.19
8	1/1/2032	\$264,868.49	\$91,844.39	\$0.00	\$91,844.39	\$86,547.02	\$5,297.37	\$178,321.47	\$88,076.56
9	1/1/2033	\$178,321.47	\$91,844.39	\$0.00	\$91,844.39	\$88,277.96	\$3,566.43	\$90,043.52	\$91,642.98
10	1/1/2034	\$90,043.52	\$91,844.39	\$0.00	\$91,844.39	\$90,043.52	\$1,800.87	\$0.00	\$93,443.85
					\$918,443.85	\$825,000.00	\$93,443.85		



September 1, 2023

Dear CARB Board:

The Auburn Airport recently opened bids for the T Hangar Enclosure Project which the Airport currently has a \$750,000 CARB Loan for. The low bid for the project with General Mechanical, Inc. was \$1,648,371.60 (see attached bid proposal). The airport is requesting an additional 10% of the original loan amount in order to complete the entire scope of the project.

Funding of the project breakdown:

CARB Loan:	\$750,000
Airport Fund:	\$625,000
FAA BIL Funds:	<u>\$587,000</u>
Total:	\$1,962,000
Project Estimate:	\$2,004,000 (includes design & construction management)
Difference:	\$42,000

The additional \$75,000 from the CARB Loan will make up the difference of \$42,000 and cover contingencies and possible over runs. Completing the full scope of the project will allow the airport to increase revenue in both the G and J hangar rows by fully enclosing G row and upgrading the doors on J row.

Construction is estimated to begin within the next couple months.

Respectfully,

A handwritten signature in dark ink, appearing to read "Ingrid Gaub".

Ingrid Gaub
City of Auburn
Public Works Director

PROPOSAL FORM
 Airport T-Hangar Upgrades
 Contract No. 23-11 Project No. CP2201

Bid Summary:

Subtotal Schedule A	\$ <u>833,600</u>
WA State Sales Tax Schedule A (10.2%)	\$ <u>85,027.20</u>
Subtotal Schedule B	\$ <u>25,000</u>
WA State Sales Tax Schedule B (10.2%)	\$ <u>2,550.00</u>
Subtotal Schedule C	\$ <u>91,000</u>
WA State Sales Tax Schedule C (10.2%)	\$ <u>9,282.00</u>
Subtotal Schedule D	\$ <u>91,000</u>
WA State Sales Tax Schedule D (10.2%)	\$ <u>9,282.00</u>
Subtotal Schedule E	\$ <u>455,200</u>
WA State Sales Tax Schedule E (10.2%)	\$ <u>46,430.40</u>
Total Sales Tax	\$ <u>152,571.60</u>

Total Gross Base Bid (Subtotal Schedule A + WA State Sales Tax Schedule A)

\$ 918,627.20

Total Gross Base Bid and Additive Bids

(Subtotal Schedule A + Subtotal Schedule B + Subtotal Schedule C + Subtotal Schedule D + Subtotal Schedule E + Total Sales Tax)

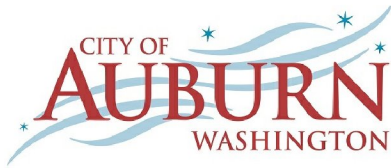
\$ 1,648,371.60

The Basis of Award shall be the Total Gross Base Bid (Subtotal Schedule A + WA State Sales Tax Schedule A) only.

If sales tax is shown for a schedule above sales tax should not be included in bid item prices for that schedule (Rule 170).

If sales tax is not identified above Contractor shall include appropriate sales tax in each bid item price as applicable (Rule 171).

FIRM NAME General Mechanical, Inc.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5739 (Faber)

Date:

September 27, 2023

Department:

Parks/Art and Recreation

Attachments:

[Resolution No. 5739](#)

[Public Art Deaccession Materials](#)

[Public Art Deaccession Materials \(2\)](#)

[Presentation](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5739.

Background for Motion:

Executing Resolution No. 5739 authorizes the City of Auburn to deaccess two public art pieces from the Public Art Collection. Due to age and weather each piece is damaged beyond reasonable repair.

Background Summary:

The Art in Public Places Policy (Section 3.2) requires that the deaccession of public art be approved by both the Arts Commission and the City Council. At the Arts Commission meeting of August 1, 2023, staff present the Arts Commission with the current condition reports and deaccession requests for the Centennial Mural by artist Tom Teitge and You Are Here - Millennium Sundial by artist Ries Niemi. The Arts Commission voted in favor of deaccessioning both pieces, given they are damaged beyond reasonable repair and repair costs far exceed the current value of each piece.

Reviewed by Council Committees:

Councilmember: Brown

Staff: Faber

Meeting Date: October 2, 2023

Item Number: RES.B

RESOLUTION NO. 5739

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, SURPLUSSING AND
DEACCESSING THE ARTWORKS ENTITLED “YOU ARE
HERE – MILLENNIUM SUNDIAL” AND “CENTENNIAL
MURAL”

WHEREAS, the “You Are Here – Millennium Sundial” artwork by Ries Niemi has been located in Les Gove Park since 2000; and

WHEREAS, the “Millennium Sundial” is located outdoors where the weather elements have severely deteriorated the artwork; and

WHEREAS, the artwork has been damaged to an extent that the expense of restoration exceeds the artwork’s current market value and the artwork no longer represents the artist’s intent in creating it; and

WHEREAS, “Centennial Mural” is a 1989 mural by Tom Teitge that is located on a wall adjacent to the City of Auburn’s B Street parking lot; and

WHEREAS, due to its age, the mural has deteriorated and is in need of extensive annual maintenance; and

WHEREAS, the artwork has been damaged to an extent that the expense of restoration exceeds the artwork’s current market value and the artwork no longer represents the artist’s intent; in creating it; and

WHEREAS, both artists were notified of the City’s intent to deaccess their works of art and neither objected to deaccession; and

WHEREAS, the Auburn Arts Commission reviewed each work of art and unanimously approved the deaccession of each; and

WHEREAS, if “Millennium Sundial” is deaccessioned, the City will repurpose any remaining elements of the artwork for future use in City buildings and artwork; if “Centennial Mural” is deaccessioned the private building owner will have complete discretion over the artwork.

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

Section 1. The following City of Auburn works of art are surplus and deaccessioned:

- “You Are Here – Millennium Sundial”
- “Centennial Mural”

and the City will cease to insure and maintain the artworks, which will be removed from the City’s permanent art collection. The Auburn Arts Commission is authorized to determine the use of any elements of either artwork that remain in the City of Auburn’s possession.

Section 2. The Mayor is authorized to implement those administrative procedures 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 this _____ day of _____, 2023.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Shawn Campbell,
City Clerk

APPROVED AS TO FORM:

Harry Boesche,
Acting City Attorney

City of Auburn, WA

Request for the Deaccession of Public Artwork

Please see The City's Deaccession Policy and procedure before removing any objects from the permanent collection. Please use one form per item.

Artwork: *You Are Here - Millennium Sundial*

Artist: Ries Niemi

Location: Les Gove Park, 910 9th St SE, Auburn, WA 98002

Date Accessioned: 7/05/2000

Acquisition Method: Commission

Original Cost: \$15,000

Current Market Value: The artist assessment noted that it would cost him \$75,000 to remake today.

Current Insurance Value: \$16,500

Estimated cost of Repair : Materials: \$7,750-10,000 | Fabrication: \$9,000-12,000 | Art Handling: \$9,500-11,000 | **Total: \$26,250 – 33,000**

Condition: ☐ Destroyed ☐ Poor ☒ Very Poor ☐ Fair
 ☐ Good ☐ Very Good ☐ Excellent

Reason for Deaccession (Check all that apply):

- ☐ Theft of the artwork.
- ☒ Damage beyond reasonable repair, and/or artwork is damaged to the extent that it no longer represents the artist's intent, and/or it is damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork.
- ☐ Portable artwork is not, or is only rarely, on display due to lack of a suitable site.
- ☐ For site-integrated or site-specific artworks, the site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork.
- ☐ For site-integrated or site-specific artworks, the site for which the artwork was specifically created is sold or acquired by an entity other than City of Auburn.
- ☐ There exists a documented history of incident(s) that shows the artwork is a threat to public safety.
- ☐ The artist legally exercises the Right of Disassociation granted by the Visual Artists Rights Act of 1990, preventing the use of his or her name as the creator of the artwork.
- ☒ The artwork requires excessive maintenance to the extent that the expenses are found to equal or exceed current market value of the artwork.
- ☐ The City wishes to replace the artwork with another work by the same artist.

City of Auburn, WA

Request for the Deaccession of Public Artwork

- ☐ At the time of accessioning, if complete information on the provenance of the artwork is not available, or more information has since become available, indicating that the artwork does not meet accession or art selection criteria.
- ☐ The artwork has become a violation of a city code, policy or regulation.

Additional Reasons/notes:

The wood beneath the metal is rotting and splintering causing metal to become loose and unattached from wood. The repairs complexity would cause need for either the artist to repair themselves or to oversee repair, artist has stated that they will not be able to take responsibility for the repairs. The surface of the piece involves individual interlocking metal panels that each stand at a different level of relief from the wood making the creation of a new table for the piece complex. The cost to repair and pay for labor outweighs the current worth of the piece, and the price the piece was originally purchased at.

Estimation bid for restoration by Artech: **See attached**

Documentation of correspondence with the artist regarding the above: **See attached**

Photo documentation of site conditions, if applicable: **See attached**

Police Report: **N/A**

~~Agreement~~ that Artist has been notified and has NOT requested reconsideration: **See attached**

Artist has requested reconsideration:

Artwork will (after proposed deaccession) will be:

Returned to Artist. ~~Repurposed~~ by City. Disposed of by City. Transferred.

Date of Return/Repurpose/Disposal/Transfer:

Transfer: **N/A**

Additional notes:

Recommended for Deaccession by: Allison Hyde, City of Auburn Arts Program Supervisor

Approved for Deaccession by Arts Commission on: August 1, 2023

Final Approval of Deaccession by Mayor and City Council: _____

City of Auburn, WA

Request for the Deaccession of Public Artwork

Artwork: *You Are Here - Millennium Sundial*

Artist: Ries Niemi

Location: Les Gove Park, 910 9th St SE, Auburn, WA 98002

Date Accessioned: 7/05/2000

Original Cost: \$15,000

Photographs of artwork proposed for deaccession:



You Are Here - Millennium Sundial by Ries Niemi being installed at Les Gove park in 2000 (above)



You Are Here - Millennium Sundial by Ries Niemi damages and repair in 2017 (above)

City of Auburn, WA
Request for the Deaccession of Public Artwork



You Are Here - Millennium Sundial by Ries Niemi in current state 2023 (above)

From: Ries Niemi <rniemi@fidalgo.net>
Sent: Monday, July 10, 2023 3:03 PM
To: Allison Hyde <ahyde@auburnwa.gov>
Subject: Re: City of Auburn "You Are Here" Damages
Importance: High

CAUTION: The following message originated from outside the City of Auburn. Be careful opening links and attachments

I am reluctantly having to admit, mostly to myself, that I just don't have the time or energy to rebuild this piece, and I should let you know that, yes, you should probably deaccession it. I am getting too old to do this scale of work, and no longer have full time staff in the metal shop. Also, it was a very low price to begin with, for what it was, and everything is much more expensive now.

The original piece used recycled lumber that was already a hundred years old. And, as we can see, that had a lifespan of around 15 to 20 years. New lumber is not even available, nor would it last much longer.

If I was going to rebuild this piece, I would build a steel subframe, probably from something like 3" angle iron, that would sit on top of the steel legs, and then, I would use 2" x 6" Trex or similar composite plastic/wood decking. The available composite material is not as thick as the original

beams, or as wide, and it needs cross supports every 2 or 3 feet.

Then, the surface metal and stone would need to be fitted into the decking- the way I did this last time was very labor intensive and fussy, tracing each piece, routing a place for them to sit, then bolting them thru the decking.

I can see this taking me, who has done it before and set up to do it, a couple weeks to build the metal subframing, and another couple weeks to fit the inlays, then needing to transport the whole big thing as one unit, on a big truck.

I am willing to consult, if you want to try to find a contractor willing to take this on, but I just cant commit to doing it myself, as I would have in the past.

Ries

On Jul 3, 2023, at 8:19 AM, Allison Hyde <ahyde@auburnwa.gov> wrote:

Ries,

Hello! I wanted to reach out one more time to see if you are available to come take a look at your artwork "You Are Here" in Auburn. The option of possibly hiring you to restore the piece is our last option before we begin the artwork deaccession process. The wood is deteriorated and has become a hazard. Please let me know if this is something you would like to consider, and if so, would need to meet to look at it and create a cost estimate before deciding on next steps.

Thank you,

Allison

Allison Hyde (she/her)

Arts Program Supervisor

City of Auburn

ahyde@auburnwa.gov

253.804.5043

From: Allison Hyde <ahyde@auburnwa.gov>

Sent: Friday, April 28, 2023 11:22 AM

To: ries@riesniemi.com

Subject: RE: City of Auburn "You Are Here" Damages

Ries,

Hello again! I'm hoping that you are back in town and might be available to schedule a time to meet with us and discuss possibilities for "You Are Here." Please let me know at your earliest convenience when you might be able to meet?

Thank you,
Allison

Allison Hyde | Arts Program Supervisor

Pronouns (she/her/hers)

City of Auburn Parks, Arts & Recreation

253.804.5043, ahyde@auburnwa.gov

[*More ARTS Than You Imagined!*](#)

From: ries niemi <ries@riesniemi.com>

Sent: Monday, February 27, 2023 2:10 PM

To: Allison Hyde <ahyde@auburnwa.gov>

Subject: Re: City of Auburn "You Are Here" Damages

CAUTION: The following message originated from outside the City of Auburn. Be careful opening links and attachments

Alison, I am certainly open to the idea of a souceable composite. I would like to see pictures of it before you do it, of course, but that seems like a smart idea to me. This piece was done in about 2001, 22 years ago, for a very low budget, and I sourced the recycled wood, both because I liked the idea of recycling, and the wood was beautiful and not too expensive. But 20 years is a very reasonable lifetime for a recycled organic material like that.

The metal parts have bolts that go thru the planks, with nuts on the bottom. Some of the stone pieces were, I think, glued in place, in routed out spots. Its been a while, I cant remember all the details.

I think the big sun is all one piece, and spans several planks, and is bolted down. The big stone circles are glued down, though, I believe with silicone. They can be removed, carefully, and reglued to a new substrate.

Let me know what you find out.
Ries

Here it was, brand new, in 2001.

<image001.jpg>

On Feb 27, 2023, at 4:16 PM, Allison Hyde <ahyde@auburnwa.gov> wrote:

Ries,

Hello! Thank you for getting back to me. I see. I had figured getting lumber to match

would likely be a bit specialty and perhaps also very expensive. Yes, the piece of wood that is rotted and damaged has the metal on top of it. Currently there is a rusty bolt sticking out that is a hazard, so we might need to just do a bit of a patch job for safety reasons sooner than later.

As far as bigger picture maintenance planning, if we have to remove the entire top to replace that board, it seems smart to replace any or all that are in need of replacement. Given the age of the piece and the inevitable weathering that it will face over time, I wonder if you would consider allowing us to replace the wood with a similar-looking composite instead so that the piece can be more durable for maintenance concern reasons? I am merely anticipating that the expense and time involved with removing the metal top, replacing the board, or all boards while we are at it, will fall into the major restoration project category, and hence, a possible discussion weighing the pros and cons of spending that much to restore a piece with wood that might possible continue to be a maintenance problem.

I know that making such a change would be a rather dramatic change to the artwork, and I do not mean to take your artistic intention and material choices lightly. I appreciate any thoughts or ideas you have about it, and I will try to get an estimate soon for the possible restoration. Do parts of the metal come apart in sections maybe, and we could just do pieces of the wood to be replaced as-needed? It looks like one big piece that would need to be completely take off to replace the wood...

Thanks!

Allison

Allison Hyde (she/her/hers) | Arts Coordinator

City of Auburn Parks, Arts & Recreation

253.804.5043, ahyde@auburnwa.gov

[*More ARTS Than You Imagined!*](#)

From: ries niemi <ries@riesniemi.com>

Sent: Sunday, February 26, 2023 7:23 AM

To: Allison Hyde <ahyde@auburnwa.gov>

Subject: Re: City of Auburn "You Are Here" Damages

CAUTION: The following message originated from outside the City of Auburn. Be careful opening links and attachments

Allison, I am currently in South America, where I live part of each year, sorry it took me a while to get back to you.

The wood on that piece is recycled old growth timber, which I originally purchased over 20 years ago from Duluth Timber. At that time, the beams were probably already over 100 years old, cut from trees that were 200 to 300 years old. They were salvaged most likely from WW1 era military warehouses in Minnesota, and similar timbers were used to build Bill Gates' mansion in Bellevue.

So, they are not exactly a catalog item.

I know that several years ago, you guys replaced one or both of the bench timbers, which were similar, and I don't know where the replacements are, or where they were sourced from.

Duluth used to have a branch in Washington State, which closed several years ago, but all their supplies were unique, not stock items.

I do have a friend who is very knowledgeable about sourcing large timbers, who I can consult.

So- first you should check with the Auburn maintenance people, see if anybody knows where they got the bench timbers.

If that doesn't work, send me the dimensions of the beams- in inches. I may have a paper file in a loft at my studio, but I won't be back there til mid april.

If I have the dimensions, I can see what might be available.

Do the bad beams have inlaid stone or metal on the top surface?

If so, I would probably need to rout the indentations to reset them.

Ries

On Feb 21, 2023, at 7:33 PM, Allison Hyde <ahyde@auburnwa.gov> wrote:

Dear Ries Niemi,

Hello! We recently noticed some rotten and missing wood on the table portion of your artwork titled "You Are Here – Millennium Sundial." I am hoping you might be available and able to come evaluate the damage and have a conversation about possible next steps for repairing the work.

I have attached an image of the damage and will look forward to hearing from you.

All the best,

Allison

Allison Hyde (she/her/hers) | Arts Coordinator

City of Auburn Parks, Arts & Recreation

253.804.5043, ahyde@auburnwa.gov

[More ARTS Than You Imagined!](#)

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notified that any dissemination, distribution or copying of this communication, other than delivery to the intended recipient is strictly prohibited. If you have received this communication in error, please immediately notify the sender by reply e-mail. Thank you.<You Are Here Damage
2.21.23.jpeg>

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Ries Niemi
Industrial Artist
www.riesniemi.com

City of Auburn, WA

Request for the Deaccession of Public Artwork

Please see The City's Deaccession Policy and procedure before removing any objects from the permanent collection. Please use one form per item.

Artwork: Centennial Mural

Artist: Tom Teitge

Location: East Main and B Street NE, Auburn, WA

Date Accessioned: May 12, 1989

Acquisition Method: Grant Funded Commission

Original Cost: \$17,500

Current Market Value: \$23,186

Current Insurance Value: \$23,186

Estimated cost of Repair: \$5,000-\$8,000

Condition: ☐ Destroyed ☐ Poor ☒ Very Poor ☐ Fair
 ☐ Good ☐ Very Good ☐ Excellent

Reason for Deaccession (Check all that apply):

- ☐ Theft of the artwork.
- ☒ Damage beyond reasonable repair, and/or artwork is damaged to the extent that it no longer represents the artist's intent, and/or it is damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork.
- ☐ Portable artwork is not, or is only rarely, on display due to lack of a suitable site.
- ☒ For site-integrated or site-specific artworks, the site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork.
- ☐ For site-integrated or site-specific artworks, the site for which the artwork was specifically created is sold or acquired by an entity other than City of Auburn.
- ☐ There exists a documented history of incident(s) that shows the artwork is a threat to public safety.
- ☐ The artist legally exercises the Right of Disassociation granted by the Visual Artists Rights Act of 1990, preventing the use of his or her name as the creator of the artwork.
- ☒ The artwork requires excessive maintenance to the extent that the expenses are found to equal or exceed current market value of the artwork.
- ☐ The City wishes to replace the artwork with another work by the same artist.
- ☐ At the time of accessioning, if complete information on the provenance of the artwork is not available, or more information has since become available, indicating that the artwork does not meet accession or art selection criteria.
- ☐ The artwork has become a violation of a city code, policy or regulation.

City of Auburn, WA

Request for the Deaccession of Public Artwork

Additional Reasons/notes:

Wall façade is crumbling and in disrepair. Extensive peeling of painting, leading to loss of some sections.

Documentation of correspondence with the artist regarding the above: See Attached

☒ **Agreement that Artist has been notified and has NOT requested reconsideration.**

Artist has requested reconsideration: N/A

Photo documentation of site conditions, if applicable:

See attached at end of document

Police Report: N/A

Artwork will (after proposed deaccession) be:

Returned to Artist. Repurposed by City. Disposed of by City. Transferred.

☒ **Other:** The owner of the building on which the mural is painted has full discretion over the work.

Date of Return/Repurpose/Disposal/Transfer: N/A

Additional notes:

There are tentative plans for a future owner of this building. In the case we do not deaccession the piece, the wall will fall into further disrepair as the cost of restoration exceeds the original cost of commission and accession.

Deaccession Proposed by: Allison Hyde, Arts Program Supervisor, City of Auburn

Deaccession approved by Arts Commission on: August 1, 2023

Deaccession approved by Mayor and City Council:

Final date of deaccession:

City of Auburn, WA

Request for the Deaccession of Public Artwork

Images – 2023 Documentation

Façade of building is cracking heavily on the rightmost section of the wall. Large chips are forming, and portions of wall paint are flaking off. Pieces of the mural are missing in some sections.



City of Auburn, WA
Request for the Deaccession of Public Artwork



City of Auburn, WA
Request for the Deaccession of Public Artwork



City of Auburn, WA

Request for the Deaccession of Public Artwork



City of Auburn, WA
Request for the Deaccession of Public Artwork



City of Auburn, WA

Request for the Deaccession of Public Artwork



City of Auburn, WA

Request for the Deaccession of Public Artwork



City of Auburn, WA

Request for the Deaccession of Public Artwork



City of Auburn, WA
Request for the Deaccession of Public Artwork



From: Allison Hyde <ahyde@auburnwa.gov>
Sent: Tuesday, July 25, 2023 3:31 PM
To: groundwiretom@gmail.com
Subject: Re: Centennial Mural Deaccession

Tom,

Thank you very much for your understanding about this transition and thank you for the wonderful gift that your mural has been for the Auburn community.

I will pass along your contact information.

Wishing you all the best,
Allison

Allison Hyde (*she/her/hers*) | Arts Program Supervisor

City of Auburn Parks, Arts & Recreation

253.804.5043, ahyde@auburnwa.gov

[*More ARTS Than You Imagined!*](#)

On Jul 25, 2023, at 3:21 PM, Tom Teitge <groundwiretom@gmail.com> wrote:

CAUTION: The following message originated from outside the City of Auburn. Be careful opening links and attachments

Hello Allison, Wanted to drop you a line confirming that I understand that the City of Auburn is fully relinquishing any responsibility for maintaining or insuring or in any other way being further responsible

for my Auburn "Centennial Mural" ,painted in 1989..... It's on its own... Thank you to Auburn for looking after it for so long.... Please, if possible pass my contact info, on to the property owners, should they care to reach me for any further discussions about the artwork (independent of the city.) All the best, Tom Teitge

On Jul 18, 2023, at 1:57 PM, Allison Hyde
<ahyde@auburnwa.gov> wrote:

Dear Tom Teige,

Hello! Thank you very much for your time today talking with me on the phone about the City of Auburn's plans to deaccession the "Centennial Mural." Due to the deteriorating condition of the wall on which it was painted, we are no longer able to maintain this artwork, but have been very proud to have it as a favorite mural in Auburn since 1989.

Just to reiterate what we discussed, the City of Auburn would like to deaccession the artwork, meaning that it will no longer be under our responsibility to insure or maintain and will be removed from our official list of permanent collection artworks, after which point the building owner will be free to do what they wish with the wall and mural.

We appreciate your understanding and are greatly appreciative of the artwork that has meant so much to Auburn and its community.

Thank you again,
Allison

Allison Hyde (she/her)
Arts Program Supervisor

City of Auburn

(253) 804-5043

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Public Art Deaccession Proposal

“You Are Here- Sundial Millennium” by Ries Niemi

“Centennial Mural” by Tom Teitge



Public Art Deaccession Proposal

01 City Policy regarding public art deaccession process

02 Presentation of artwork deaccession *“You Are Here - Millennium Sundial”* by Ries Niemi

03 Supporting information

04 Presentation of artwork deaccession *“Centennial Mural”* by Tom Teitge

05 Supporting information

06 Results of Art Commission Meeting

07 Next steps

ART IN PUBLIC PLACES POLICY & PROCEDURE

“The deaccession of artwork is the removal of an artwork from the Auburn Public Art Program. This includes the removal of the artwork from its public site, removal from the maintenance cycle, and moving of records, both hard copy and electronic, into a Deaccessioned Collection file.”

Deaccession policy:

- Monies dedicated to the acquisition and maintenance of artworks do not qualify for costs associated with deaccession of artwork. All costs associated with the deaccession of any artwork will be approved through Special Budget or Budget Adjustment Request on a per-project basis.
- An artwork may not be deaccessioned based on content, subject matter or use of materials.
- An artwork may be considered for deaccession only under certain conditions: **3.2.3.1-3.2.3.11 ART IN PUBLIC PLACES POLICY & PROCEDURE**

Process of Deaccession:

- At the conclusion of the annual Maintenance Survey, staff will prepare a recommendation for deaccession of artworks, if any, from the Collection for review and evaluation by the Auburn Arts Commission, then refer to Mayor and City Council for action. The report will be specific and include all items listed in Art in Public Spaces Policy: **3.4.2.1 – 3.4.2.7 ART IN PUBLIC PLACES POLICY & PROCEDURE**

Decision to deaccess artwork:

- The decision to remove an artwork is the result review and evaluation of the Arts Staff report by the Auburn Arts Commission for recommendation to Mayor and City Council for action. Upon this decision to deaccess artwork, the Commission will consider what action should be taken, with priority given to public benefit of the Collection. Every step will be taken to arrive at a mutual balance between observing the rights of the artist and public benefit.

The Art in Public Places Policy was established and written by Laurie Rose/Edited by Maija McKnight Jan 5, 2010

“You Are Here - Millennium Sundial” by Ries Niemi

Location: Les Gove Park, 910 9th St SE, Auburn, WA 98002

Date Accessioned: 7/05/2000

Original Cost: \$15,000

Current Market Value: The artist assessment noted that it would cost him \$75,000 to remake today.

Current Insurance Value: \$16,500

Estimated Cost of Repair: \$26,250 – 33,000

City Public Art Policy Qualifications for Deaccession:

1. Damage beyond reasonable repair
2. Artwork is damaged to the extent that it no longer represents the artist’s intent
3. Artwork is damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork.



Photo documentation of damage 2017



Page 53 of 70

Photo documentation of damage 2023

Other

City Public Art Policy Qualifications for Deaccession:

1. The artwork requires excessive maintenance to the extent that the expenses are found to equal or exceed current market value of the artwork.

Supporting:

- Agreement that Artist has been notified and has NOT requested reconsideration.
- Artwork will be repurposed by The City.
- Picnic table will be utilized in the park for gathering.



“Centennial Mural” by Tom Teitge

Location: East Main and B Street NE, Auburn, WA

Date Accessioned: May 12, 1989

Original Cost: \$17,500

Current Market Value: \$23,186

Current Insurance Value: \$23,186

Estimated cost of Repair: \$5,000-\$8,000

City Public Art Policy Qualifications for Deaccession:

1. The site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork.



Photo documentation of damage 2023



Other

City Public Art Policy Qualifications for Deaccession:

2. Damage beyond reasonable repair, and/or artwork is damaged to the extent that it no longer represents the artist's intent, and/or it is damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork
3. The artwork requires excessive maintenance to the extent that the expenses are found to equal or exceed current market value of the artwork.

Supporting:

- Agreement that Artist has been notified and has NOT requested reconsideration.
- The owner of the building on which the mural is painted has full discretion over the work.



Page 56 of 70

The Auburn Arts Commission reviewed and voted
unanimously to approve the deaccession of:

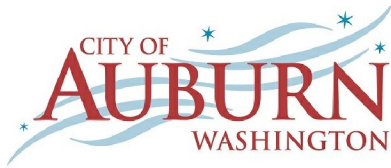
“You Are Here - Millennium Sundial” by Ries Niemi
and “Centennial Mural” by Tom Teitge

on August 1, 2023



Next steps:

1. City Council review and approval for deaccession.
2. Removal from public art insurance policy and maintenance plan.
3. Documenting and repurposing artwork elements as



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5741 (Thomas)

Date:

September 19, 2023

Department:

Finance

Attachments:

[Resolution No. 5741](#)

[Engagement for Services - Original](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5741.

Background for Motion:

Resolution No. 5741 amends the City of Auburn's agreement with Foster Garvey PC for legal services, which was originally signed July 18, 2023.

Background Summary:

The City of Auburn originally entered into an agreement for legal services with Foster Garvey PC on July 18, 2023, with provisions identified in the Engagement for Services Letter. The purpose of the agreement was to provide interim legal services for several complex issues, while the City conducted an executive search for a new City Attorney. The original agreement was not to exceed \$100,000.

Resolution No. 5741 would amend the original engagement agreement to increase the maximum costs by additional \$300,000. The increase is necessitated by: the complexity of some of the City's ongoing projects; the number of active projects requiring legal guidance; and the extended period of time required to conduct a thorough executive search for a highly qualified City Attorney.

Approval of Resolution No. 5741 authorizes the Mayor to sign the amendment for legal services with Foster Garvey PC.

Reviewed by Council Committees:

Councilmember: Baldwin

Staff:

Thomas

Meeting Date: October 2, 2023

Item Number:

RES.C

RESOLUTION NO. 5741

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO
EXECUTE AN AMENDMENT TO THE AGREEMENT
BETWEEN THE CITY OF AUBURN AND FOSTER GARVEY
PC FOR LEGAL SERVICES TO THE CITY

WHEREAS, the City of Auburn is currently in need of legal services while it seeks
to hire a new city attorney; and

WHEREAS, the City contracted with the law firm of Foster Garvey PC on July 18,
2023 to provide these services; and

WHEREAS, Foster Garvey has capably provided legal advice to the City since the
contract was executed; and

WHEREAS, the contract includes a one-hundred thousand dollar limit for legal
services and the fees and costs for services already rendered have approached that
amount; and

WHEREAS, the City desires to increase the maximum contract amount to enable
continuation of legal services.

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

Section 1. The Mayor is authorized to execute an amendment to the contract
between the City and Foster Garvey PC increasing the maximum expenditure for legal
services an additional three-hundred thousand dollars, which amendment will be in
substantial conformity with the amendment attached hereto.

Section 2. The Mayor is authorized to implement those administrative
procedures 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 this ____ day of _____, 2023.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Shawn Campbell,
City Clerk

APPROVED AS TO FORM:

Harry Boesche,
Acting City Attorney

AMENDMENT No. 1
to the CITY OF AUBURN AGREEMENT FOR LEGAL SERVICES
with FOSTER GARVEY PC

This 1st amendment is to an Agreement for legal services between the City of Auburn and Foster Garvey PC executed on July 18, 2023.

RECITALS

WHEREAS, Foster Garvey's July 7, 2023 engagement letter limited the amount of fees and costs billed for legal services to one-hundred thousand dollars; and.

WHEREAS, Foster Garvey PC recently give the City notice, as required by its engagement letter, that it had incurred nearly eighty-five thousand dollars in fees and costs; and.

WHEREAS, the City seeks to continue to engage Foster Garvey PC for legal services beyond the maximum amount stated in the firm's engagement letter.

AMENDMENT

Now Therefore, for good and valuable consideration, the undersigned parties agree to amend the third paragraph of the engagement of services letter in the following manner:

"No retainer is required. We will bill the City only for the actual fees and costs incurred in the performance of legal services requested by the City. Fees and costs billed under this engagement will not exceed ~~\$100,000~~ \$400,000, and we will notify the City when fees and costs incurred have reached eighty-five percent (85%) of that amount. A copy of our Terms for Engagement of Services is attached. We understand that such services will be directed through the Offices of the Mayor or by Dana Hinman, Director of Administration."

All other provisions of the July 7, 2023 Engagement for Services Letter and the Terms of Engagement shall remain in full force and effect.

CITY OF AUBURN

Accepted and confirmed
this ____ day of October, 2023

Nancy Backus
City of Auburn Mayor

FOSTER GARVEY

Accepted and confirmed
this ____ day of October, 2023

Bob Sterbank
Of Counsel



1111 Third Avenue
Suite 3000
Seattle, WA 98101

Main: 206.447.4400
Fax: 206.447.9700
foster.com

Direct Phone: 206.816.1354
bob.sterbank@foster.com

July 7, 2023

VIA EMAIL

The Honorable Nancy Backus, Mayor
City of Auburn
25 W Main Street
Auburn, WA 98001
cmartinson@auburnwa.gov

Re: Engagement for Services – Interim City Attorney Services

Dear Mayor Backus:

This is to confirm our engagement to provide interim city attorney services to the City of Auburn. Our services are on a short-term basis only; we will serve until you appoint and the City Council confirms a new City Attorney, which is expected to occur in the fall, 2023, or when the not-to-exceed amount of this engagement is reached, whichever occurs sooner. As with any engagement of legal services, the City may terminate, or we may resign from, this engagement at any time.

Foster Garvey PC (FG) has served in years' past as special counsel to the City, although we have not recently represented the City. As a courtesy to the City to assist during this period of transition, our legal fees will be discounted for this interim service. My 2023 standard rate is \$625. For my services as Interim City Attorney, I will charge \$590 per hour. Other attorneys at FG may be involved depending on the nature of the engagement. In the event I am unavailable, Steve DiJulio (206-447-8391) or Kinnon Williams (206-447-2887) may be contacted. Steve has been City Attorney for numerous cities, including Kent and Puyallup; Kinnon has been City Attorney for Kenmore and Pacific. Steve's rate for the City will be \$700; Kinnon's rate will be \$625. Of course, other lawyers in our municipal and other groups will be available as needed. No other attorney at FG who may be involved with our interim services to the City will charge more than the above rates and will be discounted not less than 10%.

No retainer is required. We will bill the City only for the actual fees and costs incurred in the performance of legal services requested by the City. Fees and costs billed under this engagement will not exceed \$100,000, and we will notify the City when fees and costs incurred have reached eighty-five percent (85%) of that amount. A copy of our Terms for Engagement of Services is attached. We

FG: 101703267.3

Mayor Nancy Backus
July 7, 2023
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understand that such services will be directed through the Offices of the Mayor or by Dana Hinman, Director of Administration.

We discussed that Foster Garvey represents other local government in the area, including King County. The City consents to such representations. In the event a conflict arises between the City and another local government represented by us, the City may need to seek other counsel.

As the City knows, Foster Garvey represents many other companies, individuals, and government agencies, including the State of Washington, King County and Sound Transit. And, as a law firm with attorneys focused on regulatory, real estate and land use practices, in addition to our municipal practice, we may periodically represent clients, including BNSF Railroad and others that may be adverse to the City, in these types of matters. It is our understanding that these representations, that may be now or become in the future adversarial, are conflicts that the City waives under our Supreme Court's Rules of Professional Conduct. The City consents to FG's representation of the clients identified in this paragraph and other clients in municipal, regulatory, real estate, land use and permitting matters, so long as the disputes are unrelated to our representation of the City. We understand the City will continue to engage other firms to provide representation to the City.

Foster Garvey PC will at all times indemnify and hold harmless the City of Auburn, its elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to the negligent acts, errors, or omissions of Foster Garvey PC in performance under this Agreement.

The City of Auburn will at all times indemnify and hold harmless Foster Garvey PC, its officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), including claims brought by third parties against Foster Garvey PC while acting in such capacity, collectively referred to herein as "losses" resulting from, arising out of, or related to the negligent acts, errors, or omissions of the City of Auburn in performance under this Agreement.

The scope of our representation of the City is limited to the matters described above. Following appointment of a new city attorney, our representation of the City will come to an end, and we will no longer represent the City as a client. We would be pleased to re-engage with the City in a future matter and would separately consider such engagement as may be requested at a future time.

If this letter meets with your approval, please sign below where indicated and return a copy of your acceptance to me.

Mayor Nancy Backus
July 7, 2023
Page 3

Sincerely,

FOSTER GARVEY PC

Bob C. Sterbank

Bob C. Sterbank
Of Counsel

BCS:cmh
Attachment
cc: P. Stephen DiJulio

CITY OF AUBURN

**Accepted and confirmed
this 18th day of July, 2023**

DS
HB

DocuSigned by:
Nancy Backus
AECEBB953735460...

Nancy Backus, Mayor



1111 Third Avenue
Suite 3000
Seattle, WA 98101

Main: 206.447.4400
Fax: 206.447.9700
foster.com

Foster Garvey Terms of Engagement

Thank you for choosing Foster Garvey P.C. This document explains terms that apply to the representation described in our engagement letter and any subsequent engagements undertaken by mutual agreement, unless we reach a different written understanding. Please ask any questions you may have about these terms before signing the engagement letter.

I. Working Together

Generally one lawyer will be responsible for, and will oversee, the firm's representation of you, although other lawyers or staff members may assist in providing appropriate, efficient, and timely legal services. Your responsible lawyer will be your principal contact for coordination of your representation. If you have any concerns regarding our relationship or our services, please notify your responsible lawyer or one of the Co-Chairs of the firm's Executive Committee.

II. Electronic Communications

As we work together, it is likely that both you and the firm will use electronic devices and Internet services (which may include unencrypted email, mobile phones, voice over Internet, electronic data/document websites, and other technology) to communicate and transfer documents. Although the use of this technology involves some degree of risk that third parties may access confidential communications, we believe and you agree that the benefits of using this technology outweigh the risk of accidental disclosure. We have adopted policies and systems to make our electronic communications with you reasonably secure, and it is equally important that you communicate with us in a manner that reasonably protects confidential information and privileged communications. You should not use any computers or other electronic devices, networks, or Internet addresses that are owned, controlled, or may be accessed by others to send or receive confidential information to or from us. If you anticipate that any matter will involve personally identifiable information protected by data security laws, please notify the responsible lawyer promptly so we can discuss the use of encrypted email and/or other precautions.

III. Conflicts of Interest

We have performed a search of our conflicts database to determine whether representing you might present a potential conflict of interest with another client. We performed the check using your name and any other names you provide to us. Please inform us immediately if you use any other names (such as trade names) that we should enter into our database.

IV. Client Identity

Our client is the entity or person named as our client in the engagement letter and does not include any affiliate, equity holder, employee, member of your family or other person unless we are retained directly by them. You confirm that we may represent another client adverse to any of them, or to an entity in which you hold an ownership interest, in matters unrelated to our work for you.

V. Basis for Fees

We generally charge on an hourly basis for time expended on your behalf, including but not limited to telephone conversations, in-person meetings, strategy development and planning, document preparation and review, research, court appearances, and travel. In setting the hourly rates for a particular engagement, we will consider various factors, including: the novelty or difficulty of the questions involved; the experience, reputation, and ability of those performing the services, the time limitations imposed by the client or the circumstances; the amount at stake; and the likelihood that accepting the engagement would preclude the firm from accepting other client opportunities. We review and adjust our standard billing rates from time to time, typically on January 1. Alternative fee arrangements that are not based entirely on hourly rates will be specified in the engagement letter.

VI. Estimates vs. Fixed Fees

Clients occasionally request advance estimates of fees and costs. An estimate, although based on the lawyer's professional judgment and the information provided by the client, will be affected by factors outside the control of the firm and the client. Unless we reach a clear, written understanding that the fee will be charged at a fixed amount or capped at a fixed amount, any estimate we provide may be revised based upon the facts and circumstances we encounter during your representation.

VII. Advance Fee Deposit

New clients are requested to provide an advance fee deposit as specified in the engagement letter, as are existing clients retaining us for new litigation matters or other matters of significant scale. These funds will be deposited in our client trust account, and any balance will be returned to the client upon termination of representation. In the event payment is not timely made, we reserve the right: to use any part of the deposit to satisfy a delinquent payment; to discontinue representation until the full advance fee deposit is restored; and to increase the amount of the deposit required for continued representation.

VIII. Trust Account

The amounts you pay to us in trust will be deposited in our client trust account. As required by the rules of professional conduct governing lawyers, interest earned will be paid to a foundation to support law-related charitable activity. However, when a client's deposit is large enough to earn interest in excess of bank and administrative costs, the firm will place the funds in a segregated account. In that

circumstance the interest earned will be added to your deposit and reported by our bank to the Internal Revenue Service as taxable income to you.

IX. Costs Advanced to Third Parties

In the course of serving you, we may make payments to third parties on your behalf. For example, courts and agencies often charge filing or recording fees, and we are required by law to pay witness fees. We may also contract on your behalf with vendors, such as court reporters, messenger services, independent professionals (foreign agents, investigators, appraisers, and accountants, to name a few examples), and expert witnesses, and we may incur travel expenses. We may elect to advance these costs and include the charges, without mark-up, on our invoices, or we may require you to provide an advance deposit for costs or to pay non-routine expenses directly to the third party.

X. Other Charges

In addition, our invoices reflect charges for services provided by our firm, currently including but not limited to the following: photocopying, document binding, database storage costs, and online legal research.

XI. Billing and Payment

We generally invoice our clients on a monthly basis. The invoice will typically reflect charges incurred during the prior month but some charges may not be processed and billed until sometime after the expense has been incurred. Payment is due within 30 days following the date of the invoice. Payment of an invoice confirms your agreement to the amount charged. If you disagree with the amount charged on an invoice, you must notify us within 60 days of the date of the invoice by contacting the responsible lawyer or the firm's accounting department.

XII. Insurance Coverage

If you believe you may have coverage for legal fees incurred in this matter, you should notify your broker or carrier immediately. We have no obligation to notify your broker or carrier unless you expressly request us to do so, we agree to undertake that additional task, and you provide copies of all relevant policies and related documents. Although you may have coverage, primary responsibility for payment remains with you.

XIII. Late Payment and Past Due Accounts

Amounts past due accrue service charges at the rate of twelve percent per year. If an account becomes more than thirty days past due, the firm may decline to perform additional legal services until the account is brought current or may withdraw from the representation. If the firm incurs costs to collect the amount due, it shall be entitled to its collection costs and a reasonable attorney's fee (for the services of outside counsel and/or internal counsel). Unless otherwise agreed, we may apply payments first to our attorney's fees and costs of collection, second to service charges, and then to invoiced fees, costs advanced and

other charges. You agree that, to the fullest extent permitted by law, we have an attorney's lien in your files and/or against the results of our representation to secure payment of your financial obligations and that we may take steps to inform others of any lien rights we may have.

XIV. Conclusion of Matter; Retention and Disposition of Documents

Our representation in a matter will be deemed concluded at the time we issue our final invoice for services rendered in that matter or, if an invoice is not characterized as a final invoice, upon the passage of twelve months from the date of the last invoice for the matter. To the extent you have not previously received copies of correspondence or other documents during the course of representation, we will provide such material at your request and expense. We will have no obligation to retain files following the conclusion of the engagement.

XV. Post-Engagement Matters

You are engaging us to provide legal services in connection with a specific matter. After completion of the matter, changes may occur in applicable laws or regulations that could affect your future rights or liabilities. Unless you re-engage us to provide additional legal advice, the firm has no continuing obligation to advise you regarding such issues, other legal developments, or renewal or other deadlines you may have with respect to the subject matter of the representation. Any re-engagement will be subject to clearing conflicts and to these terms of engagement.

XVI. Termination of Representation

Prior to conclusion of our representation, you may terminate our relationship at any time and for any reason by providing written notice. Similarly, we may, with written notice, withdraw from our representation of you if required or permitted by the applicable rules of professional conduct. If the permission of a court or other adjudicator is required for withdrawal, we will promptly request such permission, and you agree not to oppose our request. Upon termination or withdrawal, you will remain obligated to pay promptly all charges for legal services already rendered and, in circumstances where the termination or withdrawal is caused by your conduct, charges resulting from the termination or withdrawal, including time spent working with successor counsel. We will cooperate with successor counsel to assure a smooth transfer of the representation.

XVII. Arbitration

If you disagree with the amount of our fee, please contact the responsible lawyer or an alternate representative identified on our website. Typically we can resolve such disagreements satisfactorily with little inconvenience or formality. In the event a fee dispute is not readily resolved, some state bar associations offer programs for arbitration of fee disputes.

XVIII. Questions

If you have any questions regarding the terms set forth in this document, please contact the lawyer who sent your engagement letter or your current responsible lawyer, if different. Please note that the rules of professional conduct preclude us from acting as your counsel with respect to these terms, but you are free to consult with independent counsel if you wish. These terms govern not only the representation described in our engagement letter, but also any subsequent engagements undertaken by mutual agreement, unless we reach a different written understanding.