



**City Council Meeting
July 21, 2014 - 7:30 PM
Auburn City Hall
AGENDA**

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

I. CALL TO ORDER

A. Flag Salute

B. Roll Call

C. Announcements, Appointments, and Presentations

1. Kurtis Harstad CERT Award Presentation
2. Mill Creek Wetland 5k Project (Holman/Snyder)
A presentation by Olton Swanson, Deputy District Engineer, Seattle District, U.S. Army Corps of Engineers (USACE) regarding the proposed Project Partnership Agreement (PPA) [refer to Resolution No. 4959] between the City of Auburn and the U.S. Army Corps of Engineers.
3. Arts Commission Appointment
City Council to confirm the appointment of Cary Davidson to the Arts Commission to a new three year term to expire on December 31, 2016.

D. Agenda Modifications

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. **Public Hearing on Communal Residential Rental Housing - Moratorium* (Holman/Tate)**
City Council to conduct a public hearing on the Communal Residential Housing Moratorium (See Resolution No. 5079 attached).
2. **Public Hearing on Application for Right-of-Way Vacation V3-14 (Osborne/Snyder)**
City Council to conduct a public hearing on a petition for vacation of the alley between South Division Street and A Street SE, south of 1st Street SE, located within the City of Auburn.

(RECOMMENDED ACTION: City Council conduct the public hearing. For further action on this item, see Ordinance No. 6511.)

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City

Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

C. Correspondence

There is no correspondence for Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

1. **July 14, 2014 Minutes* (Peloza)**

B. Planning & Community Development

1. **July 14, 2014 Minutes* (Holman)**

C. Public Works

1. **July 7, 2014 Minutes* (Osborne)**

D. Finance

1. **July 7, 2014 Minutes* (Wales)**

E. Les Gove Community Campus

F. Council Operations Committee

G. Junior City Council

1. **July 21, 2014 Junior City Council meeting (Wagner)**

IV. 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 7, 2014 regular meeting*

B. Minutes of the June 11, 2014 special meeting*

C. Minutes of the June 26, 2014 special meeting*

D. Claims Vouchers (Wales/Coleman)

Claims voucher numbers 429592 through 429842 in the amount of \$4,786,634.07 and six wire transfers in the amount \$1,197,254.06 and dated July 21, 2014.

E. Payroll Vouchers (Wales/Coleman)

Payroll check numbers 534816 through 534841 in the amount of \$819,238.89 and electronic deposit transmissions in the amount of \$1,284,922.81 for a grand total of \$2,104,161.70 for the period covering July 3, 2014 to July 16, 2014.

F. Public Works Project No. CP1104* (Osborne/Snyder)

City Council award Contract No. 14-09 to Valley Electric Company of Mount Vernon on their low bid of \$258,189.23 for Project No. CP1104, 8th St NE and 104th Ave SE Intersection Improvements

G. **Public Works Project No. CP1222* (Osborne/Snyder)**

City Council approve Final Pay Estimate No. 3 to Contract No. 13-15 in the amount of \$3,978.39 and accept construction of Project No. CP1222, Citywide Traffic Signal Safety Improvements

H. **Public Works Project No. CP1324* (Peloza/Coleman)**

City Council award Contract No. 14-03, to Blackline Inc. on their low bid of \$527,830.32 plus Washington State sales tax of \$50,143.88 for a total contract price of \$577,974.20 for Project No. CP1324, Asphalt Rehabilitation and Seal Coat

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

V. **UNFINISHED BUSINESS**

There is no unfinished business.

VI. **NEW BUSINESS**

There is no new business.

VII. **ORDINANCES**

A. **Ordinance No. 6511* (Osborne/Snyder)**

An Ordinance of the City Council of the City of Auburn Washington, vacating right-of-way of the alley between South Division Street and A Street SE, south of 1st Street SE, within the City of Auburn, Washington

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6511.)

B. **Ordinance No. 6520* (Osborne/Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, amending Sections 13.32A.020 and 13.32A.120 of the Auburn City Code relating to exceptions for undergrounding requirements

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6520.)

C. **Ordinance No. 6522* (Holman/Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, approving the Final Plat of Alicia Glenn

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6522.)

D. **Ordinance No. 6523* (Holman/Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, approving the Final Plat of Wyncrest

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6523.)

VIII. **RESOLUTIONS**

A. **Resolution No. 4959* (Holman/Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute a Project Partnership Agreement for Specifically Authorized Ecosystem Restoration Projects and Separable Elements

(RECOMMENDED ACTION: City Council adopt Resolution No. 4959.)

B. **Resolution No. 5078* (Osborne/Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, setting a public hearing to consider a Franchise Agreement with Electric Lightwave, LLC, a wholly owned subsidiary of Integra Telecom Holdings, Inc.

(RECOMMENDED ACTION: City Council adopt Resolution No. 5078.)

C. **Resolution No. 5081* (Wales/Tiedeman)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an interlocal agreement between the City of Auburn and the City of Milton for information technology services

(RECOMMENDED ACTION: City Council adopt Resolution No. 5081.)

D. **Resolution No. 5082* (Wales/Coleman)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute a Grant Agreement between the City of Auburn and the State Department of Ecology

(RECOMMENDED ACTION: City Council adopt Resolution No. 5082.)

E. **Resolution No. 5084* (Holman/Hursh)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and the City Clerk of the City of Auburn to enter into an Interlocal Cooperation Agreement between the City and King County, for the purposes of administering the Federal Home Investment Partnerships Program (HOME)

(RECOMMENDED ACTION: City Council adopt Resolution No. 5084.)

F. **Resolution No. 5086* (Osborne/Heid)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement with Jacob Armijo to convey an easement over a portion of City storm water retention property

(RECOMMENDED ACTION: City Council adopt Resolution No. 5086.)

G. **Resolution No. 5087* (Wales/Hursh)**

A Resolution of the City Council of the City of Auburn, Washington, approving the Lease Extension and Addendum to Lease between the City of Auburn and the Bank of Washington

(RECOMMENDED ACTION: City Council adopt Resolution No. 5087.)

IX. **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**

X. **ADJOURNMENT**

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

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing on Communal Residential Rental Housing -
Moratorium

Date:

July 16, 2014

Department:

Community Development &
Public Works

Attachments:

[Resolution No. 5079](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council conduct a public hearing to receive public comments and suggests with regard to Resolution No. 5079, Communal Residential Housing Moratorium (Please see Resolution No 5079 attached).

Background Summary:

On June 16, 2014 City Council adopted Resolution No. 5079 which established a moratorium on the acceptance or processing of applications for business licenses and other licenses, permits and approvals for communal residential rental housing. Pursuant to RCW 35A.63.220 the City Council scheduled a public hearing for July 21, 2014 to further consider the moratorium.

Reviewed by Council Committees:

Other: Legal

Councilmember: Holman

Staff: Tate

Meeting Date: July 21, 2014

Item Number: PH.1

RESOLUTION NO. 5079

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, ESTABLISHING A MORATORIUM
ON ACCEPTANCE OR PROCESSING OF APPLICATIONS
FOR BUSINESS LICENSES AND OTHER LICENSES,
PERMITS AND APPROVALS FOR COMMUNAL
RESIDENTIAL RENTAL HOUSING

WHEREAS, the City of Auburn has seen an increase in rental housing particularly in residential neighborhoods adjacent to Green River Community College and through citizen comment determined the City's rental housing related codes need to be amended in some fashion; and

WHEREAS, the current provisions of the Auburn City Code (ACC) define communal residences as dwellings without an owner occupant that is rented to a group of unrelated individuals [ACC 18.04.249], and further identify regulations related to communal residences [ACC 18.31.130], however, it appears that these provisions may not be adequate to fully address the issues related to communal residences; and

WHEREAS, in order to address issues related to rental housing primarily in single family residential neighborhoods, it is appropriate to fully evaluate and consider the different options and avenues through which communal residence rental housing operates; and

WHEREAS, in conformity with the responsibilities of the City of Auburn to provide for zoning and land use regulations pursuant to state law, and the City's authority to regulate land use activity within its corporate limits, the City intends to explore and evaluate how it can most reasonably and responsibly address the issues and impacts related to communal residence rental housing; and

WHEREAS, in order to give the City adequate time to fully consider all the options and alternatives for appropriate regulations, and to fully investigate and review all of the factors involved in communal residence rental housing related uses, the City needs to impose a moratorium on accepting and processing applications for communal residence rental housing uses, until its review of needed regulations and the adoption and implementation of needed regulations can be completed; and

WHEREAS, RCW Sections 35A.63.220 and 36.70A.390 authorize cities to adopt moratoria; and

WHEREAS, consistent with the provisions of RCW 35A.63.220, it is appropriate for the City Council to hold public hearings and to authorize the holding of public hearings and/or other means to gather information and adopt findings of fact supporting and justifying the moratorium, and to implement a work plan for review of the issues related to communal residence rental housing uses in the development of and/or amendment to the City's business and land use regulations.

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

Section 1. Moratorium Established. Pursuant to RCW 35A.63.220, a moratorium is hereby imposed prohibiting the City from receiving and/or processing any applications for any communal residence rental housing uses in any and all zoning districts in the City of Auburn; provided that this moratorium shall not apply to adult family homes or group residences that are afforded separate statutory protections under state law.

Section 2. Term of Moratorium. The moratorium imposed by this resolution shall become effective on the date hereof, and shall continue in effect for an initial period of one year, unless repealed, extended or modified by the City Council after subsequent public hearing(s) and entry of appropriate findings of fact pursuant to RCW 35A.63.220, provided that the moratorium shall automatically expire upon the effective date of business licensing, zoning and land use regulations adopted by the City Council to address communal residence rental housing related businesses and land uses to be located in the City of Auburn.

Section 3. Preliminary Findings. The following preliminary findings of fact are hereby adopted:

A. That communal residence rental housing related uses and businesses have the potential for significant impacts on neighborhoods and the community.

B. That because of the potential impacts of these communal residence rental housing related uses and businesses, and the need to fairly and reasonably accommodate housing needs for those persons who would reside in communal residence rental housing, special care and attention needs to be employed in evaluating, considering and developing appropriate legislation that satisfactorily addresses the concerns of the City while also conforming to legal requirements.

C. It is appropriate to collect and compile documentation, information, testimony and statements of concerned citizens of the City and of other persons interested in or familiar with the issues of communal residence rental housing related uses and businesses and their impacts to fully explore ways to protect the City and its citizens from the adverse impacts of such businesses and uses.

Section 4. Conclusion. Based on the above Findings of Fact, the City Council concludes that the City has the authority to establish a moratorium, and that it is necessary to establish a moratorium, concerning the establishment, operation, and processing of applications for communal residence rental housing related uses and businesses, to act as a stop-gap measure in order to 1) to provide the City with an opportunity to study the issues concerning the appropriate revisions to the City's codes and regulations; and 2) to protect the health, safety and welfare of the citizens of Auburn by ameliorating the adverse impacts of communal residence rental housing related uses and businesses.

Section 5. Work Plan. The following work plan is adopted to address the issues involving communal residence rental housing related use and business regulations:

A. That the City of Auburn Planning Commission shall be authorized and directed to hold public hearings and public meetings to fully receive and consider statements, testimony, positions and other documentation or evidence related to the issue of communal residence rental housing related uses and businesses.

B. That the Planning Commission and City staff are authorized and directed to review the experiences of other jurisdictions, the status of legal cases, and statistical data, information, studies and other evidence compiled by other municipalities, of the implications and impacts of communal residence rental housing related uses and businesses, and to review State and Federal law and regulations, including but not limited to state and federal landlord-tenant/rental regulations and fair housing regulations, as well as ordinances and codes adopted and implemented by other municipalities to address communal residence rental housing related uses and businesses, and any other information that is pertinent to consideration thereof.

C. That the City of Auburn Planning Commission shall work with City staff and the citizenry of the City to develop proposals for regulation of communal residence rental housing related business and zoning uses, and related considerations, to be forwarded in their recommendations to the City Council for inclusion in ordinances and ultimate adoption as a part of the City Code of the City of Auburn.

D. That the Mayor, in consultation with the City Attorney, the Director of Community Development and Public Works and other staff, shall periodically advise and report to the City Council as to the status of hearings, meetings and information development regarding activities of the Planning Commission and City staff relative to the evaluation, consideration and development of regulations related to communal residence rental housing related uses and businesses, with such reports to be scheduled approximately every six (6) months or as appropriate throughout the period of the moratorium and any extensions thereof, until adoption of a comprehensive ordinance and regulations are developed, adopted and implemented, relating to communal residence rental housing related uses and businesses becoming effective in conjunction with the termination of the moratorium referred to in this Resolution.

Section 6. Public Hearing. A public hearing shall be scheduled for 7:30 p.m. or as soon thereafter as the matter may be heard, on the 21st day of July, 2014, in City Council Chambers, 25 West Main Street, Auburn, Washington 98001, to hear and consider the comments and testimony of those wishing to speak at such public hearing regarding the moratorium.

Section 7. Severability. If any sections, sentence, clause or phrase of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this Resolution or its application to any other person, property or circumstance.

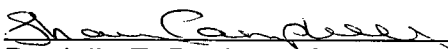
Section 8. Effective Date. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this 16th day of June, 2014.

CITY OF AUBURN


NANCY BACKUS, MAYOR

ATTEST:


Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:


Daniel B. Heid, City Attorney



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing on Application for Right-of-Way Vacation V3-14

Date:

June 10, 2014

Department:

Public Works

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council to hold a public hearing in consideration of Right-of-Way Vacation V3-14. See Ordinance No. 6511, later on the agenda, for additional materials.

Background Summary:

Per Auburn City Code Chapter 12.48 a public hearing shall be held to consider the proposed right-of-way vacation for V3-14 for the right-of-way of the alley between South Division Street and A Street SE, south of 1st Street SE. The date of the public hearing was set by Resolution No. 5073 on June 16, 2014.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: PH.2



AGENDA BILL APPROVAL FORM

Agenda Subject:

July 14, 2014 Minutes

Date:

July 16, 2014

Department:

Police

Attachments:

[July 14, 2014 Minutes](#)

Budget Impact:

\$0

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

Councilmember: Peloza

Staff:

Meeting Date: July 21, 2014

Item Number: MS.1



**Municipal Services Committee
July 14, 2014 - 3:30 PM
City Hall Conference Room 3
MINUTES**

I. CALL TO ORDER

Chair Peloza called the meeting to order at 3:30 p.m. in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

A. Roll Call

Members present: Chair Bill Peloza, Vice Chair Wayne Osborne and Member Claude DaCorsi.

Staff present: Mayor Nancy Backus, Chief of Police Bob Lee, Innovation & Technology Director Ron Tiedeman, Finance Director Shelley Coleman, Assistant Director of Public Works Services Randy Bailey, Solid Waste and Recycling Supervisor Joan Nelson, Project Engineer Seth Wickstrom and Police Secretary/Scribe Terry Mendoza. **Others present:** Auburn Reporter representative Robert Whale.

B. Announcements

C. Agenda Modifications

II. CONSENT AGENDA

A. June 23, 2014 Minutes

Vice Chair Osborne moved to accept the Minutes as presented. Member DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

B. Public Works Project No. CP1324 (Coleman)

Project Engineer Seth Wickstrom briefed the Committee on Public Works Project No. CP1324. This is the slurry seal project for the Auburn Airport. The bids were requested with optional schedules to accommodate the financing time line of the project. Blackline, Inc.'s overall bid was the lowest one received and they were awarded all three schedules. They are a new contractor for the City but the consultant has worked with them previously and had good reviews of their work. Chair Peloza inquired about the airport's contribution towards the project out of the 435 fund. Finance Director

Shelley Coleman stated the airport would be contributing \$178,300.00 of the total project amount of \$740,172.00. Additionally, the airport's contribution is a conservative amount and could decrease once the final grant amount from the FAA/WSDOT is awarded. Staff is recommending City Council award Contract No. 14-03, to Blackline Inc. on their low bid of \$527,830.32 plus Washington State sales tax of \$50,143.88 for a total contract price of \$577,974.20 for Project No. CP1324, Asphalt Rehabilitation and Seal Coat. Committee discussion followed.

Vice Chair Osborne moved to forward Public Works Project No. CP1324 to full Council for consideration. Member DaCorsi seconded. Chair Pelosa concurred.

MOTION PASSED: 3-0

III. DISCUSSION ITEMS

A. Shopping Carts (Bailey)

Public Works Assistant Director, Randy Bailey, reported on the Shopping Cart program for January through June 2014. During the first half of this year the City billed a total of \$3,850.00 for shopping carts with an outstanding balance total of \$1,100.00. Vice Chair Osborne asked what the City's cost is to run the program. Assistant Director Bailey estimated that the City collects between \$3,500.00-\$4,000.00 every six months (or about \$8,000.00 per year) and this covers about half of what it costs to administer the program. The process is extensive and involves more than one City department. This process is also frustrating to the stores. Since the City is not seeing any positive returns from the program, staff recommends that City Council suspend the Ordinance so a test can be conducted to deliver abandoned carts back to the stores. Committee discussion followed and a request was made for Assistant Director Bailey to provide them with a proposal for the Committee to take to full Council.

Vice Chair Osborne moved to suspend the City Code on shopping carts for one year. Member DaCorsi seconded. Chair Pelosa concurred.

MOTION PASSED: 3-0

B. Direct Billing for Garbage Disposal (Coleman)

Finance Director Shelley Coleman provided a report on Direct Billing for garbage disposal. The background on this issue is that the Metropolitan Solid Waste Management Advisory Committee (MSWMAC) worked with King County and local solid waste haulers to develop an agreement that allows a city to pay King County directly

for disposal fees instead of its contracted solid waste hauler. This is a potential option for the City to consider and could reduce the City's disposal costs. Director Coleman advised that administrative costs are currently 'invisible' to us (built in to the costs); however, when we go into negotiations they could add in administrative services fees or an increase in rates. The current Waste Management contract with the City does not have the direct billing option available. Committee discussion followed.

C. Telecommunication Leases (Tate)

Innovation and Technology Director Ron Tiedeman briefed the committee on Telecommunication Leases for the City. Currently, Auburn City Code 20.08.070 establishes a term limitation for leasing City facilities to telecommunication providers for a maximum of five years. Staff is proposing that the code be amended in order to provide the City with more flexibility to leverage city resources to fund and/or accomplish projects and to provide resources to its residents now and in the future while still meeting applicable code and application requirements. The way City Code is currently written the City is unable to authorize a 5, 10, 15 year or longer lease. Amending the code would help the City fulfill desired capital projects. Vice Chair Osborne shared that he did not see any disadvantages to amending this code and it would provide vendors with a better certainty of return on their investment. Committee discussion followed.

D. Resolution No. 5081 - City of Milton ILA (Tiedeman)

Ron Tiedeman, Innovation and Technology Director, introduced Resolution No. 5081 to the committee. This is a Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an interlocal agreement between the City of Auburn and the City of Milton for information technology services. This ILA is similar to other agreements that the City has with four other agencies for IT related support. The only difference is that \$1,500.00 in up front charges for administrative fees due to specific consulting work requests requiring additional staff and management time has been included in the agreement. There are still administrative fees built into the hourly rates and the remainder of the contract remains the same. This includes the standard CPI, mileage and travel expenses. Committee discussion followed.

E. Animal Control and Rescue (Lee)

Chief of Police Bob Lee reported on Animal Control operations for the second quarter of 2014. The statistics show that the animal control numbers are now somewhat leveling off. The number of calls to 911 and self-initiated calls have increased over this same period in the previous year. In this quarter there was one wildlife-related call and it involved the transportation of a baby raccoon to a nearby wildlife

veterinarian/rehabilitation facility. Vice Chair Osborne requested the inclusion of the number of citizens that received an infraction for a second or third offense in the next quarterly report. Committee discussion followed.

F. APD Range (Lee)

Chief Bob Lee updated the committee on the Auburn Police Department (APD) Firearms Range. The range has been at its present location for more than 35 years and has been used by a multitude of local jurisdictions/agencies for their mandatory firearms training and annual qualifications. As the surrounding residential area became more populated the APD instituted several restrictions and considerably reduced the number of jurisdictions/agencies allowed to utilize the range. Currently, it is used for firearms training and yearly qualifications for current APD staff and retirees, Valley SWAT team training, and qualifications for SCORE (South Correctional Entity) armed officers. Days and hours of operation have been limited to Monday through Friday from 8:00 a.m. to 5:00 p.m. On rare occasions a Saturday training has been approved and nearby residents were notified well in advance of the scheduled training/activity. Committee discussion followed.

G. Project Matrix

The following updates were identified for the Project Matrix:

Item 10P: Review date was changed to "TBD (To Be Determined)." Status updated.

Item 20P: Review date changed to 10/13/14.

Item 28P: Status updated.

Item 3I: Review date changed to 7/28/14. Status updated.

IV. ADJOURNMENT

The meeting was adjourned at 4:30 p.m. The next regular meeting of the Municipal Services Committee is scheduled for Monday, July 28, 2014 in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

Signed this _____ day of July, 2014.

Bill Peloza, Chair

Terry Mendoza, Police Secretary/Scribe



AGENDA BILL APPROVAL FORM

Agenda Subject:

July 14, 2014 Minutes

Date:

July 16, 2014

Department:

Planning and Development

Attachments:

[July 14, 2014 Draft Minutes](#)

Budget Impact:

\$0

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

Councilmember: Holman

Staff:

Meeting Date: July 21, 2014

Item Number: PCD.1



**Planning and Community
Development
July 14, 2014 - 5:00 PM
Annex Conference Room 2
MINUTES**

I. CALL TO ORDER

Chair Holman called the meeting to order at 5:00 p.m. in Annex Conference Room 2 located on the 2nd floor of One Main Professional Plaza, One East Main Street, Auburn, Washington.

A. Roll Call

Chair John Holman, Vice-Chair Largo Wales and Member Yolanda Trout were present. Also present were Mayor Nancy Backus, Director of Community Development and Public Works Kevin Snyder, City Attorney Dan Heid, Director of Administration Michael Hursh, Assistant Director of Community Development Services Jeff Tate, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Planning and Design Services Manager Elizabeth Chamberlain, Environmental Services Manager Chris Andersen, Engineering Aide Amber Mund, and Planning Secretary Tina Kriss.

Members of the audience present: Blake Haddock, Colin Thorpe, Jessie Winkler of the USACE, Russ Campbell, and Robert Whale of the Auburn Reporter.

B. Announcements

Staff explained that an attachment has been provided to replace the Annotated Outline & Summary, attached to the Agenda Bill to Resolution No. 4959.

C. Agenda Modifications

There was one agenda modification transmitted to the Agenda under III. ACTION:

III. B. Resolution No. 5084

A Resolution of the City Council of the City of Auburn, Washington, Authorizing the Mayor and the City Clerk of the City of Auburn to enter into an Interlocal Cooperation Agreement between the City and King County, for the purposes of administering the Federal Home Investment Partnership Program (Home).

II. CONSENT AGENDA

A. Minutes - June 23, 2014 (Tate)

Vice-Chair Wales moved and Member Trout seconded to approve the June 23, 2014 Planning and Community Development Committee minutes as written.

Motion carried unanimously. 3-0

III. **ACTION**

A. Resolution No. 4959

Environmental Services Manager Chris Andersen introduced Jessie Winkler, Chief of the US Army Corps of Engineers (USACE), Seattle District who is active in assisting in the partnership of design and construction between the USACE and the City of Auburn. An introduction was also provided for Michael P. Stronger, AICP, of Maul Foster Alongi, who is assisting the City with project management.

Environmental Services Manager Chris Andersen distributed a handout overview depicting the project location, key restoration outline, and highlights the partners participating financially in support of the project.

The Committee and staff reviewed changes within the Annotated Outline and Summary, deleting the suspension provision in Article II previously included. If the bid were to come in exceeding the government cost estimate budgeted by the USACE or the City, there would be no obligation to award the contract. Staff pointed out that the only change that may be made to the Project Partnership Agreement is that the signatory for the USACE as there will be a change of command this month for Colonel Bruce A. Estok. The Committee and staff reviewed the crediting and funding sources, cost sharing, and project costs. The total cost estimate developed and projected by the USACE is \$5,738,048.00.

The Committee expressed their appreciation to the USACE in partnering with the City on the restoration project; providing support with budget and cost issues without jeopardizing quality to produce a successful project to build on in the future. Staff reviewed the project timeline and moving Resolution No. 4959 to Public Works for discussion and to City Council for consideration at their July 21, 2014 meetings. The Committee was supportive of Resolution No. 4959.

Vice-Chair Wales moved and Member Trout seconded to recommend City Council adopt Resolution No. 4959.

Motion carried unanimously. 3-0

B. Resolution No. 5084

A Resolution of the City Council of the City of Auburn, Washington, Authorizing the Mayor and the City Clerk of the City of Auburn to enter into an Interlocal Cooperation Agreement between the City and King County, for the purposes of administering the Federal Home Investment Partnership Program (Home).

Director of Administration Michael Hursh provided the staff report on Resolution No. 5084. If adopted, Resolution No. 5084 would allow the City to renew the interlocal agreement with King County as a HOME partner. This Housing and urban Development program is specifically designed to address affordable housing in communities and support for developers that can meet the local goals. Passage of the agreement will also renew the City's seat on the Joint Recommendations Committee (RJC) of King County to maintain a position on the Consortium's official voting body.

A discussion was held regarding the City's block grant funding received and HOME funds. The Committee was supportive of Resolution No. 5084.

Vice-Chair Wales moved and Member Trout seconded to recommend City Council adopt Resolution No. 5084.

Motion carried unanimously. 3-0

IV. DISCUSSION ITEMS

A. Resolution No. 5078 (Mund)

Engineering Aide Amber Mund presented Resolution No 5078, setting the public hearing for Franchise Agreement No. 13-28 Electronic Lightwave LLC for September 2, 2014 at 7:30 pm in Council Chambers. After review, the Committee had no questions regarding Franchise Agreement No. 13-28 for Resolution No. 5078 to set the public hearing before City Council.

B. Communal Housing Follow-Up Discussion (Tate)

Discuss modifications to the communal residence program, policies, and regulations.

Assistant Director of Community Development Services Jeff Tate opened the discussion on Communal Housing by providing a brief history regarding the City's Communal Housing program and the outcome of the Conditional Use Permit decisions that went before the Hearing Examiner May 28, 2014 regarding communal housing. He also updated the Committee that Council adopted Resolution No. 5079 establishing a moratorium on the acceptance or processing of applications for business licenses and other licenses, permits and approvals for communal residential rental housing. A public hearing

has been scheduled for July 21, 2014 to further consider the moratorium.

Several questions were posed to the Committee to facilitate the conversation regarding communal residence standards and the city's rental housing standards. A discussion was held regarding family homes, group residence facilities, and residences that have a rehabilitation focus and the state rules and regulations.

The Committee stated that while they do promote businesses, e.g. day cares, and other residence facilities, these businesses are required to have specific guidelines mandated by the state. Student rentals are not mandated by the state and do not require specific regulations, they are not monitored or regulated. A concern arises for student health, life/safety issues when rentals are not monitored or regulated, and without oversight it may not preserve neighborhoods.

A discussion took place regarding the Hearing Examiner's conditions placed on the CUPs conditions and the possibility of using those conditions in a revised code. The Committee expressed their concern for the students living in these communal residences without oversight from the owners, the owners may not live locally.

The Committee and staff discussed the option of using distance, the number of bedrooms, and student tracking as guidelines for communal residences. Staff pointed out that the implementation of any of any program that has multiple layers requires monitoring, tracking and review by City staff which may cycle every three months.

Chair Holman invited members of the audience forward to comment on communal housing.

Colin Thorpe, 31036 123rd Lane SE, Auburn

Mr. Thorpe explained that he is on the board for the Village Square at Lea Hill Condominiums. There are two student rentals located in the complex; the neighbors enjoyed their homes before these student rentals were present and now believe they went from "heaven" to "hell". An unknown number of students flow in and out of the homes with rotating tenants every three months. With no space between the homes the noise transfer is a nuisance. The owner of the student rental does not maintain his homes, pay the water bill, or Home Owners Association fees. With no resident parking the students take up the guest parking for everyone.

Russ Campbell, 31606 126th Ave SE, Auburn

Mr. Campbell distributed a letter submitted by Shao Xia Zhu and Gary Kiefer that included a letter by Robert DeWitt dated June 17, 2013. The letter was submitted as part of the public comment

response from the May 28, 2014 Hearing Examiner meeting. Mr. Campbell explained that Mr. Dewitt's letter points out that he limited his property rental, one person to each of the regular bedrooms. The letter also stated that the best use of the homes in the neighborhood is for auxiliary student housing, investors purchasing these homes, not young families.

Mr. Campbell pointed out that 95% of the homes in Rainier Ridge neighborhood, based on the County records, have 4 or less bedrooms (54% with 3 or less bedrooms).

After discussion, the Committee determined that they would like staff to provide language that would allow communal residences for 4 or fewer occupants, with the rentals spread out, and removing the option of applications for conditional use permits for over 4 occupants. Staff will draft code language to bring forward to the Planning Commission.

- C. Comprehensive Plan Update Overview (Chamberlain)
Provide an overview of the comprehensive plan and amendment process.

Planning and Design Services Manager Elizabeth Chamberlain provided an overview of the comprehensive plan amendment process, including how the state requirements and regional documents relate to Auburn's Comprehensive Plan update. The Committee and staff discussed the optional elements. Staff distributed a spreadsheet which shows the lead committee and staff which will provide the coordination for the various chapter updates. The deadline for the Comprehensive Plan update is June 30, 2015.

- D. Director's Report (Tate)

Assistant Director Tate reported that a new Code Compliance Officer has been hired, Chris Barack. The city will be recruiting for a new Planner to focus on urban design, commercial projects, and pedestrian and parking issues as well as coordinating with the Auburn Downtown Association.

Orion Aerospace has been issued a Certificate of Occupancy. They still have a few items to complete and will be coordinating with City staff. Indian/Victory Motorcycle of Auburn has also been issued their Certificate of Occupancy.

The additional concrete pour to the 2nd floor of the Trek Apartments will take place on Tuesday.

Developer Blake Haddock of La Quinta, CA introduced himself to the Committee and stated he purchased property in the Lakeland area

and will be developing a residential subdivision.

E. PCDC Status Matrix (Tate)

A discussion was held regarding the pedestrian kiosks costs and a walking tour, no changes or additions to the PCDC Status Matrix were requested.

V. **ADJOURNMENT**

There being no further business to come before the Planning and Community Development Committee, the meeting was adjourned at 7:25 p.m.

Approved this _____ day of _____,
2014.

John Holman - Chair

Tina Kriss - Planning Secretary



AGENDA BILL APPROVAL FORM

Agenda Subject:

July 7, 2014 Minutes

Date:

July 15, 2014

Department:

Public Works

Attachments:

[Draft Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

See attached draft minutes.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff:

Meeting Date: July 21, 2014

Item Number: PW.1



**Public Works Committee
July 7, 2014 - 3:30 PM
Annex Conference Room 2
MINUTES**

I. CALL TO ORDER

Chairman Wayne Osborne called the meeting to order at 3:30 p.m. in Conference Room #2, located on the second floor of Auburn City Hall, One East Main Street, Auburn, Washington.

A. Roll Call

Chairman Wayne Osborne, Vice-Chair Bill Peloza, and Member Claude DaCorsi were present. Also present during the meeting were: Mayor Nancy Backus, Community Development & Public Works Director Kevin Snyder, Assistant Director of Engineering/City Engineer Ingrid Gaub, Assistant Director of Public Works Operations Randy Bailey, Assistant City Engineer Jacob Sweeting, Transportation Manager Pablo Para, Finance Director Shelley Coleman, City Attorney Dan Heid, Engineering Aide Amber Mund, Street Systems Engineer Jai Carter, Project Engineer Matt Larson, Project Engineer Seth Wickstrom, Environmental Services Manager Chris Andersen and Public Works Secretary Molly Mendez.

Members of the public in attendance included: Mike Stringer.

B. Announcements

There were no announcements.

C. Agenda Modifications

There was one agenda modification, removing Action Item F, Public Works Project No. CP1104, from the agenda.

II. CONSENT AGENDA

A. Approval of Minutes

Public Works Committee to approve the minutes of the June 16, 2014 Public Works Committee meeting.

Vice-Chair Peloza noted a minor error on page 4 of the minutes.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve the Public Works Committee Meeting minutes for date, June 16, 2014, as amended.

Motion carried 3-0.

III. ACTION

- A. Right-of-Way Use Permit No. 14-25 (Mund)
Approve Right-of-Way Use Permit No. 14-25 for Lehnertz Family LLC
- Engineering Aide Mund explained Right-of-Way Use Permit No. 14-25 is for Lehnertz Family LLC. Lehnertz Family LLC has applied for renewal of a Right-of-Way Use Permit for a term of five years. This permit is for existing awnings and canopies attached to the Truitt Building.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve Right-of-Way Use Permit No. 14-25 for Lehnertz Family LLC.

Motion carried 3-0.

- B. Right-of-Way Use Permit No. 14-26 (Mund)
Approve Right-of-Way Use Permit No. 14-26 for Scarff Motors Inc.
- Engineering Aide Mund explained Right-of-Way Use Permit No. 14-26 is for Scarff Motors Inc to continue to park vehicles in the right-of-way surrounding their property. This is a five year renewal of a recently expired permit.

Engineering Aide Mund responded to a question asked by Vice-Chair Peloza regarding rent collection.

Answering a question asked by Member DaCorsi, Engineering Aide Mund explained the spot mark process.

Member DaCorsi noted a Scrivener's error on page 15, paragraph 6A. Engineering Aide Mund will correct.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve Right-of-Way Use Permit No. 14-26 for Scarff Motors Inc.

Motion carried 3-0.

- C. Public Works Project No. CP1224 (Wickstrom)
Approve Final Pay Estimate No. 9 to Contract No. 13-04 in the amount of \$21,373.86 and accept construction of Project No. CP1224, 2013 Local Street pavement Reconstruction Project

Project Engineer Wickstrom provided a brief background summary of the project. There were no questions from the Committee.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve Final Pay Estimate No. 9 to Contract No. 13-04 in the amount of \$21,373.86 and accept construction of Project No. CP1224, 2013 Local Street Pavement Reconstruction Project.

Motion carried 3-0.

- D. Public Works Project No. CP1225 (Wickstrom)
Approve Final Pay Estimate No. 5 to Contract No. 13-05 in the amount of \$4,720.00 and accept construction of Project No. CP1225, West Valley Highway System Preservation Project

Project Engineer Wickstrom provided a brief background summary of the project. There were no questions from the Committee.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve Final Pay Estimate No. 5 to Contract No. 13-05 in the amount of \$4,720.00 and accept construction of Project No. CP1225, West Valley Highway System Preservation Project.

Motion carried 3-0.

- E. Public Works Project No. CP1024 (Larson)
Award Contract No. 14-06 to Rodarte Construction, Inc. on their low bid of \$577,667.45 for Project No. CP1024, M Street SE and Auburn Way South Intersection Improvements

Assistant City Engineer Sweeting explained that staff is asking for permission to award Contract No. 14-06.

Assistant City Engineer Sweeting responded to a question asked by Member DaCorsi regarding the engineers estimate and low bid amount.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee award Contract No. 14-06 to Rodarte Construction, Inc. on their low bid of \$577,667.45 for Project No. CP1024, M Street SE and Auburn Way South Intersection Improvements.

Motion carried 3-0.

- F. Public Works Project No. CP1104 (Larson)
Reject all Bids and Re-advertise Contract No. 14-09 for Project No. CP1104, 8th St NE and 104th Ave SE Intersection Improvements

Action Item F was removed from the agenda.

- G. Public Works Project No. CP1323 (Carter)
Approve Award of Contract No. 14-11, to the Lowest Responsible

Bidder for Project No. CP1323, 2014 Local Street Pavement Reconstruction Project

Street System Engineer Carter distributed updated agenda bill information on the bid and provided a brief background summary of the project. There were no questions from the Committee.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve award of Contract No. 14-11, to the lowest responsible bidder for Project No. CP1323, 2014 Local Street Pavement Reconstruction Project.

Motion carried 3-0.

- H. Public Works Project No. CP1301 (Carter)
Approve Final Pay Estimate No. 4 to Contract No. 13-20 in the amount of \$46,235.40 and accept construction of Project No. CP1301, 2013 Citywide Sidewalk Repair Project

Street System Engineer Carter provided a brief background summary of the project. There were no questions from the Committee.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve Final Pay Estimate No. 4 to Contract No. 13-20 in the amount of \$46,235.40 and accept construction of Project No. CP1301, 2013 Citywide Sidewalk Repair Project.

Motion carried 3-0.

IV. DISCUSSION ITEMS

- A. Revenue Manual (Coleman)
2014 Revenue Manual

For the purpose of these minutes, this item was discussed after Discussion Item C.

Finance Director Coleman responded to a question asked by Chairman Osborne regarding the percentage which goes towards arterial street improvement funding.

- B. Resolution No. 5080 (Bailey)
A Resolution of the City Council of the City of Auburn, Washington Declaring Certain Items of Property as Surplus and Authorizing their Disposal

For the purpose of these minutes, this item was discussed after Discussion Item A.

Assistant Director of Public Works Operations Bailey provided an

overview of Resolution No. 5080.

In response to a question asked by Member DaCorsi, Assistant Director of Public Works Operations Bailey explained the surplus process.

Responding to a question asked by Vice-Chair Peloza, Assistant Director of Public Works Operations Bailey advised as to how a non-profit organization would be able to acquire a surplus item.

- C. Mill Creek Wetland 5K Restoration Project (Andersen)
Review and discuss the federal/non-federal partnership agreement for City Project No. CP0746

For the purpose of these minutes, this item was discussed prior to Discussion Item A.

Environmental Services Manager Andersen asked for Chairman Osborne's permission to include Mike Stringer (with the environmental consulting firm) at the table for this discussion. Chairman Osborne permitted.

Environmental Services Manager Andersen provided overview of the project.

There was a short group discussion regarding the total estimated project cost and what the costs to the City would be following a question asked by Chairman Osborne.

Member DaCorsi asked if the funding will no longer be available if the deadline is not met. Environmental Services Manager Andersen responded stating it has been indicated by the Corp that it is highly likely that the funds will not be available if it is not secured by the deadline.

In response to a question asked by Chairman Osborne, Environmental Services Manager Andersen outlined what the continued maintenance will be once construction is complete.

There was a short conversation regarding beaver dams near this project location.

- D. Capital Project Status Report (Sweeting)

Item 25 – CP1304 – 37th St & B St NW BNSF Pre-Signal:

Responding to a question asked by Member DaCorsi, Assistant City Engineer Sweeting explained the City has obtained a tentative approval from BNSF for the proposed design using the Railroads cantilever structure and currently the process of negotiating the

agreement is underway.

E. Significant Infrastructure Projects by Others - Public Works Status Report (Gaub)

Assistant City Engineer provided updated information to the Committee regarding the replacement of gas lines on Auburn Way South following a question asked by Chairman Osborne.

F. Action Tracking Matrix (Gaub)

Item F – 105th Street Sewer Odor:

Assistant Director of Public Works Operations Bailey advised there are no new findings on this item in response to a question asked by Chairman Osborne.

V. ADJOURNMENT

There being no further business to come before the Public Works Committee, the meeting was adjourned at 4:22 p.m.

Approved this 21st day of July, 2014.

Wayne Osborne
Chairman

Molly Mendez
Public Works Department Secretary



AGENDA BILL APPROVAL FORM

Agenda Subject:

July 7, 2014 Minutes

Date:

July 15, 2014

Department:

Administration

Attachments:

[7-7-2014 minutes](#)

Budget Impact:

\$0

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

Finance

Councilmember: Wales

Staff:

Meeting Date: July 21, 2014

Item Number: FN.1



**Finance Committee
July 7, 2014 - 5:00 PM
Annex Conference Room 1
MINUTES**

I. CALL TO ORDER

Chair Largo Wales called the meeting to order at 5:00 p.m. in Annex Conference Room 1 located on the second floor of the City Hall Annex located at 1 East Main Street in Auburn.

A. Roll Call

Chair Wales, Vice Chair Holman and Member Yolanda Trout were present.

Officials and staff members present included: Mayor Nancy Backus, City Attorney Daniel B. Heid, Chief of Police Bob Lee, Community Development and Public Works Director Kevin Snyder, Assistant Director of Public Works Services Randy Bailey, and Deputy City Clerk Shawn Campbell.

B. Announcements

There was no announcement.

C. Agenda Modifications

There was no change to the agenda.

II. CONSENT AGENDA

A. June 16, 2014 Minutes

Vice Chair Holman moved and Member Trout seconded to approve the June 16, 2014 minutes as distributed.

MOTION CARRIED UNANIMOUSLY. 3-0

B. Claims Vouchers (Coleman)

Claims voucher numbers 429146 through 429591 in the amount of \$4,650,987.48 and four wire transfers in the amount of \$66,016.33 and dated July 7, 2014.

Member Trout asked about the utility rebate vouchers. Director Coleman stated the City has a program that once a year allows low income seniors and disabled citizens to apply for a discount on their utility bill.

Vice Chair Holman moved and Member Trout seconded to approve and forward the claims and payroll vouchers to the full Council for consideration.

MOTION CARRIED UNANIMOUSLY. 3-0

- C. Payroll Vouchers (Coleman)
Payroll check numbers 534787 through 534815 in the amount of \$266,695.93 and electronic deposit transmissions in the amount of \$1,332,861.27 for a grand total of \$1,599,557.20 for the period covering June 12, 2014 to July 2, 2014.

See claims vouchers above for approval of payroll vouchers.

III. ORDINANCES

- A. Ordinance No. 6510 (Coleman)
An Ordinance of the City Council of the City of Auburn, Washington, amending Ordinance No. 6432, the 2013-2014 Biennial Budget Ordinance, as amended by Ordinance No. 6456, Ordinance No. 6462, Ordinance No. 6472, Ordinance No. 6473, Ordinance No. 6474, Ordinance No. 6481, Ordinance No. 6502, authorizing amendment to the City of Auburn 2013-2014 Budget as set forth in Schedule "A" and Schedule "B"

Director Coleman presented Ordinance No. 6510. She explained the Finance Department prefers to wait until the audit has been completed before adjusting the ending fund balances from the previous year. The audit has now been completed and with this budget amendment the ending fund balance from 2013 will become actuals. The Police Department is also filling 5 supernumerary positions that are expected to be vacated in the next six months.

Vice Chair Holman discussed the length of time it takes to hire a police officer, get them fully trained and out on the streets. Chief Lee stated it is currently taking approximately a year and a half. Part of the time is waiting for an opening in the police academy.

Vice Chair Holman moved and Member Trout seconded to approve and forward Ordinance No. 6510 to the full Council for consideration.

MOTION CARRIED UNANIMOUSLY. 3-0

IV. RESOLUTIONS

A. Resolution No. 5080 (Bailey)

A Resolution of the City Council of the City of Auburn, Washington, declaring certain items of property as surplus and authorizing their disposal

Assistant Public Works Director Bailey introduced Resolution No. 5080. He explained the resolution is to surplus three patrol cars, two motorcycles and various equipment.

Vice Chair Holman moved and Member Trout seconded to approve and forward the Resolution No. 5080 to the full Council for consideration.

MOTION CARRIED UNANIMOUSLY. 3-0

V. DISCUSSION ITEMS

A. Ordinance No. 6514 (Heid)

An Ordinance of the City Council of the City of Auburn, Washington, creating a new Chapter 9.84 of the Auburn City Code relating to lewd conduct

City Attorney Heid introduced Ordinance No. 6514. He stated currently some lewd conduct does not constitute a chargeable offense. This ordinance will give police officers additional tools for effective law enforcement.

Vice Chair Holman explained some jurisdictions adopt portions of the Revised Code of Washington (RCW) by reference. He provided three examples of how other jurisdictions have adopted portions of the RCW by reference, he said it is sometimes difficult for officers to find to correct statute to enforce.

B. Revenue Manual (Coleman)
2014 Revenue Manual

Director Coleman presented the Revenue Manual to the Committee. She explained the different revenue streams and taxes the City receives, how each dollar a resident pays in property tax or sales tax is divided amount the local, county, state and federal government. She also explained how the City of Auburn compares to other cities in the region based on the per-capita valuation of revenues of each jurisdiction. The City plans to have this document available on the website for citizens to review.

VI. ADJOURNMENT

There being no further business to come before the Committee, the meeting adjourned at 5:26 p.m.

APPROVED this _____ day of July, 2014.

LARGO WALES, CHAIR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

July 21, 2014 Junior City Council meeting

Date:

July 16, 2014

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

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

Councilmember: Wagner

Staff:

Meeting Date: July 21, 2014

Item Number:



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the July 7, 2014 regular meeting

Date:

July 15, 2014

Department:

Administration

Attachments:

[7-7-2014 Meeting Minutes](#)

Budget Impact:

\$0

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

Meeting Date: July 21, 2014

Staff:

Item Number: CA.A



**City Council Meeting
July 7, 2014 - 7:30 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

A. Flag Salute

Mayor Nancy Backus called the meeting to order at 7:30 pm and led those in attendance in the Pledge of Allegiance.

B. Roll Call

City Councilmembers present: Deputy Mayor Wagner, Bill Peloza, Largo Wales, Wayne Osborne, John Holman, Claude DaCorsi, and Yolanda Trout.

Department Directors and staff members present: Community Development and Public Works Director Kevin Snyder, Finance Director Shelley Coleman, City Attorney Daniel B. Heid, Police Chief Bob Lee, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Engineering Aide Amber Mund, Director of Administration Michael Hursh, and Deputy City Clerk Shawn Campbell.

C. Announcements, Appointments, and Presentations

There was no announcement, appointment or presentation.

D. Agenda Modifications

Updated information for Public Works Project CP1323 was provided to Council.

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Right-of-Way Vacation V2-14 (Osborne/Snyder)

City Council to conduct a public hearing on a petition for vacation of un-opened right-of-way at the location of South 324th Street between 46th Place South and 51st Avenue South, south of South 321st Street and adjacent to Parcel Nos. 1521049128, 1521049001, 1521049020, 9262800271, 9262800194 and 9262800201.

Engineering Aide Mund provided Council with the staff presentation for the project. She explained the City is considering a petition for the vacation of an un-opened right-of-way. The City has no need for the right-of-way. The right-of-way was dedicated for public street purposes to King County in 1907 through a plat dedication. The developer has applied for the right-of-way dedication to incorporate the right-of-way into the development of the adjoining property. City staff, other jurisdictions and utility purveyors have reviewed the application and determined there are no public or private utilities in the right-of-way that would require easements. City staff support the vacation on the condition the vacation would become effective upon the final plat recordation, as long as the final plat provides a right-of-way easement for network connections between 46th and 51st. Staff also recommend a temporary construction easement be granted over the area to be vacated to assist the applicant in achieving final plat.

Mayor Backus opened the hearing at 7:33 p.m.

Virginia Haugen, 2503 R Street SE, Auburn
Ms. Haugen asked how many houses will be built in the proposed development.

Director Snyder stated the plat map show 154 lots.

Kathy Gough - 32521 46th Avenue S, Auburn
Ms. Gough asked what will happen to the road below the new right-of-way. She is concerned this will increase traffic and crime by her home. She wants to know what the Council intends to do to make residents feel safe.

Director Snyder stated the preliminary plans regarding the proposed plat are an exhibit to Ordinance No. 6509. This item has been before the Hearing Examiner and the City is awaiting the Hearing Examiner's decision regarding the approval of the preliminary plat. The City Council does not typically have involvement in preliminary plat consideration. The item before the Council is only the right-of-way vacation.

Al Brown, 32261 46th Place S, Auburn
Mr. Brown stated he lives across the street from the proposed development. He asked if the plat had been approved. Director Snyder explained the decision is currently at the Hearing Examiner and explained the process a developer must go through to receive final plat approval. Mr. Brown stated he has lived across the street from the development for 44 years and does not want his property encumbered by more traffic. He would like to

get the actual information on the proposed plat. Director Snyder offered staff to meet with citizens to answer questions.

Nick Abdelnour, 11624 SE ST, Bellevue
Mr. Abdelnour works for Polygon NW and offered to sit down citizens with questions or concerns regarding this development.

Mayor Backus closed the hearing at 7:43.

B. Audience Participation

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

Liz Tidyman, 1720 140th Lane SE, Bellevue
Ms. Tidyman stated she would like to inform the Council that the Washington State Department of Health Certificate of Need program will hold a public hearing on July 15, 2014 regarding a planned nursing home at Wesley Homes on Lea Hill.

Christina Enriquez, 4027 S 340th Street, Auburn
Ms. Enriquez stated she has worked as a public health nurse in the area for 29 years. She is appalled by King County's plan to close the Auburn and Federal Way Public Health offices. She asked for assistance getting information to citizens who will be affected. She also asked the Council to address this concern with the King County Council.

Carol Tanaka, 5036 Elizabeth Loop SE, Auburn
Ms. Tanaka stated she is a nurse practitioner at the Auburn Public Health Clinic. She sees a large amount of homeless and at risk people who use their services. She is concerned if King County closes the Auburn Public Health office these citizens will not have adequate health care. She asked for support from the Council with petitioning the King County Council.

Mayor Backus thanked both nurses for their efforts on behalf of the citizens of Auburn.

Virginia Haugen, 2503 R Street SE, Auburn
Ms. Haugen commented on a business closing due to redevelopment.

C. Correspondence

There was no correspondence for City Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

Chair Peloza reported the Municipal Services Committee met on June 23, 2014. The Committee reviewed Ordinance No. 6514 creating a new chapter of the Auburn City Code regarding lewd conduct. The next regular meeting of the Municipal Services Committee is scheduled for July 14, 2014.

B. Planning & Community Development

Chair Holman reported the Planning and Community Development Committee met June 23, 2014. The Committee reviewed the 2015 Comprehensive Plan amendments, the Mill Creek 5 K Restoration Project, Assistant Director of Community Development Services Jeff Tate gave an overview of the plat planning process and the connectivity of the Auburn community. The next regular meeting of the Planning and Community Development Committee is scheduled for July 14, 2014.

C. Public Works

Chair Osborne reported the Public Works Committee met this afternoon at 3:30. The Committee reviewed right-of-way permits, approval of final pay estimates for the 2013 Local Street Pavement Project, the West Valley Preservation Project, award the contract for M Street SE and Auburn Way S Construction Improvement Project to Rodarte Construction, approval of the contract to Rodarte Construction for 2014 Local Street Pavement Reconstruction Project and the approval of the final pay estimate for the 2013 Street Sidewalk Repairs Project. The Committee discussed the Revenue Manual, Resolution No. 5080 to surplus property, the Mill Creek 5 K Restoration Project, the capital project status report, significant projects within the City and the action tracking matrix. The next regular meeting of the Public Works Committee is scheduled for July 21, 2014.

D. Finance

Chair Wales reported the Finance Committee met this evening at 5:00. The Committee reviewed claims vouchers in the amount of approximately \$4.7 million and payroll vouchers in the amount of approximately \$1.6 million. The Committee reviewed Ordinance No. 6510 amending the 2013-2014 budget and Resolution No. 5080 surplus items. The Committee also discussed Ordinance No. 6514 amending the Auburn City Code regarding lewd conduct and the Revenue Manual. The next regular meeting of the Finance Committee is scheduled for July 21, 2014.

E. Les Gove Community Campus

The next regular meeting of the Les Gove Community Campus Committee is scheduled for July 23, 2014.

F. Council Operations Committee

Deputy Mayor Wagner reported the Committee of the Whole met on June 30, 2014. The Committee received a presentation from the King Conservation District, the Auburn Downtown Association, the City of Auburn Utility Engineer regarding automating the utility meters and a short summary of the Imagine Auburn Project from Planning Services Manager Chamberlain.

Deputy Mayor Wagner reported on July 26, 2014 the Council held a Special City Council meeting to receive a presentation from SeaTac Mayor Mia Gregerson to discuss the City of SeaTacs' transition from Council Committees to study sessions.

The next regular meeting of the Council Operations Committee is scheduled for July 9, 2014.

G. Junior City Council

The next regular meeting of the Junior City Council is scheduled for July 21, 2014.

IV. 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 16, 2014 regular meeting
- B. Claims Vouchers (Wales/Coleman)
Claims voucher numbers 429146 through 429591 in the amount of \$4,650,987.48 and four wire transfers in the amount of \$66,016.33 and dated July 7, 2014.
- C. Payroll Vouchers (Wales/Coleman)
Payroll check numbers 534787 through 534815 in the amount of \$266,695.93 and electronic deposit transmissions in the amount of \$1,332,861.27 for a grand total of \$1,599,557.20 for the period covering June 12, 2014 to July 2, 2014.
- D. Public Works Project No. CP1224 (Osborne/Snyder)
City Council approve Final Pay Estimate No. 9 to Contract No. 13-04 in the amount of \$21,373.86 and accept construction of Project No. CP1224, 2013 Local Street pavement Reconstruction Project
- E. Public Works Project No. CP1225 (Osborne/Snyder)
City Council approve Final Pay Estimate No. 5 to Contract No. 13-05 in the amount of \$4,720.00 and accept construction of Project No. CP1225, West Valley Highway System Preservation Project
- F. Public Works Project No. CP1301 (Osborne/Snyder)

City Council approve Final Pay Estimate No. 4 to Contract No. 13-20 in the amount of \$46,235.40 and accept construction of Project No. CP1301, 2013 Citywide Sidewalk Repair Project

- G. Public Works Project No. CP1024 (Osborne/Snyder)
City Council award Contract No. 14-06 to Rodarte Construction, Inc. on their low bid of \$577,667.45 for Project No. CP1024, M Street SE and Auburn Way South Intersection Improvements
- H. Public Works Project No. CP1323 (Osborne/Snyder)
City Council approve Award of Contract No. 14-11, to the Lowest Responsible Bidder for Project No. CP1323, 2014 Local Street Pavement Reconstruction Project.

Mayor Backus announced Public Works Project CP1104 was removed from the agenda.

Deputy Mayor Wagner moved and Councilmember Peloza seconded to adopt the Consent Agenda as modified.

The Consent Agenda includes minutes, claims and payroll vouchers, and Public Works Projects.

MOTION CARRIED UNANIMOUSLY. 7-0

V. UNFINISHED BUSINESS

There was no unfinished business.

VI. NEW BUSINESS

There was no new business.

VII. ORDINANCES

- A. Ordinance No. 6509 (Osborne/Snyder)
An Ordinance of the City Council of the City of Auburn Washington, vacating un-opened right-of-way of South 324th Street between 46th Place South and 51st Avenue South, south of South 321st Street, within the City of Auburn, Washington

Councilmember Osborne moved and Councilmember Peloza seconded to introduce and adopt Ordinance No. 6509.

Ordinance No. 6509 vacates a 30 foot easement no longer needed by the City.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Ordinance No. 6510 (Wales/Coleman)
An Ordinance of the City Council of the City of Auburn, Washington,

amending Ordinance No. 6432, the 2013-2014 Biennial Budget Ordinance, as amended by Ordinance No. 6456, Ordinance No. 6462, Ordinance No. 6472, Ordinance No. 6473, Ordinance No. 6474, Ordinance No. 6481, Ordinance No. 6502, authorizing amendment to the City of Auburn 2013-2014 Budget as set forth in Schedule "A" and Schedule "B"

Councilmember Wales moved and Councilmember Holman seconded to introduce and adopt Ordinance No. 6510.

Ordinance No. 6510 amends the 2013 - 2014 Biennial Budget.

MOTION CARRIED UNANIMOUSLY. 7-0

- C. Ordinance No. 6514 (Peloza/Heid)
An Ordinance of the City Council of the City of Auburn, Washington, creating a new Chapter 9.84 of the Auburn City Code relating to lewd conduct

Councilmember Peloza moved and Councilmember Osborne seconded to introduce and adopt Ordinance No. 6514.

MOTION CARRIED UNANIMOUSLY. 7-0

- D. Ordinance No. 6516 (Holman/Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, approving the Final Plat of Lakeland Hills Estates

Councilmember Holman moved and Councilmember Osborne seconded to introduce and adopt Ordinance No. 6516.

MOTION CARRIED UNANIMOUSLY. 7-0

- E. Ordinance No. 6517 (Holman/Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, approving the final plat of Lakeland Area 9

Councilmember Holman moved and Councilmember Osborne seconded to introduce and adopt Ordinance No. 6517.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. RESOLUTIONS

- A. Resolution No. 5080 (Osborne/Snyder)
A Resolution of the City Council of the City of Auburn, Washington, declaring certain items of property as surplus and authorizing their disposal

Councilmember Wales moved and Councilmember Holman seconded to adopt Resolution No. 5080

MOTION CARRIED UNANIMOUSLY. 7-0

IX. 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 Wagner reported he attended the grand opening of Orion Industries new facility, the Auburn Area Chamber of Commerce presentation from the Washington State Insurance Commissioner, a welcome back celebration for Don Stevenson who walking to raise money for various charities, and the Regional Access Mobility Transportation Forum.

Councilmember DaCorsi reported he attended the Orion Industries' ribbon cutting and the 4th of July celebration.

Councilmember Wales reported she attended three meetings for the Pierce County Board of Health and a King County Board of Health meeting, the Puyallup River Watershed meeting and the 4th of July celebration.

Councilmember Holman reported he attended the National League of Cities Conference where he attended the First Tier Suburbs meeting.

Councilmember Peloza reported he attended the South County Area Transportation Board meeting, the Auburn Municipal Airport Advisory meeting, the King County Water Pollution Abatement meeting and the King County Flood Control District meeting. He also noted next Sunday at the Auburn International Farmers Market is the "Dog Days of Summer".

Councilmember Osborne reported he attended the Association of Washington Cities Conference, the tour of the Mill Creek 5 K Restoration area, the Good Eggs Breakfast, the Regional Water Quality Committee meeting, and the 4th of July celebration.

Councilmember Trout announced she met with Environmental Services Manger Chris Andersen regarding the Mill Creek Restoration Project. She attended the 4th of July celebration and the Association of Washington Cities Conference.

B. From the Mayor

Mayor Backus noted the Citizens of Auburn are very fortunate to have a Council that is involved at the local, regional, state and national

levels.

Mayor Backus reported she presided over the swearing in of a new police officer, received a visit from the Riverside Key Club, attended a SCORE meeting and the US Conference of Mayors.

X. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 8:53 p.m.

APPROVED this _____ day of July, 2014.

NANCY BACKUS, MAYOR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the June 11, 2014 special meeting

Date:

July 10, 2014

Department:

Administration

Attachments:

[Special meeting minutes](#)

Budget Impact:

\$0

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

Meeting Date: July 21, 2014

Staff:

Item Number: CA.B



**Special City Council Meeting
June 11, 2014 - 11:00 AM
Executive Conference Room
MINUTES**

I. CALL TO ORDER

Mayor Nancy Backus called the meeting to order at 11:02 a.m. in the Executive Council Room located at Auburn City Hall, 25 West Main Street in Auburn. The purpose of the special meeting was to receive the Washington State Auditor's Annual Audit entrance briefing.

Councilmembers Bill Peloza, John Holman, Wayne Osborne, and Yolanda Trout were present.

Finance Director Shelley Coleman, Financial Services Manager Rhonda Ewing, and City Clerk Danielle Daskam were present.

Representatives from the State Auditor's Office present: Audit Supervisor Janise Hansen, Audit Lead Moriah Banasick and Audit Manager Renee Meyer.

II. DISCUSSION ITEMS

A. Washington State Auditor's Office Annual Audit Entrance Briefing

Audit Manager Meyer provided the Council with copies of a written overview of the audit components (entrance document) and reviewed the audit scope:

Accountability Audit - examination of financial records to evaluate whether public funds were handled properly and in accordance with laws, regulations, and City policies to ensure no loss of public funds.

Financial Statement Audit - in accordance with the Government Auditing Standards, obtain reasonable assurance that the financial statements are free of material misstatement.

Federal Grant Compliance Audit - This audit is required when federal grant expenditures exceed \$500,000.00 in a fiscal year and includes evaluation of the effectiveness of internal controls and determines compliance with federal requirements. The audit will ensure compliance with the Highway Planning and Construction Program, CFDA 20.205.

Other focus areas for the 2013 Audit include procurement for Public Works projects, cash management at multiple locations, vendor transactions, and revisiting internal controls at the cemetery. The auditors will revisit last year's management letter and review cash receipting and inventory of small and attractive assets such as urns and headstones at the cemetery.

Ms. Hansen also reviewed the types of reporting levels for audit recommendations including findings, management letters, and exit items.

III. ADJOURNMENT

There being no further discussion related to the State Auditor's entrance conference, the meeting adjourned at 11:25 a.m.

APPROVED this _____ day of _____, 2014.

NANCY BACKUS, MAYOR

Danielle Daskam, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the June 26, 2014 special meeting

Date:

July 16, 2014

Department:

Administration

Attachments:

[6-26-2014 Special City Council Meeting](#)
[Minutes](#)

Budget Impact:

\$0

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

Meeting Date: July 21, 2014

Staff:

Item Number: CA.C



**Special City Council Meeting
June 26, 2014 - 5:00 PM
Council Chambers
MINUTES**

I. CALL TO ORDER

Mayor Nancy Backus called the special meeting of the City Council to order at 5:00 p.m. The purpose of the special meeting was to receive a presentation from the Mayor of the City of SeaTac regarding their Council's transition from standing committees to study sessions.

Members of the Council present: Deputy Mayor Rich Wagner, Councilmember Bill Peloza, Councilmember Largo Wales, Councilmember Wayne Osborne, Councilmember Claude DaCorsi, Councilmember Trout. Councilmember Holman was excused.

Department Directors and staff members present included: City Attorney Daniel B. Heid, Community Development and Public Works Director Kevin Snyder, Assistant Police Chief William Pierson, Economic Development Manager Doug Lein and Deputy City Clerk Shawn Campbell.

Also present was City of SeaTac Mayor Mia Gregerson.

II. DISCUSSION ITEMS

**A. Transition from Standing Committees to Study Sessions
Presentation by City of SeaTac Mayor Mia Gregerson.**

Mayor Backus thanked the SeaTac Mayor Mia Gregerson for attending the special City Council meeting.

Mayor Gregerson explained the City of SeaTac has transitioned from council subcommittees to conducting study sessions prior to each full Council Meeting. The study sessions are shorter than anticipated. Items move through the process faster with the new format.

Councilmember Wales asked if there had been misconceptions from citizens watching meetings on television regarding a discussion item opposed to an action item. Mayor Gregerson explained the agenda is set up to make it clear on what the expectation is for an item.

Deputy Mayor Wagner asked for the City of SeaTac's criteria to form an ad-hoc committee. Mayor Gregerson explained the ad-hoc

committee designation is reserved for items that will impact future policy, a concept is complicated or there is a range of options available. The number of ad-hoc committees vary depending on what is being considered by council. The ad-hoc committee members are typically selected on a volunteer basis. The claims and payroll vouchers are sent to all councilmembers via email. If a councilmember has a question regarding a claim, they can ask it at the study session.

Mayor Gregerson explained public comment is allowed at study sessions but within specific guidelines. Any item can be removed from the consent agenda and placed on the agenda at the request of a councilmember. An item moves from the study session to full Council by informal consent of the majority of the council.

Councilmember Osborne asked for clarification regarding placement of ordinances and resolutions on the agenda. City Attorney Heid explained an item is placed on the consent agenda that is routine and no discussion is expected. It is the City of Auburn's practice to place all ordinances and resolutions on the agenda for full Council discussion.

Councilmember Pelosa asked who authorizes an item to be put on the study session agenda. Mayor Gregerson explained the city manager and mayor review the agenda, and the mayor authorizes each item. Mayor Gregerson explained the City of SeaTac only has presentations at study sessions. City staff will also give periodic updates on large projects at study sessions. Mayor Gregerson stated presenters are given a time limit for their presentation that is respectful to the Council and the presenter. Mayor Backus stated longer presentations may have to be presented at a Committee of the Whole meeting.

Mayor and Council thanked Mayor Gregerson for her time.

III. **ADJOURNMENT**

There being no further business to come before the Council, the meeting adjourned at 6:07 p.m.

APPROVED this _____ day of July, 2014.

NANCY BACKUS, MAYOR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

July 15, 2014

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve the claims vouchers.

Background Summary:

Claims voucher numbers 429592 through 429842 in the amount of \$4,786,634.07 and six wire transfers in the amount \$1,197,254.06 and dated July 21, 2014.

Reviewed by Council Committees:

Finance

Councilmember: Wales

Staff: Coleman

Meeting Date: July 21, 2014

Item Number: CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

July 15, 2014

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve payroll vouchers.

Background Summary:

Payroll check numbers 534816 through 534841 in the amount of \$819,238.89 and electronic deposit transmissions in the amount of \$1,284,922.81 for a grand total of \$2,104,161.70 for the period covering July 3, 2014 to July 16, 2014.

Reviewed by Council Committees:

Finance

Councilmember: Wales

Staff: Coleman

Meeting Date: July 21, 2014

Item Number: CA.E



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1104

Date:

July 16, 2014

Department:

Public Works

Attachments:

[Budget Status Sheet](#)

[CP1104 BT](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council award Contract No. 14-09 to Valley Electric Company of Mount Vernon on their low bid of \$258,189.23 for Project No. CP1104, 8th St NE and 104th Ave SE Intersection Improvements.

Background Summary:

This project includes the design and construction of the following safety improvements at the intersection of 8th Street NE and 104th Avenue SE:

1. Replaces the existing left turn signal head from 8th Street to northbound 104th Ave with a flashing yellow signal head.
2. Replaces the existing traffic signal cabinet and components with new signal cabinet and components to accommodate the new flashing yellow signal and battery backup system.
3. Replaces vehicle detector loops on all four legs of the intersection.
4. Replaces the existing pedestrian signal heads and pushbuttons with countdown type heads and audible style pushbuttons.
5. Replaces the existing substandard curb ramps with at-grade pedestrian crossings.

Project construction is anticipated to begin July 2014 and be completed by September 2014.

A project increase of \$20,000.00 within the 102 Unrestricted Fund will be necessary, however it will not require a budget adjustment since it is anticipated that the budgeted expenditures in the 102 Unrestricted Fund will not be exceeded this year. This adjustment is reflected in the attached budget status sheet.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: CA.F

BUDGET STATUS SHEET

Project No: CP1104	Project Title: 8th St NE & 104th Ave SE Intersection Improvements
---------------------------	--

Project Manager: Matthew Larson

Initiation Date: 11/15/2010

Advertisement Date: 06/05/2014

Award Date: _____

- ☐ Project Update

☐ Permission to Advertise

☒ Contract Award

☐ Change Order Approval

☐ Contract Final Acceptance

Date: July 11, 2014

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funds Budgeted (Funds Available)

Funding	Prior Years	2013 (Actual)	2014	Future Years	Total
102 Fund (Traffic Impact Fees)	11,208				11,208
102 Fund (Unrestricted Street Revenue)			168,400		168,400
REET 2			119,000		119,000
102 Fund - Federal Grant	432	40,384	59,184		100,000
Total	11,640	40,384	346,584	0	398,608

Estimated Cost (Funds Needed)

Activity	Prior Years	2013 (Actual)	2014	Future Years	Total
Design Engineering - City Costs	11,640	26,974	32,229		70,843
Design Engineering - Consultant Costs		13,410	166		13,576
Design - State Review			1,000		1,000
Construction - Contract Bid			258,189		258,189
Project Contingency			26,000		26,000
Construction Engineering - City Costs			29,000		29,000
Total	11,640	40,384	346,584	0	398,608

102 Arterial Street Budget Status

	Prior Years	2013 (Actual)	2014	Future Years	Total
*102 Funds Budgeted ()	(11,640)	(40,384)	(346,584)	0	(398,608)
102 Funds Needed	11,640	40,384	346,584	0	398,608
*102 Fund Project Contingency ()	0	0	0	0	0
102 Funds Required	0	0	0	0	0

* (#) in the Budget Status Sections indicates Money the City has available.

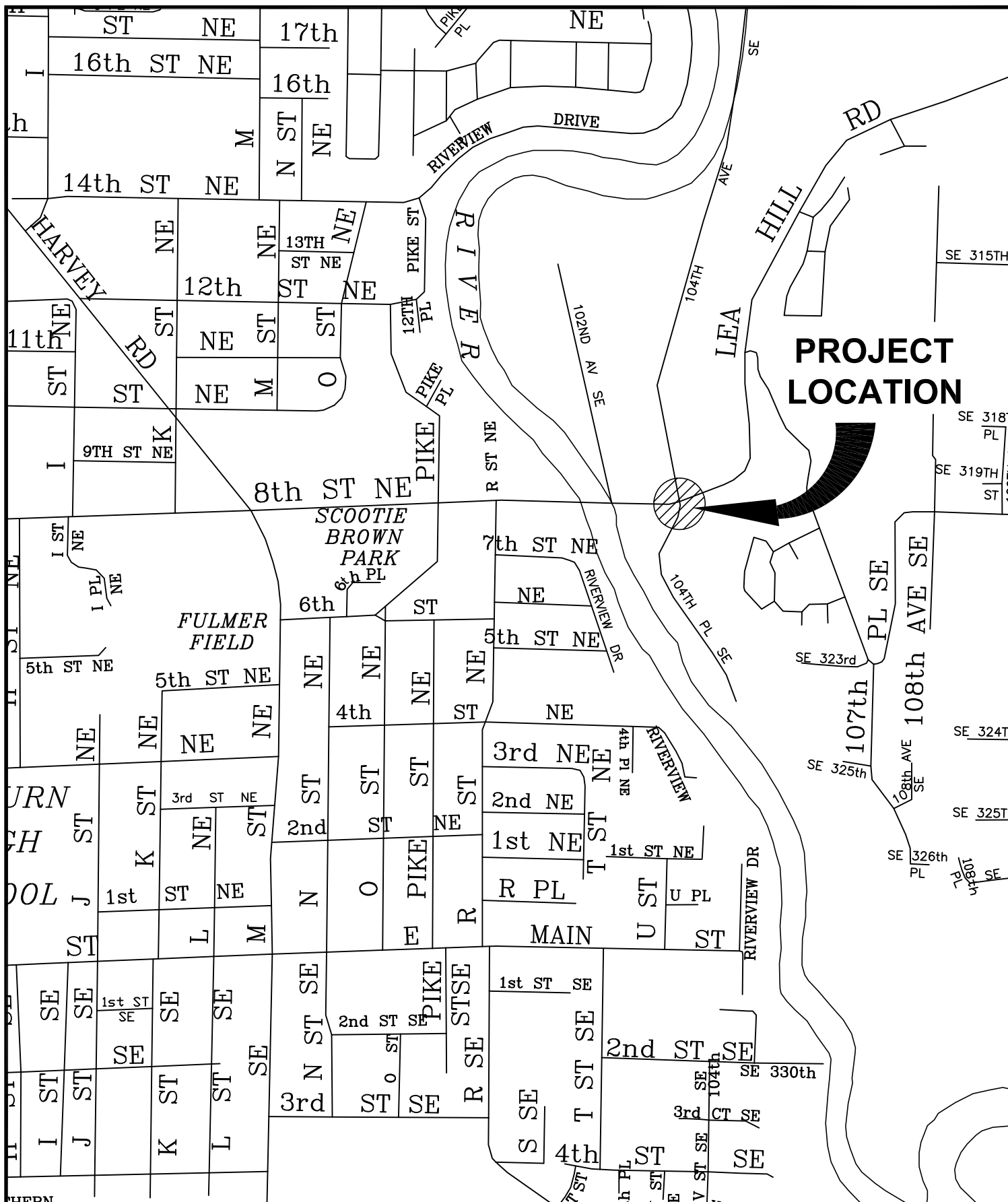
**BID TABULATION
BID TOTALS SUMMARY**

Project Name: CP1104, 8th Street NE & 104th Avenue SE Intersection Improvements, Contract 14-09
Prepared by: City of Auburn
Bid Date: 6/26/14

ENGINEER'S ESTIMATE:		\$ 245,765.00			
AVERAGE BASIC BID AMOUNT:		\$ 300,141.25			
BASIC BID SPREAD AMOUNT:		\$ 74,372.30	Basic BID Amount	Spread \$	Spread %
LOW BIDDER:	Valley Electric Company of Mount Vernon	\$ 258,189.23		\$12,424.23	5.06%
Second Bidder:	RW Scott Construction	\$ 309,673.00		\$63,908.00	26.00%

Basic BID (Tax not Applicable)

Valley Electric Company of Mount Vernon	\$ 258,189.23
Transportation Systems, Inc	Non-Responsive
RW Scott Construction	\$ 309,673.00
Neppel Electrical & Controls, LLC	\$ 332,561.53



**PROJECT
LOCATION**

CITY OF
AUBURN
WASHINGTON

CA.F

VICINITY MAP

CP1104, 8TH ST NE/104TH AVE SE
INTERSECTION IMPROVEMENTS



NOT TO SCALE
Page 60 of 280



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1222

Date:

July 16, 2014

Department:

Public Works

Attachments:

[Budget Status Sheet](#)

[CP1222 Pay Estimate & Final](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council approve Final Pay Estimate No.3 to Contract No. 13-15 in the Amount of \$3,978.39 and Accept Construction of Project No. CP1222, Citywide Traffic Signal Safety Improvements.

Background Summary:

The Citywide Traffic Signal Safety Improvements project provided a variety of safety improvements at the following intersections:

- Auburn Way N & 4th Street NE
- Auburn Way N & 1st Street NE
- Auburn Way & E Main St
- Auburn Way S & 2nd Street SE
- Auburn Way S & 4th Street SE
- Auburn Ave NE & 1st Street NE
- A Street SE & 2nd Street SE
- A Street SE & 3rd Street SE/Cross Street SE
- A Street SE & 6th Street SE
- A Street SE & 17th Street SE
- A Street SE & 29th Street SE
- C Street SW & 8th Street SW
- C Street SW & 15 St SW

The safety improvements included: flashing yellow arrow left turn operations, auxiliary signal heads, vehicle detection systems, signal head backplates with yellow reflective yellow tape, and new LED signal head lamps.

A project budget contingency of \$49,123.00 remains in the 102 Fund.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: CA.G

BUDGET STATUS SHEET

Project No: CP1222	Project Title: Citywide Traffic Signal Safety Improvements
Project Manager: Matthew Larson	

Initiation Date: 9/25/2012

Advertisement Date: 10/29/2013

Award Date: 12/2/2013

- ☐ Project Initiation
- ☐ Permission to Advertise
- ☐ Project Update
- ☐ Change Order Approval
- ☒ Contract Final Acceptance

Date: July 11, 2104

Funds Budgeted (Funds Available)

Funding	2012 (actual)	2013 (actual)	2014	Total
102 Fund - Unrestricted	1,916	9,316	70,684	81,916
102 Fund - Federal Grant	0	31,624	368,376	400,000
Total	1,916	40,940	439,060	481,916

Estimated Cost (Funds Needed)

Activity	2012 (actual)	2013 (actual)	2014	Total
Design Engineering - City Costs	1,916	39,314	0	41,230
Construction Contract Bid			351,662	351,662
Change Orders			20,569	20,569
Line Item Changes			(17,294)	(17,294)
Construction Engineering - City Costs		1,627	35,000	36,627
Total	1,916	40,940	389,937	432,793

102 Arterial Street Budget Status

	2012 (actual)	2013 (actual)	2014	Total
*102 Funds Budgeted ()	(1,916)	(40,940)	(439,060)	(481,916)
102 Funds Needed	1,916	40,940	389,937	432,793
*102 Fund Project Contingency ()	0	0	(49,123)	(49,123)
102 Funds Required	0	0	0	0

* (#) in the Budget Status Sections indicates Money the City has available.

CITY OF AUBURN
CP1222
PAY ESTIMATE #3 & FINAL

CO. NO. 13-15
Citywide Traffic Signal Safety Improvements
SCHEDULE A: Street Improvements

ITEM NO.	ITEM DESCRIPTION	ESTIMATE QUANTITY	TOTAL QUANTITY	PERIOD QUANTITY	UNIT TYPE	UNIT COST	TOTAL COST	PERIOD COST	PERCENT EST. QTY.
1	One Year Warranty Bond (not FHWA eligible)	1	1	1	LS	2,000.00	\$ 2,000.00	\$ 2,000.00	100%
2	SPCC Plan	1	1		LS	1,350.00	\$ 1,350.00	\$ -	100%
3	Mobilization	1	1		LS	30,000.00	\$ 30,000.00	\$ -	100%
4	Traffic Control Labor	500	174		HR	50.00	\$ 8,700.00	\$ -	35%
5	Outside Agency Uniformed Police Flagging Labor	1	0.528364	0.24654	Est.	2,500.00	\$ 1,320.91	\$ 616.35	53%
6	Sequential Arrow Sign	45	46		Day	25.00	\$ 1,150.00	\$ -	102%
7	Traffic Control Supervisor	1	1		LS	17,750.00	\$ 17,750.00	\$ -	100%
8	Roadside Restoration	1	0		Est.	1,000.00	\$ -	\$ -	0%
9	Remove Signal Head	14	14		EA	424.00	\$ 5,936.00	\$ -	100%
10	Remove Traffic Video Detection Camera	8	8		EA	74.00	\$ 592.00	\$ -	100%
11	Remove and Reset Signal Head	8	9		EA	1,160.00	\$ 10,440.00	\$ -	113%
12	Remove and Reset Video Detection Camera	1	1		EA	1,155.00	\$ 1,155.00	\$ -	100%
13	Replace & Recycle Signal Head Modules	257	257		EA	140.00	\$ 35,980.00	\$ -	100%
14	Replace Signal Controller Cabinet	2	2		EA	30,500.00	\$ 61,000.00	\$ -	100%
15	Traffic Signal Revision Signage	1	1		LS	4,625.00	\$ 4,625.00	\$ -	100%
16	Backplate Tape	12	12		EA	188.00	\$ 2,256.00	\$ -	100%
17	Louvered Backplate	70	70		EA	156.00	\$ 10,920.00	\$ -	100%
18	Traffic Video Detection Camera	13	13		EA	6,435.00	\$ 83,655.00	\$ -	100%
19	Wide Angle Traffic Video Detection Camera	1	1		EA	4,367.00	\$ 4,367.00	\$ -	100%
20	Signal Pole Terminal Cabinet	3	3		EA	998.00	\$ 2,994.00	\$ -	100%
21	Signal Head with Mount	39	39		EA	1,440.00	\$ 56,160.00	\$ -	100%
22	Signal Controller and Smart Monitor	1	1		EA	7,615.00	\$ 7,615.00	\$ -	100%
23	Remove Traffic Sign	17	17		EA	37.00	\$ 629.00	\$ -	100%
24	Traffic Sign	1	1	1	EA	625.00	\$ 625.00	\$ 625.00	100%
CO-1	Remove Signal Head-Add (1) Bid Item #9						\$ -	\$ -	
CO-1	Remove & Reset Signal Head-Add (4) Bid Item						\$ -	\$ -	
CO-1	Replace & Recycle Signal Head Modules Add 39						\$ -	\$ -	
CO-1	Backplate Plate Add (1) Bid Item#16						\$ -	\$ -	
CO-1	Louvered Backplate Plate Add (1) Bid Item#17						\$ -	\$ -	
CO-1	Signal Head with Mount Add (5) Bid Item#21						\$ -	\$ -	
CO-1-1	Additional Signal Wire	1	1		LS	2,050.00	\$ 2,050.00	\$ -	100%
CO-2-1	C ST SW & 15th St SW Aerial Conductor	1	1		LS	930.00	\$ 930.00	\$ -	100%
CO-3	Bid Item #20: Delete 2 Signal Pole Terminal Cabin	2	0				\$ -	\$ -	
CO-3-1	Signal Pole Terminal Cabinet	2	2	2	EA	368.52	\$ 737.04	\$ 737.04	100%

SCHEDULE SUBTOTAL \$ 3,978.39

Period Dates
Begin: May 21, 2014
End: June 01, 2014

PAY ESTIMATE #3 & FINAL

		Original Contract Amount	Contract Change Orders	Total Payment	This Period	Percent/Contract
SCHEDULE A: Street Improvements						
Contract		\$ 351,662.00	\$ 20,569.04	\$ 354,936.96	\$ 3,978.39	95%
No Tax Applicable						
Warranty Bond				\$ -	\$ -	
SCHEDULE TOTAL		\$ 351,662.00	\$ 20,569.04	\$ 354,936.96	\$ 3,978.39	

TOTAL CONTRACT AMOUNT TO DATE	\$	354,936.96	
TOTAL PAYMENT TO CONTRACTOR	\$	354,936.96	\$ 3,978.39
PAYMENT DUE CONTRACTOR:			\$ 3,978.39

Period Dates
Begin: May 21, 2014
End: June 01, 2014

CITY OF AUBURN
CP1222

CO. NO. 13-16

PAY ESTIMATE #3 & FINAL

CONTRACTOR:

Valley Electric of Mt. Vernon
1100 Merrill Creek Parkway
Everett, WA
Phone: 425-407-0832

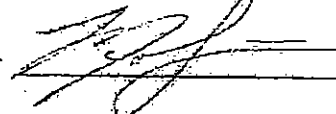
The undersigned has reviewed and approved this final pay estimate. I agree that it is a true and correct statement showing all monies due me from the City of Auburn under this contract; that I have carefully examined the final pay estimate estimate and understand it and that I hereby release the City of Auburn from any and all claims of whatsoever nature which I may have, arising out of this contract, which are not set forth in this estimate.

PAYMENT DUE TO CONTRACTOR = \$ 3,978.39

Signatures:

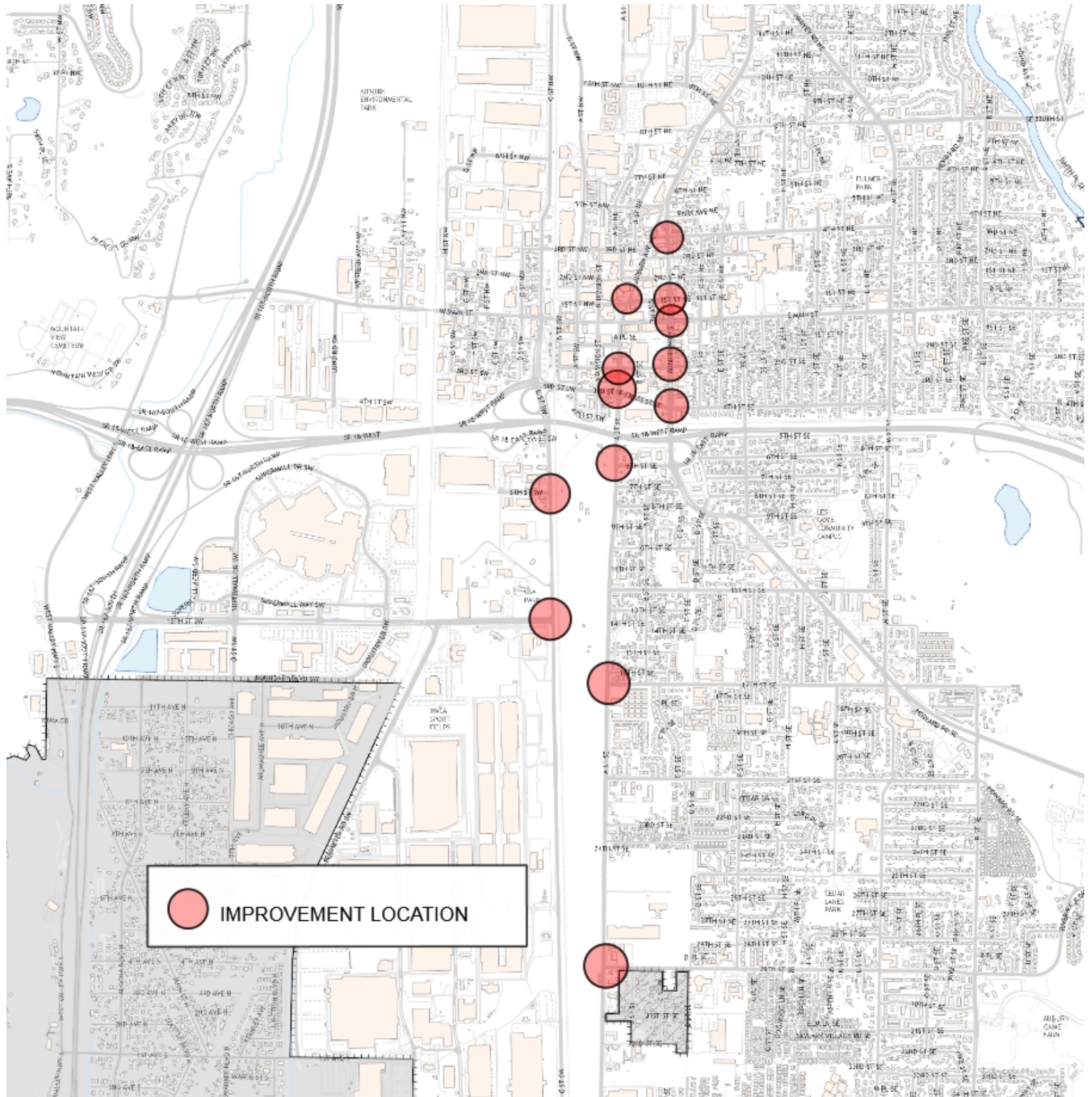
Contractor  Date 7-15-14

Inspector  Date 7-10-14

Project Manager  Date 7/10/2014

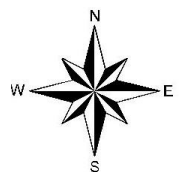
City Engineer _____ Date _____

Citywide Traffic Signal Safety Improvements



Printed Date: 8/27/2013
Map Created by City of Auburn eGIS

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





AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1324

Date:

July 10, 2014

Department:

Public Works

Attachments:

[Budget Status Sheet](#)

[CP1324 BT](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council award Contract No. 14-03, to Blackline Inc. on their low bid of \$527,830.32 plus Washington State sales tax of \$50,143.88 for a total contract price of \$577,974.20 for Project No. CP1324, Asphalt Rehabilitation and Seal Coat.

Background Summary:

The purpose of this project is to rehabilitate the pavement surface at the Auburn Municipal Airport. This will be accomplished by sealing the cracks in the pavement and applying a seal coat over the surface of the pavement.

This project previously received a Federal Aviation Administration (FAA) grant in the amount of \$238,307.00 and a Washington Airport Aid Program grant, administered by the Washington State Department of Transportation, in the amount of \$4,820.42 to help fund the project. The FAA grant will fund up to 90% of the project costs (with the exception of Schedule B noted below) and the remaining 10% of project costs will come from the Washington Aid Airport Program grant and the 435 (Airport) fund.

Additionally, staff has applied for and anticipates receiving \$324,969.00 of additional FAA grant funds for this project in 2014. Staff will also apply for an additional Washington Airport Aid Program grant in the anticipated amount of \$18,054.00 to help fund the project.

This project was bid with a base bid (Schedule A) and two additive bids (Schedules B and C) as described below. However, staff anticipates the funding available from the secured grant funds, the anticipated additional grants funds, and money available in the 435 Fund will be sufficient to complete all the work and therefore recommends City Council award the contract based on all three bid schedules.

1) Schedule A (Base Bid) includes the crack seal and the application of the seal coat on the runway and around the south hangars (see attached vicinity map). This schedule will be funded by the FAA and Washington Airport Aid Program grant(s) and City money.

2) Schedule B (Additive Bid) includes the crack seal and application of the seal coat in the area within 25 feet of the hangars (see attached vicinity map). This work is not eligible for funding under any FAA grant so will only be funded by the Washington Airport Aid Program grant(s) and City money.

3) Schedule C (Additive Bid) includes the crack seal and application of the seal coat in the area around the north hangars and three outdoor parking areas (see attached vicinity map). This schedule will be funded by the FAA and Washington Airport Aid Program grant(s) and City money.

Construction of the project is anticipated to take place August through October 2014.

Reviewed by Council Committees:

Municipal Services

Councilmember: Peloza

Staff: Coleman

Meeting Date: July 21, 2014

Item Number: CA.H

BUDGET STATUS SHEET

Project No: CP1324	Project Title: Asphalt Rehabilitation and Seal Coat
Project Manager: Shelly Coleman	

Initiation Date: September 3, 2013
 Advertisement Date: June 10, 2014
 Award Date: _____

- ☐ Project Initiation

☐ Permission to Advertise

☒ Contract Award

☐ Change Order Approval

☐ Contract Final Acceptance

Date: July 7, 2014

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funds Budgeted (Funds Available)

Funding	Prior Years	2013	2014	Future Years	Total
435 Fund - Airport Fund		1,277	178,293		179,570
Washington State Dept. of Transportation Grant ¹		1,277	21,597		22,874
Federal Aviation Administration Grant ²		22,994	540,282		563,276
Total	0	25,549	740,172	0	765,721

¹ Includes a \$4,820.42 grant awarded October 2013 and a \$18,054.00 grant anticipated to be awarded in August 2014.

² Includes a \$238,307.00 grant awarded on August 2013 and a \$324,969.00 grant anticipated to be awarded in August 2014.

Estimated Cost (Funds Needed)

Activity	Prior Years	2013	2014	Future Years	Total
Design Engineering - City Costs ³			2,500		2,500
Design Engineering - Consultant Costs		25,549	70,859		96,408
Construction Contract Bid - Schedule A			309,147		309,147
Construction Contingency - Schedule A (10%) ⁴			3,091		3,091
Construction Contract Bid - Schedule B			123,007		123,007
Construction Contingency - Schedule B (10%) ⁴			12,301		12,301
Construction Contract Bid - Schedule C			145,820		145,820
Construction Contingency - Schedule C (10%) ⁴			1,458		1,458
Construction Engineering - City Costs ³			2,500		2,500
Construction Engineering - Consultant Costs			69,488		69,488
Total	0	25,549	740,172	0	765,721

³ City staff costs are not charged against the project budget and are not shown here.

⁴ Only City funds shown. Additional FAA funds will be allocated on an as-needed basis.

435 Airport Fund Budget Status

	Prior Years	2013	2014	Future Years	Total
***435 Funds Budgeted ()	0	(25,549)	(740,172)	0	(765,721)
435 Funds Needed	0	25,549	740,172	0	765,721
***435 Fund Project Contingency ()	0	0	0	0	0
435 Funds Required	0	0	0	0	0

** (#) in the Budget Status Sections indicates Money the City has available.

**BID TABULATION
SCHEDULE SUMMARY**

Project Name: CP1324, Auburn Municipal Airport Runway and Apron Rehabilitation, Contract 14-03
Schedule No.: A - Base Bid-FAA Eligible Work

Prepared by: City of Auburn
Bid Date: 7/1/14

ENGINEER'S ESTIMATE:		\$	394,445.05		
AVERAGE BID AMOUNT:		\$	318,858.01		
BID SPREAD AMOUNT:		\$	92,139.31	BID Amount	Spread \$
					Spread %
LOW BIDDER:	Blackline Inc Slurry Seal	\$	282,325.79	\$	(112,119.26)
Second Bidder:	Specialized Pavement Marking	\$	299,783.13	\$	(94,661.92)

Basic BID (Tax not Included)

Blackline Inc Slurry Seal	\$	282,325.79
Specialized Pavement Marki	\$	299,783.13
VSS International	\$	374,465.10

**BID TABULATION
SCHEDULE SUMMARY**

Project Name: CP1324, Auburn Municipal Airport Runway and Apron Rehabilitation, Contract 14-03
Schedule No.: B - Additive Alternate-Non FAA Eligible Work

Prepared by: City of Auburn
Bid Date: 7/1/14

ENGINEER'S ESTIMATE:		\$	125,418.45		
AVERAGE BID AMOUNT:		\$	125,032.41		
BID SPREAD AMOUNT:		\$	53,587.50	BID Amount	Spread \$
					Spread %
LOW BIDDER:	Specialized Pavement Marking, Inc	\$	104,587.30	\$	(20,831.15)
Second Bidder:	Blackline Inc Slurry Seal	\$	112,335.13	\$	(13,083.32)
					-16.61%
					-10.43%

Basic BID (Tax not Included)

Blackline Inc Slurry Seal	\$	112,335.13
Specialized Pavement Markir	\$	104,587.30
VSS International	\$	158,174.80

**BID TABULATION
SCHEDULE SUMMARY**

Project Name: CP1324, Auburn Municipal Airport Runway and Apron Rehabilitation, Contract 14-03
Schedule No.: C - Additive Alternate-FAA Eligible Work

Prepared by: City of Auburn
Bid Date: 7/1/14

ENGINEER'S ESTIMATE:	\$	171,994.92			
AVERAGE BID AMOUNT:	\$	158,687.10			
BID SPREAD AMOUNT:	\$	42,167.60	BID Amount	Spread \$	Spread %
LOW BIDDER:	Blackline Inc Slurry Seal	\$ 133,169.40		\$ (38,825.52)	-22.57%
Second Bidder:	Specialized Pavement Marking, Inc	\$ 167,554.91		\$ (4,440.01)	-2.58%

Basic BID (Tax not Included)

Blackline Inc Slurry Seal	\$	133,169.40
Specialized Pavement Mark	\$	167,554.91
VSS International	\$	175,337.00

**BID TABULATION
BID TOTALS SUMMARY**

Project Name: CP1324, Auburn Municipal Airport Runway and Apron Rehabilitation, Contract 14-03

Prepared by: City of Auburn

Bid Date: 7/1/14

ENGINEER'S ESTIMATE:	\$	691,858.42			
AVERAGE BASIC BID AMOUNT:	\$	602,577.52			
BASIC BID SPREAD AMOUNT:	\$	180,146.58	Basic BID Amount	Spread \$	Spread %
LOW BIDDER:	Blackline Inc Slurry Seal	\$ 527,830.32		-\$164,028.10	-23.71%
Second Bidder:	Specialized Pavement Marking, Inc	\$ 571,925.34		-\$119,933.08	-17.33%

	Basic BID (Tax not Included)	Total BID (Tax Included)
Blackline Inc Slurry Seal	\$ 527,830.32	\$ 577,974.20
Specialized Pavement Markin	\$ 571,925.34	\$ 626,258.25
VSS International	\$ 707,976.90	\$ 775,234.71

7/1/2014 (3:37 PM)

h:\proj\bidtabs\CP1324 BT.xls

VICINITY MAP



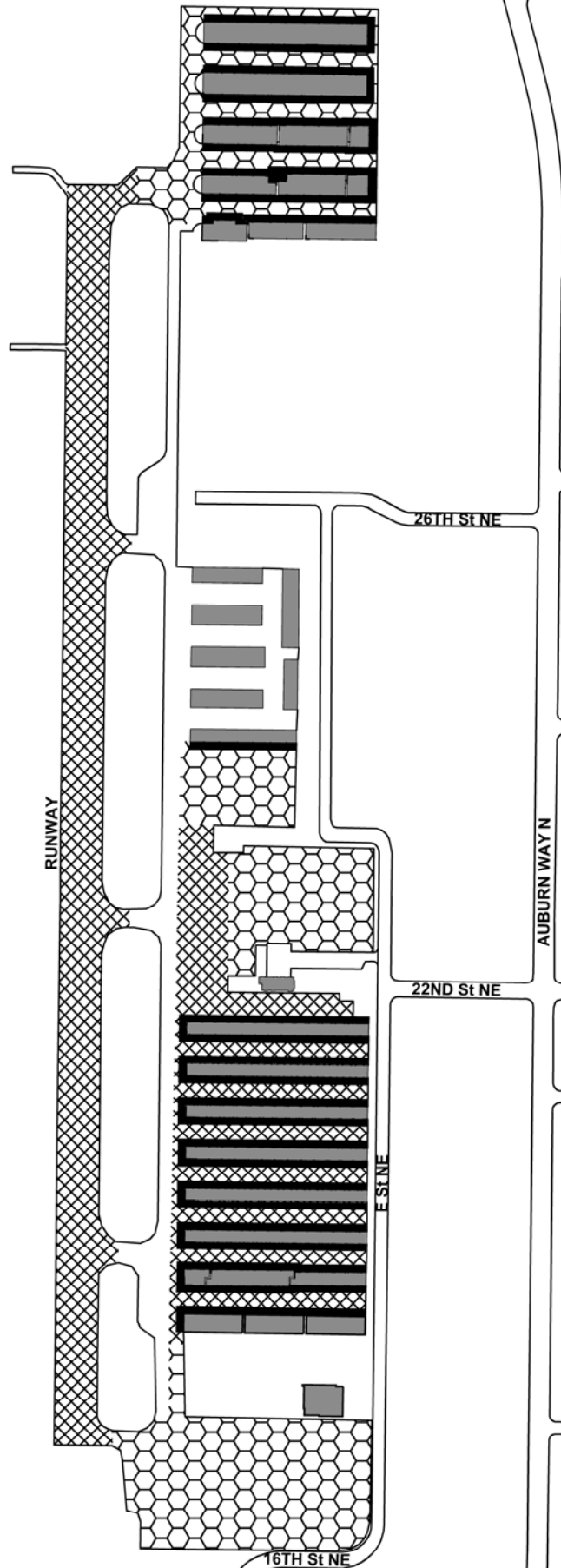
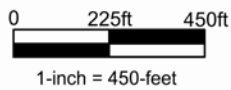
Schedule A (Base Bid) - Crackseal and Slurry Seal Location



Schedule B (Non FAA Eligible) - Crackseal and Slurry Seal Location



Schedule C (FAA Eligible) - Crackseal and Slurry Seal Location





AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6511

Date:

June 30, 2014

Department:

Public Works

Attachments:

[Ordinance No. 6511 with exhibit](#)

[Staff Report](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6511.

Background Summary:

MW Holdings Auburn SE Block LLC has applied to the City for vacation of the right-of-way of the alley between South Division Street and A Street SE, south of 1st Street SE, shown on Exhibit "B". The applicant currently owns all of the surrounding parcels and is proposing to incorporate the right-of-way in the development of the adjacent properties.

The application has been reviewed by City staff and utility purveyors who have an interest in this right-of-way. Through this review City staff has determined that the right of way is no longer necessary to meet the needs of the City and could be vacated.

Ordinance No. 6511, if adopted by City Council, approves Vacation No. V3-14 and vacates the right-of-way subject to conditions outlined in the Ordinance.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: ORD.A

ORDINANCE NO. 6 5 1 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, VACATING RIGHT-OF-WAY OF THE ALLEY BETWEEN SOUTH DIVISION STREET AND A STREET SE, SOUTH OF 1ST STREET SE, WITHIN THE CITY OF AUBURN, WASHINGTON

WHEREAS, the City of Auburn, Washington ("City"), has received a petition by not less than two-thirds (2/3) of the owners of property adjacent to right-of-way located at the Alley between South Division Street and A Street SE, south of 1st Street SE, within the City requesting vacation of the same; and

WHEREAS, the City Council of the City of Auburn, Washington ("City Council"), has, after a review of its needs for streets and right-of-ways in the vicinity of the Alley between South Division Street and A Street SE, south of 1st Street SE within the City, determined that consideration should be given to the vacation of the same; and

WHEREAS, a public hearing was held in connection with the possible vacation, with notice having been provided pursuant to statute; and

WHEREAS, the City Council has considered all matters presented at the public hearing on the proposed vacation, held on the 21st day of July, 2014, at the Auburn City Council Chambers in Auburn, Washington.

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

Section 1. Vacation. That the right of way located at the Alley between South Division Street and A Street SE, south of 1st Street SE, located within the City of

Ordinance No. 6511
ROW Vacation V3-14
April 29, 2014
Page 1 of 6

Auburn, Washington, legally described as follows:

THAT PORTION OF THE NORTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 21
NORTH, RANGE 4 EAST, W.M., IN KING COUNTY,
WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1,
BLOCK 6, TOWN OF SLAUGHTER ACCORDING TO THE
PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS,
PAGE 56, RECORDS OF KING COUNTY, WASHINGTON
(ALSO KNOWN AS THE SOUTHEAST CORNER OF
PARCEL B, CITY OF AUBURN LOT LINE ADJUSTMENT
NO. LLA-0003-95, RECORDED UNDER RECORDING
NUMBER 9502160960, RECORDS OF KING COUNTY,
WASHINGTON);

THENCE SOUTH 00°55'43" WEST, A DISTANCE OF 20.00
FEET TO THE NORTHEAST CORNER OF LOT 8 OF SAID
BLOCK 6;

THENCE NORTH 89°08'16" WEST, ALONG THE NORTH
LINE OF LOTS 5 THROUGH 8 OF SAID BLOCK 6 A
DISTANCE OF 239.99 FEET TO THE NORTHWEST
CORNER OF SAID LOT 5;

THENCE NORTH 00°56'21" EAST, A DISTANCE OF 20.00
FEET TO THE SOUTHWEST CORNER OF LOT 4 OF SAID
BLOCK 6;

THENCE SOUTH 89°08'16" EAST, ALONG THE SOUTH
LINE OF LOTS 1 THROUGH 4 OF SAID BLOCK 6 A
DISTANCE OF 239.99 FEET TO THE POINT OF
BEGINNING.

and as shown on the survey, a copy of which is attached hereto, marked Exhibit "B" and
incorporated herein by this reference, the same is hereby vacated and the property lying in
said portion of right-of-way described hereinabove, shall be returned and belong to those
persons entitled to receive the property in accordance with RCW 35.79.040, conditioned
upon the following;

Ordinance No. 6511
ROW Vacation V3-14
April 29, 2014
Page 2 of 6

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

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

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

The owners of the adjacent property agree and shall not in any way block, restrict or impede access and egress to or from said Easement Area, and /or in any way block, restrict or impede full use of the real property within the Easement Area by the City for the above described purposes. No building, wall, rockery, fence, trees, or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of said Easement Area, without the express written consent of the City. No excavation shall be made within three feet of said facilities and the surface level of the ground within the Easement Area shall be maintained at the elevation as currently existing.

Ordinance No. 6511
ROW Vacation V3-14
April 29, 2014
Page 3 of 6

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

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

C. Under the terms of the reservation set out in Paragraph A above, the City hereby grants a private utility easement to Comcast Cable Corporation over, under and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement, removal and enlargement of existing facilities. The owners of the adjacent property agree not to erect any structures on said easement and further agree not to place trees or other obstructions on the easement that would interfere with the exercise of Grantee's rights herein.

D. Under the terms of the reservation set out in Paragraph A above, the City hereby grants a private utility easement to Qwest Corporation d/b/a CenturyLink QC and its successors over, under and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement,

Ordinance No. 6511
ROW Vacation V3-14
April 29, 2014
Page 4 of 6

removal and enlargement of existing facilities. The owners of the adjacent property agree not to erect any structures on said easement and further agree not to place trees or other obstructions on the easement that would interfere with the exercise of Grantee's rights herein.

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

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

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

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

Section 5. Recordation. The City Clerk is directed to record this Ordinance with the office of the King County Auditor.

Ordinance No. 6511
ROW Vacation V3-14
April 29, 2014
Page 5 of 6

INTRODUCED: _____

PASSED: _____

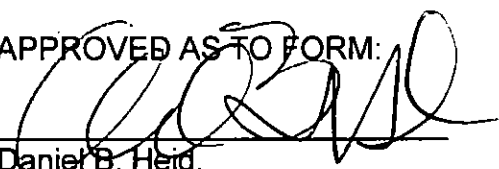
APPROVED: _____

NANCY BACKUS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

PUBLISHED: _____

Ordinance No. 6511
ROW Vacation V3-14
April 29, 2014
Page 6 of 6

**EXHIBIT A
LEGAL DESCRIPTION
(ALLEY VACATION)**

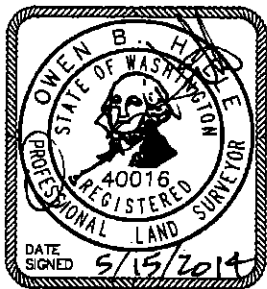
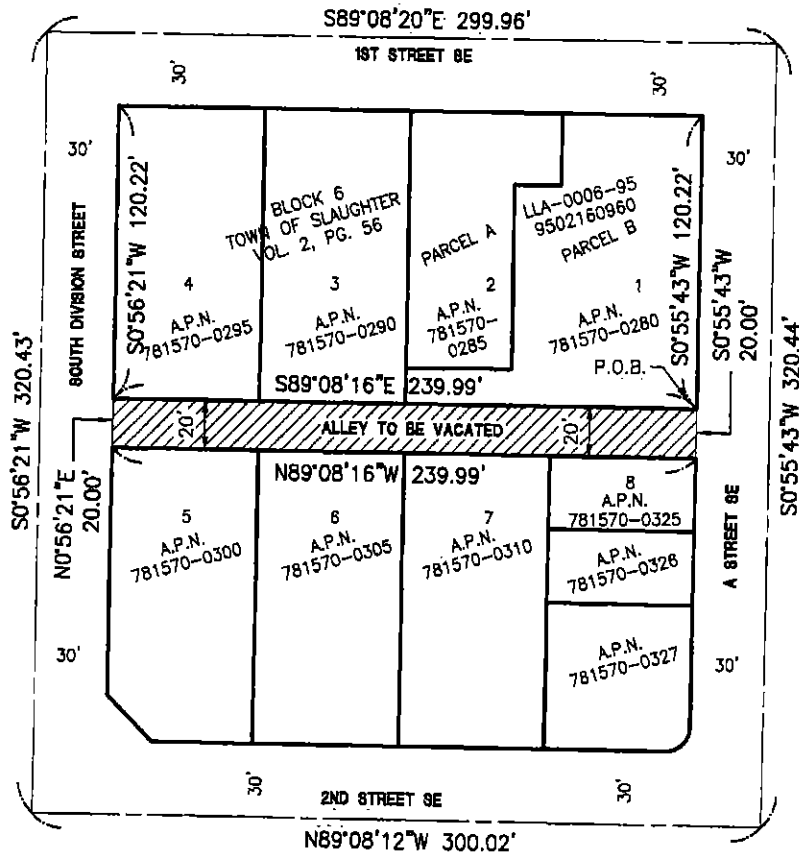
THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13,
TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS
FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 6, TOWN OF SLAUGHTER,
ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 56, RECORDS
OF KING COUNTY, WASHINGTON (ALSO KNOWN AS THE SOUTHEAST CORNER OF PARCEL B,
CITY OF AUBURN LOT LINE ADJUSTMENT NO. LLA-0003-95, RECORDED UNDER RECORDING
NUMBER 9502160960, RECORDS OF KING COUNTY, WASHINGTON);
THENCE SOUTH $00^{\circ}55'43''$ WEST, A DISTANCE OF 20.00 FEET TO THE NORTHEAST CORNER OF
LOT 8 OF SAID BLOCK 6;
THENCE NORTH $89^{\circ}08'16''$ WEST, ALONG THE NORTH LINE OF LOTS 5 THROUGH 8 OF SAID
BLOCK 6 A DISTANCE OF 239.99 FEET TO THE NORTHWEST CORNER OF SAID LOT 5;
THENCE NORTH $00^{\circ}56'21''$ EAST, A DISTANCE OF 20.00 FEET TO THE SOUTHWEST CORNER OF
LOT 4 OF SAID BLOCK 6;
THENCE SOUTH $89^{\circ}08'16''$ EAST, ALONG THE SOUTH LINE OF LOTS 1 THROUGH 4 OF SAID
BLOCK 6 A DISTANCE OF 239.99 FEET TO THE POINT OF BEGINNING.



Project: Teutsch Partners, LLC
March 27, 2014
16840exh01.dwg
16840L.001.doc
OBH
Resolution 5073

EXHIBIT B **MAP EXHIBIT FOR ALLEY VACATION**



PTN. NE1/4, SE1/4 SEC. 13, T21N, R4E, W.M.

SCALE:
 HORIZONTAL 1"=60' VERTICAL N/A

BARGHAUSEN
 CONSULTING ENGINEERS, INC.
 18215 72ND AVENUE SOUTH
 KENT, WA 98032
 (425)251-6222
 (425)251-8782 FAX

CIVIL ENGINEERING, LAND
 PLANNING, SURVEYING,
 ENVIRONMENTAL SERVICES

For:
TEUTSCH PARTNERS, LLC

Title:
ALLEY VACATION

JOB NUMBER
16840

16840L001.DOC

SHEET

1 of 1

DRAWN DBH

DATE 5/7/2014

File:P:\16000s\16840\survey\16840extr01-alley vacation.dwg Date/Time:5/15/2014 1:27 PM OWEN HILLE

Resolution 5073



RIGHT-OF-WAY VACATION STAFF REPORT

Right-of-Way (ROW) Vacation Number V3-14

Applicant: MW Holdings Auburn SE Block LLC

Property Location: Right-of-Way located at the Alley between South Division Street and A Street SE, south of 1st Street SE.

Description of right-of-way:

This ROW proposed for vacation consists of the Alley between South Division Street and A Street SE, south of 1st Street SE. The Alley is adjacent to Parcels 7815700295, 7815700290 and 7815700280 on the north side and Parcels 7815700300, 7815700305, 7815700310 and 7815700325 on the south side. All of these parcels are owned by the applicant. The proposed area of ROW for vacation is 4,800(+/-) square feet.

The Alley was dedicated for street purposes in 1886 to the City of Auburn from Mary E. and L.W. Ballard through dedication of the original plat of the City also know as the Town of Slaughter.

See Exhibits "A" and "B" for legal description and survey.

Proposal:

The Applicant proposes that the City vacate the above described right-of-way so that they can include the area in development of the adjoining parcels.

Applicable Policies & Regulations:

- RCW's applicable to this situation - meets requirements of RCW 35.79.
- MUTCD standards - not affected by this proposal.
- City Code or Ordinances - meets requirements of ACC 12.48.
- Comprehensive Plan Policy - not affected.
- City Zoning Code - not affected.

Public Benefit:

- The vacated area may be subject to property taxes.
- The street vacation decreases the Right-of-Way maintenance obligation of the City.

Discussion:

The vacation application was circulated to Puget Sound Energy (PSE), Comcast, CenturyLink, and City staff.

1. PSE – PSE has existing electric and gas facilities in the proposed vacation area and will require easements be reserved.
2. Comcast – Comcast has underground facilities in this alley that feeds the existing building and will be the feed for the new complex as well and will require easements be reserved.
3. CenturyLink – Please be advised that Qwest Corporation (d/b/a CenturyLink) currently has facilities in the area addressed by this action and wishes to retain any and all rights to remain in said area and to add facilities in the future as needed. At this time, Qwest (d/b/a CenturyLink) has no issues with the proposed vacation so long as provisions are made to retain our rights by means of explicit language granting to "Qwest Corporation d/b/a CenturyLink QC and its successors" rights that will cover our existing and future facilities.
4. Water – Currently there is an existing water line in the alley serving the existing building. As a condition of approval, a public water utility easement within the proposed vacation area shall be granted to the City.

5. Sewer – There is an existing sewer line within the proposed right-of-way vacation. As it stands now, a public sewer utility easement needs to be reserved. The sewer lines installed as part of the Promenade Project were designed so that all the flow from future development of that block would be discharged directly into those new lines, rendering the existing line in the alley unnecessary. When all connections to the line in the alley are eliminated, that line may be abandoned, and the easement either not reserved or extinguished, depending on the timing of redevelopment and the vacation.
6. Storm –No comments.
7. Transportation – No comments.
8. Planning – No comments.
9. Fire – No comments
10. Police – No comments
11. Streets – The Streets Division has no issues with this however there is a PSE owned utility pole in the center of this alley on the south side near the edge of the right of way that contains a street light. PSE Grid #311485-165396, Intolight service tag SLAP2186.
12. Construction –No comments.
13. Innovation and Technology – No comments

Assessed Value:

ACC 12.48 states “The city council may require as a condition of the ordinance that the city be compensated for the vacated right-of-way in an amount which does not exceed one-half the value of the right-of-way so vacated, except in the event the subject property or portions thereof were acquired at public expense or have been part of a dedicated public right-of-way for 25 years or more, compensation may be required in an amount equal to the full value of the right-of-way being vacated. The city engineer shall estimate the value of the right-of-way to be vacated based on the assessed values of comparable properties in the vicinity. If the value of the right-of-way is determined by the city engineer to be greater than \$2,000, the applicant will be required to provide the city with an appraisal by an MAI appraiser approved by the city engineer, at the expense of the applicant. The city reserves the right to have a second appraisal performed at the city’s expense.” Note: The city engineer has not required an appraisal for the value of this right-of-way since the right-of-way was originally acquired through dedication of a Plat at no cost to the City.

RCW 35.79.030 states the vacation “shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated.”

The right-of-way was acquired through dedication of a Plat on February 28, 1886 at no cost to the City.

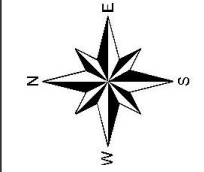
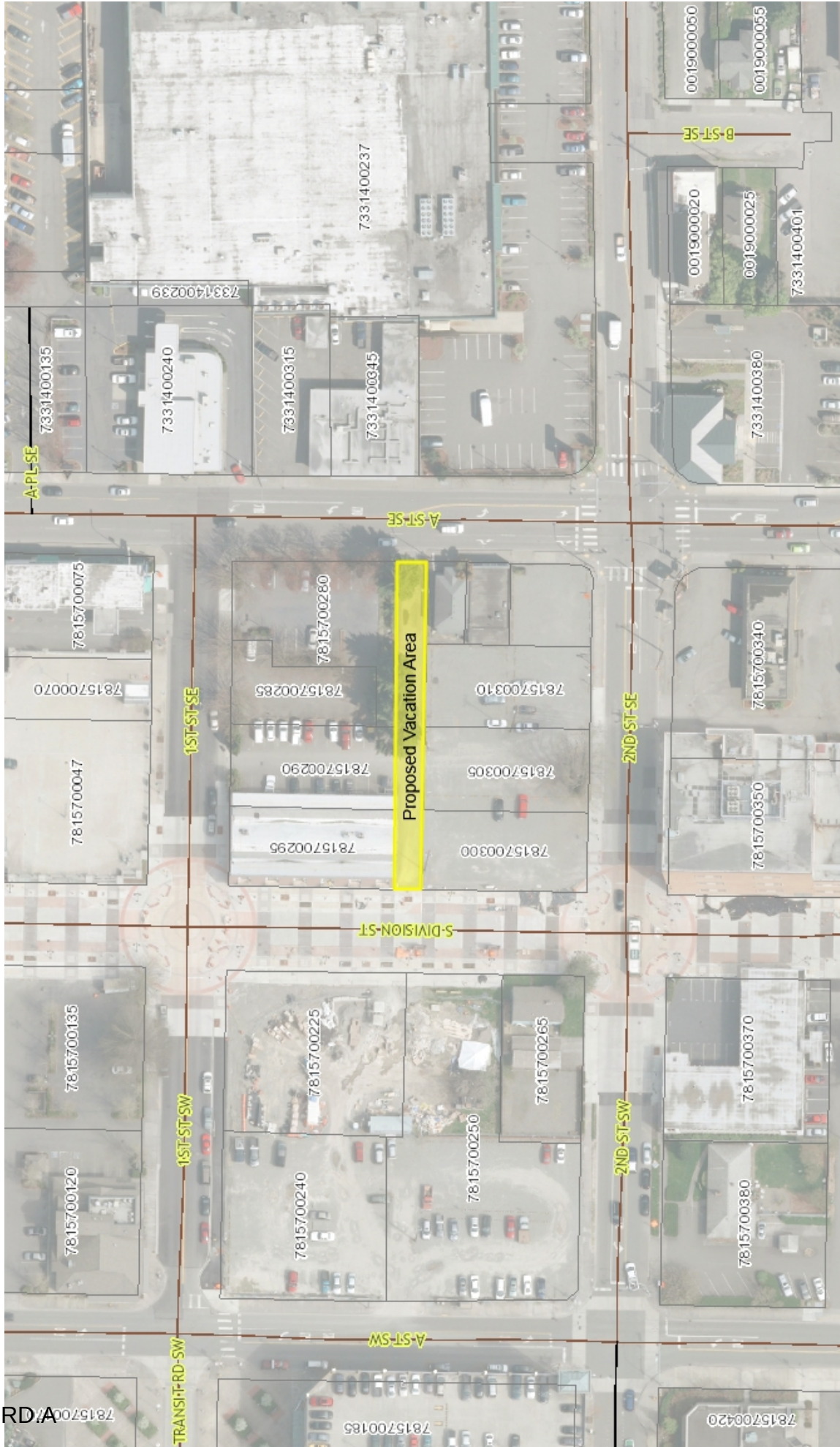
Recommendation:

Staff recommends that the street vacation be granted subject to the following conditions:

1. A public utility easement shall be reserved for City of Auburn sanitary sewer facilities along the entire length and width of the vacated ROW.
2. A public utility easement shall be reserved for City of Auburn water facilities along the entire length and width of the vacated ROW.
3. An easement shall be reserved for Puget Sound Energy electric and gas facilities along the entire length and width of the vacated ROW.
4. An easement shall be reserved for Comcast Cable Corporation cable facilities along the entire length and width of the vacated ROW.
5. An easement shall be reserved for Qwest Corporation d/b/a CenturyLink QC and its successors for communications facilities along the entire length and width of the vacated ROW.
6. Staff recommends that compensation for the value of the right-of-way not be required since the right-of-way was originally acquired through dedication of a Plat at no cost to the City.

Proposed ROW Vacaton #V3-14

ORD: A



Printed Date: 5/19/2014
Map Created by City of Auburn eGIS
Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6520

Date:

July 16, 2014

Department:

Public Works

Attachments:

[Ordinance No. 6520](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6520.

Background Summary:

Ordinance No. 6520 is a revision to the Auburn City Code related to Underground Wiring. This revision provides a clarification of the exceptions to the undergrounding requirement for the expansion of an overhead system for a secondary tenant on existing utility poles owned by another utility.

The current code allows for the deferral of undergrounding for this purpose consistent with the City's half street code (ACC 12.64A). The half street code and deferral process is based on a property owner making this request and the agreements for deferral are intended to be tied to a specific property.

There are instances when a utility provider may wish to expand their overhead system that is not driven by development or redevelopment of a specific property and so there is no property owner involved. In areas where the proposed exception may be used the existing franchise requirements and other paragraphs of the Underground Wiring code will require the secondary tenant to participate in undergrounding their system when the owner of the utility poles is required to underground their overhead system.

Reviewed by Council Committees:

Finance, Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: ORD.B

ORDINANCE NO. 6 5 2 0

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AMENDING SECTIONS
13.32A.020 AND 13.32A.120 OF THE AUBURN CITY CODE
RELATING TO EXCEPTIONS FOR UNDERGROUNDING
REQUIREMENTS

WHEREAS, the current provisions of the Auburn City Code provide for an exception to the undergrounding requirement for utilities for various instances, including where a franchisee is expanding its existing aerial system as a secondary tenant on an existing aerial system and where undergrounding of the franchisee's facilities will not eliminate the existing aerial system; and

WHEREAS, the current provisions of the city code do not distinguish those instances where the franchisee's facilities may be crossing public right-of-way as opposed to private property; and

WHEREAS, in order to address the distinction between those two crossings, it is appropriate to amend the city code so that the requirements of each type of crossing is adequately addressed.

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

Section 1, Amendment to City Code. That section 13.32A.020 of the Auburn City Code is amended to read as follows:

13.32A.020 Exceptions.

With the approval of the city engineer, The the following facilities are exempt from the undergrounding requirements of this chapter:

A. Electric utility substations, pad mounted transformers and switching facilities not located on the public right-of-way and authorized through existing or future site-specific development approvals;

B. Electric aerial transmission facilities of a voltage of more than 15,000 volts, including poles, wires, and associated facilities;

C. Street lighting and traffic control equipment as determined necessary by the city engineer;

D. Telecommunication pedestals and other equivalent telecommunication facilities; and

Ordinance No. 6520

July 14, 2014

E. Temporary aerial utility services for construction that will be removed immediately upon completion of construction; and

F. A franchisee is expanding its existing aerial system as a secondary tenant on an existing aerial system not related to a new private development project where the undergrounding of the expansion will not eliminate the existing aerial system. (Ord. 6238 § 2, 2009.)

Section 2, Amendment to City Code. That section 13.32A.120 of the Auburn City Code is amended to read as follows:

13.32A.120 Deferral of underground distribution facilities.

A. The city engineer may grant a deferral for some or all of the undergrounding of utility distribution facilities otherwise required pursuant to this chapter following the procedures identified in ACC 12.64A.050, Deferral and fee in lieu of improvements. The city engineer's decision regarding such a deferral will be based on meeting the following criteria rather than those listed in ACC 12.64A.050:

1. There is a pending city six-year TIP project or an adjacent developer planned project which would affect the proposed area of undergrounding of the existing aerial facilities; or

2. A franchisee is expanding ~~their~~its existing aerial system as a secondary tenant on an existing aerial system for the purpose of serving a new private development ~~(where the undergrounding of the expansion will not eliminate the existing aerial system);~~ or

3. All of the following conditions are met:

a. There are other properties abutting or across the street from the subject property that have aerial utility facilities; and

b. The establishment or continuation of aerial utility facilities for the period of the deferral will not adversely affect or delay other properties that may have to provide or convert to undergrounding utility improvements within the public right-of-way; and

c. There are technological difficulties associated with converting to or providing undergrounding utility improvements for the subject property as demonstrated to the satisfaction of the city engineer.

B. An applicant whose request has been denied may appeal the denial following the procedure as identified in ACC 12.64A.060, Appeal and enforcement. (Ord. 6238 § 2, 2009.)

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

Section 4. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any

person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

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

INTRODUCED: _____

PASSED: _____

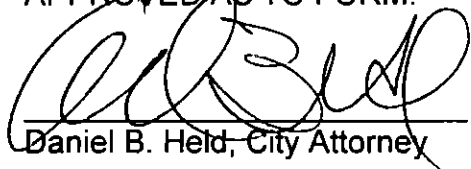
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Held, City Attorney

PUBLISHED: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6522

Date:

July 16, 2014

Department:

Community Development &
Public Works

Attachments:

[Ordinance No. 6522](#)
[Exhibit 2 - Vicinity Map](#)
[Exhibit 3 - Final Plat Map](#)
[Exhibit 4 - Cert. of Improvements](#)
[Exhibit 5 - Hearing Examiner Decision](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6522.

Background Summary:

Lakeridge Development LL has made application for the Final Plat of "Alicia Glenn." This final plat includes the creation of 28 lots, the dedication of public right-of-way, and four tracts.

The property is located on Lea Hill at the intersection of 124th Avenue South and north of SE 304th Street at the NE corner. Preliminary plat approval was granted by the City's Hearing Examiner on August 1, 2011 as a single phase to subdivide 8.60 acres into 24 single family lots, the dedication of public right-of-way, and seven tracts. The plat has been developed in accordance with the R-5, Residential 5 dwelling units/acre, zone as defined by Auburn City Code (ACC) Chapter 18.07, Title 17 Land Adjustments and Division, and the conditions of the preliminary plat. The subject property was annexed into Auburn as part of the Lea Hill Annexation that was effective January 1, 2008. The City took over finalizing the construction plan review and final plat review upon the expiration of the interlocal agreement between Auburn and King County. This project is what we have termed a hybrid project with portions under King County standards (e.g. density, access tracts) and portions under Auburn standards (e.g. utilities, street lighting).

A Certificate of Improvements has been issued by the City Engineer. All construction improvements have been completed.

Reviewed by Council Committees:

Other: Legal

Councilmember: Holman

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: ORD.C

ORDINANCE NO. 6 5 2 2

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON, APPROVING
THE FINAL PLAT OF ALICIA GLENN**

WHEREAS, the City of Auburn received a final plat application for the Plat of Alicia Glenn, Application No. PLT14-0003, the final approval of which is appropriate for City Council Action; and

WHEREAS, the Preliminary Plat for this plat was approved by the King County Hearing Examiner on May 15, 2007 with identified conditions and requirements; and

WHEREAS, the premises of the Plat of Alicia Glenn was annexed into the City of Auburn, effective January 1, 2008; and

WHEREAS, the interlocal agreement between the City of Auburn and King County has expired and the construction improvements and final plat are being processed by the City of Auburn; and

WHEREAS, based on the review given this Plat by the City, the City Council hereby makes and enters the following:

FINDINGS OF FACT

1. Wayne Jones of Lakeridge Development LLC has made application for the Final Plat of "Alicia Glenn".
2. The preliminary plat (PLT08-0010 City File; L06P0003 King County File) was approved by the King County Hearing Examiner on May 15, 2007 as a single phase.
3. The preliminary plat of "Alicia Glenn" has been developed in accordance with all applicable conditions of the preliminary plat.

4. A Certificate of Improvements has been issued by the City Engineer, accepting completion of all required plat improvements.
5. The final plat includes one publicly dedicated tract, Tract C, for the storm drainage facility.

CONCLUSIONS OF LAW

1. The Final Plat is in compliance and in conformity with applicable Zoning and Land Division Ordinances and other applicable land use controls.
2. The Plat is consistent with the Comprehensive Plan.
3. The Plat meets the requirements of Chapter 58.17 RCW.

WHEREAS, insofar as the plat meets the requirements of applicable codes and plans, and the conditions and requirements of the preliminary plat, it is incumbent on the City Council to approved the final plat, as no new conditions or requirements can be added at this point.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Approval. Alicia Glenn, a subdivision involving property located within the City of Auburn, Washington, which plat is legally described on Sheet 2 of 3 of the Final Plat and set forth below:

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE
SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 21 NORTH,
RANGE 5 EAST, W.M. IN KING COUNTY, WASHINGTON;
EXCEPT THE EAST 3/8TH THEREOF;
AND EXCEPT THE WEST 394.88 FEET OF THE EAST 889.75 FEET
THEREOF;
ALSO EXCEPT COUNTY ROADS;
AND ALSO EXCEPT THAT PORTION CONVEYED TO KING COUNTY
FOR PUBLIC ROAD BY WARRANTY DEED RECORDED UNDER
RECORDING NUMBER 20070925000337.
SITUATE IN THE CITY OF AUBURN, COUNTY OF KING, STATE OF
WASHINGTON

is hereby approved, and deemed to conform to the requirements for Plat approval pursuant to State and local law and Chapter 58.17 of the Revised Code of Washington and Section 58.17.140 thereof.

Section 2. Constitutionality or Invalidity. If any section, subsection clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, as it is being hereby expressly declared that this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

Section 3. Recordation. Upon the passage, approval and publication of this Ordinance as provided by law, the City Clerk of the City of Auburn shall cause this Ordinance to be recorded in the office of the King County Auditor's Division.

Section 4. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

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

INTRODUCED: _____

PASSED: _____

APPROVED: _____

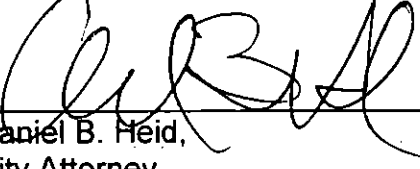
CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

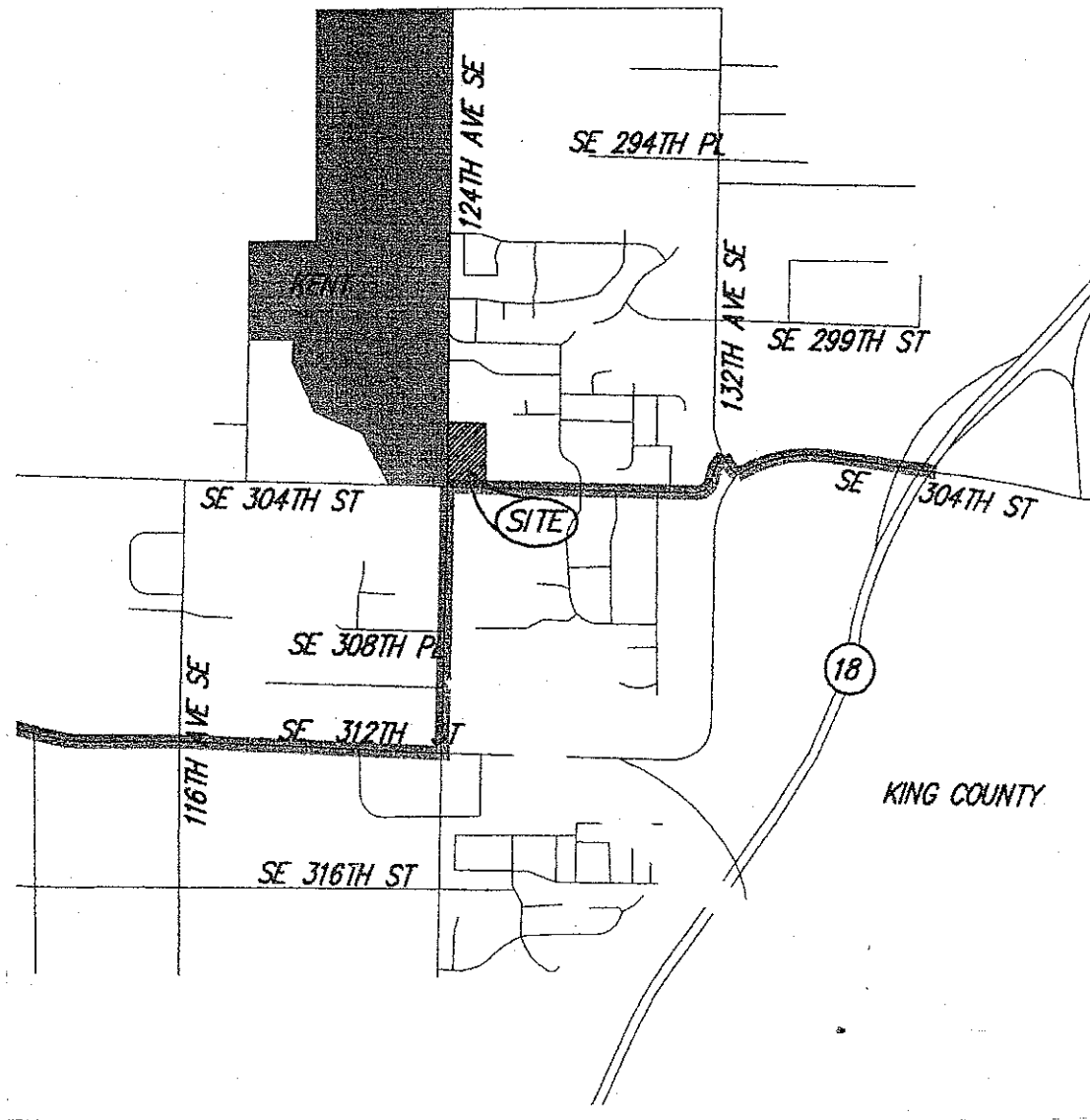
Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

Published: _____



ALICIA GLENN
A PORTION OF
S.W. 1/4, S.E. 1/4, Sec. 4, T-21N, R-5E, W.M.
City of Auburn, King County, Washington

LEGAL DESCRIPTION

SEE SHEET 2 OF 3

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF INTEREST IN THE LAND HEREBY SUBDIVIDED, HEREBY DECLARE THIS PLAT TO BE THE GRAPHIC REPRESENTATION OF THE SUBDIVISION MADE HEREBY, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS AND AVENUES NOT SHOWN AS PRIVATE HEREON AND DEDICATE THE USE THEREOF FOR ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES, AND ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS SHOWN HEREON IN THE ORIGINAL REASONABLE GRADING OF SAID STREETS AND AVENUES, AND FURTHER DEDICATE TO THE USE OF THE PUBLIC ALL THE EASEMENTS AND TRACTS SHOWN ON THIS PLAT FOR ALL PUBLIC PURPOSES AS INDICATED HEREON, INCLUDING BUT NOT LIMITED TO PARKS, OPEN SPACE, UTILITIES AND DRAINAGE UNLESS SUCH EASEMENTS OR TRACTS ARE SPECIFICALLY IDENTIFIED ON THIS PLAT AS BEING GRANTED AND CONVEYED TO A PERSON OR ENTITY OTHER THAN THE PUBLIC, IN WHICH CASE WE DO HEREBY GRANT AND CONVEY SUCH STREETS, EASEMENTS OR TRACTS TO THE PERSON OR ENTITY IDENTIFIED AND FOR THE PURPOSE STATED.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED, WAIVE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS AND ANY PERSON OR ENTITY DERIVING TITLE FROM THE UNDERSIGNED, ANY AND ALL CLAIMS FOR DAMAGES AGAINST THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS WHICH MAY BE OCCASIONED BY THE ESTABLISHMENT, CONSTRUCTION, OR MAINTENANCE OF ROADS AND/OR DRAINAGE SYSTEMS WITHIN THIS SUBDIVISION OTHER THAN CLAIMS RESULTING FROM INADEQUATE MAINTENANCE BY THE CITY OF AUBURN.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED, AGREE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS TO INDEMNIFY AND HOLD THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS, HARMLESS FROM ANY DAMAGE, INCLUDING ANY COSTS OF DEFENSE, CLAIMED BY PERSONS WITHIN OR WITHOUT THIS SUBDIVISION TO HAVE BEEN CAUSED BY ALTERATIONS OF THE GROUND SURFACE, VEGETATION, DRAINAGE, OR SURFACE OR SUB-SURFACE WATER FLOWS WITHIN THIS SUBDIVISION OR BY ESTABLISHMENT, CONSTRUCTION OR MAINTENANCE OF THE ROADS WITHIN THIS SUBDIVISION. PROVIDED, THIS WAIVER AND INDEMNIFICATION SHALL NOT BE CONSTRUED AS RELEASING THE CITY OF AUBURN, ITS SUCCESSORS OR ASSIGNS, FROM LIABILITY FOR DAMAGES, INCLUDING THE COST OF DEFENSE, RESULTING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF AUBURN, ITS SUCCESSORS, OR ASSIGNS.

THIS SUBDIVISION, DEDICATION, WAIVER OF CLAIMS AND AGREEMENT TO HOLD HARMLESS IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNERS.

IN WITNESS WHEREOF WE SET OUR HANDS AND SEALS:

LAKERIDGE DEVELOPMENT I, LLC
A WASHINGTON LIMITED LIABILITY COMPANY

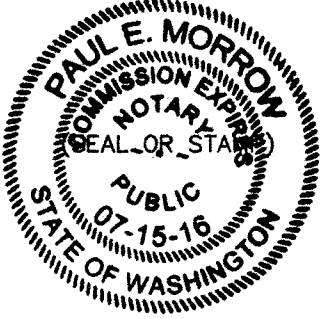
BY: Wm. WAYNE JONES, JR.
TITLE: MANAGER

ACKNOWLEDGMENTS

STATE OF WASHINGTON
COUNTY OF KING

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT Wm. WAYNE JONES, JR. IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT HE SIGNED THIS INSTRUMENT, ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE MANAGER OF LAKERIDGE DEVELOPMENT I, LLC TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED 4-11-14



STATE OF _____
COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____ IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT HE SIGNED THIS INSTRUMENT, ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE _____ OF HOMESTREET BANK TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED _____

(SIGNATURE)

TITLE
MY APPOINTMENT
EXPIRES _____

(SEAL OR STAMP)

CITY OF AUBURN APPROVALS

CITY FINANCE DIRECTOR CERTIFICATE

I HEREBY CERTIFY THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS FOR WHICH THE PROPERTY SUBJECT TO THIS SUBDIVISION MAY BE LIABLE TO THE CITY, AND THAT ALL SPECIAL ASSESSMENTS ON ANY PROPERTY HEREIN CONTAINED DEDICATED AS STREETS, ALLEYS OR FOR ANY OTHER PUBLIC USE HAVE BEEN DULY PAID, SATISFIED OR DISCHARGED, THIS ____ DAY OF _____, 20____.

AUBURN DIRECTOR OF FINANCE

CITY ENGINEER'S CERTIFICATE

I HEREBY CERTIFY THAT THIS FINAL PLAT IS IN COMPLIANCE WITH THE CERTIFICATE OF IMPROVEMENTS ISSUED PURSUANT TO A.C.C. 17.14.015, AND IS CONSISTENT WITH ALL APPLICABLE CITY IMPROVEMENT STANDARDS AND REQUIREMENTS IN FORCE ON THE DATE OF PRELIMINARY PLAT APPROVAL, THIS ____ DAY OF _____, 20____.

AUBURN CITY ENGINEER

PLANNING DIRECTOR'S CERTIFICATE

I HEREBY CERTIFY THAT ON THIS ____ DAY OF _____, 20____, THAT THIS FINAL PLAT IS IN SUBSTANTIAL CONFORMANCE WITH THE PRELIMINARY PLAT AND ANY CONDITIONS ATTACHED THERETO, WHICH PRELIMINARY PLAT WAS APPROVED BY THE KING COUNTY HEARING EXAMINER ON THE 15TH DAY OF MAY, 2007.

AUBURN PLANNING DIRECTOR

APPROVAL

EXAMINED AND APPROVED THIS ____ DAY OF _____, 20____, PURSUANT TO CITY ORDINANCE NUMBER _____, ADOPTED BY THE AUBURN CITY COUNCIL ON THE ____ DAY OF _____, 20____.

MAYOR

ATTEST: _____
AUBURN CITY CLERK

RECORDING CERTIFICATE

RECORDING No. _____
FILED FOR RECORD AT THE REQUEST OF THE CITY OF AUBURN THIS ____ DAY OF _____, 20____, AT ____ MINUTES PAST ____ M. AND RECORDED IN VOLUME _____ OF PLATS, PAGES _____, RECORDS OF KING COUNTY, WASHINGTON.

DIVISION OF RECORDS AND ELECTIONS

MANAGER

SUPERINTENDENT OF RECORDS

D.D.E.S. FILE No. L06P0003
ORD C

AUBURN FILE No. PLT14-0003

SHEET 1 OF 3

Page 99 of 280

KING COUNTY FINANCE DIVISION CERTIFICATE

I HEREBY CERTIFY THAT ALL PROPERTY TAXES ARE PAID, THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION AND THAT ALL SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION ON ANY OF THE PROPERTY HEREIN CONTAINED DEDICATED AS STREETS, ALLEYS, OR FOR ANY OTHER PUBLIC USE ARE PAID IN FULL.

THIS ____ DAY OF _____, 20____.

MANAGER, KING COUNTY FINANCE DIVISION

DEPUTY

KING COUNTY DEPARTMENT OF ASSESSMENTS

EXAMINED AND APPROVED THIS ____ DAY OF _____, 20____.

KING COUNTY ASSESSOR

PARCEL NUMBER: 042105-9013

DEPUTY KING COUNTY ASSESSOR

NOTES

1. CONTROLLING BOUNDARY DATA WAS OBTAINED BY DIRECT FIELD MEASUREMENTS EMPLOYING CONVENTIONAL TRAVERSE PROCEDURES USING A TOPCON 211D THEODOLITE WITH INTEGRAL DISTANCE MEASURING METER. FIELD WORK BY DMP, INC. IN 2013. ALL MEASUREMENTS ARE IN U.S. SURVEY FEET.
2. CW TITLE SUBDIVISION GUARANTEE ISSUED BY TITLE RESOURCES GUARANTY COMPANY ORDER No. 40126747 DATED DECEMBER 10, 2013 AND SUBSEQUENT ENDORSEMENT DATED FEBRUARY 04, 2014, WERE RELIED UPON FOR DISCLOSURE OF THE VESTING OF TITLE OF THE REAL PROPERTY COMPRISING THIS SUBDIVISION WHICH ACCORDING TO SAID SUBDIVISION GUARANTEE IS SUBJECT TO THE FOLLOWING AND OTHER EXCEPTIONS.
 - A. RIGHT TO MAKE NECESSARY SLOPES FOR CUTS AND FILLS CONTAINED IN QUIT-CLAIM DEED, RECORDING NUMBER 6027010 (DESCRIPTION IS INSUFFICIENT TO GRAPHICALLY DEPICT).
 - B. TERMS AND CONDITIONS AGREEMENT FOR CONSTRUCTION OF WATER LINE AUBURN SCHOOL DISTRICT No. 408 & CITY OF AUBURN, WASHINGTON, RECORDING NUMBER 7406070430.
 - C. MATTERS DISCLOSED ON SURVEY RECORDED UNDER RECORDING NUMBER 7412090513.
 - D. RIGHT TO MAKE NECESSARY SLOPES FOR CUTS AND FILLS CONTAINED IN WARRANTY DEED, RECORDING NUMBER 7501150218 (DESCRIPTION IS INSUFFICIENT TO GRAPHICALLY DEPICT)..
 - E. EASEMENT FOR SLOPES RECORDED UNDER RECORDING NUMBER 7501150219 (GRAPHICALLY DEPICTED ON SHEET 3 OF 3).
 - F. TERMS AND CONDITIONS OF WATER AND SANITARY SEWER PAYBACK AGREEMENT #75 RIDGE AT WILLOW PARK DEVELOPER'S FACILITY EXTENSION # FAC0024-95, RECORDED UNDER RECORDING NUMBER 19991015001298.
 - G. TERMS AND CONDITIONS OF OUTSIDE UTILITY EXTENSION AGREEMENT RECORDED UNDER RECORDING NUMBER 20051019002132.
 - H. UTILITY SYSTEM EASEMENT RECORDED UNDER RECORDING NUMBER 20131031000248 (GRAPHICALLY DEPICTED ON SHEET 3 OF 3).

NO WARRANTY IS HEREBY MADE, EXPRESS OR IMPLIED, AS TO THE ACCURACY AND/OR COMPLETENESS OF SAID SUBDIVISION GUARANTEE.

3. TRAVERSE CLOSURES FOR THIS SUBDIVISION EXCEED THE REQUIREMENTS OF WAC 332-130-090. ESTABLISHMENT OF LOT CORNERS IS BY RADIAL SURVEY PROCEDURE, WITH INDEPENDENT MEASUREMENTS.
4. LOT AND TRACT CORNERS THAT ARE NOT REFERENCED WITH A TACK AND BRASS WASHER IN LEAD MARKED "DMP INC #22962" IN THE CURB, AS SHOWN ON SHEET 3 OF 3, WILL BE STAKED WITH 1/2 INCH BY 24 INCH REBAR AND YELLOW PLASTIC CAP MARKED "DMP INC. PLS 22962".
5. THE PLANTER ISLAND (IF ANY) WITHIN THE CUL-DE-SAC SHALL BE MAINTAINED BY THE ABUTTING LOT OWNERS OR THE HOMEOWNERS ASSOCIATION.
6. THE HOMEOWNERS ASSOCIATION AS CITED HEREIN IS THE ALICIA GLENN HOMEOWNERS ASSOCIATION. THE ARTICLES OF INCORPORATION ARE ON FILE WITH THE SECRETARY OF STATE OF THE STATE OF WASHINGTON.
7. THE STREET TREES, PER KCC 21A.16.050, WITHIN THIS SUBDIVISION SHALL BE MAINTAINED BY THE ABUTTING LOT OWNERS OR THE HOMEOWNERS ASSOCIATION OR OTHER WORKABLE ORGANIZATION UNLESS THE CITY OF AUBURN OR ITS SUCCESSOR AGENCY HAS ADOPTED A MAINTENANCE PROGRAM.
8. TRACT "A" IS A PRIVATE ACCESS TRACT FOR INGRESS, EGRESS, STORM DRAINAGE AND UTILITIES FOR THE BENEFIT OF THE OWNERS OF LOTS 16, 17 AND 18. OWNERSHIP OF LOTS 16, 17, AND 18 OF THIS PLAT INCLUDES AN EQUAL AND UNDIVIDED OWNERSHIP INTEREST IN TRACT "A" AND AN EQUAL AND UNDIVIDED RESPONSIBILITY FOR THE MAINTENANCE OF SAID TRACT. A WATER EASEMENT AND SANITARY SEWER EASEMENT OVER, UNDER, ACROSS AND UPON SAID TRACT IS HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS.
9. TRACT "B" IS A RECREATION SPACE TRACT FOR THE BENEFIT OF ALL LOT OWNERS IN THIS PLAT AND IS HEREBY DEDICATED AND CONVEYED TO THE ALICIA GLENN HOMEOWNERS ASSOCIATION FOR OWNERSHIP AND MAINTENANCE.
10. TRACT "C" IS A STORM DRAINAGE TRACT AND IS HEREBY DEDICATED AND CONVEYED TO THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS.
11. TRACT "D" IS A PRIVATE ACCESS TRACT FOR INGRESS, EGRESS, STORM DRAINAGE AND UTILITIES FOR THE BENEFIT OF THE OWNERS OF LOTS 24, 25, 26 AND 27. OWNERSHIP OF LOTS 24, 25, 26 AND 27 OF THIS PLAT INCLUDES AN EQUAL AND UNDIVIDED OWNERSHIP INTEREST IN TRACT "D" AND AN EQUAL AND UNDIVIDED RESPONSIBILITY FOR THE MAINTENANCE OF SAID TRACT. A STORM DRAINAGE AND SANITARY SEWER EASEMENT OVER, UNDER, ACROSS AND UPON SAID TRACT IS HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS.
12. THE TEN FOOT PRIVATE DRAINAGE EASEMENT ON LOTS 9 AND 10, SHEET 3 OF 3 IS HEREBY GRANTED AND CONVEYED TO THE OWNERS OF LOTS 9 AND 10, THEIR SUCCESSORS AND ASSIGNS.
13. THE TEN FOOT PRIVATE DRAINAGE EASEMENT ON LOT 17, SHEET 3 OF 3 IS HEREBY GRANTED AND CONVEYED TO THE OWNERS OF LOT 16, THEIR SUCCESSORS AND ASSIGNS.
14. THE TEN FOOT PRIVATE DRAINAGE EASEMENT ON LOTS 21, 22 AND 23, SHEET 3 OF 3 IS HEREBY GRANTED AND CONVEYED TO THE OWNERS OF LOTS 20, 21 AND 22, THEIR SUCCESSORS AND ASSIGNS.
15. THE PRIVATE DRAINAGE EASEMENT ON LOTS 26, 27 AND 28, SHEET 3 OF 3 IS HEREBY GRANTED AND CONVEYED TO THE OWNERS OF LOTS 25, 26 AND 27, THEIR SUCCESSORS AND ASSIGNS.
16. THE PRIVATE DRAINAGE EASEMENT ON LOTS 19, 27 AND 28, SHEET 3 OF 3 IS HEREBY GRANTED AND CONVEYED TO THE OWNERS OF LOTS 19 AND 20, THEIR SUCCESSORS AND ASSIGNS.
17. "KCC" AS USED IN VARIOUS NOTES HEREON, MAKES REFERENCE TO "KING COUNTY CODE" UNDER WHICH THIS PLAT RECEIVED PRELIMINARY APPROVAL. THE FILE NUMBER IN THE LOWER LEFT CORNER OF EACH SHEET IS THE KING COUNTY DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NUMBER.

ROOF DOWNSPOUTS:

ALL BUILDING DOWNSPOUTS, FOOTING DRAINS, AND DRAINS FROM ALL IMPERVIOUS SURFACES SUCH AS PATIOS AND DRIVEWAYS SHALL BE CONNECTED TO THE PERMANENT STORM DRAIN OUTLET AS SHOWN ON THE APPROVED CONSTRUCTION DRAWINGS, FAC#12-0010, ON FILE WITH THE CITY OF AUBURN. THIS PLAN SHALL BE SUBMITTED WITH THE APPLICATION OF ANY BUILDING PERMIT. ALL CONNECTIONS OF THE DRAINS MUST BE CONSTRUCTED AND APPROVED PRIOR TO THE FINAL BUILDING INSPECTION APPROVAL. FOR THOSE LOTS THAT ARE DESIGNATED FOR INDIVIDUAL LOT INFILTRATION SYSTEMS, THE SYSTEMS SHALL BE CONSTRUCTED AT THE TIME OF THE BUILDING PERMIT AND SHALL COMPLY WITH PLANS ON FILE.

VEHICULAR ACCESS:

DIRECT VEHICULAR ACCESS TO AND FROM 124TH AVENUE S.E. AND S.E. 304TH STREET FROM ANY LOT IS PROHIBITED.

MITIGATION PAYMENT SYSTEM:

LOTS 2 THROUGH 28 ARE SUBJECT TO KING COUNTY CODE No. 14.75, KING COUNTY ROAD MITIGATION PAYMENT SYSTEM (MPS). THE MPS FEES PLUS THE MPS ADMINISTRATIVE FEES SHALL BE PAID AT THE TIME OF BUILDING PERMIT APPLICATION AT THE RATE IN EFFECT AT THAT TIME.

SCHOOL IMPACT FEES:

LOTS 2 THROUGH 28 ARE SUBJECT TO AUBURN CITY CODE 19.02.070. THE SCHOOL IMPACT FEE AND ANY ADMINISTRATIVE FEE SHALL BE IMPOSED CONCURRENT WITH THE ISSUANCE OF THE BUILDING PERMITS FOR THESE LOTS.

EXEMPTION:

A DWELLING EXISTED ON THIS SITE AT THE TIME OF PRELIMINARY PLAT APPROVAL. THEREFORE LOT 1 IS EXEMPT FROM ALL MITIGATION AND IMPACT FEES IMPOSED ON THIS SUBDIVISION.

LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT OF ALICIA GLENN IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 4, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., THAT THE COURSES AND DISTANCES ARE SHOWN CORRECTLY HEREON, THAT THE MONUMENTS WILL BE SET AND THE LOT CORNERS WILL BE STAKED OR REFERENCED CORRECTLY ON THE GROUND AND THAT I HAVE COMPLIED WITH THE PROVISIONS OF THE PLATTING REGULATIONS.

PAUL E. MORROW P.L.S., CERTIFICATE No. 22962
DALEY-MORROW-POBLETE, INC.
726 AUBURN WAY NORTH, AUBURN, WA. 98002
(253) 333-2200 (FAX) 333-2206



SEE SHEET 2 OF 3 FOR ADDITIONAL NOTES

DALEY-MORROW-POBLETE, INC.
726 AUBURN WAY NORTH
AUBURN, WASHINGTON 98002
PHONE: (253)333-2200 (FAX)333-2206



ENGINEERING - SURVEYING
LAND PLANNING

30 MAY '14

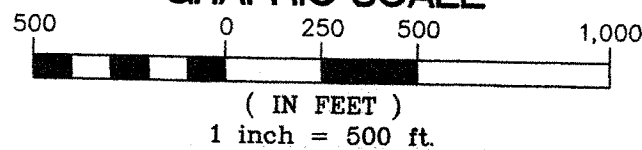
ALICIA GLENN
A PORTION OF
S.W. 1/4, S.E. 1/4, Sec. 4, T-21N, R-5E, W.M.
City of Auburn, King County, Washington

**MERIDIAN:**

WASHINGTON STATE PLANE, NORTH ZONE
 NAD 83/91, PER K.C.S.C.

BASIS OF BEARINGS:

S. LN., S.E. 1/4, SEC. 4, T-21N, R-5E, W.M.
 BEARING N87°57'29"W

GRAPHIC SCALE**NOTES/RESTRICTIONS:**

1. IN CONJUNCTION WITH OR UPON COMPLETION OF RESIDENTIAL BUILDING CONSTRUCTION, BMP C126: TOPSOILING REQUIREMENTS PER THE SWMM, SHALL BE INCORPORATED WITH LANDSCAPE PLANTINGS IN PVIOUS AREAS OF EACH INDIVIDUAL LOT.

PRIOR TO BUILDING CONSTRUCTION ON ALL LOTS, TEMPORARY EROSION AND SEDIMENTATION CONTROL MEASURES, PER THE CONSTRUCTION STORM WATER POLLUTION PREVENTION PLAN (CSWPPP) WILL BE CONSTRUCTED AND MAINTAINED THROUGH FINAL LOT STABILIZATION. PRIOR TO FINAL BUILDING INSPECTION FOR THE STRUCTURE(S) ON ALL LOTS, ROOF DRAIN DOWNSPOUTS, FOOTING DRAINS AND ALL LANDSCAPED AREAS NOT DESIGNATED FOR SHEET FLOW TO THE ADJACENT SENSITIVE AREAS, OR ALLOWED TO BE TREATED ONSITE, SHALL BE TIGHTLINED TO THE PUBLIC ROADWAY DRAINAGE SYSTEM AND SHALL BE INSPECTED BY THE CITY OF AUBURN FOR COMPLIANCE WITH THE CSWPPP PRIOR TO FINAL APPROVAL.

2. THE DEPARTMENT OF ECOLOGY CONSTRUCTION STORMWATER GENERAL PERMIT IS LINKED TO THE PROJECT SITE. ANY TRANSFER OF OWNERSHIP, PARTIAL OR COMPLETE, REQUIRES A TRANSFER OF COVERAGE THROUGH THE DEPARTMENT OF ECOLOGY AND IS APPLICABLE UNTIL COMPLETE PROJECT FINALIZATION.

CITY OF AUBURN DRAINAGE EASEMENT AND COVENANT:

ALL DRAINAGE EASEMENTS WITHIN THIS PLAT, NOT SHOWN AS "PRIVATE", ARE HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, A MUNICIPAL CORPORATION OF THE STATE OF WASHINGTON, FOR THE PURPOSE OF CONVEYING, STORING, MANAGING AND FACILITATING STORM AND SURFACE WATER PER THE ENGINEERING PLANS APPROVED FOR THIS PLAT, TOGETHER WITH THE RIGHT OF REASONABLE ACCESS (INGRESS AND EGRESS), TO ENTER SAID DRAINAGE EASEMENT FOR THE PURPOSE OF INSPECTING, OPERATING, MAINTAINING, REPAIRING AND IMPROVING THE DRAINAGE FACILITIES CONTAINED THEREIN. NOTE THAT EXCEPT FOR THE FACILITIES WHICH HAVE BEEN FORMALLY ACCEPTED FOR MAINTENANCE BY THE CITY OF AUBURN, MAINTENANCE OF DRAINAGE FACILITIES ON PRIVATE PROPERTY IS THE RESPONSIBILITY OF THE PROPERTY OWNER.

THE OWNERS OF SAID PRIVATE PROPERTY ARE REQUIRED TO OBTAIN PRIOR WRITTEN APPROVAL FROM THE CITY OF AUBURN, AND ANY REQUIRED PERMITS FROM THE CITY OF AUBURN FOR ACTIVITIES SUCH AS CLEARING AND GRADING, PRIOR TO FILLING, PIPING, CUTTING OR REMOVING VEGETATION (EXCEPT FOR ROUTINE LANDSCAPE MAINTENANCE SUCH AS LAWN MOWING) IN OPEN VEGETATED DRAINAGE FACILITIES (SUCH AS SWALES, CHANNELS, DITCHES, PONDS, ETC.) OR PERFORMING ANY ALTERATIONS OR MODIFICATIONS TO THE DRAINAGE FACILITIES, CONTAINED WITHIN SAID DRAINAGE EASEMENT.

THIS EASEMENT IS INTENDED TO FACILITATE REASONABLE ACCESS TO THE DRAINAGE FACILITIES. THIS EASEMENT AND COVENANT SHALL RUN WITH THE LAND AND IS BINDING UPON THE OWNERS OF SAID PRIVATE PROPERTY, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

THE OWNERS OF SAID PRIVATE PROPERTY SHALL NOT IN ANY WAY BLOCK, RESTRICT OR IMPEDE INGRESS AND EGRESS TO OR FROM SAID EASEMENT, AND/OR IN ANY WAY BLOCK, RESTRICT OR IMPEDE FULL USE OF THE REAL PROPERTY WITHIN THE ABOVE DESCRIBED EASEMENT BY THE CITY OF AUBURN FOR THE ABOVE DESCRIBED PURPOSES. NO BUILDING, WALL, ROCKERY, FENCE, TREES OR STRUCTURES OF ANY KIND SHALL BE ERCTED OR PLANTED, NOR SHALL ANY FILL MATERIAL BE PLACED WITHIN THE BOUNDARIES OF SAID EASEMENT AREA WITHOUT THE EXPRESS WRITTEN CONSENT OF THE CITY. WITH CITY PERMISSION THE OWNERS OF SAID PRIVATE PROPERTY MAY FENCE ACROSS SAID EASEMENT AND/OR ALONG THE BOUNDARIES OF SAID EASEMENT PROVIDED THAT A GATE IS CONSTRUCTED IN SAID FENCE. SAID GATE SHALL BE OF SUFFICIENT LENGTH AND LOCATION TO ALLOW THE GRANTEE FULL USE OF, AND INGRESS AND EGRESS TO AND FROM THE REAL PROPERTY WITHIN THE ABOVE DESCRIBED EASEMENT. IF SAID GATE IS TO BE LOCKED, KEYS SHALL BE PROVIDED TO THE CITY.

IN ADDITION TO THE OTHER RESTRICTIONS HEREIN, THE OWNERS OF SAID PRIVATE PROPERTY SHALL NOT CONVEY TO A THIRD PARTY ANY EASEMENT OR OTHER RIGHT OF USAGE IN THE PROPERTY THAT WOULD IMPAIR OR LIMIT THE CITY'S USE OF THE EASEMENT AREA.

PRIVATE DRAINAGE EASEMENT RESERVATION:

AN EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE OWNERS OF ALL LOTS OF THIS SUBDIVISION AND LAKERIDGE DEVELOPMENT, INC., THEIR SUCCESSORS AND ASSIGNS, UNDER AND UPON THE EXTERIOR TEN FEET PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF ALL LOTS AND TRACTS IN WHICH TO RENEW, OPERATE, AND MAINTAIN ROOF AND FOOTING DRAINS IN CONFORMANCE WITH APPROVED AS-BUILT CONSTRUCTION DRAWINGS ON FILE WITH THE CITY OF AUBURN.

PRIVATE DRAINAGE EASEMENT COVENANT:

THE OWNERS OF PRIVATE PROPERTY WITHIN THIS PLAT ENCOMBERED WITH DRAINAGE EASEMENTS SHOWN AS "PRIVATE", HEREBY GRANT AND CONVEY TO THE CITY OF AUBURN, A MUNICIPAL CORPORATION OF THE STATE OF WASHINGTON, THE RIGHT, BUT NOT THE OBLIGATION TO CONVEY OR STORE STORM AND SURFACE WATER PER THE ENGINEERING PLANS APPROVED FOR THIS PLAT, TOGETHER WITH THE RIGHT OF REASONABLE ACCESS (INGRESS AND EGRESS), TO ENTER SAID DRAINAGE EASEMENT FOR THE PURPOSE OF OBSERVING THAT THE OWNERS ARE PROPERLY OPERATING AND MAINTAINING THE DRAINAGE FACILITIES CONTAINED THEREIN.

THE OWNERS OF SAID PRIVATE PROPERTY ARE RESPONSIBLE FOR OPERATING, MAINTAINING AND REPAIRING THE DRAINAGE FACILITIES CONTAINED WITHIN SAID DRAINAGE EASEMENT AND ARE HEREBY REQUIRED TO OBTAIN ANY REQUIRED PERMITS FROM THE CITY OF AUBURN PRIOR TO FILLING, PIPING, CUTTING OR REMOVING VEGETATION (EXCEPT FOR ROUTINE LANDSCAPE MAINTENANCE SUCH AS LAWN MOWING) IN OPEN VEGETATED DRAINAGE FACILITIES (SUCH AS SWALES, CHANNELS, DITCHES, PONDS, ETC.) OR PERFORMING ANY ALTERATIONS OR MODIFICATIONS TO THE DRAINAGE FACILITIES CONTAINED WITHIN SAID DRAINAGE EASEMENT.

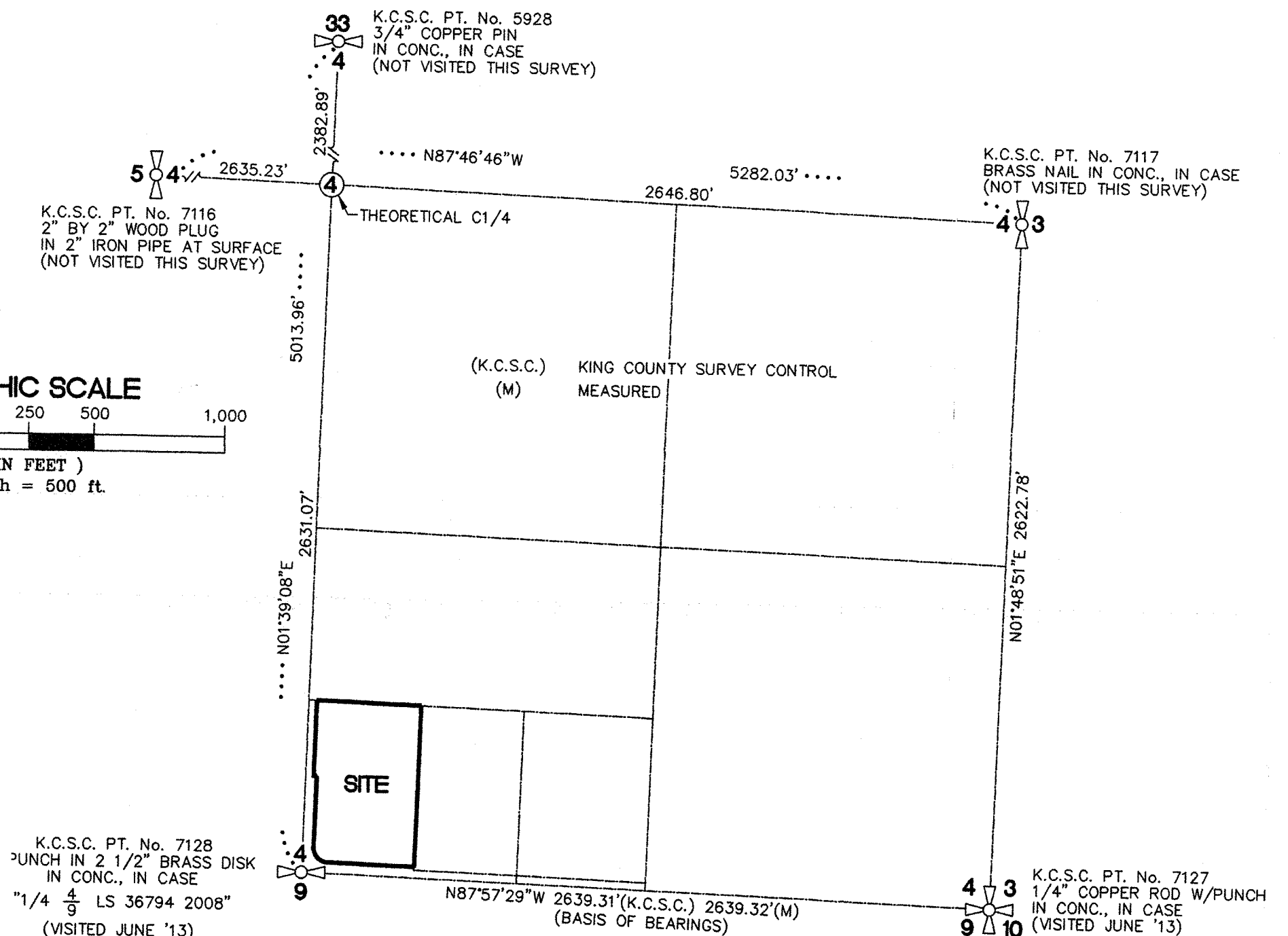
THIS COVENANT SHALL RUN WITH THE LAND AND IS BINDING UPON THE OWNERS OF SAID PRIVATE PROPERTY, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

EASEMENT RESERVATION:

AN EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF AUBURN, COMCAST CORPORATION, CENTURYLINK, INC. AND LAKERIDGE DEVELOPMENT, INC., THEIR SUCCESSORS AND ASSIGNS, UNDER AND UPON THE EXTERIOR TEN FEET PARALLEL WITH AND ADJOINING THE PUBLIC STREET FRONTAGE OF ALL LOTS AND TRACTS IN WHICH TO INSTALL, LAY, CONSTRUCT, RENEW, OPERATE AND MAINTAIN UNDERGROUND PIPE, CONDUIT, CABLES AND WIRES WITH NECESSARY FACILITIES AND OTHER EQUIPMENT FOR THE PURPOSE OF SERVING THIS SUBDIVISION AND OTHER PROPERTY WITH RELATED UTILITIES TOGETHER WITH THE RIGHT TO ENTER UPON THE LOTS AT ALL TIMES FOR THE PURPOSES HEREIN STATED. THESE EASEMENTS ENTERED UPON FOR THESE PURPOSES SHALL BE RESTORED AS NEAR AS POSSIBLE TO THEIR ORIGINAL CONDITION BY THE GRANTEE. NO LINES OR WIRES FOR SAID UTILITIES SHALL BE PLACED OR PERMITTED TO BE PLACED UPON ANY LOT UNLESS THE SAME SHALL BE UNDERGROUND OR IN A CONDUIT ATTACHED TO A BUILDING.

REFERENCES:

1. CW TITLE SUBDIVISION GUARANTEE ISSUED BY TITLE RESOURCES GUARANTY COMPANY ORDER No. 40126747 DATED DECEMBER 10, 2013 AND SUBSEQUENT ENDORSEMENT DATED FEBRUARY 04, 2014.
2. KING COUNTY ASSESSOR'S MAP OF SE 04-21-05, DATED 3/2/2012.
3. KING COUNTY SURVEY CONTROL.
4. RECORD OF SURVEY, REC. No. 7412090513.



SUBDIVISION OF:
S.E. 1/4, SEC. 4, T-21N, R-5E, W.M.
 PER K.C.S.C.

LEGAL DESCRIPTION:

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;
 EXCEPT THE EAST 3/8TH THEREOF;
 AND EXCEPT THE WEST 394.88 FEET OF THE EAST 889.75 FEET THEREOF;
 ALSO EXCEPT COUNTY ROADS;
 AND ALSO EXCEPT THAT PORTION CONVEYED TO KING COUNTY FOR PUBLIC ROAD BY WARRANTY DEED RECORDED UNDER RECORDING NUMBER 20070925000337.
 SITUATE IN THE CITY OF AUBURN, COUNTY OF KING, STATE OF WASHINGTON.

CITY OF AUBURN WATER AND SEWER EASEMENT(S) PROVISION:

ALL PUBLIC WATER AND SEWER EASEMENTS AS SHOWN ARE HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, A MUNICIPAL CORPORATION OF KING COUNTY, WASHINGTON, ITS SUCCESSORS AND ASSIGNS, A PERPETUAL NONEXCLUSIVE EASEMENT UNDER, OVER, THROUGH AND ACROSS THE REAL PROPERTY AS DESCRIBED HEREIN FOR THE PURPOSE OF LAYING, MAINTAINING, INSTALLING, AND CONVEYING WATER AND SEWER LINE AND APPURTENANCES THEREOF, PER THE ENGINEERING PLANS APPROVED BY THE CITY OF AUBURN FOR THIS PLAT, TOGETHER WITH THE ABSOLUTE RIGHT, AT TIMES AS NECESSARY FOR IMMEDIATE ACCESS (INGRESS AND EGRESS), TO ENTER SAID EASEMENT FOR THE PURPOSE OF INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING, AND IMPROVING THE WATER AND SEWER FACILITIES CONTAINED THEREIN WITHOUT INCURRING ANY LEGAL OBLIGATION OR LIABILITY THEREFOR.

THE CITY OF AUBURN SHALL HAVE THE ABSOLUTE RIGHT TO PLACE ANY TYPE OF DRIVING SURFACE WITHIN SAID EASEMENT AREA DEEMED NECESSARY BY THE CITY OF AUBURN.

THE OWNERS OF SAID PRIVATE PROPERTY SHALL NOT IN ANY WAY BLOCK, RESTRICT OR IMPEDE INGRESS AND EGRESS TO OR FROM SAID EASEMENT AREA, AND/OR IN ANY WAY BLOCK, RESTRICT OR IMPEDE FULL USE OF THE REAL PROPERTY WITHIN THE ABOVE DESCRIBED EASEMENT AREA BY THE CITY OF AUBURN FOR THE ABOVE-DESCRIBED PURPOSES. NO BUILDING, WALL, ROCKERY, FENCE, TREES, OR STRUCTURE OF ANY KIND SHALL BE ERCTED OR PLANTED, NOR SHALL ANY FILL MATERIAL BE PLACED WITHIN THE BOUNDARIES OF SAID EASEMENT AREA, WITHOUT THE EXPRESS WRITTEN CONSENT OF THE CITY OF AUBURN. WITH CITY OF AUBURN PERMISSION, THE OWNERS OF SAID PRIVATE PROPERTY MAY FENCE ACROSS SAID EASEMENT AREA AND/OR ALONG THE BOUNDARIES OF SAID EASEMENT AREA, PROVIDED THAT A GATE IS CONSTRUCTED IN SAID FENCE. SAID GATE SHALL BE OF SUFFICIENT LENGTH AND LOCATION TO ALLOW THE GRANTEE FULL USE OF, AND INGRESS AND EGRESS TO AND FROM REAL PROPERTY WITHIN THE EASEMENT AREA. IF SAID GATE IS TO BE LOCKED, KEYS SHALL BE PROVIDED TO THE CITY OF AUBURN.

NO EXCAVATION SHALL BE MADE WITHIN THREE (3) FEET OF SAID WATER AND SEWER SERVICE FACILITIES AND THE SURFACE LEVEL OF THE GROUND WITHIN THE EASEMENT AREA SHALL BE MAINTAINED AT THE ELEVATION AS CURRENTLY EXISTING.

THE OWNERS OF SAID PRIVATE PROPERTY GRANT TO THE CITY OF AUBURN THE RIGHT OF INGRESS AND EGRESS TO THE EASEMENT AREA OVER AND ACROSS ALL PAVED, GRAVELED, OR OTHERWISE IMPROVED DRIVEWAYS OR PARKING LOTS WITHIN THE PARENT PARCEL. IF DIRECT ACCESS TO THE EASEMENT AREA IS NOT AVAILABLE FROM SUCH DRIVEWAYS OR PARKING LOTS, THE CITY OF AUBURN'S RIGHT OF INGRESS AND EGRESS SHALL INCLUDE SUCH OTHER AREAS WITHIN THE PARENT PARCEL AS THE CITY OF AUBURN DETERMINES ARE NECESSARY TO ACCESS THE EASEMENT AREA FROM SUCH DRIVEWAYS AND PARKING LOTS OR FROM THE PARENT PARCEL'S BOUNDARIES. IN THE CASE OF ANY DAMAGE OR DISRUPTION OF THE PARENT PARCEL, THE CITY OF AUBURN SHALL RETURN THE PROPERTY TO A CONDITION REASONABLY COMPARABLE TO ITS CONDITION AS IT EXISTED IMMEDIATELY BEFORE ENTRY AND/OR WORK WAS MADE THEREON BY THE CITY OF AUBURN OR ITS AGENTS.

THE OWNERS OF SAID PRIVATE PROPERTY ADDITIONALLY GRANT TO THE CITY OF AUBURN, THE USE OF SUCH ADDITIONAL AREA IMMEDIATELY ADJACENT TO SAID EASEMENT AREA AS SHALL BE REQUIRED FOR THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND OPERATION OF SAID WATER AND SEWER FACILITIES. THE USE OF SUCH ADDITIONAL AREA SHALL BE HELD TO A REASONABLE MINIMUM AND IN THE CASE OF ANY DAMAGE OR DISRUPTION OF THE PARENT PARCEL, THE CITY OF AUBURN SHALL RETURN THE PROPERTY TO A CONDITION REASONABLY COMPARABLE TO ITS CONDITION AS IT EXISTED IMMEDIATELY BEFORE ENTRY AND/OR WORK WAS MADE HEREON BY THE CITY OF AUBURN OR ITS AGENTS. IN ADDITION TO THE OTHER RESTRICTIONS HEREIN, THE OWNERS OF SAID PRIVATE PROPERTY SHALL NOT CONVEY TO A THIRD PARTY ANY EASEMENT OR OTHER RIGHT OF USAGE IN THE PARENT PARCEL THAT WOULD IMPAIR OR LIMIT THE CITY OF AUBURN'S USE OF THE EASEMENT AREA.

THIS EASEMENT AND COVENANT SHALL RUN WITH THE PARENT PARCEL AND IS BINDING ON THE OWNERS OF SAID PRIVATE PROPERTY, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

SEE SHEET 1 OF 3 FOR ADDITIONAL NOTES

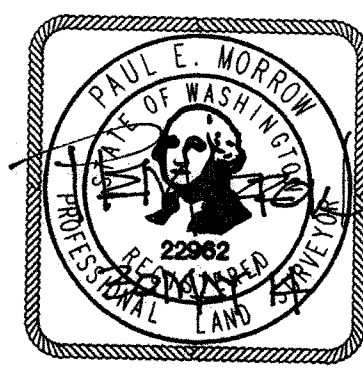
DALEY-MORROW-POBLETE, INC.

726 AUBURN WAY NORTH
 AUBURN, WASHINGTON 98002
 PHONE: (253)333-2200 (FAX)333-2206



**ENGINEERING - SURVEYING
 LAND PLANNING**

30 MAY '14



ALICIA GLENN
A PORTION OF
S.W. 1/4, S.E. 1/4, Sec. 4, T-21N, R-5E, W.M.
City of Auburn, King County, Washington

THEORETICAL C1/4
 SEE SHEET 2 OF 3

UNPLATTED

**MERIDIAN:**

WASHINGTON STATE PLANE, NORTH ZONE
 NAD 83/91, PER K.C.S.C.

BASIS OF BEARINGS:

S. 1/4, S.E. 1/4, SEC. 4, T-21N, R-5E, W.M.
 BEARING N87°57'29"W

LEGEND

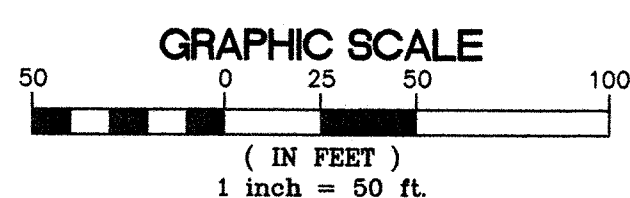
- ⊕ CITY OF AUBURN TYPE "B" MODIFIED MONUMENT TO BE SET WHEN CONSTRUCTION IS COMPLETED
- (R) RADIAL
- PWE PUBLIC WATER EASEMENT, SEE CITY OF AUBURN WATER AND SEWER EASEMENT(S) PROVISION SHEET 2 OF 3
- PSE PUBLIC SEWER EASEMENT, SEE CITY OF AUBURN WATER AND SEWER EASEMENT(S) PROVISION SHEET 2 OF 3
- PDE PUBLIC DRAINAGE EASEMENT, SEE CITY OF AUBURN DRAINAGE EASEMENT AND COVENANT SHEET 2 OF 3
- ⊗ 10.XX' TACK AND BRASS WASHER IN LEAD MARKED "DMP INC #22962" IN THE CURB ON THE EXTENSION OF THE LOT LINE WITH THE DISTANCE TO THE ASSOCIATED LOT CORNER

K.C.S.C. PT. No. 7128
 APPLICATION FOR PERMIT TO REMOVE OR DESTROY A SURVEY MONUMENT, PERMIT NO. 3649
 PUNCH IN 2 1/2" BRASS DISK, IN CONC., IN CASE
 "1/4 4/9 LS 36794 2008" (VISITED JUNE '13)

N87°57'29"W 2639.31'(K.C.S.C.) 2639.32'(M)
 (BASIS OF BEARINGS)
S.E. 304TH STREET

K.C.S.C. PT. No. 7127
 1/4" COPPER ROD W/PUNCH
 IN CONC., IN CASE
 (VISITED JUNE '13)

ADDRESS TABLE			
LOT No.	ADDRESS	LOT No.	ADDRESS
1	12404 S.E. 302ND PLACE	15	30320 125TH COURT S.E.
2	12412 S.E. 302ND PLACE	16	30328 125TH COURT S.E.
3	12420 S.E. 302ND PLACE	17	30336 125TH COURT S.E.
4	12428 S.E. 302ND PLACE	18	30344 125TH COURT S.E.
5	12436 S.E. 302ND PLACE	19	30303 125TH COURT S.E.
6	12504 S.E. 302ND PLACE	20	30229 125TH COURT S.E.
7	12512 S.E. 302ND PLACE	21	30221 125TH COURT S.E.
8	30204 125TH COURT S.E.	22	30213 125TH COURT S.E.
9	30212 125TH COURT S.E.	23	30205 125TH COURT S.E.
10	30220 125TH COURT S.E.	24	12413 S.E. 302ND PLACE
11	30228 125TH COURT S.E.	25	12415 S.E. 302ND PLACE
12	30236 125TH COURT S.E.	26	12417 S.E. 302ND PLACE
13	30304 125TH COURT S.E.	27	12419 S.E. 302ND PLACE
14	30312 125TH COURT S.E.	28	30311 125TH COURT S.E.



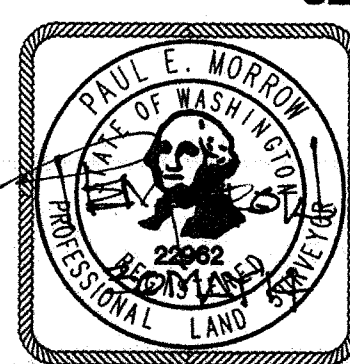
CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	23°50'04"	25.00'	10.40'
C2	03°05'11"	51.00'	2.75'
C3	52°37'59"	51.00'	46.85'
C4	03°36'52"	51.00'	3.22'
C5	36°47'01"	51.00'	32.74'
C6	30°05'16"	51.00'	26.78'
C7	38°37'41"	25.00'	16.85'
C8	27°43'36"	25.00'	12.10'

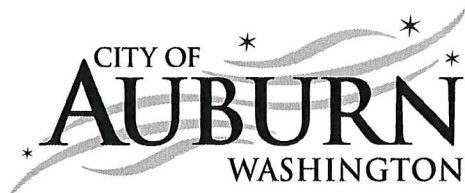
SEE SHEETS 1 AND 2 OF 3 FOR ADDITIONAL NOTES

DALEY-MORROW-POBLETE, INC.

726 AUBURN WAY NORTH
 AUBURN, WASHINGTON 98002
 PHONE: (253)333-2200 (FAX)333-2206

dmp ENGINEERING - SURVEYING
 LAND PLANNING
 12157FP



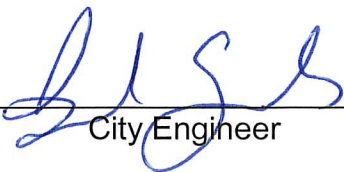


CERTIFICATE OF IMPROVEMENTS

FINAL PLAT APPLICATION FAC12-0010

COMPLETION OF IMPROVEMENTS

The required improvements for the Final Plat of **ALICIA GLENN** have been completed in accordance with the Land Division Ordinance and the City of Auburn's standards and specifications.


 City Engineer

 7/15/2014
 Date

SECURITY IN LIEU OF COMPLETION

In lieu of the required public improvements for the Final Plat of _____, an approved security _____ (type of security) for \$ _____ (150% of the estimated costs of improvements) has been submitted and approved by the City Engineer.

 City Engineer

 Date

1. The developer has provided references and demonstrated a minimum of 3 years successful, non-defaulted plat development experience in the Puget Sound region.
2. The bond/security is based on the following costs:

Water \$ _____

Sewer \$ _____

Storm \$ _____

Traffic Signal \$ _____

Street \$ _____

Street Trees / Sod \$ _____

cc: File: FAC12-0010
 Elizabeth Chamberlain, Planning Services Manager
 Wayne Jones, Lakeridge Development LLC

May 15, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email: hearex@metrokc.gov

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L06P0003**
Proposed Ordinance No. **2007-0132**

ALICIA GLENN
Preliminary Plat Application

Location: Northeast corner of the intersection of 124th Avenue Southeast and
Southeast 304th Street

Applicant: **Cory Martin**
Pacific West Development LLC
2201 Lind Avenue Southwest, Suite 150
Renton, Washington 98055
Telephone: (206) 650-7544

King County: Department of Development and Environmental Services (DDES)
represented by **Kim Claussen**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7167
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	March 29, 2007
Hearing Closed:	March 29, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Developer:	Pacific West Development LLC 2201 Lind Ave SW, Suite 150 Renton, WA 98055 206-650-7544
Engineer:	Baima & Holmberg 100 Front Street South Issaquah, WA 980 425-392-0250
STR:	4-21-05
Location:	The site is located at the northeast corner of the intersection of 124 th Ave SE and SE 304 th St
Zoning:	R-4
Acreage:	5.76 acres
Number of Lots:	31
Density:	Approximately 5.38 units per acre
Lot Size:	Approximately 5,250 square feet
Proposed Use:	Single Family Detached Dwellings
Sewage Disposal:	City of Auburn
Water Supply:	City of Auburn
Fire District:	Lea Hill No. 44
School District:	Auburn School District No. 408
Application Completeness Date:	January 20, 2006

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The subject property is a rectangular parcel approximately 5.8-six acres in area, located in the northeast corner of the intersection of 124th Avenue Southeast and Southeast 304th Street. It lies in the Lea Hill area on the fringes of the urbanizing area east and northeast of Auburn and east and south of Kent.¹ Suburban-scale development is located to the north and east, while undeveloped tracts and rural-scale residential homesites also lie in the area. The property is located in the Olson Creek tributary area of the Lower Green River subbasin. The terrain consists of a gradual slope to the west and southwest. No critical areas such as wetlands and

¹ The City of Kent has annexed an area of land in the northwest corner of the intersection.

streams are found onsite, and the property is vegetated mostly with pasture grasses and some trees, shrubs and groundcover. A single-family residence and outbuildings are located in the central portions of the site, around which the area is mostly cleared.

4. Applicant Pacific West Development LLC proposes subdivision of the property into 31 lots for detached single-family dwellings and additional tracts for recreation and drainage facilities. Public road access would be provided by the extension of a new east-west public road from 124th Avenue Southeast in the northern portion of the property, which would terminate in a stub on the eastern boundary (for possible future extension easterly) with a temporary cul-de-sac. Branching south from the east-west road would be a permanent cul-de-sac extending southerly to terminate in the south central portion of the site. Three private access tracts and/or joint use driveways will also be used for some lot access. No direct vehicular access would be allowed to the fronting roads; the King County Road Standards (KCRS) require that lot access be taken from the most minor road frontage of a lot, which in this case will require that access be taken from the internal roads and not from the external roads. The development will provide onsite recreation areas and amenities in the east central portion of the property, which will be convenient and accessible to all residents.
5. The proposed lot density would be approximately 5.38 dwelling units per acre, greater than the density normally permitted under the assigned R-4 zoning, achieved by utilizing a transfer of credits for nine lots under the county's Transfer of Development Rights (TDR) provisions established in Chapter 21A.37 KCC.
6. Existing site drainage flows toward the southwest corner and discharges to a catch basin in the northeast corner of the road intersection. The flow then runs west under 124th Avenue Southeast in a crosspipe, then enters Olson Creek (aka Tributary 0061). Olson Creek runs northwest and west from there to form a confluence with the Green River. The development's drainage plan contemplates collection of most project runoff and directing it to a detention and water quality facility located in a tract in the southwest corner of the site; it would be released under the Surface Water Design Manual's Conservation flow control standard and follow the natural discharge route to the west and to Olson Creek. The Conservation flow control standard provides appropriate drainage impact mitigation for existing erosion problems downstream in the Olson Creek Canyon.
7. Traffic impacts of the proposed development will be adequately mitigated under applicable County code requirements and through the imposition of a mitigation measure under the Mitigated Determination of Non-Significance (MDNS) (issued by DDES as the responsible official pursuant to the State Environmental Policy Act (SEPA)). The development has been granted a traffic Certificate of Concurrency under Chapter 14.70 KCC. The development is also subject to the standard collection of MPS mitigation fee payments pursuant to Chapter 14.75 KCC, which apply to each dwelling unit. No intersection-standard Level of Service (LOS) mitigation under Chapter 14.80 KCC is required, but the MDNS imposes mitigation for impacts at a High Accident Location (HAL) affected by the development's traffic, at the state highway SR-18 westbound/Southeast 304th Street on/off ramps, through the payment of an estimated payment amount of a pro-rata share of \$750 per lot to the Washington State Department of Transportation (WSDOT). Vehicular sight distance at the project entry onto 124th Avenue Southeast is more than adequate and exceeds KCRS requirements. Urban standard frontage

improvements will be installed along the property's road frontages; some may be installed under an upcoming proposed County Capital Improvement Program Intersection improvement project.

8. The preponderance of the evidence in the record demonstrates that even though resident public schoolchildren would likely be bused to their respective schools for the foreseeable future, the schools are close enough that students may be required to walk upon development of the site or sometime in the future. Depending on installation of the improvements required for the proposed 380-lot *Verdana* subdivision (within the City of Kent to the west) (its frontage improvements and signalized pedestrian crossings at the 118th Avenue Southeast/Southeast 304th Street intersection and on 124th Avenue Southeast near Mountainview High School), safe walkway conditions would be available for resident school pedestrians upon development of the subject subdivision.
9. Chapter 16.82 KCC's tree retention requirements apply to the proposal. A detailed tree retention plan must be submitted with the engineering plans for the subdivision construction.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-4 zone and the additional TDR allowances under Chapter 21A.37 KCC.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on November 6, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Alicia Glenn* subdivision, as revised and received November 6, 2006, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be

shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

The applicant shall provide a TDR certificate, updated density calculation worksheet and acreage information with the submittal of the engineering plans and the final plat. If the TDR certificate cannot be obtained and/or the density calculations cannot be verified, the applicant shall revise the number of lots based upon the allowable maximum density. This will result in the loss of lots and likely reconfiguration.

Any/all plat boundary discrepancies shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All future residences constructed within this subdivision (except those constructed on Lots 1 and 2) are required to be sprinkled per NFPA 13D unless the requirement is removed by the King County Fire Marshal or his/her designee. The Fire Code requires all portions of the exterior walls of structures to be within 150 feet (as a person would walk via an approved route around the building) from a minimum 20-foot wide, unobstructed driving surface. To qualify for removal of the sprinkler requirement driving surfaces between curbs must be a minimum of 28 feet in width when parking is allowed on one side of the roadway, and at least 36 feet in width when parking is permitted on both sides. No on-street parking will be permitted in the cul-de-sacs.

Additionally, the driving surface of Tracts C, D, and E shall have a minimum unobstructed width of 20 feet (no parking permitted); or respective lots accessed via those tracts (Lots 8, 9, 10, 15, 16, 19 and 20) will have to be sprinkled.

Note: modifications/increases to the road widths may result in the reconfiguration and/or loss of lots.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 KCC.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the 2005 King County Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the SWDM and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The stormwater facilities for this site shall be designed to meet at a minimum the Conservation Flow Control and Basic Water Quality requirements in the SWDM.
 9. To implement the required Best Management Practices (BMP's) for treatment of stormwater, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the SWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
 10. The following road improvements are required to be constructed according to the 1993 King County Road Standards(KCRS):
 - a. Road A shall be improved at a minimum to the urban subcollector street standard, with a temporary turnaround at the east end. A 25' right-of-way radius shall be dedicated at the southeast corner of proposed Lot 24 and the northeast corner of proposed Lot 23.
 - b. Road B shall be improved at a minimum to the urban minor access street standard.
 - c. FRONTAGE: KCDOT CIP project 300205 for the SE 304thSt/124th Ave SE intersection is planned for advertisement in the Spring of 2007 and construction scheduled for summer 2007. This project includes widening along both 124th Avenue SE and SE 304th Street fronting this subdivision and a new "modern compact" roundabout at the intersection itself. Portions of the site frontage on 124th Avenue SE will be constructed with the CIP, leaving the northerly 300 feet (approximately) of the site frontage to be constructed with the subdivision improvements.
 - i. If recording of this subdivision is proposed prior to start of the C.I.P. construction, interim pavement and shoulder widening within CIP limits is

required along the subdivision frontages of both 124th Ave SE and along SE 304th St. A minimum 22 foot width from centerline of both frontages is required, plus a shoulder. An asphalt overlay is also required per Section 4.01 of the KCRS. In addition, 124th Ave SE shall be improved north of the CIP construction limits to the northerly subdivision boundary. These improvements shall be built to the urban minor arterial standard and provide a 22-foot width of paving east of the construction centerline, with concrete curb, gutter and sidewalks and a roadway illumination system. An asphalt overlay is also required per section 4.01 of the KCRS outside the limits of the CIP.

Right-of-way dedication shall be consistent with the CIP ‘roundabout option’ design, together with a 42-foot half-street right-of-way option along the remainder of the subdivision boundaries on 124th Avenue SE and SE 304th Street.

- ii. If recording of this subdivision occurs subsequent to the start of the CIP construction, 124th Avenue SE shall be improved north of the CIP construction limits to the northerly subdivision boundary. These improvements shall be built to the urban Minor Arterial standard and provide 22-feet of paving width east of the construction centerline of 124th Avenue SE, concrete curb, gutter and sidewalks and a roadway illumination system. An asphalt overlay is also required per Section 4.01 of the KCRS outside the construction limits of CIP 300205.

An additional twelve (12) feet of right-of-way width shall be dedicated along the portions of SE 304th Street and 124th Avenue SE beyond the construction limits of CIP 300205.

- d. The proposed joint use driveway and private access tracts shall comply at a minimum with Sections 3.01 and 2.09 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and the final plat.
 - e. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 12. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

13. Lots within this subdivision are subject to King County Code Chapter 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
14. There shall be no direct vehicular access to or from 124th Ave SE or SE 304th St. from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.
15. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
16. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract.
17. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners or the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 124th Ave NE and/or SE 304th St are on a bus route. If so, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
18. To implement K.C.C. Chapter 16.82 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan and engineering plans shall be consistent with the requirements of K.C.C. Chapter 16.82. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 16.82. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. Chapter 16.82.
- A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. Chapter 16.82. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)
19. To mitigate the significant adverse impact the project will have at the High Accident Location (HAL) at the SR 18 WB/SE 304th St. on/off ramps, the applicant shall pay a pro-rata share to WSDOT PIN # 10188112G WIN # A01812G. The estimated amount of the pro-rata share is \$750/lot. Evidence that payment of the pro-rata share to WSDOT has been made or that an alternative financial agreement satisfactory to WSDOT has been executed by the applicant shall be provided to DDES prior to recordation of the subdivision.
20. Should resident public schoolchildren be required to walk to any of their respective schools, based on school district information and official policy current as of the time of final plat review, and the proposed nearby *Verdana* subdivision development has not by then installed its intended frontage and crossing improvements necessary for safe walking conditions for schoolchildren who would reside in the subject *Alicia Glenn* subdivision, appropriate provisions for safe pedestrian facilities shall be made along the most direct and legal route(s) between the site and the respective school(s) to gain written certification by the King County Department of Transportation (KCDOT), prior to final plat approval, that safe walking conditions will be in place prior to occupancy of any new residence in the development.

ORDERED May 15, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED May 15, 2007 to the following parties and interested persons of record:

City of Auburn Planning Dept. 25 W. Main St. Auburn WA 98001-4998	Shupe Holmberg Baima & Holmberg 100 Front Street South Issaquah WA 98027	Sheri & Robert Mertens 30239 - 127th Pl. SE Auburn WA 98092
Pacific W. Development LLC Cory Martin 2201 Lind Ave. SW, Ste. 150 Renton WA 98055	Seattle KC Health Dept. E. Dist. Environ. Health 14350 SE Eastgate Way Bellevue WA 98007	Scott & Tina Tenner 30027 - 125th Ct. SE Auburn WA 98092
Michelle Wilson P.O. Box 2279 Auburn WA 98071	Kim Claussen DDES/LUSD MS OAK-DE-0100	Lisa Dinsmore DDES/LUSD MS OAK-DE-0100
Nick Gillen DDES/LUSD MS OAK-DE-0100	Shirley Goll DDES/LUSD MS OAK-DE-0100	Kristen Langley DDES/LUSD MS OAK-DE-0100
Steve Townsend DDES/LUSD MS OAK-DE-0100	Larry West DDES/LUSD MS OAK-DE-0100	Kelly Whiting KC DOT, Rd. Svcs. Div. MS KSC-TR-0231
Bruce Whittaker DDES/LUSD MS OAK-DE-0100		

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) **on or before May 29, 2007**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before June 5, 2007**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office

of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MARCH 29, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0003.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley representing the Department; and Shupe Holmberg representing the Applicant.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L06P0003
- Exhibit No. 2 Department of Development and Environmental Services Preliminary report dated March 29, 2007
- Exhibit No. 3 Application for Land Use Permit, received January 20, 2006
- Exhibit No. 4 Environmental Checklist received January 20, 2006
- Exhibit No. 5 SEPA Mitigated Determination of Non-significance issued February 16, 2007
- Exhibit No. 6 Affidavit of Posting indicating a posting date of March 14, 2006; received by DDES on March 15, 2006
- Exhibit No. 7 Plat map received November 6, 2006 (revisions)
- Exhibit No. 8 Level 1 Downstream Drainage Analysis by Baima & Holmberg dated January 17, 2006
- Exhibit No. 9 Revised Level 1 Downstream Drainage Analysis dated 11/2/06 by Baima & Holmberg
- Exhibit No. 10 Conceptual grading/drainage plan received Nov. 6, 2006 (revision)
- Exhibit No. 11 Wetland/Stream Recon by Altmann Oliver Assoc. dated 10/6/06
- Exhibit No. 12 Landscape Park Design received 11/6/06
- Exhibit No. 13 SE 304th St./124th Ave SE ROW plans - annotated by Kris Langley KCDOT

PTD:gao
LL06P0003 RPT



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6523

Date:

July 16, 2014

Department:

Community Development &
Public Works

Attachments:

[Ordinance No. 6523](#)

[Exhibit 2 - Vicinity Map](#)

[Exhibit 3 - Final Plat Map](#)

[Exhibit 4 - Cert. of Improvements](#)

[Exhibit 5 - Hearing Examiner Decision](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6523.

Background Summary:

Schneider Homes, Inc. has made application for the Final Plat of "Wyncrest." This final plat includes the creation of 24 lots, the dedication of public right-of-way, and seven tracts.

The property is located on West Hill east of 64th Avenue South. Preliminary plat approval was granted by the City's Hearing Examiner on August 1, 2011 as a single phase to subdivide 8.60 acres into 24 single family lots, the dedication of public right-of-way, and seven tracts. The plat has been developed in accordance with the R-5, Residential 5 dwelling units/acre, zone as defined by Auburn City Code (ACC) Chapter 18.07, Title 17 Land Adjustments and Division, and the conditions of the preliminary plat.

A Certificate of Improvements has been issued by the City Engineer. The applicant has provided a security in lieu of completion for the outstanding improvements which includes the top lift of asphalt, monument installation, and emergency vehicle access construction (the emergency vehicle access is triggered at the 24th building permit).

Reviewed by Council Committees:

Other: Legal

Councilmember: Holman

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: ORD.D

ORDINANCE NO. 6 5 2 3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, APPROVING THE FINAL PLAT OF WYNCREST

WHEREAS, the City of Auburn received a final plat application for the Plat of Wyncrest, Application No. PLT14-0004, the final approval of which is appropriate for City Council Action; and

WHEREAS, the Preliminary Plat for this plat was approved by City's Hearing Examiner on August 1, 2011 with identified conditions and requirements; and

WHEREAS, based on the review given this Plat by the City, the City Council hereby makes and enters the following:

FINDINGS OF FACT

1. Schneider Homes, Inc. has made application for the Final Plat of "Wyncrest".
2. The preliminary plat (PLT10-0010 City File) was approved by the City's Hearing Examiner on August 1, 2011 as a single phase.
3. The preliminary plat of "Wyncrest" has been developed in accordance with all applicable conditions of the preliminary plat.
4. A Certificate of Improvements has been issued by the City Engineer. The applicant has provided a security in lieu of completion for the outstanding improvements which includes the top lift of asphalt, monument installation, and emergency vehicle access construction.
5. The final plat includes one publicly dedicated tract, Tract E, for the storm drainage facility.

CONCLUSIONS OF LAW

1. The Final Plat is in compliance and in conformity with applicable Zoning and Land Division Ordinances and other applicable land use controls.

2. The Plat is consistent with the Comprehensive Plan.
3. The Plat meets the requirements of Chapter 58.17 RCW.

WHEREAS, insofar as the plat meets the requirements of applicable codes and plans, and the conditions and requirements of the preliminary plat, it is incumbent on the City Council to approved the final plat, as no new conditions or requirements can be added at this point.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Approval. Wyncrest, a subdivision involving property located within the City of Auburn, Washington, which plat is legally described on Sheet 1 of 5 of the Final Plat and set forth below:

PARCEL A:
THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE
NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST OF THE W.M. IN
KING COUNTY, WASHINGTON;
EXCEPT THE NORTH 98 FEET OF THE WEST 230 FEET THEREOF;
AND EXCEPT THE WEST 30 FEET LYING SOUTH OF SAID NORTH 98
FEET;
AND EXCEPT THE EAST 15 FEET THEREOF.

PARCEL B:
LOT 1, KING COUNTY SHORT PLAT NO. 283065, ACCORDING TO
PLAT RECORDED JANUARY 4, 1984 UNDER RECORDING NO.
8401040734, IN KING COUNTY, WASHINGTON; AND
LOTS 3 AND 4, TOGETHER WITH AN UNDIVIDED INTEREST IN
TRACT X, KING COUNTY SHORT PLAT NO. 283065, ACCORDING TO
PLAT RECORDED JANUARY 4, 1984 UNDER RECORDING NO.
8401040734, IN KING COUNTY, WASHINGTON.

PARCEL C:
THE WEST 15 FEET OF THE FOLLOWING:
THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE
NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF

SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST OF THE W.M. IN
KING COUNTY, WASHINGTON;
AND
THE EAST 15 FEET OF THE FOLLOWING:
THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE
NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST OF THE W.M. IN
KING COUNTY, WASHINGTON.

is hereby approved, and deemed to conform to the requirements for Plat
approval pursuant to State and local law and Chapter 58.17 of the Revised Code
of Washington and Section 58.17.140 thereof.

Section 2. Constitutionality or Invalidity. If any section, subsection
clause or phrase of this Ordinance is for any reason held to be invalid or
unconstitutional such invalidity or unconstitutionality shall not affect the validity or
constitutionality of the remaining portions of this Ordinance, as it is being hereby
expressly declared that this Ordinance and each section, subsection, sentence,
clause and phrase hereof would have been prepared, proposed, adopted and
approved and ratified irrespective of the fact that any one or more section,
subsection, sentence, clause or phrase be declared invalid or unconstitutional.

Section 3. Recordation. Upon the passage, approval and publication of
this Ordinance as provided by law, the City Clerk of the City of Auburn shall
cause this Ordinance to be recorded in the office of the King County Auditor's
Division.

Section 4. Implementation. The Mayor is hereby authorized to
implement such administrative procedures as may be necessary to carry out the
directions of this legislation.

Section 5. Effective Date.

This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication, as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

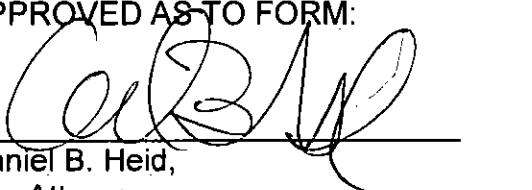
CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:

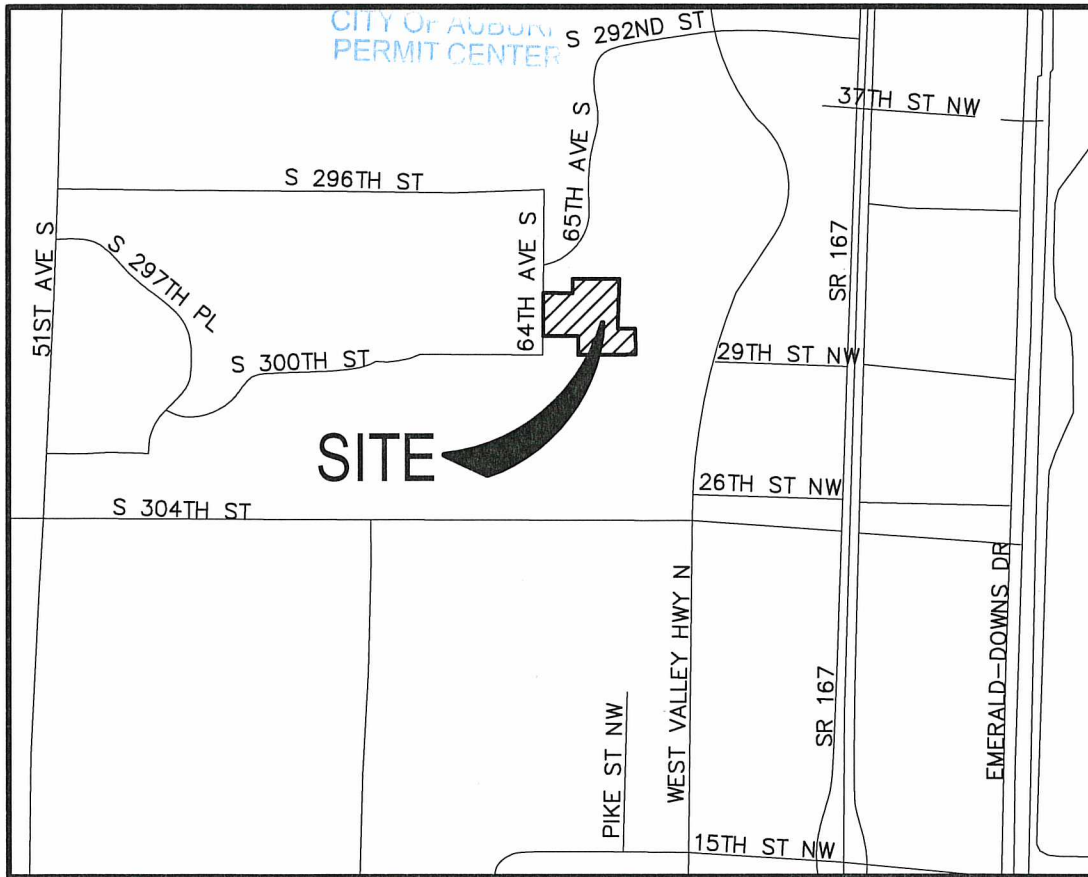


Daniel B. Heid,
City Attorney

Published: _____

RECEIVED

FEB 25 2014



VICINITY MAP

NOT TO SCALE

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WYNCREST

FINAL PLAT
VICINITY MAP



D.R. STRONG
CONSULTING ENGINEERS
ENGINEERS PLANNERS SURVEYORS
620 7TH AVENUE KIRKLAND, WA 98033
O 425.827.3063 F 425.827.2423
www.drstrong.com

PROJECT SURVEYOR: **SJS**
DRAFTED BY: **SJS**
FIELD BOOK:
DATE: **2/20/14**
PROJECT NO.: **10067**
SHEET **1 OF 1**

WYNCREST
A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER,
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.,
CITY OF AUBURN, KING COUNTY, WASHINGTON

LEGAL DESCRIPTION:

PARCEL A:
THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;
EXCEPT THE NORTH 98 FEET OF THE WEST 230 FEET THEREOF;
AND EXCEPT THE WEST 30 FEET LYING SOUTH OF SAID NORTH 98 FEET;
AND EXCEPT THE EAST 15 FEET THEREOF.

PARCEL B:
LOT 1, KING COUNTY SHORT PLAT NO. 283065, ACCORDING TO PLAT RECORDED JANUARY 4, 1984 UNDER RECORDING NO. 8401040734, IN KING COUNTY, WASHINGTON; AND

LOTS 3 AND 4, TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT X, KING COUNTY SHORT PLAT NO. 283065, ACCORDING TO PLAT RECORDED JANUARY 4, 1984 UNDER RECORDING NO. 8401040734, IN KING COUNTY, WASHINGTON.

PARCEL C:
THE WEST 15 FEET OF THE FOLLOWING:

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

AND

THE EAST 15 OF THE FOLLOWING:

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON.

DEDICATION:

KNOW ALL PEOPLE BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF INTEREST IN THE LAND HEREBY SUBDIVIDED, HEREBY DECLARE THIS PLAT TO BE THE GRAPHIC REPRESENTATION OF THE SUBDIVISION MADE HEREBY, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER, ALL STREETS AND AVENUES NOT SHOWN AS PRIVATE HEREON AND DEDICATE THE USE THEREOF FOR ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES, AND ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS SHOWN THEREON IN THE ORIGINAL REASONABLE GRADING OF SAID STREETS AND AVENUES, AND FURTHER DEDICATE TO THE USE OF THE PUBLIC ALL EASEMENTS AND TRACTS SHOWN ON THIS PLAT FOR ALL PUBLIC PURPOSES AS INDICATED THEREON, INCLUDING BUT NOT LIMITED TO PARKS, OPEN SPACES, UTILITIES AND DRAINAGE UNLESS SUCH EASEMENTS OR TRACTS ARE SPECIFICALLY IDENTIFIED ON THIS PLAT AS BEING DEDICATED OR CONVEYED TO A PERSON OR ENTITY OTHER THAN THE PUBLIC, IN WHICH CASE WE DO HEREBY DEDICATE SUCH STREETS, EASEMENTS, OR TRACTS TO THE PERSON OR ENTITY IDENTIFIED AND FOR THE PURPOSE STATED.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED, WAIVE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS AND ANY PERSON OR ENTITY DERIVING TITLE FROM THE UNDERSIGNED, ANY AND ALL CLAIMS FOR DAMAGES AGAINST THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS WHICH MAY BE OCCASIONED BY THE ESTABLISHMENT, CONSTRUCTION, OR MAINTENANCE OF ROADS AND/OR DRAINAGE SYSTEMS WITHIN THIS SUBDIVISION OTHER THAN CLAIMS RESULTING FROM INADEQUATE MAINTENANCE BY THE CITY OF AUBURN.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED, AGREE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS TO INDEMNIFY AND HOLD THE CITY OF AUBURN, ITS SUCCESSORS AND ASSIGNS, HARMLESS FROM ANY DAMAGE, INCLUDING THE COSTS OF DEFENSE, CLAIMED BY PERSONS WITHIN OR WITHOUT THIS SUBDIVISION TO HAVE BEEN CAUSED BY ALTERATIONS OF THE GROUND SURFACE, VEGETATION, DRAINAGE, OR SURFACE OR SUB-SURFACE WATER FLOWS WITHIN THIS SUBDIVISION OR BY ESTABLISHMENT, CONSTRUCTION OR MAINTENANCE OF THE ROADS WITHIN THIS SUBDIVISION. PROVIDED, THIS WAIVER AND INDEMNIFICATION SHALL NOT BE CONSTRUED AS RELEASING THE CITY OF AUBURN, ITS SUCCESSORS OR ASSIGNS, FROM LIABILITY FOR DAMAGES, INCLUDING THE COST OF DEFENSE, RESULTING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF AUBURN, ITS SUCCESSORS OR ASSIGNS.

THIS SUBDIVISION, DEDICATION, WAIVER OF CLAIMS AND AGREEMENT TO HOLD HARMLESS IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNERS.

IN WITNESS WHEREOF WE SET OUR HANDS AND SEALS.

SCHNEIDER HOMES INC.

UMPQUA BANK,
AN OREGON STATE-CHARTERED BANK

BY: HARRY SCHNEIDER
ITS: PRESIDENT

BY:
ITS:

ACKNOWLEDGMENTS:

STATE OF WASHINGTON)
COUNTY OF) SS

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT HARRY J. SCHNEIDER SIGNED THIS INSTRUMENT ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE PRESIDENT OF SCHNEIDER HOMES, INC. TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THIS INSTRUMENT.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

RESIDING AT

PRINTED NAME

COMMISSION EXPIRES

STATE OF WASHINGTON)
COUNTY OF) SS

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT SIGNED THIS INSTRUMENT ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE OF UMPQUA BANK, AN OREGON STATE-CHARTERED BANK TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THIS INSTRUMENT.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

RESIDING AT

PRINTED NAME

COMMISSION EXPIRES

APPROVALS:

FINANCE DIRECTOR'S CERTIFICATE
I HEREBY CERTIFY THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS FOR WHICH THE PROPERTY SUBJECT TO THIS MAY BE LIABLE TO, AND THAT ALL SPECIAL ASSESSMENTS ON ANY PROPERTY HEREIN CONTAINED DEDICATED AS, OR FOR ANY OTHER PUBLIC USE HAVE BEEN DULY PAID, SATISFIED OR DISCHARGED.

THIS DAY OF , 20

AUBURN DIRECTOR OF FINANCE

CITY ENGINEER'S CERTIFICATE
I HEREBY CERTIFY THAT THIS IS IN COMPLIANCE WITH THE CERTIFICATE OF ISSUED PURSUANT TO ACC 17.14.015, AND IS CONSISTENT WITH ALL APPLICABLE CITY IMPROVEMENT STANDARDS AND REQUIREMENTS IN FORCE ON THE DATE OF PRELIMINARY PLAT APPROVAL,

THIS DAY OF , 20

AUBURN CITY ENGINEER

COMMUNITY DEVELOPMENT SERVICES CERTIFICATE
I HEREBY CERTIFY ON THIS DAY OF , 2014, THAT THIS FINAL PLAT IS IN SUBSTANTIAL CONFORMANCE WITH THE PRELIMINARY PLAT AND ANY CONDITIONS ATTACHED THERETO, WHICH PRELIMINARY PLAT WAS APPROVED BY ON THE DAY OF , 20

ASSISTANT DIRECTOR

APPROVAL
EXAMINED AND APPROVED THIS DAY OF , 20, PURSUANT TO ORDINANCE NUMBER
ADOPTED BY THE AUBURN COUNCIL ON THE DAY OF , 20

ATTEST:
MAYOR DEPUTY

FINANCE DIVISION CERTIFICATE
I HEREBY CERTIFY THAT ALL PROPERTY TAXES ARE PAID, THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION, AND THAT ALL SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION ON ANY OF THE PROPERTY HEREIN CONTAINED DEDICATED AS , OR FOR OTHER PUBLIC USE ARE PAID IN FULL THIS DAY OF , 20

MANAGER FINANCE DIVISION DEPUTY

ASSESSOR'S APPROVAL
EXAMINED AND APPROVED THIS DAY OF , 20

KING COUNTY ASSESSOR DEPUTY COUNTY ASSESSOR

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THE PLAT OF WYNCREST IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., AS REQUIRED BY STATE STATUTES; THAT THE DISTANCES, COURSES AND ANGLES ARE SHOWN THEREON CORRECTLY; THAT THE MONUMENTS SHALL BE SET AND LOT AND BLOCK CORNERS SHALL BE STAKED CORRECTLY ON THE GROUND, AND THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF THE STATE AND LOCAL STATUTES AND REGULATIONS GOVERNING PLATTING.

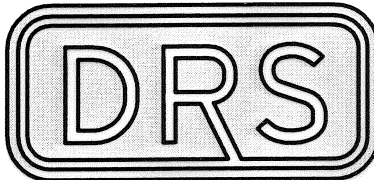
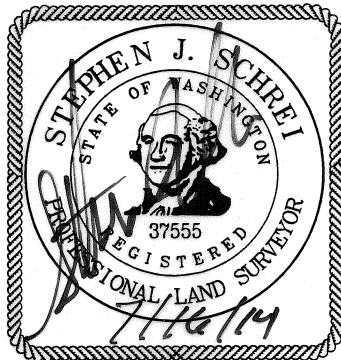
STEPHEN J. SCHREI, PROFESSIONAL LAND SURVEYOR.
CERTIFICATE NO. 37555
D.R. STRONG CONSULTING ENGINEERS
620 7TH AVENUE
KIRKLAND, WASHINGTON 98033
PHONE: (425) 827-3063

7/16/14
DATE

RECORDING CERTIFICATE
FILED FOR RECORD AT THE REQUEST OF SCHNEIDER HOMES THIS DAY OF , 20

AT MINUTES PAST M. AND RECORDED IN VOLUME OF PLATS, PAGE(S)
AFN RECORDS OF KING COUNTY, WASHINGTON.

MANAGER SUPERINTENDENT OF RECORDS



D.R. STRONG
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ENGINEERS PLANNERS SURVEYORS
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WYNCREST

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER,
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.,
CITY OF AUBURN, KING COUNTY, WASHINGTON

HOMEOWNERS ASSOCIATION COVENANT

THE OWNERS OF LOTS 1 THROUGH 24 INCLUSIVE ARE RESPONSIBLE FOR PROVIDING THAT THE WYNCREST HOMEOWNERS ASSOCIATION CONTINUES TO BE A VIABLE AND FUNCTIONING LEGAL ENTITY. SAID HOMEOWNERS ASSOCIATION SHALL OWN AND MAINTAIN THE TRACTS AND EASEMENTS AS INDICATED AND CONVEYED HEREIN, UNLESS OTHERWISE APPROVED BY THE CITY OF AUBURN OR ITS SUCCESSOR AGENCY. THIS COVENANT SHALL RUN WITH THE LAND AND SHALL BE BINDING UPON THE OWNERS OF LOTS 1 THROUGH 24 INCLUSIVE, THEIR HEIRS, SUCCESSORS AND ASSIGNS. SHOULD THE WYNCREST HOMEOWNERS ASSOCIATION BE DISSOLVED OR OTHERWISE CEASE TO FUNCTION, OWNERSHIP OF LOTS 1 THROUGH 24, INCLUSIVE WILL INCLUDE AN EQUAL AND UNDIVIDED INTEREST IN TRACTS A, B AND D, TOGETHER WITH AN EQUAL RESPONSIBILITY FOR THE MAINTENANCE RESPONSIBILITIES FOR SAID TRACTS.

TRACT NOTES

1. TRACTS A, B AND D ARE SENSITIVE AREA TRACTS AND ARE HEREBY CONVEYED TO THE WYNCREST HOMEOWNERS ASSOCIATION UPON THE RECORDING OF THIS PLAT. SAID HOMEOWNERS ASSOCIATION IS HEREBY RESPONSIBLE FOR THE MAINTENANCE ASSOCIATED WITH SAID TRACTS. THE WYNCREST HOMEOWNERS ASSOCIATION WILL ALLOW THE CITY OF AUBURN TO ENTER UPON SAID TRACTS A, B AND D IN CONNECTION WITH MONITORING, MAINTAINING, PRESERVING AND ENHANCING THE ON–SITE WETLANDS AND SLOPES, AND THE ASSOCIATED BUFFER AREAS.
2. TRACT C IS A PRIVATE ACCESS TRACT TO BE RETAINED BY THE DEVELOPER FOR FUTURE CONVEYANCE TO THE ADJOINING PROPERTY OWNER BY SEPARATE CONVEYANCE FOLLOWING THE RECORDING OF THIS PLAT. THE WYNCREST HOMEOWNERS ASSOCIATION IS HEREBY RESPONSIBLE FOR THE MAINTENANCE ASSOCIATED WITH SAID TRACT UNTIL SAID FUTURE CONVEYANCE IS EXECUTED.
3. TRACT E IS A PUBLIC STORM DRAINAGE TRACT AND IS CONVEYED TO THE CITY OF AUBURN OR ITS SUCCESSOR AGENCY FOR PUBLIC DRAINAGE PURPOSES UPON THE RECORDING OF THIS PLAT.
4. TRACT F IS A PRIVATE PARK TRACT AND IS HEREBY CONVEYED TO THE WYNCREST HOMEOWNERS ASSOCIATION UPON THE RECORDING OF THIS PLAT. SAID HOMEOWNERS ASSOCIATION IS HEREBY RESPONSIBLE FOR THE MAINTENANCE ASSOCIATED WITH SAID TRACT.
5. TRACT G IS A FUTURE DEVELOPMENT TRACT AND IS RETAINED BY THE DEVELOPER FOR FUTURE DEVELOPMENT. SAID DEVELOPER IS HEREBY RESPONSIBLE FOR THE MAINTENANCE ASSOCIATED WITH SAID TRACT. THE TRACT G AREA WAS ACQUIRED BY KING COUNTY SUPERIOR COURT JUDGEMENT COURT CASE NUMBER 14–2–00575–0 KNT FIELD MAY 12, 2014.

PRIVATE DRAINAGE EASEMENT COVENANT

THE OWNERS OF PRIVATE PROPERTY WITHIN THIS PLAT ENCUMBERED WITH DRAINAGE EASEMENTS SHOWN AS "PRIVATE" HEREBY GRANT AND CONVEY TO THE CITY OF AUBURN, A POLITICAL SUBDIVISION OF THE STATE OF WASHINGTON, THE RIGHT BUT NOT THE OBLIGATION TO CONVEY OR STORE STORM AND SURFACE WATER PER THE ENGINEERING PLANS APPROVED FOR THIS PLAT BY THE CITY OF AUBURN, TOGETHER WITH THE RIGHT OF REASONABLE ACCESS (INGRESS AND EGRESS) TO ENTER SAID DRAINAGE EASEMENT FOR THE PURPOSE OF OBSERVING THAT THE OWNER(S) ARE PROPERLY OPERATING AND MAINTAINING THE DRAINAGE FACILITIES CONTAINED THEREIN.

THE OWNERS OF SAID PRIVATE PROPERTY ARE RESPONSIBLE FOR OPERATING, MAINTAINING, AND REPAIRING THE DRAINAGE FACILITIES CONTAINED WITHIN SAID DRAINAGE EASEMENT AND ARE HEREBY REQUIRED TO OBTAIN ANY REQUIRED PERMITS FROM THE CITY OF AUBURN PRIOR TO FILLING, PIPING, CUTTING OR REMOVING VEGETATION (EXCEPT FOR ROUTINE LANDSCAPE MAINTENANCE SUCH AS LAWN MOWING) IN OPEN VEGETATED DRAINAGE FACILITIES (SUCH AS SWALES, CHANNELS, DITCHES PONDS, ETC.) OR PERFORMING ANY ALTERATIONS OR MODIFICATIONS TO THE DRAINAGE FACILITIES CONTAINED WITHIN SAID DRAINAGE EASEMENT.

THIS COVENANT SHALL RUN WITH THE LAND AND IS BINDING UPON THE OWNER(S) OF SAID PRIVATE PROPERTY, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

EASEMENT PROVISIONS

1. A PRIVATE EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO PUGET SOUND ENERGY COMPANY, LAKEHAVEN UTILITY DISTRICT, CENTURY LINK, COMCAST AND ANY OTHER PRIVATE UTILITY, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, UNDER AND UPON THE EXTERIOR 10 FEET OF ALL LOTS AND TRACTS, PARALLEL WITH AND ADJOINING THE EXISTING OR PROPOSED PUBLIC RIGHT–OF–WAY, IN WHICH TO INSTALL, LAY, CONSTRUCT, RENEW, OPERATE AND MAINTAIN UNDERGROUND DISTRIBUTION SYSTEMS WITH NECESSARY FACILITIES, SIDEWALKS AND OTHER EQUIPMENT FOR THE PURPOSE OF SERVING THIS SUBDIVISION AND OTHER PROPERTY WITH UTILITY SERVICES AND SIDEWALKS, TOGETHER WITH THE RIGHT TO ENTER UPON THE LOTS AT ALL TIMES FOR THE PURPOSE HEREIN STATED. NO LINES OR WIRES FOR THE TRANSMISSION OF ELECTRIC CURRENT, OR FOR TELEPHONE USE, CABLE TELEVISION, FIRE OR POLICE SIGNAL OR FOR OTHER PURPOSES, SHALL BE PLACED OR BE PERMITTED TO BE PLACED UPON ANY LOT UNLESS THE SAME SHALL BE UNDERGROUND OR IN CONDUIT ATTACHED TO A BUILDING.
2. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOTS 3 AND 4 IS FOR THE BENEFIT OF LOTS 2, 3 AND 5 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 2, 3, 4 AND 5 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
3. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOTS 19 AND 20 IS FOR THE BENEFIT OF LOTS 20 AND 21 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 19, 20 AND 21 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
4. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOTS 23 AND 24 IS FOR THE BENEFIT OF LOTS 22 AND 23 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 22, 23 AND 24 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
5. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOT 9 IS FOR THE BENEFIT OF LOT 8 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 8 AND 9 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
6. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOT 10 IS FOR THE BENEFIT OF LOT 11 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 10 AND 11 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
7. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOT 14 IS FOR THE BENEFIT OF LOT 15 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 14 AND 15 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
8. THE 10 FOOT PRIVATE STORM DRAINAGE EASEMENT SHOWN ON LOT 18 IS FOR THE BENEFIT OF LOT 17 FOR PRIVATE STORM DRAINAGE FACILITIES. THE OWNERS OF SAID LOTS 17 AND 18 ARE HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE PRIVATE DRAINAGE FACILITIES AND SHALL SHARE EQUALLY IN THE MAINTENANCE RESPONSIBILITIES OF THE PRIVATE DRAINAGE FACILITIES USED IN COMMON WITHIN SAID EASEMENT.
9. THE PRIVATE ENTRY SIGN EASEMENT SHOWN ON LOT 1 IS HEREBY RESERVED FOR AND GRANTED TO THE WYNCREST HOMEOWNERS ASSOCIATION, SAID HOMEOWNERS ASSOCIATION IS HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THE ENTRY SIGN FACILITIES WITHIN SAID EASEMENT.
10. THE 5 FOOT PUBLIC PEDESTRIAN ACCESS EASEMENT SHOWN ON LOT 18 IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF AUBURN FOR PUBLIC PEDESTRIAN ACCESS PURPOSES. THE WYNCREST HOMEOWNERS ASSOCIATION IS HEREBY RESPONSIBLE FOR THE MAINTENANCE OF THE PUBLIC PEDESTRIAN ACCESS FACILITIES WITHIN SAID EASEMENT.

NOTES/RESTRICTIONS

1. IF AT THE TIME THE NUMBER OF LOTS ACCESSING THE PUBLIC RIGHT OF WAY WITHIN THIS PLAT REACHES 24 AND A SECOND RIGHT OF WAY ACCESS TO 64TH AVENUE S. HAS NOT BEEN DEVELOPED, PRIOR TO THE ISSUANCE OF THE 24TH BUILDING PERMIT THE DEVELOPER WILL COMPLETE THE IMPROVEMENTS OF THE 20 FOOT EMERGENCY VEHICLE ACCESS EASEMENT IN ACCORDANCE WITH CITY OF AUBURN STANDARDS.
2. IN ACCORDANCE WITH RCW 58.17.255 IT IS HEREBY NOTED THAT A DRIVEWAY ENCROACHMENT EXISTED AT THE TIME OF DEVELOPMENT IN THE AREA OF TRACT C. THE DRIVEWAY WAS APPURTENANT TO THE EAST ADJOINING PROPERTY, PARCEL NUMBER 0221049152. THIS ENCROACHMENT SHALL BE DISCLOSED IN ANY TITLE REPORT PREPARED BY A TITLE INSURER AND IS ISSUED AFTER THE FILING OF THIS PLAT. TO FACILITATE THE CONTINUED ACCESS TO THE PUBLIC RIGHT OF WAY SAID TRACT WILL BE CONVEYED BY SEPARATE CONVEYANCE.
3. THE ROAD AND STORM DRAINAGE SYSTEMS SHALL BE CONSTRUCTED ACCORDING TO THE APPROVED PLAN AND PROFILE, PLAN NO. FAC11–0004 ON FILE WITH THE CITY OF AUBURN. ANY DEVIATION FROM THE APPROVED PLAN WILL REQUIRE WRITTEN APPROVAL FROM THE CITY.
4. IN CONJUNCTION WITH OR UPON COMPLETION OF RESIDENTIAL BUILDING CONSTRUCTION, BEST MANAGEMENT PRACTICE (BMP) C126: TOPSOILING REQUIREMENTS PER THE SURFACE WATER MANAGEMENT MANUAL (SWMM), SHALL BE INCORPORATED WITH LANDSCAPE PLANTINGS IN PVIOUS AREAS OF EACH INDIVIDUAL LOT.
5. PRIOR TO BUILDING CONSTRUCTION ON ALL LOTS, TEMPORARY EROSION AND SEDIMENTATION CONTROL MEASURES, PER THE CONSTRUCTION STORM WATER POLLUTION PREVENTION PLAN (CSWPPP) WILL BE CONSTRUCTED AND MAINTAINED THROUGH FINAL LOT STABILIZATION. PRIOR TO FINAL BUILDING INSPECTION FOR THE STRUCTURE(S) ON ALL LOTS, ROOF DRAIN DOWNSPOUTS, FOOTING DRAINS, AND ALL LANDSCAPED AREAS NOT DESIGNATED FOR SHEET FLOW TO THE ADJACENT SENSITIVE AREAS, OR ALLOWED TO BE TREATED ONSITE, SHALL BE TIGHTLINED TO THE PUBLIC ROADWAY DRAINAGE SYSTEM AND SHALL BE INSPECTED BY CITY OF AUBURN FOR COMPLIANCE WITH THE CSWPPP PRIOR FINAL APPROVAL.
6. THE DEPARTMENT OF ECOLOGY CONSTRUCTION STORMWATER GENERAL PERMIT IS LINKED TO THE PROJECT SITE. ANY TRANSFER OF OWNERSHIP, PARTIAL OR COMPLETE, REQUIRES A TRANSFER OF COVERAGE THROUGH THE DEPARTMENT OF ECOLOGY AND IS APPLICABLE UNTIL COMPLETE PROJECT FINALIZATION.

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

DEDICATION OF A SENSITIVE AREA TRACT/SENSITIVE AREA AND BUFFER CONVEYS TO THE PUBLIC A BENEFICIAL INTEREST IN THE LAND WITHIN THE SENSITIVE AREA TRACT/SENSITIVE AREA AND BUFFER. THIS INTEREST INCLUDES THE PRESERVATION OF NATIVE VEGETATION FOR ALL PURPOSES THAT BENEFIT THE PUBLIC HEALTH, SAFETY AND WELFARE, INCLUDING CONTROL OF SURFACE WATER AND EROSION, MAINTENANCE OF SLOPE STABILITY, AND PROTECTION OF PLANT AND ANIMAL HABITAT.

THE SENSITIVE AREA TRACT/SENSITIVE AREA AND BUFFER IMPOSES UPON ALL PRESENT AND FUTURE OWNERS AND OCCUPIERS OF THE LAND SUBJECT TO THE TRACT/SENSITIVE AREA AND BUFFER THE OBLIGATION, ENFORCEABLE ON BEHALF OF THE PUBLIC BY THE CITY OF AUBURN, TO LEAVE UNDISTURBED ALL TREES AND OTHER VEGETATION WITHIN THE TRACT/SENSITIVE AREA AND BUFFER. THE VEGETATION WITHIN THE TRACT/SENSITIVE AREA AND BUFFER MAY NOT BE CUT, PRUNED, COVERED BY FILL, REMOVED OR DAMAGED WITHOUT APPROVAL IN WRITING FROM THE CITY OF AUBURN OR ITS SUCCESSOR AGENCY, UNLESS OTHERWISE PROVIDED BY LAW.

THE COMMON BOUNDARY BETWEEN THE TRACT/SENSITIVE AREA AND BUFFER AND THE AREA OF DEVELOPMENT ACTIVITY MUST BE MARKED OR OTHERWISE FLAGGED TO THE SATISFACTION OF THE CITY OF AUBURN PRIOR TO ANY CLEARING, GRADING, BUILDING CONSTRUCTION OR OTHER DEVELOPMENT ACTIVITY ON A LOT SUBJECT TO THE SENSITIVE AREA TRACT/SENSITIVE AREA AND BUFFER. THE REQUIRED MARKING OR FLAGGING SHALL REMAIN IN PLACE UNTIL ALL DEVELOPMENT PROPOSAL ACTIVITIES IN THE VICINITY OF THE SENSITIVE AREA ARE COMPLETED.

NO BUILDING FOUNDATIONS ARE ALLOWED BEYOND THE REQUIRED 15–FOOT BUILDING SETBACK LINE, UNLESS OTHERWISE PROVIDED BY LAW.

CITY OF AUBURN EASEMENT PROVISION

ALL PUBLIC WATER, SANITARY SEWER AND STORM DRAINAGE EASEMENTS AS SHOWN ARE HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, A MUNICIPAL CORPORATION OF KING COUNTY, WASHINGTON, ITS SUCCESSORS AND ASSIGNS, A PERPETUAL NONEXCLUSIVE EASEMENT UNDER, OVER, THROUGH AND ACROSS THE REAL PROPERTY AS DESCRIBED HEREIN FOR THE PURPOSE OF LAYING, MAINTAINING, INSTALLING, AND CONVEYING WATER AND SANITARY SEWER, AND APPURTENANCES THEREOF, AND LAYING, MAINTAINING INSTALLING, CONVEYING, STORING, MANAGING, AND FACILITATING STORM AND SURFACE WATER, PER THE ENGINEERING PLANS APPROVED BY THE CITY OF AUBURN FOR THIS PLAT, TOGETHER WITH THE ABSOLUTE RIGHT, AT ALL TIMES AS NECESSARY FOR IMMEDIATE ACCESS (INGRESS AND EGRESS), TO ENTER SAID EASEMENT FOR THE PURPOSE OF INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING, AND IMPROVING THE WATER, SANITARY SEWER AND STORM DRAINAGE FACILITIES CONTAINED THEREIN WITHOUT INCURRING ANY LEGAL OBLIGATION OR LIABILITY THEREFORE.

THE CITY OF AUBURN SHALL HAVE THE ABSOLUTE RIGHT TO PLACE ANY TYPE OF DRIVING SURFACE WITHIN SAID EASEMENT AREA DEEMED NECESSARY BY THE CITY OF AUBURN.

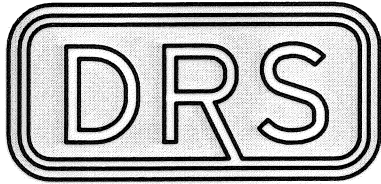
THE OWNERS OF SAID PRIVATE PROPERTY SHALL NOT IN ANY WAY BLOCK, RESTRICT OR IMPEDE ACCESS EGRESS TO OR FROM SAID EASEMENT AREA, AND/OR IN ANY WAY BLOCK, RESTRICT OR IMPEDE FULL USE OF THE REAL PROPERTY THE ABOVE DESCRIBED EASEMENT AREA BY THE CITY OF AUBURN FOR THE ABOVE DESCRIBED PURPOSES. NO BUILDING, WALL ROCKERY, FENCE, TREES, OR STRUCTURE OF ANY KIND SHALL BE ERRECTED OR PLANTED, NOR SHALL ANY FILL MATERIAL BE PLACED WITHIN THE BOUNDARIES OF SAID EASEMENT AREA, WITHOUT THE EXPRESS WRITTEN CONSENT OF THE CITY OF AUBURN. WITH CITY OF AUBURN PERMISSION, THE OWNERS OF SAID PRIVATE PROPERTY MAY FENCE ACROSS SAID EASEMENT AREA AND/OR ALONG THE BOUNDARIES OF SAID EASEMENT AREA, PROVIDED THAT A GATE IS CONSTRUCTED IN SAID FENCE. SAID GATE SHALL BE OF SUFFICIENT LENGTH AND LOCATION TO ALLOW THE GRANTEE FULL USE OF, AND ACCESS AND EGRESS TO AND FROM THE REAL PROPERTY WITHIN THE EASEMENT AREA. IF SAID GATE IS TO BE LOCKED, KEYS SHALL BE PROVIDED TO THE CITY OF AUBURN.

NO EXCAVATION SHALL BE MADE WITHIN THREE (3) FEET OF SAID WATER, SANITARY SEWER AND STORM DRAINAGE FACILITIES AND THE SURFACE LEVEL OF THE GROUND WITHIN THE EASEMENT AREA SHALL BE MAINTAINED AT THE ELEVATIONS AS CURRENTLY EXISTING.

THE OWNERS OF SAID PRIVATE PROPERTY GRANTS TO THE CITY OF AUBURN THE RIGHT OF INGRESS AND EGRESS TO THE EASEMENT AREA OVER AND ACROSS ALL PAVED, GRAVELED, OR OTHERWISE IMPROVED DRIVEWAYS OR PARKING LOTS WITHIN THE PARENT PARCEL. IF DIRECT ACCESS TO THE EASEMENT AREA IS NOT AVAILABLE FROM SUCH DRIVEWAYS OR PARKING LOTS, THE CITY OF AUBURN'S RIGHT OF INGRESS AND EGRESS SHALL INCLUDE SUCH OTHER AREAS OF THE PARENT PARCEL AS THE CITY OF AUBURN DETERMINES ARE NECESSARY TO ACCESS THE EASEMENT AREA FROM SUCH DRIVEWAYS AND PARKING LOTS OR FROM THE PARENT PARCELS BOUNDARIES. IN THE CASE OF ANY DAMAGE OR DISRUPTION OF THE PARENT PARCEL, THE CITY OF AUBURN SHALL RETURN THE PROPERTY TO A CONDITION REASONABLY COMPARABLE TO ITS CONDITION AS IT EXISTED IMMEDIATELY BEFORE ENTRY AND/OR WORK WAS MADE THEREON BY THE CITY OF AUBURN OR ITS AGENTS.

THE OWNERS OF SAID PRIVATE PROPERTY ADDITIONALLY GRANTS TO THE CITY OF AUBURN, THE USE OF SUCH ADDITIONAL AREA IMMEDIATELY ADJACENT TO SAID EASEMENT AREA AS SHALL BE REQUIRED FOR THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND OPERATION OF SAID WATER, SANITARY SEWER AND STORM DRAINAGE FACILITIES. THE USE OF SUCH ADDITIONAL AREA SHALL BE HELD TO REASONABLE MINIMUM AND IN THE CASE OF ANY DAMAGE OR DISRUPTION OF THE PARENT PARCEL, THE CITY OF AUBURN SHALL RETURN THE PROPERTY TO A CONDITION REASONABLY COMPARABLE TO ITS CONDITION AS IT EXISTED IMMEDIATELY BEFORE ENTRY AND/OR WORK WAS MADE THEREON BY THE CITY OF AUBURN OR ITS AGENTS. IN ADDITION TO THE OTHER RESTRICTIONS HEREIN, THE OWNERS OF SAID PRIVATE PROPERTY SHALL NOT CONVEY TO A THIRD PARTY ANY EASEMENT OR OTHER RIGHT OF THE EASEMENT AREA.

THIS EASEMENT AND COVENANT SHALL RUN WITH THE PARENT PARCEL AND IS BINDING ON THE OWNERS OF SAID PRIVATE PROPERTY, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

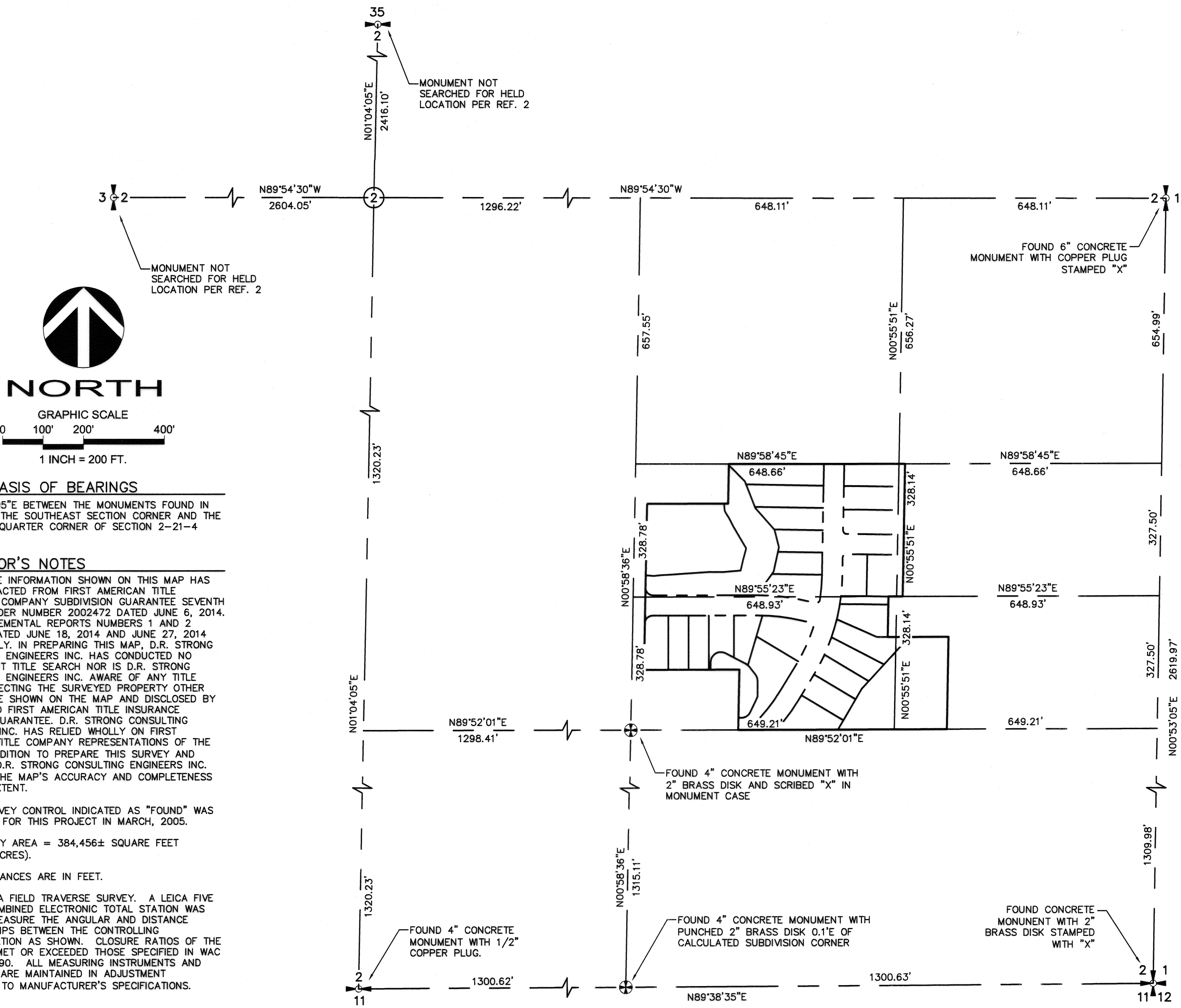


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WYNCREST

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER,
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.,
CITY OF AUBURN, KING COUNTY, WASHINGTON



SURVEYOR'S NOTES

1. ALL TITLE INFORMATION SHOWN ON THIS MAP HAS BEEN EXTRACTED FROM FIRST AMERICAN TITLE INSURANCE COMPANY SUBDIVISION GUARANTEE SEVENTH REPORT ORDER NUMBER 2002472 DATED JUNE 6, 2014, AND SUPPLEMENTAL REPORTS NUMBERS 1 AND 2 THERETO DATED JUNE 18, 2014 AND JUNE 27, 2014 RESPECTIVELY. IN PREPARING THIS MAP, D.R. STRONG CONSULTING ENGINEERS INC. HAS CONDUCTED NO INDEPENDENT TITLE SEARCH NOR IS D.R. STRONG CONSULTING ENGINEERS INC. AWARE OF ANY TITLE ISSUES AFFECTING THE SURVEYED PROPERTY OTHER THAN THOSE SHOWN ON THE MAP AND DISCLOSED BY REFERENCED FIRST AMERICAN TITLE INSURANCE COMPANY GUARANTEE. D.R. STRONG CONSULTING ENGINEERS INC. HAS RELIED WHOLLY ON FIRST AMERICAN TITLE COMPANY REPRESENTATIONS OF THE TITLE'S CONDITION TO PREPARE THIS SURVEY AND THEREFOR D.R. STRONG CONSULTING ENGINEERS INC. QUALIFIES THE MAP'S ACCURACY AND COMPLETENESS TO THAT EXTENT.
2. ALL SURVEY CONTROL INDICATED AS "FOUND" WAS RECOVERED FOR THIS PROJECT IN MARCH, 2005.
3. PROPERTY AREA = 384,456± SQUARE FEET (8.8259± ACRES).
4. ALL DISTANCES ARE IN FEET.
5. THIS IS A FIELD TRAVERSE SURVEY. A LEICA FIVE SECOND COMBINED ELECTRONIC TOTAL STATION WAS USED TO MEASURE THE ANGULAR AND DISTANCE RELATIONSHIPS BETWEEN THE CONTROLLING MONUMENTATION AS SHOWN. CLOSURE RATIOS OF THE TRAVERSE MET OR EXCEEDED THOSE SPECIFIED IN WAC 332-130-090. ALL MEASURING INSTRUMENTS AND EQUIPMENT ARE MAINTAINED IN ADJUSTMENT ACCORDING TO MANUFACTURER'S SPECIFICATIONS.

REFERENCES

1. KING COUNTY SHORT PLAT NUMBER 283065, RECORDED UNDER RECORDING NUMBER 8401040734.
2. THE PLAT OF BRISTOL HEIGHTS RECORDED IN VOLUME 146 OF PLATS, PAGES 44 THROUGH 46, UNDER RECORDING NUMBER 8906270743.

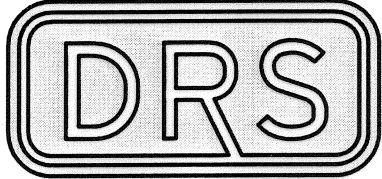
TITLE RESTRICTIONS

1. THIS SITE IS SUBJECT TO FACILITY CHARGES, IF ANY, INCLUDING BUT NOT LIMITED TO HOOK-UP, OR CONNECTION CHARGES AND LATECOMER CHARGES FOR SEWER, WATER AND PUBLIC FACILITIES OF FEDERAL WAY AS DISCLOSED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 8905120210.
2. THIS SITE IS SUBJECT TO THE TERMS AND PROVISIONS OF AN EASEMENT FOR PASS AND RE-PASS AS DISCLOSED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 909952. THE LEGAL DESCRIPTION CONTAINED WITHIN SAID INSTRUMENT IS INSUFFICIENT TO DETERMINE THE EASEMENT'S EXACT LOCATION WITHIN THIS SITE.
3. THIS SITE IS SUBJECT TO THE TERMS AND PROVISIONS OF AN EASEMENT TO PUGET SOUND POWER AND LIGHT COMPANY FOR ELECTRICAL TRANSMISSION LINE FACILITIES AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 80-2-18784-1 AND IS SHOWN HEREON.
- * 4. THIS SITE IS SUBJECT TO ANY AND ALL OFFERS OF DEDICATION, CONDITIONS, RESTRICTIONS, EASEMENTS, FENCE LINE/BOUNDARY DISCREPANCIES, NOTES AND/OR PROVISIONS AS SHOWN OR DISCLOSED BY THE SHORT PLAT RECORDED UNDER RECORDING NUMBER 8401040734.
5. THIS SITE IS SUBJECT TO THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "AGREEMENT" AS DISCLOSED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 20120216002348.
6. THIS SITE IS SUBJECT TO THE TERMS AND PROVISIONS OF AN EASEMENT IN FAVOR OF PUGET SOUND ENERGY, INC FOR AN ELECTRIC TRANSMISSION AND/OR DISTRIBUTION SYSTEM AS DISCLOSED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 20130425000378.
7. THIS SITE IS SUBJECT TO THE TERMS AND PROVISIONS OF AN EASEMENT IN FAVOR OF CITY OF THE CITY OF AUBURN FOR A TEMPORARY EMERGENCY VEHICLE ACCESS AND FIRE ACCESS AS DISCLOSED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 20130816001023.

CITY OF AUBURN STREET ADDRESS

LOT NO.	ADDRESS	LOT NO.	ADDRESS
1	6401 S. 299TH STREET	13	29904 65TH AVENUE S.
2	6415 S. 299TH STREET	14	6503 S. 298TH PLACE
3	6429 S. 299TH STREET	15	6517 S. 298TH PLACE
4	6443 S. 299TH STREET	16	29842 65TH AVENUE S.
5	6457 S. 299TH STREET	17	29828 65TH AVENUE S.
6	29935 65TH AVENUE S.	18	29814 65TH AVENUE S.
7	29949 65TH AVENUE S.	19	29817 65TH AVENUE S.
8	29974 65TH AVENUE S.	20	29831 65TH AVENUE S.
9	29960 65TH AVENUE S.	21	29845 65TH AVENUE S.
10	29946 65TH AVENUE S.	22	29859 65TH AVENUE S.
11	29932 65TH AVENUE S.	23	29873 65TH AVENUE S.
12	29918 65TH AVENUE S.	24	29887 65TH AVENUE S.

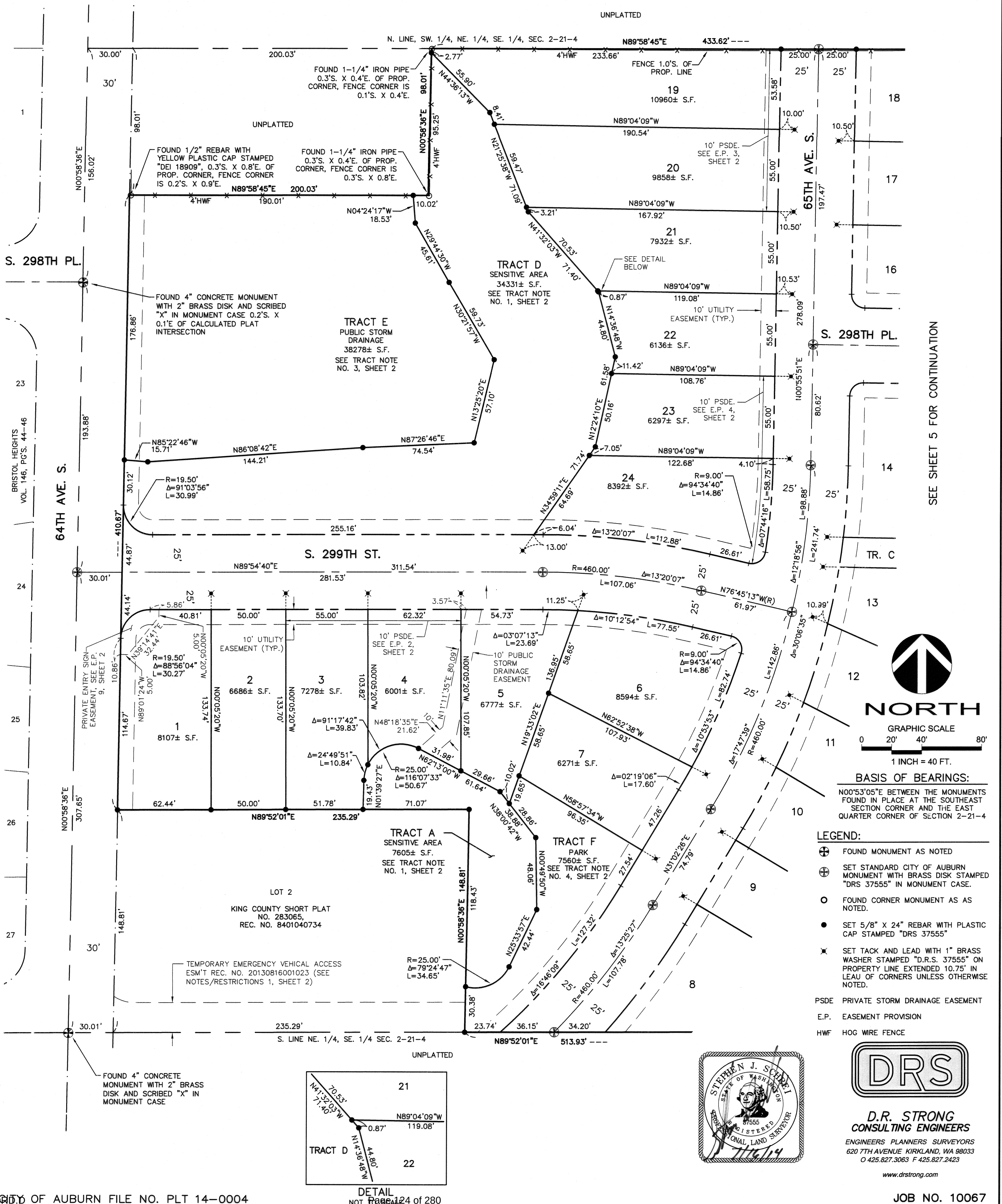
* TITLE NOTE:
THE SHORT PLAT RECORDED UNDER RECORDING NUMBER 8401040734 PRODUCES A NATIVE GROWTH PROTECTION EASEMENT AND BUILDING SETBACK LINE AND ARE SHOWN ON SHEET 5 HEREIN. UPON THE APPROVAL BY THE CITY OF AUBURN AND THE RECORDING OF THIS PLAT SAID NATIVE GROWTH PROTECTION EASEMENT AND BUILDING SETBACK LINE ARE HEREBY RELINQUISHED AND SUPERSEDED BY THE STEEP SLOPE BUFFER AND CITY OF AUBURN BUILDING SETBACK LINE AS SHOWN ON SHEET 5.



D.R. STRONG
CONSULTING ENGINEERS
ENGINEERS PLANNERS SURVEYORS
620 7TH AVENUE KIRKLAND, WA 98033
O 425.827.3063 F 425.827.2423

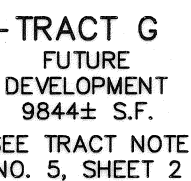
www.drstrong.com

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER,
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.,
CITY OF AUBURN, KING COUNTY, WASHINGTON



A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER,
SECTION 2, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M.,
CITY OF AUBURN, KING COUNTY, WASHINGTON

SHEET 5 OF 5



PARCEL B,
UNRECORDED
KING COUNTY BLA
S92L0021,
APPROVED 2/25/92

UNPLATTED

SEE SHEET 4 FOR CONTINUATION

UN

C
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F.
NOTE
T 2

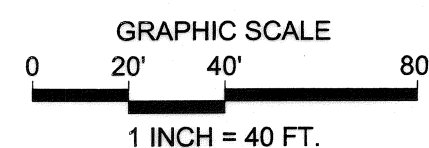
TRACT B
SENSITIVE AREA
43847± S.F.

SEE TRACT NOTE NO. 1 AND
RESTRICTIONS FOR SENSITIVE
AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS. SHEET 2

C.
34

—PUGET SOUND POWER AND-
LIGHT COMPANY ELECTRICAL
TRANSMISSION ESM'T. PER KC
SCC. NO. 80-2-15784-1.

FOUND 1/2" REBAR
WITH CAP AND TACK
STAMPED "6474"
0.4'N. x 0.2'E. OF
PROP CORNER



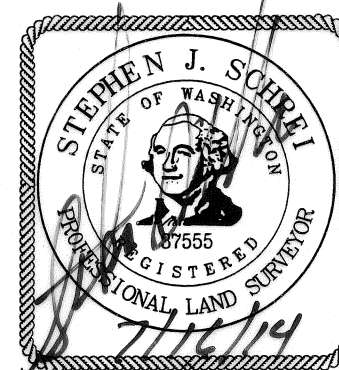
N00°53'05"E BETWEEN THE MONUMENTS
FOUND IN PLACE AT THE SOUTHEAST
SECTION CORNER AND THE EAST
QUARTER CORNER OF SECTION 2-21-4

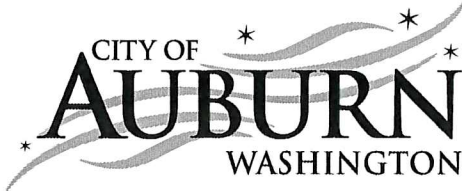
- ⊕ FOUND MONUMENT AS NOTED
- ⊕ SET STANDARD CITY OF AUBURN MONUMENT WITH BRASS DISK STAMPED "DRS 37555" IN MONUMENT CASE.
- FOUND CORNER MONUMENT AS AS NOTED.
- SET 5/8" X 24" REBAR WITH PLASTIC CAP STAMPED "DRS 37555"
- ✕ SET TACK AND LEAD WITH 1" BRASS WASHER STAMPED "D.R.S. 37555" ON PROPERTY LINE EXTENDED 10.75' IN LEAF OF CORNERS UNLESS OTHERWISE NOTED.

PSDE PRIVATE STORM DRAINAGE EASEMENT
E.P. EASEMENT PROVISION
HWF HOG WIRE FENCE
BSBL BUILDING SETBACK LINE



www.drstrong.com





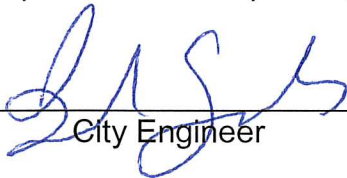
CERTIFICATE OF IMPROVEMENTS

FINAL PLAT APPLICATION
FAC11-0004
PLT10-0010 (Preliminary Plat)

SECURITY IN LIEU OF COMPLETION

In lieu of the required public improvements for the Final Plat of **WYNCREST**, the following bonds have been submitted and approved by the City Engineer.

- An approved Plat Security Bond for **\$84,237.00** which is 150% of the estimated costs of improvements.
- A separate Performance Bond for **\$47,849.31** which is 150% of the estimated costs of improvements for the completion of the emergency vehicle access required to be completed prior to the issuance of the 25th Building Permit.



 City Engineer

7/15/2014

 Date

1. The developer has provided references and demonstrated a minimum of 3 years successful, non-defaulted plat development experience in the Puget Sound region.
2. The plat security bond is based on the following costs:

ONE PHASE:

• TOP LIFT of ASPHALT and RAISING UTILITY CASTINGS	\$46,885.00
• MONUMENT INSTALLATION	\$ 4,400.00
	Tax <u>\$ 4,873.00</u>
	Subtotal <u>\$56,158.00</u>
	Total @ 150% \$84,237.00

SEPARATE BOND for the:

EMERGENCY VEHICLE ACCESS - PER PLAT REQUIREMENT	\$29,132.00
	Tax <u>\$ 2,767.54</u>
	Subtotal <u>\$31,899.54</u>
	Total @ 150% \$47,849.31

cc: FAC11-0004
 Elizabeth Chamberlain, Planning Service Manager
 Harry J. Schneider, Schneider Homes Inc.

BEFORE THE HEARING EXAMINER FOR THE CITY OF AUBURN

Phil Olbrechts, Hearing Examiner

RE: Wyncrest Preliminary Plat PLT10-0010	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION.
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INTRODUCTION

The Applicant has proposed to subdivide 8.60 acres into 24 single-family residential lots. Two deviations to street standards are also included in the application for 64th Avenue South and 67th Avenue South, an external access road and an internal access road, respectively. Specifically the deviations are to (1) allow the Applicant to improve 64th Avenue South without a center turn lane; and (2) allow the Applicant to reduce the intersection spacing between South 298th Place and South 299th Street on 67th Avenue South from 250 feet to 194. The preliminary plat and deviations are approved with conditions.

ORAL TESTIMONY

Hilary Taylor, Senior Planner, summarized the staff report. She noted on page 8, of the staff report there is a reference to Exhibit 9 where instead it should be Exhibit 14. Ms. Taylor noted there are two deviations from city code proposed by the Applicant. The first deviation requested is from the minimum intersection spacing as required by city code. Ms. Taylor explained that city code requires 250 feet of intersection spacing and the Applicant has proposed 194 feet. The City Engineer has reviewed this deviation and has approved it. The second deviation proposed deals with roadway width. The Applicant is required to provide a center-turn lane as part of the requirements of the development of the subdivision. The Applicant proposes to not provide a center-turn lane, but instead accommodate/improve a bike lane as supported by the city's comprehensive plan. The City Engineer recommends approval of this deviation because the traffic volumes in that area are not expected to warrant a center-turn lane.

Ms. Taylor also noted a supplemental information memo that is being added to the staff report outlining a discussion with the Muckleshoot Indian Tribe Fisheries division (Exhibit 15). The discussion began on June 30th after the Muckleshoot Fisheries Division emailed questions regarding the culvert that would be built underneath 64th Avenue South. The Applicant and city staff responded to these questions regarding the fact that the culvert will be extending an existing utility. The affected stream was originally identified as a Class N stream by King County in a 2004-2005 assessment. In Dec 7, 2010 it was identified in a critical areas report and

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described as a seasonal surface water drainage area. It is classified as a Class 4 stream per Auburn city code ACC 16.10.080.D.4. The memo also details the concern raised by the Muckleshoot Indian Tribe Fisheries Division regarding buffer-averaging in an email dated July 5, 2011. The Applicant responded that they plan on using buffer-averaging which would be addressed during the time of construction drawing. Staff proposed a preliminary condition that no more than 35% of the stream buffer would be impacted. This condition noted "through a combination of averaging and buffer-width reduction the Applicant shall demonstrate to the planning director at the time of submittal for a facilities extension agreement that a reduction and averaging will not result in any adverse impacts to the stream and complies with the intent of section ACC 16.10.090.E.2.D and section ACC 16.10.090.E.2.E."

Joe Welsh, Senior Traffic Advisor for City of Auburn, testified that no physical access is needed for a second emergency roadway until a minimum of 25 lots would be served by the emergency access roadway. The current proposal is for 24 lots but future development of neighboring parcels will eventually increase the number of lots serviced by the emergency access beyond the 25 lot threshold. City staff is working to ensure the easement is clearly defined and that the Applicant will provide the easement according to the city standards. City standards require that a secondary emergency access be provided at the time 25 lots are served by it.

Additionally, Mr. Welsh testified that the traffic volumes and the number of cars that would be turning and number that would be opposing on 64th Avenue South would not warrant a center-turn lane. Mr. Welsh notes that typically the intersection spacing minimum is 250ft, but the turn volumes are so low there is no spacing concern. Regarding the continuance of low traffic volume, Welsh comments that an existing development off of 64th Avenue South is finished, and the Applicant's development is building east towards a slope so traffic volumes are not expected to increase exponentially.

Maher Joudi, the Applicant's civil engineer on the project, added that impacts to the stream (noted in Exhibit 15) will be very limited, but the improvements required on 64th Avenue South will impact the stream directly. These impacts will be taken into account with the culvert design.

EXHIBITS

The exhibits listed at pages 10-11 of the June 24, 2011 staff report as well as the July 20, 2011 memorandum from Hillary Taylor to the Hearing Examiner (Exhibit 15) are all admitted into evidence.

FINDINGS OF FACT

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1 **Procedural:**

- 2 1. Applicant. Schneider Homes, Inc.
- 3
- 4 2. Hearing. The Hearing Examiner conducted a hearing on the application at 5:30 p.m. at Auburn City Hall in the Council Chambers on July 20, 2011.

5 **Substantive:**

- 6 3. Site/Proposal Description. The Applicant has proposed to subdivide 8.60
- 7 acres into 24 single-family residential lots with new public right of way, storm
- 8 drainage facilities, and sensitive areas tracts.

- 9 4. Deviation Requests. Wyncrest involves two requests for deviation. In one
- 10 deviation request, the Applicant requests a deviation to Auburn's Design Standards,
- 11 Table 10-1 Roadway Width, which requires construction of a center turn lane as part
- 12 of a 34 foot wide Residential Collector road. The Applicant proposes to not provide a
- 13 center-turn lane, but instead accommodate/improve a bike lane as supported by the
- 14 city's comprehensive plan. The site is constrained along 64th Avenue South by the
- 15 presence of a wetland (Tract A). Were the Applicant to provide both the six foot bike
- 16 lane and the center turn lane, the wetland would be impacted much more severely.
- 17 Additionally, the provision of both facilities would require the developer to move the
- 18 stormwater detention facility (Tract E) as well as lose at least one development lot on
- 19 the south side of proposed South 299th Street. The location of the proposed detention
- 20 tract is constrained by the presence of a second wetland (Tract D). If the detention
- 21 facility were to be moved, it would have to move to the other side of Tract D. This
- 22 would result in the loss of up to six additional development lots. The City's engineers
- 23 have reviewed the proposed changes and have found the provision of "a single
- 24 through land in either direction on 64th Avenue South is supportable due to the
- 25 projected traffic volumes in the vicinity." The City Engineer concurs with this
- deviation request.

 In the other deviation request, the Applicant requests a deviation from Auburn's

 Design Standards Table 10-3 Minimum Intersection Spacing. The deviation requested

 is from the minimum intersection spacing as required by city code. The city code

 requires 250 feet of space between intersections. The Applicant has proposed

 reducing the intersection spacing between South 298th Place and South 299th Street on

 67th Avenue South from 250 feet to 194 feet.

 The developable portion of the site is constrained by the presence of a critical steep

 slope on the southeast portion of the site (Tract B) and a wetland on the southwestern

 portion of the site (Tract A). The proposed location of South 298th Place is fixed in

 that it matches the proposed centerline of the adjoining Frederic Allen Preliminary

 Plat (King County) to the east of the site. Staff supports the Applicant's analysis that

 "the purpose of providing minimum intersection spacing is to ensure that queue

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lengths for left turns into respective streets do no interfere with one another.” In this case, the relevant left turn movements do not intersect. Additionally, the roads in question have very light traffic. The staff have concluded “left turn queue lengths for these streets will not impact one another and the reduced intersection spacing will not create an adverse impact on public safety.” The City Engineer concurs with the deviation request.

5. Characteristics of the Area. Single-family homes are located to the west on R-5 zoned property. Undeveloped land and detached single family homes on R-5 zoned property surround the remainder of the subject property.

6. Adverse Impacts. All adverse impacts have been identified and adequately mitigated.

As discussed in Finding of Fact No. 8 below, the project encompasses several critical areas, but all these critical areas are protected by placing them in critical area tracts or subjecting them to development buffers. As discussed in Finding of Fact No. 4 above and in Finding of Fact No. 7 below, all traffic and other infrastructure needs have been assessed and mitigated as well.

The Muckleshoot Tribe expressed concern that the culvert under 64th Avenue South would impose a complete fish passage barrier. The Tribe was also interested in receiving more information regarding the stream buffer. Staff noted that the stream was already impassable to fish due to the design of a downstream culvert at 65th Avenue South, the intermittent nature of the stream and a 16% gradient downstream of 64th Avenue South. In response to the Tribe’s concern regarding the stream buffer and buffer averaging, the staff suggested a condition of approval for the decision. As conditioned, the potential environmental impacts to the stream are mitigated.

The preliminary plat site map demonstrates the potential lot layout for 24 proposed lots and five tracts (Tracts A-E). A few of these proposed lots, including Lots 4, 7 and 13, have irregular lot lines. The dimensions of these particular lots appear to be influenced by the adjoining critical areas, or in the case of Lot 13, by an access tract for an off-site lot as well as an adjoining critical area. The creation of lots with irregular lot lines can be problematic because they may create confusion over boundary lines. Boundary line disputes may result. Irregular lot lines near critical areas can also unintentionally create an opportunity for encroachment on critical areas tracts. It is possible the staff have already considered this issue and found the proposed lots are the most feasible alternative. In the event the issue of irregular lot lines has not already been considered, a condition of approval addresses the issue.

The Federal Way School District has requested the Applicant provide raised and lighted crosswalks across 64th Avenue South based on their site review and the District’s requirements for student safety. Specifically, they have recommended, “this crosswalk should be raised, as on a speed bump, to encourage slower speed in

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1 the neighborhood. Signage indicating a crosswalk ahead should also be placed in the
2 neighborhood. It would also be beneficial to use LED lights on the signage to
3 indicate student use." There is nothing in the record to counter the findings made by
4 the School District on the need for an enhanced crosswalk. A condition of approval
will be to either comply with the School District's request for a raised, lighted and
signed crosswalk or demonstrate to the satisfaction of staff that enhancements are not
reasonably necessary for child safety.

5 7. Adequacy of Infrastructure. Specific issues on infrastructure are
6 addressed below:

7 *A. Road Design.* With the exception of the deviations requested, all
8 frontage improvements and internal road improvements satisfy City code
9 requirements. The City determined a traffic study was not required. With the
exception of the deviations noted above, the project complies with all applicable City
of Auburn road standards.

10 *B. Emergency Access.* The preliminary plat proposes a 20 foot wide
11 emergency access easement opposite the current alignment of South 300th Street on
12 64th Avenue South. The staff report notes the easement is sufficient at this time;
13 however, a condition of approval will require construction of the access when the
14 number of lots utilizing this access reaches 25. The present proposal is for a 24 lot
15 subdivision. The subject property is adjacent to undeveloped land on the north, south
16 and east. The property to the east is owned by the Applicant. Though this project is
17 not part of a phased development, this project's internal road network and the zoning
and ownership status of surrounding properties indicate future subdivision
development will occur on the north, east and south of the property. At some point in
the future, the proposed emergency access easement will service more than the 24 lots
currently proposed. At such time, the Applicant will be required to develop the
emergency access easement to City standards.

18 *C. Drainage.* The Applicant submitted a Preliminary Storm Report (Exhibit
19 10). Staff have found that the proposed drainage plan complies with the 2009 Auburn
20 Surface Water Management Manual, ACC 13.48 and the City of Auburn Design
Standards which prohibit any increase in any off-site stormwater run-off or any
change in the off-site flow patterns. As proposed, the project has adequate drainage
facilities.

21 *D. Sewer.* Sewer will be provided by the Lakehaven Utility District, who has
issued a certificate of sewer availability for the project. See Ex. 9.

22 *E. Water.* Water will be provided by the Lakehaven Utility District, who has
issued a certificate of water availability for the project. See Ex. 8.

23 *F. Sidewalks.* Sidewalks will be provided for the internal roads (67th Avenue
24 South, South 298th Place and South 299th Place) and along 64th Avenue South. As part
25 of the deviation request, the Applicant proposes to provide a six foot bike lane along
64th Avenue South. There are no connecting sidewalks in the vicinity. Children will
walk to school. The Applicant submitted a School Walkway Analysis (Exhibit 13).
The Federal Way School District responded to the School Walkway Analysis in an

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1 email on March 21, 2011 requesting a raised cross walk on 64th Avenue South.
2 Compliance with this request will be a condition of approval.

3 *G. Schools.* School impact fees are assessed at the time of building permit
4 issuance to pay for school facilities. Since school impact fees are used to fund adopted
5 level of service standards, it is presumed in the absence of further evidence that the
6 impact fees assure adequate school facilities.

7 *H. Parks.* Park impact fees are assessed at the time of building permit
8 issuance to pay for park facilities. Since park impact fees are used to fund adopted
9 level of service standards, it is presumed in the absence of further evidence that the
10 impact fees assure adequate park facilities.

11 *I. Fire.* Fire impact fees are assessed at the time of building permit
12 issuance to pay for fire and emergency services facilities. Since fire impact fees are
13 used to fund adopted level of service standards, it is presumed in the absence of
14 further evidence that the impact fees assure adequate fire and emergency services
15 facilities.

16 8. Critical Areas. The Applicant submitted a Critical Areas Report for
17 Wetlands, Streams and Wildlife Habitats (Exhibit 11) as well as a Geotechnical
18 Report (Exhibit 12). There are two wetlands, a seasonal stream and steep slopes
19 located on the property. In accordance with ACC 16.10.090.E.f, both wetlands and
20 their associated buffers will be placed in critical areas tracts (Tract A and Tract D).
21 The steep slopes and their associated buffer will be placed in a separate critical areas
22 tract (Tract B). Though the on-site stream was identified in the Critical Areas Report,
23 no provisions for protection of the stream were noted in the staff report. A
24 supplement to the staff report (Exhibit 15) was prepared in response to questions
25 about regarding the stream treatment from the Muckleshoot Tribe. In the supplement,
staff suggests an additional condition of approval to protect the stream and its buffer.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. ACC 17.10.050 grants the Hearing Examiner
with the authority to issue final decisions on preliminary plat applications.

Unfortunately, the Examiner's authority on deviation requests is not as clear as that
for review of subdivision applications. ACC 17.18.010 requires the Hearing
Examiner to review and decide upon deviations to the City's design standards with
the concurrence of the City Engineer. However, Section 1.03 of the City's Design
Standards provides that the City Engineer shall approve deviations to the Design
Standards and the decision is not subject to Hearing Examiner review. Rules of
statutory construction provide that the more recently adopted provision supersedes the
older provision and the more specific provision supersedes the more general
provision. These two rules of construction also conflict in this case. The ordinances
adopting ACC 17.10.050 (Ordinance No. 6239) and the City's design standards

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1 (Ordinance No. 6283) were both approved by the City Council in 2009, with the
2 design standards the more recently adopted. Of the two provisions, ACC 17.10.050
3 is the more specific since it only applies to short subdivisions and subdivisions
4 whereas Section 1.03 applies to any development involving infrastructure
5 improvements. Since the Examiner concurs with the recommendations of the City
6 Engineer on the deviation requests of this application, this conflict of authority does
7 not need to be resolved at this time. However, the next time that a deviation request
8 is submitted to the Examiner staff is requested to provide more background on the
9 legislative history of the two provisions so that a decision can be made as to which
10 controls. Consultation with the City Attorney's Office may be necessary to clear up
11 this ambiguity.

12 **Substantive:**

13 2. Zoning Designation. The property is zoned Single Family Residential
14 District, R-5. The Auburn Comprehensive Plan designation for the property is Single
15 Family Residential.

16 3. Review Criteria and Application. The criteria for preliminary plat
17 applications are governed by ACC17.10.070. The criteria for deviations are governed
18 by ACC 17.18.030. The criteria for preliminary plat and deviation approval are
19 satisfied as outlined below where each criterion is quoted in italics and applied
20 through corresponding Conclusions of Law.

21 **ACC 17.10.070:** *Preliminary plats shall only be approved if findings of fact are
22 drawn to support the following:*

23 **ACC 17.10.070(A):** *Adequate provisions are made for the public health, safety and
24 general welfare and for open spaces, drainage ways, streets, alleys other public ways,
25 water supplies, sanitary wastes, parks, play grounds and sites for schools and school
26 grounds.*

27 4. As discussed in the Findings of Fact, adequate infrastructure serves the
28 project while at the same time the project creates no significant adverse impact. The
29 project's higher densities also accommodate urban growth and thereby further the
30 public policy considerations of the Growth Management Act, Chapter 36.70A RCW.
31 Given all these factors, adequate provision is also made for the public health, safety
32 and general welfare. The criterion is satisfied.

33 **ACC 17.10.070(B):** *Conformance of the proposed subdivision to the general
34 purposes of the comprehensive plan*

35 5. As discussed in depth in the staff report for the proposal and incorporated
in this conclusion by reference, the purposes of the comprehensive plan have been
met by this application.

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1 **ACC 17.10.070(C):** *Conformance of the proposed subdivision to the general*
2 *purposes of any other applicable policies or plans which have been adopted by the*
3 *city council*

4 6. The proposed street system that serves the project is consistent with the
5 Comprehensive Transportation Plan adopted by the City Council.

6 **ACC 17.10.070(D):** *Conformance of the proposed subdivision to the general*
7 *purposes of this title as enumerated in ACC 17.02.030*

8 7. As discussed in depth in the staff report for the proposal and incorporated
9 in this conclusion by reference, the project is in conformance with the general
10 purposes of Title 17 ACC. Conclusions of law related to the request for deviations
11 are discussed below under Deviations.

12 **ACC 17.10.070(E):** *Conformance of the proposed subdivision to the Auburn zoning*
13 *ordinance and any other applicable planning or engineering standards and*
14 *specifications as adopted by the city or as modified and approved as part of a*
15 *previously approved PUD*

16 8. As discussed in depth in the staff report for the proposal and incorporated
17 in this conclusion by reference (including staff's analysis of ACC 17.16), the project
18 is in conformance with City development standards as required in the criterion quoted
19 above.

20 **ACC 17.10.070(F):** *The potential environmental impacts of the proposed subdivision*
21 *are mitigated such that the preliminary plat will not have an unacceptable adverse*
22 *effect upon the quality of the environment*

23 9. The Applicant has thoroughly mitigated all impacts to critical areas as outlined in
24 Finding of Fact No. 8 and all infrastructure needs are addressed as identified in
25 Finding of Fact No. 7. The project also been through review under the State
Environmental Policy Act, Chapter 43.21C RCW, and no other environmental
impacts were identified in that process or otherwise evident from the record. The
project was issues a SEPA DNS on June 21, 2011 with no development conditions
imposed. The criterion is satisfied.

ACC 17.10.070(G): *Adequate provisions are made so the preliminary plat will*
prevent or abate public nuisances

10. No public nuisances are discernable from the record.

DEVIATIONS

{PA0757324.DOC;1\00083.900000\ }

1 **ACC 17.18.030(A):** *Such modification is necessary because of special circumstances*
2 *related to the size shape topography location or surroundings of the subject property*
3 *to provide the owner with development rights and privileges permitted to other*
4 *properties in the vicinity and in the zoning district in which the subject property is*
5 *located.*

6 11. For the intersection spacing deviation, the topography, location and
7 surroundings of the property justify the request. The developable portion of the site is
8 constrained by the presence of a critical steep slope on the southeast portion of the
9 site (Tract B) and a wetland on the southwestern portion of the site (Tract A). The
10 proposed location of South 298th Place is fixed in that it matches the proposed
11 centerline of the adjoining Frederic Allen Preliminary Plat (King County) to the east
12 of the site. Were the location of South 299th Street moved south to accommodate the
13 City's required intersection spacing, the result would be the loss of at least five lots
14 because the remaining developable area would be inadequate to provide lots which
15 meet the minimum dimensional requirements of the City code. Staff supports the
16 Applicant's analysis that "the purpose of providing minimum intersection spacing is
17 to ensure that queue lengths for left turns into respective streets do not interfere with
18 one another." In this case, the relevant left turn movements do not intersect.
19 Additionally, the roads in question have very light traffic. The staff have concluded
20 "left turn queue lengths for these streets will not impact one another and the reduced
21 intersection spacing will not create an adverse impact on public safety." The
22 deviation is necessary to provide for usable development space between the southern
23 boundary of the plat and South 299th Street without adversely affecting traffic flow or
24 safety and while preserving the critical steep slopes and wetlands on site.

25 As to the roadway width deviation, the typical road standard for a Residential
Collector includes three lanes, two thru lanes and a center turn lane as well as curb,
gutter and sidewalk. The City's comprehensive plan also calls for a six foot bike lane
in this area. The Applicant proposes to provide the required width for the Residential
Collector but change the configuration to remove the center turn land and add a six
foot bike lane. The site is constrained along 64th Avenue South by the presence of a
wetland (Tract A). Were the Applicant to provide both the six foot bike lane and the
center turn lane, the wetland would be impacted much more severely. Additionally,
the provision of both facilities would require the developer to move the stormwater
detention facility (Tract E) as well as lose at least one development lot on the south
side of proposed South 299th Street. The location of the proposed detention tract is
constrained by the presence of a second wetland (Tract D). If the detention facility
were to be moved, it would have to move to the other side of Tract D. This would
result in the loss of up to six additional development lots. The City's engineers have
reviewed the proposed changes and have found the provision of "a single through
land in either direction on 64th Avenue South is supportable due to the projected
traffic volumes in the vicinity." The proposed change implements the comprehensive
plan, provides greater protection to the wetland and preserves the development rights

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and privileges of the developer while not adversely affecting traffic safety and flow. This criterion is satisfied.

ACC 17.18.030(B): *That because of such special circumstances the development of the property in strict conformity with the provision of this title will not allow a reasonable and harmonious use of the property.*

12. As described in detail above (Conclusion 11), for the intersection spacing deviation, adherence to the applicable intersection spacing requirement would reduce the usable area of the land without providing a safety benefit or preserving critical areas. Additionally, deviation from the intersection spacing will allow the Applicant to create South 298th Place in such a manner that it matches the proposed road centerline for the Frederic Allen Preliminary Plat, a harmonious continuation of a public street through multiple private developments. Adherence to the intersection spacing requirements would not only deprive the Applicant of reasonable and harmonious use, but would also adversely affect the preservation of the onsite steep slopes and wetlands and their associated buffers by forcing the roadway toward them.

As to the roadway width deviation, strict adherence to the applicable road profile requirements would require the construction of an unnecessary center turn land while precluding the construction of a six foot bike lane. A wider street profile would also increase the impact on the onsite wetlands and associated buffers while reducing the number of lots the developer could create. Staff are not concerned about safety or other adverse impacts because 64th Avenue South serves relatively little traffic. Given these factors, the deviances requested are necessary for reasonable use and harmonious use of the property. This criterion is satisfied.

ACC 17.18.030(C): *That the modification if granted will not alter the character of the neighborhood or be detrimental to surrounding properties in which the property is located*

13. The deviations will not be detrimental to the surrounding properties or the safe flow of traffic as the roadway width will be the same with a slightly different configuration and left turns from the various streets will not impact each other. This criterion is satisfied.

ACC 17.18.030(D): *Such modification will not be materially detrimental to the implementation of the policies and objectives of the comprehensive land use circulation and utility plans of the city*

14. There is nothing in the record to suggest that the requested deviations will adversely impact the implementation of the comprehensive and utility plans of the City. This criterion is satisfied.

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1 **ACC 17.18.030(E):** *Literal interpretation of the provisions of this title would deprive*
2 *the Applicant of rights commonly enjoyed by other properties in the same zoning*
3 *district.*

4 15. As previously discussed, the deviations will enable the Applicant to
5 construct a six foot bike lane in conformance with the comprehensive plan, protect
6 on-site critical steep slopes and wetlands, provide a continuous public roadway
7 between the Applicant's development and the adjacent approved plat and maintain
8 usable space between the southern boundary of the plat and South 299th Street. The
9 Applicant is providing the same road width in a safe and efficient configuration and
10 has proven the reduced intersection spacing will not present a safety hazard. Literal
11 interpretation of the provisions of the title would result in the loss of at least five lots
12 while providing no public benefit. The criterion is satisfied.

13 **ACC 17.18.030(F):** *The approval of the modification will be consistent with the*
14 *purpose of this title*

15 16. The approvals of the modifications are consistent with the purpose of the
16 subdivision code as detailed in ACC 17.02.030 because they provide for adequate
17 infrastructure while not materially compromising on safety or public convenience.

18 **ACC 17.18.030(G):** *The modification cannot lessen the requirements of the zoning*
19 *ordinance.*

20 19. The modifications do not violate any Zoning Ordinance provisions.

21 **DECISION**

22 The preliminary plat application and requested deviations are approved subject to
23 the following conditions:

24 1. On-site drainage flows will be engineered to funnel stormwater to the
25 proposed Tract "E" detention facility, which will be engineered to allow water to
flow into the existing wetland in proposed Tract "D" at no greater flow than the
existing flows from the property.

2. The Applicant shall provide sewer stubs to the parcels adjacent to all
sewer main extensions.

3. Half street improvements shall be required for 64th Avenue South in
accordance with City Design and Construction Standards with the exception of the
approved deviation to allow for no center turn lane and the addition of a six foot bike
lane.

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1 4. The final plat of Wyncrest will carry a plat condition requiring
2 improvement of the emergency access easement, in accordance with City standards,
3 when the number of lots utilizing said access reaches 25.

4 5. All tracts not dedicated to the City of Auburn shall be maintained by the
5 future Homeowners' Association.

6 6. If generated, the proposed Conditions, Covenants and Restrictions
7 (CC&R) for the future Homeowners' Association shall be submitted for review and
8 approval by the City prior to final plat approval. This document shall specify the
9 financial means of maintenance of all common open spaces.

10 7. The Applicant shall include on the face of the final plat a note that a
11 driveway encroachment exists and is being shown pursuant to RCW 58.17.255. *Ex.*
12 *Encroachment Note: "Existing Driveway Encroachments have been shown pursuant*
13 *to RCW 58.17.255 and shall be disclosed in the title report prepared by the title*
14 *insurer and issued after the filing of the final plat".*

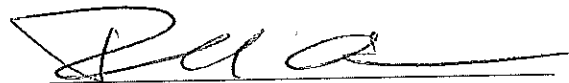
15 8. The Applicant shall seek Hydraulic Project Approval from the
16 Washington State Department of Fish and Wildlife, if applicable.

17 9. At the time of submittal for the facilities extension agreement, the
18 Applicant shall provide evidence that no more than 35% of the stream buffer will be
19 impacted, and the proposed impacts will not result in any adverse impacts to the
20 stream.

21 10. Prior to final plat approval, the Applicant shall either comply with the
22 School District's request for a raised crosswalk with lighted signing or demonstrate
23 to the satisfaction of staff that enhancements are not reasonably necessary for child
24 safety.

25 11. Prior to final plat approval, the staff shall work with the Applicant to
adjust lot lines to ensure each proposed lot is functional with as few angles as is
reasonably practicable while still meeting minimum lot size, width and other
dimensional requirements. Particular emphasis should be placed on proposed Lots 4,
7 and 13.

Dated this 1st day of August 2011.



Phil Olbrechts

City of Auburn Hearing Examiner

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Appeal

18.70.060 Appeal of hearing examiner's decision: The hearing examiner's decisions may be appealed to superior court in the manner prescribed in Chapter 18.66 ACC.

Change in Valuation

Notice is given pursuant to RCW 36.70B.130 that property owners who are affected by this decision may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

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AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 4959

Date:

July 16, 2014

Department:

Community Development &
Public Works

Attachments:

[Agenda Bill](#)

[Resolution No. 4959 with agreement](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to adopt Resolution No. 4959.

Background Summary:

Please see the attached Agenda Bill

Reviewed by Council Committees:

Planning And Community Development, Public Works Other: Legal, Environmental
Services

Councilmember: Holman

Staff: Snyder

Meeting Date: July 21, 2014

Item Number: RES.A



AGENDA BILL APPROVAL FORM

Agenda Subject: Resolution No. 4959		Date: July 21, 2014		
Department: Community Development & Public Works	Attachments: Resolution No. 4959, Exhibit A - PPA	Budget Impact:		
Administrative Recommendation: City Council to introduce and adopt Resolution No. 4959				
Background Summary: The purpose of Resolution No. 4959 is for the City Council to authorize the City of Auburn to enter into a Project Partnership Agreement (PPA) with the U.S. Army Corps of Engineers to construct the Mill Creek Wetland 5K project. The City of Auburn is the local sponsor for a US Army Corps of Engineers (Corps) Ecosystem Restoration Project (ERP) on Mill Creek. The purpose of the project is to restore stream habitat for salmon and other fish and wildlife. The project involves habitat enhancement along approximately one mile of Mill Creek, a tributary of the Green River that flows north through the City. The project is located on the "Wetland 5K" reach of Mill Creek, so named for the identification number of the wetland that the stream is located adjacent to. The Wetland 5K reach is located west of SR 167 extending from SR 18 north past 15th Street NW. The design of the Wetland 5K project was conducted under a 2010 Design Agreement between the City and the Corps. The 100-Percent design package for the project was transmitted to the City on July 8, 2014. For the project to proceed with finalizing real estate acquisitions and construction, the City will need to enter into a Project Partnership Agreement (PPA) with the Corps. The PPA defines the roles and responsibilities of the City and Corps including: • 65% federal / 35% non-federal cost share for total project costs; and • City responsibility to acquire necessary property interests to conduct the project.				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> Reviewed by Council & Committees: ☐ Arts Commission ☐ Airport ☐ Hearing Examiner ☐ Human Services ☐ Park Board ☐ Planning Comm. COUNCIL COMMITTEES: ☐ Finance ☐ Municipal Serv. ☒ Planning & CD ☒ Public Works ☐ Other _____ </td> <td style="width: 50%; vertical-align: top;"> Reviewed by Departments & Divisions: ☐ Building ☐ Cemetery ☐ Finance ☐ Fire ☒ Legal ☒ Public Works ☐ Information Services ☐ M&O ☐ Mayor ☐ Parks ☒ Planning ☐ Police ☐ Human Resources </td> </tr> </table>			Reviewed by Council & Committees: ☐ Arts Commission ☐ Airport ☐ Hearing Examiner ☐ Human Services ☐ Park Board ☐ Planning Comm. COUNCIL COMMITTEES: ☐ Finance ☐ Municipal Serv. ☒ Planning & CD ☒ Public Works ☐ Other _____	Reviewed by Departments & Divisions: ☐ Building ☐ Cemetery ☐ Finance ☐ Fire ☒ Legal ☒ Public Works ☐ Information Services ☐ M&O ☐ Mayor ☐ Parks ☒ Planning ☐ Police ☐ Human Resources
Reviewed by Council & Committees: ☐ Arts Commission ☐ Airport ☐ Hearing Examiner ☐ Human Services ☐ Park Board ☐ Planning Comm. COUNCIL COMMITTEES: ☐ Finance ☐ Municipal Serv. ☒ Planning & CD ☒ Public Works ☐ Other _____	Reviewed by Departments & Divisions: ☐ Building ☐ Cemetery ☐ Finance ☐ Fire ☒ Legal ☒ Public Works ☐ Information Services ☐ M&O ☐ Mayor ☐ Parks ☒ Planning ☐ Police ☐ Human Resources			
Action: Committee Approval: ☐ Yes ☐ No Council Approval: ☐ Yes ☐ No Referred to _____ Until ____/____/____ Tabled _____ Until ____/____/____ Call for Public Hearing ____/____/____				
Councilmember: Holman		Staff: Snyder		
Meeting Date: July 21, 2014		Item Number:		

Project Purpose:

The Mill Creek Wetland 5K Reach Project (Project) is one element of the Green/Duwamish River Ecosystem Restoration Project, led by the Corps under authorization from the Water Resources Development Act (WRDA). The effort is focused on restoration of critical habitat for ESA-listed salmon within the Green/Duwamish River Watershed.

Mill Creek (Creek) presents an excellent habitat restoration opportunity. The Creek has been channelized to facilitate agricultural activities that ceased in the 1980s and early 1990s. Currently, invasive plant species have overrun the channel and floodplain, interrupting natural riparian processes and significantly degrading habitat function within the Creek. The primary Project objectives are as follows:

- Re-establish the functions of this segment of Mill Creek to serve for passage of anadromous salmonids for spawning and rearing;
- Establish accessible refugia for the fry and juveniles of these fish species; and
- Eliminate invasive noxious weed plants (particularly reed canarygrass [*Phalaris arundinacea*]) within a discrete project corridor approximately 200 to 250 feet wide, allowing reestablishment of native wetland and woody riparian species.

Secondary Project objectives are those that must be considered in the design and may affect the degree to which the primary Project objectives can be implemented. Those objectives include the following:

- Create an end state condition that can be effectively managed and maintained by the local sponsor as a functional ecological preserve and an educational or experiential opportunity for residents of the City;
- Maintain the regional floodplain and floodway;
- Maintain or increase the level of flood storage commensurate with the City's flood and stormwater management plans;
- Maintain design functionality of existing drainage control structures while limiting the extent of and providing access for required maintenance;
- Protect, incorporate, or enhance existing wetland mitigation sites in the Project area;
- Prevent adverse effects associated with surface water inundation and flooding to adjacent and downstream properties.

Project History:

1996 – 2000: The Corps conducted a Feasibility Study for ecosystem restoration in Green/Duwamish Watershed. The study identified 45 site-specific restoration projects including the Mill Creek Wetland 5K reach. Enhancements downstream of the Wetland 5 Reach were also identified as the Merlino Reach and Schuler Brothers Reach;

2010: City entered Design Agreement with the Corps for the Mill Creek Wetland 5K Project;

2011: 35% design plan set prepared;

2012: Draft 95% design plans and specifications prepared;

2013: Additional hydraulic and hydrologic analysis conducted;

January – July 2014: 100% design plans and specifications prepared.

Elements of Project:

The Project is focused on Mill Creek and the adjacent riparian corridor. The design focuses on improving floodplain connectivity, providing refuge from high-flow events, and creating conditions to re-establish riparian cover over the Creek to reduce water temperatures and improve water quality for rearing. The key elements of the restoration design include:

- Creating a new, meandering stream channel in sections of the project reach and enhancing the existing channel in other sections;
- Building earthen berms adjacent to the stream to provide higher ground for establishing trees and shrubs that provide shading and habitat diversity;
- Creating new side channels and connecting existing tributary channels to provide rearing habitat and refuge from high stream flow events;
- Clearing reed canarygrass and scraping shallow soil to remove root mass
- Re-planting with mix of native trees, shrubs, and herbaceous vegetation;
- Install a new clear-span, three-sided box culvert under 15th Street NW for improved fish passage and flood flows conveyance;
- Conduct performance monitoring at 1,3, and 5 years post-construction; and
- Conduct limited maintenance to suppress invasive plants and keep culvert clear of debris.

Auburn City Council Resolution No. 4959: Project Partnership Agreement

In 2010, the City entered into a Green/Duwamish ERP Program Design Agreement (DA) with the Corps. The DA specified Corps and City roles and responsibilities, and cost shares, for the design of the Mill Creek Wetland 5K project. Now that the design has been completed, a similar agreement, called a Project Partnership Agreement (PPA) is required for construction of the project.

Roles and Responsibilities

Construction of the project would be conducted as a federal and local partnership between the Corps and the City. The partnership is formalized by the PPA, which addresses construction, maintenance, and monitoring of the project. Under the terms of the PPA, the Corps is the federal lead for the project and the City is considered the Non-federal Sponsor (NFS) of the project.

Responsibility	Corps of Engineers	City of Auburn
Engineering Design	Lead	Review and Comment
Lands, Easements, Right-of-Way, Relocations, and Disposal Areas (LERRD)	Certify	Lead – obtain property access through acquisition or perpetual easement
Permitting	Lead	Review and comment as requested
Contracting	Lead	Review and comment on solicitations, bid documents and specifications. Provide written notice of concurrence to proceed prior to issuance of construction contract solicitation
Construction Oversight	Lead	Support
Crediting (Lands Easements and Rights of Way)	Accounting	Packaging, reporting
Maintenance	Create plan	Implement plan
Monitoring (funded within total construction costs)	Lead	Support

The PPA also includes a cost sharing provision that specifies the following costs shares for the partners:

- Federal funds (Corps) 65%
- Non-Federal Sponsor funds (City) 35%

Benefits to City

The Project provides a number of benefits to the /city and aligns with public policy goals, including:

- Contributes to regional salmon recovery efforts and the Restoration Plan element of the City of Auburn Shoreline Master Program;
- Improves water quality, assisting the City in compliance with NPDES Phase II requirements;
- Improves flood flow conveyance, and creates over 17 acre-feet of additional flood storage;
- Creates potential for future passive recreation and educational opportunities associated with the Auburn Environmental Park.

Cost to City

Based on cost estimates developed by the Corps, the estimated total project costs reflected in the PPA, including design, construction, construction management, real estate acquisition, monitoring and maintenance, and the City of Auburn cost share are listed below:

Total Estimated Project Cost:	\$5,738,048.00
City 35% Share (including credits for real estate and staff time)	\$2,008,317.00

City Cash Funding Sources for Mill Creek Wetland 5K Project

The City has obtained grant funding to offset costs of the project including a \$532,000 grant from the Washington State Department of Ecology earlier this year. Project funding sources are listed below:

Design- King Conservation District	\$200,000.00
Design- King County Flood Control District Opportunity Fund	\$69,693.00
Construction/Real Estate- City Stormwater Utility Fund	\$1,250,000.00
Construction/Real Estate- Department of Ecology Floodplains Grant	\$ 532,000.00
Total	\$2,051,693.00

With the exception of the \$532,000 from the Department of Ecology Floodplain Grant, all cash funding sources identified above have been secured. The revenue and expenses associated with the Floodplain Grant have previously been included in the City's 2014 budget and identified in the City's 2014-2019 Capital Facilities Plan as "Grants, Other Sources". The Floodplain Grant agreement between the City and the Washington State Department of Ecology will be presented to the City Council under a separate resolution (Resolution No. 5082) for acceptance consideration.

Other City Funding for the Project

Under the terms of the PPA, the City would also receive credit toward its cost share for certain staff time (WIK- Work in Kind) during design and construction, and for real estate interests (referred to as LERRD credit) that it makes available for the project. Estimates of these credit amounts prepared by the Corps are provided below:

Design- Staff time WIK for design team coordination	\$20,000.00
Construction- Staff time WIK for construction coordination	\$40,000.00
LERRD (Real Estate) Credit	\$900,000.00
Total	\$960,000.00

RESOLUTION NO. 4959

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A PROJECT PARTNERSHIP AGREEMENT FOR SPECIFICALLY AUTHORIZED ECOSYSTEM RESTORATION PROJECTS AND SEPARABLE ELEMENTS

WHEREAS, the Auburn City Council finds that restoration of that portion of Mill Creek located within the City will benefit the citizens of Auburn by enhancing flood control within the City and by improving fish habitat; and

WHEREAS, the Auburn City Council previously adopted Resolution No. 4558 authorizing the execution of a Design Agreement between the City of Auburn and the Department of the Army for design of the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project on February 12, 2010; and

WHEREAS, the design for construction of the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project has been completed under the Design Agreement; and

WHEREAS, U.S. Army Corps of Engineers has received federal funding to complete the design for the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project and construct the project; and

WHEREAS, under the Water Resources Development Act of 1986, local governments wishing to have such projects constructed within their jurisdictions must contribute a portion of the project design costs; and

WHEREAS, the City of Auburn has included the Mill Creek Wetland 5K Reach restoration as a project in its 2014-2019 Capital Facility Plan;

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

Section 1. That the Mayor and City Clerk are hereby authorized to execute a Project Partnership Agreement for Specifically Authorized Ecosystem Restoration Projects and Separable Elements, which agreement shall be in substantial conformity with the agreement attached hereto as Exhibit A and incorporated herein by this reference.

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

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

Dated and Signed this ____ day of _____, 2013.

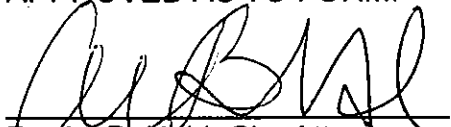
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CITY OF AUBURN
FOR
CONSTRUCTION
OF THE
DUWAMISH/MILL CREEK WETLAND 5K REACH
ECOSYSTEM RESTORATION PROJECT

THIS AGREEMENT is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Seattle District, and City of Auburn (hereinafter the "Non-Federal Sponsor"), represented by the Mayor.

WITNESSETH, THAT:

WHEREAS, construction of the Duwamish/Green River Basin Project for ecosystem restoration (hereinafter the "Authorized Project") at King County, Washington was authorized by Section 101(b)(26) of the Water Resources Development Act of 2000, Public Law 106-51 in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report to the Chief is completed not later than December 31, 2000;

WHEREAS, a favorable final report of the Chief of Engineers was completed on December 29, 2000;

WHEREAS, the Government was authorized to perform *monitoring* and *adaptive management* (as defined in Article I.M. and Article I.N. of this Agreement, respectively) as part of the Authorized Project;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into a Project Partnership Agreement (hereinafter the "Agreement") for construction of the Duwamish/ Mill Creek Wetland 5K Reach Ecosystem Restoration Project (a separable element of the Authorized Project and hereinafter the "*Project*", as defined in Article I.A of this Agreement);

WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, (33 U.S.C. 2213) specifies the cost-sharing requirements applicable to the *Project*;

WHEREAS, Section 902 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2280), establishes the maximum amount of costs for the *Authorized Project* and sets forth procedures for adjusting such maximum amount;

WHEREAS, the Government and a non-Federal interest entered into an agreement, dated February 1, 2010 for engineering and design of the *Project* (hereinafter the “Design Agreement”), under the terms of which the non-Federal interest contributed a portion of the costs for engineering and design;

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), provide, *inter alia*, that the Secretary of the Army shall not commence construction of any water resources project, or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Project* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful implementation of the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I - DEFINITIONS

A. The term “*Project*” shall mean construction of a meandering stream channel, dendrites, culvert replacement, and large woody debris placement at the Auburn Environmental Park (Mill Creek Wetland 5K) site, as generally described in the final report of the Chief of Engineers, dated December 29, 2000, and in the “Green/Duwamish River Basin Ecosystem Restoration Study, Final Feasibility Report,” dated October 2000.

B. The term “*total project costs*” shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to construction of the *Project*. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government’s share of Preconstruction Engineering and Design costs pursuant to the terms of the Design Agreement; the value of the contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement; the Government’s engineering and design costs during construction; the Non-Federal Sponsor’s and the Government’s costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; the Government’s costs of historic preservation activities in accordance

with Article XVII.A. and Article XVII.B.1. of this Agreement; the Government's costs of *monitoring* in accordance with Article II.H. and Article II.I. of this Agreement; the Government's costs of *adaptive management* in accordance with Article II.J. and Article II.K. of this Agreement; the Government's actual construction costs; the Government's supervision and administration costs; the Non-Federal Sponsor's and the Government's costs of participation in the Project Coordination Team in accordance with Article V of this Agreement; the Government's costs of contract dispute settlements or awards; the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for which the Government affords credit in accordance with Article IV of this Agreement or for which reimbursement by the Government is required pursuant to Article II.B.3. of this Agreement; and the Non-Federal Sponsor's and the Government's costs of audit in accordance with Article X.B. and Article X.C. of this Agreement. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement of the *Project*; any costs of *betterments* under Article II.G.2. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; the Government's costs for data recovery activities associated with historic preservation in accordance with Article XVII.B.2. and Article XVII.B.3. of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement.

C. The term "*period of construction*" shall mean the time from the date the Government issues the solicitation for the first construction contract for the *Project* or commences construction of the *Project* using the Government's own forces, whichever is earlier, to the date that construction, *monitoring*, and, if necessary, *adaptive management* of the *Project* are complete, as determined by the Government, or the date that this Agreement is terminated in accordance with Article XIII or Article XIV.C. of this Agreement, whichever is earlier.

D. The term "*financial obligations for construction*" shall mean the financial obligations of the Government that result or would result in costs that are or would be included in *total project costs* except for obligations pertaining to the provision of lands, easements, and rights-of-way, the performance of *relocations*, and the construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material.

E. The term "*non-Federal proportionate share*" shall mean the ratio of the Non-Federal Sponsor's total contribution of funds required by Article II.B.2. of this Agreement to *financial obligations for construction*, as projected by the Government.

F. The term "*highway*" shall mean any highway, roadway, street, or way, including any bridge thereof, that is owned by a public entity.

G. The term "*relocation*" shall mean providing a functionally equivalent facility to the owner of a utility, cemetery, *highway*, railroad, or public facility when such action is authorized in accordance with applicable legal principles of just compensation; or providing a functionally equivalent facility when such action is specifically provided for, and is

identified as a relocation, in the authorizing legislation for the *Project* or any report referenced therein. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

H. The term “*functional portion of the Project*” shall mean a portion of the *Project* for which construction has been completed and that can function independently, as determined by the U.S. Army Engineer, Seattle District (hereinafter the “District Engineer”) in writing, although the remainder of the *Project* is not complete.

I. The term “*betterment*” shall mean a difference in the construction of an element of the *Project* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the construction of that element. The term does not include any construction for features not included in the *Project* as defined in paragraph A. of this Article.

J. The term “*Federal program funds*” shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

K. The term “*fiscal year*” shall mean one year beginning on October 1 and ending on September 30.

L. The term “*monitoring*” shall mean activities, including the collection and analysis of data, that are necessary to determine if predicted outputs of the *Project* are being achieved and to determine if *adaptive management* is necessary.

M. The term “*adaptive management*” shall mean measures taken to adjust the *Project* in response to the *monitoring* results so that the predicted outputs of the *Project* are achieved following its construction. The term includes, but is not necessarily limited to, modifications of structures, or adjustments to operation or management, of the *Project*.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the “Congress”) and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall construct the *Project*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies.

1. The Government shall not issue the solicitation for the first contract for construction of the *Project* or commence construction of the *Project* using the Government’s own forces until the Non-Federal Sponsor has confirmed in writing its willingness to proceed with the *Project*.

2. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all contracts, including relevant plans and specifications, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations, award of contracts or commencement of construction using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Project* shall be exclusively within the control of the Government.

3. At the time the District Engineer furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Project*, the District Engineer shall furnish a copy thereof to the Non-Federal Sponsor.

4. As of the effective date of this Agreement, \$18,115,600 of Federal funds have been provided by Congress for the Authorized Project of which \$5,000,000 is currently projected to be available for the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the Authorized Project or the *Project*. Further, the Government's financial participation in the *Project* is limited to the Federal funds that the Government makes available to the *Project*.

B. The Non-Federal Sponsor shall contribute 35 percent of *total project costs* in accordance with the provisions of this paragraph.

1. In accordance with Article III of this Agreement, the Non-Federal Sponsor shall provide all lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall perform or ensure performance of all *relocations*, and shall construct improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Government determines to be required or to be necessary for construction, operation, and maintenance of the *Project*.

2. The Non-Federal Sponsor shall provide funds in accordance with Article VI.B. of this Agreement in the amount necessary to meet the Non-Federal Sponsor's required share of 35 percent of *total project costs* if the Government projects at any time that the collective value of the following contributions will be less than such required share: (a) the value of the contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement; (b) the value of the Non-Federal Sponsor's contributions under paragraph B.1. of this Article, as determined in accordance with Article IV of this

Agreement; and (c) the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement.

3. The Government, subject to the availability of funds, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of 35 percent of *total project costs* if the Government determines at any time that the collective value of the following contributions has exceeded 35 percent of *total project costs*: (a) the value of the Non-Federal Sponsor's contributions under paragraph B.2. of this Article; (b) the value of the contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement; (c) the value of the Non-Federal Sponsor's contributions under paragraph B.1. of this Article, as determined in accordance with Article IV of this Agreement; and (d) the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement. After such a determination, the Government, in its sole discretion, may acquire any remaining lands, easements, and rights-of-way required for the *Project*, perform any remaining *relocations* necessary for the *Project*, or construct any remaining improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material required for the *Project* on behalf of the Non-Federal Sponsor. Notwithstanding the acquisition of lands, easements, and rights-of-way, performance of *relocations*, or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material by the Government under this paragraph, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIV.C. of this Agreement.

C. When the District Engineer determines that, except for *monitoring* and *adaptive management*, the entire *Project*, or a *functional portion of the Project*, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and furnish the Non-Federal Sponsor with a final Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") or, if the final OMRR&R Manual is not available, an interim OMRR&R Manual for the entire *Project* or such completed portion. Upon such notification, the Government also shall furnish to the Non-Federal Sponsor a copy of all final as-built drawings for the entire *Project* or such completed portion if such drawings are available. Not later than 6 months after such notification by the Government that the entire *Project* is complete, the Government shall furnish the Non-Federal Sponsor with the final OMRR&R Manual and all final as-built drawings for the entire *Project*. In the event the final OMRR&R Manual or all final as-built drawings for the entire *Project* cannot be completed within the 6 month period, the Government shall provide written notice to the Non-Federal Sponsor, and the Government and the Non-Federal Sponsor shall negotiate an acceptable completion date for furnishing such documents. Further, after completion of all contracts for the *Project*, copies of all of the Government's Written Notices of Acceptance of Completed Work for all contracts for the *Project* that have not been provided previously shall be provided to the Non-Federal Sponsor.

D. Upon notification from the District Engineer in accordance with paragraph C. of this Article, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and

replace the entire *Project*, or the *functional portion of the Project* as the case may be, in accordance with Article VIII of this Agreement. Concurrent with the Non-Federal Sponsor's performance of operation, maintenance, repair, rehabilitation, and replacement for the completed *Project* or such completed portion, the Government shall perform *monitoring* and, if necessary, *adaptive management* in accordance with the provisions of this Agreement.

E. Upon the District Engineer's determination that, except for *monitoring* and *adaptive management*, the entire *Project* is complete, the Government shall conduct an interim accounting, in accordance with Article VI.C. of this Agreement, and furnish the results to the Non-Federal Sponsor. Further, upon conclusion of the *period of construction* the Government shall amend the interim accounting to complete the final accounting, in accordance with Article VI.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

F. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Project*.

G. The Non-Federal Sponsor may request the Government to perform or provide, on behalf of the Non-Federal Sponsor, one or more of the services (hereinafter the "additional work") described in this paragraph. Such requests shall be in writing and shall describe the additional work requested to be performed or provided. If in its sole discretion the Government elects to perform or provide the requested additional work or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the additional work performed or provided by the Government under this paragraph and shall pay all such costs in accordance with Article VI.D. of this Agreement.

1. Acquisition of lands, easements, and rights-of-way; performance of *relocations*; or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for the *Project*. Notwithstanding acquisition of lands, easements, and rights-of-way, performance of *relocations*, or construction of improvements by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIV.C. of this Agreement.

2. Inclusion of *betterments* in the construction of the *Project*. In the event the Government elects to include any such *betterments*, the Government shall allocate the costs of the *Project* features that include *betterments* between *total project costs* and the costs of the *betterments*.

H. Prior to completion of construction of the *Project*, the Government, in consultation with the Non-Federal Sponsor and, as appropriate, other concerned agencies, shall finalize the plan for *monitoring* of the *Project*. The *monitoring* plan shall describe the specific parameters to be monitored; how these parameters relate to achieving the desired outcomes and to ascertaining whether *adaptive management* measures for the *Project* will be necessary; methods for measuring those parameters; frequency and duration of *monitoring* of the *Project*; criteria for measuring the success of the *Project*; preparation and distribution of *monitoring* reports and other coordination requirements; and estimated *monitoring* costs.

I. Upon providing notification to the Non-Federal Sponsor that the *Project* is complete in accordance with paragraph C. of this Article, the Government shall perform *monitoring* of the *Project* in accordance with the *monitoring* plan for a period of 5 consecutive years from the date of such notification. However, the *monitoring* of the *Project* by the Government shall end prior to the expiration of such period upon the occurrence of either of the following events: (1) the award of the next contract for *monitoring* of the *Project*, or continuation of *monitoring* of the *Project* using the Government's own forces, would result in the costs incurred for *monitoring* and *adaptive management* of all the features for ecosystem restoration in the Authorized Project exceeding 7 percent of the amount equal to *total project costs* of the *Project* plus the costs for all other ecosystem restoration separable elements of the Authorized Project minus the costs for *monitoring* and *adaptive management* of all the features for ecosystem restoration in the Authorized Project; or (2) the District Engineer determines that continued *monitoring* of the *Project* is not necessary.

J. Applying the criteria specified in the *monitoring* plan, the Government shall determine whether *adaptive management* of the *Project* is necessary. The Government may make such a determination at any time during the *monitoring* period described in paragraph I. of this Article. Within 120 calendar days after the expiration or termination of such *monitoring* period, the Government shall make a final determination of whether *adaptive management* of the *Project* is necessary. In making such determinations, the Government shall consult with the Non-Federal Sponsor and, as appropriate, with other concerned agencies. Upon any determination by the Government that *adaptive management* of the *Project* is necessary, the Government shall notify the Non-Federal Sponsor in writing of its determination and expeditiously shall perform such *adaptive management* in accordance with paragraph K. of this Article. If, after the expiration or termination of such *monitoring* period, the Government determines that *adaptive management* of the *Project* is not necessary, the Government shall notify the Non-Federal Sponsor in writing of its determination and shall conduct a final accounting in accordance with paragraph E. of this Article.

K. If the Government determines, pursuant to paragraph J. of this Article, that *adaptive management* of the *Project* is necessary, the Government, in consultation with the Non-Federal Sponsor and, as appropriate, other concerned agencies, shall perform *adaptive management* of the *Project* in accordance with the provisions of this paragraph and paragraph A. of this Article.

1. In no event shall the award of any contract for *adaptive management* of the *Project*, or continuation of *adaptive management* of the *Project* using the Government's own forces, result in the costs incurred for *monitoring* and *adaptive management* of all the features for ecosystem restoration in the Authorized Project exceeding 7 percent of the amount equal to *total project costs* of the *Project* plus the costs for all other ecosystem restoration separable elements of the Authorized Project minus the costs for *monitoring* and *adaptive management* of all the features for ecosystem restoration in the Authorized Project. As of the effective date of this Agreement, the costs of *monitoring* and *adaptive management* of the entire Authorized Project are estimated to be \$8,240,000. As of the effective date of the Agreement, the costs of *monitoring* and *adaptive management* of this *Project* are estimated to be \$60,000.

2. When the District Engineer determines that *adaptive management* of the *Project* is complete, or that the costs for *monitoring* and *adaptive management* have or will exceed the 7 percent amount determined in accordance with sub-paragraph 1. of this paragraph, the District Engineer shall: a) notify the Non-Federal Sponsor in writing of such completion; b) furnish the Non-Federal Sponsor with an amended OMRR&R Manual that reflects any modifications to structures or adjustments to operation or management methods; c) furnish the Non-Federal Sponsor with a copy of any new or revised as-built drawings for the *Project*; and d) within 30 calendar days after such notice, conduct a final accounting in accordance with paragraph E. of this Article.

3. Upon notification from the District Engineer in accordance with sub-paragraph 2. of this paragraph, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the entire *Project* in accordance with Article VIII of this Agreement.

L. The Non-Federal Sponsor shall prevent obstructions or encroachments on the *Project* (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on *Project* lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the *Project*, hinder operation and maintenance of the *Project*, or interfere with the *Project's* proper function.

M. The Non-Federal Sponsor shall not use the *Project*, or the lands, easements, and rights-of-way required pursuant to Article III of this Agreement, as a wetlands bank or mitigation credit for any other project.

ARTICLE III - LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, DISPOSAL AREA IMPROVEMENTS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the lands, easements, and rights-of-way required for construction, operation, and

maintenance of the *Project*, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the lands, easements, and rights-of-way that the Government determines the Non-Federal Sponsor must provide, in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition of such lands, easements, and rights-of-way. Prior to the issuance of the solicitation for each Government contract for construction of the *Project*, or prior to the Government incurring any *financial obligations for construction* of a portion of the *Project* using the Government's own forces, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way the Government determines the Non-Federal Sponsor must provide for that work and shall provide the Government with authorization for entry thereto. Furthermore, prior to the end of the *period of construction*, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, as set forth in such descriptions, and shall provide the Government with authorization for entry thereto. The Non-Federal Sponsor shall ensure that lands, easements, and rights-of-way that the Government determines to be required for the *Project* and that were provided by the Non-Federal Sponsor are retained in public ownership for uses compatible with the authorized purposes of the *Project*.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the *relocations* necessary for construction, operation, and maintenance of the *Project*, including those necessary to enable the borrowing of material or the disposal of dredged or excavated material. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such *relocations* in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with such *relocations*. Prior to the issuance of the solicitation for each Government contract for construction of the *Project*, or prior to the Government incurring any *financial obligations for construction* of a portion of the *Project* using the Government's own forces, the Non-Federal Sponsor shall prepare or ensure the preparation of plans and specifications for, and perform or ensure the performance of, all *relocations* the Government determines to be necessary for that work. Furthermore, prior to the end of the *period of construction*, the Non-Federal Sponsor shall perform or ensure performance of all *relocations* as set forth in such descriptions.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material associated with construction, operation, and maintenance of the *Project*. Such improvements may include, but are not necessarily limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a

written notice to proceed with construction of such improvements. Prior to the issuance of the solicitation for each Government contract for construction of the *Project*, or prior to the Government incurring any *financial obligations for construction* of a portion of the *Project* using the Government's own forces, the Non-Federal Sponsor shall prepare plans and specifications for all improvements the Government determines to be required for the disposal of dredged or excavated material under that contract, submit such plans and specifications to the Government for approval, and provide such improvements in accordance with the approved plans and specifications. Furthermore, prior to the end of the *period of construction*, the Non-Federal Sponsor shall provide all improvements set forth in such descriptions.

D. The Non-Federal Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 C.F.R. Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, or the disposal of dredged or excavated material, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - CREDIT FOR VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, AND DISPOSAL AREA IMPROVEMENTS

A. The Government shall include in *total project costs* and afford credit toward the Non-Federal Sponsor's share of *total project costs* for the value of the lands, easements, and rights-of-way that the Non-Federal Sponsor must provide pursuant to Article III.A. of this Agreement; for the value of the *relocations* that the Non-Federal Sponsor must perform or for which it must ensure performance pursuant to Article III.B. of this Agreement; and for the value of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Non-Federal Sponsor must provide pursuant to Article III.C. of this Agreement. However, no amount shall be included in *total project costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that have been provided previously as an item of cooperation for another Federal project. In addition, no amount shall be included in *total project costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of lands, easements, rights-of-way, *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that were acquired or performed using *Federal program funds* unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Project*.

B. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the value of any contribution provided pursuant to Article III.A., Article III.B., or Article III.C. of this

Agreement. Upon receipt of such documents, the Government in a timely manner shall determine the value of such contributions for the purpose of including such value in *total project costs* and for determining the amount of credit to be afforded or reimbursement to be provided in accordance with the provisions of this Agreement.

C. For the purposes of determining the value to be included in *total project costs* and the amount of credit to be afforded or reimbursement to be provided in accordance with this Agreement and except as otherwise provided in paragraph G. of this Article, the value of lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall be the fair market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

1. Date of Valuation. The fair market value of lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto. The fair market value of lands, easements, or rights-of-way acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

2. General Valuation Procedure. Except as provided in paragraph C.3. or paragraph C.5. of this Article, the fair market value of lands, easements, or rights-of-way shall be determined in accordance with the provisions of this paragraph.

a. The Non-Federal Sponsor shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the Non-Federal Sponsor and the Government. The Non-Federal Sponsor shall provide the Government with the appraisal no later than 6 months after the Non-Federal Sponsor provides the Government with an authorization for entry for such real property interest. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the Non-Federal Sponsor's appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's appraisal, the Non-Federal Sponsor may obtain a second appraisal, and the fair market value shall be the amount set forth in the Non-Federal Sponsor's second appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's second appraisal, the Non-Federal Sponsor chooses not to obtain a second appraisal, or the Non-Federal Sponsor does not provide the first appraisal as required in this paragraph, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the Non-Federal Sponsor. In the event the Non-Federal Sponsor does not approve the Government's appraisal, the Government, after consultation with the Non-Federal Sponsor, shall consider the Government's and the Non-Federal Sponsor's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

b. Where the amount paid or proposed to be paid by the Non-Federal Sponsor for the real property interest exceeds the amount determined pursuant to paragraph C.2.a. of this Article, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the amount determined pursuant to paragraph C.2.a. of this Article, but not to exceed the amount actually paid or proposed to be paid. If the Government approves such an amount, the fair market value shall be the lesser of the approved amount or the amount paid by the Non-Federal Sponsor, but no less than the amount determined pursuant to paragraph C.2.a. of this Article.

3. Eminent Domain Valuation Procedure. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor, prior to instituting such proceedings, shall submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 calendar days after receipt of such a notice and appraisal within which to review the appraisal, if not previously approved by the Government in writing.

a. If the Government previously has approved the appraisal in writing, or if the Government provides written approval of, or takes no action on, the appraisal within such 60 day period, the Non-Federal Sponsor shall use the amount set forth in such appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

b. If the Government provides written disapproval of the appraisal, including the reasons for disapproval, within such 60 day period, the Government and the Non-Federal Sponsor shall consult in good faith to promptly resolve the issues or areas of disagreement that are identified in the Government's written disapproval. If, after such good faith consultation, the Government and the Non-Federal Sponsor agree as to an appropriate amount, then the Non-Federal Sponsor shall use that amount as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If, after such good faith consultation, the Government and the Non-Federal Sponsor cannot agree as to an appropriate amount, then the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

c. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted in accordance with paragraph C.3. of this Article, fair market value shall be either the amount of the court award for the real property interests taken, to the extent the Government determined such interests are required for construction, operation, and maintenance of the *Project*, or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

4. Incidental Costs. For lands, easements, or rights-of-way acquired by the Non-Federal Sponsor within a five year period preceding the effective date of this

Agreement, or at any time after the effective date of this Agreement, the value of the interest shall include the documented incidental costs of acquiring the interest, as determined by the Government, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. In the event the Government modifies its determination made pursuant to Article III.A. of this Agreement, the Government shall afford credit for the documented incidental costs associated with preparing to acquire the lands, easements, or rights-of-way identified in the original determination, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.D. of this Agreement, and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest in accordance with Article III of this Agreement. The value of the interests provided by the Non-Federal Sponsor in accordance with Article III.A. of this Agreement shall also include the documented costs of obtaining appraisals pursuant to paragraph C.2. of this Article, as determined by the Government, and subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

5. Waiver of Appraisal. Except as required by paragraph C.3. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if it determines that an appraisal is unnecessary because the valuation is uncomplicated and that the estimated fair market value of the real property interest is \$10,000 or less based upon a review of available data. In such event, the Government and the Non-Federal Sponsor must agree in writing to the value of such real property interest in an amount not in excess of \$10,000.

D. After consultation with the Non-Federal Sponsor, the Government shall determine the value of *relocations* in accordance with the provisions of this paragraph.

1. For a *relocation* other than a *highway*, the value shall be only that portion of *relocation* costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

2. For a *relocation* of a *highway*, the value shall be only that portion of *relocation* costs that would be necessary to accomplish the *relocation* in accordance with the design standard that the State of Washington would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

3. *Relocation* costs shall include, but not necessarily be limited to, actual costs of performing the *relocation*; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the *relocation*, as determined by the Government. *Relocation* costs shall not include any costs

due to *betterments*, as determined by the Government, nor any additional cost of using new material when suitable used material is available. *Relocation* costs shall be subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

E. The value of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material shall be the costs of the improvements, as determined by the Government, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. Such costs shall include, but not necessarily be limited to, actual costs of providing the improvements; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs due to *betterments*, as determined by the Government.

F. Any credit afforded or reimbursement provided under the terms of this Agreement for the value of *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material, performed within the *Project* boundaries is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Notwithstanding any other provision of this Agreement, credit or reimbursement may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

G. Where the Government, on behalf of the Non-Federal Sponsor pursuant to Article II.G.1. of this Agreement, acquires lands, easements, or rights-of-way, performs *relocations*, or constructs improvements required on lands, easements, or rights-of-way to enable the disposal of dredged or excavated material, the value to be included in *total project costs* and the amount of credit to be afforded or the amount of reimbursement provided in accordance with this Agreement shall be the costs of such work performed or provided by the Government that are paid by the Non-Federal Sponsor in accordance with Article VI.D. of this Agreement. In addition, the value to be included in *total project costs* and the amount of such credit to be afforded or the amount of reimbursement provided in accordance with this Agreement shall include the documented costs incurred by the Non-Federal Sponsor in accordance with the terms and conditions agreed upon in writing pursuant to Article II.G.1. of this Agreement subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

ARTICLE V - PROJECT COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Project Coordination Team. Thereafter, the Project Coordination Team shall meet regularly until the end of the *period of construction*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Project Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Project Coordination Team informed of the progress of construction and of significant pending issues and actions, and shall seek the views of the Project Coordination Team on matters that the Project Coordination Team generally oversees.

C. Until the end of the *period of construction*, the Project Coordination Team shall generally oversee the *Project*, including matters related to: plans and specifications; scheduling; real property and *relocation* requirements; real property acquisition; contract awards and modifications; contract costs; the application of and compliance with 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)) for *relocations* and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material; the investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; historic preservation activities in accordance with Article XVII of this Agreement; the Government's cost projections; final inspection of the entire *Project* or *functional portions of the Project*; preparation of the proposed OMRR&R Manual; finalization of the *monitoring plan*; performance of *monitoring* and *adaptive management*; anticipated requirements and needed capabilities for performance of operation, maintenance, repair, rehabilitation, and replacement of the *Project* including issuance of permits; and other matters related to the *Project*. This oversight of the *Project* shall be consistent with a project management plan developed by the Government after consultation with the Non-Federal Sponsor.

D. The Project Coordination Team may make recommendations to the District Engineer on matters related to the *Project* that the Project Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Project Coordination Team. The Government, having the legal authority and responsibility for construction of the *Project*, has the discretion to accept or reject, in whole or in part, the Project Coordination Team's recommendations.

E. The Non-Federal Sponsor's costs of participation in the Project Coordination Team shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement

to determine reasonableness, allocability, and allowability of such costs. The Government's costs of participation in the Project Coordination Team shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VI - METHOD OF PAYMENT

A. In accordance with the provisions of this paragraph, the Government shall maintain current records and provide to the Non-Federal Sponsor current projections of costs, financial obligations, contributions provided by the parties, and the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement.

1. As of the effective date of this Agreement, *total project costs* are projected to be \$5,738,048; the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement is projected to be \$900,000; the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement is projected to be \$40,000; the Non-Federal Sponsor's contribution of funds required by Article II.B.2. of this Agreement is projected to be \$707,101.80; the *non-Federal proportionate share* is projected to be 22.26 percent; the Non-Federal Sponsor's contribution of funds required by Article XVII.B.3. of this Agreement is projected to be \$0; and the Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.G. of this Agreement are projected to be \$0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By January 2015 and by each quarterly anniversary thereof until the conclusion of the *period of construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total project costs*; the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement; the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement; the Non-Federal Sponsor's total contribution of funds required by Article II.B.2. of this Agreement; the *non-Federal proportionate share*; the Non-Federal Sponsor's total contribution of funds required by Article XVII.B.3. of this Agreement; the total contribution of funds required from the Non-Federal Sponsor for the upcoming *fiscal year*; the maximum amount determined in accordance with Article XX of this Agreement; and the Government's total financial obligations for additional work incurred

and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.G. of this Agreement.

B. The Non-Federal Sponsor shall provide the contributions of funds required by Article II.B.2. and Article XVII.B.3. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than 30 calendar days prior to the scheduled date for issuance of the solicitation for the first contract for construction of the *Project* or commencement of construction of the *Project* using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any cash contribution provided by a non-Federal interest pursuant to the terms of the Design Agreement, to meet: (a) the *non-Federal proportionate share of financial obligations for construction* incurred prior to the commencement of the *period of construction*; (b) the projected *non-Federal proportionate share of financial obligations for construction* to be incurred in the first *fiscal year*; or, if use of a continuing contract has been approved pursuant to Federal laws, regulations, and policies, the projected *non-Federal proportionate share of financial obligations for construction* through the first *fiscal year*; and (c) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement to be incurred in the first *fiscal year*; or, if use of a continuing contract has been approved pursuant to Federal laws, regulations, and policies, the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement through the first *fiscal year*. Not later than such scheduled date, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, Seattle District" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by presenting the Government with an irrevocable letter of credit acceptable to the Government for such required funds, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

2. Thereafter, until the construction of the *Project* is complete, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor, and the Non-Federal Sponsor shall provide such funds in accordance with the provisions of this paragraph.

a. Where the Government will use a continuing contract approved pursuant to Federal laws, regulations, and policies to make *financial obligations for construction* of the *Project* or financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement, the Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each *fiscal year* in which the Government projects that it

will make such financial obligations, of the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any cash contribution provided by a non-Federal interest pursuant to the terms of the Design Agreement, to meet: (a) the projected *non-Federal proportionate share of financial obligations for construction* for that *fiscal year* for such continuing contract and (b) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement for that *fiscal year* for such continuing contract. No later than 30 calendar days prior to the beginning of that *fiscal year*, the Non-Federal Sponsor shall make the full amount of such required funds for that *fiscal year* available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

b. For each contract for the *Project* where the Government will not use a continuing contract to make *financial obligations for construction* or financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement, the Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the scheduled date for issuance of the solicitation for such contract, of the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any cash contribution provided by a non-Federal interest pursuant to the terms of the Design Agreement, to meet: (a) the projected *non-Federal proportionate share of financial obligations for construction* to be incurred for such contract and (b) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement to be incurred for such contract. No later than such scheduled date, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

c. Where the Government projects that it will make *financial obligations for construction* of the *Project* using the Government's own forces or financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each *fiscal year* in which the Government projects that it will make such financial obligations, of the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any cash contribution provided by a non-Federal interest pursuant to the terms of the Design Agreement, to meet: (a) the projected *non-Federal proportionate share of financial obligations for construction* using the Government's own forces for that *fiscal year* and (b) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement using the Government's own forces for that *fiscal year*. No later than 30 calendar days prior to the beginning of that *fiscal year*, the Non-Federal Sponsor shall make the full amount of such required funds for that *fiscal year* available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary, after consideration of any contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement, to cover: (a) the *non-Federal proportionate share of financial obligations for construction* incurred prior to the commencement of the *period of construction*; (b) the *non-Federal proportionate share of financial obligations for construction as financial obligations for construction* are incurred; and (c) the Non-Federal Sponsor's share of financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement as those financial obligations are incurred. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's share of such financial obligations in the current *fiscal year*, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

C. Upon the District Engineer's determination that, except for *monitoring and adaptive management*, the entire *Project* is complete and all relevant claims and appeals and eminent domain proceedings have been resolved, the Government shall conduct an interim accounting and furnish the results to the Non-Federal Sponsor. Further, upon conclusion of the *period of construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall amend the interim accounting to complete the final accounting and furnish the results to the Non-Federal Sponsor. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting or amend the previous interim accounting, as applicable, and furnish the Non-Federal Sponsor with written notice of the results of such interim or amended interim accounting, as applicable. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine *total project costs* and the costs of any data recovery activities associated with historic preservation. In addition, for each set of costs, the interim or final accounting, as applicable, shall determine each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, show that the Non-Federal Sponsor's total required shares of *total project costs* and the costs of any data recovery activities associated with historic preservation exceed the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Seattle District" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

2. Should the interim or final accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total project costs* and the costs of any data recovery activities associated with historic preservation exceed the Non-Federal Sponsor's total required shares thereof, the Government, subject to the availability of funds, shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund or reimbursement.

D. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.G. of this Agreement for additional work in accordance with the provisions of this paragraph.

1. Not less than 90 calendar days prior to the scheduled date for the first financial obligation for additional work, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of the additional work. No later than 30 calendar days prior to the Government incurring any financial obligation for additional work, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such additional work through any of the payment mechanisms specified in paragraph B.1. of this Article.

2. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the Government's financial obligations for such additional work as they are incurred. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such additional work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. At the time the Government conducts the interim or final accounting, as applicable, the Government shall conduct an accounting of the Government's financial obligations for additional work incurred and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting of additional work from being conducted in a timely manner, the Government shall conduct an interim accounting of additional work and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall amend the interim accounting of additional work to complete the final accounting of additional work and

furnish the Non-Federal Sponsor with written notice of the results of such final accounting. Such interim or final accounting, as applicable, shall determine the Government's total financial obligations for additional work and the Non-Federal Sponsor's contribution of funds provided thereto as of the date of such accounting.

a. Should the interim or final accounting, as applicable, show that the total obligations for additional work exceed the total contribution of funds provided by the Non-Federal Sponsor for such additional work, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Seattle District" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

b. Should the interim or final accounting, as applicable, show that the total contribution of funds provided by the Non-Federal Sponsor for additional work exceeds the total obligations for such additional work, the Government, subject to the availability of funds, shall refund the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund and funds are not available to refund the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund.

ARTICLE VII - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VIII - OPERATION, MAINTENANCE, REPAIR, REHABILITATION, AND REPLACEMENT (OMRR&R)

A. Upon receipt of the notification from the District Engineer in accordance with Article II.C. of this Agreement and for so long as the *Project* remains authorized, the Non-Federal Sponsor, pursuant to Article II.D. of this Agreement, shall operate, maintain, repair, rehabilitate, and replace the entire *Project* or *functional portion of the Project*, at no cost to the Government. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the *Project's* authorized purposes and in accordance with applicable Federal and State laws as provided in Article XI of this Agreement and specific directions prescribed by the Government in the interim or final OMRR&R Manual and any subsequent amendments thereto.

B. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for access to the *Project* for the purpose of inspection and, if necessary, for the purpose of completing, operating, maintaining, repairing, rehabilitating, or replacing the *Project*. If an inspection shows that the Non-Federal Sponsor for any reason is failing to perform its obligations under this Agreement, the Government shall send a written notice describing the non-performance to the Non-Federal Sponsor. If, after 30 calendar days from receipt of such written notice by the Government, the Non-Federal Sponsor continues to fail to perform, then the Government shall have the right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for the purpose of completing, operating, maintaining, repairing, rehabilitating, or replacing the *Project*. No completion, operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of responsibility to meet the Non-Federal Sponsor's obligations as set forth in this Agreement, or to preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance pursuant to this Agreement.

ARTICLE IX – HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from construction, *monitoring*, *adaptive management*, operation, maintenance, repair, rehabilitation, and replacement of the *Project* and any *betterments*, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE X - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government

shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Project* shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

ARTICLE XI - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)).

ARTICLE XII - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE XIII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend future performance under this Agreement unless the Assistant Secretary of the Army (Civil Works) determines that continuation of work on the *Project* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Project*.

B. In the event the Government projects that the amount of Federal funds the Government will make available to the *Project* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Project* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities associated with historic preservation in accordance with Article XVII.B.2. and Article XVII.B.3. of this Agreement that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project*, future performance under this Agreement shall be suspended. Such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities associated with historic preservation in accordance with Article XVII.B.2. and Article XVII.B.3. of this Agreement the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

C. In the event that the Government and the Non-Federal Sponsor determine to suspend future performance under this Agreement in accordance with Article XIV.C. of this Agreement, such suspension shall remain in effect until the Government and the Non-Federal Sponsor agree to proceed or to terminate this Agreement. In the event that the Government suspends future performance under this Agreement in accordance with Article XIV.C. of this Agreement due to failure to reach agreement with the Non-Federal Sponsor on whether to proceed or to terminate this Agreement, or the failure of the Non-Federal Sponsor to provide funds to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under Article XIV.C. of this Agreement, such suspension shall remain in effect until: 1) the Government and Non-Federal Sponsor reach agreement on how to proceed or to terminate this Agreement; 2) the Non-Federal Sponsor provides funds necessary to pay for cleanup and response costs and otherwise discharges its responsibilities under Article XIV.C. of this Agreement; 3) the Government continues work on the *Project*; or 4) the Government terminates this Agreement in accordance with the provisions of Article XIV.C. of this Agreement.

D. In the event that this Agreement is terminated pursuant to this Article or Article XIV.C. of this Agreement, both parties shall conclude their activities relating to the *Project*

and conduct an accounting in accordance with Article VI.C. of this Agreement. To provide for this eventuality, the Government may reserve a percentage of total Federal funds made available for the *Project* and an equal percentage of the total funds contributed by the Non-Federal Sponsor in accordance with Article II.B.2. and Article XVII.B.3. of this Agreement as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications.

E. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article or Article XIV.C. of this Agreement shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE XIV - HAZARDOUS SUBSTANCES

A. After execution of this Agreement and upon direction by the District Engineer, the Non-Federal Sponsor shall perform, or ensure performance of, any investigations for hazardous substances that the Government or the Non-Federal Sponsor determines to be necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, and rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for construction, operation, and maintenance of the *Project*. However, for lands, easements, and rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

1. All actual costs incurred by the Non-Federal Sponsor for such investigations for hazardous substances shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

2. All actual costs incurred by the Government for such investigations for hazardous substances shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. In the event it is discovered through any investigation for hazardous substances or other means that hazardous substances regulated under CERCLA exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for construction, operation, and maintenance of the

Project, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of the real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. The Government and the Non-Federal Sponsor shall determine whether to initiate construction of the *Project*, or, if already in construction, whether to continue with construction of the *Project*, suspend future performance under this Agreement, or terminate this Agreement for the convenience of the Government, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for construction, operation, and maintenance of the *Project*. Should the Government and the Non-Federal Sponsor determine to initiate or continue with construction of the *Project* after considering any liability that may arise under CERCLA, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of *total project costs*. In the event the Non-Federal Sponsor does not reach agreement with the Government on whether to proceed or to terminate this Agreement under this paragraph, or fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this paragraph upon direction by the Government, the Government, in its sole discretion, may either terminate this Agreement for the convenience of the Government, suspend future performance under this Agreement, or continue work on the *Project*.

D. The Non-Federal Sponsor and the Government shall consult with each other in accordance with Article V of this Agreement in an effort to ensure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to paragraph C. of this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the *Project* for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the *Project* in a manner that will not cause liability to arise under CERCLA.

ARTICLE XV - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

Environmental Services Manager
City of Auburn
25 West Main Street
Auburn, WA 98001

If to the Government:

Chief, Planning Branch, PPMD
Seattle District, Corps of Engineers
P.O. Box 3755
Seattle, WA 98124-3755

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XVI - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XVII - HISTORIC PRESERVATION

A. The Government, as it determines necessary for the *Project*, shall perform any identification, survey, or evaluation of historic properties. Any costs incurred by the Government for such work shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. The Government, as it determines necessary for the *Project*, shall perform or ensure the performance of any mitigation activities or actions for historic properties or that are otherwise associated with historic preservation including data recovery activities.

1. Any costs incurred by the Government for such mitigation activities, except for data recovery activities associated with historic preservation, shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

2. As specified in Section 7(a) of Public Law 86-523, as amended by Public Law 93-291 (16 U.S.C. 469c(a)), the costs of data recovery activities associated with

historic preservation shall be borne entirely by the Government and shall not be included in *total project costs*, up to the statutory limit of one percent of the total amount authorized to be appropriated to the Government for the *Project*.

3. The Government shall not incur costs for data recovery activities associated with historic preservation that exceed the statutory one percent limit specified in paragraph B.2. of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived that limit and the Secretary of the Interior has concurred in the waiver in accordance with Section 208(3) of Public Law 96-515, as amended (16 U.S.C. 469c-2(3)). Any costs of data recovery activities associated with historic preservation that exceed the one percent limit shall not be included in *total project costs* but shall be shared between the Non-Federal Sponsor and the Government consistent with the cost sharing requirements for ecosystem restoration, as follows: 35 percent will be borne by the Non-Federal Sponsor and 65 percent will be borne by the Government.

C. If, during its performance of *relocations* or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material in accordance with Article III of this Agreement, the Non-Federal Sponsor discovers historic properties or other cultural resources that have not been evaluated by the Government pursuant to this Article, the Non-Federal Sponsor shall provide prompt written notice to the Government of such discovery. The Non-Federal Sponsor shall not proceed with performance of the *relocation* or construction of the improvement that is related to such discovery until the Government provides written notice to the Non-Federal Sponsor that it should proceed with such work.

ARTICLE XVIII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

ARTICLE XIX- NON-LIABILITY OF OFFICERS AND EMPLOYEES

No officer, agent, consultant, or employee of the Non-Federal Sponsor, nor any officer, agent, consultant, or employee of the Government, may be charged personally, or held liable, under the terms or provisions of this Agreement because of any breach, attempted breach, or alleged breach thereof, except as provided in Section 912(b) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (42 U.S.C. 1962d-5b note), or other applicable law.

ARTICLE XX - SECTION 902 MAXIMUM COST OF PROJECT

The Non-Federal Sponsor understands that Section 902 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2280) establishes the maximum amount of total costs for the Authorized Project, of which the *Project* is a separable element. On the effective date of this Agreement, the maximum amount of total

costs for the Authorized Project, which is the sum of *total project costs* for the *Project* and the costs for all other separable elements of the Authorized Project, is estimated to be \$215,454,000, as calculated in accordance with Engineer Regulation 1105-2-100, using October 1, 2013 price levels, and including allowances for projected future inflation. The Government shall adjust such maximum amount of total costs for the Authorized Project, in accordance with Section 902 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2280), when necessary.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

CITY OF AUBURN

BY: _____
John G. Buck
Colonel, Corps of Engineers
District Engineer

BY: _____
Nancy Backus
Mayor 

DATE: _____

DATE: _____

CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal officer of the City of Auburn, that the City of Auburn is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the City of Auburn in connection with the Duwamish/Mill Creek Wetland 5K Reach Ecosystem Restoration Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the persons who have executed this Agreement on behalf of the City of Auburn have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____ 20____.

Daniel B. Heid
Senior Counsel

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Nancy Backus
Mayor, City of Auburn

DATE: _____

**NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR AGREEMENTS**

I, _____, do hereby certify that I am the Chief Financial Officer of the City of Auburn (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Duwamish/Mill Creek Wetland 5K Reach Ecosystem Restoration Project; and that the Non-Federal Sponsor has the financial capability to satisfy the Non-Federal Sponsor's obligations under the Project Partnership Agreement Between the Department of the Army and the City of Auburn For Construction of the Duwamish/Mill Creek Wetland 5K Reach Ecosystem Restoration Project.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____, _____.

BY: _____

TITLE: Finance Director, City of Auburn

DATE: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5078

Date:

July 10, 2014

Department:

Public Works

Attachments:

[Resolution No. 5078](#)

[Draft Ordinance No. 6513](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5078 setting the date of the public hearing for Franchise Agreement No. 13-28 for Electric Lightwave LLC for September 2, 2014.

Background Summary:

Resolution No. 5078 sets the date of the public hearing for Franchise Agreement No. 13-28 Electric Lightwave LLC for September 2, 2014 at 7:30 pm in Council Chambers.

Franchise Agreement No. 13-28, Draft Ordinance No. 6513 is attached as back up documentation for Resolution No. 5078. Per Auburn City Code Chapter 20.06.010, a franchise shall be required of any commercial utility or telecommunications operator or carrier or other person who desires to occupy public ways of the city and to provide telecommunications or commercial utility services to any person or area in the city.

Electric Lightwave LLC (ELI) has applied for a Franchise Agreement to be able to operate and build within the City's rights of way a telecommunications network. The applicant will offer telecommunications services to customers within Auburn. The proposed franchise area is all rights of way in the City, as ELI leases facilities from CenturyLink and BPA throughout the City to provide service. Should ELI wish to build their own facilities they would need an amendment to this agreement and would need to obtain permits as required by the agreement. Exact locations, plans, engineering and construction schedules of any future ELI owned facilities would be reviewed, approved and managed through the City's permitting processes that are a requirement of the Franchise Agreement.

Reviewed by Council Committees:

Planning And Community Development, Public Works

Councilmember: Osborne

Staff:

Snyder

Meeting Date: July 21, 2014

Item Number: RES.B

RESOLUTION NO. 5 0 7 8

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, SETTING A PUBLIC HEARING TO CONSIDER A FRANCHISE AGREEMENT WITH ELECTRIC LIGHTWAVE, LLC, A WHOLLY OWNED SUBSIDIARY OF INTEGRA TELECOM HOLDINGS, INC.

WHEREAS, Electric Lightwave, LLC (ELI) has applied to the City for a non-exclusive Franchise Agreement for the right of entry, use, and occupation of certain public rights-of-way within the City of Auburn, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, upon, along and/or across those right(s)-of-way; and

WHEREAS, the Public Works Committee of the Auburn City Council has reviewed ELI's application materials, and, pursuant to ACC 20.06.040, the Public Works Committee has recommended to the City Council that it schedule a public hearing on the application; and

WHEREAS, the City Council agrees with the recommendation of the Public Works Committee.

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

Section 1. That a hearing on the application by Electric Lightwave, LLC for a Franchise Agreement with the City of Auburn is hereby set for 7:30 p.m. on the 2nd day of September, 2014, at the City Council Chambers at 25 West Main Street, Auburn, Washington, 98001, with all persons wishing to speak to the application at the public

Resolution No. 5078
Franchise Agreement No. 13-28
June 9, 2014
Page 1

hearing being invited to attend.

Section 2. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation, including posting notice of such public hearing as required by State law and City Ordinance.

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

DATED and SIGNED this _____ day of _____, 2014.

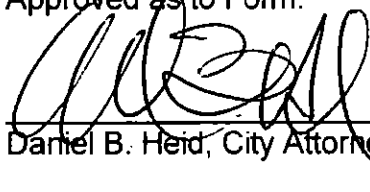
CITY OF AUBURN

Nancy Backus
Mayor

Attest:

Danielle E. Daskam, City Clerk

Approved as to Form:



Daniel B. Heid, City Attorney

Resolution No. 5078
Franchise Agreement No. 13-28
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ORDINANCE NO. 6513

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO ELECTRIC LIGHTWAVE, LLC, A WHOLLY OWNED SUBSIDIARY OF INTEGRA TELECOM HOLDINGS, INC, A DELEWARE CORPORATION, A FRANCHISE FOR TELECOMMUNICATIONS TYPE OF UTILITY

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

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

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

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

Section 1. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the right(s)-of-way and/or other public property within the City of Auburn (the "Franchise Area").

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

C. At the time of initial application Grantee represented that it did not currently own, lease, or have indefeasible rights of use for any facilities that would be defined as Grantee Facilities under this Franchise. This Franchise does

Ordinance No. 6513
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not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on public or private property elsewhere within the City. If Grantee intends to install, construct, erect, operate, or maintain new Grantee Facilities, it shall submit an application to amend this Franchise, which amendment may be approved by the City administratively.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise Area, unless the City determines that entering into such agreements interferes with Grantee's right set forth herein.

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

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

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

Section 2. Notice

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

City: Engineering Aide,
 Community Development and
 Public Works Department - Transportation
 City of Auburn
 25 West Main Street

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Auburn, WA 98001-4998
Telephone: (253) 931-3010; Fax: (253) 931-3048

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

Grantee: Electric Lightwave LLC, (ELI)
1201 NE Lloyd Blvd, Suite 500
Portland, OR 97232
Attn: Contract Administration
Telephone: 503-453-8000
Fax: 503-453-8221

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

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

Section 3. Term of Agreement

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

B. Renewal Option of Term: The Grantee may renew this Franchise for an additional five (5) year period upon submission and approval of the application specified under ACC 20.06.130, as it now exists or is amended, within the timeframe set forth therein (currently 240 to 180 days prior to expiration of the then-current term). Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall only submit those materials deemed necessary by the City to address changes in the Grantee Facilities or Grantee Services, or to reflect specific reporting periods mandated by the ACC.

C. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until

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Franchise Agreement No. 13-28
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renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

Section 4. Definitions

For the purpose of this agreement:

“ACC” means the Auburn City Code.

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

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

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

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

Section 5. Acceptance of Franchise

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit “D,” and incorporated by reference, (2) all verifications of insurance coverage specified under Section 15, and (3) the financial guarantees specified in Section 16 (collectively, “Franchise Acceptance”). The date that such Franchise Acceptance is filed with the City Clerk shall be the effective date of this Franchise.

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

Section 6. Construction and Maintenance

A. The Grantee shall apply for, obtain, and comply with the terms of all permits required under ACC Chapter 12.24 for any work done within the City. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner.

B. Grantee agrees to coordinate its activities with the City and all other utilities located within the public right-of-way within which Grantee is under taking its activity.

C. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public right-of-way and may from time to time, pursuant to the applicable sections of this Franchise, require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Grantee.

D. Before commencing any work within the public right-of-way, the Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

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

Section 7. Repair and Emergency Work

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City Engineering Aide in writing as promptly as possible, before such repair or emergency work commences, or as soon thereafter as possible, if advance notice is not practical. The City may act, at any time, without prior written notice in the case of emergency, but shall notify the Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to City and Third-Party Property

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

Section 9. Location Preference

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

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

Section 10. Grantee Information

A. Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City Engineering Aide to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under state law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, as now or hereinafter existing, including the City's geographic information Service (GIS) data base. Grantee shall keep the City Engineering

Aide informed of its long-range plans for coordination with the City's long-range plans.

B. The parties understand that Washington law limits the ability of the City to shield from public disclosure any information given to the City. Accordingly, the City agrees to notify the Grantee of requests for public records related to the Grantee, and to give the Grantee a reasonable amount of time to obtain an injunction to prohibit the City's release of records.

Grantee shall indemnify and hold harmless the City for any loss or liability for fines, penalties, and costs (including attorneys fees) imposed on the City because of non-disclosures requested by Grantee under Washington's open public records act, provided the City has notified Grantee of the pending request.

Section 11. Relocation of Grantee Facilities

A. Except as otherwise so required by law, Grantee agrees to relocate, remove, or reroute its facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the Pubic Way.

B. If a readjustment or relocation of the Grantee Facilities is necessitated by a request from a party other than the City, that party shall pay the Grantee the actual costs thereof.

Section 12. Abandonment and or Removal of Grantee Facilities

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

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

Section 13. Undergrounding

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

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

Section 14. Indemnification and Hold Harmless

A. The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance under this Franchise, except to the extent such costs, claims, injuries, damages, losses, suits, or liabilities are caused by the negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

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

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

party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

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

E. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 15. Insurance

A. The Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$1,000,000.00 per accident. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance with limits no less than \$1,000,000.00 each occurrence, \$2,000,000.00 general aggregate and a \$2,000,000.00 products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent form. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise using ISO Additional Insured Endorsement CG 20 10 10 01 and Additional Insured-

Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Professional Liability insurance with limits no less than \$1,000,000.00 per claim for all professional employed or retained Grantee to perform services under this Franchise.

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

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

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

2. The Grantee's insurance shall be endorsed to state that coverage shall not be cancelled by the insurers except after thirty (30) days' prior written notice has been given to Grantee. Upon receipt of such notice, Grantee shall immediately notify by certified mail, return receipt requested, the City.

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

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

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

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

Section 16. Performance Security

The Grantee shall provide the City with a financial guarantee in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered jointly and severally from the principal and any surety of such financial guarantee any damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to the City in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit the Grantee's liability to the guarantee amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 17. Successors and Assignees

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

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

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

D. Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee shall file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance prior to transfer

does not waive any right to insist on full compliance thereafter.

Section 18. Dispute Resolution

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

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

Section 19. Enforcement and Remedies

A. If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or should it fail to heed or comply with any notice given to Grantee under the provisions of this agreement, the City may, at its discretion, provide Grantee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the financial guarantee set forth in Section 16 for every day after the expiration of the cure period that the breach is not cured.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, the City reserves the right to cancel this Franchise and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City

permissions for such actions, and if the Grantee's actions are not allowed under applicable federal and state or City laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Grantee shall comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms of this agreement appearing to the contrary, the Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

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

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

Section 21. License, Tax and Other Charges

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

Section 22. Consequential Damages Limitation

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

Section 23. Severability

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

Section 24. Titles

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

Section 25. Implementation.

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

Section 26. Effective date.

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

INTRODUCED: _____
PASSED: _____
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

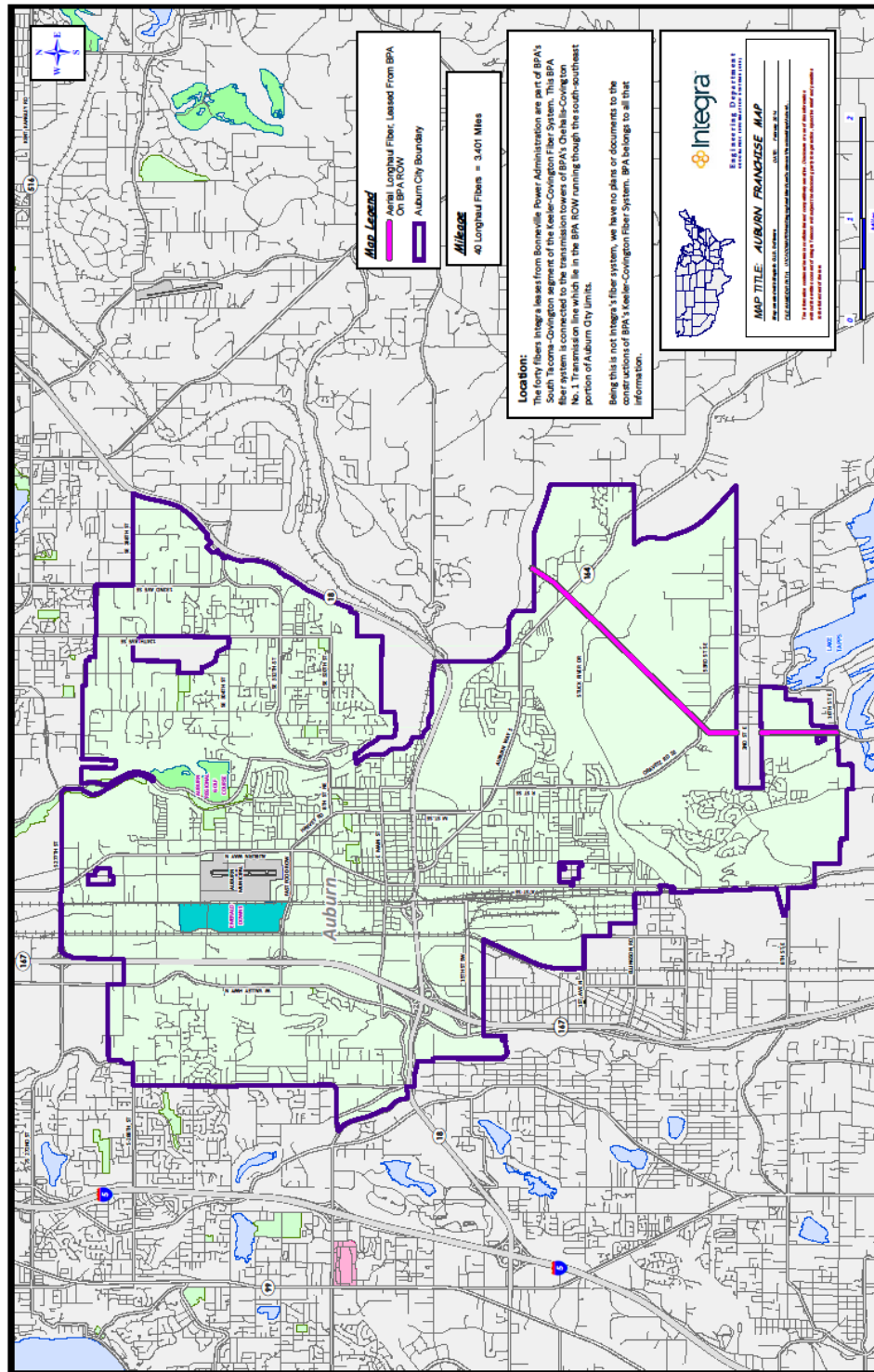
Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 14 of 19

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

Franchise Area



Ordinance No. 6513
Franchise Agreement No. 13-28
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Exhibit B

Grantee Facilities

Leased and owned telecommunication and communication conduit and fiber facilities within the Right of Ways. As of the date of this Ordinance ELI does not own facilities but may at a future date install ELI owned facilities at and pursuant to the lawful permitting process of the City.

Exhibit C

Grantee Services

Telecommunications and communication services.

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

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

Electric Lightwave LLC (ELI)

By: _____ Date: _____
Name:
Title:

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 2014, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

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

Signature

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

MY COMMISSION EXPIRES: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5081

Date:

July 1, 2014

Department:

Information Services

Attachments:

[Resolution No. 5081 with agreement](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5081.

Background Summary:

Innovation & Technology currently provides IT related support and services to 4 other agencies. Due to technology, we are able to support a majority of these agencies remotely. Due to economy of scale, and efficiencies IT is able to provide this support and has been successful identifying cost recovery which includes annual CPI, off-hours fees, mileage reimbursement, administrative costs, and ongoing recovery costs.

Reviewed by Council Committees:

Finance, Municipal Services

Councilmember: Wales

Staff: Tiedeman

Meeting Date: July 21, 2014

Item Number: RES.C

RESOLUTION NO. 5081

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUBURN AND THE CITY OF MILTON FOR INFORMATION SERVICES TECHNOLOGY SERVICES

WHEREAS, RCW 39.34 authorizes public agencies to enter into interlocal agreements; and

WHEREAS, the City of Milton has the need for professional information technology services; and

WHEREAS, the City of Auburn is able and willing to provide those services, at a cost that is acceptable to the City.

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

Section 1. The Mayor of the City of Auburn is hereby authorized to execute an Interlocal Agreement between the City of Auburn and the City of Milton for Information Technology Services in substantial conformity with the Agreement attached hereto as Exhibit "A" and incorporated herein by this reference.

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

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

Dated and Signed this _____ day of _____, 2014.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

EXHIBIT A

**CITY OF AUBURN – CITY OF MILTON
INTERLOCAL AGREEMENT FOR
INFORMATION SERVICES TECHNOLOGY**

THIS INTERLOCAL AGREEMENT made and entered into, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the _____ day of _____, 2014, by and between the CITY OF AUBURN, a municipal corporation of the State of Washington (hereinafter referred to as "Auburn"), and the CITY OF MILTON, a municipal corporation of the State of Washington (hereinafter referred to as "Milton"),

WITNESSETH:

WHEREAS, Milton seeks professional information technology ("IT") services; and

WHEREAS, Auburn has the requisite skills, resources, and experience necessary to provide such services and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, the parties hereto do hereby agree as follows:

1. SCOPE OF SERVICES

Auburn agrees to perform for Milton, in a good and professional manner the tasks specific to IT support of the City of Milton described on Exhibit A which is attached hereto and by this reference made a part of this Agreement. (The tasks described on Exhibit A shall be individually referred to as a "task," and collectively referred to as the "services.") Auburn shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with Milton. Auburn shall perform the services described in Exhibit A which is attached hereto and by this reference made a part of this Agreement.

2. AMENDMENT REQUIRED FOR ADDITIONAL SERVICES

In the event additional IT services are required by Milton or reduction in services are necessary beyond those specified in Exhibit A and the compensation listed in this Agreement, and further provided that Auburn has the time and resources to provide such additional services and is willing to provide such services, a contract amendment shall be set forth in writing and shall be executed by the respective parties prior to Auburn's performance of the additional IT services, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an Amendment for additional services, such Amendment shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

Amendment were a part of this Agreement as originally executed. The performance of services pursuant to an Amendment shall be subject to the terms and conditions of this Agreement except where the Amendment provides to the contrary, in which case the terms and conditions of any such Amendment shall control. In all other respects, any Amendment shall supplement and be construed in accordance with the terms and conditions of this Agreement.

3. PERFORMANCE OF ADDITIONAL SERVICES PRIOR TO EXECUTION OF AN AMENDMENT

The parties hereby agree that situations may arise in which IT services other than those described on Exhibit A are desired by Milton and the time period for the completion of such services makes the execution of Amendment impractical prior to the commencement of Auburn's performance of the requested services. Auburn hereby agrees that it shall perform such services upon the request of an authorized representative of Milton at a rate of compensation to be mutually negotiated in connection therewith. Any such additional IT services shall be memorialized in a written amendment in accordance with Section 2 of this Agreement. The invoice procedure for any such additional services shall be as described in Section 6 of this Agreement.

4. MILTON'S RESPONSIBILITIES

Milton shall do the following in a timely manner so as not to delay the services of Auburn:

- a. Designate in writing a person to act as Milton's representative with respect to the services described in Exhibit A. Milton's designee shall have complete authority to transmit instructions, receive information, interpret and define Milton's policies and decisions with respect to the services, except in the event of an emergency as described in Exhibit A.
- b. Furnish Auburn with all information, criteria, objectives, schedules and standards for the services provided for herein.
- c. Arrange for access to the property or facilities as required for Auburn to perform the services provided for herein.
- d. Examine and evaluate all studies, reports, memoranda, plans, sketches, and other documents prepared by Auburn and render decisions regarding such documents in a timely manner to prevent delay of the services including passwords, facility access and data systems to which Milton is requesting support. Auburn shall use "remote access" technology to support Milton systems where possible to limit onsite costs. Such examples include Firewall, router, computer, Domain controller, active directory, law enforcement support and secured/encrypted access to systems designated by Milton to be supported by Auburn.

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

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RES.C

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e. Milton Police Department must complete, and authorize necessary state documents related to "Agency Authorization" designating City of Auburn as IT Technical contact and complete a "Management Control Agreement" filed with Washington State Patrol that will allow Auburn IT staff to work with CJIS and ACCESS information including SSID, Mnemonics and ORI information to support the law enforcement systems.

5. ACCEPTABLE STANDARDS

Auburn shall be responsible to provide, in connection with the services contemplated in this Agreement, work products and services of a quality and professional standard acceptable to Milton.

6. COMPENSATION

Compensation for Auburn's performance of the services provided for herein are attached as Exhibit B. One-time setup, administration and remote license fee of \$1500.00 due on contract execution. Annual sum shall be increased January 1, 2015, and each January 1 thereafter, by an amount equal to 2% or the most recent Seattle-Tacoma-Bremerton Consumer Price Index - U whichever is greater for the term of this Agreement.

Auburn shall submit to Milton a monthly invoice and Milton shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to Auburn thereafter in the normal course, subject to any conditions or provisions in this Agreement or Amendment.

7. TIME FOR PERFORMANCE AND TERM OF AGREEMENT

Auburn shall perform the services provided for herein in accordance with the direction and scheduling provided in Exhibit A, unless otherwise agreed to in writing by the parties. The initial term of this agreement shall be twelve (12) months and may be extended thereafter by written agreement of the Parties 60 days prior to term end. It is provided, however, that either party may cancel this Agreement upon sixty (60) days written notice to the other party.

8. OWNERSHIP AND USE OF DOCUMENTS

All documents, reports, memoranda, diagrams, sketches, plans, design calculations, working drawings and any other materials created or otherwise prepared by Auburn as part of its performance of this Agreement (the "Work Products") shall be owned by and become the property of Milton, and may be used by Milton for any purpose beneficial to Milton. Public records requests shall be the responsibility of Milton; however Auburn may assist at Milton request at hourly rates provided under exhibit B for onsite support.

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

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9. RECORDS INSPECTION AND AUDIT

All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by Milton for a period of up to three (3) years from the final payment for work performed under this Agreement.

10. CONTINUATION OF PERFORMANCE

In the event that any dispute or conflict arises between the parties while this Contract is in effect, Auburn agrees that, notwithstanding such dispute or conflict, Auburn shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities. Provided that if Milton fails to pay for the services provided by Auburn, Auburn can cease providing such services until payment is made.

11. ADMINISTRATION OF AGREEMENT

This Agreement shall be administered by Ron Tiedeman, Innovation & Technology Director or designee on behalf of Auburn, and by Mark Langford, City Administrator or designee on behalf of Milton. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

CITY OF AUBURN
Innovation & Technology
Ron Tiedeman
25 W Main St
Auburn, WA 98001-4998
Phone: 253-288-3160
Fax: 253-804-3116

E-mail: rtiedeman@auburnwa.gov

CITY OF MILTON
City Administration
Mark Langford
1000 Laurel Street
Milton, WA 98354
253-922-8733

E-mail: mlangford@cityofmilton.net

12. NOTICES

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above.

Either party may change his, her or its address by giving notice in writing, stating his, her or its new address, to the other party, pursuant to the procedure set forth above.

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

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13. INSURANCE

Milton shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Milton's membership in a municipal self-insurance pool, including evidence of limits of coverage's, exclusions and limits of liability satisfactory to Auburn.

Auburn shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Auburn's membership in a municipal self-insurance pool, including evidence of limits of coverage's, exclusions and limits of liability satisfactory to Milton.

14. INDEMNIFICATION

a. Milton shall indemnify and hold Auburn and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against Auburn arising out of, in connection with, or incident to the execution of this Agreement and/or Milton's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of Auburn, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of Milton; and provided further, that nothing herein shall require Milton to hold harmless or defend Auburn, its agents, employees and/or officers from any claims arising from the sole negligence of Auburn, its agents, employees, and/or officers. No liability shall attach to Auburn by reason of entering into this Agreement except as expressly provided herein.

b. Auburn shall indemnify and hold Milton and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against Milton arising out of, in connection with, or incident to the execution of this Agreement and/or Auburn's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of Milton, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of Auburn; and provided further, that nothing herein shall require Auburn to hold harmless or defend Milton, its agents, employees and/or officers from any claims arising from the sole negligence of Milton, its agents, employees, and/or officers.

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INTERLOCAL AGREEMENT

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No liability shall attach to Milton by reason of entering into this Agreement except as expressly provided herein.

15. WAIVER OF SUBROGATION

Milton and Auburn hereby mutually release each other from liability and waive all right of recovery against each other for any loss caused by fire or other perils which can be insured against under fire insurance contracts including any extended coverage endorsements thereto which are customarily available from time to time in the State of Washington, provided, that this paragraph shall be inapplicable to the extent that it would have the effect of invalidating any insurance coverage of Milton or Auburn.

16. COMPLIANCE WITH REGULATIONS AND LAWS

The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

17. ASSIGNMENT

The parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other party.

18. ATTORNEYS' FEES

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

19. NONDISCRIMINATION

Each of the parties, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.

20. MISCELLANEOUS

- a. All of the covenants, conditions and agreements in this Agreement shall extend to and bind the legal successors and assigns of the parties hereto.

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

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b. This Agreement shall be deemed to be made and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in King County, Washington.

c. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

d. Unless otherwise specifically provided herein, no separate legal entity is created hereby, as each of the parties is contracting in its capacity as a municipal corporation of the State of Washington. The identity of the parties hereto is as set forth hereinabove.

e. The performances of the duties of the parties provided hereby shall be done in accordance with standard operating procedures and customary practices of the parties. Semi-annual operational review and service meetings shall be held with representatives from both cities to review and discuss service and support delivery.

f. No provision of this Agreement shall relieve either party of its public agency obligations and or responsibilities imposed by law.

g. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time either party shall have the right to terminate the Agreement.

h. This Agreement constitutes the entire agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

i. Copies of this Agreement shall be listed by the parties on their websites as provided for in RCW 39.34.040.

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

CITY OF AUBURN

CITY OF MILTON

Nancy Backus
Auburn Mayor

Debra Perry
Milton Mayor

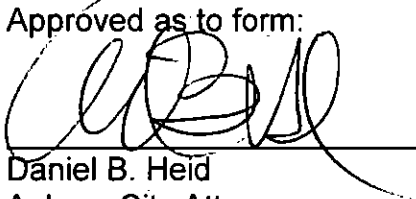
Attest:

Attest:

Danielle Daskam,
Auburn City Clerk

Katie Bolam,
Milton City Clerk

Approved as to form:



Daniel B. Heid
Auburn City Attorney

Approved as to form:

Print Name: _____
Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

ON THIS _____ day of _____, 2014, before me personally
appeared _____ and _____
to me known to be the _____ and _____
of _____, a municipal corporation, the corporation that
executed the within and foregoing instrument, and acknowledged said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes therein
mentioned, and on oath stated that they were authorized to execute said instrument, and
the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above
written.

NOTARY PUBLIC in and for the State
of Washington, residing at _____
My Commission Expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

ON THIS _____ day of _____, 2014, before me personally
appeared _____ and _____
to me known to be the _____ and _____
of _____, a municipal corporation, the corporation that
executed the within and foregoing instrument, and acknowledged said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes therein
mentioned, and on oath stated that they were authorized to execute said instrument, and
the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above
written.

NOTARY PUBLIC in and for the State
of Washington, residing at _____
My Commission Expires: _____

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INTERLOCAL AGREEMENT

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**EXHIBIT B
SCOPE OF SERVICES**

Services Provided:

- Onsite Auburn IT Staff Presence: Auburn primary support function will be via remote access and administration with primary contact and support provided through email: MiltonITSupport@Auburnwa.gov and phone support. Remote login and various types of technical configuration management will be utilized to minimize onsite and travel charges. Under this service level, City of Milton will be allotted "onsite presence" 1 day (7.5 hours) per week for 3 months or up to 97.5 hours per year specific to meeting onsite support and technical requirements. Day and times will be coordinated with Auburn IT availability and may be altered through written request process identified in section 11 above. Auburn IT staff will also respond onsite to all technical matters not repairable remotely utilizing allotted onsite hours or through authorized request at stated rate, and will attempt to respond to non-critical items in multiples to minimize trips where possible. All other support shall be provided remotely where possible.
- General network and desktop support including setup, configuration, and onsite handling. Special projects, or "last minute" projects may incur charges based on an individual and mutually agreed basis.
- GIS and Mapping Services shall be provided on a per project basis, with printing costs the responsibility of Milton based on current Auburn rate schedules.
- Maintenance and management of Servers and "back-end" equipment to include:
 - Telephones, servers, network equipment (routers, firewalls, switches)
 - Server administration, including user setup, access, email and help desk functionality
- Purchasing: Recommendations, quotes, vendor discussions shall be provided by Auburn IT. Purchasing, purchase orders and requisitions will be the responsibility of Milton.
 - Milton can be added to certain City of Auburn software and hardware agreements to receive similar volume and cost savings where applicable. Such areas including Microsoft volume licensing, Springbrook, Sharepoint, Antivirus protection, Netmotion and others.
- Web Services –
 - Services may be available at Milton request.
- Backup operations, offsite storage and disaster recovery
 - Auburn will evaluate current backup and disaster contingency plans and make recommendations. Typically this includes weekly offsite storage which is paid for by customer including configuration of daily incremental and differential backups.
 - Disaster recovery may result in an addition of services, or evaluation and recommendation to enhance business continuity and operations based on current procedures.
- Application and software end user support
- Vendor coordination and management as needed
- Operating system, and software patch management

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

- Technical recommendations including:
 - Long and short term strategic planning
 - Disaster recovery and business continuity planning
 - Technology budget recommendations and planning
 - Audit documentation and assistance with CJIS and WCIA annual audits

Requesting support:

All requests for service should be emailed to MiltonITSupport@auburnwa.gov. Phone calls will be accepted as well, however tracking tickets and support via our help desk system is preferred with a follow up phone call from Auburn staff. The request will be forwarded to City of Auburn technical staff for resolution. Persons authorized to request support on a non-emergency basis are City of Milton employees or their designee.

Service levels:

For requests e-mailed Monday through Friday from 7:00 am to 5:00 pm, we will try to respond within 30 minutes. During high call volumes, we will assist you as soon as possible.

With authorization of Mayor, City Administrator or Police Chief, support outside regular business hours will be provided on an emergency basis. If you need an immediate response during off hours and have the appropriate authorization, please email MiltonITSupport@auburnwa.gov with the name of authorizing person and nature of issue or call 253-876-1947. Your issue will be forwarded to the on-call technician for resolution.

Service Limitations:

- City of Auburn will assist and provide recommendations on network security but security remains the responsibility of City of Milton.
- City of Auburn will document, and present information relevant to technical audits however compliance will be the responsibility of Milton, including CJIS and ACCESS Audits.
- City of Auburn will assist and provide installation and recommendations on hardware and software purchases. All hardware and software purchases are the responsibility of City of Milton.

Additional Services:

City of Auburn may provide additional services, or alter existing services through the appropriate approval process and addendum.

Additional services include but are not limited to:

GIS Services

Licensing Support: Netmotion and Virus Protection

{BFP1179559.DOC;1/13018.900000/ }

INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014

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RES.C

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Web Application and Design Services
Publishing and Design Services
Multimedia/ Film Services

Billing:

All service will be billed monthly according to Attachment B. Services that are billed on an hourly basis will include a brief description of the service and the department where the service was performed. Monthly charges for service are based on an estimated 300 helpdesk requests annually. In the event annual helpdesk requests exceed 300 tickets, City of Milton agrees to negotiate these additional services which may include mutually agreed adjustments to monthly service charges.

**EXHIBIT C
COST OF SERVICES**

Support Function	Operating Hours	Billing rate	Monthly cost
General Network and desktop maintenance and support including operating system patch management, virus system software management, general troubleshooting and problem resolution that can be via remote access/phone and minimal Milton office visits where deemed possible allowing equipment drop off and minimal hands on configuration support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$2800.00 / month effective July 2, 2014 and monthly thereafter plus mileage based on IRS standard mileage rate	\$2800.00
One-time administration, setup and remote license fee	N/A	\$1500.00	
Network and desktop repair and maintenance that require onsite support or special projects with proper approval.	M - F, 7 a.m. - 5 p.m. excluding holidays	Included. Mileage billed separately and based on IRS standard mileage rates	Billed separately
All support responses by City of Auburn technical support staff. Note: COA technical support staff will not respond without authorization from City of Milton Mayor, Police Chief or City Administrator.	Non business hours, afterhours, emergency response	\$110.00 / hour with one hour minimum plus mileage based on IRS standard mileage rate	Per incident as required
Netmotion Client Software	n/a	Evaluation Option	Per Client
Virus Protection Software	n/a	Evaluation Option	Yearly

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INTERLOCAL AGREEMENT

Draft City of Milton IT ILA, June 25, 2014



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5082

Date:

July 16, 2014

Department:

Community Development &
Public Works

Attachments:

[Resolution No. 5082](#)
[Exhibit A](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to adopt Resolution No. 5082.

Background Summary:

The purpose of Resolution No. 5082 is for the City Council to authorize the City to execute a Floodplain Management and Control Grant Agreement between the City of Auburn and the Department of Ecology to assist the City with costs associated with real estate acquisition, pre-construction site preparation activities, and construction of the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project.

Under the terms of a Project Partnership Agreement (PPA), the City would be the Non-federal Sponsor (NFS) and the Army Corps of Engineers would be the federal lead agency for construction of the project. City of Auburn execution of the PPA and participation in the construction of the project will be presented to the City Council for consideration under Resolution No. 4959.

This project is listed in the City of Auburn 2014-2019 Capital Facilities Plan as project number CP0746. The grant would provide \$532,000.00 to the City for use in acquiring the real estate real estate interests needed, and to conduct pre-construction removal of invasive plant species prior to construction of other project improvements. There are no budget impacts associated with this grant. Revenue and expenses associated with the Floodplain Management and Control Grant have previously been included in the City's 2014 budget and identified in the City's 2014-2019 Capital Facilities Plan as "Grants, Other Sources".

The Floodplain Management and Control Grant has a 20 percent minimum match funding requirement, which equals \$106,400.00. This requirement will be met with a portion of the \$5,206,048.00 in other federal and City funds budgeted for the project.

Reviewed by Council Committees:

Finance, Planning And Community Development Other: Legal,

Councilmember: Wales

Staff: Coleman

Meeting Date: July 21, 2014

Item Number: RES.D

RESOLUTION NO. 5082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A GRANT AGREEMENT BETWEEN THE CITY OF AUBURN AND THE STATE DEPARTMENT OF ECOLOGY

WHEREAS, the Auburn City Council finds that restoration of that portion of Mill Creek located within the City will benefit the citizens of Auburn by enhancing flood control within the City and by improving fish habitat; and

WHEREAS, the Auburn City Council previously adopted Resolution No. 4558 authorizing the execution of a Design Agreement between the City of Auburn and the Department of the Army for design of the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project on February 12, 2010; and

WHEREAS, the design for construction of the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project has been completed under the Design Agreement; and

WHEREAS, U.S. Army Corps of Engineers has received federal funding to construct the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project; and

WHEREAS, under the Water Resources Development Act of 1986, local governments wishing to have such projects constructed within their jurisdictions must contribute a portion of the project costs; and

WHEREAS, the City of Auburn has included the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project in its 2014-2019 Capital Facility

Plan, subject to securing additional grant funding to assist with paying project costs; and

WHEREAS, the city applied for and was awarded a Floodplain Management and Control Grant from the Department of Ecology; and

WHEREAS, the Floodplain Management and Control Grant would provide \$532,000.00 to the City to assist with real estate acquisition, pre-construction site preparation activities, and construction of the Mill Creek Wetland 5K Green Duwamish Ecosystem Restoration Project

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

Section 1. That the Mayor of the City of Auburn and the Auburn City Clerk are hereby authorized to execute a Floodplain Management and Control Grant Agreement between the City of Auburn and the Department of Ecology which agreement shall be in substantial conformity with the Agreement attached hereto as Exhibit “A” and incorporated herein by this reference..

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

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

Dated and Signed this _____ day of _____, 2014.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney



ECOLOGY Grant Agreement No. G1400XXXX

between the

State of Washington Department of Ecology and

City of Auburn

Project Title: Mill Creek Restoration

THIS is a binding agreement entered into by and between the state of Washington, Department of ECOLOGY, (PO Box 47600, Olympia, Washington, 98504-7600) hereinafter referred to as "ECOLOGY" and City of Auburn, hereinafter referred to as the "RECIPIENT" to carry out the activities described herein.

RECIPIENT Name: **City of Auburn**
25 West Main Street
Auburn, WA 98001

RECIPIENT Project Coordinator: **Chris Andersen**
Environmental Services Program
Community Development & Public Works Dept.
Telephone Number: (253) 876-1962
E-mail address: candersen@auburnwa.gov

Fiscal Contact for RECIPIENT: **(same)**
Telephone:
E-mail address:

Payee on Warrant: **City of Auburn**
(address as above)

Project Manager for ECOLOGY: **Jessica Hamill**
SEA Program Northwest Regional Office
3190 160th Ave SE
Bellevue, WA 98008-5452
Phone (425) 649-7049
E-mail address: Jessica.Hamill@ecy.wa.gov

The source of funds provided by ECOLOGY are authorized by the 2013 Washington State Legislature, §3069 of the Capital Budget.

Maximum Capital Investment Funding:	\$532,000
Maximum Eligible Project Cost:	\$5,738,048

State Maximum Cost Share Rate: 80% UP TO a maximum State Share of **\$532,000**

The start date of this agreement is **May 1, 2014**; the end date is **June 30, 2015**

Scope of Work

Project Title: Mill Creek Restoration

Description **Background**

Mill Creek was historically an active floodplain surrounded by a broad wetland community. As the area developed, Mill Creek has been straightened and the land cleared; first for agricultural purposes and then urban and industrial development. In the project reach, Mill Creek has been channelized to facilitate agricultural activities that ceased by the early 1990s. Currently, invasive plant species have overrun the channel and floodplain; thereby interrupting natural riparian processes and significantly degrading habitat function within the Creek. The project reach is currently characterized by a wide, flat plain; dominated by non-native invasive reed canary grass. Reed canary grass chokes the undersized stream channel and contributes to frequent flood events.

Project

The project would restore stream and floodplain along an estimated one mile of Mill Creek. The project would create and enhance stream channel, increase floodplain connectivity and storage (approximately 17.5 acre-feet of new storage), and re-vegetate approximately 19 acres of riparian habitat. This project is a joint effort between the City of Auburn and the United States Army Corps of Engineers (USACOE).

Scope of Work

The design of the project has been completed and a plan set is currently under review. The funding provided by this grant agreement will be applied to the costs of pre-construction activities (invasive species removal) and property acquisition necessary to implement the project.

The property to be acquired (King County Assessor's parcel numbers: 1221049037, 1221049038, 1221049039, 1221049007) is a vacant 21.12-acre site consisting of four degraded wetland parcels located between State Route-167 (SR-167) and West Valley Highway N in Auburn. The site is dominated with invasive, non-native reed canary grass, and native willow species are found along portions of Mill Creek. The existing stream channel has aggraded with sediments transported from its upper reaches on West Hill, which then settle out in the project reach as the gradient of the stream bed decreases markedly. The existing 6' x 8' culvert crossing at 15th Street NW has approximately 30% of its volume filled with sediment, and is a documented hydraulic conveyance restriction.

Mill Creek, a salmonid-bearing stream, currently flows along the eastern portion of the property, ranging between 150-300 feet from SR-167. The property is critical to the project as it is required to facilitate the project's planned relocation of the Mill Creek stream channel 300-500 feet further to the west, away from SR-167 and the replacement of the existing 6' x 8' box culvert at 15th Street NW with a 20-foot wide, fish passable stream simulation culvert. Without the acquisition of the property, the RECIPIENT would not be able to construct the project.

Location Latitude: **47.3210** Longitude: **-121.247**
River: Mill Creek River Mile: 4.1 - 5.1

Work Program The RECIPIENT shall perform the following work tasks:

Task 1: Project Coordination, Management, and Administration

The RECIPIENT will coordinate throughout the grant period with ECOLOGY's Floodplain Program Manager and other state agencies and Indian tribes as applicable to ensure the objectives of this funding opportunity are met.

Coordination issues include but are not limited to flood plain management, permit, construction / restoration, habitat, and public access recreation issues.

Deliverables: Updates in Quarterly Progress Reports as follows:

Progress Report	Reporting Period	Date Due
First Quarter (Year 1)	April 1 – June 30, 2014	July 30, 2014
Second Quarter	July 1 – September 30	October 30, 2014
Third Quarter	October 1- December 31	January 30, 2015
Fourth Quarter (Year 2)	January 1 – March 30	April 30, 2015
First Quarter	April 1 – June 30, 2015	July 30, 2015

See Special Terms and Conditions for details on progress reporting.

Due Date: 30 days following end of each quarter.

Task Cost: \$7,000

Cost to ECOLOGY: \$0

RECIPIENT Cost: \$7,000

Task 2: Pre-Construction-Invasive Plant Species Removal

RECIPIENT will conduct invasive plant species removal throughout the project site to prepare for project construction. The project site is predominantly vegetated with invasive, non-native Reed canary grass (*Phalaris arundinacea*). This invasive plant species will be removed prior to project construction consistent with the guidelines and requirements of the City of Auburn municipal code. If any herbicide or pesticides will be used during invasive species removal, this shall be conducted by an herbicide/pesticide applicator licensed in the State of Washington. Prior to commencement of any invasive plant species removal activities, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to Ecology that all approvals and permits have been secured, and make copies available to ECOLOGY.

- Deliverables:**
- **Copies of permits necessary to conduct pre-construction activities, if applicable**
 - **One set: Digital photographic documentation of the project before, during, and after pre-construction to effectively illustrate important pre-construction activities and project progress. Each image will be labeled with the date, location and features represented. Updates in progress reports due quarterly.**
 - **Updates in Quarterly Progress Reports to include a permit table depicting all necessary permits and issuing agencies required for project completion.**
 - **Copy of an executed construction agreement (Project Partnership Agreement) between the USACOE and the Recipient.**

Due Date: Quarterly-Submitted with Quarterly Progress Reports, per the matrix in Task 1

Task Cost: \$50,000

Cost to ECOLOGY: \$20,000

RECIPIENT Cost: \$30,000

Task 3 Property Acquisition

RECIPIENT will acquire all necessary property or easements required to construct the project. All properties acquired will be used to enhance the restoration project or used in perpetuity for open space purposes only. Restrictions from future development will be placed on the deed and will be recorded on the title. See Exhibit A for the Restrictive Covenant and related documents which shall become part of this acquisition. ECOLOGY shall be in receipt of complete documentation before payment is released for the acquisition.

Deliverables: (Two copies) Acquisition Report to include but not limited to:

1. **A project vicinity map**
2. **A project detail map showing the location of properties purchased;**
3. **List of properties acquired with (previous owner) names / addresses**
4. **Right of Way plans**
5. **Acquisition documents for each property including:**
 - a. **Title Reports**139,048
 - b. **Appraisals**
 - c. **Appraisal Reviews**
 - d. **Environmental Assessments, if necessary**

- e. **Clean Site Certifications, if necessary**
- f. **Closing Statements**
- g. **Offer Letters**
- h. **Recorded Deeds and Easements with title restrictions**
- i. **(Digital) photographic documentation of project properties before project implementation in sufficient quantity / quality to effectively illustrate existing features on the property.**

Due Date: February 2015

Task Cost: \$651,048

Cost to ECOLOGY: \$512,000

RECIPIENT Cost: \$139,048

Task 4 Planning, Design, Construction, and Monitoring

Recipient will prepare final design plans for project construction. Under the terms of the Project Partnership Agreement between the RECIPIENT and USACOE, USACOE is responsible for obtaining all required regulatory permits and approvals for construction of the project. Prior to commencement of any construction, the Recipient shall provide assurance to Ecology that all approvals and permits have been secured, and make copies available to Ecology.

The USACOE will lead the contractor procurement process following federal guidelines and regulations. The USACOE will be the lead for construction oversight, with the Recipient providing support as needed. As-built surveys will be prepared following completion of construction, in order to document final locations of all elements and associated topography.

Key elements include:

- 2.1** Creating a new meandering stream channel in sections of the project reach, and enhance the existing channel in other sections.
- 2.2** Building earthen berms in strategic locations to provide higher ground for trees and shrubs.
- 2.3** Creating new side channels and connecting existing tributary channels to increase connectivity and provide fish habitat and refuge.
- 2.4** Clearing non-native plants, and establishing native trees, shrubs and vegetation long a 200 foot wide corridor on both sides of Mill Creek.
- 2.5** Installing a new streambed simulation culvert under 15th ST NW for improved fish passage and flood flows conveyance. Modifying and maintaining the existing culvert.

Recipient will prepare a monitoring plan to ensure the viability of plantings; with recommendations for corrective action if re-vegetation fails to thrive.

- Deliverables:**
- **Final Design plan(s)**
 - **One hard copy of the as-built or final construction plan set**
 - **Copy of Monitoring Plan**

Due Date: January 2016¹

Task Cost: \$5,030,000

Cost to ECOLOGY: \$0

RECIPIENT Cost: \$5,030,000

Task 5 Final Report

The RECIPIENT will prepare a brief narrative final report detailing the completed project activities during the performance period of this agreement. The final report shall also include digital photos of the acquired parcels during project implementation in sufficient quantity / quality to effectively illustrate existing features on the property.

Deliverables: Final Report-including digital photos of acquired parcels during project implementation

Due Date: January 2016²

Task Cost: Included in Task 1, Project Coordination, Management, and Administration

Cost to ECOLOGY Included in Task 1, Project Coordination, Management, and Administration

RECIPIENT Cost: Included in Task 1, Project Coordination, Management, and Administration

¹ Note: Although no Ecology funding is requested for Task 4, *Planning, Design, Construction, and Monitoring*, this grant agreement will not conclude prior to receipt of all deliverables described in Tasks 1-5.

² Note: Although no Ecology funding is requested for Task 5, *Final Report*, this grant agreement will not conclude prior to receipt of all deliverables described in Tasks 1-5.

Agreement No. G1400xxx between the
Washington State Department of ECOLOGY and City of Auburn
Project Title: Mill Creek Restoration

Note^{1:} The RECIPIENT shall notify ECOLOGY in writing of the project's completion and arrange for final inspection of the project by ECOLOGY.

Note^{2:} All deliverables are to be sent to ECOLOGY's Project Manager as listed on page one of this agreement.

Schedule

Task	2014								2015					
	M	J	J	A	S	O	N	D	J	F	M	A	M	J
1	☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒
2	☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒
3	☐	☐	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☐
4	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒	☒
5	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒

BUDGET

Budget Conditions

1. Failure to comply with required permits constitutes a breach of contract, which may result in termination of this agreement.

2. **Project Administration:**

For the administration of this agreement the RECIPIENT must follow the current edition of the Administrative Requirements for RECIPIENTS of ECOLOGY Grants and Loans (Yellow Book). <http://www.ecy.wa.gov/biblio/9118.html>. Please note that this document is being updated. In the event of inconsistency between these documents, unless otherwise provided herein, the inconsistency will be resolved by giving precedence in the following order:

- a) Applicable Federal and State statutes and regulations.
- b) Scope of Work.
- c) Special Terms and Conditions.
- d) Any terms incorporated herein by reference including the "Administrative Requirements for RECIPIENTS of ECOLOGY Grants and Loans."
- e) The General Terms and Conditions.

3. **Invoicing:**

- Grants are awarded on a reimbursable basis. The RECIPIENT initially pays project costs as they incur. Invoicing to ECOLOGY is usually by quarter but not more often than once per month. Upon presentation of an invoice to the RECIPIENT, ECOLOGY's share of the project is reimbursed to the RECIPIENT.
- The RECIPIENT must **submit complete backup documents with each invoice** including but not limited to all invoiced costs and time sheets - signed and dated by employee and supervisor. The RECIPIENT must keep these expenses in grant files according to budget task for a period of three years after project completion and make them available at any time for inspection by ECOLOGY.
- Expenditures will be monitored by ECOLOGY for compliance with the budget as listed on page 8. When submitting invoices to ECOLOGY, **the RECIPIENT shall highlight (or otherwise indicate) all costs on backup documentation to avoid data searches for cost verification by ECOLOGY. These costs will be listed on ECOLOGY's Voucher Support Form (C2 form) with subtotals.** All payment requests must have forms A, B, C (and D if applicable for consultant services), be accompanied by a commensurate progress report, and receive ECOLOGY Project Manager approval before payment can be released.
- Budget deviations are allowed between budget objects (mobilization, equipment, etc) e.g., a grantee may spend less money on one object and more on another), but in no circumstances may the RECIPIENT exceed the total project cost. If the total of all budget deviations exceeds 10 percent of the entire project cost, the ECOLOGY Project Manager may require a written budget redistribution.

- **NOTE:** For payment requests, the RECIPIENT must use the ECOLOGY forms provided. Otherwise, ECOLOGY will return requests to the RECIPIENT for submittal on the correct forms.
 - Requests for reimbursement must be **submitted at least quarterly** but not more than once per month by the RECIPIENT on state invoice voucher forms.
 - **Right to Audit:** The RECIPIENT agrees that payment(s) made under this grant shall be subject to reduction for amount charged thereto which are found after audit examination not to constitute allowable costs under this grant. The RECIPIENT shall refund by check payable to ECOLOGY the amount of such reduction of payments under completed or terminated grants.
 - All travel costs shall not exceed State travel rates:
<http://www.ofm.wa.gov/resources/travel.asp>
 - Payment of invoices is contingent on receipt of viable deliverables as determined by ECOLOGY's Project Manager.
4. The source of funds provided by ECOLOGY are authorized by the 2013 Washington State Legislature, §3069 of the Capital Budget.
5. Expenditure Budget: (for RECIPIENT reporting and ECOLOGY tracking purposes):

Maximum Eligible Project Cost	\$5,738,048
State Maximum Cost Share Rate:	
80% UP TO a maximum State Share of	\$532,000

See matrix that follows on page 10 for budget breakout.

Budget Matrix

TASK	Work Item	Unit	Qty	Unit Cost	Extended Cost		Ecology	City
1	Project Coordination							
		LS	1	\$7,000	\$7,000			
	Subtotal					\$7,000	\$0	\$7,000
2	Pre-Construction							
		Acre	22	\$2,274	\$50,000			
	Subtotal					\$50,000	\$20,000	\$30,000
3	Acquisition							
		Acre	21.1	\$30,855	\$651,048			
	Subtotal					\$651,048	\$512,000	\$139,048
4	Construction							
		LS	1	\$5,030,000	\$5,030,000			
	Subtotal					\$5,030,000	\$0	\$5,030,000
Project Subtotals						\$5,738,048	\$532,000	\$5,206,048
Total Project							\$5,738,048	

Special Terms and Conditions

AGREEMENT PROVISIONS

1. **Compliance with all Laws:** The RECIPIENT shall comply fully with all applicable federal, state and local laws, orders, regulations and permits.
2. **Restrictions on Lobbying:** The RECIPIENT of this agreement is prohibited from using funds provided by this agreement for lobbying purposes in accordance with the "Administrative Requirements for Recipients of ECOLOGY Grants and Loans", Publication No. 91-18, current edition, Part III, Section G.
3. **Local Decision:** This grant is made in response to a request for financial assistance from the RECIPIENT to undertake an Integrated Floodplain Restoration project. The choice of floodplain management activities addressed by this grant is a local decision made solely by the RECIPIENT. The RECIPIENT is not acting as an agent of the State.
4. **Lawsuits:** ECOLOGY shall not be responsible for any non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained, or improved pursuant to this grant.
5. **Indemnification, Hold Harmless and Duty to Defend**
 - a. ECOLOGY shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the scope of work.
 - b. This paragraph applies to negligence based claims only. All other claims are governed by paragraph 4 of this section. To the extent the constitution and laws of the State of Washington permit, RECIPIENT shall indemnify, defend and hold harmless the State, its agencies, officers and employees, from all claims, suits or actions brought for any or all injuries to persons or property arising from, or as a consequence of, negligent acts or omissions related to the construction, restoration, repair, maintenance, improvement or operation of the structures or works for which this grant is provided. If the structures or works for which this grant is received are a portion of an integrated flood protection system, RECIPIENT agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system; PROVIDED, however, that this provision is not intended to and shall not be construed as a waiver by RECIPIENT of any immunities conferred upon the RECIPIENT by RCW 86.13.037 nor is it intended to, and it shall not be construed to, confer any rights upon third parties.

The RECIPIENT will not be required to indemnify, defend, or hold harmless the State, its agencies, officers or employees as provided in the preceding paragraph of this section if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the State. Where such claims, suits, or actions result from the concurrent negligence of (a) the State, or the

State's agents or employees and (b) the RECIPIENT or the RECIPIENT's agents or employees, the indemnity provisions provided in the preceding paragraphs of this section shall be valid and enforceable only to the extent of the RECIPIENT's negligence or the negligence of its agents and employees.

- c. To the extent that the constitution and laws of the State of Washington permit, RECIPIENT shall indemnify and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the continued operation, maintenance, or repair of the structures or works constructed, restored, repaired, maintained or improved as a result of this grant. If the structures or works for which this grant is received are portions of an integrated flood protection system, RECIPIENT agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system; PROVIDED, however, that the indemnity provisions of this paragraph are not intended to and shall not be construed as a waiver by RECIPIENT of any immunities conferred upon the RECIPIENT by RCW 86.13.037 nor are they intended to, and they shall not be construed to, confer any rights upon third parties. This agreement applies to all non-negligent, non-contractually based claims including, but not limited to, inverse condemnation, contribution, indemnification, trespass and/or nuisance.
6. **Responsibilities of the Project Manager:** The RECIPIENT's Project Manager shall be responsible for the procedural obligations under this agreement in addition to his/her duty to coordinate the project hereunder. He/She shall cooperate with all parties concerned in every way possible to promote successful completion of the services described in the Scope of Work.

7. Environmental Standards

- a. RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at:
<http://www.ecy.wa.gov/eim>.
- b. RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at:
<http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>.
RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c. RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 3004 (ECOLOGY Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

8. **Quarterly Reporting:** Quarterly Reports are contingent on the start date of the agreement. For timely preparation and review, quarterly reports shall convey essential information in a simple, concise manner through the use of bulleted summary statements, lists, and tables and include the following:
- A comparison of actual accomplishments to the objectives established for the reporting period including a description of issues on fisheries resources;
 - For any work related to GIS, designate data standard utilized and associated data documentation.
 - Status of project schedule
 - Personnel changes
 - Any difficulties encountered during the quarter.
 - Environmental benefits being achieved by the project

Note: A quarterly progress report is required for each quarter of this agreement. If no work was conducted in that quarter, state that and submit the report.

Reporting Periods (sample)

Progress Report	Reporting Period	Date Due
First Quarter (Year 1)	August 1 – September 30	October 30
Second Quarter	October 1 – December 31	January 30
Third Quarter (Year 2)	January 1 – March 31	April 30
Fourth Quarter	April 1 – June 30	July 30
First Quarter	July 1 – September 30	October 30
Second Quarter	October 1- December 31	January 30
Third Quarter (Year 3)	January 1 – March 31	April 30
Fourth Quarter	April 1 – June 30	July 30

For Report Contents and ECOLOGY's form: Please visit our website at:
<http://www.ecy.wa.gov/programs/sea/grants/flooddamageprevention>

9. **Identification of Project Materials:** All reports, maps, and other documents published as part of this grant agreement shall carry the name of the RECIPIENT, ECOLOGY's grant number (in the upper right hand corner), title, the specific task number of the product and date centered on the front cover or title page (or in the case of maps, the block which contains the name of the Government unit or Department).
10. **Format for Publications and Brochures:** Any (hard copy) publications or **brochures** required as a product of this agreement shall conform to minimum standards of size, 8-1/2" x 11" white, recycled paper equivalent in weight to 30 lb. bond, single spaced, printed both sides, no less than 1" margins. Photos, illustrations, and graphs must be of reproducible quality.

11. **Amendments and Modifications:** This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.
12. **Minority And Women's Business (MWBE) Participation:** The RECIPIENT agrees to solicit and recruit, to the maximum extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

In the absence of more stringent goals established by the RECIPIENT's jurisdiction, the RECIPIENT agrees to utilize ECOLOGY'S goals for minority- and women-owned business participation in all bid packages, request for proposals, and purchase orders. These goals are expressed as a percentage of the total dollars available for the purchase or contract and are as follows:

Construction/Public Works	10% MBE	6%WBE
Architecture/Engineering	10% MBE	6%WBE
Purchased Goods	8% MBE	4%WBE
Purchased Services	10% MBE	4%WBE
Professional Services	10% MBE	4%WBE

Meeting these goals is *voluntary* and no contract award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and the RECIPIENT and ALL prospective bidders or persons submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

- a. Include qualified minority and women's businesses on solicitation lists.
- b. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
- c. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

By signing this Agreement, the RECIPIENT certifies that the above steps were, or will be followed. Any contractor engaged by the RECIPIENT under this agreement shall be required to follow the above five affirmative steps in the award of any subcontract(s).

The RECIPIENT shall report to ECOLOGY at the time of submitting each invoice, on forms provided by ECOLOGY, payments made to qualified firms. The report will address:

- f. Name and state OMWBE certification number of any qualified firm receiving funds under the voucher, including any sub-and/or sub-subcontractors.
 - g. The total dollar amount paid to qualified firms under this invoice.
13. **Right to Audit:** The RECIPIENT agrees that payment(s) made under this grant shall be subject to reduction for amount charged thereto which are found after audit examination not to constitute allowable costs under this grant. The RECIPIENT shall refund by check payable to ECOLOGY the amount of such reduction of payments under completed or terminated grants.
14. **Grant Closeout:** The end date for this project is **June 30, 2015**. A grace period of **45³ days** for all deliverables and invoice vouchers is allowed as stipulated in the scope of work or by the State Office of Financial Management (OFM) through ECOLOGY's Fiscal Office.
15. **All Writings Contained Herein:** This agreement, the appended "General Terms and Conditions", and ECOLOGY's current edition of "Administrative Requirements for RECIPIENTs of ECOLOGY Grants and Loans" contain the entire understanding between the parties, and there are no other understandings or representations except those set forth or incorporated by reference herein. No subsequent modification(s) or amendments to this agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement.

IN WITNESS WHEREOF, the parties hereby sign this Grant Agreement:

City of Auburn

Signature, Authorized Official	Date
--------------------------------	------

Print Name of Authorized Official

Title of Authorized Official

(Note: Insert additional signature blocks(s) and/or pages if more than one signature block is required)

3 In the event the agreement ends at June 30, at the end of the State biennium, the RECIPIENT will be required to submit both payment request and all deliverables by July 18 or the date as decided by the ECOLOGY Fiscal Office.

Exhibit A: Restrictive Covenant Template for Property Acquisition

Restrictive Covenant for the City of _____

Upon recording return to:
(Project Manager) _____
(Department of) _____
(City of) _____
(address) _____
(City) _____, WA 98 _____

Levee Right of Way
Tax Lot # _____

**Restrictive Covenant for the City of _____
For the _____**

Notice is hereby given that the _____ property acquisition hereinafter referred to as the “_____” property and legally described below, is subject to certain use restrictions. The purpose of these restrictions is to prevent this land from future development and to ensure that the _____ property will be used to enhance the _____ restoration project in perpetuity while allowing public access.

These restrictions are a condition of the grant funding appropriated by the Department of ECOLOGY through the 2013 Washington State Legislature under § 3069 of the Capital Budget to restore the _____ stream and floodplain and are enforceable by ECOLOGY.

Uses of the _____ property are restricted to those set forth below. These restrictions and obligations are intended to run with the land and shall be binding on the City of _____, its heirs, successors, and assigns:

- 1) Restoring the land to natural habitat conditions by removing human structures, materials, waste, etc.;
- 2) Enhancing the _____ stream and floodplain to protect the City of Auburn from flooding;
- 3) Re-vegetation of the stream and floodplain to prevent erosion;
- 4) Providing vegetation management of exotic species (such as Reed Canary grass, purple loosestrife, etc.);
- 5) Allowing for maintenance, repair, and necessary reconstruction of the restoration project and all associated elements;
- 6) Allowing for pervious site access;
- 7) Enhancement of the stream and floodplain for fish and wildlife habitat; and
- 8) Providing open space and recreation.

Legal Description of Acquisition Area for the _____

That portion of the _____

In witness whereof, the City of _____ has executed this document this _____ day of
_____, 30__

Signature, Authorized Official,

Print Name of Authorized Official

Title of Authorized Official

Attest:

STATE OF WASHINGTON
CITY OF _____ SS.

On this day before me personally appeared _____, to me known to be the
Mayor of the City of _____ that executed the within and foregoing instrument, and
acknowledged said instrument to be the free and voluntary act and deed of such municipality, for
the uses and purposes therein mentioned, and on oath stated that the execution of the instrument
was duly authorized.

In witness whereof I have hereunto set my hand and affixed my official seal this _____ day of
_____, 30__.

Notary Signature

Notary name printed or typed

NOTARY PUBLIC in and for the State of Washington
Residing at: _____

ATTACHMENT II: General Terms And Conditions

Pertaining To Grant And Loan Agreements Of The Department Of ECOLOGY

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.
3. Wages and Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Manager.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Recipients of ECOLOGY Grants and Loans", Part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Manager assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.5. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become DEPARTMENT property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.
2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.
3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Recipients of ECOLOGY Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Manager or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Manager or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Manager or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Manager or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for RECIPIENTS of ECOLOGY Grants and Loans"; and (e) the General Terms and Conditions.

W. FUNDING AVAILABILITY

The DEPARTMENT's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this agreement, the DEPARTMENT, at its sole discretion, may elect to terminate the agreement, in whole or part, or to renegotiate the agreement subject to new funding limitations and conditions. The DEPARTMENT may also elect to suspend performance of the agreement until the DEPARTMENT determines the funding insufficiency is resolved. The DEPARTMENT may exercise any of these options with no notification restrictions.

SS-010 Rev. 04/04

MODIFIED 12/13



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5084

Date:

July 14, 2014

Department:

Administration

Attachments:

[Resolution No. 5084 with agreement](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5084.

Background Summary:

The City of Auburn is currently part of the King County Consortium for HOME funding. This Housing and Urban Development program is specifically designed to address affordable housing in communities and support for developers that can meet the local goals.

Auburn, with Kent, Federal Way and Bellevue, rotate a voting seat on the Joint Recommendations Committee (JRC) of King County to represent its interests and maintain a position on the Consortium's official voting body.

Passage of this agreement will simply renew our seat on the JRC and recommit our partnership.

Reviewed by Council Committees:

Finance, Planning And Community Development Other: Human Services, Mayor, Legal

Councilmember: Holman

Staff: Hursh

Meeting Date: July 21, 2014

Item Number: RES.E

RESOLUTION NO. 5084

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND THE CITY CLERK OF THE CITY OF AUBURN TO ENTER INTO AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY AND KING COUNTY, FOR THE PURPOSES OF ADMINISTERING THE FEDERAL HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

WHEREAS, the City of Auburn, Washington is a participant in the King County HOME Consortium, which provides for Federal funds to be used for low-income housing rehabilitation and construction; and

WHEREAS, King County currently administers this program on behalf of the Consortium; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires each jurisdiction to sign an agreement as a condition for participating in the partnership and receiving these federal funds.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, KING COUNTY, WASHINGTON, IN A REGULAR MEETING DULY ASSEMBLED, HERewith RESOLVES THAT:

Section 1. The Mayor and City Clerk of the City of Auburn, Washington are herewith authorized to execute the "HOME Investment

Partnerships Program Interlocal Cooperation Agreement", in substantial conformity with the Agreement attached hereto as Exhibit "A".

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

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

DATED and SIGNED this _____ day of August, 2014.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Danielle Daskam
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid
City Attorney

Resolution No. 5084
July 10, 2014
Page 2

HOME INVESTMENT PARTNERSHIPS PROGRAM INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT is entered into between King County, hereinafter referred to as the "County," and the City of _____ hereinafter referred to as the "City," said parties to the Agreement each being a unit of general local government of the State of Washington.

RECITALS

WHEREAS, King County is an urban county, as defined by 24 CFR 92.2 and 24 CFR 570.3; and

WHEREAS, a unit of general local government that is located within in an urban county may be part of a HOME consortium only through the urban county; and

WHEREAS, the City and King County agree that it is mutually desirable and beneficial to enter into a consortium arrangement for purposes of the HOME Investment Partnerships Program, hereinafter referred to as "HOME Program";

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING CIRCUMSTANCES, AND IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, IT IS AGREED THAT:

1. This Agreement is made pursuant to the National Affordable Housing Act of 1990, as amended, 42 USC § 12701 et. seq. (the "Act") and RCW 39.34, the Intergovernmental Cooperation Act.
2. The City and the County agree to cooperate to undertake or assist in undertaking HOME Program housing assistance activities which are eligible under 24 CFR Part 92.
3. The County is hereby authorized to act as the representative member on behalf of the Consortium for the purposes of the HOME Program. The County as the applicant, grantee and lead entity for the HOME Program funds has responsibility for and assumes all obligations in the executing the HOME Program, including the ability to adopt amendments to this Agreement for the purpose of adding new members on behalf of the HOME Consortium and for the purpose of incorporating changes necessary to meet U.S. Department of Housing and Urban Development (HUD) requirements for consortium agreements under the applicable HUD notice of procedures for designation of consortia as a participating jurisdiction for HOME; final responsibility for selecting and executing activities; ensuring compliance with federal requirements and submitting to HUD the Consolidated Housing and Community Development Plan (Consolidated Plan), Annual Action Plans, and related plans and reports, including the Analysis of Impediments to Fair Housing Choice and the Fair Housing Action Plan. Nothing contained in this Agreement shall be construed as an abdication of those responsibilities and obligations.

The City agrees to cooperate fully with the County in the development and preparation of the Consolidated Plan and related plans, and to prepare and provide those elements specifically pertaining to the City.

4. This Agreement shall remain in full force and effect for the period necessary to plan and carry out all activities that will be funded from HOME funds awarded for the 2015, 2016 and 2017 federal fiscal years, the three-year qualification period that coincides with the Agreement for the Distribution and Administration of the King County Consortium's Community Development Block Grant, or until the County's designation as a participating HOME jurisdiction or an urban county is rescinded by the United States Department of Housing and Urban Development, whichever is shorter.
5. This Agreement will be automatically renewed for participation in successive qualification periods of three federal fiscal years each. No later than the date specified by HUD's consortia designation notice or HOME Consortia web page, King County shall notify each HOME consortium member in writing of its right to decide not to participate in the Consortium for the next qualification period, and King County will send copies of those written notices to the HUD local field office by the date specified in the qualification notice. Unless the County or the City provides written notice it wishes to amend the Agreement, or elects not to participate in the new qualification period in writing to both King County and the HUD local field office by the date set forth in the HUD qualification notice applicable to subsequent three-year qualification periods, this Agreement shall automatically renew. Before the beginning of each new qualification period, King County shall submit to HUD a statement of whether or not any amendments have been made to this Agreement, a copy of each amendment, and if the Consortium's membership has changed, the state certification required under 24 CFR, Section 92.101(a)(2)(i). This automatic renewal provision will be void if King County fails to submit a copy of each amendment to this Agreement as required under this automatic renewal provision.
6. The City and the County agree to adopt any amendments to this Agreement other than the incorporation of changes necessary to meet the requirements for cooperation agreements set forth in the applicable HUD HOME consortia qualification notice for a subsequent three-year qualification period, which King County as the lead entity shall act upon pursuant to Section 3 of this Agreement. King County shall submit any other amendments adopted by the City and County to the HUD local field office by the applicable deadline.
7. During the term of this Agreement, neither the County nor the City may withdraw from participation from their respective obligations under this Agreement.
8. By executing the HOME Agreement, the City understands that it may not participate in a HOME consortium except through the County, regardless of whether the County receives a HOME formula allocation.
9. This Agreement shall be executed in three counterparts, each of which shall be deemed an original, by the chief executive officers of the County and the City, pursuant to the authority granted them by their respective governing bodies. One of the signed Agreements shall be filed by the County with the Region X office of HUD, one shall be filed with the City and one shall be filed with the County. Prior to its taking effect, the fully executed Agreement

shall be filed with the County Auditor, or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source.

10. The parties to this Agreement hereby agree to affirmatively further fair housing and to ensure that no HOME funds are expended for activities that do not affirmatively further fair housing within the boundaries of their jurisdiction or for activities that impede the County's actions to comply with its fair housing certification. For purposes of this section, "affirmatively furthering fair housing" includes participation in the process of developing an Analysis of Impediments to Fair Housing Choice and a Fair Housing Action Plan. While King County has the primary responsibility for the development of these reports to HUD pursuant to Section 3 of this Agreement, upon request, the City shall provide assistance to the County in preparing such reports.

11. Joint Recommendations Committee Composition. An inter-jurisdictional Joint Recommendations Committee ("JRC") shall be established through the 2015 – 2017 Consortium Interlocal Cooperation Agreement.

The JRC shall be composed of three county representatives and eight cities representatives.

The three county representatives shall be King County Executive staff with broad policy responsibilities and/or department directors. County representatives shall be specified in writing and, where possible, shall be consistently the same persons from meeting to meeting.

Four of the cities representatives shall be from non-entitlement consortium cities signing the King County Consortium Regular Interlocal Cooperation Agreement Regarding the Community Development Block Grant (CDBG) Program, two from each sub-region, as appointed by Sound Cities Association.

The remaining four cities representatives shall be from cities that qualify to receive CDBG funds directly from HUD, but are signing a Joint Agreement Regarding the CDBG Program and a HOME Program Agreement with King County; or receive their own CDBG grant directly from HUD and signing a HOME Program-only Agreement with King County. These latter four representatives shall have no vote on matters specific to the jurisdictions of the King County Consortium Regular Interlocal Cooperation Agreement Regarding the CDBG Program.

Two of the eight cities representatives shall be rotated among the HOME Program-only Agreement Cities, and two of the eight cities representatives shall be rotated among the cities signing a Joint Agreement Regarding the CDBG Program and a HOME Program Agreement. Those four representatives will vote on issues affecting HOME Program Agreement Cities that are specific to this Agreement.

For the HOME Program-only Agreement Cities' rotating positions, the HOME Program Agreement Cities will notify the County by the end of the second week in February of each year, who the two HOME Program-only Agreement City representatives will be for that year.

The chairperson and vice-chairperson of the JRC shall be chosen from among the members of the JRC by a majority vote of the members for a term of one year beginning with the first meeting of the calendar year. Attendance of five members shall constitute a quorum.

12. JRC Appointments. The King County Executive shall appoint the three county representatives. The participating cities of the King County Consortium Interlocal Cooperation Agreement for the Community Development Block Grant Program shall provide for the appointment of their shared representatives in a manner to be determined by those cities through the Suburban Cities Association or other agreed-upon mechanism for the execution of shared appointing authority. The Suburban Cities Association or other agreed mechanism will select four jurisdictions of varying size from among those signing this agreement, two from the north/east sub-region and two from the south sub-region. The cities representatives shall be elected officials, chief administrative officers, or persons who report directly to the chief administrative officer and who have broad policy responsibilities; e.g., planning directors, department directors, etc. Members of the JRC shall serve for two years, or at the pleasure of their respective appointing authorities.
13. Powers and Duties of the JRC. The JRC shall be empowered to:
- a. Review and recommend to the King County Executive all policy matters concerning the King County CDBG Consortium and HOME Program Consortium, including but not limited to the Consolidated Plan and related plans and policies.
 - b. Review and recommend to the King County Executive the projects and programs to be undertaken with King County CDBG Consortium funds and HOME Program Consortium funds, including the Administrative Set-aside.
 - c. Monitor and ensure that all geographic areas and participating jurisdictions benefit fairly from King County CDBG Consortium and HOME Program Consortium funded activities over the three-year agreement period, so far as is feasible and within the goals and objectives of the Consolidated Plan.
14. Advisory Committees to the JRC. In fulfilling its duty to review and recommend projects and programs to be undertaken with HOME Program funds, the JRC shall consider the advice of inter-jurisdictional advisory committees. Sub-regional advisory committees, made up of one representative from each participating jurisdiction in a sub-region that wishes to participate, shall be convened to assist in the review and recommendation of projects and programs to be undertaken in that sub-region. The JRC may also solicit recommendations from other inter-jurisdictional housing and community development committees.
15. The City shall assist the County in developing the Consortium's HOME Program by participating in development of the Consolidated Plan to accommodate both the collective and individual housing objectives contained within local comprehensive plans or other adopted plans of the City and the County.
16. The City and County shall each assign a staff person to serve as the primary contact for the administration of this Agreement. The assigned contact person is responsible for communicating relevant information to their respective jurisdiction.
17. This Agreement applies to the Consortium's acceptance of other federal housing-related funds which may be allocated by formula to the Consortium. Allocation decisions for these funds will be subject to policies and procedures developed by the advisory committees to the JRC and adopted by the JRC.

18. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based on any provision of this Agreement.

KING COUNTY, WASHINGTON

CITY OF _____

for King County Executive

By: Signature

Adrienne Quinn

Printed Name

Printed Name

Director, Department of Community and
Human Services

Title

Title

Date

Date

Approved as to Form:
OFFICE OF THE KING COUNTY
PROSECUTING ATTORNEY

Approved as to Form:
CITY OF Anuburn
CITY ATTORNEY

Daniel B. Heud
City Attorney

ATTEST:
CITY OF _____

City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5086

Date:

July 14, 2014

Department:

Administration

Attachments:

[Resolution No. 5086](#)

[Exhibit A to Res 5086](#)

[Exhibit "B" to Res 5086](#)

[Exhibit A to Easement](#)

[Exhibit B to Easement](#)

Budget Impact:

\$3,200

Administrative Recommendation:

City Council adopt Resolution No. 5086.

Background Summary:

Mr. Armijo owns an adjacent property to the city's SE 309th Street storm water pond. His property contains a single family residence that Mr. Armijo leases, as he is a resident of California. The backyard of the house is fenced and the fence extends east-west in a straight line. However, Mr. Armijo's rear property line is not straight. It jogs 9 feet north at one point. Since the fence does not follow the property line, it eventually encroaches upon the city's storm pond property. The fence cuts away approximately 550 square feet of the city's property.

This encroachment has existed for at least a decade, apparently unknown to the city or Mr. Armijo until the city recently surveyed the property lines of the storm pond property. Since the encroachment is small and is some distance from the actual storm ponds, it hasn't affected the use of the ponds to date.

The Public Works department is proposing granting Mr. Armijo an easement to resolve the encroachment. Granting Mr. Armijo an easement allows him to retain his fence and landscaping in the 550 square feet portion of his backyard. It gives the city the option to obtain exclusive use of the property again if it ever needs it. Mr. Armijo has agreed to pay \$3,200.00 for the easement. The price is based upon the per foot value of his property.

Reviewed by Council Committees:

Finance, Public Works

Councilmember: Osborne

Staff: Heid

Meeting Date: July 21, 2014

Item Number: RES.F

RESOLUTION NO. 5 0 8 6

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH JACOB ARMIJO TO CONVEY AN EASEMENT OVER A PORTION OF CITY STORM WATER RETENTION PROPERTY

WHEREAS, the city owns property on SE 309th Street upon which it operates a storm water pond; and

WHEREAS, Mr. Armijo owns a residence on an adjacent lot to the city's property, at 11209 SE 309th Street; and

WHEREAS, a recent survey revealed that 550 square feet of the fenced backyard of Mr. Armijo's residence is part of the city's property; and

WHEREAS, both the city and Mr. Armijo desire that Mr. Armijo retain use of the 550 square feet of property through an easement granted to Mr. Armijo by the city; and

WHEREAS, the easement price offered by the city is the fair market value for use of the land based upon the county assessor's valuation of Mr. Armijo's property.

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

Section 1. That the Mayor is hereby authorized to negotiate and execute both an agreement and an easement between the City of Auburn and Jacob Armijo in substantial conformity with the agreement and easement attached hereto, marked as exhibit "A" and "B", respectively, and incorporated herein by this reference.

Resolution No. 5086

July 14, 2014

Page 1 of 2

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

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

Dated and Signed this _____ day of _____, 2014.

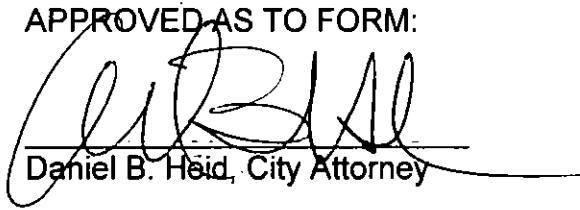
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

EXHIBIT "A"

EASEMENT PURCHASE AND SALE AGREEMENT

CITY OF AUBURN AND JACOB ARMIJO

THIS AGREEMENT is made and entered into by and between the sellers, CITY OF AUBURN (the "City"), and JACOB ARMIJO ("the Buyer").

WITNESSETH:

WHEREAS, the City owns a certain piece of real property that serves as a storm water pond at SE 309th Street, Auburn, parcel number 1446110140, and the Buyer owns a neighboring property, parcel number 1446110120, and

WHEREAS, the Buyer has encroached upon approximately 550 square feet of the City's storm water pond property by installing, maintaining, and enjoying a fence and landscaping on the land, and

WHEREAS, the City does not actively need use of the 550 square feet of its property for its municipal functions; and

WHEREAS, both Buyer and the City are desirous of avoiding the necessity of litigation; and

WHEREAS, the City valued the easement according to the King County Assessor's valuation of the Buyer's property and the Buyer has agreed to purchase the easement for the valued amount.

NOW, THEREFORE, in consideration of the following terms, conditions and covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED by the parties as follows:

1. **GRANT OF EASEMENT.** The City shall sell, convey, and grant to the Buyer, and the Buyer shall purchase, acquire, and take from the City, an easement that is legally described in Exhibit A, ("Easement"), which exhibit is incorporated by this reference.

2. **PURCHASE PRICE.** The Buyer promises to pay three thousand, two hundred dollars (\$3,200.00) and the recording fees by check in exchange for the city executing an Easement giving Buyer the rights described in Exhibit A. The Buyer agrees that the amount is payable by the Buyer prior to recording of the Easement and within 10 days of the City's execution of the Easement.

3. **CLOSING.** The closing date shall be mutually agreed upon by the parties. At the date of closing, the City shall produce to Buyer a copy of a executed and acknowledged Easement conveying to the Buyer the rights described in Exhibit A. The Easement will not be in a recordable form, but shall be identical to the one attached as Exhibit A.

Within 10 days of the City executing the Easement, the Buyer shall pay the purchase price, plus the recording fees, to the City.

Within 5 days of receipt of the purchase price and fees, the City shall record the executed Easement with the King County Recorder's Office. The City shall provide the Buyer with a copy of the officially recorded easement.

Both parties shall be responsible and entitled to have all closing documents reviewed by their own counsel or agent prior to closing.

4. **EXPENSES.**

City's Expenses: The City shall pay all expenses incurred by the City which relate to the Easement, including attorney fees;

Buyer's Expenses: The Buyer shall pay all recording fees and buyer's attorney fees;

5. **HAZARDOUS WASTE.** The City warrants it has not received notice of, and to the best of the City's knowledge the property is not in violation of any federal, state or local law, ordinance, or regulation relating to the environmental conditions on, under, or about the property, including but not limited to, soil and surface and ground water conditions, and that during the time in which the City has owned the property, neither the City nor, to the best of the City's knowledge, any third party has used, generated, stored, or disposed of, on, under, or about the property or transported to or from the property any hazardous waste, toxic substances, or related materials (the "Hazardous Materials"). For the purposes of this paragraph, Hazardous Materials shall include, but is not limited to, substances defined as "Hazardous Substances," "Hazardous Materials," "Hazardous Waste," "Toxic Substances," in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and RCW Title 7 and the regulations promulgated pursuant to such laws.

If prior to the closing date the Buyer discover that the property contains any Hazardous Waste, of which it has not been previously advised, the Buyer may terminate this Agreement.

6. **NOTICES.** Any notices required or permitted to be given shall be in writing and delivered either in person or by certified mail, return receipt requested, postage pre-paid, addressed as follows or such other address as may be designated by either party:

City:

City of Auburn
City Clerk
25 W. Main St.
Auburn WA 98001

Buyer:

Jacob Armijo:
881 Custer Ave.
San Marcos, CA 92078
858-500-2828

Any notice given pursuant to this Agreement shall be deemed effective the day it is personally delivered or three (3) business days after the date it is deposited in the United States mail.

7. **ENTIRE AGREEMENT.** This written Agreement constitutes the entire and complete Agreement between the parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. It is expressly agreed that there are no verbal understandings or agreements, which in any way change the terms, covenants, and conditions herein set forth. This Agreement constitutes the legal, valid and binding obligation of the parties enforceable against each party in accordance with the terms hereof.

8. **CITY COUNCIL APPROVALS.** The Buyer acknowledges that this Agreement does not bind the City until (1) the Mayor of the City of Auburn executes the Agreement and (2) the Auburn City Council approves the Agreement.

9. **GOVERNING LAW.** This agreement shall be governed and construed according to the laws of the State of Washington without giving effect to its conflicts of law provisions. If any dispute arises between the parties under any of the provisions of this agreement, resolution of that dispute shall be exclusively through the jurisdiction, venue, and rules of the King County Superior Court.

10. **DEFAULT AND ATTORNEY'S FEES.** In the event that any party fails, without legal excuse, to perform any obligation under this Agreement, then the other party may, at their option, bring suit against the defaulting party for the other parties' actual damages and for specific performance, or pursue any other rights or remedies available at law or in equity.

If one or more parties institute suit concerning this Agreement, the prevailing party shall be entitled to court costs and reasonable attorney's fees. In the event of trial, the court shall fix the amount of the attorney's fees.

11. **LEGAL RIGHTS AND CONSTRUCTION.** The terms of this Agreement are deemed to have been explicitly negotiated between the Parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. Both Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal counsel to review of the terms and conditions outlined in this Agreement, although each Party must determine if they wish to obtain and pay for such legal review. NO REPRESENTATIONS OR WARRANTIES ARE MADE BY ONE PARTY TO THE OTHER PARTY AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT OR TAX CONSEQUENCES OF THIS AGREEMENT, THE TRANSACTION DESCRIBED HEREIN, OR ANY ATTACHMENTS TO THIS AGREEMENT.

12. **ASSIGNMENT.** No party shall assign any right or obligation hereunder in whole or in part, without the prior written consent of the other party.

13. **AMENDMENT, MODIFICATION OR WAIVER.** No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the parties to be bound, or such parties' duly authorized representative(s) and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not effect or impair any right arising from any subsequent default.

14. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other party.

15. **COOPERATION.** Prior to and after Closing each Party shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other Party in order to carry out the provisions and purposes of this Agreement.

16. **NON-MERGER.** The terms and provisions of this Agreement will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

SIGNATURES:

BUYER

JACOB ARMIJO

Date

CITY OF AUBURN

Nancy Backus, Mayor

Date

Attest:

Danielle E. Daskam, City Clerk

Approved as to Form

Daniel B. Heid, City Attorney

Exhibit "B"

After recording return to:

EASEMENT

Reference No. of related documents: _____

Grantors:	CITY OF AUBURN
Grantee:	JAKE ARMIJO
Short Legal:	A portion of Tract A of King County Boundary Line Agreement L00L0003, SE ¼ 8-21N-5E
Property Tax	
Parcel No.:	1446110140

For and in consideration of Ten Dollar (\$10.00) and other valuable consideration in hand paid, CITY OF AUBURN, a municipal corporation of the State of Washington, ("Grantor" herein), hereby conveys and warrants to Jacob Armijo, an individual ("Grantee" herein), for the purposes hereinafter set forth, a nonexclusive perpetual access easement over, across and through the real property described in Exhibit A and shown in Exhibit B ("Easement Area" herein).

Scope of Easement. Said Grantee shall have the right to access the Easement Area for all legal uses that do not interfere with the Grantor's full use and enjoyment and functioning of its storm water pond or impede Grantor's other governmental functions, provided, however, Grantee shall not construct or maintain any buildings or other structures, release any hazardous waste, nor plant any tree within the Easement Area. Grantee may specifically maintain, reconstruct, repair, replace, and remove the existing fence and landscaping in the Easement Area.

Entry Upon and Disturbance of Easement Area. Said Grantor shall have the absolute right, at times as may be necessary, for immediate entry upon said Easement Area for the purpose of maintenance, inspection, construction, repair or reconstruction of its utilities located under the Easement Area, and may remove, disturb, and relocate the soil and any personal property, including fencing, within the Easement Area to permit

Exhibit "B"

access to its utilities, provided Grantor takes reasonable care to not unnecessarily damage the property. Grantor's sole obligation in the event of any damage, relocation, or disruption of the Easement Area by Grantor, its employees, contractors, or agents shall be to re-establish existing grades and provide for adequate site stabilization. Upon such disturbance by Grantor, Grantee shall bear all other responsibility to return the Easement Area to a condition comparable to the condition that existed prior to Grantor's use of the Easement Area.

Should the Grantor exercise its right to conduct work on its utilities within the Easement Area, Grantor shall provide written notice and a written schedule to Grantee. Grantor shall conduct any repairs, maintenance, reconstruction or replacement within a reasonable time.

Termination. Grantor may terminate this Easement by written notice to the Grantee at any time. In such event, at City's request, the Grantee shall record a termination of easement with the King County Recorder. Upon termination, Grantee shall promptly remove from the Easement Area its improvements. Grantor, at its sole expense, shall remove and reinstall any fencing within Easement Area to a location of the Grantee's choosing outside the Area.

Indemnity. Said Grantee shall indemnify, defend, and hold harmless Grantor, its employees, officers, and agents from any and all liability, damages, expenses, causes of action, suits, claims, costs, fees (including attorney's fees), penalties, or judgments, of any nature whatsoever, arising out of the use, occupation, or control of the Easement Area by Grantee, his tenants, contractors, invitees, agents, employees, guests or permittees, including but not limited to the use, storage, generation, processing, transportation, handling, disposal, or release of any hazardous substance or materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"). This indemnification shall survive the termination of the Easement.

Attorney Fees. Should it be necessary for either party to enforce their rights under this agreement, then in the event of litigation the prevailing party shall be entitled to recover and collect all costs and reasonable attorney's fees as determined by the court resolving the litigation. As used in this paragraph, "costs" shall include all out of pocket expenses and charges incurred that related to pursuing enforcement or the breach of the terms and conditions of this easement.

Successors and Assigns. This easement and the covenants herein shall be covenants running with the land and shall inure to the benefit of and be binding on the successors, heirs, and assigns of both parties hereto, provided that Grantee's rights

Exhibit "B"

hereunder shall not be assigned to any other entity without the prior written consent of Grantor which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, said Municipality has caused this instrument to be executed by its proper officer(s) this _____ day of _____, 2014

GRANTOR:

City of Auburn, a Washington municipal corporation

BY: _____
Nancy Backus, Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2014, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Nancy Backus**, to me known to be the **Mayor** of the municipal corporation that executed the within and foregoing instrument, and acknowledged the same to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that they are authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

(Print or stamp name of Notary)

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

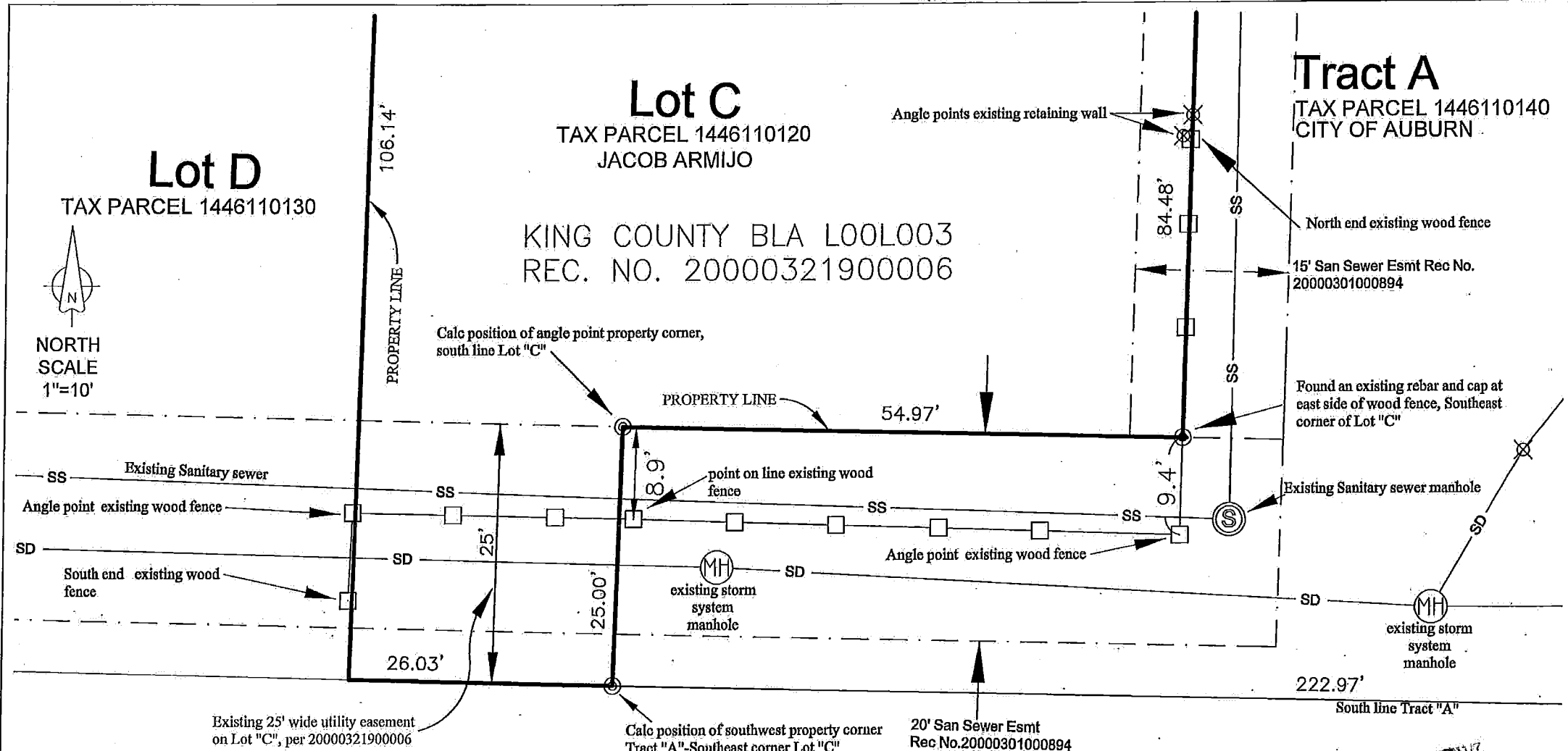
Lot D
TAX PARCEL 1446110130



Lot C
TAX PARCEL 1446110120
JACOB ARMIJO

KING COUNTY BLA L00L003
REC. NO. 20000321900006

Tract A
TAX PARCEL 1446110140
CITY OF AUBURN



- Survey Notes:
- 1) Field work for Topographic survey performed in November, 2013
 - 2) Reference field book 2013-07 , Pages 49-55
 - 3) Parcel lines on this exhibit map are from King County Boundary Line adjustment L00L0003, recorded under recording number 20000321900006
 - 4) Drawing is prepared to illustrate existing wood fence near Lot "C" that is built on Tract "A", and existing Public sewer and storm drainage lines in this vicinity.

PRELIMINARY
Review Copy
12/12/2013



CITY OF AUBURN
PUBLIC WORKS DEPARTMENT

EXHIBIT MAP "B"
DETAIL OF PROPERTY LINES ENCROACHMENTS AT STORM POND SITE
CEDAR HOLLOW #2 PLAT-TRACT "A"

PROJ: ADM 432
12/09/2013
SCALE: 1"=10'
DRAWN BY: BLM



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5087

Date:

July 17, 2014

Department:

Administration

Attachments:

[Resolution No. 5087](#)

[Current Lease](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5087.

Background Summary:

On May 16, 2011, the Auburn City Council adopted Resolution No. 4711 authorizing the Mayor to negotiate and execute an agreement with the Bank of Washington for ten feet of right-of-way required for the Promenade Project and also for a lease of the parking lot adjacent to the Bank's property for the purpose of providing additional parking in the downtown area accessible to City Hall and businesses in the vicinity.

The lease is due to expire, and the City and the Bank of Washington have agreed upon the terms for the extension of the current lease.

Reviewed by Council Committees:

Finance, Public Works Other: Admin, Legal

Councilmember: Wales

Staff: Hursh

Meeting Date: July 21, 2014

Item Number: RES.G

RESOLUTION NO. 5087

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, APPROVING THE LEASE
EXTENSION AND ADDENDUM TO LEASE BETWEEN THE
CITY OF AUBURN AND THE BANK OF WASHINGTON**

WHEREAS, the City of Auburn has rented property owned by the Bank of Washington for downtown parking lot purposes, which lease is expiring; and

WHEREAS, it is to the advantage of the City to have available in the downtown area, parking facilities accessible to City Hall and businesses in the vicinity; and

WHEREAS, the City of Auburn and the Bank of Washington have agreed on an extension of the current lease at terms that are acceptable to the parties.

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

Section 1. Extension of Lease. The City Council hereby approves the Lease Extension Agreement and Addendum to Lease Agreement in substantial conformity with the copy of which is attached hereto, marked as exhibit "A" and incorporated herein by this reference.

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

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

Dated and Signed this _____ day of _____, 2014.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:


Daniel B. Heid, City Attorney

EXHIBIT "A"

**Lease Extension Agreement and
Addendum to Lease Agreement**

This Lease Extension Agreement and Addendum to Lease Agreement (The Agreement) was created on July 11, 2014 between The Bank of Washington (hereafter the Landlord), and The City of Auburn (hereafter the Tenant) for the property located at 21 South Division & 36 West Main, Auburn WA.

The Agreement certifies that the parties agree to extend the lease agreement for an additional time period of two years starting on August 1, 2014 and ending on July 31, 2016.

This lease will be extended at a rate of \$2500 per month

The agreement binds the Landlord and the Tenant to the terms and condition of the original lease dated July 8, 2011. The agreement, along with the attached original lease is the entire agreement between both parties.

Tenant and landlord agree to the following amendments/additions to the lease dated July 8, 2011:

- 1) Tenant is responsible for paying real estate taxes for both parcels (Assessor's parcels #781570-0135 & #781570-0115), located at 21 S. Division St. and 36 West Main Street, respectively.**
- 2) Tenant is granted access from landlord for use of the trash enclosures located on the premises. Tenant assumes responsibility for maintenance during use and any damages caused to the trash enclosures which during the lease and/or use of the property.**

Signed:

_____	_____
<u>Jeanne Hansen, SVP, The Bank of Washington</u>	_____
<u>Landlord</u>	<u>Tenant</u>
Date: _____	Date: _____

PARKING LOTS LEASE

The Bank of Washington ("Landlord") leases to the City of Auburn, Washington, a municipal corporation ("Tenant") and Tenant leases from Landlord the following properties for purposes of public parking on the following terms:

1. **Premises.** The Premises are comprised of two separate parking lots, one located at 21 So. Division Street, Auburn, WA (a portion of Assessor's Parcel No. 781570-0135) ("Parking Lot A"), and the other located at 36 West Main Street, Auburn, WA (Assessor's Parcel No. 781570-0115) ("Parking Lot B"). Collectively, Parking Lots A and B are referred to herein as "the Parking Lots" and "the Premises". The legal description of the Parking Lots is attached as Exhibit A.

2. **Term.** The term of this Lease is thirty six (36) months, commencing July 8, 2011 (the "Commencement Date"), and terminating on the last day of the thirty sixth (36th) month thereafter (the "Termination Date"); provided, however, that Landlord may elect to terminate the Lease entirely or as to one of the Parking Lots upon written notice of at least thirty (30) days to Tenant. Upon Termination, all obligations owing by either party to the other terminate, except for those obligations that expressly survive termination.

3. **Option to Renew.** None.

4. **Rent.** Tenant shall pay Landlord, at Landlord's address for notice, rent in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) per month for the Parking Lots, commencing on the Commencement Date and continuing on the first day of each month during the Term of this Lease. If the Commencement date is other than the first day of the month, rent for that month shall be prorated based on percentage of days left in the month. The Rent may be paid in one payment to Landlord, but shall be apportioned for all purposes under this Lease as follows: seventy-five percent (75%) of the Rent, or \$1,850 per month, shall be for rent on Lot A, and the remaining twenty five percent (25%), or \$650 per month, shall be for rent on Lot B.

5. **Triple Net Charges.** None charged to Tenant.

6. **Late Payment and Interest.** If any amount due hereunder from Tenant is not received by Landlord by the date such amount is due, a late charge of five percent (5%) of the amount due shall be charged Tenant. All amounts owing to Landlord under this Lease including rent, shall be assessed interest from ten (10) days after the due date at nine percent (9%) per annum until paid.

7. **Maintenance.** Tenant shall be solely responsible for maintaining the Premises in good repair. This obligation further provides for Tenant, at its sole expense, to maintain the Premises in good condition, returning same to Landlord at the end of this lease in at least as good condition as presently exists, normal wear and tear excepted.

8. **Towing of Vehicles.** Tenant shall have the right to tow vehicles at its own
PARKING LOTS LEASE

PAGE 1 OF 8

BA
LANDLORD INITIALS

[Signature]
TENANT INITIALS

expense and risk from the Parking Lots.

9. Delay in Delivery of Possession. Not applicable.

10. Use of Premises. The Parking Lots shall be used for public parking, vehicular access for public parking, and related uses. Tenant shall not use the premises for parking of buses or trucks with a gross weight exceeding ten thousand (10,000) pounds without Landlord's prior written consent. Tenant shall promptly comply with all laws, ordinances, orders, and regulations affecting the Parking Lots and their cleanliness, safety, occupation and use. Tenant will not perform any act or carry on any practice that may injure the Parking Lots or be a nuisance or menace to adjoining tenants. Tenant shall not permit any outside storage on or about the Parking Lots. Upon termination of the Lease, Tenant shall surrender the Parking Lots to Landlord in good condition, normal wear and tear excepted.

11. Entry by Landlord. Landlord shall have the right at reasonable times, and with reasonable notice to Tenant in non-emergency situations, to enter the Premises to inspect the same or to show the Premises to prospective buyers, tenants or lenders.

12. Utilities. Tenant shall arrange and pay for any utilities it chooses for the Premises, including water, power, sewer, garbage and telephone service, which shall be separately metered in Tenant's name if delivered.

13. Acceptance of Premises. Tenant has examined the Parking Lots and accepts them as being in the condition called for by this Lease.

14. Alterations, Mechanics' Liens. Alterations may not be made to the Parking Lots without the prior written consent of Landlord. Tenant shall not permit any mechanic's or materialmen's liens of any kind to be enforced against the premises for any work done or materials furnished thereon at the request of or on behalf of the Tenant. All costs of improvements to make the Parking Lots useable as a parking lot, if any, shall be borne by the Tenant and shall be constructed in accordance with local laws and codes.

15. Quiet Conduct and Possession. Neither Tenant nor Landlord shall commit or suffer any waste upon the Parking Lots or any nuisance or other act or thing which may disturb the quiet enjoyment of any business on the Site.

16. Hazardous Substances. Tenant shall not cause or permit any hazardous substances as defined below to be brought upon kept or used in or about the premises by Tenant, its agents, employees, contractors or invitees. Tenant shall comply with all federal, state and local laws ordinances, codes, regulations, orders and decrees as they now exist, or are hereafter amended, including all policies, interpretations, guidelines, directions or recommendations relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, presence, release, disposal or transportation of any petroleum products, flammable, explosives, asbestos, urea formaldehyde, polychlorinated biphenyls, radioactive materials or waste, or other hazardous, toxic, contaminating or polluting materials, substances or

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wastes, including any materials defined as "hazardous substances", "hazardous wastes", "hazardous materials", or "toxic substances" (collectively, "Hazardous Materials") under any such Hazardous Materials Laws and amendments thereto.

Tenant shall defend (with counsel reasonably acceptable to Landlord) and indemnify Landlord and Landlord's officers, directors, partners, managers, members, employees, agents, successors and assigns against any and all claims, liabilities, damages, costs, penalties, forfeitures, losses, obligations, investigation costs, remediation and removal costs, natural resource damages and expenses, including attorney's fees, arising in whole or in part, directly or indirectly, from (a) the presence or release of Hazardous materials in, on, under, upon or from the premises as a result of acts or omissions of Tenant or its employees, agents or invitees; (b) the transportation or disposal of Hazardous Materials to or from the premises by at the request of or in with the permission of Tenant or its employees, agents, or invitees; (c) the violation of any Hazardous Materials Laws by Tenant, or its employees or agents; (d) the failure of Tenant, its employees or agents to comply with the terms of this Section 16; or (e) the use, storage, generation or disposal of Hazardous Materials in on or about the premises. The respective rights and obligations of Landlord and Tenant under this Section 16 shall survive the expiration or earlier termination of this Lease.

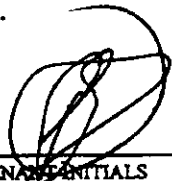
17 **Insurance.** Tenant, at its own expense, shall maintain with companies acceptable to Landlord, insurance for the benefit of Landlord and Tenant jointly in the amount of at least One Million Dollars (\$1,000,000) per occurrence for liability from injuries to or death of a person, and in the amount of at least Fifty Thousand Dollars (\$50,000) per occurrence for liability from damage to property. Tenant shall furnish Landlord with a certificate of such policy within 30 days of the Commencement Date and whenever required shall satisfy Landlord that such policy is in full force and effect. Such policy shall: (a) name Landlord as an additional insured; (b) be primary and non-contributing with any insurance carried by Landlord; and (c) provide that it shall not be canceled or altered without twenty (20) days' prior written notice to Landlord.

18. **Indemnification by Tenant.** Tenant shall defend (using legal counsel reasonably acceptable to Landlord) and indemnify Landlord, its agents and employees from any claims, expenses, including attorneys fees, or damages of any kind arising in connection with the occupancy or use of the premises by Tenant, its agents, customers, employees, contractors, subtenants or assignees; Tenant's breach of its obligations under this Lease; or any negligent or wrongful act or omission of Tenant, its agents, customers, employees, contractors, subtenants or assigns. The provisions of this Section 18 shall survive expiration or termination of this Lease and shall include all claims against Landlord by any employee or former employee of Tenant. Landlord and Tenant have specifically negotiated this provision and Tenant specifically waives any provisions of any industrial insurance act including, Title 51 of the Revised Code of Washington, or any other employee benefit act which might otherwise operate to release or immunize Tenant from its obligations under this Section 18.

19 **No Auctions.** [intentionally deleted].

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20. **Landscaping and Signs.** Tenant shall make no other alterations or additions to the Parking Lots landscaping. Other than towing company signs, Tenant shall place no exterior signs on the Parking Lots without the prior written consent of Landlord. If Landlord allows signs, Tenant will pay the costs of same.

21. **Taxes.** Tenant shall pay before delinquent any tax, assessment, fee, or public charge payable for any time during the Lease term because of Tenant's fixtures, furniture, appliances and personal property installed or located at the Premises. Tenant will pay all taxes imposed because of the rent payable hereunder, whether as a so-called sales tax, transaction privilege tax, excise tax, or otherwise.

22. **Abandonment.** [intentionally deleted].

23. **Assignment.** Landlord may assign its interest in this Lease as to Parking Lot A, as to Parking Lot B, or as to both Parking Lots, to any person or entity without the consent of Tenant. When notified of such assignment, Tenant agrees to attorn to Landlord's assignee. This may require Tenant to pay Rent with two checks, one for each Lot, and Tenant shall do so.

24. **Insolvency of Tenant.** [intentionally deleted].

25. **Default.** The following shall be events of default:

a. **Default in Rent.** Failure of Tenant to pay any rent or other charges within ten (10) days after written notice that such payment was not received when it is due.

b. **Default in Other Covenants.** Failure of Tenant to comply with any obligation of the Lease after written notice from Landlord of such default and a reasonable cure period (e.g. thirty (30) days with additional time for those events of default not reasonably subject to cure within thirty (30) days). Failure of Landlord to comply with any obligation of the Lease after written notice from Tenant of such default and a reasonable cure period (e.g. thirty (30) days with additional time for those events of default not reasonably subject to cure within thirty (30) days).

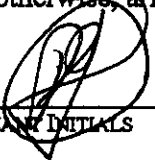
26. **Remedies on Default.** Upon default by Tenant, Landlord may terminate Tenant's right to possession of the Parking Lots, upon which Tenant shall immediately surrender the Parking Lots but remain liable to Landlord for the value of the Lease for the remainder of the term of the Lease less any rent obtained by Landlord for the Parking Lots from another tenant during that term, plus all costs incurred by Landlord to cause another tenant to lease the Parking Lots. Upon default by Landlord, Tenant may immediately surrender the Premises and terminate the Lease, in which case Landlord shall be liable to Tenant for all costs incurred by Tenant to relocate to comparable premises, including any additional rent Tenant will incur for the remaining term of the Lease.

27 **Attorneys' Fees and Collection Charges.** If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease,

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including, but not limited to, any suit by Landlord for the recovery of Rent or possession of the Parking Lots, the losing party shall pay the successful party the court costs and reasonable attorneys' and paralegal fees incurred therefor and such expenses shall be paid whether or not such action is prosecuted to judgment.

Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or for the foreclosure of any lien for labor or material furnished to or for Tenant or otherwise arising out of or resulting from any act or transaction of Tenant, Tenant agrees and covenants to save and hold Landlord harmless from any judgment rendered against Landlord or the Parking Lots or any part thereof, and to defend and indemnify Landlord as to any and all costs and expenses, including attorneys' and paralegal fees and court costs, incurred by Landlord in or in connection with such litigation.

28. **Condemnation.** If more than twenty-five percent (25%) of the square footage of the Parking Lots is taken or condemned for a public or quasi-public use, Tenant may terminate this Lease with not less than thirty (30) days' written notice to Landlord. If twenty-five percent (25%) or less of the square footage of the Parking Lots is taken or condemned for a public or quasi-public, or if Tenant chooses not to terminate the Lease otherwise, then the rent payable hereunder shall be adjusted so that the Tenant shall be required to pay for the remainder of the term only such portion of such rent as the number of square feet in the part remaining after the condemnation bears to the number of square feet in the Parking Lots on the Commencement Date. In the event of a taking or condemnation, all compensation awarded for such condemnation or taking shall be paid to Landlord, provided, however, Tenant shall be entitled to that portion of the award representing the value of Tenant's leasehold estate and compensation or damages from the condemning authority for interruption of its business, its fixtures and personal property, or for moving expenses.

29. **Notices.** All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments, or designations under this Lease by either party to the other shall be in writing and shall be sufficiently given and served upon the other party, if sent by certified mail, return receipt requested postage prepaid to the addresses below their respective signatures below

30. **No Waiver** The failure of either party to enforce any breach of this Lease by Tenant shall not be a waiver of any subsequent breach.

31. **Estoppel Certificates.** [intentionally deleted].

32. **Exclusivity** [intentionally deleted].

33. **Miscellaneous.**

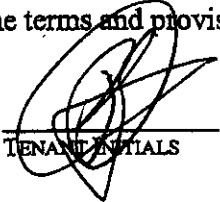
a. Time is of the essence of each term of this Lease.

b. Subject to Paragraph 23, the terms and provisions of this Lease shall be

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binding upon and inure to the benefits of the heirs, executors, administrators, and assigns of Landlord and Tenant, including purchasers of the Premises. This Lease shall run with the land.

c. This Lease may be executed in counterparts and a facsimile signature shall be as valid as an original.

d. Should any provision of this Lease be deemed unenforceable, it shall be stricken so that the remainder of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year set forth below next to their respective names.

LANDLORD:

The Bank of Washington
A Washington banking corporation

By: [Signature]

Its: SVP

Dated: 6-22-11

Address: 19424-58th Place West
Lynnwood, WA 98036

State of Washington)
)ss
County of King)

TENANT

The City of Auburn
A Washington municipal corporation

By: [Signature]

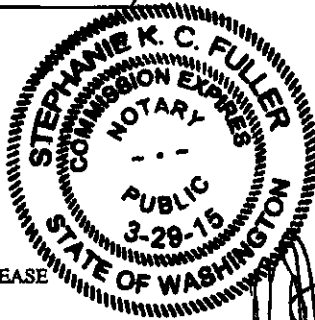
Its: MAYOR

Dated: 6-28-11

Address: 25 W MAIN ST
AUBURN WA 98001

I certify that I know or have satisfactory evidence that Peter B Lewis is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of the City of Auburn, Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 28, 2011



PARKING LOTS LEASE

[Signature]

Print Name: Stephanie K C Fuller

Notary Public in and for Washington

Residing at: King Co.

Commission expires: 03 29 15

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State of Washington)
Snohomish)ss
County of King)

I certify that I know or have satisfactory evidence that Bruce Addison is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the SVP of The Bank of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 23 June 11



Susan L. Skidmore
Print Name: SUSAN L SKIDMORE
Notary Public in and for Washington
Residing at: Edmonds
Commission expires: 9-1-14

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[Signature]

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EXHIBIT "A"

Legal Description

Parking Lot A.

Lots 7 and 8, Block 2, Town of Slaughter according to the plat thereof, recorded in Volume 2 of Plats, Page 56, King County, Washington.

Together with that portion of the vacated alley in said Block 2 as would attach by operation of law, pursuant to Ordinance No. 6193 of City of Auburn, recorded under Recording No. 20080912001319

Excepting therefrom the most easterly ten feet thereof

Assessor's Parcel No. 781570-0135.

Parking Lot B.

Lot 4, Block 2, Town of Slaughter according to the plat thereof, recorded in Volume 2 of Plats, Page 56, King County, Washington.

Except that portion of said Lot 4 lying east of the following described line:
Beginning at a point on the North line of said Lot 4 a distance of 58.02 feet East of the Northwest corner thereof; S
Thence South to a point on the South line of said Lot 4, distant 0.6 feet West of the Southeast corner thereof.

Together with that portion of the vacated alley in said Block 2 as would attach by operation of law, pursuant to Ordinance No. 6193 of City of Auburn, recorded under Recording No. 20080912001319.

Assessor's Tax Parcel No. 781570-0115

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