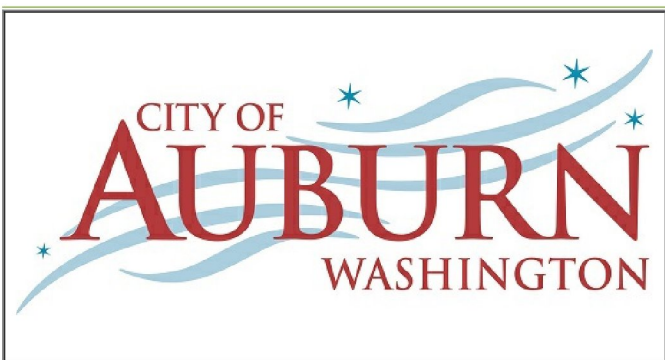


	City Council Meeting August 21, 2023 - 7:00 PM City Hall Council Chambers AGENDA Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
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I. CALL TO ORDER

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 August 21, 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: 253 205 0468

Toll Free: 888 475 4499

Zoom: <https://us06web.zoom.us/j/82033628306>

A. Pledge of Allegiance

IV. Roll Call

V. ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

VI. AGENDA MODIFICATIONS

VII. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings

1. Public Hearing for MOX Networks, LLC Franchise Agreement No. FRN22-0004
City Council to hold a Public Hearing to Consider Franchise Agreement No. FRN22-0004 for MOX Networks, LLC

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.

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.)

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)
2. Council Rules of Procedure Ad Hoc Committee (Chair Rakes)

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 August 7, 2023, City Council Meeting
- B. Minutes of the August 14, 2023 Study Session Meeting
- C. Claims Vouchers (Thomas)
Claims voucher list dated August 16, 2023 which includes voucher number 473071 through 473227, in the amount of \$1,348,095.35, three electronic fund transfers in the amount of \$1,023.63, and two wire transfers in the amount of \$764,838.55
- D. Payroll Voucher (Thomas)
Payroll check numbers 539510 through 539513 in the amount of \$77,216.32, electronic deposit transmissions in the amount of \$2,683,695.74 for a grand total of \$2,760,912.06 for the period covering August 3, 2023 to August 16, 2023

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

X. UNFINISHED BUSINESS

XI. NEW BUSINESS

XII. ORDINANCES

- A. Ordinance No. 6916 (Gaub)
An Ordinance amending Ordinance No. 6839 and extending the deadline to complete conditions associated with vacating Right-of-Way of a portion of West Main Street, East of Lund Road SW, within the City of Auburn, Washington

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6916)

XIII. RESOLUTIONS

- A. Resolution No. 5729 (Hinman)
A Resolution authorizing the Mayor to execute a Grant Agreement between the City of Auburn and Amerigroup Washington, INC. for promotion and expansion of the City of Auburn's Real Emergency Aid Depends on You R.E.A.D.Y.™ Program

(RECOMMENDED ACTION: Move to approve Resolution No. 5729)

- B. Resolution No. 5732 (Caillier)
A Resolution accepting a grant award from the Washington State Criminal Justice Training Commission for improving Police Officer Wellness

(RECOMMENDED ACTION: Move to adopt Resolution No. 5732.)

XIV. MAYOR AND COUNCILMEMBER REPORTS

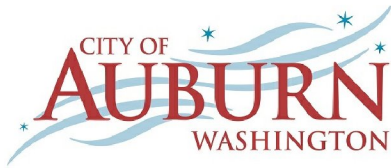
At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

- 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 MOX Networks, LLC Franchise Agreement
No. FRN22-0004

Date:

July 11, 2023

Department:

Public Works

Attachments:

[Draft Ordinance No. 6913 Franchise Agreement
No. FRN22-0004](#)

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. FRN22-0004 for MOX Networks, LLC.

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. FRN22-0004 for MOX Networks, LLC will allow MOX to install dark fiber infrastructure in the public way of West Valley Highway within the city limits. MOX intends to provide services for wholesale telecommunications infrastructure of dark fiber optic cable and telecommunications capacity to its customers located outside of the city limits. MOX does not intend to provide any services to any residents or businesses inside the city limits.

The date of the public hearing was set by consent on August 7, 2023.

Reviewed by Council Committees:

Councilmember: Brown

Staff:

Gaub

Meeting Date: August 21, 2023

Item Number:

PH.1

ORDINANCE NO. 6913

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO MOX NETWORKS, LLC, A DELAWARE COMPANY, A FRANCHISE FOR DARK FIBER INFRASTRUCTURE.

WHEREAS, MOX Networks, LLC (“Franchisee”) has applied for a non-exclusive Franchise for the right of entry, use, and occupation of certain public ways within the City of Auburn (“City”), expressly to replace, install, 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 to grant the franchise to Franchisee.

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

Section 1. Definitions

For the purpose of this agreement and the interpretation and enforcement thereof, definitions of words and phrases shall be in accordance with the definitions set forth in this Agreement and in Auburn City Code 20.02.020. If there is a conflict between any of the definitions set forth in this Franchise and the definitions set forth in Auburn City Code 20.02.020, the definitions in this Agreement shall govern to the extent of such conflict.

- A. “ACC” means the Auburn City Code.
- B. “Franchise Area” means the public way of West Valley Highway within the city limits.
- C. “Franchisee’s Facilities” means dark fiber optic cable in an existing 1.5-inch conduit located within a multiple conduit route in the Franchise Area, including an undivided interest in certain ducts, manholes, handholes, and vaults serving the conduit route in the Franchise Area.

D. "Franchisee's Services" means wholesale telecommunications infrastructure of dark fiber optic cable and telecommunications capacity provided by the Franchisee using Franchisee Facilities in the Franchise Area and offered for sale, lease, or to be otherwise utilized by Franchisee's clients and customers located outside the City of Auburn. Franchisee's Services do not include telecommunications services to residents or businesses inside the City limits. 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 2. 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, located within the incorporated area of the City. 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.

H. The Franchisee agrees to provide the City with complete contact information for any client, lessee, sub-lessee, customer, or other entity that Franchisee allows to utilize, control, access, or otherwise provides services to, who will also use the Franchisee Facilities to provide services to their clients and customers either inside or outside the City limits. Such contact information shall be provided to the City a minimum of sixty (60) days prior to the start of such anticipated use so that the City may determine if Franchisee's client, lessee, sub-lessee, customer, or other entity is required to obtain a franchise agreement with the City prior to such use. If the client, lessee, sub-lessee, customer, or other entity is required to obtain a franchise agreement with the City, then the Franchisee shall not allow use, control, access, or otherwise provide services to such entity until the required franchise agreement has been obtained.

I. If it at any time it is discovered that Franchisee's Facilities or Franchisee's Services are invalid or unauthorized this Franchise shall be null and void and Franchisee will be required to remove all Franchisee Facilities from the Franchise Area immediately upon notification from the City and an opportunity to cure, unless otherwise approved by the City per the provisions of Section 12. Such removal shall be subject to required permits.

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, or the date stamped received by the City. Any communication made by e-mail or similar method will not constitute notice pursuant to this Agreement, except in case of emergency notification.

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: Franchisee
Attn: Allen Meeks
2040 E Mariposa Avenue
El Segundo, CA 90245
Telephone: 1-844-215-9500
Email Address: Allen@moxnetworks.com

with a copy to: Franchisee
Attn: Denise C. Clayton, General Counsel
Email Address: denise@moxnetworks.com;
legal@moxnetworks.com

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 or other needs outside of normal business hours of the Franchisee: MOX NETWORK OPERATIONS CENTER (NOC) 1-855-669-6621- (7x24x365).

Section 4. Term of Agreement

A. This Franchise shall run for a period of fifteen (15) years, from the date of Franchise Acceptance as described in Section 5 of this Agreement.

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.

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 "A"), (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 under taking 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.

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 its 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 the conduct of Franchisee's business, or from any activity, work or thing done, permitted, or suffered by Franchisee arising from or in connection with this

Franchise Agreement, except only such injury or damage as shall have been occasioned by the sole negligence 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 public 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, independent contractors, 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 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. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. 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 named 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. 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.

4. 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, and Excess or Umbrella Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance 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. The Franchisee shall cause each and every Subcontractor 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 an additional insured on each and every Subcontractor'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 certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' 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.

K. City Full Availability of Franchisee Limits. If the Franchisee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Franchisee, irrespective of whether such limits maintained by the Franchisee are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Franchisee.

L. 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) Franchisee shall submit a letter to the City stating which of the above required insurance provisions in this Section 15 Franchisee proposes to self-insure; (ii) 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; (iii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iv) 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) 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, 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. 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: (1) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (2) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (3) 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 guarantee 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 provide notice per Section 20.A to Franchisee of such determination and a 30-day opportunity to cure. If such operations are not cured within this timeframe, the City may 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.

D. The Franchisee agrees that if at any time the Washington State Utilities and Transportation Commission (WUTC) determines that Franchisee is subject to regulation by the WUTC and is required to register with the WUTC, Franchisee will comply with the WUTC's requirements. Further, the Franchisee agrees to provide the City with evidence of Franchisee's registration with the WUTC within five (5) business days of completing such required registration.

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 its 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:

APPROVED AS TO FORM

Shawn Campbell, MMC, City Clerk

Harry Boesche, Acting City Attorney

PUBLISHED: _____

EXHIBIT "A"

STATEMENT OF ACCEPTANCE

MOX Networks, LLC, 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 _____
Address _____
City, State, Zip _____

By: _____ Date: _____
Name: _____
Title: _____

STATE OF _____)
)ss.
COUNTY OF _____)

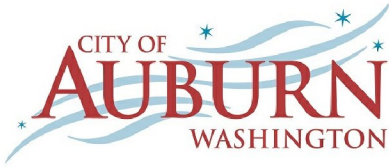
On this ____ day of _____, 20__, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of MOX Networks, LLC, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that they are 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:

Minutes of the August 7, 2023, City Council Meeting

Department:

City Council

Attachments:

[08-07-2023 Minutes](#)

Date:

August 17, 2023

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

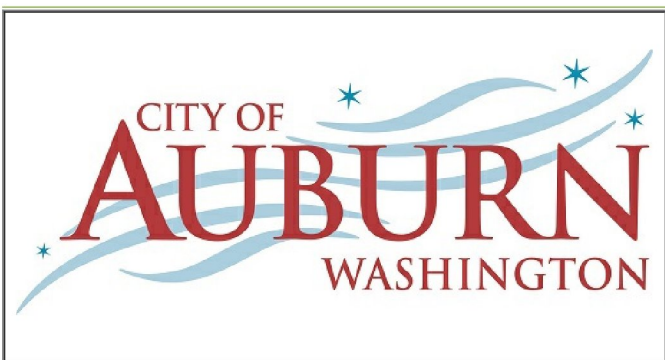
Revised Budget: \$0

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

Meeting Date: August 21, 2023

Staff:

Item Number: CA.A

	City Council Meeting August 7, 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, Bob Baggett, Kate Baldwin, Robyn Mulenga, Cheryl Rakes, and Yolanda Trout-Manuel. Councilmember Larry Brown was excused.

Department directors and staff members present included: Acting City Attorney Harry Boesche, Outside Counsel Bob Sterbank, Director of Public Works Ingrid Gaub, Director of Finance Jamie Thomas, Chief of Police Mark Caillier, Director of Human Resources and Risk Management Candis Martinson, and City Clerk Shawn Campbell.

V. ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

A. International Overdose Awareness Day

Mayor Backus to proclaim August 31, 2023 as "International Overdose Awareness Day" in the City of Auburn

Mayor Backus proclaimed August 31, 2023, as "International Overdose Awareness Day" in the City of Auburn.

Mark Hampton from AAHAA Supportive Housing and Cam Hoorn from Healthpoint thanked the Mayor and Council for acknowledging International

Overdose Awareness Day and the City's approach of compassion and accountability.

VI. AGENDA MODIFICATIONS

There were no modifications to the agenda.

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.

Virginia Haugen, 2503 R Street SE
Ms. Haugen spoke about the role of Councilmember, the strong Mayor form of Government and the Council Rules of Procedure.

Rawland Kidd, 2101 3rd Street SE
Mr. Kidd expressed concerns regarding street calming.

Andrew Jenn, 31805 109th Ave SE
Mr. Jenn expressed concerns regarding street improvements on 320th Street.

B. Correspondence

There was no correspondence for Council to review.

1. Executive Session

Mayor Backus adjourned to executive session at 7:23 pm for 20 minutes per RCW 42.30.110(1)(i) to discuss with legal counsel representing the agency in matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. Mayor Nancy Backus, City Council, Acting City Attorney Boesche, Director Martinson, Outside Counsel Bob Sterbank from Foster Garvey, Washington Cities Insurance Representative Harlan Stientjes, and Attorney Stew Estes from Keating, Bucklin and McCormack will be required to attend.

Mayor Backus reconvened the meeting at 7:45 pm.

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)

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.

2. Council Rules of Procedure Ad Hoc Committee (Chair Rakes)

Councilmember Rakes, Chair of the Council Rules and Procedure ad hoc committee, reported the committee met on August 4, 2023 and will meet again on August 25, 2023.

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 July 17, 2023, City Council Meeting

B. Minutes of the July 24 and July 31, 2023, Study Session Meetings

C. Claims Vouchers (Thomas)

Claims voucher list dated August 2, 2023 which includes voucher number 472830 through 473070, in the amount of \$5,285,471.80, two electronic fund transfers in the amount of \$1,926.07, and six wire transfers in the amount of \$950,194.20

D. Payroll Voucher (Thomas)

Payroll check numbers 539508 through 539509 in the amount of \$626,370.33 electronic deposit transmissions in the amount of \$2,580,055.70 for a grand total of \$3,206,426.03 for the period covering July 13, 2023 to August 2, 2023

E. Setting the date for a Public Hearing for MOX Networks, LLC Franchise Agreement (Gaub)

City Council to set the date for a Public Hearing for Franchise Agreement No. FRN22-0004 for MOX Networks, LLC for a Dark Fiber Infrastructure Franchise

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

MOTION CARRIED UNANIMOUSLY. 6-0

X. UNFINISHED BUSINESS

There was no unfinished business.

XI. NEW BUSINESS

There was no new business.

XII. RESOLUTIONS

A. Resolution No. 5730 (Thomas)

A Resolution authorizing the King County's RE+ Pledge

Councilmember Baldwin moved and Councilmember Trout-Manuel seconded to approve Resolution No. 5730.

MOTION CARRIED UNANIMOUSLY. 6-0

B. Resolution No. 5731 (Gaub)

A Resolution authorizing a Grant Agreement between the City of Auburn and the Federal Aviation Administration relating to Project No. CP2201, Airport T-Hangar Upgrades

Councilmember Rakes moved and Councilmember Mulenga seconded to approve Resolution No. 5731.

MOTION CARRIED UNANIMOUSLY. 6-0

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 APPCC 13th Annual Samoan Cultural event.

Councilmember Baggett reported he attended the Tacoma Pierce County Board of Health meeting.

Councilmember Baldwin reported she attended the National Night Out event and the 2023 Muckleshoot Canoe Journey.

Councilmember Mulenga reported she participated in the National Night Out event.

Councilmember Rakes reported she attended the Auburn Senior Center Volunteer Celebration, the 2023 Muckleshoot Canoe Journey, and participated in the National Night Out event.

Councilmember Trout-Manuel reported she attended the Senior Center Volunteer Celebration, 2023 Muckleshoot Canoe Journey, and participated in the National Night Out event.

B. From the Mayor

Mayor Backus reported she attended the NHRA Drivers Signing event at Dave and Busters, the White River Buddhist Temple Bahadori Festival, the NHRA event at Pacific Raceway, the Senior Center Volunteer Awards, the Auburn Food Bank Fundraiser, the National Night Out event, the Church of Nazarene "One Neighborhood" event, and hosted Exchange Students from Tomba Japan.

XIV. ADJOURNMENT

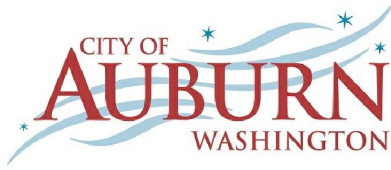
There being no further business to come before the Council, the meeting was adjourned at 8:04 p.m.

APPROVED this 21st day of August, 2023.

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.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the August 14, 2023 Study Session Meeting

Department:

City Council

Attachments:

[08-14-2023 Minutes](#)

Date:

August 17, 2023

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

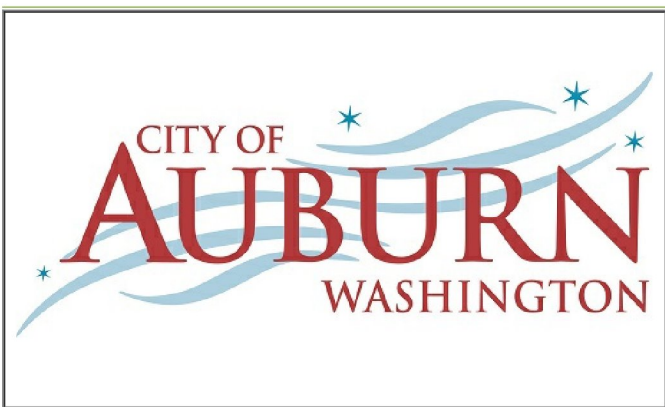
Revised Budget: \$0

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

Meeting Date: August 21, 2023

Staff:

Item Number: CA.B

	City Council Study Session Muni Services SFA August 14, 2023 - 5:30 PM City Hall Council Chambers AGENDA 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

Deputy Mayor Jeyaraj called the meeting to order at 5:30 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street.

II. PUBLIC PARTICIPATION

A. Public Participation

The City Council Meeting was held in person and virtually.

B. Roll Call

Councilmembers present: Deputy Mayor James Jeyaraj, Kate Baldwin, Bob Baggett, Larry Brown, Robyn Mulenga, Cheryl Rakes, and Yolonda Trout-Manuel.

Department directors and staff members present included: Acting City Attorney Harry Boesche, Assistant Chief of Police Samuel Betz, Director of Public Works Ingrid Gaub, Senior Project Engineer Matt Larson, Director of the Office of Equity Brenda Goodson-Moore, Director of Innovation and Technology David Travis, Director of Finance Jamie Thomas, Director of Community Development Jeff Tate, Director of Parks, Arts, and Recreation Daryl Faber, Arts and Events Manager Julie Kruger, Director of Human Resources Candis Martinson, Right-Of-Way Specialist Amber Olds, and City Clerk Shawn Campbell.

III. AGENDA MODIFICATIONS

There were no modifications to the agenda.

IV. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

There were no announcements, reports or presentations.

V. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6913 (Gaub) (5 Minutes)

An Ordinance granting to MOX Networks, LLC, a Delaware Company, a Franchise for

Dark Fiber Infrastructure

Director Gaub introduced Specialist Olds who provided Council with an overview of Ordinance No. 6913 including the proposed additions to the right of way, the requirements of amending the Franchise Agreement, the special conditions to the Franchise Agreement and the public hearing notice.

Council discussed the number of franchises allowed per conduit.

B. Ordinance No. 6916 (Gaub) (5 Minutes)

An Ordinance amending Ordinance No. 6839 and extending the deadline to complete conditions associated with vacating Right-of-Way of a portion of West Main Street, East of Lund Road SW, within the City of Auburn, Washington

Specialist Olds provided Council with an overview of Ordinance No. 6916 explaining the Ordinance allows for a second extension of the right-of-way vacation requirements. She reviewed the requirements of the right-of-way vacation, the delays in the process that require the second extension, and that City Staff support the second extension.

Council discussed the number of extensions, staff support of the second extension, and the impact of the second extension to other City projects.

VI. MUNICIPAL SERVICES DISCUSSION ITEMS

A. Auburn Ave Theater Update (Faber/Martinson) (20 Minutes)

Director Faber, Engineer Larson and Manager Krugger provided Council with an update of the Auburn Avenue Theater including the background and history of the Auburn Avenue Theater, the structural damage done to the Theater, added housing to the downtown core, economic impact to the downtown area from the Theater, the Theater conceptual spaces, the connection to the Downtown Infrastructure project, community support for the project, grant funding and the next steps for the Theater building.

Council discussed lighting, roof green spaces, different design ideas, parking, working with other theaters, improvements of B Street Plaza, and accommodations for disabled patrons.

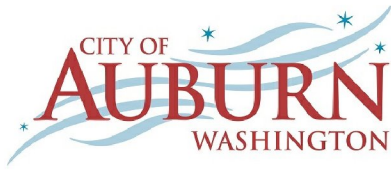
VII. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 6:06 p.m.

APPROVED this 21st day of August, 2023.

JAMES JEYARAJ, DEPUTY 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.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)

Date:

August 15, 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 August 16, 2023 which includes voucher number 473071 through 473227, in the amount of \$1,348,095.35, three electronic fund transfers in the amount of \$1,023.63, and two wire transfers in the amount of \$764,838.55.

Reviewed by Council Committees:

Councilmember: Baldwin

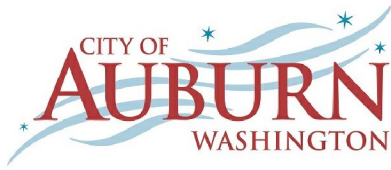
Staff:

Thomas

Meeting Date: August 21, 2023

Item Number:

CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Voucher (Thomas)

Date:

August 15, 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 539510 through 539513 in the amount of \$77,216.32, electronic deposit transmissions in the amount of \$2,683,695.74 for a grand total of \$2,760,912.06 for the period covering August 3, 2023 to August 16, 2023.

Reviewed by Council Committees:

Councilmember: Baldwin

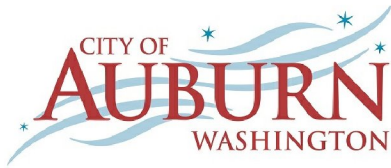
Staff:

Thomas

Meeting Date: August 21, 2023

Item Number:

CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6916 (Gaub)

Date:

August 1, 2023

Department:

Public Works

Attachments:

[Ordinance No. 6916](#)

[Exhibit A](#)

[Vicinity Map](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6916.

Background for Motion:

This Ordinance amends Ordinance No. 6893 and Ordinance No. 6839 extending the time for the applicant to complete conditions associated with Right-of-Way Vacation No. VAC21-0002, which vacates a portion of West Main Street, east of Lund Road SW.

Background Summary:

Ralph Pozzi has requested an extension of time in which to complete conditions associated with Right-of-Way Vacation No. VAC21-0002 previously approved by City Council on December 20, 2021 under Ordinance No. 6839. The vacation is for a portion of West Main Street, east of Lund Road SW. An extension was previously granted by City Council on December 5, 2022, under Ordinance No. 6893. The current deadline to complete the conditions is September 20, 2023.

The applicant has requested an extension to September 30, 2024 to complete the conditions as the applicant is working to resolve issues that were raised during review of their applications for permits.

If adopted, Ordinance No. 6916 amends Ordinance No. 6893 and 6839 extending the time for the applicant to complete conditions associated with Right-of-Way Vacation No. VAC21-0002. A depiction of the vacation area is included with Ordinance No. 6893, Exhibit A, and the Vicinity Map, in the packet.

Reviewed by Council Committees:

Councilmember: Brown

Staff:

Gaub

Meeting Date: August 21, 2023

Item Number:

ORD.A

ORDINANCE NO. 6916

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AUBURN WASHINGTON, AMENDING ORD. NO. 6839 AND
EXTENDING THE DEADLINE TO COMPLETE CONDITIONS
ASSOCIATED WITH VACATING RIGHT-OF-WAY OF A
PORTION OF WEST MAIN STREET, EAST OF LUND ROAD
SW, WITHIN THE CITY OF AUBURN, WASHINGTON

WHEREAS, the City of Auburn, Washington ("City"), approved Ordinance No. 6839 on December 20, 2021, vacating right-of-way located within a portion of West Main Street, east of Lund Road SW, within the City, subject to conditions outlined in that Ordinance; and,

WHEREAS, Section 1, Paragraph I of Ordinance No. 6839 required that all conditions of the vacation be completed by December 20, 2022 or the vacation and Ordinance would be null and void; and,

WHEREAS, pursuant to Auburn City Code (ACC) 12.48.090 and before the December 20, 2022 deadline in Ordinance No. 6839, the applicant requested additional time to complete the required conditions of Ordinance No. 6839. The City Council granted the request by passing Ordinance No. 6893, which amended Ordinance No. 6839 to extend its vacation condition deadline to September 20, 2023. A copy of Ordinance no. 6893 is attached as Exhibit A to this Ordinance; and,

WHEREAS, by letter dated July 10, 2023, the applicant has indicated that due to unresolved permitting issues, they will not be able to complete the vacation conditions in Section 1, paragraphs F and G of Ordinance No. 6839 by the amended September 20, 2023 deadline set by Ordinance No. 6893. The applicant again requests additional time to

Ordinance No. 6916
ROW Vacation VAC21-0002
August 1, 2023
Page 1 of 3

complete the conditions, and estimates completion by September 30, 2024; and,

WHEREAS, the City has determined that the applicant's request to have a second extension of time until September 30, 2024 to complete the conditions in Section 1, Paragraphs F and G of Ordinance No. 6839, is reasonable in light of the unresolved permitting issues, and that it is in the public interest to continue the deadline; and,

WHEREAS, the City Council has considered and approves the applicant's request for extension.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON DO ORDAIN as a non-codified ordinance as follows:

Section 1. Amendment of City Ordinance. Section 1, Paragraph I of Ordinance No. 6839 is amended to read as follows:

This vacation shall be effective upon completion of the provisions in paragraph F, G, and H, above. The above described provisions of paragraph H must be completed by December 20, 2022, and the above provisions of paragraphs F and G must be completed by September 30, 2024, or the vacation and this Ordinance will be null and void.

Section 2. Constitutionality or Invalidity. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 3. Implementation. The mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this location.

Section 4. Effective Date. This Ordinance shall take effect and be in force

Ordinance No. 6916
ROW Vacation VAC21-0002
August 1, 2023
Page 2 of 3

five (5) days from and after passage, approval, and publication as provided by law.

Section 5. Recordation. The City Clerk is directed to record this Ordinance together with Ordinance No. 6893 and Ordinance No. 6839 with the office of the King County Auditor only upon completion of those conditions set forth in Ordinance No. 6839, at which time the vacation pursuant to Ordinance No. 6839 shall be effective under Auburn City Code 12.48.080.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Harry Boesche, Acting City Attorney

PUBLISHED: _____

ORDINANCE NO. 6893

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, AMENDING DEADLINE TO COMPLETE CONDITIONS ASSOCIATED WITH VACATING RIGHT-OF-WAY OF A PORTION OF WEST MAIN STREET, EAST OF LUND ROAD SW, WITHIN THE CITY OF AUBURN, WASHINGTON

WHEREAS, the City of Auburn, Washington ("City"), approved Ordinance No. 6839 on December 20, 2021, a copy of which is attached as Exhibit A, vacating right-of-way located within a portion of West Main Street, east of Lund Road SW, within the City, subject to conditions outlined in Ordinance No. 6839; and,

WHEREAS, Section 1, Paragraph I of Ordinance No. 6839 required that all conditions of the vacation be completed by December 20, 2022 or the vacation and Ordinance will be null and void; and,

WHEREAS, the applicant has requested additional time to complete the conditions set forth in Section 1, Paragraphs F and G of Ordinance No. 6839; and,

WHEREAS, the City has determined that the applicant's request to have one extension of time until September 20, 2023 to complete the conditions in Section 1, Paragraphs F and G of Ordinance No. 6839, is reasonable in light of unforeseeable circumstances, and that it is in the public interest to continue the deadline; and,

WHEREAS, the City has determined that the deadline to complete all other conditions in Section 1 of Ordinance No. 6839 shall remain December 20, 2022; and,

WHEREAS, the City Council has considered the request for extension.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,

Ordinance No. 6893
ROW Vacation VAC21-0002
November 7, 2022
Page 1 of 3

WASHINGTON DO ORDAIN as a non-codified ordinance as follows:

Section 1. Extension. The deadline for completing the right of way vacation conditions in Section 1, Paragraphs F and G of Ordinance No. 6839 is continued in a one-time extension to September 20, 2023. The applicant's deadline to complete all other conditions of the right of way vacation in Ordinance No. 6839 shall remain December 20, 2022.

Section 2. Constitutionality or Invalidity. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 3. Implementation. The mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this location.

Section 4. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after passage, approval, and publication as provided by law.

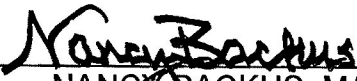
Section 5. Recordation.

The City Clerk is directed to record this Ordinance together with Ordinance No. 6839 with the office of the King County Auditor only upon completion of those conditions set forth in Ordinance No. 6839, at which time the vacation pursuant to Ordinance No. 6839 shall be effective under Auburn City Code 12.48.080.

INTRODUCED: DEC 0 5 2022

PASSED: DEC 0 5 2022

APPROVED: DEC 0 5 2022



NANCY BACKUS, MAYOR

ATTEST:


For: Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:



Kendra Comeau, City Attorney

PUBLISHED: _____

Exhibit "A"

ORDINANCE NO. 6839

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, VACATING RIGHT-OF-WAY OF A PORTION OF WEST MAIN STREET, EAST OF LUND ROAD SW, WITHIN THE CITY OF AUBURN, WASHINGTON.

WHEREAS, the City of Auburn, Washington ("City"), has received a petition signed by at least two-thirds (2/3) of the owners of property abutting right-of-way located within a portion of West Main Street, east of Lund Road SW, within the City of Auburn, requesting vacation of the right-of-way; and,

WHEREAS, as required by Chapter 12.48 of the Auburn City Code, a public hearing was held in connection with the possible vacation, with notice having been provided pursuant to statute; and,

WHEREAS, the City Council has considered all matters presented at the public hearing on the proposed vacation, held on the 20th day of December, 2021, at the Auburn City Council Chambers in Auburn, Washington.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON DO ORDAIN as a non-codified ordinance as follows:

Section 1. Vacation. That the right of way located at a portion of West Main Street, east of Lund Road SW, located within the City of Auburn, Washington, legally described as follows:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1
OF CITY OF AUBURN SHORT PLAT NUMBER SP-11-85,
RECORDED JANUARY 08, 1986 UNDER RECORDING
NUMBER 8601080790, IN KING COUNTY, WASHINGTON;
THENCE NORTH 86°14'47" WEST ALONG THE NORTH

Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 1 of 7

LINE OF SAID LOT 1 A DISTANCE OF 65.87 FEET;
THENCE SOUTH 03°45'13" WEST 3.00 FEET TO THE
BEGINNING;
THENCE CONTINUING SOUTH 03°45'13" WEST 27.00 FEET
TO THE BEGINNING OF A NON-TANGENT CURVE TO THE
RIGHT THE RADUIS POINT OF WHICH BEARS NORTH
03°45'13" EAST DISTANT 2260.00 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 8°35'30" AN ARC LENGTH OF 338.89 FEET;
THENCE NORTH 77°39'17" WEST 31.05 FEET;
THENCE NORTH 86°14'47" WEST 30.07 FEET TO THE
BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT
THE RADIUS POINT OF WHICH BEARS SOUTH 80°54'28"
EAST DISTANT 30.00 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 94°02'01" AN ARC LENGTH OF 49.24 FEET TO
THE BEGINNING OF A CURVE TO THE LEFT HABING A
RADIUS OF 2233.00 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 9°22'20" AN ARC LENGTH OF 365.27 FEET TO
THE POINT OF BEGINNING.

CONTAINING AN AREA OF 10,620 SQUARE FEET, MORE
OR LESS.

and as shown on the survey, a copy of which is attached, marked Exhibit "A" is vacated and
the property lying in the right-of-way described, shall inure and belong to those persons
entitled to receive the property in accordance with RCW 35.79.040, conditioned upon the
following:

A. Reservation in favor of the City of a perpetual Nonexclusive Easement
under, over, through and across the vacated right-of-way as described above for the
purpose of laying, maintaining, and installing future and existing water, sanitary sewer
and storm water facilities and including a reservation in favor of the City of the right to
grant easements for utilities over, under and on all portions of the vacated right-of-way as

Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 2 of 7

described above.

The City shall have the absolute right, at times as may be necessary for immediate entry upon said Easement Area for the purpose of maintenance, inspection, construction, repair or reconstruction of the above improvements without incurring any legal obligation or liability.

The City shall have the absolute right to place any type of driving surface within said Easement Area deemed necessary by the City.

The owners of the adjacent properties agree and shall not in any way block, restrict or impede access and egress to or from said Easement Area, and /or in any way block, restrict or impede full use of the real property within the Easement Area by the City for the above described purposes. No building, wall, rockery, fence, trees, or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of said Easement Area, without the express written consent of the City. Except as required or approved by the City, no excavation shall be made within three feet of said facilities. The surface level of the ground within the Easement Area shall be maintained at the elevation as currently existing except areas that were previously graded and must be re-graded to satisfy conditions of this right-of-way vacation as set forth in paragraphs F and G.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties.

Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 3 of 7

B. Under the terms of the reservation set out in Paragraph A above and in accordance with RCW 35.79.030, the City grants a private utility easement to Puget Sound Energy over, under, and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement and removal of electric and gas distribution facilities. The owners of the adjacent property shall not erect any structures on the easement and shall not place trees or other obstructions on the easement that would interfere with the exercise of Grantee's rights.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties.

C. In accordance with RCW 35.79.030, the City grants a private utility easement to CenturyLink over, under and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement and removal of wireline telecommunications facilities. The owners of the adjacent properties shall not erect any structures on the easement and shall not place trees or other obstructions on the easement that would interfere with the exercise of Grantee's rights.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties.

Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 4 of 7

D. In accordance with RCW 35.79.030, the City grants a private utility easement to Comcast over, under and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement and removal of cable facilities. The owners of the adjacent properties shall not erect any structures on the easement and shall not place trees or other obstructions on the easement that would interfere with the exercise of Grantee's rights.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties.

E. It is provided, however that such reserved or granted utility and access easements as set out in Paragraphs A, B, C and D above may be modified to accommodate a removal, relocation and sitting of the affected utility lines if the Utility and the property owners on whose property the utility lines are located agree to the removal relocations and sitting being paid by said property owners and with the removal relocation and sitting being done in conformity with applicable standards.

F. The applicant shall move the existing fence to the current property line (as it exists prior to vacation) and obtain a Grading Permit to remove gravel and construct proper site improvements for storm drainage to storm inlet structures, parking, lighting and landscaping per City requirements and Engineering Design and Construction Standards.

Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 5 of 7

G. The applicant shall obtain required permits and replace the domed storm inlet structures with a standard grate and shall install concrete aprons around all storm inlet structures per the City's Standard Details.

H. In accordance with RCW 35.79.0360 and ACC 12.48.085, compensation to the City of Auburn, shall be made by the owner or owners of property adjacent thereto in the total amount of Forty-five Thousand (\$45,000.00) Dollars for the full appraised value of the right-of-way, which has been right-of-way for more than twenty-five (25) years and for which public funds were expended.

I. This vacation shall be effective upon completion of the provisions in paragraph F, G, and H, above. The above described provisions must be completed by December 20, 2022 or the vacation and this Ordinance will be null and void.

Section 2. Constitutionality or Invalidity. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 3. Implementation. The Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this location.

Section 4. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after passage, approval, and publication as provided by law.

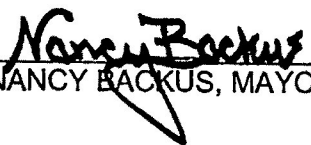
Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 6 of 7

Section 5. Recordation. The City Clerk is directed to record this Ordinance with the office of the King County Auditor only upon completion of those provisions set forth in Section 1, Paragraphs F, G, and H, above, at which time the vacation pursuant to this Ordinance shall be effective under Auburn City Code 12.48.080.

INTRODUCED: DEC 20 2021

PASSED: DEC 20 2021

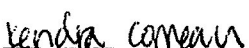
APPROVED: DEC 20 2021


NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:


Shawn Campbell, MMC, City Clerk


Kendra Comeau, City Attorney

PUBLISHED: _____

Ordinance No. 6839
ROW Vacation VAC21-0002
November 3, 2021
Page 7 of 7

EXHIBIT A

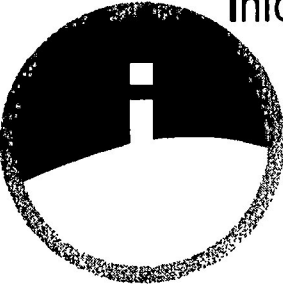
PAGE 1

RIGHT OF WAY VACATION LEGAL DESCRIPTION

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 OF CITY OF AUBURN SHORT PLAT NUMBER SP-11-85, RECORDED JANUARY 08, 1986 UNDER RECORDING NUMBER 8601080790, IN KING COUNTY, WASHINGTON;
THENCE NORTH 86°14'47" WEST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 65.87 FEET;
THENCE SOUTH 03°45'13" WEST 3.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 03°45'13" WEST 27.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS NORTH 03°45'13" EAST DISTANT 2260.00 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°35'30" AN ARC LENGTH OF 338.89 FEET;
THENCE NORTH 77°39'17" WEST 31.05 FEET;
THENCE NORTH 86°14'47" WEST 30.07 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS SOUTH 80°54'28" EAST DISTANT 30.00 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 94°02'01" AN ARC LENGTH OF 49.24 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2233.00 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9°22'20" AN ARC LENGTH OF 365.27 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 10,620 SQUARE FEET, MORE OR LESS.

A PORTION OF THE NE 1/4 OF THE SW 1/4 OF
SECTION 13, T21N, R4E, W.M.



informed land survey

PO Box 5137
Tacoma, WA 98415-0137

Phone: 253-627-2070
admin@i-landsurvey.com
www.i-landsurvey.com

LAND SURVEYING • MAPPING • CONSTRUCTION LAYOUT

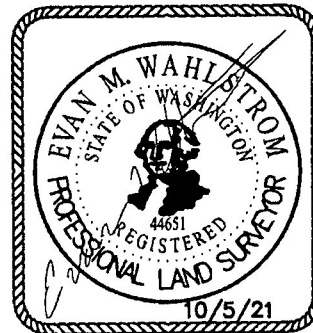
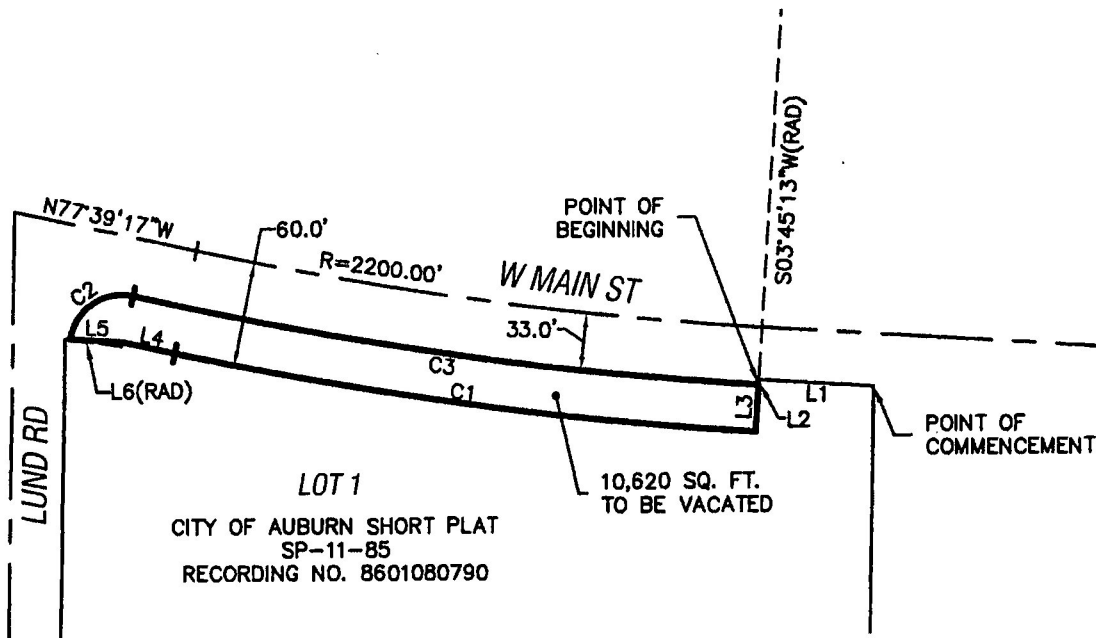
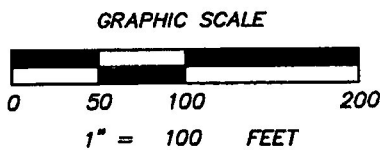


EXHIBIT A **PAGE 2** **RIGHT OF WAY VACATION DEPICTION**

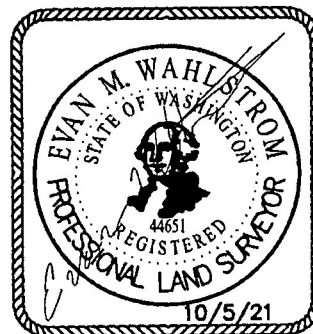


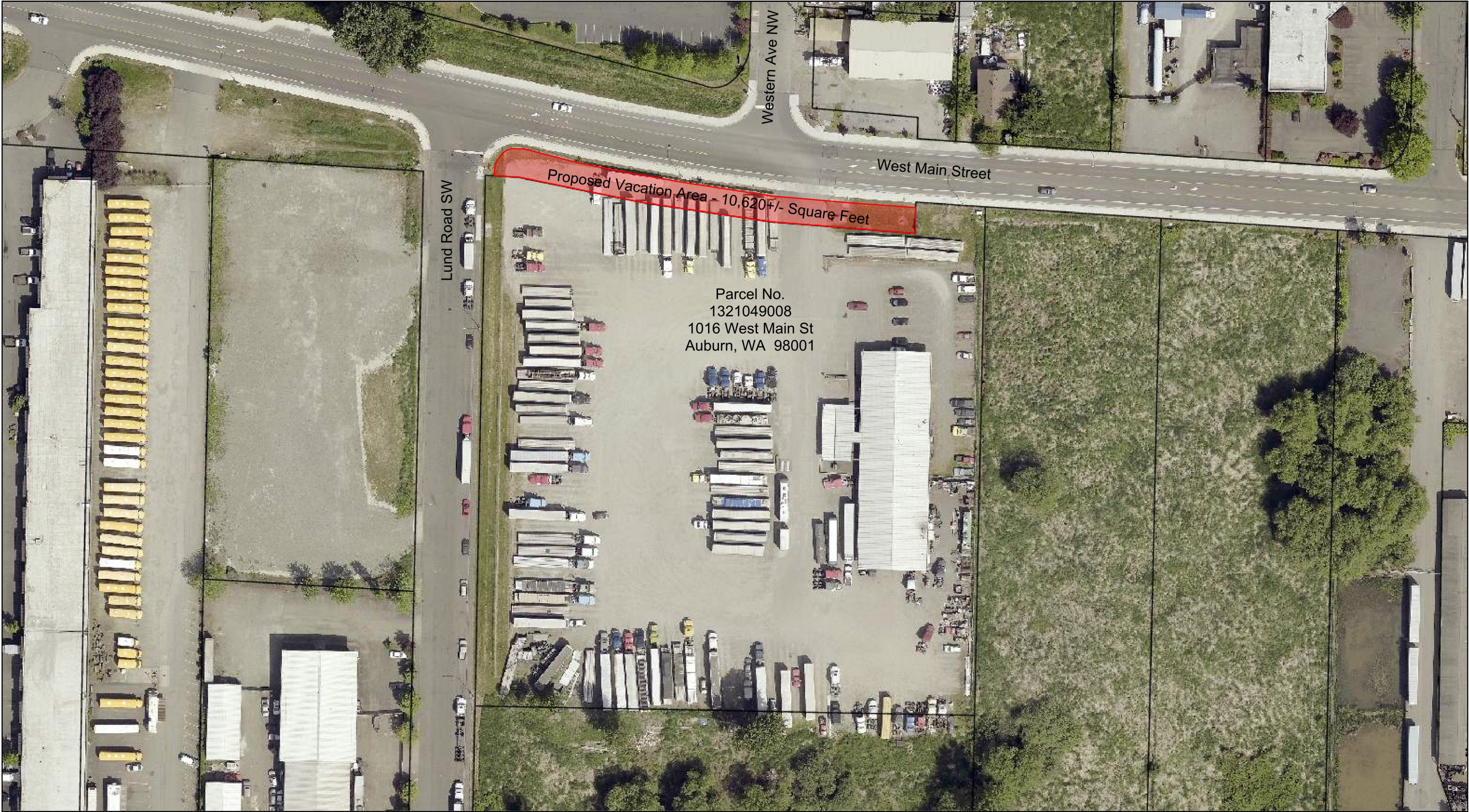
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE
C1	338.89'	2260.00'	8°35'30"
C2	49.24'	30.00'	94°02'01"
C3	365.27'	2233.00'	9°22'20"

LINE	BEARING	DISTANCE
L1	N86°14'47"W	65.87'
L2	S03°45'13"W	3.00'
L3	S03°45'13"W	27.00'
L4	N77°39'17"W	31.05'
L5	N86°14'47"W	30.07'
L6	S80°54'28"E	30.00'

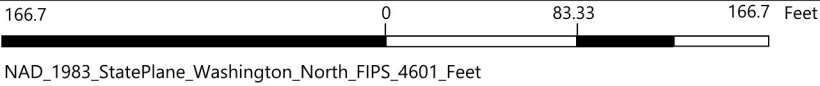


A PORTION OF THE NE 1/4 OF THE SW 1/4 OF
 SECTION 13, T21N, R4E, W.M.



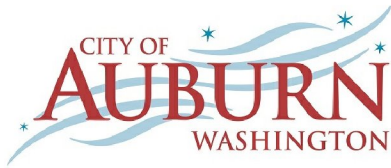


Parcel No.
1321049008
1016 West Main St
Auburn, WA 98001



1 in = 83.33 ft 1:1,000

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5729 (Hinman)

Date:

July 20, 2023

Department:

Administration

Attachments:

[Resolution 5729](#)

[Memorandum of Understanding](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to approve Resolution No. 5729.

Background for Motion:

If approved, this Resolution will allow the City of Auburn to collaborate with Amerigroup to expand awareness of the R.E.A.D.Y. program and increase use of the new 988 Suicide & Crisis Lifeline to help ensure those that are in a mental health crisis in Auburn can get the help they need.

Background Summary:

In 2016, the Healthy Auburn for Life Blue Ribbon Committee was created. The committee identified nine major health issues to address in Auburn. One of the top issues identified was behavioral and mental health. A major program was developed in 2017 called R.E.A.D.Y. (Real Emergency Aid Depends on You).

R.E.A.D.Y. is a one-hour program that was written and developed to provide information about common behavioral and mental health issues; basic, practical skills to use in emergent situations and to bridge the gap until 911 response is on-site (if needed) and what to expect when they arrive. The program has since been expanded to a teen version.

The program is being used in businesses and schools throughout our region.

Reviewed by Council Committees:

Councilmember: Trout-Manuel

Staff: Hinman

Meeting Date: August 21, 2023

Item Number: RES.A

RESOLUTION NO. 5729

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT BETWEEN THE CITY OF AUBURN AND AMERIGROUP WASHINGTON, INC. FOR PROMOTION AND EXPANSION OF THE CITY OF AUBURN'S REAL EMERGENCY AID DEPENDS ON YOU R.E.A.D.Y.™ PROGRAM

WHEREAS, in 2015 the City of Auburn formed the Blue Ribbon Committee for Healthy Auburn for Life in partnership with local clinical partners and stakeholders to address health disparities; and

WHEREAS, the Blue Ribbon Committee for Healthy Auburn for Life identified behavioral and mental health as a top concern for Auburn; and

WHEREAS, the Committee has developed the Real Emergency Aid Depends on You (R.E.A.D.Y.™) program consisting of three mental health first aid videos, which provide information of common mental health issues and tools to use in a mental health crisis for viewing by all residents of Auburn and beyond; and

WHEREAS, the City of Auburn desires to work together with partners and stakeholders to fight the local/national mental health crisis, which affects millions of people each year; and

WHEREAS, Johns Hopkins Medicine data shows that an estimated 26% of Americans ages 18 and older, or 1 in 4 adults suffer from a diagnosable mental health disorder in a given year; and

WHEREAS, a study published in the Journal of Abnormal Psychology in 2019 indicates that the teen mental health crisis, currently impacting 1 in 5 teens each year, continues to grow in epidemic proportions; and

WHEREAS, the National Alliance on Mental Illness estimates that 1 in 6 youth ages 6-17 experience a mental disorder each year; and

WHEREAS, suicide is the second leading cause nationwide of death among young people ages 10-34; and 46% of the people who die by suicide had mental health conditions; and 90% of the people who die by suicide have shown symptoms of mental health conditions; and

WHEREAS, it is estimated that 50% of lifetime cases of mental illness begin at 14 years of age; and

WHEREAS, the City of Auburn is aware that a significant number of young people as well as adults are afraid to seek help due to the stigmas that surround mental health issues; and

WHEREAS, the average delay between onset of mental health symptoms and treatment is 11 years; and

WHEREAS, the Office of Disease Prevention and Health Promotion estimates that by 2030 about half the people in the United States will be diagnosed with mental illness at some point in their lifetime; and

WHEREAS, the City of Auburn welcomes a collaboration with Amerigroup Washington, Inc. to expand and promote the R.E.A.D.Y.™ program via a citywide targeted awareness campaign to encourage residents to view at least one of the three R.E.A.D.Y.™ videos online proudly showing that “We Are A R.E.A.D.Y.™ Family” and commit to the principal ideal that Real Emergency Aid Depends on You and Us. Let us also create a greater awareness and use of the new national 988 Suicide & Crisis Lifeline – 24 hours a day – when help is needed.

WHEREAS, Amerigroup Washington, Inc. desires to grant the City of Auburn funds in the amount of twenty thousand dollars (\$20,000) to launch the R.E.A.D.Y.™ program and 988 promotional campaign as specified in the Memorandum of Understanding (MOU) attached to this resolution as Exhibit A.

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

Section 1. The Mayor is authorized to execute an Agreement between the City and Amerigroup Washington, Inc., for \$20,000 in grant funding, which agreement will be in substantial conformity with the agreement attached hereto, and to expend the funds consistent with the MOU and this resolution.

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: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Harry Boesche, Acting City Attorney

**Memorandum of Understanding
Between Amerigroup Washington, INC. and The City of Auburn**

This Memorandum of Understanding (“MOU”) is entered into as of August 15, 2023, by and between Amerigroup Washington, Inc. (“Amerigroup”) and the City of Auburn (“CBO”), a municipal government organization based in Auburn, Wash. Each Party named above shall be individually referred to in this MOU as "Party" or collectively, as "Parties."

I. PURPOSE OF THE MOU

The purpose of this MOU is to provide CBO with a single, lump-sum payment of twenty thousand dollars (\$20,000) (“Funds”), which CBO shall use to promote the City of Auburn’s Real Emergency Aid Depends on You (R.E.A.D.Y.TM) (“Program”).

II. DISBURSEMENT OF FUNDS BY CBO AND SERVICES PROVIDED.

- a. CBO will use Funds to:
 - i. Launch R.E.A.D.Y.TM awareness campaign using magnets for Auburn residents to promote mental health first aid and the use of the national new 988 Suicide & Crisis Lifeline.
 - ii. Magnets and other marketing materials in the course of the awareness campaign will prominently display Amerigroup in partnership with the City of Auburn.
 - iii. Postage to send promotional items to persons qualifying to receive them.
 - iv. Payment for printed materials related to the R.E.A.D.Y.TM awareness campaign (postcards, flyers, letters, etc.)
 - v. Purchase paid digital advertising on Auburn’s social media platforms to promote R.E.A.D.Y.TM awareness campaign.
 - vi. Purchase print advertising in local media outlets to promote R.E.A.D.Y.TM awareness campaign.
- b. CBO will be responsible for the identification of relevant requirements and parameters of eligibility for the Program and have sole responsibility for the identification and selection of individuals who enroll and/or participate in the Program.
- c. CBO shall not discriminate against any person, applicant or participant of the Program on the basis of age, sex, marital status, sexual orientation, race, color, religion, ancestry, national origin, disability, handicap, health status, or any other unlawful basis. CBO will comply with all applicable laws prohibiting discrimination.
- d. Reporting results will be made available to Amerigroup on a quarterly basis, including information such as: number of individuals served, magnets distributed, financial expenditures and any other information requested by Amerigroup related to performance under this MOU.
- e. CBO agrees that no more than 10% of the Funds may be used for administrative costs.
- f. No later than December 31, 2024, all unused, unapplied, or unassigned Funds shall be returned to Amerigroup.
- g. CBO will begin distributing the Funds as soon as possible.

----- EXHIBIT A -----

- h. On an ongoing basis, CBO shall (i) monitor and track use of Funds and performance of services under Program, and (ii) comply with all applicable state and federal laws related to use of Funds and services performed under Program. CBO agrees to report to Amerigroup promptly any suspected misuse of Funds. CBO acknowledges and understands that should any misuse of Funds be determined, CBO will be required to return Funds to Amerigroup immediately.

III. EXPECTED OUTCOMES OF THE PROGRAM(S).

- a. Increase awareness of Auburn's R.E.A.D.Y.TM videos and encourage Auburn residents to watch and learn mental health first aid.
- b. Promote the use of the new 988 Suicide & Crisis Lifeline and encourage residents to utilize the number when they encounter a mental health crisis.
- c. Decrease the stigma that surrounds mental health that prevents people from seeking assistance from support programs and services.
- d. Improve the mental health of Auburn's youth and adults.
- e. Increase awareness of the City of Auburn's partnership with Amerigroup.
- f. Be the first city in Washington State to actively involve all Auburn citizens into learning more about mental health issues.

IV. ADDITIONAL SERVICES PROVIDED BY AMERIGROUP

- a. Within (30) thirty days of the execution of this MOU, Amerigroup will provide the Funds to CBO as one-time funding to support the Program described herein.
- b. Amerigroup will participate in regular conference calls with CBO during the Term hereof to discuss Program outcomes and progress.

V. CONFIDENTIALITY AND MAINTENANCE OF RECORDS.

- a. If applicable, Parties will comply with the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996, 42 CFR part 2, and the Gramm Leach Bliley Act of 1999 through a Business Associate Agreement. Inasmuch as a Business Associate Agreement ("BAA") is not included with this MOU or otherwise in place between the Parties, and CBO is engaged for services that include the potential for access to PHI, CBO must enter into a BAA acceptable to Company prior to performing such services. In the event the BAA is not signed by CBO, Amerigroup may terminate this MOU without penalty or termination fees. This Section shall survive termination of the MOU.
- b. CBO will keep systematic records of all expenditures relating to this MOU. Such records, including bills, invoices, canceled checks, and receipts, will be retained by CBO for five (5) years after this MOU terminates or expires and will be available for Company inspection during that period.

VI. INTELLECTUAL PROPERTY.

Each Party recognizes and acknowledges that the other Party owns or may own certain intellectual property that was not developed specifically for or funded for a purpose contemplated herein, but which may be used in connection with the services contemplated under this MOU, ("Independent Intellectual Property"), and agrees that all such Independent Intellectual Property shall, as between the Parties, remain the sole property of

----- EXHIBIT A -----

the originating Party. Each Party acknowledges and agrees that, except as required by this MOU, no Party is obtaining rights to any other Party's Independent Intellectual Property as a result of this MOU, unless expressly agreed to by the Party owning such Independent Intellectual Property.

VII. AUTHORITY; INDEMNIFICATION; LIMITATION OF LIABILITY.

- a. Authority. Each Party represents and warrants to the other Party that its performance of this MOU will not breach any other agreement or obligation by which it is bound, and that it has all rights, consents and licenses necessary to fulfill its obligations to the other Party hereunder.
- b. Indemnification
 - i. Indemnification. Each Party ("Indemnifying Party") shall defend, indemnify and hold harmless the other Party and the other Party's respective affiliates, successors and assigns, officers, directors, trustees, employees, permitted subcontractors, representatives, and agents (the "Indemnified Parties") from and against any and all losses, liabilities, damages, fines, penalties, costs, or expense (including reasonable attorneys' fees and other expenses of litigation) (collectively, "Loss" or "Losses") arising or resulting from any claim, action, suit, or other proceeding (collectively, "Claims") to the extent such Losses result, arise, or relate to (a) the Indemnifying Party's material breach of any of its representations under this MOU, (b) the negligence or willful misconduct of the Indemnifying Party in performing its activities under the MOU, or (c) the activities performed by or on behalf of the Indemnifying Party, including by any subcontractor. This indemnification provision does not apply to a direct claim by one Party against the other Party.
 - ii. Notice to Indemnifying Party. If any Indemnified Party receives notice of any claim or other commencement of any action or proceeding with respect to which the Indemnifying Party is obligated to provide indemnification pursuant to this section, the Indemnified Party shall, within fifteen (15) days of receiving such notice or the commencement of any such action or proceeding, give the Indemnifying Party written notice thereof, including without limitation a description of such alleged Losses. Such notice shall be a condition precedent to any liability of the Indemnifying Party for indemnification hereunder unless the Indemnified Party can prove that its failure to give such timely notice does not and will not in any manner prejudice the Indemnifying Party or diminish or waive any rights that the Indemnifying Party may have.
 - iii. Defense by Indemnifying Party. The Indemnifying Party shall have the right to control the defense thereof with counsel of its choice as long as such counsel is reasonably acceptable to the Indemnified Party; provided that any Indemnified Party shall have the right to retain its own counsel at its own expense for any reason. The Indemnified Party, its employees, and agents, shall reasonably cooperate with the Indemnifying Party and its legal representatives in the investigation or defense of any Losses or Third Party Claims covered by this Section.

----- EXHIBIT A -----

- iv. Settlement. The Indemnified Party shall not settle or compromise any claim by a third party for which it is entitled to indemnification hereunder, without the prior written consent of the Indemnifying Party.
- c. Limitation of Liability. In no event shall any Party be liable to any other Party to this MOU hereunder for incidental or consequential damages of any kind, including lost profits, regardless of whether such Party shall be advised, shall have other reason to know or in fact shall know of the possibility of the foregoing. This section shall survive any termination of this MOU.

VIII. INFORMATION USES; COMMUNICATIONS; PUBLICITY; PUBLICATION.

- a. The Parties agree that no Party shall make any public statement or release that relates to this MOU or the Program described herein without the prior written approval of the other Party. All sponsorship or joint marketing activities arising under this MOU are subject to Amerigroup WA, Inc's policies and procedures and applicable law. Parties agree that any publicity surrounding the services and Program contemplated by this MOU shall acknowledge the efforts of all Parties. The obligations contained in this provision shall survive the termination of this MOU. Each of the Parties shall have independent and separate rights to disclose and publish the data and results generated from the Program subject to the terms of this MOU, except the first public disclosure and publication of such data and results shall be jointly prepared by the Parties under this MOU. After the first disclosure and publication, each Party may make independent disclosures and publications of any Program data and results, which are materially similar to the presentation of the first publication. Each Party shall have at least thirty (30) days prior to the date of submission for publication or of public disclosure to review such material. Except, however, abstracts will be submitted to the other Party for review at least fifteen (15) days prior to the date of submission for publication or public disclosure. During its review period, the other Party may provide input, make factual corrections, and request the deletion of any reference to the other Party's confidential information from the proposed disclosure or publication. All disclosures and publications must expressly acknowledge the other Party, unless such Party objects to such acknowledgment.
- b. CBO is encouraged to provide, when appropriate and only applicable to Program covered under this MOU, de-identified and unidentifiable key Program success stories. CBO acknowledges and agrees that Amerigroup in its reasonable discretion, may use and communicate any such success stories provided to Amerigroup
- h. As reasonably requested by Amerigroup and subject to this Article VIII, CBO will participate in public relations and media events promoting this Program in coordination and cooperation with Amerigroup.

IX. INSURANCE.

Except as set forth herein, CBO shall maintain in force throughout the Term, insurance that satisfies the criteria set forth below, provided, CBO has the right, in its sole discretion, to self-insure in part or in whole for any such coverage:

- a. General Liability.

----- EXHIBIT A -----

- i. Each Occurrence: \$1,000,000
 - ii. Products/Completed Operations Aggregate: \$2,000,000
 - iii. Personal and Advertising Injury: \$1,000,000
 - iv. General Aggregate: \$2,000,000
 - v. Premises and operations coverage, contractual liability coverage, personal injury coverage, products and completed operations coverage and coverage for independent contractors. The other Parties and their affiliates shall be additional insureds.
- b. Workers' Compensation. As required by applicable state law, including voluntary compensation.
 - c. Employment Practices Liability of \$1,000,000.
 - d. For the purposes of section VII. b. i. Indemnification language in the insurance policies and endorsements of "per written contract" is sufficient and neither Party is required to list the other as an Additional Insured on their insurance policies.

X. TERMS OF MOU; TERMINATION.

- a. Term. This MOU shall become effective on September 1, 2023 and shall continue through December 31, 2024 ("the Term").
- b. Termination Without Cause. This MOU may be terminated during the Term by a Party acting in its sole discretion, and for any reason whatsoever. Notice of said termination stating the Party's intent to terminate and the effective date of such termination shall be delivered in writing to the other Party not less than thirty (30) days prior to the effective date of such termination.
- c. Return of Funds. In the event this MOU terminates for any reason, CBO shall return all unused, unapplied or unassigned Funds remaining to Amerigroup within thirty (30) days of receiving or giving notice of a termination as provided herein. The provisions set forth in this Section X(c) are in addition to and not in lieu the provisions of Section II(d). The Parties expressly agree this provision shall survive the termination or expiration of this MOU.

XI. GENERAL PROVISIONS.

- a. No Third-Party Rights. This MOU is made solely for the benefit of the Parties and does not, and shall not be construed to grant any rights or remedies to any other person or entity other than as expressly provided for in this MOU.
- b. Amendment. Neither this MOU nor any of its provisions may be amended, supplemented, modified, or waived except by a writing duly executed by the duly authorized representative of each of the Parties.
- c. Captions. The headings, captions, sections and clause numbers appearing in this MOU are inserted only as a matter of convenience and should play no role in the interpretation of the body of each clause.
- d. Governing Law. This MOU, and all claims arising out of, relating to or in connection with this MOU, are governed by and construed in accordance with the laws of the State of Washington (WA), without regard to its provisions concerning the applicability of the laws of other jurisdictions.

----- EXHIBIT A -----

- e. Waiver and Modification. No waiver or modification of this MOU or of any covenant, condition or limitation contained herein shall be valid unless in writing and duly executed by all Parties to be charged therewith, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding or litigation between the Parties arising out of or affecting this, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing duly executed as aforesaid, and all Parties further agree that the provisions of this paragraph may not be waived except as herein set forth.
- f. Partial Waiver and Breach. The waiver by any Party hereto of any right hereunder, or failure to perform, or breach by the other Party shall not be deemed as a waiver of any other right hereunder or of any other breach or failure by said other Party whether of a similar nature or otherwise. The failure of a Party to enforce at any time any of the provisions of this MOU of any rights in respect hereto, or to exercise any election herein provided, shall in no way be considered to be a waiver of such provisions, rights or elections or in any way affect the validity of this MOU.
- g. For Assignment. No Party shall have the right to assign this MOU or any of its rights or obligations hereunder.
- h. Notices. Except as otherwise expressly provided in the MOU, any notice required under this MOU shall be in writing and shall specifically refer to this MOU. Notices shall be sent via one of the following means and will be effective (a) on the date of delivery, if delivered in person; (b) on the date of receipt, if sent by a facsimile (with delivery confirmed); or (c) on the date of receipt, if sent by private express courier or by first class certified mail, return receipt requested. Any notice sent via facsimile shall be followed by a copy of such notice by private express courier or by first class mail. Notices shall be sent to the other Party at the addresses set forth below. A Party may change its addresses for purposes of this Notice section by sending written notice to the other Party.

All notices to Amerigroup shall be addressed to:
David Escame,
david.escame@amerigroup.com

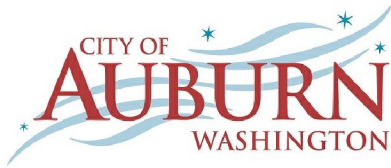
All notices to CBO shall be addressed to:
Pat Bailey, Community Health Consultant
c/o City of Auburn
25 West Main St.
Auburn WA 98001
253-288-3134
pbailey@auburnwa.gov

- i. Entire MOU. This MOU (and all appendices and/or exhibits attached hereto, which are hereby incorporated by this reference) constitutes the entire understanding between the Parties and replaces and supersedes any and all prior agreements and understandings, whether oral or written, express or implied, between the Parties with respect to the subject matter hereof.

----- EXHIBIT A -----

- j. Construction. The Parties mutually acknowledge that they have participated in the negotiation and preparation of this MOU. Ambiguities, if any, in this MOU shall not be construed against any Party, irrespective of which Party may be deemed to have drafted the MOU or authorized the ambiguous provision.
- k. Legal Compliance; Severability. All Parties hereby expressly state that it is each Party's intent to expressly comply with state and federal law. If any of the provisions of this MOU, including but not limited to structure of Program, distribution of Funds or otherwise, are held to be void or unenforceable, then such void or unenforceable provisions shall be replaced by valid and enforceable provisions that will achieve as far as possible the business intentions of the Parties, to the extent doing so is possible. Should such replacement not be possible, the Party's may terminate the MOU in accordance to the terms herein.
- l. Independent Parties. CBO and its employees, agents, and representatives are independent parties and are not Company employees or agents.

_____ City of Auburn	_____ Amerigroup Washington, Inc.
_____ Signature	_____ Signature
_____ Nancy Backus	_____ Printed Name
_____ Printed Name	_____ Printed Name
_____ Mayor	_____ Title
_____ Title	_____ Title
_____ Date	_____ Date



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5732 (Caillier)

Date:

August 10, 2023

Department:

Police

Attachments:

[Resolution No. 5732](#)

[WSCJTC Grant contract](#)

Budget Impact:

Current Budget: \$0

Proposed Revision:

\$55,000 Grant Award

Revised Budget: \$0

Administrative Recommendation:

City Council to approve Resolution No. 5732.

Background for Motion:

City Council to adopt Resolution No. 5732 authorizing the City to accept the \$55,000 in grant funding from the Washington State Criminal Justice Training Commission for the purpose of enhancing Officer Wellness.

Background Summary:

The Auburn Police Department is the recipient of a \$55,000 grant from the Washington State Criminal Justice Training Commission. This grant is for the purpose of establishing officer wellness programs, to include, building resilience, injury prevention, peer support, physical fitness, proper nutrition, stress management, suicide prevention, physical health, mental health supports/services and any other program that focuses on officer wellbeing. APD was awarded the grant to fund a mental health professional services contract with Dr. Stacey Cecchet to provide trainings, one on one meetings, debriefings, trauma review and check-ins. The award will also fund contracted services with Dexafit to provide preventative screenings and analysis of physical health, and funds wellness activities for officers and families.

Reviewed by Council Committees:

Councilmember: Jeyaraj

Staff:

Caillier

Meeting Date: August 21, 2023

Item Number:

RES.B

RESOLUTION NO. 5732

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, ACCEPTING A GRANT AWARD FROM THE WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION FOR IMPROVING POLICE OFFICER WELLNESS

WHEREAS, the Auburn Police Department (APD) applied for, and has been awarded a grant from the Washington State Criminal Justice Training Commission (WSCJTC) in the amount of \$55,000;

WHEREAS, the grant is specific to the police department with the purpose of establishing officer wellness programs, to include, building resilience, injury prevention, peer support, physical fitness, proper nutrition, stress management, suicide prevention, physical health, mental health supports/service and any other program that focuses on officer wellbeing,

WHEREAS, the Auburn Police Department has identified providers that meet these requirements as outlined under the proposed agreement attached as Exhibit A to this Resolution.

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

Section 1. The City of Auburn and Auburn Police Department are authorized to accept the grant award of \$55,000 according to the terms and conditions set forth in the proposed award agreement attached to this Resolution;

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

Section 3. This Resolution shall take effect and be in full force upon passage and signatures.

Dated and Signed this _____ day of _____, 2023.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Harry Boesche, Acting City Attorney

Washington State Criminal Justice Training Commission		WSCJTC Contract No. IA24-013	
		Program Index 529	
This Contract is between the State of Washington, Washington State Criminal Justice Training Commission and the Contractor identified below and is governed by Department of Enterprise Services Procurement Policies.			
Contractor Name: City of Auburn Police Department		Contractor Address 340 E. Main St. #201, Auburn, WA 98002	
Contact: Dave Colglazier			
Contact Telephone		Contact E-Mail dcolglazier@auburnwa.gov	
WSCJTC Contact Information			
Manager of this contract or project. Name and Title. Susan Rogel, Grants Manager		E-mail Address Susan.Rogel@cjtc.wa.gov Telephone 206-939-8437	
Contract Start Date	Contract End Date June 30, 2024	Contract Maximum Amount \$55,000	
Subcontracting Authorized? Y/N Y	Travel Expenses Authorized? Y/N Y		
FOR THE WSCJTC:		FOR THE CONTRACTOR:	
Susan Rogel	<i>Susan Rogel</i>	6/28/2023	
Program Manager	Date	Contractor Business Name City of Auburn Police Department	
Brian Elliott	<i>Brian Elliott</i>	6/28/2023	
Department Manager	Date	Date	
	<i>Monica Alexander</i>	6/28/2023	6/28/2023
Executive Director	Date	Contractor signature	
Holly White	<i>Holly White</i>	7/8/2023	
WSCJTC Contract Specialist	Date	Print Name & Title Mark Caillier, Chief of Police mcaillier@auburnwa.gov	

Statement of Work.

This contract was won competitively, and contract incorporates by reference the Statement of Work WSCJTC published in the Request for Proposal, which the Contractor's proposal specifically agreed to perform.

This grant is for the purpose of establishing officer wellness programs, to include, building resilience, injury prevention, peer support, physical fitness, proper nutrition, stress management, suicide prevention, physical health, mental health supports/services and any other program that focuses on officer wellbeing.

You have been provided funding for a Mental Health professional services contract with Dr. Stacey Cecchet to provide training, one on one meetings, debriefings, trauma reviews and check ins, Dexafit contracted services to provide preventative screenings and analysis of physical health, and funding to provide wellness activities for officers and their families, such as hikes, team building and family focused trainings.

OUTCOMES, REPORTING, AND BILLING TIMELINES:

Reporting (Outcome Report) and invoice (A-19 and backup documentations – submitted in one PDF document all together) dates:

1. October 15, 2023 (July, August, & September)
2. January 15, 2024 (October, November, & December)
3. April 15, 2024 (January, February, & March)
4. July 10, 2024, **FINAL** submission (April, May, & June)

Required Outcomes to Report on:

1. Professional Services Contract – MHP- Dr. Stacy Cecchet – Identify services provided, document attendance per services and survey of usefulness in Final Report.
2. Dexafit – Officer preventative screening and analysis. Please provide number of screenings provided.
3. Other Wellness Activities for Police Officers – list wellness activities provided and attendance.
4. Survey officers for usefulness of services and additional needs, report in Final Report.

See “Attachment A” for services funded amounts.

Exclusive Agreement. This contract, with its attachments and documents incorporated by reference, contains all of the terms and conditions the parties agreed to. No other contract terms or conditions shall be deemed to exist or bind

the parties. The parties signing above confirm they have read and understand this entire Contract and have the authority to enter this Contract. WSCJTC and the Contractor may amend the contract by mutual written agreement.

Payment. WSCJTC shall pay the Contractor for performance of the Statement of Work, in response to invoices specifying hours worked or work completed but shall not pay in advance. Payments are made by Electronic Funds Transfer using the bank routing information the Contractor provides.

Industrial Insurance Coverage. WSCJTC will report the Contractor to the Department of Labor and Industries (L&I) as a "non-employee covered worker" and will pay L&I insurance premiums. Any injuries the Contractor suffers in the course of performing this contract are covered by L&I. The Contractor and his/her physician should claim accordingly. If this contract authorizes subcontracting, the Contractor provides L&I coverage for any subcontract workers; WSCJTC and the State assume no liability for them.

Termination. No guarantee of work is made or implied as a result of this Contract: merely signing this contract does not guarantee the Contractor any specific amount of payment. WSCJTC may terminate this Contract by providing written notice to the Contractor. Termination shall be effective on the date specified in the termination notice. WSCJTC shall be liable for only authorized services provided on or before the date of termination.

Assignment. The Contractor may not assign this Contract, or its rights or obligations to a third party.

Confidentiality. The Contractor shall not disclose any information WSCJTC designates confidential. This contract and the Contractor's proposal, if any, become the property of the WSCJTC, subject to the Public Records Act RCW 42.56.

Disputes. If a dispute arises under this contract, it shall be resolved by a Dispute Board. The WSCJTC Executive Director and the Contractor shall each appoint a member to the Board. The Executive Director of the WSCJTC and the Contractor shall jointly appoint a third member to the Dispute Board. The Board shall evaluate the dispute and resolve it. The Board's determination shall be final and binding to all parties to this Contract.

Indemnity. Contractor agrees to hold harmless WSCJTC for any claim arising out of performance or failure to perform the contract, without regard to actual or alleged negligence by State employees.

Governing Law. This Contract shall be governed by the laws of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, State of Washington.

Rights in Data. Material created from this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by WSCJTC, including but not limited to reports, documents, videos, curricular material, exams or recordings. Such materials are subject to RCW 42.56, the Public Records Act; WSCJTC may disclose such documents in accordance with the PRA.

Severability. If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Contract, and to this end the provisions of this Contract are declared to be severable.

Waiver. A failure by the WSCJTC to exercise its rights under this contract shall not preclude WSCJTC from subsequent exercise of such rights and shall not constitute a waiver of any rights under this contract unless stated to be such in writing and signed by an authorized representative of WSCJTC and attached to the original contract.

ATTACHMENT A – SERVICES FUNDED AMOUNTS

Auburn PD	Total	\$55,000
	\$25,000	Professional Services Contract with Dr. Cecchet.
	\$25,000	Dexafit preventative screenings.
	\$5,000	Other Wellness activities, no construction costs.



TO: Members of the City Council
Mayor Backus
Department Directors

FROM: Shawn Campbell, City Clerk

SUBJECT: Agenda Modification

DATE: August 21, 2023

The August 21, 2023, City Council Meeting agenda is modified to add the following item:

XIII. RESOLUTIONS

- C. Resolution No. 5733 (Caillier)
A Resolution authorizing the Mayor to execute a
Facility Use Agreement with Coppergate Apartments,
LLC



AGENDA BILL APPROVAL FORM

Agenda Subject: Resolution No. 5733		Date: August 21, 2023
Department: Police	Attachments:	Budget Impact:
Administrative Recommendation: City Council to Approve Resolution No. 5733		

Background for Motion

Resolution No. 5733 authorizes the Mayor to sign a Facility Use Agreement between the Auburn Police Department and Coppergate Apartments, LLC

Background Summary:

Coppergate Apartments, LLC owns and operates an apartment complex at 4750 Auburn Way North. The property includes a clubhouse for use by residents and authorized users. The Auburn Police Department seeks to use this facility for meetings and other general law enforcement purposes. Coppergate is willing to authorize this APD use through a Facility Use Agreement.

Councilmember: Jeyaraj	Staff: Caillier
Meeting Date: August 21, 2023	Item Number: RES.C

RESOLUTION NO. 5733

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO
EXECUTE A FACILITY USE AGREEMENT WITH
COPPERGATE APARTMENTS, LLC

WHEREAS, Coppergate Apartments, LLC (Coppergate) owns and operates an apartment complex at 4750 Auburn Way N.;

WHEREAS, the Coppergate property includes a clubhouse facility for use by residents and other authorized users;

WHEREAS, the Auburn Police Department (APD) seeks to use Coppergate's facility for meetings and as a general law enforcement work space; and

WHEREAS, Coppergate is willing to permit APD's use of its facility through the attached facility use agreement.

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

Section 1. The Mayor is authorized to sign the attached Facility Use Agreement between Coppergate and APD.

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.

Dated and Signed this _____ day of _____, 2023.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Harry Boesche, Acting City Attorney

FACILITY USE AGREEMENT

This Facility Use Agreement ("Agreement") is made and entered into as of this ____ day of _____, 2023 (the "Effective Date"), between COPPER GATE APARTMENTS, LLC ("Owner") and the CITY OF AUBURN ("User") (collectively referred to as "Parties").

RECITALS

- A. Owner owns the apartment community located at 4750 Auburn Way N, Auburn, WA 98002, known as Copper Gate Apartments (the "Property")
- B. User desires to use an office in the Building L Clubhouse within the Property (the "Facility") as an office for its police officers or other similar use related to police duties.
- C. Owner is willing to grant User the right to use the Facility, subject to the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

AGREEMENT

1. Facility Description: Owner hereby grants User the right to use the following facility:
 - Facility Name: Copper Gate Building L Clubhouse Office
 - Address: 4750 Auburn Way N, Auburn, WA 98002
 - Description: Dedicated front office located in the Clubhouse. The remainder of common area space can be used by Auburn PD for meetings, events, etc. with the understanding that this is accessible to residents as well.
2. Term: The Agreement shall commence on the Effective Date and terminate one (1) year following the Effective Date. Thereafter, this Agreement shall automatically renew for successive periods of one (1) year (each a "Renewal Term"), unless either Party provides written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term or Renewal Term.
3. Permitted Use: User is granted the right to use the Facility for the following purpose: as an office for its police officers or other similar use related to police duties ("Permitted Use"). User is also granted the right to access common areas within the Property for purposes related to the Permitted Use.
4. Maintenance and Repairs: User shall be responsible for maintaining the Facility in a clean and orderly condition during the term of this Agreement. User shall promptly notify Owner of any damages or repairs required.
5. Indemnification: User agrees to indemnify, defend, and hold harmless Owner from any claims, damages, liabilities, or expenses arising out of or in connection with User's use of the Facility or the Property, except to the extent caused by the negligence or willful misconduct of Owner.
6. Insurance: User shall maintain comprehensive general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000) for the duration of this Agreement. The policy shall name Owner as an additional insured and shall be primary insurance as well as non-contributory as to Owner, and all other insurance carrier by Owner shall be excess coverage secondary to the coverage provided by User. User shall provide Owner with a certificate of insurance as proof of coverage.
7. Termination: Either Party may terminate this Agreement upon thirty (30) days written notice to the other Party. In the event of termination, User shall vacate the Facility and restore it to its original condition, subject to reasonable wear and tear.

8. Governing Law and Jurisdiction: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any disputes arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts in the state of Washington.
9. Entire Agreement: This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, agreements, or understandings, whether oral or written. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all counterparts together shall constitute one and the same instrument.
10. No special duty or relationship. This Agreement and Auburn PD's performance of it shall not create any special relationship between any persons or any duties to protect any specific persons from harm or injury (including any signatories to this Agreement). All police functions described in this Agreement are the same in extent and scope as those that police officers provide to the general public. The parties to this agreement are independent contractors and will not be deemed, by virtue of this Agreement or its performance, to have formed any partnership joint venture, employment or other relationship.

Executed as of the date first written above:

OWNER:

USER:

COPPER GATE APARTMENTS, LLC

CITY OF AUBURN, WASHINGTON

By: Copper Gate Manager, LLC



Darin Davidson, Manager

Nancy Backus, Mayor

Attest:

Shawn Campbell, City Clerk

Approved as to form:

Harry Boesche, Acting City Attorney