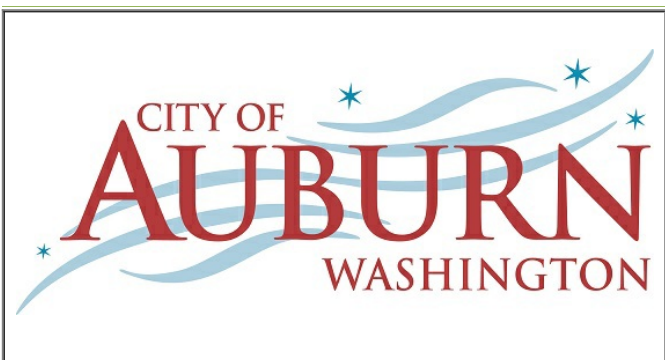


	City Council Meeting August 15, 2022 - 7:00 PM City Hall Council Chambers AGENDA Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
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I. CALL TO ORDER

II. LAND ACKNOWLEDGEMENT

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

III. PUBLIC PARTICIPATION

1. Public Participation

The Auburn City Council Meeting scheduled for Monday, August 15, 2022 at 7:00 p.m. will be held in person and virtually.

Virtual Participation Link:

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

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

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

Telephone: 253 215 8782

Toll Free: 888 475 4499

Zoom: <https://us06web.zoom.us/j/89837091328>

A. Pledge of Allegiance

IV. Roll Call

V. ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

A. International Overdose Awareness Day

Mayor Backus to proclaim August 31, 2022 as "International Overdose Awareness Day" in the City of Auburn

VI. APPOINTMENTS

A. Salary Commission

City Council to approve the appointment of George Frazier to the Salary Commission for a four year term to expire December 31, 2025

(RECOMMENDED ACTION: Move to approve the appointment of George Frazier to the Salary Commission for a four year term to expire December 31, 2025.)

B. Transportation Advisory Board

City Council to approve the appointment of Ena Robinson to the Transportation Advisory Board, serving as the Chamber of Commerce member, for a three year term to expire December 31, 2024

(RECOMMENDED ACTION: Move to approve the appointment of Ena Robinson to the Transportation Advisory Board, for a three year term to expire December 31, 2024.)

C. Lodging Tax Advisory Committee

City Council to approve the reappointments of Andy Cho and Susan Roberts to the Lodging and Tax Advisory Committee for three year terms to expire on December 31, 2024

(RECOMMENDED ACTION: Move to approve the reappointments of Andy Cho and Susan Roberts to the Lodging Tax Advisory Committee for three year terms to expire on December 31, 2024.)

VII. AGENDA MODIFICATIONS

VIII. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Audience Participation

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

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

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

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

Please fax written comments to:

Attn: Shawn Campbell, City Clerk
Fax number: 253-804-3116

Email written comments to:
publiccomment@auburnwa.gov

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

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

IX. COUNCIL AD HOC COMMITTEE REPORTS

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

1. Finance Ad Hoc Committee (Chair Baggett)
2. Council Rules of Procedure Ad Hoc Committee (Chair Jeyaraj)

X. CONSENT AGENDA

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

- A. Minutes of the July 11, 2022 and August 8, 2022 Study Session Meeting
- B. Minutes of the July 18, 2022 Regular City Council Meeting
- C. Claims Vouchers (Thomas)
Claims voucher list dated August 1, 2022 which includes voucher numbers 468831 through 469023, in the amount of \$3,204,684.79 and five wire transfers in the amount of \$1,113,114.22

Claims voucher list dated August 15, 2022 which includes voucher numbers 469024 through 469223, in the amount of \$5,323,571.55 and four wire transfers in the amount of \$637,830.46
- D. Payroll Voucher (Thomas)
Payroll check numbers 539393 through 539396 in the amount of \$525,304.93, electronic deposit transmissions in the amount of \$2,379,448.27 for a grand total of \$2,904,753.20 for the period covering July 14, 2022 to July 27, 2022

Payroll check numbers 539397 through 539402 in the amount of \$72,801.02, electronic deposit transmissions in the amount of \$2,455,958.65 for a grand total of

\$2,528,759.67 for the period covering July 28, 2022 to August 10, 2022

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

XI. UNFINISHED BUSINESS

XII. NEW BUSINESS

XIII. ORDINANCES

A. Ordinance No. 6868 (Gaub/Comeau)

An Ordinance amending the Auburn City Code (ACC) Chapter 10.42 related to the use of automated traffic safety cameras to detect traffic violations

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6868.)

B. Ordinance No. 6876 (Tate)

An Ordinance relating to fee codes, and amending Chapter 5.10, Sections 5.15.020, 5.15.090, 5.20.010 and 5.30.030 of the Auburn City Code (ACC)

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6876.)

XIV. RESOLUTIONS

A. Resolution No. 5670 (Faber/Comeau)

A Resolution authorizing the Mayor to convey a Utility Easement to PSE on a portion of City-owned property, King County parcel number 2648000010

(RECOMMENDED ACTION: Move to adopt Resolution No. 5670.)

B. Resolution No. 5677 (Tate/Comeau)

A Resolution authorizing the Mayor to execute a restrictive Real Property Covenant on a portion of City-owned property, King County parcel number 1321049005

(RECOMMENDED ACTION: Move to adopt Resolution No. 5677.)

XV. MAYOR AND COUNCILMEMBER REPORTS

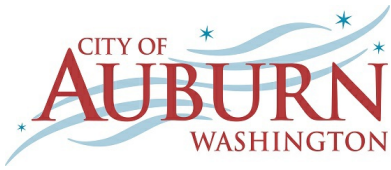
At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. From the Council

B. From the Mayor

XVI. ADJOURNMENT

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



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the July 11, 2022 and August 8, 2022 Study Session Meeting
July 28, 2022

Date:**Department:**

City Council

Attachments:

[07-11-2022 Study Session Minutes](#)

[08-08-2022 Study Session Minutes](#)

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 15, 2022

Staff:

Item Number: CA.A

	City Council Study Session PWCD SFA July 11, 2022 - 5:30 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

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 in Auburn.

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, Larry Brown and Robyn Mulenga, Chris Stearns and Yolanda Trout-Manuel. Councilmember Bob Baggett was excused.

Department directors and staff members present include: City Attorney Kendra Comeau, Assistant Chief of Police Sam Betz, Director of Public Works Ingrid Gaub, Director of Finance Jamie Thomas, Director of Human Resources Candis Martinson, Director of Parks, Arts and Recreation Daryl Faber, Financial Planning Manager Frank Downard, Development Services Manager Jason Krum, Storm Drainage Engineer Tim Carlaw, Water Quality Program Coordinator Chris Thorn, Capital Construction Engineering Manager Ryan Vondrak, Business Systems Analyst Jonathan Barbano, and Deputy City Clerk Hannah Scholl were in Chambers.

III. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6878 (Thomas) (20 Minutes)

An Ordinance amending Ordinance No. 6794, the 2021-2022 Biennial Operating Budget Ordinance, and Ordinance No. 6796, the 2021-2022 Biennial Capital Budget Ordinance, as amended by Ordinance No. 6815, Ordinance No. 6827, Ordinance No. 6836, Ordinance No. 6837, and Ordinance No. 6850, authorizing amendment to the City of Auburn 2021-2022 Budget as set forth in schedule "A" and schedule "B"

Director Thomas and Manager Downard provided Council with an overview of Ordinance No. 6878 including beginning fund balance adjustments, General Fund summary, new programs and requests, ARPA and impact on fund balance.

Council discussed ARPA, the Max House, the Axon Drone Program, Drug Forfeiture funds, Emergency Management Performance Grant (EMPG), census tracks, and duty handgun improvements.

IV. PUBLIC WORKS AND COMMUNITY DEVELOPMENT DISCUSSION ITEMS

A. Ordinance No. 6877 (Gaub) (10 Minutes)

An Ordinance adding a new section to Chapter 13.48 of the Auburn City Code (ACC), adopting and enforcing best management pollution practices for the City's storm drainage system

Councilmember Stearns Chaired this portion of the meeting.

Engineer Carlaw and Coordinator Thorn provided Council with an overview of Ordinance No. 6877 including adding a new section to Chapter 13.48 of the Auburn City Code (ACC), adopting and enforcing best management pollution practices for the City's storm drainage system.

Council discussed how to manage dumpsters, stormwater drainage discharge locations, connection to illegal encampments, manufacturing companies, road runoff and citations.

B. Capital Projects Update Summer 2022 Construction Summary (Gaub) (10 Minutes)

Manager Vondrak provided Council with a 2022 Capital Project update including total number of projects, current projects and status, and development projects.

Council discussed the completion dates for various projects and the Lea Hill Bridge Deck.

C. Executive Session

Deputy Mayor Jeyaraj called for Executive Session at 6:32 p.m. for 30 minutes per RCW 42.30.110(1)(I). City Attorney Comeau, Human Resources Director Martinson, Public Works Director Gaub and Parks, Arts and Recreation Director Faber were required to attend. The meeting reconvened at 7:02 p.m.

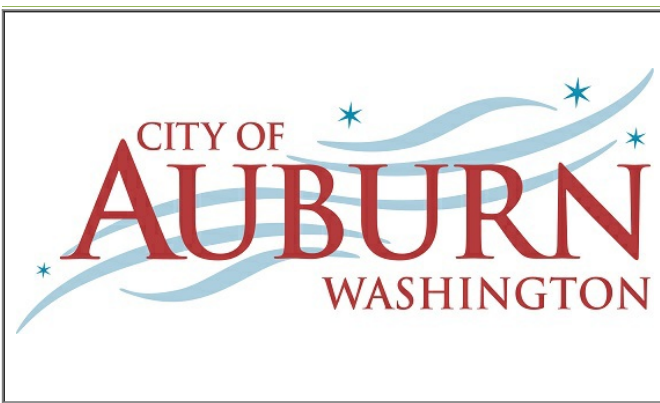
V. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:02 p.m.

APPROVED this 15th day of August, 2022.

JAMES JEYARAJ, DEPUTY MAYOR Hannah Scholl, Deputy City Clerk

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

	City Council Study Session Community Wellness Special Focus Area August 8, 2022 - 5:30 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

Deputy Mayor Jeyaraj called the meeting to order at 5:32 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn.

II. PUBLIC PARTICIPATION

A. Public Participation

The City Council Meeting was held in person and virtually.

B. Roll Call

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

Department directors and staff members present include: Senior City Staff Attorney Harry Boesche, Assistant Chief of Police Sam Betz, Director of Public Works Ingrid Gaub, Director of Community Development Jeff Tate, Director of Innovation and Technology David Travis, Community Services Manager Joy Scott, Senior Transportation Planner Cecile Malik, Business Systems Analyst Jonathan Barbano, and City Clerk Shawn Campbell were in Chambers.

III. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6868 (Gaub/Comeau) (10 Minutes)

An Ordinance amending sections within Chapter 10.42 of the Auburn City Code (ACC) related to the use of automated traffic safety cameras to detect traffic violations

Senior City Staff Attorney Boesche provided Council with an overview of Ordinance No. 6868.

Council discussed the warning period and the speed set for an infraction.

B. Ordinance No. 6876 (Tate) (10 Minutes)

An Ordinance relating to fee codes, and amending Chapter 5.10, Sections 5.15.020, 5.15.090, 5.20.010, and 5.30.030 of the Auburn City Code (ACC)

Director Tate provided Council with an overview of Ordinance No. 6876 including how the customer will be able to use a single account for all of their business licenses through the Washington State Licensing Service Center. He reviewed the short outage during the transition.

IV. COMMUNITY WELLNESS DISCUSSION ITEMS

A. King County Regional Homelessness Authority Regional Planning Update (Tate) (30 Minutes)

A presentation by King County Regional Homelessness Authority staff providing an update to their work on regional planning and data collection

Alexis Rinck and Abby Anderson from King County Regional Homeless Authority (KCRHA) provided Council with an overview of the background of the KCRHA, they reviewed what the Authority can and cannot do, the role of KCRHA, the divisions within KCRHA, the current system and the focus for the future, recent wins, the KCRHA 5 Year Plan, the point and time count data, the data disproportionality, data regarding healthcare needs, sub-regional planning, the city of last residence of the people identified as experiencing homelessness, the sub-regional analytics, funding analysis, and gap analysis and the emergency housing vouchers. They explained future plans for the program.

Council discussed the future system architecture, timelines for focused facilities, need for recovery housing, homeless encampments and encampment resolutions, people who do not want services, homelessness causing health care needs, City of Auburn's support of the goals, housing on demand, funding needs estimates, successful housing models, need for additional services, and the data being available to the public.

B. South King Housing and Homelessness Partners 2023 Work Plan and Budget (Tate) (20 Minutes)

A presentation by South King Housing and Homelessness Partners (SKHHP) related to their proposed 2023 work plan and budget priorities

Manager San Filippo provided Council with an overview of the South King Housing and Homelessness Partners (SKHHP) 2023 Work Plan including reviewing SKHHP's mission, the objectives for SKHHP, the 2021 progress update, the areas of focus for 2022, the work plan process, the 2023 work plan proposal, and the draft 2023 SKHHP Budget.

Council discussed other funds available to SKHHP, the portion of the budget for staff salary, the difference between the Operating Budget and the Capital Fund Budget, affordable housing partners, the benefits to member cities, the amount available for grants in the Housing Capital Fund, and the affordable housing stock shortage.

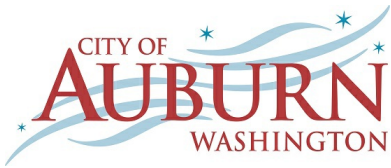
V. ADJOURNMENT

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

APPROVED this 15th day of August, 2022.

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:

Minutes of the July 18, 2022 Regular City Council Meeting

Department:

City Council

Attachments:

[Minutes of the July 18, 2022 City Council Meeting](#)

Date:

July 28, 2022

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

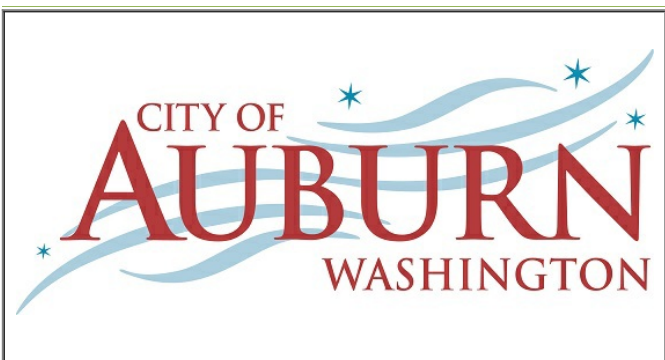
Revised Budget: \$0

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

Meeting Date: August 15, 2022

Staff:

Item Number: CA.B

	City Council Meeting July 18, 2022 - 7:00 PM City Hall Council Chambers MINUTES Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
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I. CALL TO ORDER

II. LAND ACKNOWLEDGEMENT

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

III. 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 Jeyaraj, Kate Baldwin, Robyn Mulenga, Chris Stearns and Yolanda Trout-Manuel. Councilmembers Bob Baggett and Larry Brown were excused.

Department directors and staff members present included: City Attorney Kendra Comeau, Chief of Police Mark Caillier, Director of Parks, Arts and Recreation Daryl Faber, Director of Public Works Ingrid Gaub, Director of Finance Jamie Thomas, Director of Innovation and Technology David Travis, Business Systems Analyst Jonathan Barbano, and City Clerk Shawn Campbell.

V. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

There were no announcements, reports or presentations.

VI. APPOINTMENTS

A. Lodging Tax Advisory Committee

City Council to approve the appointment of Elizabeth Butchko to the Lodging Tax Advisory Committee (LTAC) for a three year term to expire December 31, 2024

Councilmember Trout-Manuel moved and Councilmember Baldwin seconded to appoint Elizabeth Butchko to the Lodging Tax Advisory Committee (LTAC) for a three year term to expire on December 31, 2024.

MOTION CARRIED UNANIMOUSLY. 5-0

VII. AGENDA MODIFICATIONS

There were no modifications to the agenda.

VIII. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings - (No public hearing is scheduled for this evening.)

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.

James Johnson - Written Comment

Mr. Johnson expressed his concerns regarding homelessness and drug use in the City.

Mike Morisow - 2500 S 370th Street, Federal Way

Mr. Morisow Executive Director of Christ Free Clinic, expressed concerns regarding homelessness around the doors to the Clinic.

David Gerkson - 10399 SE 318th Street, Auburn

Mr. Gerkson expressed concerns regarding traffic safety in his neighborhood.

Kevin Piper - 1402 22nd Street NE, Auburn

Mr. Piper stated he lived in the ReoVerde Senior Park. He expressed concerns regarding the homeless in the area.

Sue Webb - 10399 318th Street SE, Auburn

Ms. Webb expressed concerns regarding traffic safety in her neighborhood.

Cheryl Rakes - 1402 22nd Street NE, Auburn

Ms. Rakes Executive Director of the Downtown Association, she expressed concerns regarding homeless and drug use in the downtown area.

Christina Dreesm - 16 A Street SE, Auburn

Ms. Dreesm President of the Downtown Cooperative, expressed concerns regarding crime and drug use in the downtown area.

Geovani Dequatro - 112 E Main Street, Auburn
Mr. Dequatro owner of the Rainbow Café, expressed concerns regarding homelessness and drug use in the downtown area.

Kim Hawkee - 224 E Main Street, Auburn
Ms. Hawkee of the Allstate Insurance Office, expressed concerns regarding homelessness, drug use, and crime in the downtown area.

Ronnie Roberts - 116 A Street SE, Auburn
Mr. Roberts owner of Gesanko's chocolates, expressed concerns regarding homelessness, crime, and drug use in the downtown area.

John Rottle - 226 E Main St, Auburn
Mr. Rottle owner of the Rottles Building, expressed concerns regarding the changes in the downtown area in the last several years.

Christy Newman - 513 A Street NE, Auburn
Ms. Newman owner of Rail Hop'n Brewing, expressed concerns regarding crime in the downtown area.

Katie Seldon - 131 E Main Street, Auburn
Ms. Seldon owner of a business in Auburn, expressed concerns regarding crime in the downtown area.

Tim Seldon - 711 R Street NE, Auburn
Mr. Seldon expressed concerns regarding homelessness and crime in the City.

Bob Zimmerman - 33029 46th Place S, Auburn
Mr. Zimmerman expressed concerns regarding code enforcement of a retaining wall.

Jayleen King - 10387 318th Street, Auburn
Ms. King expressed concerns regarding homelessness and crime in Auburn, and traffic in her neighborhood.

Mayor Backus explained the new laws in the State of Washington prohibit the police from being able to curb the crime and drug use in the City. She explained the City is working on armed guards in the downtown area.

C. Correspondence

There was no correspondence for Council to review.

IX. COUNCIL AD HOC COMMITTEE REPORTS

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

1. Finance Ad Hoc Committee (Chair Baggett)

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

X. **CONSENT AGENDA**

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

A. Minutes of the June 13, 2022 and June 27, 2022 Study Session Meeting

B. Minutes of the June 13, 2022 and June 15, 2022 Special City Council Meeting

C. Minutes of the June 21, 2022 Regular City Council Meeting

D. Claims Vouchers (Thomas)

Claims voucher list dated July 5, 2022 which includes voucher numbers 468383 through 468507, in the amount of \$3,891,376.13 and three wire transfers in the amount of \$707,193.08

Claims voucher list date July 18, 2022 which includes voucher numbers 468508 through 468830, in the amount of \$4,483,697.29 and two wire transfers in the amount of \$675,888.27

E. Payroll Voucher (Thomas)

Payroll check numbers 539383 through 539386 in the amount of \$551,764.30, electronic deposit transmissions in the amount of \$2,312,499.50 for a grand total of \$2,864,263.80 for the period covering June 16, 2022 to June 29, 2022

Payroll check numbers 539387 through 539392 in the amount of \$72,603.36, electronic deposit transmissions in the amount of \$2,475,804.00 also a special payroll for Vaccine Incentive payroll with electronic deposit transmission in the amount of \$1,749.28 for a grand total of \$2,550,156.64 for the period covering June 30, 2022 to July 13, 2022

F. Public Works Project CP1612 (Faber)

City Council to approve an increase of \$71,046.59 in the total maximum authorized contract amount for Public Works Contract No. 21-17; Construction of Project No. CP1612 – Auburn Arts and Culture Center

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

MOTION CARRIED UNANIMOUSLY. 5-0

XI. UNFINISHED BUSINESS

There was no unfinished business.

XII. NEW BUSINESS

There was no new business.

XIII. ORDINANCES

A. Ordinance No. 6877 (Gaub)

An Ordinance adding a new section to Chapter 13.48 of the Auburn City Code (ACC), adopting and enforcing best management pollution practices for the City's Storm Drainage System

Councilmember Stearns moved and Councilmember Trout-Manuel seconded to adopt Ordinance No. 6877.

MOTION CARRIED UNANIMOUSLY. 5-0

B. Ordinance No. 6878 (Thomas)

An Ordinance amending Ordinance No. 6794, the 2021-2022 Biennial Operating Budget Ordinance, and Ordinance No. 6796, the 2021-2022 Biennial Capital Budget Ordinance, as amended by Ordinance No. 6815, Ordinance No. 6827, Ordinance No. 6836, Ordinance No. 6837, and Ordinance No. 6850, authorizing amendment to the City of Auburn 2021-2022 Budget as set forth in schedule "A" and schedule "B"

Deputy Mayor Jeyaraj moved and Councilmember Mulenga seconded to adopt Ordinance No. 6878.

Councilmember Baldwin moved to amend Ordinance No. 6878 by striking the two upper budget request items for \$111,000 for Duty Hand Gun Improvements and \$70,600 for the Axon Drone Program to be postponed for further discussion at the next Study Session.

MOTION CARRIED UNANIMOUSLY. 4-1

XIV. RESOLUTIONS

A. Resolution No. 5674 (Gaub)

A Resolution authorizing the Mayor to grant an easement to Puget Sound Energy for the purpose of installing underground power facilities for the Academy Pump Station 1 Replacement Project (CP1916)

Councilmember Stearns moved and Councilmember Trout-Manuel

seconded to adopt Resolution No. 5674.

MOTION CARRIED UNANIMOUSLY. 5-0

XV. 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 the 4th of July Celebration and the Auburn Municipal Airport Day.

Councilmember Baldwin reported she attended the 4th of July Celebration and the Auburn Municipal Airport Day.

Councilmember Stearns reported he attended the Missing and Murdered Indigenous People taskforce meeting.

B. From the Mayor

Mayor Backus reported she attended the 4th of July Celebration, the Auburn Municipal Airport Day, the Key to the City of Enumclaw presentation to Aero Speed Wagon, and the Wesley Homes Anniversary celebration.

XVI. ADJOURNMENT

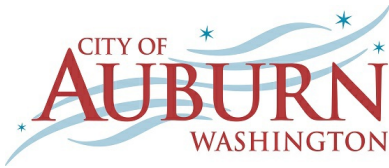
There being no further business to come before the Council, the meeting was adjourned at 8:23 p.m.

APPROVED this 15th day of August, 2022.

NANCY BACKUS, MAYOR

Shawn Campbell, City Clerk

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



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)

Date:

July 26, 2022

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Claim Vouchers.

Background for Motion:**Background Summary:**

Claims voucher list dated August 1, 2022 which includes voucher numbers 468831 through 469023, in the amount of \$3,204,684.79 and five wire transfers in the amount of \$1,113,114.22.

Claims voucher list dated August 15, 2022 which includes voucher numbers 469024 through 469223, in the amount of \$5,323,571.55 and four wire transfers in the amount of \$637,830.46.

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

Meeting Date: August 15, 2022

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Voucher (Thomas)

Date:

July 26, 2022

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Payroll Vouchers.

Background for Motion:**Background Summary:**

Payroll check numbers 539393 through 539396 in the amount of \$525,304.93, electronic deposit transmissions in the amount of \$2,379,448.27 for a grand total of \$2,904,753.20 for the period covering July 14, 2022 to July 27, 2022.

Payroll check numbers 539397 through 539402 in the amount of \$72,801.02, electronic deposit transmissions in the amount of \$2,455,958.65 for a grand total of \$2,528,759.67 for the period covering July 28, 2022 to August 10, 2022.

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

Meeting Date: August 15, 2022

Item Number: CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6868 (Gaub/Comeau)

Date:

July 21, 2022

Department:

Public Works/Legal

Attachments:

[Ordinance No. 6868](#)

[Exhibit A](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6868.

Background for Motion:

The existing code regulates the use of traffic safety cameras to detect traffic violations. Several sections of the code adopt State regulations by reference. Since the City's enactment of Chapter 10.42 in 2005, a number of its adopted RCW sections have changed, leaving Chapter 10.42 with outdated or incorrect RCW references. The code changes made with this ordinance correct these references.

Background Summary:

Ordinance No. 6868 authorizes an amendment of Auburn City Code Chapter 10.42 related to the use of automated traffic safety cameras to detect traffic violations.

The City intends to use automated traffic safety cameras for the detection of traffic violations in school zones, as provided within Auburn City Code Chapter 10.42. Several sections of ACC 10.42 adopt the Revised Code of Washington (RCW) by reference, and a number of sections from the RCW regulating Automated Traffic Enforcement have changed since ACC 10.42 was originally adopted. Several RCW sections are now incorrectly referenced and need to be updated, and some of the language within the code needs to be updated for clarity. The City is currently anticipating implementing the school zone traffic safety cameras in Fall of 2022 and this code revision is necessary before that implementation.

The Council initially considered this Ordinance and its corresponding Exhibit A at an August 8, 2022 study session. Since then, staff has amended the Exhibit to reduce the \$25.00 penalty contemplated in revised ACC 10.42.060.C to \$10.00, bringing the penalty amount in line with similar penalties in the City's parking code.

Reviewed by Council Committees:

Councilmember: Stearns

Staff:

Gaub/Comeau

Meeting Date: August 15, 2022

Item Number:

ORD.A

ORDINANCE NO. 6868

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS WITHIN CHAPTER 10.42 OF THE AUBURN CITY CODE RELATED TO THE USE OF AUTOMATED TRAFFIC SAFETY CAMERAS TO DETECT TRAFFIC VIOLATIONS

WHEREAS, the City intends to use automated traffic safety cameras for the detection of traffic violations in accordance with the authorization and restrictions in RCW 46.63.170 and Auburn City Code (ACC) Chapter 10.42;

WHEREAS, while these authorities give cities the legal ability to use traffic safety cameras in several possible locations (including school zones), at this time the City intends to implement traffic safety cameras in school zones only, starting in the fall of 2022;

WHEREAS, several sections of ACC 10.42 adopt RCW sections by reference. Since the City's enactment of ACC 10.42 in 2005, a number of its adopted RCW sections have changed, leaving ACC 10.42 with now outdated or incorrect RCW references;

WHEREAS, ACC 10.42 is in need of revision for updating, precision and clarity.

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

Section 1. Amendments to City Code. Auburn City Code sections 10.42.010 through 10.42.080 are amended to read as set forth in Exhibit A to this Ordinance.

Section 2. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

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

Section 4. Effective date. This Ordinance 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

Kendra Comeau, City Attorney

Published: _____

EXHIBIT A—ORDINANCE NO. 6868

ACC 10.42.010 **Authorized use of automated traffic safety cameras;** **Restrictions.**

A. Law enforcement officers of the city of Auburn and persons or entities authorized by the City ~~commissioned by the Auburn police chief~~ are authorized to use automated traffic cameras and related automated systems to detect one or more of the following: (1) stoplight violations; (2) railroad crossing violations; and (3) school speed zone violations.

B. The City's use of automated traffic safety cameras is subject to the following restrictions:

1. Use of automated traffic safety cameras is restricted to ~~“two arterial intersections”~~ ~~(the intersections of two~~ or more ~~arterials~~ with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022), railroad crossings, and school speed zones ~~only~~;

2. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. Pictures taken by automated traffic safety cameras may not reveal the face of the driver or of the passengers in the vehicle.

3. Unless otherwise provided by law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section.

C. At least 30 days prior to the activation of any automated traffic safety cameras, ~~the~~ the city shall clearly mark all locations where automated traffic safety cameras are in use by placing signs in locations that clearly indicate to a driver that they are entering a zone where traffic laws are enforced by an automated traffic safety camera.

D. For the purposes of this chapter, “automated traffic safety camera” means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit to a school speed zone as detected by a speed measuring device.

ACC 10.42.020 Notice of infraction for automated traffic safety camera violations~~control systems~~.

A. When ~~an ever any vehicle is photographed by an~~ automatic traffic safety camera detects a violation under this section, a notice of infraction may ~~shall~~ be mailed to the registered owner of the vehicle within 14 days of the violation, or to the renter of a vehicle within 14 days of establishing the renter's name and address under this section.

B. If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before issuing a notice of infraction, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within 18 days of receiving the written notice, provide to the issuing agency by return mail:

~~(1.)~~ a statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

~~(2.)~~ a statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred. ~~or~~

~~(3.)~~ A rental car business's timely mailing of this statement to the issuing law enforcement agency relieves the business of any liability for the notice of infraction under this chapter. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

~~in lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.~~

C. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotos, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter.

ACC 10.42.030 Response to infraction notice; request for hearing.

A ~~person receiving a~~ notice of infraction based on evidence detected by an automated traffic safety camera shall direct the violator to respond to the notice as required by law. The response may be ~~respond to the notice by mail. The person receiving the infraction may also request a hearing.~~

**ACC 10.42.040 Presumption of committed infraction; Overcoming
—Presumption ~~overcome~~**

A. In a traffic infraction case involving a violation detected through the use of ~~a photo enforcement system under RCW 46.63.160 or detected through the use of an~~ an automated traffic safety camera under this chapter, proof that the particular vehicle described in the notice of ~~traffic~~ infraction was in violation of any ~~such~~ provision of RCW 46.63.1~~7~~60, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

B. This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time of the violation, stolen or in the care, custody, or control of some person other than the registered owner.

**ACC 10.42.050 Infractions not part of driving record, processed as parking
infractions.**

Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and RCW 46.52.120.

Additionally, infractions generated by the use of automated traffic safety cameras under this chapter shall be processed in the same manner as parking infractions prosecuted under the Auburn eCity eCodes, including for the purposes of RCW 3.50.100, 3.62.040, 46.16A.120~~216~~, and 46.20.270, and any other applicable statutes.

ACC 10.42.060 Fines; payment.

A. ~~Stoplight Violations and Railroad Crossing Violations.~~ The fine for stoplight violation ~~and railroad crossing violation~~ infractions under ~~committed pursuant to the provisions of~~ this chapter shall be \$139.00, including all applicable statutory assessments. ~~\$124.00 if paid within 15 days from the date of issuance of such notice, or in the sum of \$157.00 if not paid within 15 days from the date of issuance of such notice. Fines shall be paid directly to the Auburn municipal court or as otherwise directed on the notice of infraction. It is further provided that if the fine amounts are not paid before the amounts due are sent to collection, or before the city or a contractor on the city's behalf take action to collect the same, the costs of such collection efforts shall be added to the amounts due and owing.~~

B. Railroad crossing and School Speed Zone Violations. The fine for railroad crossing and school speed zone violation infractions under ~~committed pursuant to the provisions of this chapter shall be \$200.00, if paid within 15 days from the date of issuance of such notice, or in the sum of \$250.00 if not paid within 15 days from the date of issuance of such notice.~~

C. Failure to respond to infraction notice. Violators failing to respond to a notice of infraction as required by law shall be assessed a \$10.00 penalty.

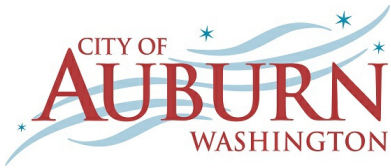
D. Payment of fines. Fines shall be paid directly to the ~~Auburn municipal court or as otherwise~~ directed on the notice of infraction. ~~It is further provided that if the fines amounts are not paid before they~~ amounts due are sent to collections ~~or before the city or a contractor on the city's behalf take action to collect the same, the~~ collection costs of such collection efforts shall may be added to the amounts due and owing.

ACC 10.42.070 Nonexclusive enforcement.

Nothing in this chapter prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(~~1~~)(a), (b), or (c).

ACC 10.42.080 Authorization of electronic signatures.

In connection with the use of automated traffic safety cameras under this chapter, ~~photo enforcement program for stoplight and/or speed violations~~, the city council of the city of Auburn authorizes the use of ~~police chief or designees to utilize~~ electronic signatures in accordance with ~~the provisions of Chapter 19.34~~ RCW 1.80 and other applicable law.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6876 (Tate)

Date:

August 9, 2022

Department:

Community Development

Attachments:

[Ordinance No. 6876](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Ordinance 6876.

Background for Motion:

Ordinance 6876 amends the City's business license regulations so that they are consistent with Washington State requirements for transitioning several business license functions over to the Washington State Department of Revenue's Business License Services.

Background Summary:

The Washington State Legislature enacted Engrossed House Bill (EHB) 2005 during the 2017 legislative session which then went into effect on July 23, 2017. The purpose of EHB 2005 was to help simplify the administration of municipal general business licenses which is intended to enhance the business climate in Washington State.

EHB 2005 states that by 2022 municipalities are required to administer their business license program through the State's Business Licensing System. The purpose of this requirement is to ensure that the business community is provided a one stop shop for obtaining and renewing all of their business licenses statewide. Instead of a franchise restaurant having to obtain or renew 40 separate business licenses in 40 separate communities, this mandate will allow that business to obtain or renew through a singular portal. The legislation does not eliminate a local municipality's right to collect their adopted business license fees or to remove the local municipality's authority to approve or deny a license. City fees are paid through the State Business License System and transferred to the City. New applications are submitted through the State Business License System and routed to the City for review (e.g. in the same fashion that the State routes a liquor license application to the City before it will issue the permit). The amendments proposed under Ordinance 6876 are intended to facilitate the transition of licensing services over to the State's Business Licensing system.

Reviewed by Council Committees:

Councilmember: Stearns

Staff:

Tate

Meeting Date: August 15, 2022

Item Number:

ORD.B

ORDINANCE NO. 6876

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO FEE CODES, AND AMENDING CHAPTER 5.10, SECTIONS 5.15.020, 5.15.090, 5.20.010 AND 5.30.030 OF THE AUBURN CITY CODE

WHEREAS, the Auburn City Code establishes the regulations, requirements, procedures, and fees for business licensing within the city; and

WHEREAS, the Washington State Legislature enacted Engrossed House Bill (EHB) 2005 during the 2017 legislative session; and

WHEREAS, EHB 2005 was designed to simplify the administration of municipal general business licenses which is intended to enhance the business climate in Washington State; and

WHEREAS, EHB 2005 intends to accomplish this objective by requiring that the State Business Licensing System be used as a common statewide portal for businesses to apply for and renew their license; and

WHEREAS, EHB 2005 requires that local municipalities that have a local business license program to onboard with the State's Business Licensing System by the end of 2022; and

WHEREAS, EHB 2005 does not eliminate a City's authority to regulate business activity within its boundaries or to eliminate business license application submittals in advance of issuance of licenses; and

WHEREAS, the purpose of these amendments is to ensure that the City's business license regulations, procedures and requirements are consistent with a process the relies upon the use of the State Business License System.

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

Section 1. Amendment to City Code. Chapter 5.10 of the Auburn City Code is amended to read as follows:

Sections:

- 5.10.010 Purpose.
- 5.10.020 Definitions.
- 5.10.030 Fees.
- 5.10.040 General business license required.
- 5.10.050 Renewal.
- 5.10.060 ~~Payment.~~ Repealed
- 5.10.070 Overpayment.
- 5.10.080 ~~Notice.~~ Repealed
- 5.10.090 Transferability.
- 5.10.100 Change in business activity.
- 5.10.110 Additional/distinct license required.

5.10.010 Purpose.

The purpose of this chapter is to establish the business license code for the city of Auburn and shall be deemed an exercise of the power of the city to license. For purposes of this code, businesses having paid their business registration fee or registration renewal fee prior to the adoption of this chapter shall be considered as having met their obligation for payment of business license fees for the 12-month period in which the payment of the registration fee or renewal fee was made.

5.10.020 Definitions.

For the purpose of this chapter and Chapter 5.15 ACC, the following terms, phrases, words and their derivations will have the meaning given in this section.

A. "Business" means all activities, occupations, trades, pursuits, professions, and matters located within the city or within the city's jurisdiction, with a physical presence in the city and operated on a permanent or ongoing basis whether operated with the object of gain, benefit, advantage or profit, or operated not for profit, to the business enterprise or to another person, directly or indirectly; provided, that "business" will not mean governmental agencies.

B. "Business enterprise" means any entity, person, partnership, association, corporation, trust, society, or club engaged in a business within the city of Auburn.

C. "Director" means the director of community development or the director's designee.

D. "Department" means the city of Auburn department of community development.

E. "Employee" means any person employed at any business enterprise who performs any part of their duties within the city. All officers, agents, dealers, franchisees, etc., of a corporation or business trust, and partners of a partnership, except limited partners, are employees within this definition.

F. "Engage in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators ~~thereof~~thereof hold themselves out to the public as conducting such business.

G. "Licensee" means any business granted a business license.

H. "Nonprofit" means any business enterprises registered as nonprofit corporations within the state of Washington or granted nonprofit status through the code of the Internal Revenue Service of the United States.

I. "Physical presence" means an address where the business is located. ~~A post office box with an Auburn address for a business is considered a physical presence.~~

J. "Place of business" means the physical location of the business.

~~K. "Business license year" means that period of time between July 1st of one year and June 30th of the following year.~~

~~K~~L. "Life and safety codes" mean building codes, fire codes, electrical codes and other codes of the city relating to health, safety and related requirements for use and occupancy of buildings.

L. “Business Licensing Service” and “BLS” mean the office within the Washington State Department of Revenue providing business licensing services to the city.

5.10.030 Fees.

A. Annual **city** license fees shall be as established in the city’s fee schedule.

B. Organizations **and businesses** exempt from taxation under **a provision of** 26 USC 501(c)(~~3~~) **and (c)(4)** are exempt from paying license fees. Those organizations must be able to show satisfactory proof **from the Internal Revenue Service (IRS)** of **the tax-exempt** status.

C. Religious organizations are assumed by the IRS of being exempt from taxes under 26 USC 501(c)(3) without application for or issuance of a determination letter by the IRS are fully exempt from the licensing requirements of this chapter.

5.10.040 General business license required.

A. Any person desiring to establish or conduct any business enterprise or undertaking as defined in this section and ACC 5.10.020 within the corporate limits of the city ~~shall~~ must first ~~apply to the~~ obtain a business license ~~from the city clerk, as designated by the mayor, for a license to conduct such business and obtain such license as approved by the city.~~

1. Application shall be upon a form furnished by ~~for~~ the business license clerk on which the applicant shall state the business name, address, and telephone number; the owner’s date of birth and government-issued identification number (e.g., driver’s license number); the nature of the business activity or activities in which the applicant desires to engage; the place where the business will be conducted; the number of employees, and the name of the contact person along with an address, date of birth, government-issued identification number, and telephone number, and the business identification number issued by the state of Washington; is made through the Business Licensing Service and must include all information required for all licenses requested, the total fees due for all licenses, and the application handling fee required by RCW 19.02.075.

2. Applicants claiming exemption from the city license fee under ACC 5.10.030 (B) must submit proof of being granted a federal tax exemption by the Internal Revenue Service under a provision of 26 USC § 501(c). and the IRS letter testifying to nonprofit status or the copy of the application to the IRS.

B. ~~This Sub~~section C of this section sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the city without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engage in business” in ACC 5.10.020(F). If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.

C. Without being all inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf, constitutes engaging in business and requires a person to register and obtain a business license:

1. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the city.
2. Owning, renting, leasing, using, or maintaining an office, place of business, or other establishment in the city.
3. Soliciting sales.
4. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
5. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
6. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
7. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
8. Collecting current or delinquent accounts.
9. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
10. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

11. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
12. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
13. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.
14. Investigating, resolving, or otherwise assisting in resolving customer complaints.
15. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
16. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

D. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the city but the following, it need not register and obtain a business license:

1. Meeting with suppliers of goods and services as a customer.
2. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
3. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
4. Renting tangible or intangible property as a customer when the property is not used in the city.
5. Attending, but not participating in, a "trade show" or "multiple vendor events." Persons participating at a trade show shall review the city's trade show or multiple vendor event ordinances.
6. Conducting advertising through the mail.

7. Soliciting sales by phone from a location outside the city.

E. A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license; provided, that it engages in no other business activities in the city. Such activities do not include those in subsection C of this section. The city expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the Constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus-generating contact or subsequent contacts.

F. Threshold Exemption. ~~For purposes of the license required by this chapter, any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 and who does not maintain a place of business within the city, shall submit a business license registration to the director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 and who does not maintain a place of business within the city shall be exempt from the general business license requirements in this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.~~

G. It is unlawful for any person to operate or physically conduct any business within the city without having first obtained a general city business license ~~for the current business year or portion thereof~~. The applicant for a business license required under this title ~~shall~~ must be ~~over the age of at least~~ 18 years of age. If any person required to pay a license fee, by the terms and provisions of this chapter, for any period, fails or refuses to do so, they ~~shall~~ will not be granted a license for the current period until such delinquent license fee, together with penalties, has been paid in full.

H. ~~Specific-Unless specifically exempted,~~ businesses identified in Chapters 3.80, 3.84, 3.88, 5.20, 5.30 and 5.84 ACC or elsewhere in this title or other titles of the Auburn City Code will be required to also obtain a city general business license even when their annual gross income is at or below \$2,000~~an individual business license as otherwise indicated.~~

I. Any business within the city jurisdiction on any project requiring a permit must have a business license.

5.10.050 **Renewal.**

A. ~~A. The city general business license shall be valid for a calendar year and is to expire on the date established by the Business Licensing Service (BLS), and must be renewed annually by payment of the established fee prior to December 31st of any given year on or before that date to continue in business within the city.~~

B. ~~Application for renewal of the business license is made through the BLS, and must include all information required to renew each license involved, the total fees due for all licenses, and the renewal application handling fee required by RCW 19.02.075. For the 2010 calendar year only, business license renewals shall only be valid for the period July 1, 2010, to December 31, 2010, subject to the payment of the established fee. For the 2011 calendar year and subsequent calendar years, business license renewals shall be for the period January 1st through December 31st.~~

C. ~~Failure to renew the required license by the date due will subject the business to penalties as set forth in Chapter 1.25 ACC. Businesses that fail to comply with city code requirements will have their license and the ability to conduct business within the city revoked. The license term and respective fee amount due may be prorated as necessary to synchronize the business license expiration with the expiration of the business account maintained by the BLS.~~

D. ~~In those instances wherein the business license has been lost, stolen or destroyed, the business license clerk will reissue the license in accordance with the fee schedule established in ACC 5.10.030. Failure to complete the renewal of the business license by the expiration date will incur the late renewal penalty required by RCW 19.02.085 in addition to all other fees due.~~

E. ~~Failure to complete the business license renewal within 120 days after expiration will result in the cancellation of the license and will require submitting a new application for license as otherwise provided for in this chapter in order to continue to engage in business in the city. The city may require payment of all past due amounts prior to approving the new business license.~~

F. ~~In addition to the other provisions described in this section, failure to renew the required business license by the date due will subject the business to other penalties imposed directly by the city, as set forth in Chapter 1.25 ACC. Businesses that fail to comply with city code requirements will have their license and the ability to conduct business within the city revoked.~~

~~5.10.060 — Payment.~~ **Repealed**

~~All license fees and penalties herein provided for shall be paid by bank draft, certified check, cashier's check, personal check, money order, or in cash. If payment is made by draft or check, the fee shall not be deemed paid unless the check or draft is honored in the usual course of business; nor shall acceptance of any such check or draft by the city be an acquittance or discharge of the fee unless and until said check or draft is honored.~~

5.10.070 Overpayment.

Should a business enterprise make an overpayment of any fee or charge required under this title, and within two years after the date of such overpayment, makes an application for refund or credit for the overpayment, the claim shall be considered by the director and, if approved, shall be repaid from the general fund.

~~5.10.080~~ Notice. ~~Repealed~~

~~The clerk is authorized, but not required, to mail to business enterprises the forms for applications for licenses or renewal of existing licenses. Failure of the business enterprise to receive any such forms shall not excuse the business enterprise from making application for and securing the license or renewal of license required and payment of the license fee when due.~~

5.10.090 Transferability.

~~Once granted, the~~ the city business license shall be ~~is~~ personal to the licensee and it ~~shall~~ may not be assigned ~~able~~ or transfered ~~able~~ to any other person(s) or business entities. Every person or business required to obtain a business license by this chapter must obtain their own license.

5.10.100 Change in business activity.

~~Once granted, t~~ The city business license granted in pursuance hereof shall be used to issued under this chapter authorizes the ~~conduct~~ of business only at the designated address and only for the specific purpose for which such license is issued. Any significant change in the nature of the business, even when conducted at the same location established in an existing license, shall necessitate a new application to the city ~~requires applying for a new license as provided for in this chapter.~~

5.10.110 Additional/distinct license required.

A. A distinct license ~~shall be~~ required for each branch, establishment, or location at which ~~the business related~~ activity is carried on, and each license ~~shall authorize~~ the licensee to carry on, pursue, or conduct only that one distinct business activity or business enterprise at that location.

B. A separate license shall not be required for a facility determined ~~by the director~~ to be an accessory facility to a branch, establishment, or location for which a license is issued, such as may be provided by a warehouse or storage facility for example.

C. ~~When~~ If a person wishes to change the place of business within the city, the person must notify the Business Licensing Service sufficiently prior to the intended change to allow the city to review and approve the change of location. Such a change of location may require submitting a new application for license as otherwise provided for in this chapter. ~~of a business enterprise is changed, the licensee shall return the license to the department and a new license shall be issued for the new place of business free of charge, provided that the criteria for issuance as established in this chapter are met at the new location.~~

D. When more than one distinct business activity is conducted by a person at the same physical location, each such distinct activity is deemed a separate business requiring a separate license be obtained therefor.

E. If more than one person each operates a separate business at the same location, each such business ~~shall be required to obtain~~ must have a separate license.

Section 2. Amendment to City Code. Section 5.15.020 of the Auburn City Code is amended to read as follows:

A. No license shall be issued, nor shall any license be renewed, pursuant to the provisions of this chapter to:

1. An individual who is not at least 18 years of age at the time of application.
2. An applicant who has had a similar license revoked or suspended pursuant to applicable city codes or Section 6.01.150 of the King County Code (KCC) or other similar code provision of any jurisdiction, within two years prior to the license application.
3. An applicant whose business activities violate or are not in compliance with state, federal or local laws.

4. An applicant whose business activities are injurious to the public health or safety.

B. No person or business may reapply for a denied or revoked business license merely by renaming the business. The denial or revocation of a license applies to any business entity, regardless of its name, that is operating under the same ownership and/or management and engages substantially in the same type of business enterprise as that of a business that has been previously denied a license or has had its license revoked under this chapter within a year of such application for a license.

C. In any case where an applicant seeks a business license for a business to be located in a building or structure for which a building permit is required, whether as a newly constructed building or structure, or a remodeled building or structure, the building permit process, including final inspections/issuance of occupancy permits, shall be completed prior to issuance of a business license.

D. In any case where an applicant seeks a business license for a business to be located in a building or structure for which no building permit is required, ~~the applicant shall be entitled to receive a "conditional" business license,~~ assuming that all other applicable licensing requirements of this title have been met, ~~which conditional issuance of the~~ license ~~shall be viewed as a conditional issuance, and~~ be conditioned on the business premises being inspected for compliance with life and safety codes, and subject to the following:

1. The applicant shall arrange for such inspection(s) within 60 days of commencing business at the premises under the conditional business license by contacting the planning department of the city; provided, that the applicant may request from the planning director an extension of the said 60-day time period, which request may be granted upon a good cause showing of why the inspection could not be timely completed.

2. Failure of the applicant to arrange for and complete the life and safety code compliance inspection within the 60-day time period shall cause the conditional business license to be automatically cancelled. Such cancellation shall not require compliance with the provisions for denial, revocation or suspension of business licenses herein. Thereafter, until all licensing and inspection requirements have been fully complied with, any continued operation of the business shall constitute a violation of this chapter.

E. In any case where an applicant seeks a business license for a business where a building permit is required or is not required, the applicant shall demonstrate

satisfactory and full compliance to all applicable titles and chapters of the Auburn City Code prior to the issuance of the business license.

Section 3. Amendment to City Code. Section 5.15.090 of the Auburn City Code is amended to read as follows:

In addition to or as an alternative to any other city-imposed penalty provided herein or by any other business license or regulation ordinance, the city shall be entitled to its costs and reasonable attorneys fees in any action to enforce the provisions of this chapter or any other business license or regulation ordinance.

Section 4. Amendment to City Code. Section 5.20.010 of the Auburn City Code is amended to read as follows:

This chapter provides license requirements for certain business activities and establishes certain licenses as Regulatory Licenses. This chapter does not repeal, abrogate, annul or in any way impair or interfere with the existing provision of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where a Regulatory Licenses is required under this Chapter, a General Business License under Chapter 5.10 ACC is not required.

Section 5. Amendment to City Code. Section 5.20.020 of the Auburn City Code is amended to read as follows:

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section.

A. "Business" is any enterprise, profession or activity conducted by any person or persons including, but not limited to, deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transportation on any premises in the city, or anywhere else within its jurisdiction.

B. "License" as used generally in this chapter includes respectively the words "permit" or "permittee," or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

C. "Person" includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations, or any officer, agent, employee, factor or any kind of personal representative of any thereof, in any capacity, acting either for themselves, or any other person, under either personal appointment or pursuant to the law.

D. "Premises" includes all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

E. "Regulatory License" is a supplemental license to the Washington State Unified Business Identifier (UBI) and applies to certain business activities that require additional considerations prior to approval and issuance.

Section 6. Amendment to City Code. Section 5.20.050 of the Auburn City Code is amended to read as follows:

5.20.050 License application – Approval or disapproval procedure – Regulatory License.

The business license staff person shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

A. Adopt all forms and prescribe the information required to implement this chapter.

B. Submit all applications to department heads as listed below for their endorsements as to compliance by applicant with all city regulations which they have the duty of enforcing:

1. Ambulance services license: Valley Regional Fire Authority and police department;
2. Amusement device license: police (four or under) and community development and public works and police (five or more);

3. Auto races license: Valley Regional Fire Authority, community development and public works, and police departments;
4. Cabaret licenses – Regulatory License: Valley Regional Fire Authority and police departments;
5. Carnivals, circuses, shows, ~~etc.~~, licenses – Regulatory License: Valley Regional Fire Authority, community development and public works, and police departments;
6. Dance licenses – Regulatory License: Valley Regional Fire Authority and police department;
7. Fire extinguisher service licenses: Valley Regional Fire Authority;
8. Massage business, health salon, ~~etc.~~, licenses – Regulatory License: community development and public works, police departments and appropriate county health department;
9. Merchant patrol and private detective licenses: police department;
10. Motor vehicle wreckers licenses: community development and public works and police departments and Valley Regional Fire Authority;
11. Outdoor musical entertainment licenses – Regulatory License: community development and public works and police departments and Valley Regional Fire Authority;
12. Pawnbrokers/secondhand dealers licenses: police department;
13. Solicitor license – Regulatory License: police department;
14. Tow truck business license: Valley Regional Fire Authority, community development and public works and police departments;

15. Taxicab and For Hire

156. Marijuana related ~~business license~~activities – Regulatory License: community development and public works, police and utilities departments, and Valley Regional Fire Authority.

167. Mobile Vendors and Food Trucks – Regulatory License

C. Notify any applicant of the acceptance or rejection of their application and shall, upon denial of any license, state in writing the reasons therefor, the process for appeal and deliver them to the applicant.

D. Deny any application for license upon written findings that the granting would be detrimental to the public peace, health or welfare:

1. Whenever any such license is denied the applicant may within 15 calendar days from date of action file written notice of appeal to the city's director of community development and public works. Action of the city's director of community development and public works may be appealed 15 calendar days from date of action to the hearing examiner, and action of the hearing examiner shall be conclusive and not subject to review.

2. When the issuance is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued pursuant to a judgment ordering the same.

Section 7. Amendment to City Code. Section 5.20.230 of the Auburn City Code is amended to read as follows:

5.20.230 Taxicab ~~businesses and For Hire~~ – Provisions adopted by reference.

A. The provisions of Chapter 6.64 of the King County Code as they currently exist and as they may be hereinafter amended are adopted by reference, a copy of which shall be on file with the office of the city clerk; provided, that unless the context indicates otherwise, reference to King County shall mean and be construed as the city of Auburn, Washington.

B. In order to operate a taxicab or for hire business in the city, a current King County taxicab license is required.

Section 8. Amendment to City Code. Section 5.22.030 of the Auburn City Code is amended to read as follows:

5.22.030 Business license – Fee – Notice

Each rental housing business operating in the city, as defined herein, shall obtain and maintain in good standing a city of Auburn business license issued by the city in accordance with the procedures of this chapter and this title.

A. The fee for a business license required under this chapter shall be as set forth in the city of Auburn fee schedule.

B. The business license fee shall be for the calendar year (January 1st through December 31st), and each applicant for the business license must pay the full business license fee for the current calendar year during which the applicant has engaged in business, regardless of when during the calendar year the license is obtained.

C. The clerk is authorized, but not required, to mail to business enterprises the forms for applications for licenses or renewal of existing licenses. Failure of the business enterprise to receive any such forms shall not excuse the business enterprise from making application for and securing the license or renewal of license required and payment of the license fee when due.

Section 9. Amendment to City Code. Section 5.30.030 of the Auburn City Code is amended to read as follows:

A. It is unlawful for any person to conduct, manage or operate an adult entertainment establishment unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.

B. It is unlawful for any performer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to, the operation of an unlicensed adult entertainment establishment.

C. It is unlawful for any manager to work in an adult entertainment establishment unless such person is the holder of a valid and subsisting license from the city to do so.

D. Where a Regulatory Licenses is required under this Chapter, a General Business License under Chapter 5.10 ACC is not required.

Section 10. Constitutionality and Invalidity. If any section, subsection sentence, clause, phrase or portion of this Ordinance, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 11. Implementation. The Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 12. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

ATTEST:

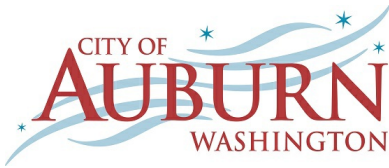
NANCY BACKUS, Mayor

Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

Kendra Comeau, City Attorney

Published: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5670 (Faber/Comeau)

Date:

August 9, 2022

Department:

Legal/Parks

Attachments:

[Resolution No. 5670](#)

[Resolution No. 5670 Exhibit A](#)

[Resolution No. 5670 Presentation](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Resolution No. 5670.

Background for Motion:

City staff recommend the adoption of Resolution 5670, granting of a utility easement over a portion of City-owned property at no cost to PSE for the benefit of the Auburn School District.

Background Summary:

The Auburn School District owns property adjacent to City-owned park property, parcel number 2648000010, commonly known as "Fulmer Field." The School District is in the process of placing a portable building on their property, which also requires power be brought to the School District property. The closest available connection point to a power source is from a pole located on the City property. Granting an easement to PSE would allow PSE to bring power from the source located on the City property to the School District property. Since the utility easement would be for the benefit of the Auburn School District, public benefit would be realized and therefore, City Staff recommend granting the easement at no cost to PSE.

Reviewed by Council Committees:

Councilmember: Baggett

Staff:

Faber/Comeau

Meeting Date: August 15, 2022

Item Number:

RES.A

RESOLUTION NO. 5670

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO CONVEY A UTILITY EASEMENT TO PSE ON A PORTION OF CITY-OWNED PROPERTY, KING COUNTY PARCEL NUMBER 2648000010.

WHEREAS, the City owns real property, King County parcel number 2648000010, more commonly referred to as Fulmer Field; and

WHEREAS, the Auburn School District owns adjacent property, King County parcel number 1821059171, which the Auburn School District is planning improvements that require power service be brought to the property; and

WHEREAS, Puget Sound Energy, on behalf of the Auburn School District requests a utility easement over a portion of Fulmer Field to bring the required power service to the Auburn School District property; and

WHEREAS, the Auburn community will realize a public benefit from the improvements made to the Auburn School District property.

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

Section 1. The Mayor is authorized to grant a utility easement at no charge to PSE benefiting the Auburn School District, substantially in the form and location of the utility easement attached as “Exhibit A.”

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

Kendra Comeau, City Attorney

RETURN ADDRESS:

Puget Sound Energy, Inc.
Attn: ROW Department
PO Box 97034 / EST-06W (SAM)
Bellevue, WA 98009-9734
Attn: Sam Meldrum



EASEMENT

REFERENCE #:

GRANTOR (Owner): **THE CITY OF AUBURN**
GRANTEE (PSE): **PUGET SOUND ENERGY, INC.**
SHORT LEGAL: **A portion of the NW ¼ of the NE ¼ Sect. 18, T21N, R5E, W.M., King County**
ASSESSOR'S PROPERTY TAX PARCEL: **264800-0010**

For and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **THE CITY OF AUBURN, a municipal corporation** ("Owner" herein), hereby grants and conveys to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("PSE" herein), for the purposes described below, a nonexclusive perpetual easement over, under, along across and through the following described real property (the "Property" herein) in King County, Washington:

**NEW LOT THREE (3), CITY OF AUBURN LOT LINE ADJUSTMENT NO. 05-0013,
ACCORDING TO THE SURVEY THEREOF RECORDED IN VOLUME 203 OF SURVEYS, PAGE
27 RECORDED UNDER RECORDING NO. 20060424900015, RECORDS OF KING COUNTY,
STATE OF WASHINGTON.**

Except as may be otherwise set forth herein PSE's rights shall be exercised upon that portion of the Property ("Easement Area" herein) described as follows:

SEE EXHIBITS "A" & "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

1. Purpose. PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for purposes of transmission, distribution and sale of electricity. Such systems may include, but are not limited to:

Underground facilities. Conduits, lines, cables, vaults, switches and transformers for electricity; fiber optic cable and other lines, cables and facilities for communications; semi-buried or ground-mounted facilities and pads, manholes, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing.

Following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional facilities as it may require for such systems. PSE shall have the right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

2. Easement Area Clearing and Maintenance. PSE shall have the right, but not the obligation to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right, but not the obligation, to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area.

3. Trees Outside Easement Area. PSE shall have the right to cut, trim remove and dispose of any trees located on the Property outside the Easement Area that could, in PSE's sole judgment, interfere with or create a hazard to PSE's systems. PSE shall, except in the event of an emergency, prior to the exercise of such right, identify such trees and make a reasonable effort to give Owner prior notice that such trees will be cut, trimmed, removed or disposed. Owner shall be entitled to compensation for the actual market value of merchantable timber (if any) cut and removed from the Property by PSE.

4. Restoration. Following initial installation, repair or extension of its facilities, PSE shall, to the extent reasonably practicable, restore landscaping and surfaces and portions of the Property affected by PSE's work to the condition existing immediately prior to such work, unless said work was done at the request of Owner, in which case Owner shall be responsible for such restoration. All restoration which is the responsibility of PSE shall be performed as soon as reasonably possible after the completion of PSE's work and shall be coordinated with Owner so as to cause the minimum amount of disruption to Owner's use of the Property.

5. Owner's Use of Easement Area. Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not excavate within or otherwise change the grade of the Easement Area or construct or maintain any buildings or structures on the Easement Area and Owner shall do no blasting within 300 feet of PSE's facilities without PSE's prior written consent.

6. Indemnity. PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of the negligence of PSE or its contractors in the exercise of the rights herein granted to PSE, but nothing herein shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner or the negligence of others.

7. Termination. The rights herein granted shall continue until such time as PSE terminates such right by written instrument. If terminated, any improvements remaining in the Easement Area shall become the property of Owner. No termination shall be deemed to have occurred by PSE's failure to install its systems on the Easement Area.

8. Successors and Assigns. PSE shall have the right to assign, apportion or otherwise transfer any or all of its rights, benefits, privileges and interests arising in and under this easement. Without limiting the generality of the foregoing, the rights and obligations of the parties shall be binding upon their respective successors and assigns.

DATED this _____ day of _____, 20_____.

OWNER: **THE CITY OF AUBURN, a municipal corporation**

By: _____
(name)

Printed
Name: _____

Its: _____
(title)

STATE OF WASHINGTON)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person(s) who signed as _____, of **THE CITY OF AUBURN, a municipal corporation**, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed and the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned; and on oath stated that he/she was authorized to execute the said instrument on behalf of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

(Signature of Notary)

(Print or stamp name of Notary)

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

My Appointment Expires: _____

Notary seal, text and all notations must be inside 1" margins

EXHIBIT "A"

(PSE EASEMENT)

THAT PORTION OF NEW LOT 3, AS SHOWN ON CITY OF AUBURN, KING COUNTY, WASHINGTON LOT LINE ADJUSTMENT LLA 05-0013, RECORDS OF SAID COUNTY, RECORDED AT RECORDING NUMBER 20060424900015; SAID PORTION BEING A 10.00 FOOT STRIP OF LAND, LYING 5.00 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT A FOUND 5/8-INCH REBAR AND CAP, LS 13670, AT THE MOST SOUTHWESTERLY CORNER OF SAID NEW LOT 3, FROM WHICH A FOUND 2-INCH BRASSIE, IN CONCRETE, WITH PUNCH, BEARS NORTH 15°21'48" EAST, 254.55 FEET (BASIS OF BEARING, WEST LINE OF SAID NEW LOT 3); THENCE ALONG THE SOUTH LINE OF SAID NEW LOT 3, NORTH 87°31'47" EAST, 23.64 FEET TO THE **POINT OF BEGINNING** OF SAID CENTERLINE;
THENCE LEAVING SAID SOUTH LINE, NORTH 15°21'48" EAST, 16.45 FEET TO THE **POINT OF TERMINUS** OF SAID DESCRIBED CENTERLINE.

THE SIDELINES OF WHICH ARE LENGTHENED OR SHORTENED TO CREATE A FULL AND CONTINUOUS STRIP OF LAND, FROM SAID SOUTH LINE OF NEW LOT 3, TO A LINE FROM SAID POINT OF TERMINUS AND PERPENDICULAR TO SAID DESCRIBED CENTERLINE.

CONTAINING 164 SQUARE FEET, OR 0.004 ACRES MORE OR LESS.

07/21/2022

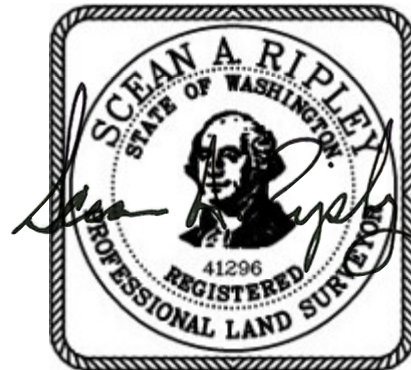
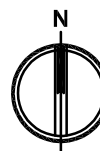


EXHIBIT "B" (ELECTRICAL UTILITY EASEMENT DEPICTION)

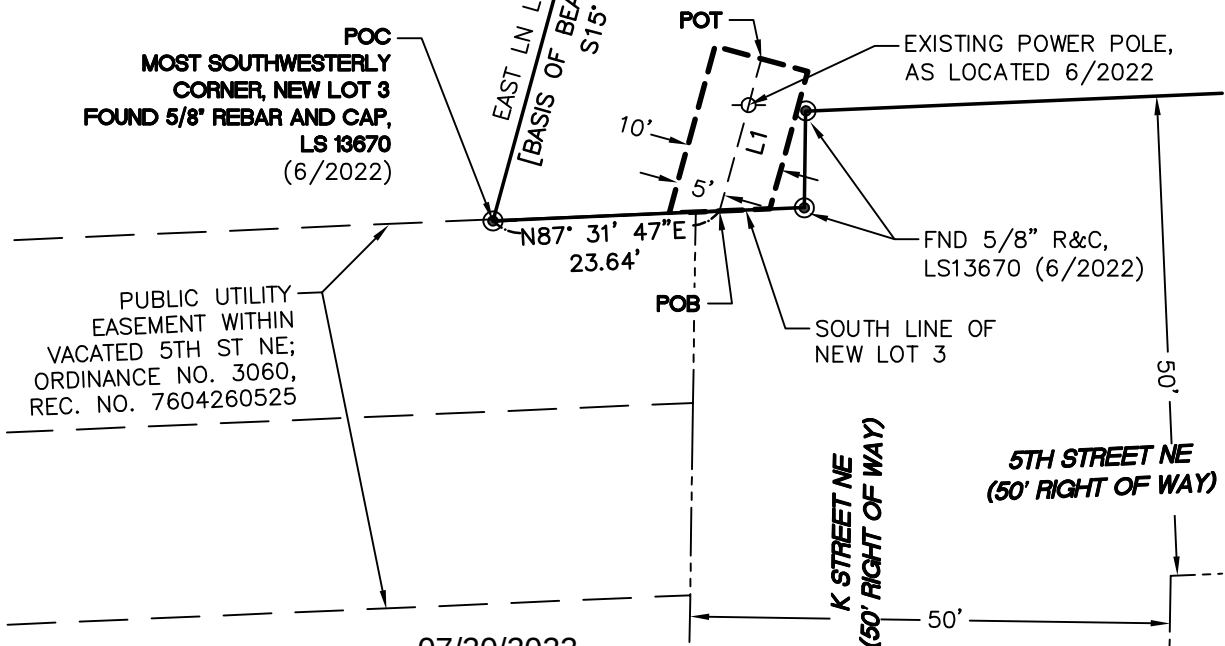
LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N15° 21' 48"E	16.45



1"=20'

AUBURN SCHOOL DISTRICT
LOT 6. BLOCK A
FRENCH ADDITION TO THE TOWN OF
SLAUGHTER, WASHINGTON
APN 1821059171

NEW LOT 3
CITY OF AUBURN LOT LINE
ADJUSTMENT NO. 05-0013
APN 2648000010
(AS NOTED/SHOWN ON A SURVEY,
REC. NO. 20060424900015)

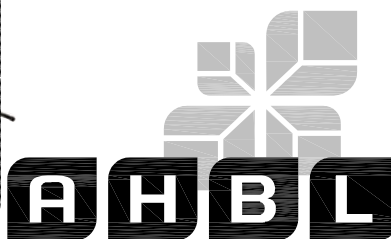


JOB NO. 2200869.50
07/20/2022

PSE Easement

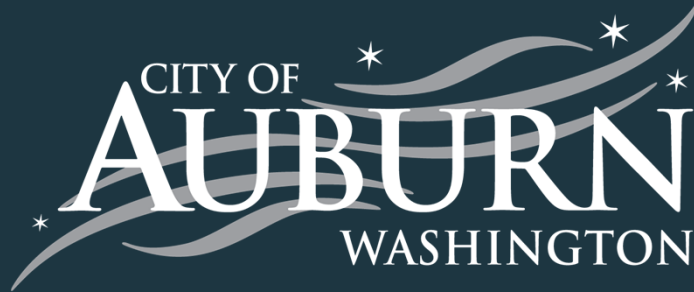
LEGAL BY: SAR EXHIBIT BY: FSS
NW 1/4, NE 1/4, S18, T21N, R5E

w: \sdsproj\2020\2200869\2200869.50 pse easement.dwg



2215 North 30th Street,
Suite 200,
Tacoma, WA 98403
253.383.2422 TEL
253.383.2572 FAX

THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION
OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT
BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE
LEGAL DESCRIPTION SHALL PREVAIL.



**UTILITY EASEMENT OVER A PORTION OF
FULMER FIELD (PIN 2648000010) FOR THE
BENEFIT OF THE AUBURN SCHOOL DISTRICT**

Legal Department

AUBURN
VALUES

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

PURPOSE

- To extend power utility service onto the Auburn School District property.
- Auburn School District wishes to install a portable building on their property to meet the increased need for meeting space.
- The nearest available connection point is a utility pole located on the City of Auburn, Fulmer Field property.
- Easement is needed to grant PSE the property rights to extend their power service from the existing utility pole across small portion of Fulmer Field to the Auburn School District property (see easement area on next slide).

EASEMENT AREA DEPICTION



SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

IMPACT & CONSIDERATION

IMPACT

- Very little impact to City Property/Fulmer Field
 - Easement Area = 164 square feet
 - No impact to other utilities (water, sewer, storm).
 - Only vegetation impact will be to grass located within the easement area during utility installation.

CONSIDERATION

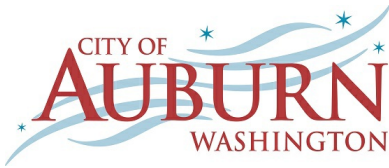
- Staff recommend that the easement be granted at no charge.
 - PSE will be the Grantee of the easement, but the Auburn School District will be the true beneficiary as they will be receiving the benefit of the power utility service.

JOSH ARNDT
REAL ESTATE MANAGER
JARNDT@AUBURNWA.GOV
253.288.4325

Legal Department

**AUBURN
VALUES**

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5677 (Tate/Comeau)

Date:

August 9, 2022

Department:

Legal/Community Development

Attachments:

[Resolution No. 5677](#)

[Resolution No. 5677 Exhibit A](#)

[Resolution No. 5677 Presentation](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Resolution 5677.

Background for Motion:

City staff recommend the adoption of Resolution No. 5677, executing a restrictive covenant over a portion of City-owned property to benefit Acquisition 44, L.L.C., the United States Army Corps of Engineers, the Washington State Department of Ecology and the City of Auburn.

Background Summary:

Acquisition 44 L.L.C. owns industrial property located at 1201 C Street Northwest in Auburn, currently tenanted by the United Parcel Service (UPS). In an effort to retain UPS as a tenant in this property, which in turn will keep UPS and those jobs in Auburn, Acquisition 44 is wanting to make renovations to the property. These renovations include expanding the truck court on the north side of the property to provide improved building utilization. The truck court expansion will cause the filling and elimination of some existing wetlands on the adjacent parcel.

As a result of the wetland destruction Acquisition 44 will be required to either enhance existing wetlands, create new, or some combination of both (together "Mitigation Work"). Acquisition 44 is proposing fulfilling this mitigation requirement on property it owns adjacent to the north of the 1201 C Street Northwest property as well as a remote property it intends to purchase located on the northeast corner of West Main Street and West Valley Highway. The Mitigation Work (which will also include enhancements to Mill Creek) required will be done entirely on the property owned or to be purchased by Acquisition 44 and will take up the entirety of both sites (property north of 1201 & West Main/West Valley Highway). The Washington State Department of Ecology, which publishes mitigation rules and requirements for the State of Washington (Cities have the ability to impose additional rules and requirements, but the City of Auburn has adopted the Department of Ecology rules and requirements) requires that protective buffers be placed around certain Mitigation Work depending on various factors. The Mitigation Work to be done by Acquisition 44 for this project will require a protective buffer in the form of this covenant.

Because the Mitigation Work being done will take up the entirety of the Main/West Valley property Acquisition 44 is forced to utilize neighboring property to meet DOE's protective buffer requirement. Acquisition 44 has approached the City as owner of said neighboring property (King County parcel 1321049005) which consists of vacant land with existing

wetlands on it (the “City Property”), proposing to pay the City \$16,900 in return for the City recording a restrictive covenant over the west 75ft of the City Property. The amount of compensation was determined by and appraisal Acquisition 44 commissioned and which the City had reviewed by an appraiser of the City’s choice.

The Restrictive Covenant in no way affects how the City is currently utilizing the property, nor does it affect how the City intends to use the property in the future (flood storage, wetland mitigation for future projects). Simply put, the restrictive covenant prohibits that portion of the property encumbered by the covenant from ever being commercially developed, mined or improved, farmed or hunted and ensures that the conservation values of the restricted area are preserved and protected in perpetuity.

Reviewed by Council Committees:

Councilmember: Baggett

Staff:

Tate/Comeau

Meeting Date: August 15, 2022

Item Number:

RES.B

RESOLUTION NO. 5677

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A RESTRICTIVE REAL PROPERTY COVENANT ON A PORTION OF CITY-OWNED PROPERTY, KING COUNTY PARCEL NUMBER 1321049005.

WHEREAS, the City owns King County parcel number 1321049005, consisting of undeveloped real property comprised of existing wetlands, (“City Property”); and

WHEREAS, Acquisition 44, L.L.C. (“Acquisition 44”) owns a separate property in Auburn at 1201 C St. NW. Acquisition 44 is currently considering an industrial expansion project on this property. Accordingly, the City, the U.S. Army Corps of Engineers (“USACE”), the State of Washington Department of Ecology (“Ecology”) require Acquisition 44 to mitigate for the filling and elimination of wetlands resulting from this expansion; and

WHEREAS, to fulfill its federal, state and local wetland mitigation obligation, Acquisition 44 intends to purchase property located adjacent to the City Property (“Mitigation Property”), upon which it will make mitigating wetland and stream enhancements (“Enhancements”); and

WHEREAS, the 2021 Interagency Guidance document by the USACE and Ecology requires a perimeter buffer to those Enhancements restricting certain development and use; and

WHEREAS, In order to fulfill all of its mitigation requirements, Acquisition 44 needs to locate additional real property in excess of the Mitigation Property; and conserve this for perimeter buffer purposes; and

WHEREAS, Acquisition 44 intends to compensate the City \$16,900 in return for the City recording the restrictive covenant attached to this Resolution as Exhibit A (“Covenant”) against a 75-foot wide portion of the City Property adjacent to the Mitigation Property to fulfill the perimeter buffer requirement; and

WHEREAS, the Covenant's restrictions do not prohibit the City from enjoying the property in its current condition, making natural enhancements or utilizing the City Property for any future mitigation enhancements it may allow or desire on its own behalf,

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

Section 1. The Mayor is authorized to execute a restrictive covenant substantially in the form and for that portion of the City Property described in "Exhibit A" attached.

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

Kendra Comeau, City Attorney

When Recorded Mail To:

City of Auburn
City Clerk
25 West Main
Auburn, WA 98001

**DECLARATION OF LAND USE RESTRICTION
AND REAL PROPERTY COVENANT**

This Declaration of Land Use Restriction and Real Property Covenant (the “real property covenant”) is made this _____ day of _____, 2022, by the City of Auburn, a Washington municipal corporation organized under Title 35A, RCW (“Declarant”), for the benefit of the State of Washington Department of Ecology (“DOE”), the United States Army Corps of Engineers (“Corps”) and Acquisition 44, L.L.C., a Washington limited liability company (“Acquisition 44;” and, together with DOE and Corp, the “Beneficiaries”).

WHEREAS, the Declarant makes the following recitals:

- A. Declarant is the sole owner in fee simple of real property located in King County, Washington, identified by King County Assessor Tax Parcel ID# 132104-9005, and legally described in Exhibit A-1 to this real property covenant (the "Property"). A map of the Property is attached to and made part of this real property covenant, as Exhibit A-2.
- B. A portion of the Property possesses natural, open space, ecological, and recreational values that are of great importance to Declarant and the Beneficiaries. This portion of the Property is legally described in Exhibit B-1 of this real property covenant, and depicted in Exhibit B-2 of this real property covenant. This portion of the Property is referred to herein as the “Restricted Area,” and the important values referenced above are referred to herein as the Restricted Area’s “Conservation Values.”
- C. Acquisition 44 is the owner in fee simple of real property located in King County, Washington, identified by King County Assessor Tax Parcel ID# 1421049015, 1421049016 and 1421049070, and legally described in Exhibit C to this real property covenant (the "Adjoining Property"). The Adjoining Property abuts the Restricted Area as shown on Exhibit B-2 attached hereto. The Adjoining Property is being preserved by Acquisition 44 as a wetland and conservation area and this real estate covenant is intended to support the conservation values on the Adjoining Property.

D. The Declarant desires to create a real property covenant over the Restricted Area for the benefit of the Beneficiaries.

NOW, THEREFORE, in consideration of the above and the covenants, terms, conditions and restrictions contained herein, Declarant, does hereby establish a real property covenant on the Property's Restricted Area as follows:

1. *Declaration of Real Property Covenant*

Declarant voluntarily establishes this real property covenant in perpetuity over the Restricted Area on the terms and conditions set forth herein exclusively for the purpose of conserving the Restricted Area's Conservation Values.

2. *Purpose*

It is the purpose of this real property covenant to ensure that the Restricted Area will be retained forever in a natural, open space and scenic condition and to prevent any use of the Property that will impair or interfere with the Restricted Area's Conservation Values. Declarant and the Beneficiaries intend that this real property covenant will confine the use of the Restricted Area to such activities as are consistent with the purpose of this real property covenant.

3. *Rights of the Beneficiaries*

To accomplish the purpose of this real property covenant the following rights may be exercised by the Beneficiaries:

- (a) To preserve and protect the Conservation Values of the Restricted Area;
- (b) To enter upon the Restricted Area at reasonable times in order to monitor Declarant's compliance with and otherwise enforce the terms of this real property covenant in accordance with Section 9; provided that, except in cases where the Beneficiaries determine that immediate entry is required to prevent, terminate, or mitigate a violation of this real property covenant, such entry shall be upon prior reasonable notice to Declarant;
- (c) To conduct, with reasonable prior notice to Declarant, survey, site preparation, removal of invasive non-native riparian vegetation, installation of native plants, and other activities associated with wetland mitigation. Nothing herein shall be deemed to imply any obligation of the Beneficiaries to perform such restoration activities; and
- (d) To prevent any activity on or use of the Restricted Area that is inconsistent with the purpose of this real property covenant and to require the restoration of such areas or features of the Restricted Area that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Section 9.

4. *Prohibited Uses*

Any activity within or use of the Restricted Area that is inconsistent with the purpose of this real property covenant is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as permitted in Sections 3 and 5:

(a) *Construction and Improvements.* The placement or construction of any buildings, structures, or other improvements of any kind, including, without limitation, utilities, septic systems, communication lines, communication towers, storage tanks and pipelines.

(b) *Paving and Road and Trail Construction.* The paving or covering of any portion of the Restricted Area with concrete, asphalt, gravel, crushed rock, wood shavings or any other paving or surfacing material or the construction of a road or trail.

(c) *Commercial Development.* Any commercial or industrial use or activity within the Restricted Area, including, but not limited to, commercial recreational activities involving active recreation.

(d) *Agricultural Activities.* Any domestic animal grazing or agricultural activities of any kind; and application of biocides except when determined by the Beneficiaries to be necessary for the eradication of invasive non-native plant species and such application is by the narrowest spectrum, least persistent material appropriate for the target species.

(e) *Introduced Vegetation.* The planting or introduction of non-native species of plants.

(f) *Waste Disposal.* The disposal, storage, or release of yard waste, hazardous substances, rubbish, garbage, debris, unregistered vehicles, abandoned equipment, parts thereof, or other unsightly or offensive waste or material within the Restricted Area. The term “release” shall mean any release, generation, treatment disposal, storage, dumping, burying, abandonment, or migration from off-site. The term “hazardous substances” as used in this real property covenant shall mean any substances, materials, or wastes that are hazardous, toxic, dangerous, harmful or are designed as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous, toxic, dangerous or harmful or as a pollutant by any federal, state, or local law, regulation, statute, or ordinance, including, but not limited to, petroleum or any petroleum product.

(g) *Active Recreation.* Conducting or allowing activities, such as golf courses, ball fields, motocross, equestrian, campgrounds or any other activity involving individuals or the public or private clubs or associations engaging in organized active recreation.

(h) *Hunting.* Conducting or allowing hunting activities, including construction of blinds, camping areas, access trails, and any other hunting related activities.

(i) *Signs.* The placement of commercial signs, billboards, or other commercial advertising material within the Restricted Area, except in connection with the sale or lease of the Property.

(j) *Mineral Development.* The exploration for, or development and extraction of, any minerals or hydrocarbons.

(j) *Vehicles.* The operation of motorized vehicles except as part of any wetland creation or maintenance activity.

5. *Reserved Rights*

Declarant reserves to itself and to its agents, successors and assigns, the right to any use of, or activity within, the Restricted Area that is not inconsistent with the purpose of the real property covenant and that is not prohibited herein. Without limiting the generality of the foregoing, Declarant specifically reserves the following uses and activities:

(a) *Maintenance, Monitoring and Emergencies.* The right to undertake activities necessary to maintain and monitor the Conservation Values and to public health, property improvements, or human safety, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity.

(b) *Fences.* Declarant shall have the right to install and maintain fences around the Restricted Area. Beneficiaries agree not to remove or damage any such fences.

6. *Responsibilities of Declarant Not Affected.*

Other than as specified herein, this real property covenant is not intended to impose any legal or other responsibility on the Declarant, or in any way to affect any existing obligation of the Declarant as owner of the Restricted Area and Property. This shall apply to:

(a) *Taxes.* Declarant shall continue to be solely responsible for payment of all taxes and assessments levied against the Restricted Area.

(b) *Upkeep and Maintenance, Costs, Legal Requirements, and Liabilities.* Declarant retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Restricted Area. Declarant remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this real property covenant and conducted by Declarant, its agents or employees.

(c) *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Restricted Area of any hazardous substances, Declarant agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required. Should Declarant become aware of the release of any hazardous substances within the Restricted Area, Declarant shall make best efforts to inform the other of such release as soon as possible.

(d) *Control.* Nothing in this real property covenant shall be construed as giving rise to any right or ability in Beneficiaries to exercise physical or managerial control over the day-to-day operations of the Restricted Area, or any of Declarant's activities on the Restricted Area, or otherwise to become an operator with respect to the Restricted Area within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or the Model Toxics Control Act, as amended ("MTCA").

(e) *Liability.* Beneficiaries (except for the Corps) and Declarant, and their respective employees, agents, invitees, and heirs hereby release and agree to indemnify, defend and hold each other harmless from any injury, claim, damage, or loss suffered by Beneficiaries or Declarant or their respective employees, agents, invitees, or heirs on, around or with regard to the Restricted Area except to the extent of negligent or unlawful actions by the indemnified party.

7. *The Beneficiaries' Right to Restore the Restricted Area*

In the event that any of the Conservation Values of the Restricted Area are impaired, the Beneficiaries shall have the right, but not the obligation, to restore the impaired values within the Restricted Area.

8. *Access*

No right of access by the general public to any portion of the Restricted Area is created by this real property covenant.

9. *Enforcement*

The Beneficiaries shall have the right to prevent and correct violations of the terms of this real property covenant as set forth below.

(a) *Notice of Failure.* If the Beneficiaries determine that the Declarant is in violation of the terms of this real property covenant or that a violation is threatened, the Beneficiaries shall give 30 days' written notice to Declarant of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Restricted Area resulting from any use or activity inconsistent with the purpose of this real property covenant, to restore the portion of the Restricted Area so injured to its prior condition in accordance with a plan approved by the Beneficiaries.

(b) *Declarant's Failure to Respond.* In addition to the rights granted in Section 3, including the right of entry, the Beneficiary may bring an action as provided for in Section 9(c) below if Declarant fails to: (i) cure the violation within thirty (30) days after receipt of notice thereof from the Beneficiary; (ii) begin curing such violation within the thirty (30) day period under circumstances where the violation cannot reasonably be cured within the thirty (30) day period; or (iii) continue diligently to cure such violation until finally cured.

(c) *The Beneficiaries' Action.* The Beneficiaries may bring action at law or in equity in a court of competent jurisdiction to enforce the terms of this real property covenant, to enjoin the violation, *ex parte* as necessary and as allowed under the applicable civil rules, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this real property covenant or injury to any of the Conservation Values protected by this real property covenant, including damages for the loss of the Conservation Values; and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Declarant's liability therefore, the Beneficiaries, in their sole and absolute discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. All such actions for injunctive relief may be taken without the Beneficiaries being required to post bond or provide other security.

(d) *Immediate Action Required.* If the Beneficiaries, in their sole and absolute discretion, determine that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Restricted Area, the Beneficiaries may pursue remedies under this Section 9 without prior notice to Declarant or without waiting for the period provided for cure to expire.

(e) *Nature of Remedy.* The rights under this Section 9 apply equally in the event of either actual or threatened violations of the terms of this real property covenant. Declarant agrees that Beneficiaries may be entitled to injunctive relief in a Section 9(c) action, in addition to such other relief to which Beneficiaries may be entitled.

(f) *Costs of Enforcement.* Provided the Beneficiaries first provide Declarant with a Notice of Failure and Declarant fails to respond in accordance with Section 9(b), all reasonable costs incurred by the Beneficiaries in enforcing the terms of this real property covenant against Declarant, including, without limitation, costs and expenses of suit and reasonable attorney's fees and reasonable consultant's fees, and any costs of restoration necessitated by Declarant's violation of the terms of this real property covenant shall be borne by Declarant. The substantially prevailing party in a judicial enforcement action regarding this real property covenant shall be entitled to reimbursement of all reasonably incurred attorney's fees and litigation expenses.

(g) *The Beneficiaries' Discretion.* Any forbearance by the Beneficiaries to exercise rights under this real property covenant in the event of any violation of any terms of this real property covenant shall not be deemed or construed to be a waiver of such term or of any rights under this real property covenant. No delay or omission by the Beneficiaries in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

(h) *Acts Beyond Declarant's Control.* Nothing contained in this real property covenant shall be construed to entitle the Beneficiaries to bring any action against Declarant to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Restricted Area resulting from natural or human-made causes beyond Declarant's control, including, without limitation, fire, flood, storm, and earth movement, nor shall Declarant be required to take steps to abate or mitigate injury to the Restricted Area resulting from such causes.

10. *Alternate Dispute Resolution*

If a dispute arises between the parties concerning the consistency of any proposed use or activity with this real property covenant, the parties shall attempt to resolve the dispute through informal discussion. The parties may also agree to refer the dispute to mediation and shall select a single mediator to hear the matter. Each party shall bear its own costs, including attorney's fees, if mediation is pursued under this Section 10. The parties shall share equally the fees and expenses of the mediator.

11. *Notice and Approval*

(a) *Notice.* Whenever notice is required under this real property covenant, the party required to give notice ("Notifying Party") shall give required written notice in accordance with Section 17 prior to the date the Notifying Party intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the other party to make an informed judgment as to its consistency with the purpose and terms of this real property covenant.

(b) *Evaluation of Proposed Activities.* The purpose of requiring the Notifying Party to notify the other party prior to undertaking certain permitted uses and activities is to afford the other party an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purpose and terms of this real property covenant.

12. *Notice of Transfer of Property by Declarant and Successor and Assigns*

Anytime the Property itself, or any interest in it is transferred, or a legal claim is voluntarily established by the Declarant to a third party, the Declarant, its successors and assigns, shall notify the Beneficiaries in writing at least 60 days in advance of such action and the document of conveyance, transfer or establishment shall expressly refer to this real property covenant.

13. *Termination of Real Property Covenant*

(a) *Frustration of Purpose.* This real property covenant may only be terminated with the concurrence of the Beneficiaries in the event the purpose of this covenant can no longer be fulfilled due to circumstances beyond the Declarant's control (which shall not include Declarant's failure to enforce the terms of this restrictive covenant).

(b) *Economic Value.* The fact that the Restricted Area could become greatly more economically valuable if it were used in a manner that is either expressly prohibited by this real property covenant or inconsistent with the purpose of this real property covenant, or that portions of the Property and/or neighboring properties could in the future be put entirely to uses that would not be permitted hereunder, has been considered by the Declarant in granting this real property covenant. It is the intent of both Declarant and the Beneficiaries that any such change in the economic value of the Restricted Area from other use shall not be assumed to be

circumstances justifying the termination or extinguishment of this real property covenant pursuant to this section.

14. *Modification*

This real property covenant may be amended only with the concurrence of the Beneficiaries, provided that any such amendment shall be consistent with the purpose of the real property covenant and shall not affect its perpetual duration. All amendments shall be in writing, approved by the Beneficiaries and recorded in the King County Recorder's Office.

15. *Interpretation*

This real property covenant shall be interpreted under the laws of Washington, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

16. *Perpetual Duration*

This real property covenant shall be a binding servitude running with the land in perpetuity.

17. *Notices*

Any notices required by this real property covenant shall be in writing and shall be personally delivered or sent by first class mail to the Declarant, at the following address, unless the Beneficiaries have been notified of a change of address.

To Declarant:

City of Auburn – City Attorney's Office
25 West Main
Auburn, WA 98001

18. *Severability*

If any provision of this real property covenant is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions.

19. *Entire Agreement*

This instrument sets forth the entire agreement of the parties with respect to the terms of this Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this Agreement, all of which merge herein.

20. *Covenant; Successors.*

This real property covenant shall be a covenant burdening the Restricted Area and benefiting the Adjoining Property and the Beneficiaries and shall run with the land. The rights and obligations

set forth in this real property covenant shall be binding upon and shall benefit the parties, their successors and assigns.

IN WITNESS WHEREOF, the Declarant has set its hands on the date first written above.

Declarant:

City of Auburn, a municipal corporation

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)
) ss
County of _____)

On this ____ day of _____, 2022, before me the undersigned, a Notary Public for the State of Washington, personally appeared _____ who stated on oath that he is _____ and authorized to execute the within instrument on behalf of said company and acknowledged said instrument as the free and voluntary act of the company for the uses and purposes mentioned therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.

Notary Public for the State of Washington
Residing at _____
My Commission expires: _____

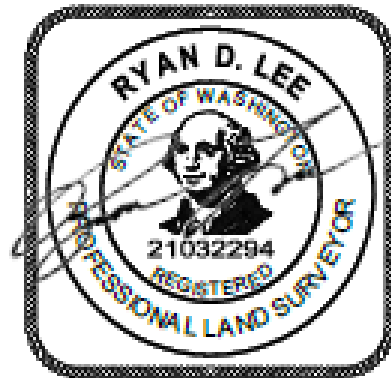
EXHIBIT A-1

LEGAL DESCRIPTION OF DECLARANT'S PROPERTY

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13,
TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON FOR STATE ROAD No. 5
(WEST MAIN STREET) BY DEED RECORDED UNDER RECORDING NUMBER 2726487;

AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON FOR SR-167 BY
DEED RECORDED UNDER RECORDING NUMBER 6644422.



8/9/2022

EXHIBIT A-2

Depiction of Declarant's Property

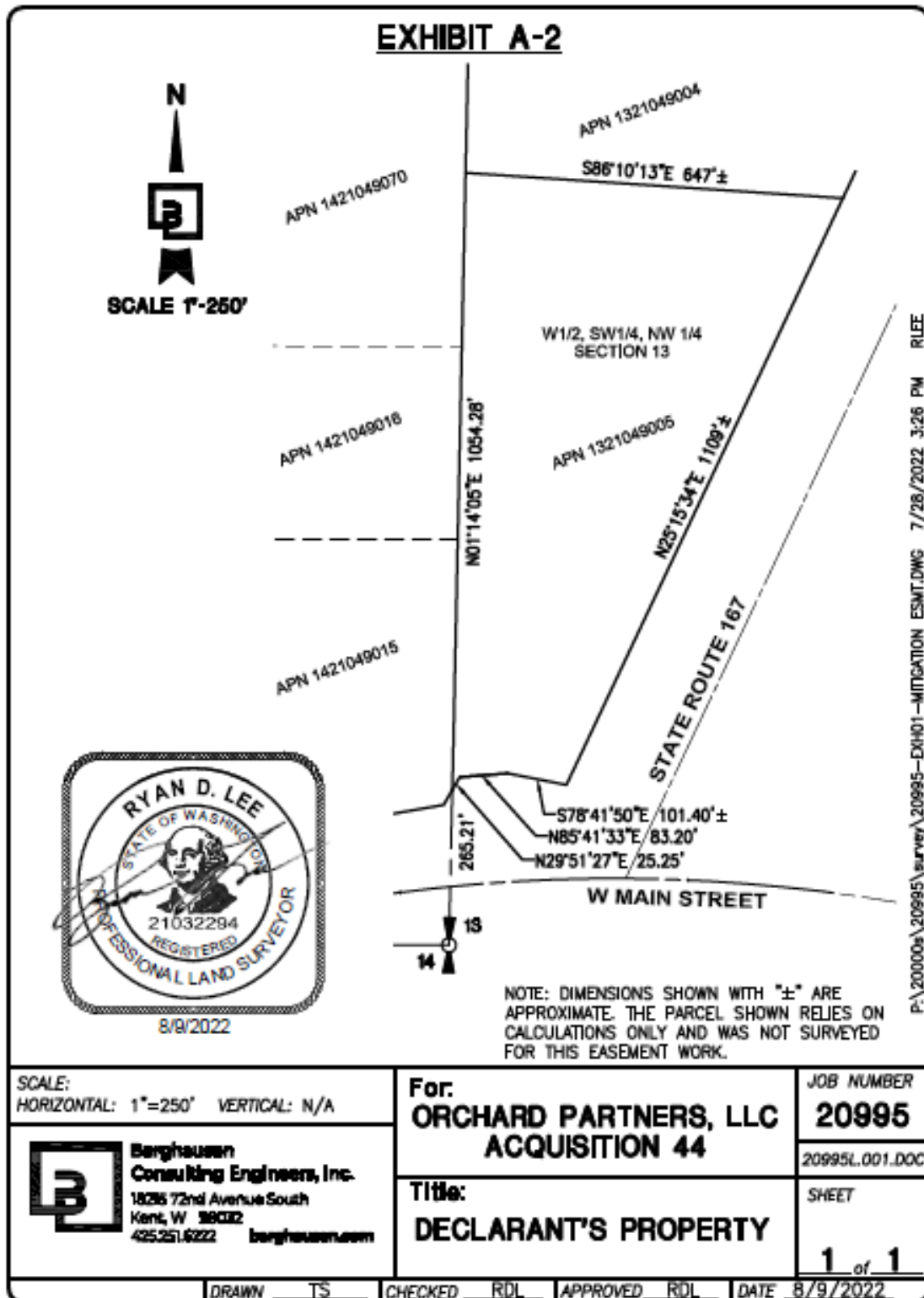


EXHIBIT B-1

LEGAL DESCRIPTION OF RESTRICTED AREA

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION, BEING A 2 1/2 INCH SURFACE BRASS DISC WITH PUNCH IN THE CUL DE SAC ON THE SOUTH SIDE OF WEST MAIN STREET OVERPASS MARKING THE WEST QUARTER CORNER OF SAID SECTION 13.

THENCE NORTH 01°14'05" EAST, ALONG THE WEST LINE OF SAID SUBDIVISION, FOR 265.21 FEET TO THE NORTHERLY LIMITS OF THAT AREA CONVEYED TO THE STATE OF WASHINGTON, AS RECORDED UNDER AUDITOR'S FILE NUMBER 8662845, RECORDS OF KING COUNTY, WASHINGTON, AND THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 01°14'05" EAST, ALONG SAID WEST LINE, FOR 1,054.28 FEET TO THE CENTERLINE OF A 50.00 FOOT WIDE DRAINAGE EASEMENT, AS RECORDED UNDER AUDITOR'S FILE NUMBER 8662846, RECORDS OF KING COUNTY, WASHINGTON;

THENCE SOUTH 88°10'13" EAST, ALONG SAID CENTERLINE, FOR 75.08 FEET TO A POINT THAT LIES 75.00 FEET EAST OF SAID WEST LINE AS MEASURED PERPENDICULARLY;

THENCE SOUTH 01°14'05" WEST, PARALLEL WITH SAID WEST LINE, FOR 1,022.62 FEET TO THE AFOREMENTIONED NORTHERLY LIMITS OF THAT AREA CONVEYED TO THE STATE OF WASHINGTON, BEING THE NORTHERLY MARGIN OF WEST MAIN STREET;

THENCE SOUTH 85°41'33" WEST, ALONG SAID NORTHERLY LIMITS, FOR 63.20 FEET;

THENCE SOUTH 29°51'27" WEST, ALONG SAID NORTHERLY LIMITS, FOR 25.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.77 ACRES OR 77,223 SQUARE FEET, MORE OR LESS.



8/9/2022

EXHIBIT B-2

Depiction of Restricted Area

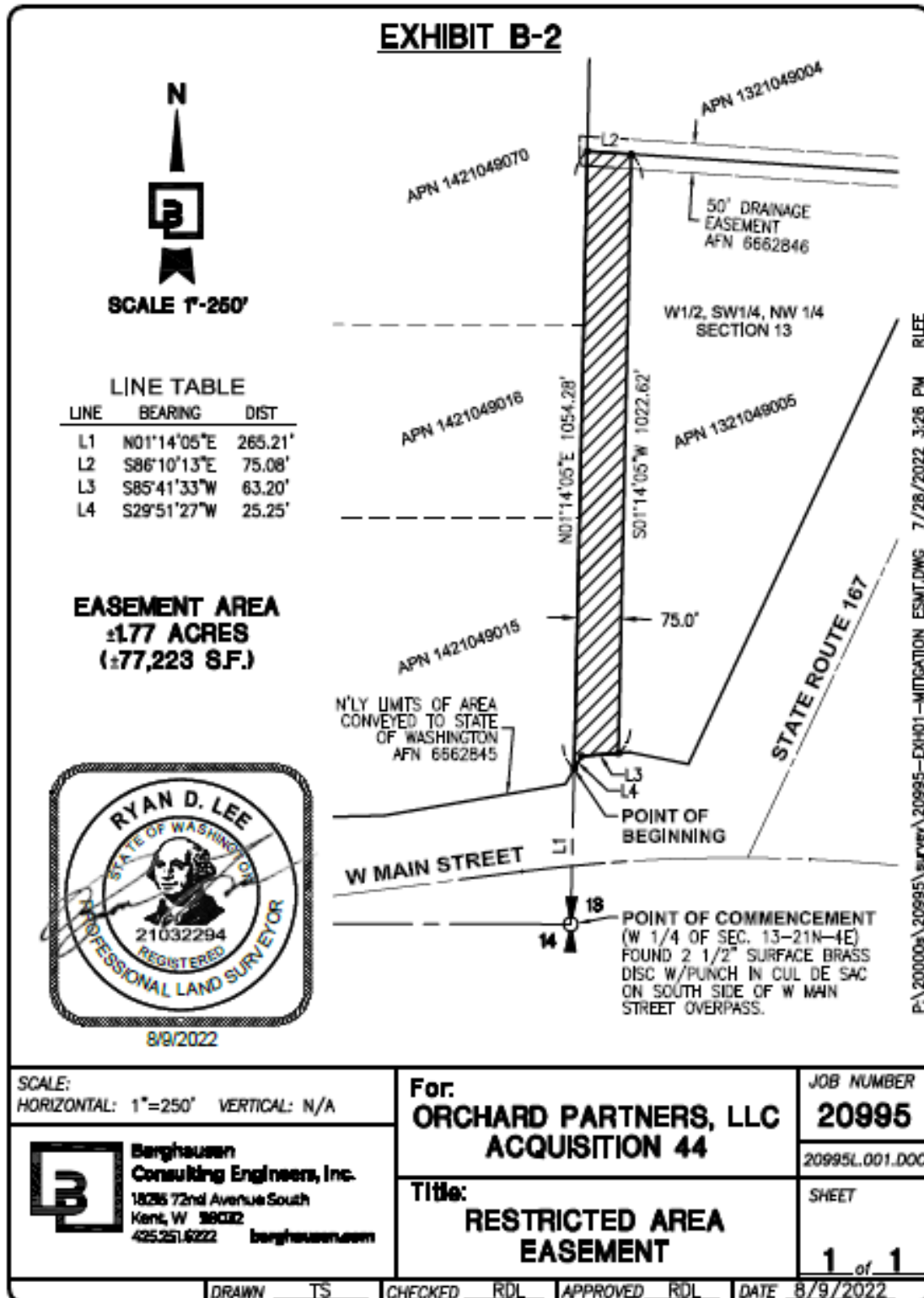


EXHIBIT C-1

LEGAL DESCRIPTION OF ADJOINING PROPERTY

PARCEL A:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE NORTH ALONG THE EAST LINE OF SAID SECTION 14, A DISTANCE OF 30 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE NORTH MARGINAL LINE OF THE KNICKERBOCKER COUNTY ROAD AS TRUE POINT OF BEGINNING;

THENCE NORTH ALONG SAID EAST LINE OF SAID SECTION 14, A DISTANCE OF 663.06 FEET; THENCE WESTERLY ON A LINE PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SAID SECTION 14, A DISTANCE OF 836.70 FEET, MORE OR LESS, TO THE EASTERLY MARGIN LINE OF STATE HIGHWAY NO. 69;

THENCE SOUTHERLY ALONG THE EASTERLY MARGINAL LINE OF SAID STATE HIGHWAY A DISTANCE OF 580.16 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED BY HENRIETTA M. HALLIDAY TO WILLIAM M. GALLAGHER BY DEED DATED MARCH 18, 1920 AND RECORDED IN VOLUME 1106 OF DEEDS, PAGE 80, IN KING COUNTY, WASHINGTON, WHICH SAID NORTHWEST CORNER IS 100 FEET NORTHERLY FROM THE POINT OF INTERSECTION OF SAID EASTERLY MARGINAL LINE OF SAID STATE HIGHWAY WITH THE NORTHERLY MARGINAL LINE OF SAID COUNTY ROAD; THENCE EASTERLY ON A LINE PARALLEL WITH SAID NORTHERLY MARGINAL LINE OF SAID COUNTY ROAD, A DISTANCE OF 50 FEET;

THENCE SOUTHERLY ON A LINE PARALLEL WITH SAID EASTERLY MARGINAL LINE OF SAID STATE HIGHWAY A DISTANCE OF 100 FEET TO SAID NORTH MARGINAL LINE OF SAID COUNTY ROAD; THENCE EASTERLY ALONG SAID NORTHERLY MARGINAL LINE OF SAID COUNTY ROAD, A DISTANCE OF 913 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY DEED RECORDED UNDER RECORDING NO. 6662845.

PARCEL B:

ALL THAT PORTION OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 14;

THENCE WEST ALONG SAID SECTION LINE A DISTANCE OF 64.75 FEET TO THE EAST MARGIN OF STATE ROAD NO. 69;

THENCE SOUTHWESTERLY ALONG THE EAST MARGIN OF SAID ROAD A DISTANCE OF 745 FEET, MORE OR LESS, TO A POINT WHERE THE SOUTH BOUNDARY LINE OF TRACT CONVEYED BY JOHN CABAN AND LUCILLE GERTRUDE TO JERRY W. CABAN AND JO ANN MAE CABAN BY DEED DATED DECEMBER 3, 1963, RECORDED UNDER RECORDING NO. 5674242, INTERSECTS SAID STATE ROAD NO. 69;

THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTH BOUNDARY LINE OF SAID TRACT DESCRIBED IN SAID DEED DATED DECEMBER 3, 1963, 240 FEET MORE OR LESS, TO SOUTHERLY CORNER OF SAID JERRY W. CABAN TRACT AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH ALONG THE EAST LINE PROJECTED SOUTH A DISTANCE OF 20.00 FEET;
THENCE SOUTH 88°15'18" WEST 250 FEET, MORE OR LESS, TO THE EASTERLY MARGIN OF THE STATE
HIGHWAY;
THENCE SOUTHWESTERLY ALONG SAID EAST MARGIN TO A POINT 1023.28 FEET NORTHERLY FROM THE
SOUTH LINE OF THE SUBDIVISION;
THENCE EAST PARALLEL TO SAID SOUTH LINE 757.20 FEET, MORE OR LESS, TO THE EASTERLY
BOUNDARY OF SAID SECTION 14;
THENCE NORTHERLY ALONG SAID SECTION LINE TO A POINT INTERSECTED BY THE EASTERLY
PROJECTION OF THE SOUTH LINE OF THE JERRY W. CABAN TRACT;
THENCE WESTERLY TO THE TRUE POINT OF BEGINNING.

PARCEL C:

ALL THAT PART OF PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION
14, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, BOUNDED AND
DESCRIBED AS FOLLOWS:

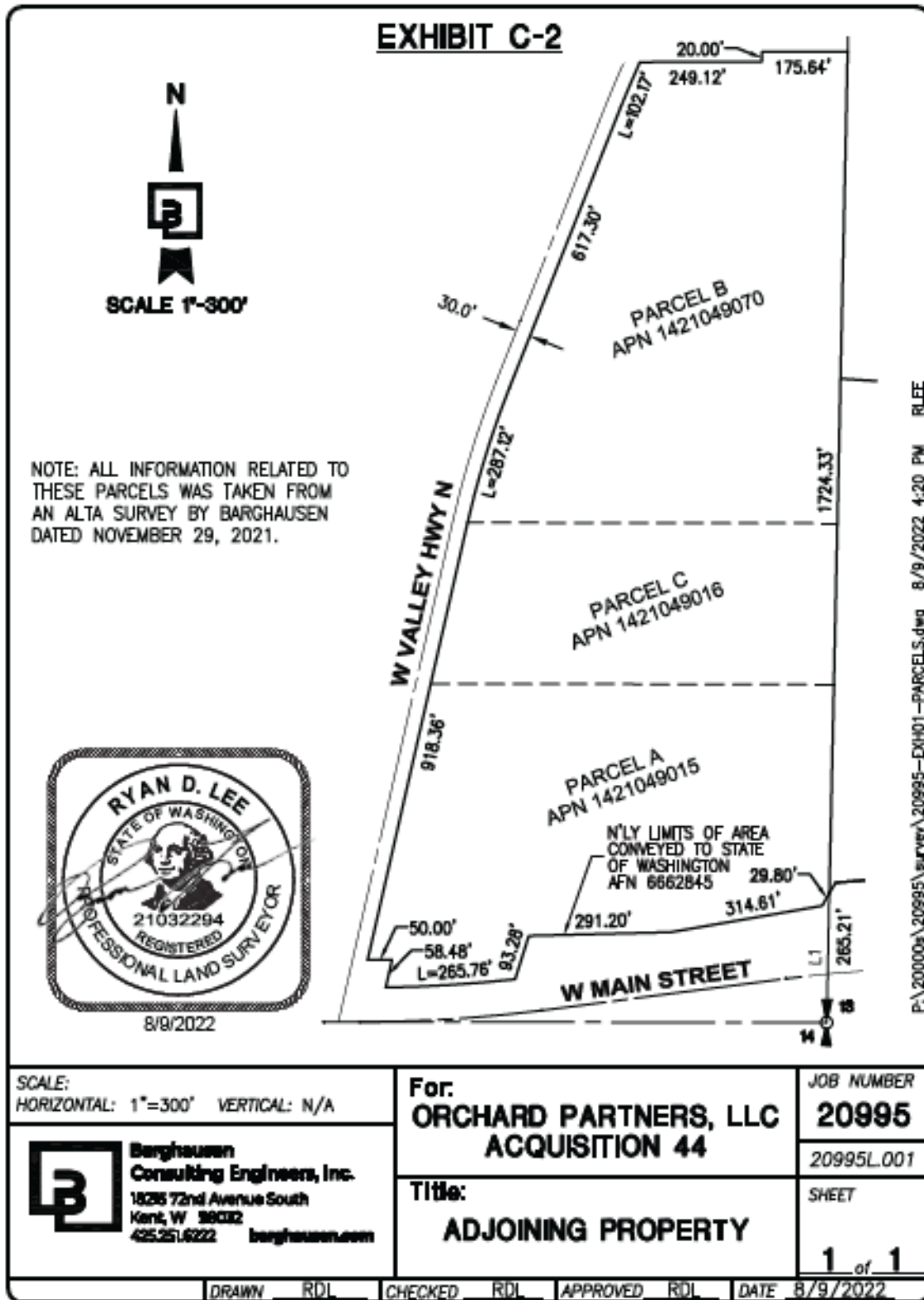
COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 14;
THENCE NORTH ALONG THE EAST LINE OF SAID SECTION 14, A DISTANCE OF 683.08 FEET TO THE TRUE
POINT OF BEGINNING;
THENCE NORTH ALONG SAID EAST LINE OF SAID SECTION 14, A DISTANCE OF 330.20 FEET TO A POINT;
THENCE WESTERLY AND ON A LINE PARALLEL WITH THE SOUTH LINE OF THE NORTHEAST QUARTER OF
SAID SECTION 14, A DISTANCE OF 757.20 FEET, MORE OR LESS, TO THE EAST MARGINAL LINE OF STATE
ROAD NO. 69;
THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE EASTERLY MARGINAL LINE OF SAID STATE NO.
69, A DISTANCE OF 389.8 FEET, MORE OR LESS, TO A POINT WHICH IS THE NORTHWEST CORNER OF A
TRACT OF LAND CONVEYED BY I.B. KNICKERBOCKER AND OLIVIA S. KNICKERBOCKER, HIS WIFE, TO ONE
MINORU TERADA BY DEED DATED AUGUST 19, 1928, RECORDED UNDER RECORDING NO. 2554983, AND
WHICH POINT IS SOUTH 88°55' WEST 825.88 FEET, MORE OR LESS, FROM TRUE POINT OF BEGINNING;
THENCE NORTH 88°55' EAST 825.88 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

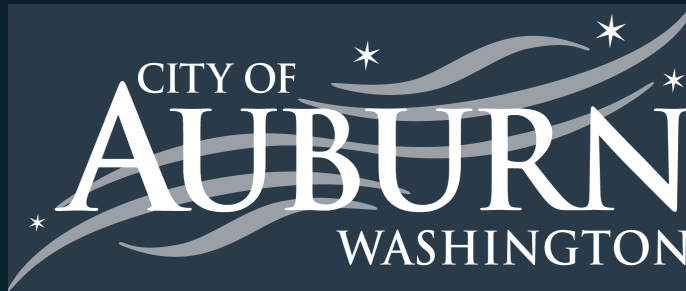


8/9/2022

EXHIBIT C-2

Depiction Of Adjoining Property





CITY-OWNED PROPERTY (PIN 132104-9005) RESTRICTIVE COVENANT

Legal Department

AUBURN
VALUES

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

SPATIAL RELATIONSHIP OF THE PROPERTIES

■ Acquisition 44 Properties

- Industrial Building located south of the Subject Property Location
 - United Postal Service is a tenant in this building.
 - Industrial expansion to increase the truck court area on the north side of this property. Work will extend into the Subject Property Location.
- Subject Property Location
 - This property will be the location of the Industrial expansion project & some wetland mitigation work.
- Mitigation Site Location (3 parcels)
 - Mitigated to create or enhance existing wetlands on behalf of the Industrial Expansion.

■ City of Auburn Property

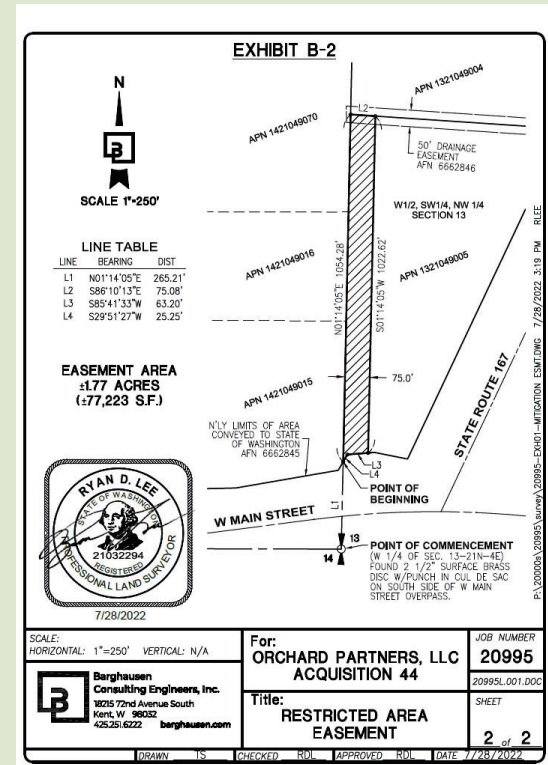
- Proposed Easement “Covenant” Property
 - Covenant adjacent to the Mitigation Site Location.
 - No mitigation work to be done, restrictive covenant is only for buffer purposes.



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RESTRICTIVE COVENANT

- Effects only the western 75 feet of the City's property.
- No impact on City use of property.



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BENEFIT AND CONSIDERATION

Benefit

- Industrial expansion being done to keep United Postal Service (UPS) in the 1201 C Street NW building.
- Without the industrial expansion UPS might relocate.
- No industrial expansion without the mitigation work, no mitigation work without the restrictive covenant recorded against the City property.

Consideration

- Acquisition 44 to pay the City of Auburn \$16,900 in return for the recording of the Restrictive Covenant against the western 75 feet of the City's property.
- Value determined by an appraisal.
- City had the appraisal reviewed by a second appraiser who concurred with the value.

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Legal Department

**AUBURN
VALUES**

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