CITY OF AUBURN WASHINGTON	**City Council Meeting** **June 2, 2014 - 7:30 PM** **Auburn City Hall** **AGENDA** Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.

I. **CALL TO ORDER**

A. **Flag Salute**

B. **Roll Call**

C. **Announcements, Appointments, and Presentations**

D. **Agenda Modifications**

II. **CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE**

A. **Public Hearings**
No public hearing is scheduled for this evening.

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

B. **Planning & Community Development**

1. **May 27, 2014 Minutes* (Holman)**

C. **Public Works**

1. **May 19, 2014 Minutes* (Osborne)**

D. **Finance**

1. **May 18, 2014 Minutes* (Wales)**

E. **Les Gove Community Campus**

F. **Council Operations Committee**

1. **May 30, 2014 Agenda* (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. **<u>May 18, 2014 Regular Meeting Minutes*</u>**

B. **<u>Claims Vouchers (Wales/Coleman)</u>**
Claims check numbers 428728 through 428912 in the amount of $1,446,429.92 and 4 wire transfers in the amount of $156,288.21 and dated June 2, 2014.

C. **<u>Payroll Vouchers (Wales/Coleman)</u>**
Payroll check numbers 534715 through 534754 in the amount of $266,370.65, electronic deposit transmissions in the amount of $1,293,778.04 for a grand total of $1,560,148.69 for the period May 15, 2014 to May 28, 2014.

D. **<u>Public Works Project No. CP1323* (Osborne/Snyder)</u>**
City Council to grant permission to advertise for bids for Project No. CP1323, 2014 Local Street Pavement Reconstruction Project

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

V. **UNFINISHED BUSINESS**

There is no unfinished business.

VI. **NEW BUSINESS**

There is no new business.

VII. **ORDINANCES**

A. **<u>Ordinance No. 6506* (Osborne/Snyder)</u>**
An Ordinance of the City Council of the City of Auburn, Washington, granting to tw telecom of washington llc, A Delaware Limited Liability Company, a Franchise for Telecommunications

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6506.)

VIII. **RESOLUTIONS**

A. **<u>Resolution No. 5065* (Osborne/Snyder)</u>**
A Resolution of the City Council of the City Of Auburn, Washington, setting a Public Hearing to consider the vacation of 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

(RECOMMENDED ACTION: City Council adopt Resolution No. 5065.)

B. **<u>Resolution No. 5074* (Osborne/Snyder)</u>**
A Resolution of the City Council of the City of Auburn, Washington, setting the time and date for a public hearing before the City Council on the 2015-2020 Transportation Improvement Plan

(RECOMMENDED ACTION: City Council adopt Resolution No. 5074.)

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:
May 27, 2014 Minutes

Date:
May 28, 2014

Department:
Planning and Development

Attachments:
May 27, 2014 Draft Minutes

Budget Impact:
$0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember: Holman

Staff:

Meeting Date: June 2, 2014

Item Number: PCD.1

CITY OF AUBURN WASHINGTON	**Planning and Community Development** **May 27, 2014 - 5:00 PM** **Annex Conference Room 2** **MINUTES**

I. CALL TO ORDER

Chair John 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, City Attorney Dan Heid, Director of Community Development and Public Works Kevin Snyder, Director of Administration Michael Hursh, Assistant Director of Community Development Services Jeff Tate, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Planning Services Manager Elizabeth Chamberlain, Transportation Manager Pablo Para, Emergency Preparedness Manager Sarah Miller, Veterans/Human Services Coordinator Erica Sullivan, Engineering Aide Amber Mund, and Community Development Secretary Tina Kriss.

Members of the Audience present: Councilmember Osborne, Jim Honan, Kim Lorenz, Drew Zaborowski, Casey Sheehan, Eric Little, Brent Carson, and Robert Whale of the Auburn Reporter.

B. Announcements

C. Agenda Modifications

II. CONSENT AGENDA

A. Minutes - May 12, 2014 (Tate)

Vice Chair Wales moved and Member Trout seconded to approve the May 12, 2014 minutes as written.

Motion carried unanimously. 3-0

III. ACTION

A. Resolution No. 5074 (Para)

Transportation Manager Pablo Para presented the staff report on

Resolution No. 5074, to set the time and date for a public hearing to amend the six year 2015-2020 Transportation Improvement Plan.

Vice-Chair Wales moved and Member Trout seconded to recommend City Council adopt Resolution No. 5074.

Motion carried unanimously. 3-0

B. Resolution No. 5069 (Miller)

Emergency Preparedness Manager Sarah Miller provided background information on Resolution No. 5069, authorizing the acceptance of a grant from the Washington Service Corps to provide a full-time disaster services member to the City of Auburn, and authorizing the Mayor and City Clerk to execute the necessary agreements to accept said member.

The Committee discussed the history of the position and was supportive of the Resolution.

Vice-Chair Wales moved and Member Trout seconded to request City Council adopt Resolution No. 5069.

Motion unanimously moved. 3-0

C. Resolution No. 5070 (Miller)

Emergency Preparedness Manager Sarah Miller introduced the City's Veterans/Human Services Coordinator Erica Sullivan to the Committee and provided background information on Resolution No. 5070, a Resolution of the City Council of the City of Auburn, Washington, authorizing the acceptance of a grant from the Washington Service Corps to provide a full-time veterans services member to the City of Auburn, and authorizing the Mayor and City Clerk to execute the necessary agreements to accept said member. A discussion was held regarding the position history and previous grant funding; the Committee was supportive of the Resolution.

Vice-Chair Wales moved and Member Trout seconded to request City Council adopt Resolution No. 5070.

Motion unanimously approved. 3-0

IV. DISCUSSION ITEMS

A. Resolution No. 5065 (Mund)

Engineering Aide Amber Mund reviewed Resolution No. 5065. If approved, the Resolution would set the date of the public hearing for Vacation No. V2-14, vacation of the un-opened right-of-way of South

324th Street located between 46th Place South and 51st Avenue South, south of South 321st Street by PNW Home for July 7, 2014.

The Committee was supportive of this right-of-way vacation.

B. ZOA14-0002 - Amendment to Zoning Code Section 18.23. Related to Warehouse and Distribution Uses (Tate)

Principal Planner Dixon briefed the Committee on Ordinance No. 6508 and explained that at the May 6, 2014 Public Hearing the Planning Commission recommended approval of Ordinance No. 6508 amending Auburn City Code Chapter Section 18.23.030 with Footnote 1, as amended. A memorandum, map and letter regarding ZOA14-0002 were provided to the Committee.

The Committee and staff discussed the EP zone uses, the intent of the Council in creating the EP zoning designation, and conforming and non-conforming uses. A discussion was held regarding the requests made by Mr. Carson in his letter to the Committee dated May 23, 2014. The Committee asked to hear from the owners of the properties impacted by ZOA14-0002.

Brent Carson, Van Ness Feldman, LLP, 719 2nd Ave., Ste. 1150, Seattle
Mr. Carson stated that the owners of the property are looking for certainty, if warehouse and distribution was a permitted “P” use in the EP zone, clarity and certainty would be provided to owners, lenders, and buyers. After reviewing his request in a letter dated May 23, 2014, Mr. Carson emphasized that their position today remains consistent to ask that the Committee recommend to full Council an outright permitted “P” use for warehouse and distribution in the EP zoning district identical to the M1 and M2 zoning districts. This would provide the owners in the EP zone the same rights and uses as the owners in the M1 and M2 zoning district.

Kim Lorenz, owner of Sound Tire, LLC, 59 Skagit Key, Bellevue
Mr. Lorenz reviewed the history of his building located in the EP zone. He explained that there has been no additional development in the EP zone as compared to the $150,000,000.00 in investments in other zones. Mr. Lorenz stated that the when owners invested in their properties multiple uses were allowed. The owners would like to continue to invest in those properties and Mr. Lorenz feels they should have the right, and deserve to invest in those properties. Removing that option substantially reduces the marketability and value of the buildings. When he lost the sale of his building, the purchaser emphasized, if the building can not be used for warehouse, distribution, and manufacturing, the value of the building is zero. Green businesses coming into this zone will have assembly,

receiving, shipping, and warehouse products. Limiting the use will limit green activity and technology. Allowing warehouse and distribution as permitted “P” uses in the EP zone would only be fair to the owners.

The Committee and staff discussed the lack of development in the EP zone compared to the M1 and M2 zones and providing relief to the owners of the buildings. After discussing the proposals before the Committee, the Committee concurred to amend the Environmental Park (EP) zone, allowing warehouse and distribution as a permitted “P” use identical to the M1, M2 zoning district. The Committee also requested that the EP zone be reviewed by the Council and Community with the Comprehensive Plan updates in order to refine any necessary changes or updates.

The Committee would like to add the EP zone discussion to the matrix and asked staff to return with a draft Ordinance. Staff indicated that they will be on target to go forward to full Council with a proposed Ordinance in June.

C. AARP Report "Is This a Good Place to Live?/Measuring Community Quality of Life for All Ages (Tate)

Assistant Director Tate, the Committee. and staff discussed the summary and lessons learned measuring livability within a community.

Staff will continue to provide the Committee with various articles and information to assist with future community dialogue and the comprehensive plan updates.

D. Auburn City Code Chapter 1.25 - Civil Penalties and Code Enforcement Procedures (Tate)

Assistant Director Tate explained the gaps, inefficiencies, and inconsistencies within Chapter 1.25 of Auburn City Code as it relates to Civil Penalties and Code Enforcement. A discussion was held regarding the types of cases code enforcement manages and how Chapter 1.25 impacts those cases. The Committee and staff discussed Exhibit B, the draft ACC Chapter 1.25 Outline and additions that would be added to the proposed amendment (Exhibit B).

The Committee and staff discussed options to inform the public of the City’s code enforcement processes and procedures, the Committee was encouraged with staff's amendment proposal.

E. Director's Report (Tate)

Assistant Director Tate reported that two Conditional Use Permits will be going before the May 28, 2014 Hearing Examiner. This is a quasi judicial process, the decision will be rendered within 10 business days of the closing date of the hearing. If there are any questions, please feel free to direct questions to staff.

Staff has been meeting with VRFA, the Police, Utility Billing, and Information Technology Departments in coordination with the Auburn Adventist Academy representatives to discuss campus addressing. There are a number of private roads, buildings, and academic buildings within the campus which have caused some confusion with Police and Fire. This has been a collaborative process between the Academy and the City. Ultimately the change of address request will be drafted in a Resolution and go through the City's process, being reviewed by this Committee before going forward to City Council.

The City currently has 16 sub-divisions in process with a total of 778 new lots. Some of these applications were new and some were reactivated.

F. PCDC Status Matrix (Tate)

The Committee and staff reviewed the Matrix, there were no changes requested by the Committee.

V. **ADJOURNMENT**

There being no further business to come before the Planning and Community Development Committee, the meeting was adjourned at 6:38 p.m.

Approved this __________________ day of _________________, 2014.

____
John Holman - Chair

____
Tina Kriss - Community Development Secretary

____
JOHN HOLMAN - CHAIR

____

AGENDA BILL APPROVAL FORM

Agenda Subject:
May 19, 2014 Minutes

Date:
May 27, 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: June 2, 2014

Item Number: PW.1

CITY OF AUBURN WASHINGTON	**Public Works Committee** **May 19, 2014 - 3:30 PM** **Annex Conference Room 2** **MINUTES**

I. CALL TO ORDER

Vice-Chair Bill Peloza 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

Committee members present were: Vice-Chair Bill Peloza, acting as Chair, Member Claude DaCorsi, acting as Vice-Chair and Councilmember John Holman, substituting for Chairman Wayne Osborne, whose absence was excused. Also present during the meeting were: Mayor Nancy Backus, Director of Community Development and Public Works Kevin Snyder, Assistant Director of Engineering/City Engineer Ingrid Gaub, Assistant Director of Public Works Operations Randy Bailey, Finance Accounting Manager Rhonda Ewing, Assistant City Engineer Jacob Sweeting, Economic Development Manager Doug Lein, Acting Utilities Engineer Susan Fenhaus, Transportation Manager Pablo Para, Project Engineer Matt Larson, Engineering Aide Amber Mund, and Public Works Secretary Molly Hoisington. Members of the public in attendance included: Tom Brosius.

B. Announcements

There were no announcements.

C. Agenda Modifications

There was one modification, adding Discussion Item F, Resolution No. 5072 to the agenda.

II. CONSENT AGENDA

A. Approval of Minutes
Public Works Committee to approve the minutes of the May 5, 2014 Public Works Committee meeting

Member DaCorsi noted a Scrivener’s error on page 6 of 7.

It was moved by Member DaCorsi, seconded by Councilmember Holman, that the Committee approve the Public Works Committee

Meeting minutes for date, May 5, 2014, as amended.

Motion carried 3-0.

III. ACTION

A. Right-of-Way Use Permit No. 14-13 (Mund)
Approve Right-of-Way Use Permit No. 14-13 for the City's 123nd Birthday Celebration

Engineering Aide Mund advised Committee that Right-of-Way Use Permit No. 14-13 is for the City's 123rd Birthday Celebration. The applicant has requested to close and use West Main Street between A Street NW/SW and Division Street N/S from 3:00pm to 9:00pm to allow for the event set up and clean up.

It was moved by Member DaCorsi, seconded by Councilmember Holman, that the Committee approve Right-of-Way Use Permit No. 14-13 for the Citys 123rd Birthday Celebration.

Motion carried 3-0.

B. Public Works Project No. C410A (Larson)
Approve Final Pay Estimate No.9 to Contract No. 11-12 in the amount of $5,780.94 and accept construction of Project No. C410A South 277th St. Reconstruction-Wetland Mitigation Improvements

Project Engineer Larson provided a brief background summary of the project.

Assistant Director of Engineering Gaub and Project Engineer Larson responded to a question asked by Member DaCorsi regarding the pay estimate.

It was moved by Member DaCorsi, seconded by Councilmember Holman, that the Committee approve Final Pay Estimate No. 9 to Contract No. 11-12 in the amount of $5,780.94 and accept construction of Project No. C410A South 277th Street Reconstruction-Wetland Mitigation Improvements.

Motion carried 3-0.

IV. DISCUSSION ITEMS

A. Quarter 1 - 2014 Financial Report (Coleman)

Finance Accounting Manager Ewing advised this is the financial report for the first quarter of 2014, which encompasses January through March.

General Fund highlights include:
• General Fund revenues totaled $11.4 million and exceeded year-to-date budget of $9.9 million due primarily to increased revenues from sales tax collections, property tax collections and building permit revenues.
• General Fund expenditures were $12.8 million and compares to $12.5 million for the same period last year. Part of this increase is due to the Golf Course fund being reported under the General Fund as of January 1, 2014.
• Payments to SCORE decreased by $675,000.00.
• Overall departmental spending is $872,000.00 under budget for the first quarter.

Enterprise Fund highlights include:
• Water Fund has an operating income of $148,000.00 compared to $8,000.00 the previous year for the same time period.
• Sewer Fund has $58,000.00 operating loss compared to $305,000.00 the previous year.
• Sewer-Metro Utility Fund has an operating loss of $58,000.00 compared to $180,000.00 the previous year.
• Stormwater Utility Fund has an operation income of $370,000.00 compared to $330,000.00 the previous year.
• The Cemetery ended the first quarter with operating income of $42,000.00 compared to $31,000.00 the previous year.

Councilmember Holman complimented the Finance team on their budgeting abilities.

Finance Accounting Manager Ewing replied to a question asked by Member DaCorsi regarding the pet licensing chart on page 37.

B. Draft 2015-2020 Transportation Improvement Program (TIP) (Webb)

Answering a question asked by Vice-Chair Peloza, Transportation Manager Para explained the Transportation Improvement Program deletions.

Transportation Manager Para and Assistant Director of Engineering/City Engineer Gaub responded to a question asked by Vice-Chair Peloza regarding the budget funds on TIP #5.

Transportation Manager Para explained the bicycle boulevard in TIP #10, following a question asked by Member DaCorsi.

In response to a question asked by Member DaCorsi, Transportation Manager Para explained the progress summary and the associated budget on TIP #19.

Transportation Manager Para responded to a question asked by Member DaCorsi regarding the annual maintenance cost on TIP #23, which appears to be a typo.

Responding to a question asked by Vice-Chair Peloza, Transportation Manager Para explained the progress summary on TIP #26. Mayor Backus commented on this as well.

Transportation Manager Para clarified the description on TIP #32, following a question asked by Vice-Chair Peloza.

Transportation Manager Para responded to a question asked by Member DaCorsi regarding the Interurban Trail on TIP #45. Councilmember Holman also commented on this.

Assistant Director of Engineering/City Engineer Gaub and Transportation Manager Para responded to a question regarding TIP #69, in response to a question asked by Vice-Chair Peloza.

C. Capital Project Status Report (Sweeting)

Item 31 – C229A – BNSF/EVH Pedestrian Undercrossing:
In response to a question asked by Member DaCorsi, Assistant Director of Engineering/City Engineer Gaub provided additional details regarding the project scope and budget.

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

There were no questions from the Committee.

E. Action Tracking Matrix (Gaub)

Vice-Chair Peloza requested a status update on the sidewalk outside of City Hall, which was discussed at the last Committee meeting. Assistant Director of Public Works Operations Bailey responded advising a work order was entered and that a temporary repair has been made. Transportation Manager Para further explained that a few panels on that sidewalk are scheduled to be replaced this year.

Item F – Amberview Apartments Sewer Odor:
Director of Public Works Operations Bailey provided background information regarding this item as requested by Councilmember Holman.

Item G – Lea Hill Road Repair:
Assistant City Engineer Sweeting provided a status update on the Lea Hill Road Repair following the request made by Councilmember Holman.

Vice-Chair Peloza mentioned the possibility of retrofitting existing fire hydrants so that all hydrants have Storz adapters to better serve the Valley Regional Fire Authority (VRFA). Staff explained the high cost associated with this and advised it is not currently financially feasible within the water enterprise fund to replace all existing hydrants; however, all new or replaced hydrants include the Storz adapter preferred by VRFA. Additionally, VRFA has not indicated that the existing hydrants are a problem at this time.

F. Resolution No. 5072 (Lein)

This Resolution was an Agenda Modification, and for the purpose of these minutes was discussed after Discussion Item A.

Economic Development Manager Lein introduced himself and General Manager for Orion Industries, Tom Brosius.

Economic Development Manager Lein explained this is a Resolution for support and approval which has been requested by the Washington Economic Development Finance Authority (WEDFA) which is an independent agency within the executive branch of state government. WEDFA was created by the legislature to act as a financial conduit to businesses through the issuance of nonrecourse revenue bonds.

Orion Industries recently built a new facility on 15th Street NE. Included in the Resolution, Exhibit A, Section 3 (f) states "…the Issuer shall have received evidence that the county, city, or town within whose planning jurisdiction the Project lies has approved the Project and the Bonds or such other evidence satisfactory to the Issuer that the Project will be welcomed by the community in which the Project will be located" which is asking to make sure the community wants the project here and that it is found to be a positive economic development move and job creator for the community.

General Manager for Orion Industries, Tom Brosius, thanked the City of Auburn for welcoming Orion Industries to the community and all the work the Economic Development Team provided to encourage making Auburn their new home. Mr. Brosius stated it has been a very positive experience and that they now have 250 people employed in the new facility.

The Committee voiced their satisfaction with Orion Industries choosing Auburn for their new facility.

Vice-Chair Peloza requested to have ".00" added to page 2 of Resolution No. 5072.

V. ADJOURNMENT

There being no further business to come before the Public Works Committee, the meeting was adjourned at 4:16 p.m.

Approved this 2nd day of June, 2014.

Wayne Osborne	Molly Hoisington
Chairman	Public Works Department Secretary

AGENDA BILL APPROVAL FORM

Agenda Subject:
May 18, 2014 Minutes

Date:
May 27, 2014

Department:
Administration

Attachments:
5-19-2014 Minutes

Budget Impact:
$0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember: Wales

Staff:

Meeting Date: June 2, 2014

Item Number: FN.1

CITY OF AUBURN WASHINGTON	**Finance Committee** **May 19, 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 and Member Yolanda Trout were present. Vice Chair Holman arrived at 5:10 p.m. and after discussion of Resolution No. 5071.

Officials and staff members present included: Mayor Nancy Backus, Community Development and Public Works Director Kevin Snyder, City Attorney Daniel B. Heid, Finance Accounting Manager Rhonda Ewing, Economic Development Manager Doug Lein, and City Clerk Danielle Daskam.

B. Announcements

There was no announcement.

C. Agenda Modifications

There was no change to the agenda.

II. CONSENT AGENDA

A. May 5, 2014 Minutes

Member Trout moved to approve the May 5, 2014 minutes as distributed. Chair Wales concurred.

MOTION CARRIED UNANIMOUSLY. 2-0

B. Claims Vouchers (Coleman)
Claims voucher number 428546 through 428727 in the amount of $3,744,492.90 and 3 wire transfers in the amount of $250,413.97 and dated May 19, 2014.

Committee members reviewed claims and payroll vouchers.

Member Trout moved to approve claims and payroll vouchers. Chair

Wales concurred.

MOTION CARRIED UNANIMOUSLY. 2-0

C. Payroll Vouchers (Coleman)
Payroll check numbers 534680 through 534714 in the amount of $825,469.81, electronic deposit transmissions in the amount of $1,268,009.95 for a grand total of $2,093,479.76 for the period covering May 1, 2014 to May 14, 2014.

See claims vouchers above for approval of payroll vouchers.

III. RESOLUTIONS

A. Resolution No. 5072 (Lein)
A Resolution of the City Council of the City of Auburn, Washington, approving the action of the Washington Economic Development Finance Authority in issuing non-recourse revenue bonds to finance an economic development facility for use by Orion Industries, and providing for other matters properly relating thereto

Economic Development Manager Lein presented Resolution No. 5072 approving the action of the Washington State Economic Development Finance Authority (WEDFA) in issuing $9.5 million in non-recourse revenue bonds to Orion Industries. The proceeds of the bonds will be loaned to Orion Industries to finance the cost of constructing, acquiring and equipping their facility at 1590 A Street NE in Auburn. It is a requirement of the WEDFA that the local jurisdiction in which the facility is located approve the project and the issuance of the bonds. There is no impact to the City or the State of Washington.

Member Trout moved to approve and forward Resolution No. 5072 to the full Council for consideration. Chair Wales concurred.

MOTION CARRIED UNANIMOUSLY. 2-0

IV. DISCUSSION ITEMS

A. Resolution No. 5071 (Coleman)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute second amendment to agreement between the City of Auburn and Redflex Traffic Systems, Inc.

City Attorney Heid presented Resolution No. 5071. Resolution No. 5071 will authorize the extension of the current contract with Redflex Traffic Systems up to November 30, 2014. City Attorney Heid reported the City recently issued a Request for Proposals for photo enforcement, and three responses were received. The City is currently negotiating a contract with the selected photo enforcement contractor. An additional extension of the current contract with Redflex will ensure there is no gap in service.

Resolution No. 5071 was reviewed and recommended for approval by the Municipal Services Committee.

B. Quarter 1 - 2014 Financial Report (Coleman)

Finance Accounting Manager Ewing reviewed the first quarter financial report. Manager Ewing noted the General Fund revenues totaled $11.4 million and exceeded year-to-date budget of $9.9 million due primarily to increased revenues from sales tax, property tax and building permit revenues. General Fund expenditures totaled $12.8 million and compares to $12.5 million for the same period last year. Also of note is the accounting change whereas the Golf Course is now reported under the General Fund and payments to SCORE have decreased by $675,000.00.

At the end of the first quarter, the Water Fund's net operating income increased to $148,000.00 compared to $8,000.00 the previous year; the Sewer Fund ended with $58,000.00 operating loss compared to a loss of $305,000.00 last year; the Sewer-Metro Utility ended with an operating loss of $58,000.00 compared to a loss of $180,000 the previous year; and the Stormwater Utility ended the quarter with an operating income of $370,000.00 compared to an operating income of $330,000.00 the previous year. The Cemetery ended the first quarter of 2014 with net operating income of $42,000.00 compared to an operating income of $31,000.00 the previous year.

V. ADJOURNMENT

There being no further business to come before the Committee, the meeting adjourned at 5:18 p.m.

APPROVED this _____ day of __________________, 2014.

LARGO WALES, CHAIR

Danielle Daskam, City Clerk

AGENDA BILL APPROVAL FORM

Agenda Subject:
May 30, 2014 Agenda

Date:
May 29, 2014

Department:
Administration

Attachments:
5-30-2014 Agenda

Budget Impact:
$0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember: Wagner

Staff:

Meeting Date: June 2, 2014

Item Number: COC.1

Council Operations Committee
May 30, 2014 - 1:00 PM
City Hall Council Conference Room
AGENDA

I. **CALL TO ORDER**

A. **Roll Call**

B. **Announcements**

C. **Agenda Modifications**

II. **CONSENT AGENDA**

A. **April 28, 2014 Minutes***

III. **DISCUSSION ITEMS**

A. **Council Committee Format***

IV. **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:
May 18, 2014 Regular Meeting Minutes

Date:
May 27, 2014

Department:
Administration

Attachments:
5-19-2014 Minutes

Budget Impact:
$0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: June 2, 2014

Item Number: CA.A

CITY OF AUBURN WASHINGTON	**City Council Meeting** **May 19, 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 p.m. and led those in attendance in the Pledge of Allegiance.

B. Roll Call

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

Department Directors and staff members present: City Attorney Daniel B. Heid, Community Development and Public Works Director Kevin Snyder, Assistant Police Chief Bill Pierson, Engineering Aide Amber Mund, Finance Accounting Manager Rhonda Ewing, Economic Development Manager Doug Lein, Director of Administration Michael Hursh, Public Affairs and Marketing Liaison Dana Hinman, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, and City Clerk Danielle Daskam.

C. Announcements, Appointments, and Presentations

1. Washington State Department of Transportation (WSDOT) Presentation on SR 167 Hot Lanes
Patty Rubstello, Toll Operations Director for WSDOT, will provide an update to the Mayor and City Council on the SR 167 Hot Lanes Project.

Using a PowerPoint presentation, Washington State Department of Transportation Toll Operations Director Patty Rubstello presented an overview of the SR 167 HOT (high occupancy toll) lanes, including current features, goals, statistics, and plans for improving SR 167 HOT lanes access.

The SR 167 HOT lanes opened in 2008 as a demonstration project. SR 167 had been a highly congested route with underutilized HOV lanes. Prior to the HOT lanes, SR 167 had two general purpose lanes and one HOV lane. The HOV lanes were converted to single HOT lanes in each direction. The HOT lanes are free to buses, carpools and motorcycles. Single drivers pay a single toll to travel any distance on the 10-mile route. A Good to Go pass is required for solo drivers. HOT lane tolls are adjusted automatically to keep HOT lane traffic flowing at 45 mph or faster.

In 2013, there were 1 million toll transactions with $1.1 million in gross toll revenue. There were 4,200 tolled trips per weekday. Since the implementation of the HOT lanes, the general purpose lanes have experienced a 20 percent average speed increase and a five percent volume decrease.

There is limited access (10 access points) to the HOT lane, which is separated from general purpose lanes by double white lines. It is illegal to cross the double white lines. From a study conducted by the University of Washington in 2011, it was found: drivers cross the double white lines to get into the HOT lane; drivers wait for a safe gap to change lanes; there may not be a safe gap while driving the length of the legal access points and the access point may not be conveniently located to reach an exit.

In response to drivers' responses and concerns, the WSDOT will make improvements to the SR 167 HOT lane access this summer. The HOT lane corridors will be restriped to allow easier access. A single white line will allow drivers to enter and exit nearly anywhere. The double white line will be maintained in key areas for safety purposes.

2. Valley Regional Fire Authority (VRFA) Presentation to Councilmember Peloza
Fire Fighter Jesse Mitchell to present award to Councilmember Bill Peloza on completing the Fire Ops 101 training.

Fire Fighter Jesse Mitchell spoke regarding a program called Fire Operations 101, which provides local leaders, elected officials, administrators, and members of the press an opportunity to experience the demands and resources required of a fire fighter. The exercise is held over a two day period. This year Councilmember Bill Peloza participated in Fire Ops 101, which included scenarios for search and rescue, live burn, extrication, cardiac arrest, and ladder climb. Fire Fighter Mitchell displayed a photo slide show of Councilmember Peloza in action and presented Councilmember Peloza with a fire fighter's helmet and International Association of Fire Fighters Local 1352 patch to commemorate his participation.

3. National Public Works Week
Mayor Backus to proclaim May 18-24, 2014 as National Public Works week in the City of Auburn.

Mayor Backus read and presented a proclamation declaring May 18-24, 2014, as National Public Works Week in the city of Auburn to Community Development and Public Works Director Snyder. Director Snyder accepted the proclamation of behalf of the dedicated and loyal Public Works staff comprised of engineers, maintenance and operation technicians, and administrative staff that work on behalf of the citizens of Auburn to deliver the water, sewer, storm utility, and street services to residents.

4. Mt. Baker Middle School Presentation
Mt. Baker Middle School teacher, Susan Winter, and students to provide an update on current activities with the organization End Zone Academy.

Susan Winter, sixth grade teacher at Mt. Baker Middle School, and Isabel Kim, Rayna Ojas, Sophia Randall, Jaquelyn Wellentin, and Kathleen Moore, members of the End Zone Academy presented information on the activities of the End Zone Academy. The End Zone Academy is a service-oriented club at Mt. Baker Middle School and has provided volunteer support for the Auburn Food Bank, the Auburn Valley Humane Society and Terry Home. The club has also participated in We Day in Seattle. The club's current campaign is to raise funds to build a school in South America in conjunction with the Free the Children organization. Members of the Academy encouraged all to contribute to their philanthropic effort and meet their goal of raising $10,000 to build one school in South America.

D. Agenda Modifications

A request for permission to advertise for bids for Project CP1324 Asphalt Rehabilitation and Seal Coat at the Auburn Municipal Airport was added to the Consent Agenda.

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Franchise Agreement No. 14-06 (Osborne/Mund)
City Council to hold a public hearing on the application of tw telecom of washington llc, 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 it in, on, upon, along and/or across those right(s)-of-way. The purpose of the public hearing is to determine public benefit and impact, applicant compliance, public right-of-way capacity to accommodate the telecommunication system, potential disruption of public right-of way, and present and future use of the public right-of-way

Engineering Aide Amber Mund presented the staff report on the hearing on the application from tw telecom of washington, llc, for a franchise agreement with the City.

tw telecom of washington, llc, has applied for a franchise agreement to be able to operate and build a telecommunications network within the City's rights-of-way. tw telecom will offer integrated data services, dedicated internet access and provide local and long distance voice services to commercial customers. The proposed franchise area is all rights-of-way in the city, as tw telecom will lease facilities from CenturyLink and other telecom companies throughout the city to provide service. The applicant is requesting the entire city as the proposed franchise area so that future installation of their facilities may be accommodated without having to amend the agreement for each installation. Exact locations, plans, engineering and construction schedules would be reviewed, approved and managed through the City's permitting processes that are a requirement of the franchise agreement.

Mayor Backus opened the public hearing at 8:06 p.m.

Greg Diamond, Vice President of Government Affairs for tw telecom of washington, spoke in favor of the application for franchise agreement. Mr. Diamond commended Public Works staff for their assistance throughout the application process.

There being no further comment, the hearing was closed.

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.

Bonnie Tiangsing, 29609 57th Place South, Auburn
Ms. Tiangsing expressed opposition to the location of a King County transfer station in Auburn.

Elam Anderson, 301 23rd Street SE, Auburn
Mr. Anderson expressed opposition to war.

C. Correspondence

There was no correspondence for Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

Chair Peloza reported the Municipal Services Committee met May 12, 2014. The Committee reviewed Resolution No. 5071 authorizing an extension of a contract with Redflex Traffic Systems and Public Works Project No. CP1324 relating to the airport pavement rehabilitation. The Committee also discussed the 2013 Police Workload Analysis which is used by Police administrative staff to identify trends and provide guidance for the planning of future police services. The next regular meeting of the Municipal Services Committee is scheduled for June 9, 2014.

B. **Planning & Community Development**

Chair Holman reported the Planning and Community Development Committee met May 12, 2014. The Committee discussed the 2015 Transportation Improvement Plan, short plat thresholds, and the American Planning Association's report on "Investing in Place." The Committee discussed the importance of walkability, connectivity, and providing amenities desirable to the community. The next regular meeting of the Planning and Community Development Committee is scheduled for May 27, 2014.

C. **Public Works**

Vice Chair Peloza reported the Public Works Committee met this afternoon at 3:30. The Committee reviewed the 2015 Transportation Improvement Program, a Right-of-way Use Permit for the City's 123rd Birthday Celebration scheduled for June 6th, Public Works Project No. C410A Final Pay Estimate for South 277th Street Wetland Mitigation Improvements, and the first quarter financial report. The next regular meeting of the Public Works Committee is scheduled for June 2, 2014.

D. **Finance**

Chair Wales reported the Finance Committee met this evening at 5:00. The Committee reviewed claims vouchers in the approximate amount of $3.7 million and payroll vouchers in the approximate amount of $2 million. The Committee also reviewed and approved Resolution No. 5072 approving the Washington Economic Development Finance Authority's issuance of $9.5 million in industrial revenue bonds for Orion Industries. The Committee also discussed Resolution No. 5071 authorizing an extension of the current contract with Redflex Traffic Systems for photo enforcement and the first quarter financial report. The next regular meeting of the Finance Committee is scheduled for June 2, 2014.

E. **Les Gove Community Campus**

The next regular meeting of the Les Gove Community Campus Committee is scheduled for May 28, 2014, at 5:00 p.m.

F. **Council Operations Committee**

The next regular meeting of the Council Operations Committee is scheduled for May 30, 2014, at 1:00 p.m.

G. **Junior City Council**

Deputy Mayor Wagner reported the Junior City Council met this evening. The Junior City Council reviewed the legal ramifications of a Junior City Council web page with Assistant City Attorney Ruth. The Junior City Council also discussed youth transportation options, undeveloped park properties, and anti-bullying activities. The next regular meeting of the Junior City Council is scheduled for June 16, 2014 at 5:00 p.m.

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. May 5, 2014 Regular Meeting Minutes

B. Claims vouchers (Wales/Coleman)
Claims voucher number 428546 through 428727 in the amount of $3,744,492.90 and 3 wire transfers in the amount of $250,413.97 and dated May 19, 2014.

C. Payroll Vouchers (Wales/Coleman)
Payroll check numbers 534680 through 534714 in the amount of $825,469.81, electronic deposit transmissions in the amount of $1,268,009.95 for a grand total of $2,093,479.76 for the period covering May 1, 2014 to May 14, 2014.

D. Public Works Project No. C410A (Osborne/Snyder)
City Council to approve Final Pay Estimate No. 9 to Contract No. 11-12 in the amount of $5,780.94 and accept construction of Project No. C410A South 277th St. Reconstruction-Wetland Mitigation Improvements

E. Public Works Project No. CP1324
City Council grant permission to advertise for bids for Project No. CP1324 Asphalt Rehabilitation and Seal Coat

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

The Consent Agenda includes minutes, claims and payroll vouchers, and public works contract administration items.

MOTION CARRIED UNANIMOUSLY. 7-0

V. UNFINISHED BUSINESS

There was no unfinished business.

VI. NEW BUSINESS

There was no new business.

VII. RESOLUTIONS

A. Resolution No. 5071 (Peloza/Coleman)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute second amendment to agreement between the City of Auburn and Redflex Traffic Systems, Inc.

Councilmember Peloza moved and Councilmember DaCorsi seconded to adopt Resolution No. 5071.

Councilmember Osborne expressed opposition to a contract extension with Redflex Traffic Systems. He stated the cost of the program is in excess of the revenue generated.

Councilmember Holman expressed opposition to extending the contract with Redflex Traffic Systems for photo enforcement. Councilmember Holman stated he believes the photo enforcement program has not met its goal to reduce intersection and school zone accidents. Councilmember Holman stated he feels photo enforcement is an intrusion and a waste of public funds. Councilmember Holman also referred to a U.S. Department of Justice investigation of alleged improprieties by Redflex Traffic Systems personnel.

Councilmember Peloza spoke in favor of Resolution No. 5071 and extension of the contract with Redflex. Councilmember Peloza stated photo enforcement is a public safety feature.

Councilmember Wagner spoke in favor of continuing the contract with Redflex for up to six months in order to avoid a gap in photo enforcement service pending a contract with a new vendor.

Councilmember DaCorsi spoke in favor of Resolution No. 5071. He noted the contract extension was originally presented for six months. The Municipal Services Committee recommended a four month extension with up to two one-month extensions. Councilmember DaCorsi expressed concern with a disruption of service in photo enforcement.

MOTION FAILED. 3-4 Councilmembers Holman, Osborne, Trout and Wales voted no.

B. Resolution No. 5072 (Wales/Lein)
A Resolution of the City Council of the City of Auburn, Washington, approving the action of the Washington Economic Development Finance Authority in issuing non-recourse revenue bonds to finance an economic development facility for use by Orion Industries, and providing for other matters properly relating thereto

Councilmember Wales moved and Councilmember Holman seconded to approve Resolution No. 5072.

Resolution No. 5072 approves the Washington Economic Development Finance Authority's (WEDFA) issuance of industrial revenue bonds for Orion Industries. The resolution does not obligate the City in any way. The resolution satisfies the WEDFA requirement that the local jurisdiction in which the facility is located approves of the project and the issuance of the bonds.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. 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 on his attendance at the Senior Center coffee hour where much of the discussion involved services for the homeless. Deputy Mayor Wagner also reported on his attendance at the National Nursing Home Week celebration at Canterbury House and the Pierce County Regional Council meeting.

Councilmember Trout reported on her participation in the Downtown Art Walk and Petpalooza.

Councilmember Osborne reported on his attendance at the monthly Law Enforcement and Fire Fighters Disability Retirement Board meeting, a Regional Water Quality Committee meeting, the Valley Regional Fire Authority Board of Governance meeting, and the King County Flood Control District meeting.

Councilmember Peloza reported on his attendance at the Regional Access Mobility Partnership meeting where he was guest speaker on behalf of the South County Area Transportation Board (SCATBd), the Water Resource Inventory Area (WRIA) 9 Ecosystem Forum at Auburn City Hall, the King County Solid Waste Management Advisory Committee meeting, and the King County Regional Policy Committee meeting.

Councilmember Wales commended Councilmember Peloza for his presentation at the Regional Access Mobility Partnership meeting. Councilmember Wales also reported on activities of the King County Board of Health, including facilitating enrollment in the Affordable Health Care Act and securing a medicine return policy.

Councilmember DaCorsi reported on his attendance at the Senior Center coffee hour and Petpalooza.

B. From the Mayor

Mayor Backus reported on her attendance at the Junior Reserve Officer Training Corps (Junior ROTC) annual banquet, an Eagle Scout ceremony for T. J. Snyder, a meeting with the Executive Director of the Puget Sound Clean Air Agency, a Sound Cities Association meeting, a meeting with Cascade Middle School students Jordan Norris and Iliana Mundon regarding their efforts on anti-bullying and providing extracurricular activities for those less fortunate, Relay for Life events, and Petpalooza.

IX. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 9:12 p.m.

APPROVED this _____ day of _________________, 2014.

_____________________________ NANCY BACKUS, MAYOR

_____________________________ Danielle Daskam, City Clerk

AGENDA BILL APPROVAL FORM

Agenda Subject:
Claims Vouchers

Date:
May 28, 2014

Department:
Administration

Attachments:
No Attachments Available

Budget Impact:
$0

Administrative Recommendation:

Approve Claims Vouchers

Background Summary:

Claims check numbers 428728 through 428912 in the amount of $1,446,429.92 and 4 wire transfers in the amount of $156,288.21 and dated June 2, 2014.

Reviewed by Council Committees:

Councilmember: Wales

Staff: Coleman

Meeting Date: June 2, 2014

Item Number: CA.B

AGENDA BILL APPROVAL FORM

Agenda Subject:
Payroll Vouchers

Date:
May 28, 2014

Department:
Administration

Attachments:
No Attachments Available

Budget Impact:
$0

Administrative Recommendation:

approve payroll vouchers

Background Summary:

Payroll check numbers 534715 through 534754 in the amount of $266,370.65, electronic deposit transmissions in the amount of $1,293,778.04 for a grand total of $1,560,148.69 for the period May 15, 2014 to May 28, 2014.

Reviewed by Council Committees:

Councilmember: Wales **Staff:** Coleman

Meeting Date: June 2, 2014 **Item Number:** CA.C

AGENDA BILL APPROVAL FORM

Agenda Subject:
Public Works Project No. CP1323

Date:
May 28, 2014

Department:
Public Works

Attachments:
Budget Status Sheet
Vicinity Map

Budget Impact:
$0

Administrative Recommendation:

City Council grant permission to advertise for bids for Project No. CP1323, 2014 Local Street Pavement Reconstruction Project

Background Summary:

The 2014 Local Street Pavement Reconstruction project will reconstruct 0.74 miles of local streets (shown on the attached map) as part of the 2014 Save Our Streets (SOS) program. In addition, storm drainage improvements will also be constructed on the project streets to address local storm drainage issues. This work is funded by the 103 (Local Street) Fund.

This project will also replace deteriorated and undersized water mains and install a sanitary sewer main as shown on the attached map. This work will be funded by the 430 (Water) Fund and 431 (Sewer) Fund respectively.

Construction of this project is anticipated to start in July 2014.

The 2014 SOS program will also overlay 0.44 miles of local streets; however, this work will be done under a separate construction contract.

A project budget contingency of $22,379.00 remains in the 103 (Local Street Pavement Preservation) Fund.

A project budget increase of $74,104.00 within the 430 (Water) Fund will be necessary, however it will not require a budget adjustment since it is anticipated that this money will be available from the Annual Water Repair & Replacement and Well Inspection & Replacement Programs.

A project budget contingency of $32,544.00 remains in the 431 (Sewer) Fund.

Reviewed by Council Committees:

Public Works

Councilmember:	Osborne	**Staff:**	Snyder
Meeting Date:	June 2, 2014	**Item Number:**	CA.D

BUDGET STATUS SHEET

Project No: CP1323	Project Title: 2014 Local Street Pavement Reconstruction Project

Project Manager: Jai Carter

Initiation Date: September 16, 2013
Advertisement Date: June 12, 2014
Award Date: ____________________

- ○ **95% Design Update**
- ○ **2014 Budget Carry Forward**
- ● **Permission to Advertise**
- ○ **Contract Award**
- ○ **Contract Final Acceptance**

Date:5/2/14

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

Funds Budgeted (Funds Available)

Funding	Prior Years	2014	Future Years	Total
103 Fund - Local Street		1,929,245		1,929,245
430 Fund - Water (Street Utility Improvements)		500,000		500,000
431 Fund - Sanitary Sewer (Street Utility Improvements)		200,000		200,000
Total	0	2,629,245	0	2,629,245

Estimated Cost (Funds Needed)

Activity	Prior Years	2014	Future Years	Total
Design Engineering - City Costs*		10,000		10,000
Design Engineering - Consultant Costs		285,000		285,000
Construction Estimate		**2,103,114**		**2,103,114**
Project Contingency (10%)		**210,311**		**210,311**
Construction Engineering - City Costs*		20,000		20,000
Construction Engineering - Consultant Costs		20,000		20,000
Total	0	2,648,425	0	2,648,425

*City staff costs for street design and construction are not charged against the project budget and are not shown here.

103 Local Street Budget Status

	Prior Years	2014	Future Years	Total
**103 Funds Budgeted ( )	0	(1,929,245)	0	(1,929,245)
103 Funds Needed	0	1,906,866	0	1,906,866
****103 Fund Project Contingency ( )**	**0**	**(22,379)**	**0**	**(22,379)**
103 Funds Required	**0**	**0**	**0**	**0**

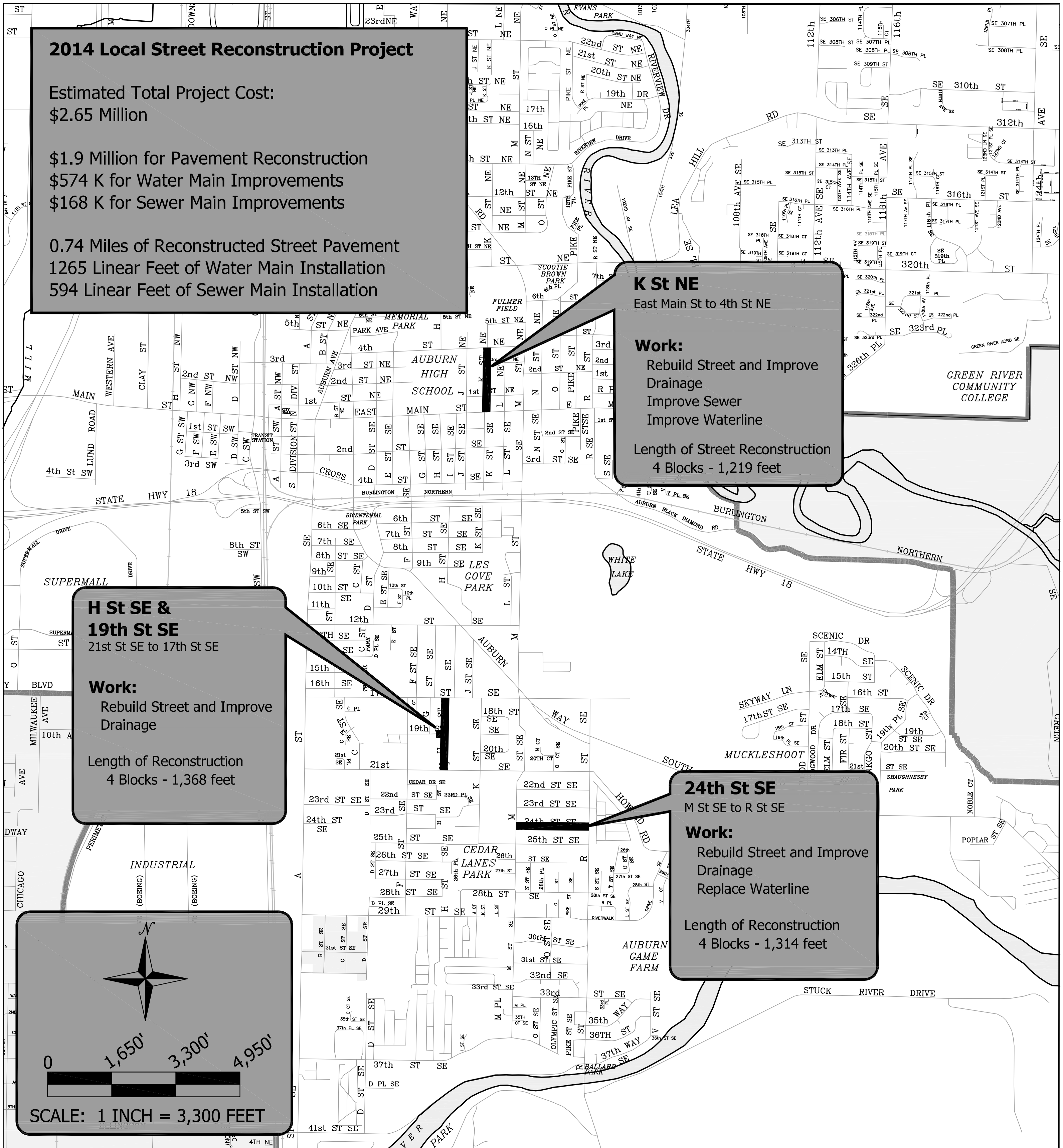
430 Water Budget Status

	Prior Years	2014	Future Years	Total
**430 Funds Budgeted ( )	0	(500,000)	0	(500,000)
430 Funds Needed	0	574,104	0	574,104
****430 Fund Project Contingency ( )**	**0**	**0**	**0**	**0**
430 Funds Required	**0**	**74,104**	**0**	**74,104**

431 Sanitary Sewer Budget Status

	Prior Years	2014	Future Years	Total
**431 Funds Budgeted ( )	0	(200,000)	0	(200,000)
431 Funds Needed	0	167,456	0	167,456
****431 Fund Project Contingency ( )**	**0**	**(32,544)**	**0**	**(32,544)**
431 Funds Required	**0**	**0**	**0**	**0**

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



MAP 1: 2014 Local Street Reconstruction Project

PLOTTED: May 27, 2014 LOCATION: \\Auburn11\eng_files\Jai\Local Street Preservation Program\2014 SOS Project\PWC Approval 9-16-13\Preliminary files\2014 Proposed SOS Map.dwg

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6506

Date:
April 30, 2014

Department:
Public Works

Attachments:
Ordinance 6506

Budget Impact:
$0

Administrative Recommendation:

City Council introduces and adopts Ordinance No. 6506 for Franchise Agreement No. 14-06 for tw telecom of washington llc.

Background Summary:

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.

tw telecom of washington llc 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 integrated data services, dedicated internet access and provide local and long distance voice services to commercial customers. The proposed franchise area is all rights of way in the City, as tw telecom will lease facilities from CenturyLink and other telecom companies throughout the City to provide service. The applicant is requesting the entire City as the proposed franchise area so that future installation of their facilities may be accommodated without having to amend the agreement for each installation. Exact locations, plans, engineering and construction schedules would be reviewed, approved and managed through the City's permitting processes that are a requirement of the Franchise Agreement.

Ordinance No. 6506, if adopted by City Council, approves Franchise Agreement No. 14-06 subject to terms and conditions outlined in the Ordinance.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne **Staff:** Snyder

Meeting Date: June 2, 2014 **Item Number:** ORD.A

ORDINANCE NO. 6 5 0 6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO TW TELECOM OF WASHINGTON LLC, A DELAWARE LIMITED LIABILITY COMPANY, A FRANCHISE FOR TELECOMMUNICATIONS

WHEREAS, tw telecom of washington llc ("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 specified in Exhibit "A," attached hereto and incorporated by reference (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 This Franchise does 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

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: City of Auburn
Engineering Aide, Transportation
25 West Main Street
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

Telephone. 253-931-3039

Grantee

Greg Diamond
Vice President, Regulatory
tw telecom of washington llc
10475 Park Meadow Drive
Littleton, CO 80124
Telephone· 206-676-8052

with a copy to·

Tina Davis
Senior VP & General Counsel
tw telecom of washington llc
10475 Park Meadow Drive
Littleton, CO 80124
Telephone: 303-566-1279

B Any changes to the above-stated Grantee information shall be sent to the City, referencing the title of this agreement.

C The above-stated Grantee voice telephone numbers shall be staffed at least during normal business hours, for their respective time zones. The City may contact Grantee at the following number for emergency or other needs outside of normal business hours of the Grantee: Network Operations Center 1-800-829-0420

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 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 upon Grantee Facilities. 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 undertaking 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 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 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 of the City 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 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 reasonable attorney's 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 and City acts in accordance with the provisions of Washington's open public records act.

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 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 sole 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 Grantee and the City, its officers, officials, employees, and volunteers, the Grantee's liability hereunder shall be only to the extent of the Grantee'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 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 each occurrence, $2,000,000 general aggregate and a $2,000,000 products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability 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 a substitute form providing equivalent liability coverage. 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 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.

5 Grantee may utilize primary and umbrella liability insurance policies to satisfy the insurance policy limits required in this section.

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 either party except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to 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 the Consultant 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 bond in the amount of Fifty Thousand Dollars ($50,000) 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 bond any damages suffered by City as a result thereof up to the amount of Fifty Thousand Dollars ($50,000), and from the principal only any damages suffered by the City in excess of the bond amount, 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 The amount of the bond shall not be construed to limit the Grantee's liability to the City for any damages suffered by City as a result Grantee's noncompliance, 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 and assigns of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors and assignees 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, which consent shall not be unreasonably withheld, conditioned or delayed Notwithstanding the foregoing, no consent of the City or fee shall be required for Franchisee to assign this Franchise to any entity under common control with, controlled by, or controlling Grantee, or to any entity that acquires Grantee by merger, sale, consolidation or otherwise, provided Grantee promptly notifies City of such assignment, provides information regarding the nature of the relationship between Grantee and the assignee, and provides a written agreement to the City that the assignee is unconditionally assuming all of the terms of the Franchise upon the effective date of the assignment.

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 pursuant to paragraph B, 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 mediation, 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 bond 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, in which event Grantee may pursue any available remedies at equity or in law and/or Grantee may terminate this Franchise within twenty (20) days of written notice to City.

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 applicable 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

APPROVED AS TO FORM:

____
Daniel B. Heid, City Attorney

Published __________________

Franchise Agreement No 14-06 tw telecom

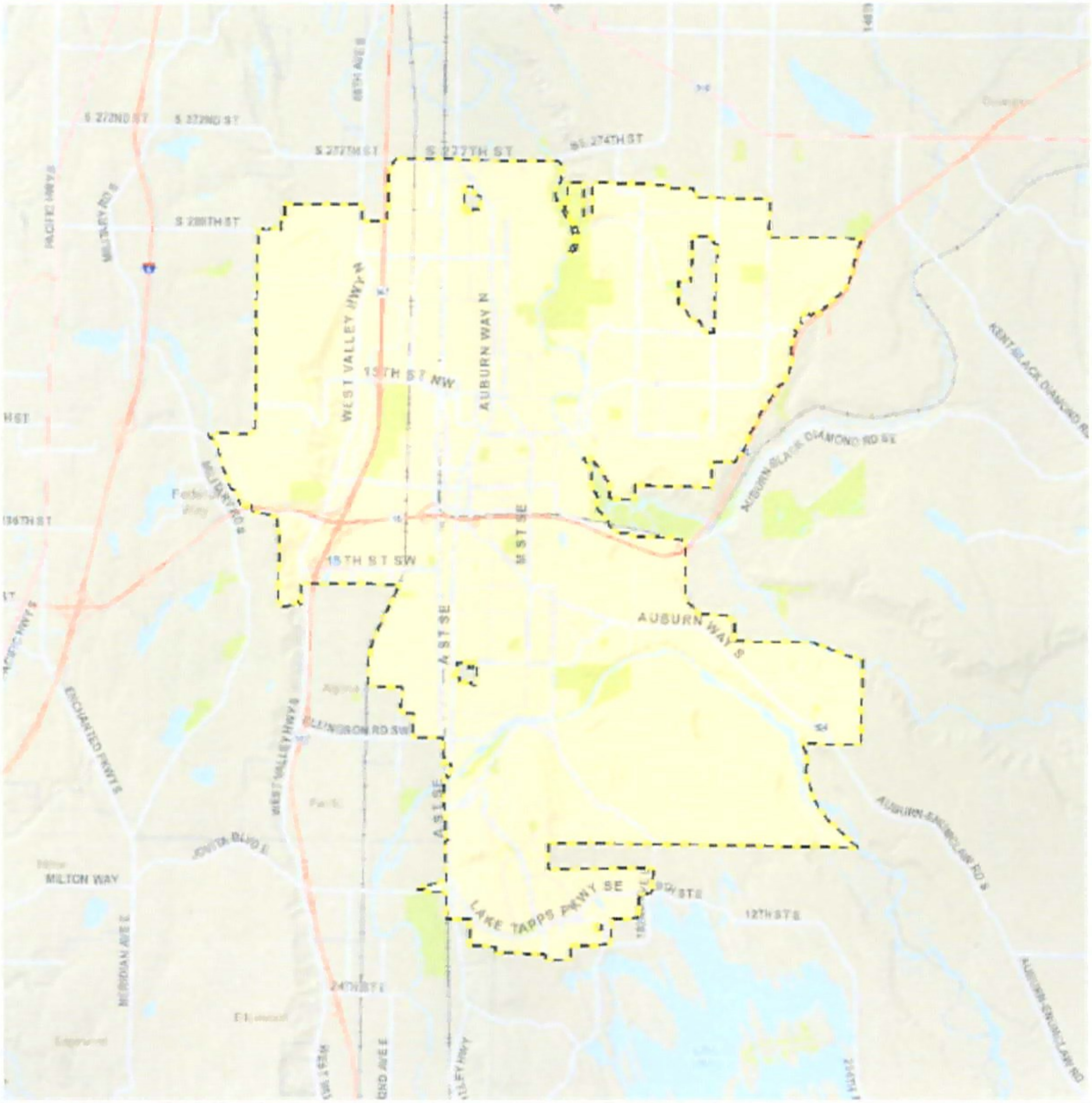


Exhibit "A"
Franchise Area City Limits

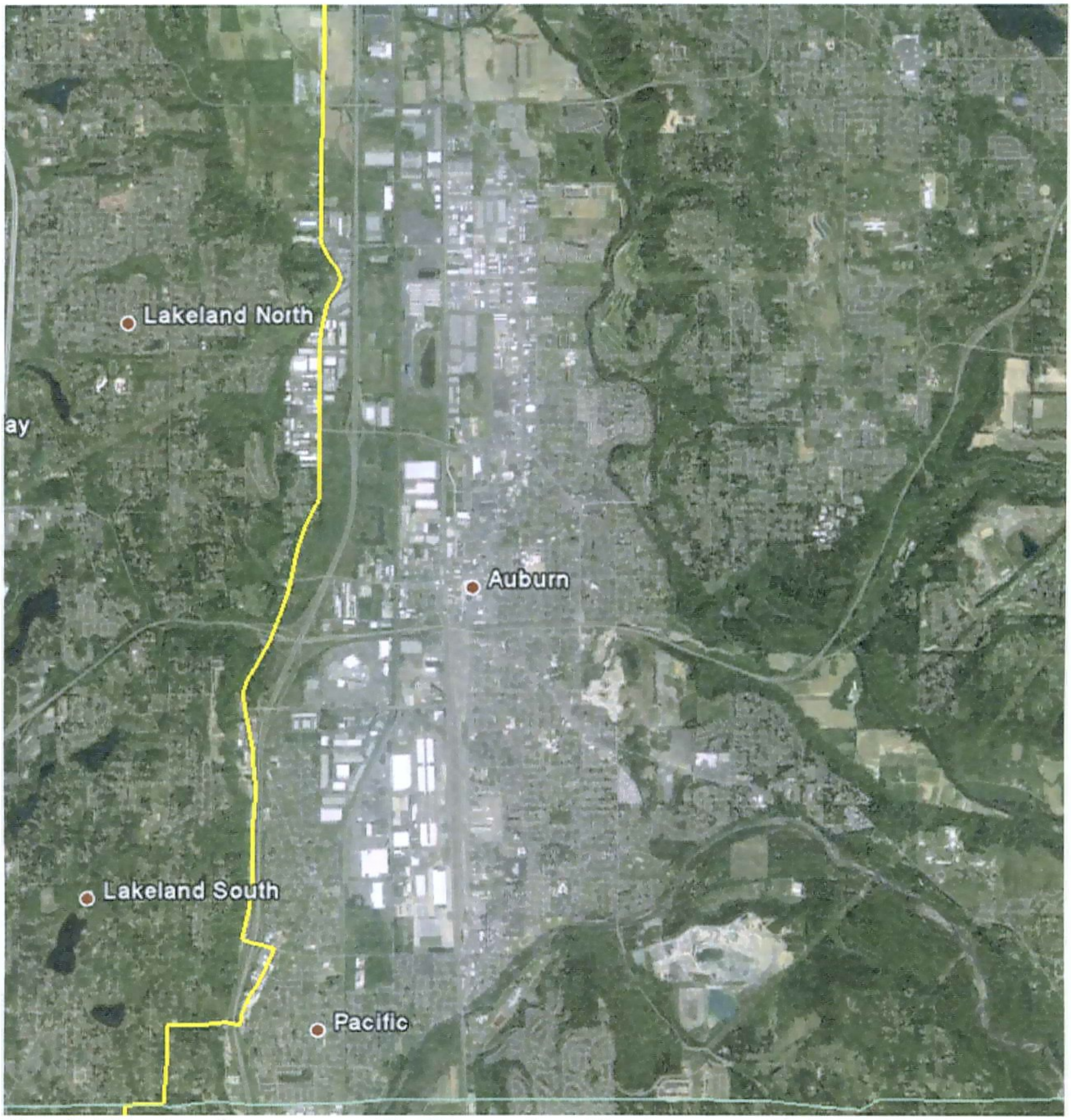
Printed Date 3/11/2014
Map Created by City of Auburn eGIS

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.

Ordinance No. 6506
Franchise Agreement No. 14-06
April 10, 2014
Page 16 of 19

Exhibit B

Grantee Facilities



Fiber facilities in yellow are owned by Zayo re: Franchise Agreement No 12-41, Ord No 6452 and are being leased by tw telecom. tw telecom may obtain certain other facilities from CenturyLink and others from time to time to provide service in the City of Auburn. tw telecom may also install its own facilities in accordance with the terms and conditions of this Ordinance.

Exhibit C

Grantee Services

tw telecom offers integrated data services, dedicated internet access and provides local and long distance voice services to commercial businesses.

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

tw telecom of washington llc, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference

tw telecom of washington llc
by· tw telecom holdings inc.,
its sole member

By· ______________________________ Date. ______________________
Name
Title:

ACKNOWLEDGEMENT

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

I, ______________________, a Notary Public in and for the State of Colorado, do hereby certify that ________________, ____________________ of tw telecom holdings inc., the sole member of tw telecom of washington llc, did personally appear before me affixing his/her signature on the attached document.

Sworn and Subscribed this ______ day of ________________, 2014

____
Notary Public

My commission expires ____________________

[SEAL]

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5065

Date:
May 27, 2014

Department:
Public Works

Attachments:
Res 5065
Exhibit A
Exhibit B
Staff Report
Vicinity Map
Draft Preliminary Plat

Budget Impact:
$0

Administrative Recommendation:

City Council introduces and adopts Resolution No. 5065.

Background Summary:

PNW Home Builders North, LLC has applied to the City for vacation of the un-opened right-of-way of South 324th Street located between 46th Place South and 51st Avenue South, south of South 321st Street shown on Exhibit “B”. The Applicant is in the process of developing the adjacent parcels and is proposing to include the right-of-way in their development.

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 that a public hearing should be set to determine if said right-of-way may be vacated.

Resolution No. 5065, if adopted by City Council, sets the date of the public hearing for Vacation No. V2-14 for July 7, 2014.

Reviewed by Council Committees:

Planning And Community Development, Public Works

Councilmember:	Osborne	**Staff:**	Snyder
Meeting Date:	June 2, 2014	**Item Number:**	RES.A

RESOLUTION NO. 5 0 6 5

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, SETTING A PUBLIC HEARING TO CONSIDER THE VACATION OF 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.

WHEREAS, the City of Auburn, Washington, has received a petition signed by owners of at least two-thirds (2/3) of the property abutting 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, within the City of Auburn, Washington, requesting that the same be vacated; and,

WHEREAS, pursuant to Section 35.79 010 of the Revised Code of Washington, a hearing on such vacation shall be set by Resolution, with the date of such hearing being not more than sixty (60) days nor less than twenty (20) days after the date of passage of such Resolution.

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

Section 1 That a hearing on the vacation of un-opened right-of-way of South 324th Street between 46th Place South and 51st Avenue South, south of South 321st Street, located within the City of Auburn, Washington, legally described as follows.

The north 30 00 feet of the southeast quarter of the northeast quarter of Section 15, Township 21 North, Range 4 East, W.M., lying easterly of the east margin of 46th Place South;

EXCEPT the east 30 00 feet thereof;

TOGETHER WITH that portion of the southeast quarter of the northeast quarter of Section 15, Township 21 North, Range 4 East, W.M., described as follows.

COMMENCING at the northeast corner of said southeast quarter; thence N89°06'27"W, along the north line of said southeast quarter, a distance of 30.00 feet to the west line of the east 30.00 feet of said southeast quarter; thence S01°17'02"W, along said west line, 30 00 feet to the south line of the north 30 00 feet of said southeast quarter and the POINT OF BEGINNING of the herein described tract of land; thence continuing S01°17'02"W 25.17 feet to a point of cusp with a 25.00-foot radius curve to the Left, the center of which bears N88°42'58"W; thence northwesterly, along said curve, through a central angle of 90°23'29", a distance of 39.44 feet to a point of tangency with the south line of the north 30 00 feet of said southeast quarter; thence S89°06'27"E, along said south line, a distance of 25.17 feet to the POINT OF BEBINNING;

Contains 33,264± Square Feet (0 7636± Acres)

and as shown on the document attached hereto, marked as Exhibit "B" and incorporated herein by this reference, is hereby set for 7:30 p.m on the 7th day of July, 2014, at the City Council Chambers at 25 West Main Street, Auburn, Washington, 98001, with all persons wishing to speak to the vacation at the public 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. 5065
ROW Vacation V2-14
April 21, 2014
Page 3

CORE DESIGN, INC.
BELLEVUE WA 98007

Core Project No: 13045
02/10/2014

Exhibit "A"

Legal Description – Right-Of-Way Vacation Description

The north 30.00 feet of the southeast quarter of the northeast quarter of Section 15, Township 21 North, Range 4 East, W.M., lying easterly of the east margin of 46th Place South;

EXCEPT the east 30.00 feet thereof;

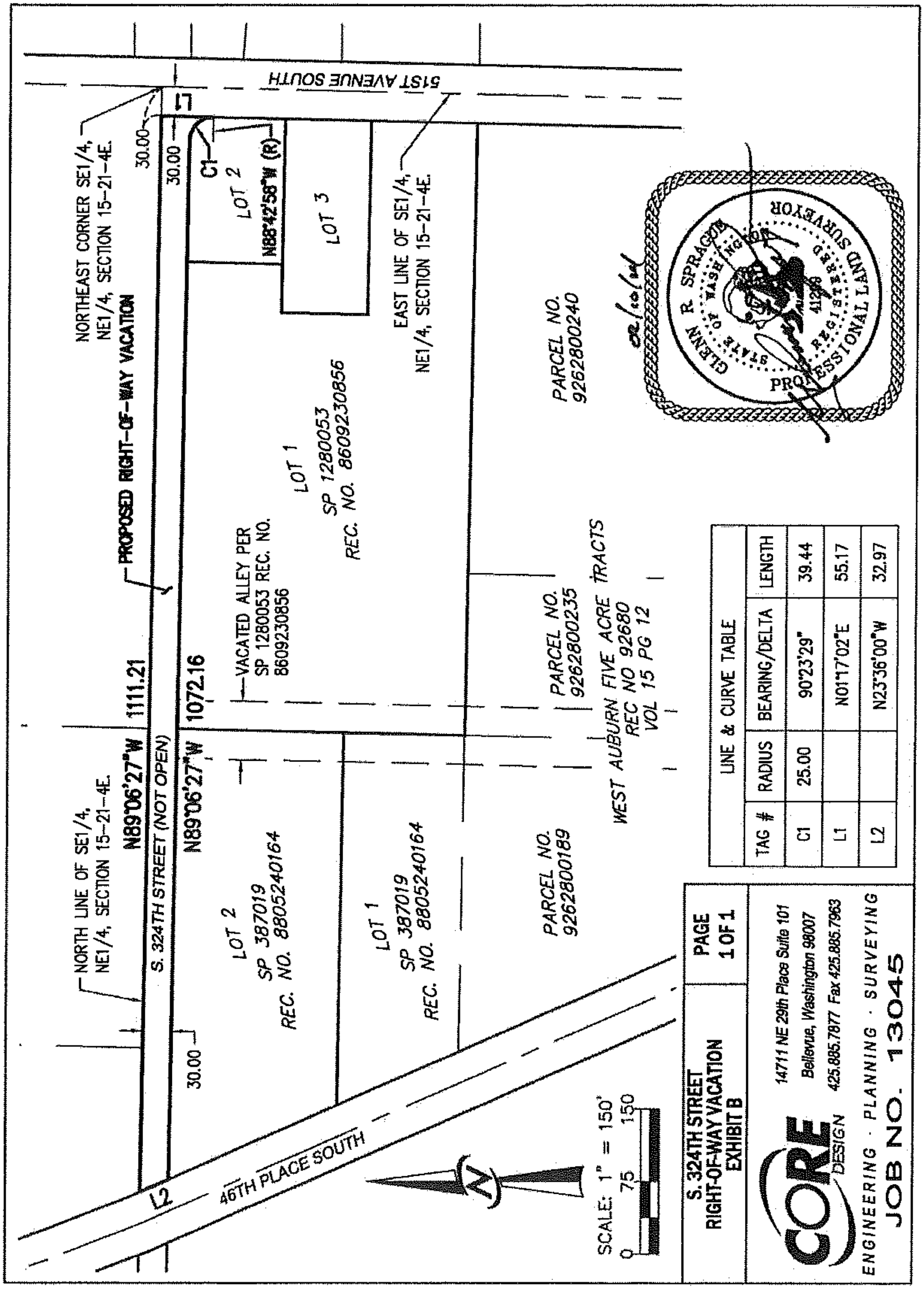
TOGETHER WITH that portion of the southeast quarter of the northeast quarter of Section 15, Township 21 North, Range 4 East, W.M., described as follows:

COMMENCING at the northeast corner of said southeast quarter; thence N89°06'27"W, along the north line of said southeast quarter, a distance of 30.00 feet to the west line of the east 30.00 feet of said southeast quarter; thence S01°17'02"W, along said west line, 30.00 feet to the south line of the north 30.00 feet of said southeast quarter and the POINT OF BEGINNING of the herein described tract of land; thence continuing S01°17'02"W 25.17 feet to a point of cusp with a 25.00-foot radius curve to the Left, the center of which bears N88°42'58"W; thence northwesterly, along said curve, through a central angle of 90°23'29", a distance of 39.44 feet to a point of tangency with the south line of the north 30.00 feet of said southeast quarter; thence S89°06'27"E, along said south line, a distance of 25.17 feet to the POINT OF BEGINNING;

Contains 33,264± Square Feet (0.7636± Acres)

GLENN R. SPRAGUE
STATE OF WASHINGTON
41200
REGISTERED
PROFESSIONAL LAND SURVEYOR

02/10/14



LINE & CURVE TABLE

TAG #	RADIUS	BEARING/DELTA	LENGTH
C1	25.00	90°23'29"	39.44
L1		N01°17'02"E	55.17
L2		N23°36'00"W	32.97

RIGHT-OF-WAY VACATION
STAFF REPORT

Right-of-Way (ROW) Vacation Number V2-14

Applicant: **PNW Home Builders North, LLC**

Property Location: **Un-opened Right-of-Way of South 324th Street located between 46th Place South and 51st Avenue South, south of South 321st Street.**

Description of right-of-way:
This ROW proposed for vacation is un-opened ROW of South 324th Street located between 46th Place South and 51st Avenue South, south of 321st St South. The ROW is adjacent to Parcels 1521049128, 1521049001 and 1521049020 on the north side and Parcels 9262800271, 9262800194 and 9262800201on the south side. The proposed area of ROW for vacation is 33,264(+/-) square feet.

The ROW was dedicated for street purposes to the public in 1907 by FM Jordan and Ada M Jordan under the plat of West Auburn Five Acre Tracts recorded in Volume 15 of plats, Page 12, in the records of King County. This area was under King County jurisdiction in 1907 and was annexed into the City of Auburn in 2008.

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 under the plat know as Auburn Assemblage shown on the draft preliminary plat map.

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.

Discussion:
The vacation application was circulated to Puget Sound Energy (PSE), Comcast, CenturyLink, Lakehaven Utility District and City staff.

1. PSE – PSE has no existing electric and gas facilities in the proposed vacation area.
2. Comcast – Comcast does not have any plan or easements in the ROW that is being vacated. We do not oppose the vacation.
3. CenturyLink – CenturyLink had the area located and does not have any existing facilities in the proposed vacation area.
4. Lakehaven Utility District – All facilities are currently located outside of the proposed area for vacation so an easement will not be required. The applicant will provide any necessary easements for new services associated with the development of their project.
5. Water – There are currently no City of Auburn water facilities in the ROW proposed for vacation. This is in the Lakehaven Utility District and they may have existing facilities.

6. Sewer – The area is within Lakehaven Utility District's sewer service area. The City has no sewer facilities in this area and an easement is not needed.
7. Storm –There are no existing storm facilities in the proposed vacation area. An easement is not needed.
8. Transportation – The alignment of Road E, within the proposed plat by the applicant, may change slightly based on design comments provided to the applicant on 04/01/14. This will not impact the ROW vacation but may impact the ROW dedication through the platting process for the realigned roadway. Otherwise, no comments.
9. Planning – Proposed Road E must align with the centerline of the existing S 324th Street ROW to the east of 51st Avenue South. The plat exhibit provided does not show the appropriate reverse curve and tie in as specified to the Applicant. Other than that planning has no further issue with the request and will default to the expertise of the Traffic Engineer.
10. Fire – No comments
11. Police – No comments
12. Streets – No comments
13. Construction – No comments
14. Innovation and Technology – No comments
15. General Review – While the current alignment of S 324th St un-opened ROW is not necessarily needed and could be vacated, a general network connection in the area between 46th Place South and 51st Avenue South may still be needed in the future. The ROW could be vacated as long as the applicant dedicates ROW providing a network connection parallel and equivalent to the vacated corridor with the proposed plat development that is faciltiating this ROW vacation. A temporary construction easement over the area to be vacated should be approved to assist the applicant in achieving final plat prior to the vacation taking effect.

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 and subsequent annexation 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 March 28, 1907 under the jurisdiction of King County at no cost and was annexed to the City of Auburn in 2008.

Recommendation:

1. Staff recommends that the street vacation be granted with the condition that the effective date of the vacation be upon approval and recordation of the Final Plat associated with Preliminary Plat No. PLT13-0006 (Auburn Assemblage) in accordance with ACC Title 17, as long as the final plat contains a dedication of right-of-way providing a network connection parallel and equivalent to the vacated corridor.

2. Staff recommends that a temporary construction easement over the area to be vacated be granted to assist the applicant in achieving final plat prior to the vacation taking effect.

PNW Home Builders North LLC - Auburn Assemblage - S 324th St between 46th Pl S and 51st Ave S

Legend

Addresses*

Street Centerlines*

- Private Streets
- Public Streets

Parcels*

Power Vault*

Utility Poles*

Junction Boxes*

Street Lights*

- COA
- Other
- PSE

Electrical Service*

Gas Lines*

Commercial Fiber*

COA Fiber*

- COA Fiber
- INET Fiber
- ITS Fiber

Traffic Signals

- Fire Station Signal
- Pedestrian Signal
- Traffic Signal

Traffic Flashers

- Pedestrian Flasher
- School Zone Flasher

Railroad Signals

Traffic Signal Cabinets*

Power Service Cabinets*

Traffic Signal Heads*

Traffic Signal Mast Arms*

Street Painted Lines*

- Airport
- Bike Lane
- Bike Lane Symbol
- Crosswalk
- Dashed Dividng Line
- Directional Symbols
- Fog Line
- Parking
- HOV Lane
- HOV Symbol
- On Street Parking
- Painted Road Line
- Railroad Crossing
- Solid Dividing Line
- Stop Line

Copper Innerconnects

Printed On: 2/28/2014

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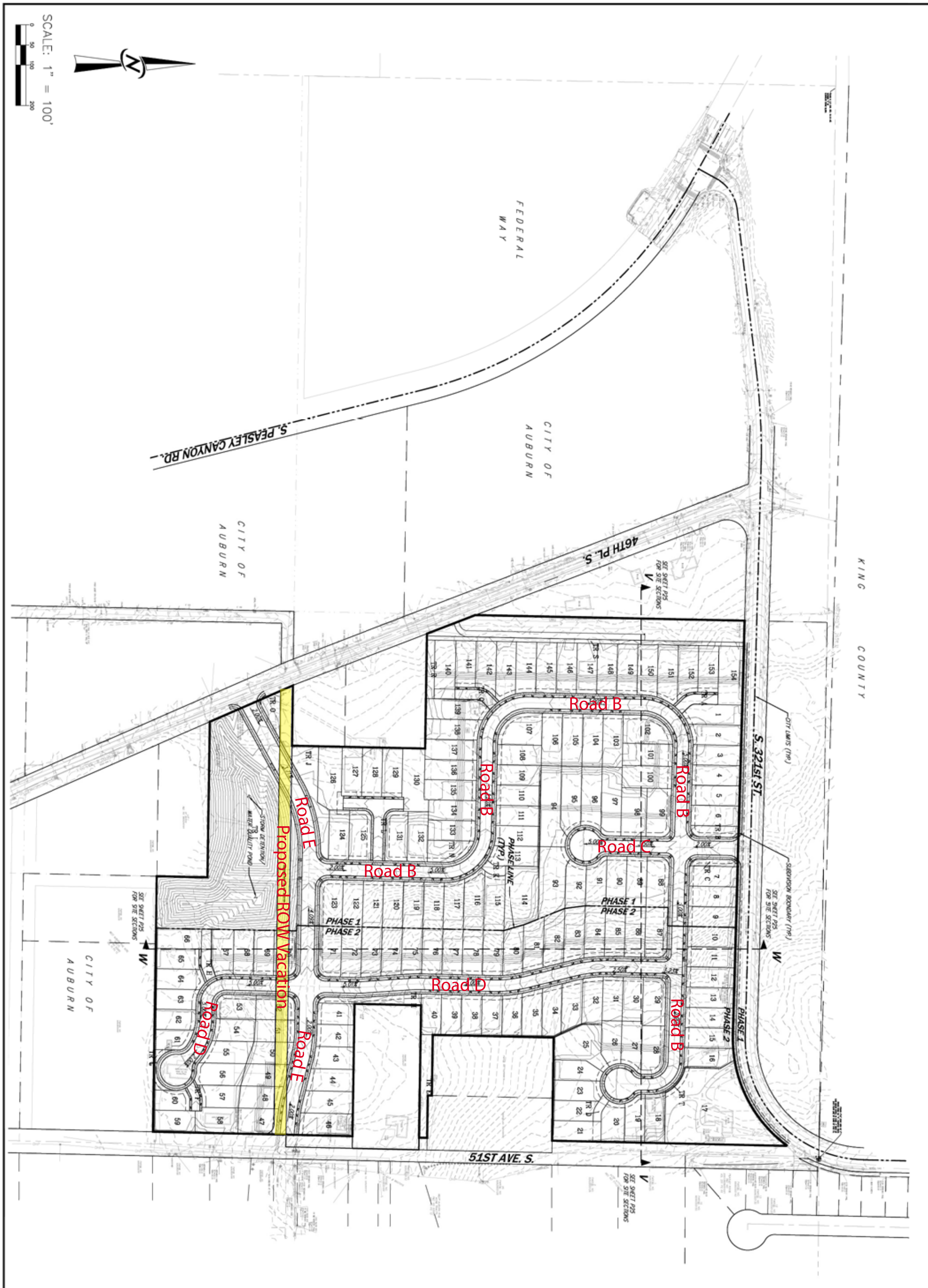

SHEET P2 OF 27

PROJECT NUMBER 12045

DATE	SEPTEMBER 2013
DESIGNED	V.M. GOODING
DRAWN	L.G. WIGHT
APPROVED	G.R. SHARNBROICH, P.E.
GARY R. SHARNBROICH, P.E. PROJECT MANAGER	

OVERALL SITE PLAN

AUBURN ASSEMBLAGE PRELIMINARY PLAT

PNW HOME BUILDERS NORTH, L.L.C.
11624 S.E. 5TH STREET, SUITE 200
BELLEVUE, WASHINGTON 98005

CORE DESIGN
14711 NE 29th Place Suite 101
Bellevue, Washington 98007
425.885.7877 Fax 425.885.7963
ENGINEERING · PLANNING · SURVEYING

4-4-2014

NO.	REVISIONS	DATE
1	REVISED PER CITY REVIEW	1/10/14
2	REVISED PER 2ND REVIEW	3/4/14
3	REVISED PER 3RD REVIEW	4/4/14

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5074

Date:
May 27, 2014

Department:
Public Works

Attachments:
Res 5074

Budget Impact:
$0

Administrative Recommendation:

City Council to adopt Resolution No. 5074.

Background Summary:

The purpose of this Resolution is for the City Council to set a time and date for a public hearing to amend the Six Year Transportation Improvement Plan.

Reviewed by Council Committees:

Planning And Community Development, Public Works

Councilmember:	Osborne	**Staff:**	Snyder
Meeting Date:	June 2, 2014	**Item Number:**	RES.B

RESOLUTION NO. 5 0 7 4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, SETTING THE TIME AND DATE FOR A PUBLIC HEARING BEFORE THE CITY COUNCIL ON THE 2015-2020 TRANSPORTATION IMPROVEMENT PLAN

WHEREAS, RCW 35 77 010 requires that the City of Auburn annually prepare and adopt a comprehensive transportation improvement program for each ensuing six calendar years to ensure that the City will have available advance plans as a guide in carrying out a coordinated street construction program; and

WHEREAS, ROW 35.77 010 requires the City Council to annually conduct a public hearing to review the work accomplished under each six-year Transportation Improvement Program, and to adopt a revised and extended comprehensive transportation improvement program.

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

Section 1 PURPOSE. The purpose of this Resolution is for the City Council to set a time and date for a public hearing on the 2015-2020 Transportation Improvement Plan, to review the work accomplished under the program, and to identify capital transportation system improvement projects, and relevant transportation studies.

Section 2. NOTICE OF HEARING The Council hereby directs that a notice specifying the time and place of the public hearing shall be published one time in a newspaper of general circulation and the notice shall also be posted in three public places. Such public notice shall precede the public hearing by at least 10 days.

Section 3 DATE OF HEARING Pursuant to the requirements of State law, a public hearing on said 201 5-2020 Transportation Improvement Program will be held on the 16th day of June, 2014, at 7 30 p.m., or as soon thereafter as reasonably possible, in the Council Chambers of the Auburn City Hall at 25 West Main Street in Auburn, Washington, before the City Council. All persons interested in said 2015-2020 Transportation Improvement Program may attend and testify at said hearing.

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

Section 5 EFFECTIVE DATE. This resolution shall be in full force and effect upon passage and signatures hereon.

DATED and SIGNED this _____ 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