

**City Council Meeting
May 2, 2016 - 7:00 PM
Auburn City Hall
AGENDA**

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[Watch the meeting video](#)

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

I. CALL TO ORDER

- A. **Pledge of Allegiance**
- B. **Roll Call**

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

- A. **Affordable Housing Week Proclamation**
Mayor Backus to proclaim the week of May 16-22, 2016 as Affordable Housing Week in the city of Auburn.

III. APPOINTMENTS

IV. AGENDA MODIFICATIONS

V. 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.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

VII. CONSENT AGENDA

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

- A. **Minutes of the April 18, 2016 Regular Council Meeting***
- B. **Claims Vouchers (Coleman)**

Claims voucher numbers 438306 through 438465 in the amount of \$1,212,910.90 and five wire transfers in the amount of \$193,123.47 and dated May 2, 2016.

C. **Payroll Vouchers (Coleman)**

Payroll check numbers 536390 through 536421 in the amount of \$704,858.21 and electronic deposit transmissions in the amount of \$1,399,731.04 for a grand total of \$2,104,589.25 for the period covering April 14, 2016 to April 27, 2016.

D. **Public Works Project No. C222a0* (Snyder)**

City Council grant permission to advertise for bids for Project No. C222a – S 277th Street Corridor Capacity & Non-Motorized Trail Improvements

E. **Public Works Project No. CP1507* (Snyder)**

City Council grant permission to advertise for bids for Project No. CP1507, Auburn Way North Preservation

F. **Public Works Project No. CP1411* (Snyder)**

City Council grant permission to advertise for bids for Project No. CP1411, Muckleshoot Indian Tribe Master Meters

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

VIII. **UNFINISHED BUSINESS**

IX. **NEW BUSINESS**

X. **ORDINANCES**

A. **Ordinance No. 6567, First Reading* (Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, amending Sections 5.10.040, 5.15.110, 5.20.080 and 5.22.120 of the Auburn City Code relating to enforcement of the City's business license requirement

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6567.)

B. **Ordinance No. 6599, First Reading* (Snyder)**

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

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6599.)

XI. **RESOLUTIONS**

A. **Resolution No. 5217* (Heid)**

A Resolution of the City Council of the City of Auburn, Washington, amending the City Council Rules of Procedure as adopted by Ordinance No. 5802 and amended by Resolution Nos. 4282, 4429, 4467, 4615, 4686, 4740, 4813, 4909, 5105, 5112 and 5115

(RECOMMENDED ACTION: City Council adopt Resolution No. 5217.)

B. **Resolution No. 5223* (Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, setting a public hearing to consider the renewal of Franchise Agreement No. 06-21 and amendment of Ordinance No. 6018 with Puget Sound Energy, Inc.

(RECOMMENDED ACTION: City Council adopt Resolution No. 5223.)

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on their significant City-related activities since the last regular Council meeting.

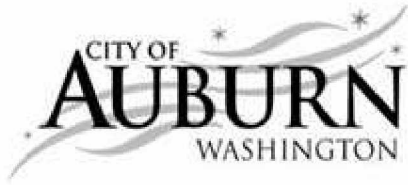
A. From the Council

B. From the Mayor

XIII. 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:

Minutes of the April 18, 2016 Regular Council Meeting

Date:

April 27, 2016

Department:

Administration

Attachments:

[Minutes](#)

Budget Impact:

\$0

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

Meeting Date: May 2, 2016

Item Number: CA.A



**City Council Meeting
April 18, 2016 - 7:00 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

A. Pledge of Allegiance

Deputy Mayor Largo Wales called the meeting to order at 7:00 p.m. and presided over the meeting in the absence of Mayor Nancy Backus. Deputy Mayor Wales led those in attendance in the Pledge of Allegiance.

B. Roll Call

Councilmembers in attendance: Deputy Mayor Largo Wales, Bob Baggett, Claude DaCorsi, John Holman, Bill Peloza, Yolanda Trout-Manuel, and Rich Wagner.

Department Directors and staff members in attendance included: Director of Administration Dana Hinman, Property and Facility Analyst Josh Arndt, Innovation and Technology Director Paul Haugan, Assistant City Attorney Doug Ruth, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Police Commander Mark Caillier, Parks, Arts and Recreation Director Daryl Faber, Finance Director Shelley Coleman, Veterans and Human Services Coordinator Erica Azcueta, Community Development and Public Works Director Kevin Snyder, Environmental Services Manager Chris Andersen, Environmental Services Assistant Christina Jarvis and Environmental Services Assistant Maggie Gipson, Assistant Director of Community Development Services Jeff Tate, and Deputy City Clerk Shawn Campbell.

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

A. National Day of Prayer

Deputy Mayor Wales read and presented a proclamation declaring May 5, 2016 as National Day of Prayer in the City of Auburn to Daniel Behrens. Mr. Behrens thanked the Mayor and Council for their support of the faith community.

B. Stand Against Racism Day Proclamation

Deputy Mayor Wales read and presented a proclamation declaring April 29, 2016 as Stand Against Racism Day in the City of Auburn to Mercedes Ripple of the YWCA. Ms. Ripple thanked the Council for their support of the YWCA's annual campaign to raise awareness against racism.

C. International Earth Day Proclamation

Deputy Mayor Wales read and presented a proclamation declaring April 22, 2016 as International Earth Day in the City of Auburn to Environmental Services Manager Chris Anderson. Accompanying Mr. Anderson was Environmental Assistant Christina Jarvis and Environmental Assistant Maggie Gipson. Environmental Services Manager Anderson thanked Council for their support of the environment and gave a brief history of Earth Day. Ms. Gibson provided suggestions on how citizens can be environmentally friendly year round; such as

turning off the water, recycling and planting native plants. Ms. Jarvis encouraged everyone to get involved in one of the events the City has planned in the month of April such as the movie night at the Senior Center or Clean Sweep.

III. **APPOINTMENTS**

A. **Appointments to Auburn Transportation Advisory Board**

City Council to confirm the appointments to the Auburn Transportation Advisory Board

Members appointed to a one year term to expire December 31, 2017:

Position:	Name :
Citizen at Large	Andrew Serr
High School Student	Tyler Cushing
Auburn Downtown Association	Barb Atrops
Senior Citizen	Pamela Gunderson
Transit User	Naima Rushiddin

Members appointed to a two year term to expire December 31, 2018:

Position:	Name:
Citizen at Large	Steve Carstens
Bicycling Community	Roger Gillette
Local Business	Michael Harbin, Jr.
Green River College	Ronald Riley
Americans with Disabilities (ADA)	Jeanette Miller

Members appointed to a three year term to expire December 31, 2019:

Position:	Name:
Chamber of Commerce	Jim Wilson
Citizen at Large	Katie Chalmers
Auburn School District	Dennis Grad
Muckleshoot Indian Tribe	Dezarae Hayes
Local Business	Dennis Moore

Councilmember Holman moved and Councilmember Trout-Manuel seconded to approve the appointments to the Auburn Transportation Advisory Board.

Councilmember Holman stated the group of appointees are very diverse.

MOTION CARRIED UNANIMOUSLY. 7-0

IV. **AGENDA MODIFICATIONS**

The agenda was modified to include a National Day of Prayer proclamation, a Stand Against Racism proclamation, an International Earth Day proclamation, appointments to the Auburn Transportation Advisory Board and Resolution No. 5230.

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

A. **Public Hearings**

1. Public Hearing for Resolution No. 5224 (Hinman)
City Council to conduct a public hearing to receive comments and suggestions with regards to Resolution No. 5224 declaring utility property as surplus

Deputy Mayor Wales opened the public hearing at 7:22 p.m. No one came forward to speak, and the hearing was closed.

2. Public Hearing for the Consolidated Annual Performance and Evaluation Report (CAPER) (Hinman)
City Council to conduct a public hearing on the 2015 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant Program

Deputy Mayor Wales opened the public hearing at 7:23 p.m. No one came forward to speak, and 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.

Alan Keimig, 216 A Street NW, Auburn

Mr. Keimig spoke in support of Ordinance No. 6596 regarding the rezoning of one parcel. He was concerned with the tone of the staff report. He feels the City could do more to help property owners trying to develop their land.

Joell Nylund, 32538 112th Pl SE, Auburn

Ms. Nylund asked for Council to consider an exemption for service dogs as potentially dangerous dogs. She stated service dogs are not pets they are a highly trained medical equipment.

Leslie Kessler, 1560 S. Atlantic St, Seattle

Ms. Kessler has worked at Green River College for 30 years. She is the Faculty Instructional Chair for the Early Childhood Education program. She expressed her concerns regarding the current president and board at Green River College. She said problems at the college impact the surrounding jurisdictions. She explained the administration mandated a Program Prioritization Process called the PPP to evaluate each program. She stated the programs slated for cuts are Early Childhood Education, History, Earth Science and Geography.

Diana Holz, 1214 W St NW, Auburn

Ms. Holz has worked at Green River College for over 25 years. She is the Program Coordinator for the Early Childhood Education program. She is the owner of Green River Montessori School. She spoke about the Race to the Top grant funds the Auburn School District received for building a robust ECE through 3rd grade network. When the funding from the Federal Government ended, Washington State continued to fund the program. She explained the program helps train all levels of ECE professionals. She asked for Council's support for their program.

Mark Tomason, 18306 152nd Ave SE, Renton

Mr. Tomason has taught history at Green River College for 13 years. He is also the chair of the Social Science division at the college. He said one of the programs that is up for elimination is geography. He noted the classes are full and enrollment in the geography classes have increased by nearly 20% each year over the last two years. The business office reported that the return on investment for the geography department is 215%. If the geography department is eliminated, it would take opportunities away from students who are in the process of getting their AA transfer degree and Running Start students. He asked for Council's help in saving these programs.

David Norberg, 1024 E 44th St, Tacoma

Mr. Norberg has been teaching history at Green River College for 15 years. He shared if the college cuts the history department it would have a devastating effect on the population of Auburn. The Running Start program would not be viable at Green River College if they cut the history program because history is a graduation requirement.

Katheran Shaw, 7011 18th Ave NW, Auburn

Ms. Shaw stated she teaches earth science, geology and oceanography. Her programs are on the list to be eliminated. She explained the importance of geology in our area. She said taking geology away from students at the undergraduate level would be very detrimental to the community at large.

John Avery, 2501 N Union Ave, Tacoma

Mr. Avery has worked at Green River for over 23 years. He teaches English as a second language and also partners with the carpentry program. He expressed concerns that the college has become dysfunctional. He stated faculty and staff members will be contacting surrounding jurisdictions and asking for intervention from the community.

Aaron Leavitt, 5603 Elizabeth Loop SE, Auburn

Mr. Leavitt teaches English as a second language at Green River College. He is also the chair of the transitional studies and wellness division. They serve the immigrant and refugee population. One avenue for them to develop skills to earn a living wage is to participate in the IBEST (Integrated Basic Education and Skill Training) program. This program allows staff from the English as a second language program to work with students participating in various programs including ECE and carpentry. These programs have a large impact on the community. Mr. Leavitt asked for Councils support.

Brad Johnson, 7163 Beach Drive SW, Seattle

Mr. Johnson has taught English at the college for 22 years. He stated the faculty and staff need the activism of the Council and the community to stop the Green River College President. He suggested times and places Council could come speak to the Green River College Board of Trustees.

Ajay Narayanan, 5404 S 314th St, Auburn

Mr. Narayanan stated the established programs bring in on average \$1.22 per dollar spent. He suggested the cuts need to come from the areas that spend money not ones that make money. The educational programs meet a critical goal for the community. He suggested Council and citizens write to the State elected officials.

Robin Bowls, 602 19th St SE, Auburn

Mr. Bowls teaches Drama at Green River College. He expressed concerns about the different messages coming from the administration.

Fran Fredericks, 1609 19th Drive NE, Auburn

Ms. Fredericks is a student Green River College. She shared her experience with being able to attend a local collage and the opportunities she would not have without a local school.

Loise Ermish, 11015 SE 291st ST, Auburn

Ms. Ermish works at Green River College as a classified staff member. She explained the classified staff also need assistance. The classified staff have been cut to the point of not being able to safely maintain the buildings.

Leanne Simpson, 1921 Maryanne Drive, Auburn

Ms. Simpson is a teacher at Green River College. She has wanted to teach at Green River since she attended a conference at Green River College in graduate school. She said the students are the priorities for the teachers. She requested Councils help to protect the programs at Green River College.

Doug Carr, 11430 SE 326th Place, Auburn

Mr. Carr said he had started teaching at Green River College during its second year in operation. He expressed his concern with the changes that have happened at the College. He said it is not the administration that can make a college successful it is the teaching staff.

Deputy Mayor Wales thanked everyone for sharing their concerns.

C. Correspondence

There was no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

Councilmember DaCorsi reported on behalf of the Finance ad hoc committee that reviews claims and payroll vouchers. Councilmember DaCorsi reported he and Councilmember Baggett reviewed the claims and payroll vouchers as presented and described on this evening's agenda and recommend their approval.

VII. CONSENT AGENDA

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

- A. Minutes of the July 27, 2015 Study Session Meeting
- B. Minutes of the August 10, 2015 Study Session
- C. Minutes of the April 4, 2016 Regular City Council Meeting
- D. Claims Vouchers (Coleman)
Claims voucher numbers 438087 through 438305 in the amount of \$4,143,855.45 and four wire transfers in the amount of \$501,317.04 and dated April 18, 2016.
- E. Payroll Vouchers
Payroll check numbers 536355 through 536389 in the amount of \$560,959.56 electronic deposit transmissions in the amount of \$1,424,483.48 for a grand total of \$1,985,443.04 for the period covering April 1, 2016 to April 13, 2016.

Councilmember Holman moved and Councilmember Trout-Manuel seconded to approve the Consent Agenda.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. UNFINISHED BUSINESS

There was no unfinished business.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

- A. Ordinance No. 6596, First Reading (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, rezoning one parcel, 21,000 square feet in size, from R-7 Residential to R-20 Residential, to implement the Comprehensive Plan and amending the City's Comprehensive Zoning Map

Councilmember Holman moved and Councilmember DaCorsi seconded to adopt Ordinance No. 6596.

Councilmember Holman moved and Councilmember Peloza seconded to suspend the rules and waive second reading of Ordinance No. 6596.

MOTION CARRIED UNANIMOUSLY. 6-1 Councilmember DaCorsi voted no.

MOTION TO ADOPT ORDINANCE NO. 6596 PASSED UNANIMOUSLY. 7-0

- B. Ordinance No. 6591, Second Reading (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, amending Sections 18.56.010, 18.56.010, 18.56.020 and 18.56.030 of the Auburn City Code and City of Auburn Ordinance Numbers 6327, 6353, 6403 and 6501 as to the effective dates of said ordinance amendments all relating to temporary signs

Deputy Mayor Wales stated Ordinance No. 6591 was discussed at the April 4th Council meeting.

MOTION CARRIED UNANIMOUSLY. 7-0

XI. RESOLUTIONS

- A. Resolution No. 5224 (Hinman)
A Resolution of the City Council of the City of Auburn, Washington, declaring certain real property as surplus and authorizing the Mayor to negotiate and execute a purchase and sale agreement between the City of Auburn and Bruce and Julie Molen

Councilmember Holman moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5224.

Property and Facility Analyst Arndt stated this resolution surpluses a small portion of the storm water retention pond. Surplus of the property does not have an adverse effect on the storm water pond. The Molens have provided the City with a letter of intent to purchase the property including paying all closing costs and all costs associated with the boundary line adjustment.

Councilmember Wagner asked how the value was established. Property and Facility Analyst Arndt explained the Molens hired a Washington State certified appraiser.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Resolution No. 5227 (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to negotiate and execute, on behalf of the City, an Airport Property Lease with Classic Helicopters Corporation

Councilmember Trout-Manuel moved and Councilmember Holman seconded to adopt Resolution No. 5227.

Councilmember Trout-Manuel spoke in favor of Resolution No. 5227.

MOTION CARRIED UNANIMOUSLY. 7-0

C. Resolution No. 5228 (Faber)

A Resolution of the City Council of the City of Auburn, Washington, amending the City of Auburn Parks and Recreation Fee Schedule

Councilmember Baggett moved and Councilmember DaCorsi seconded to adopt Resolution No. 5228.

MOTION CARRIED UNANIMOUSLY. 7-0

D. Resolution No. 5229 (Hinman)

A Resolution of the City Council of the City of Auburn, Washington, to accept the Consolidated Annual Performance and Evaluation Report (CAPER) for the 2015 program year

Councilmember DaCorsi moved and Councilmember Holman seconded to adopt Resolution No. 5229.

MOTION CARRIED UNANIMOUSLY. 7-0

E. Resolution No. 5230

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a waiver of the right to an appraisal and compensation from the Bonneville Power Administration for the granting of an easement to the Administration

Councilmember DaCorsi moved and Councilmember Holman seconded to adopt Resolution No. 5230.

Councilmember Wagner asked why the City would not require an appraisal. Assistant City Attorney Ruth explained the cost of the appraisal would be close to the value of the property.

MOTION CARRIED. 6-1 Councilmember Wagner voted no.

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on their significant City-related activities since the last regular Council meeting.

A. **From the Council**

Councilmember Trout-Manuel reported she attended the LEOFF Board meeting, the Good Eggs Breakfast, Coffee Hour at the Senior Center, the grand opening of Sports Clips, and the Junior City Council meeting. She also reported she was the keynote speaker at the Consejo Counseling and Referral fund raiser for Domestic Violence awareness.

Councilmember Baggett reported he attended two volunteer celebrations.

Councilmember Peloza reported he attended the King County Solid Waste Advisory Committee meeting and the Mayors Taskforce on homelessness. He also spoke on product stewardship.

Councilmember Wagner reported he attended the Wesley Homes Rehabilitation Center grand opening, Pierce County Transportation Policy Board meeting and the Good Eggs breakfast.

Councilmember Holman reported he attended the Puget Sound Regional Council Growth Management Policy Board meeting.

Councilmember DaCorsi reported he attended the Arbor Day events.

Deputy Mayor Wales reported she attended the Junior City Council meeting.

B. From the Mayor

Mayor Backus was not in attendance.

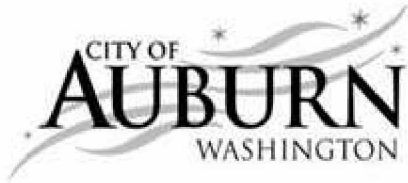
XIII. ADJOURNMENT

There being no further business before the Council, the meeting adjourned at 8:45 p.m.

APPROVED this 2nd day of May, 2016.

NANCY BACKUS, MAYOR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

April 26, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve claims vouchers.

Background Summary:

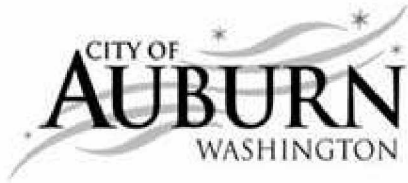
Claims voucher numbers 438306 through 438465 in the amount of \$1,212,910.90 and five wire transfers in the amount of \$193,123.47 and dated May 2, 2016.

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

Coleman

Meeting Date: May 2, 2016

Item Number: CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

April 26, 2016

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council to approve payroll vouchers.

Background Summary:

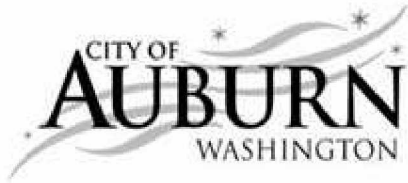
Payroll check numbers 536390 through 536421 in the amount of \$704,858.21 and electronic deposit transmissions in the amount of \$1,399,731.04 for a grand total of \$2,104,589.25 for the period covering April 14, 2016 to April 27, 2016.

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

Coleman

Meeting Date: May 2, 2016

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. C222a0

Date:

April 25, 2016

Department:

CD & PW

Attachments:

[Budget Status Sheet](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council grant permission to advertise for bids for Project No. C222a S 277th Street Corridor Capacity & Non-Motorized Trail Improvements.

Background Summary:

The S 277th Street Corridor Capacity and Non-Motorized Trail Improvements project (Project) consists of intersection improvements and major roadway widening on S 277th Street from Auburn Way North to L Street NE.

This project will be bid with a Base Bid and one Additive Bid as follows:

Base Bid: All work along S 277th Street from Auburn Way North to approximately 750 feet east of L Street NE (shown as the solid red hatching in the attached vicinity map). The major components of the Base Bid include adding two new eastbound through lanes, one new westbound through lane, a Class I separated non-motorized trail, street lighting improvements, storm drainage improvements, waterline improvements, streetscape improvements, Intelligent Transportation System (ITS) improvements, a permanent variable message sign, intersection capacity and safety improvements, and auxiliary turn lanes at Auburn Way North, D Street NE, and the future I Street NE. Based on the current engineer's estimate of probable construction costs, staff anticipates the funding available from the secured grants and City Funds will be sufficient to complete the Base Bid work.

Additive Bid: All work on 83rd Avenue South from S 277th Street to approximately 550 feet north (shown as the green hexagonal hatching in the attached vicinity map). The major components of the Additive Bid include street lighting improvements, storm drainage improvements, sidewalks, a retaining wall, an auxiliary turn lane at 83rd Avenue S, and a grind and overlay of the pavement surface.

Advertising for construction bids is anticipated to begin in May 2016 with construction anticipated to begin in July 2016 which will meet the fish construction window for the project. Construction of the project is expected to last 18 months.

Budget Considerations:

Unless bids are lower than expected, it is anticipated that awarding the Additive Bid would require a project budget increase in the 102 Arterial Streets Fund of \$398,538.00. The actual amount of this increase (if any), and whether or not staff recommends including the Additive Bid work in the contract, will be addressed in the award consent item brought to Council for consideration in June. If the Additive Bid is awarded, an in-fund adjustment will be included in Budget Amendment #6.

The need for water line improvements in the Base Bid work was identified during design in 2016 and was not part of the original project scope. Therefore, a project budget increase within the 460 Water Fund will be needed to fund these improvements. The estimated amount of this budget increase is \$114,026.00. The needed water funds are available within the current 460 Water Fund budget from other projects where the actual expenditures are lower than originally budgeted. This in fund adjustment will be included in Budget Amendment #6 which will occur after the Council's consideration of award of the project.

Finally, as discussed at the Council Study Session on April 11, 2016, during the environmental permitting process, the potential need for noise abatement along the south side of S 277th Street, adjacent to the Trail Run community, was identified. Washington State Department of Transportation (WSDOT) processes associated with the Federal funding in this project require the City to conduct polling of the Trail Run community to determine whether or not WSDOT will require the City to construct a noise wall. If a noise wall is required, the noise wall work would be advertised as a separate construction contract, and additional project funding of approximately \$525,000.00 may be needed to fund design and construction of the wall.

Reviewed by Council Committees:

Councilmember:

Staff: Snyder

Meeting Date: May 2, 2016

Item Number: CA.D

BUDGET STATUS SHEET

Project No: **C222a0**

Project Title **S 277th St Corridor Capacity & Non Motorized Trail Improvements**

Project Manager: **Ryan Vondrak (Kim Truong)**

Initiation Date: February 4, 2013

Advertisement Date: _____

Award Date: _____

- ☐ 2016 Project Update 99% est
- ☒ Permission to Advertise
- ☐ Contract Award
- ☐ Change Order Approval
- ☐ Contract Final Acceptance

Date: 4/19/16

Funds Budgeted (Funds Available)

Funding	Prior Years (Actual)	2013 (Actual)	2014 (Actual)	2015 (Actual)	2016	2017	Total
102 Fund - Unrestricted	24,825	24,971	49,528	308,062			407,386
102 Fund - Federal Grant	0	90,503	317,346	552,160	60,691		1,020,700
102 Fund - Private Developer (RPG)**	0	0	0	0	2,300,000		2,300,000
102 Fund - Traffic Impact Fees	0	0	0	3,719	1,128,081		1,131,800
460 Fund - Water	0	0	0	0	0		0
TIB Grant					4,000,000		4,000,000
Total	24,825	115,474	366,874	863,941	7,488,771		8,859,886

**Property dedicated by RPG is estimated at \$1.3 million

Estimated Cost (Funds Needed)

Activity	Prior Years (Actual)	2013 (Actual)	2014 (Actual)	2015 (Actual)	2016	2017	Total
Design Engineering - City Costs	24,825	34,790	40,374	71,659	39,682		211,330
Design Engineering - Consultant Costs		80,684	326,500	792,282	100,534		1,300,000
ROW - Property Acquisition***					1,326,894		1,326,894
ROW - Property Acquisition - City Costs					5,500		5,500
ROW - Property Acquisition - Consultant Costs					50,000		50,000
<u>Construction Estimate Base Bid</u>					5,470,000		5,470,000
<u>Authorized Contingency Base Bid (5%)</u>					273,500		273,500
<u>Construction Estimate Additive Bid</u>					485,930		485,930
<u>Authorized Contingency Additive Bid (5%)</u>					24,297		24,297
Construction Engineering - City Costs					125,000		125,000
Construction Engineering - Consultant Costs					100,000		100,000
Total	24,825	115,474	366,874	863,941	8,001,336	0	9,372,450

***\$1.3 million of this is approximate value of land dedicated to the City for ROW by RPG

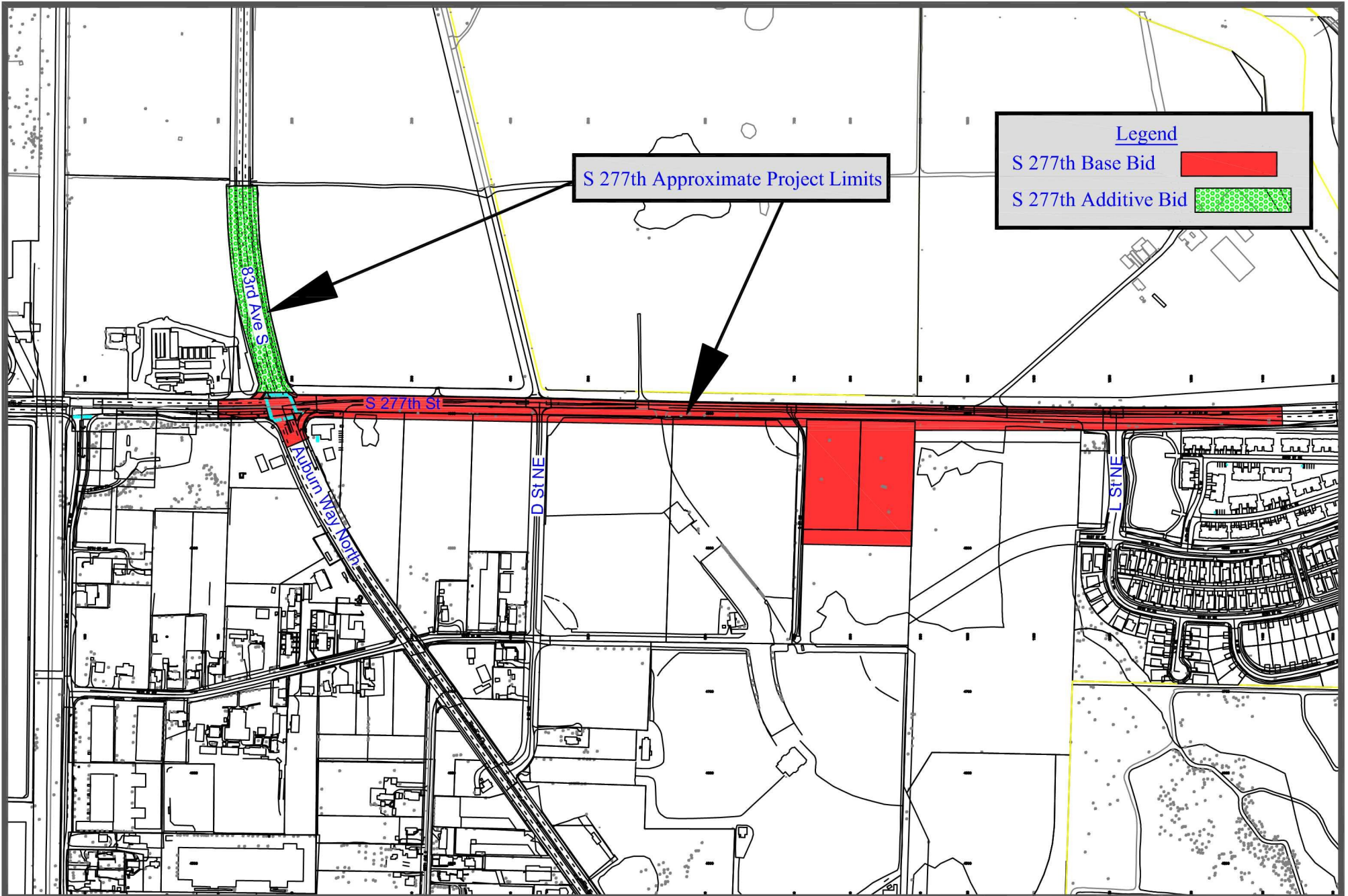
102 Arterial Street Budget Status

	Prior Years (Actual)	2013 (Actual)	2014 (Actual)	2015 (Actual)	2016	2017	Total
*102 Funds Budgeted ()	(24,825)	(115,474)	(366,874)	(863,941)	(7,488,771)	0	(8,859,886)
102 Funds Needed	24,825	115,474	366,874	863,941	7,887,310	0	9,258,424
*102 Fund Project Contingency ()	0	(0)	(0)	0	0	0	0
102 Funds Required	0	0	0	0	398,539	0	398,538

460 Water Budget Status

	Prior Years (Actual)	2013 (Actual)	2014 (Actual)	2015 (Actual)	2016	2017	Total
*460 Funds Budgeted ()	0	0	0	0	0	0	0
460 Funds Needed	0	0	0	0	114,026	0	114,026
*460 Fund Project Contingency ()	0	0	0	0	0	0	0
460 Funds Required	0	0	0	0	114,026	0	114,026

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



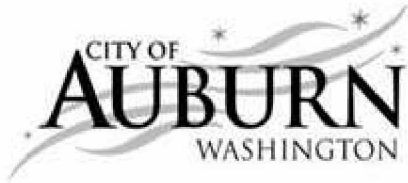
S 277th Approximate Project Limits

Legend

S 277th Base Bid

S 277th Additive Bid





AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1507

Date:

April 25, 2016

Department:

CD & PW

Attachments:

[Budget Status Sheet](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council grant permission to advertise for bids for Project No. CP1507, Auburn Way North Preservation

Background Summary:

The project consists of rehabilitating and preserving the existing pavement on Auburn Way North between 22nd Street NE and 45th Street NE by performing a thick asphalt grind and overlay, restoring 7.3 lane miles of pavement. The project will also upgrade 33 curb ramps to meet current ADA standards, replace unused driveways with sidewalks, replace pedestrian signal infrastructure at four intersections to comply with current ADA standards, remove and replace one signal pole, replace detection loops, install a small section of storm pipe to address drainage issues, and complete roadway re-striping.

Advertising for construction bids is anticipated to begin in May 2016 with construction anticipated to begin in July 2016. Construction of the project is expected to last 6 months.

Unless bids are lower than expected, it is anticipated that the following in-fund adjustments will be needed: 105 Arterial Street Preservation Fund in the estimated amount of \$55,655.00, 460 Water Fund in the estimated amount of \$11,396.00, and 462 Storm Drainage Fund in the estimated amount of \$43,149.00. These funds are available from other projects where the actual expenditures are less than originally budgeted. The actual amount of these adjustments (if any) will be addressed in the award consent item brought to Council for consideration in June. these in-fund adjustments will be included in Budget Amendment #6 which will occur after the Council's consideration of award of this project.

A project budget contingency of \$25,329.00 remains in the 461 Sewer Fund.

Reviewed by Council Committees:

Councilmember:

Staff: Snyder

Meeting Date: May 2, 2016

Item Number: CA.E

BUDGET STATUS SHEET

Project No: CP1507	Project Title: Auburn Way North Preservation Project
Project Manager: Joel Chalmers	

Initiation Date: 2/25/15
 Advertisement Date: _____
 Award Date: _____

☐ 90% Design Cost Estimate
☒ **Permission to Advertise**
☐ Contract Award
☐ Change Order Approval
☐ Contract Final Acceptance

Date: April 21, 2016

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

Funds Budgeted (Funds Available)

Funding	Prior Years	2015 (Actuals)	2016	Future Years	Total
105 Fund - Unrestricted		85,000	887,500		972,500
105 Fund - Federal Grant		80,000	887,500		967,500
460 Fund - Water		0	16,000		16,000
461 Fund - Sewer		5,000	70,000		75,000
462 Fund - Storm		0	42,500		42,500
Total	0	170,000	1,903,500	0	2,073,500

Estimated Cost (Funds Needed)

Activity	Prior Years	2015 (Actuals)	2016	Future Years	Total
Design Engineering - City Costs		88,667	55,000		143,667
Design Engineering - City Costs (Utilities)		1,860	5,640		7,500
Design Engineering - Survey Consultant		36,770			36,770
Construction Estimate			1,685,434		1,685,434
Authorized Project Contingency			100,000		100,000
City Procured Constuction Materials			30,000		30,000
Construction Engineering - City Costs			135,000		135,000
Construction Engineering - Consultant Costs (Testing)			20,000		20,000
Total	0	127,297	2,031,074	0	2,158,371

105 Arterial Street Budget Status

	Prior Years	2015 (Actuals)	2016	Future Years	Total
*105 Funds Budgeted ()	0	(165,000)	(1,775,000)	0	(1,940,000)
105 Funds Needed	0	125,437	1,870,218	0	1,995,655
*105 Fund Project Contingency ()	0	(39,563)	0	0	0
105 Funds Required	0	0	95,218	0	55,655

460 Water Budget Status

	Prior Years	2015 (Actuals)	2016	Future Years	Total
*460 Funds Budgeted ()	0	0	(16,000)	0	(16,000)
460 Funds Needed	0	0	27,396	0	27,396
*460 Fund Project Contingency ()	0	0	0	0	0
460 Funds Required	0	0	11,396	0	11,396

461 Sewer Budget Status

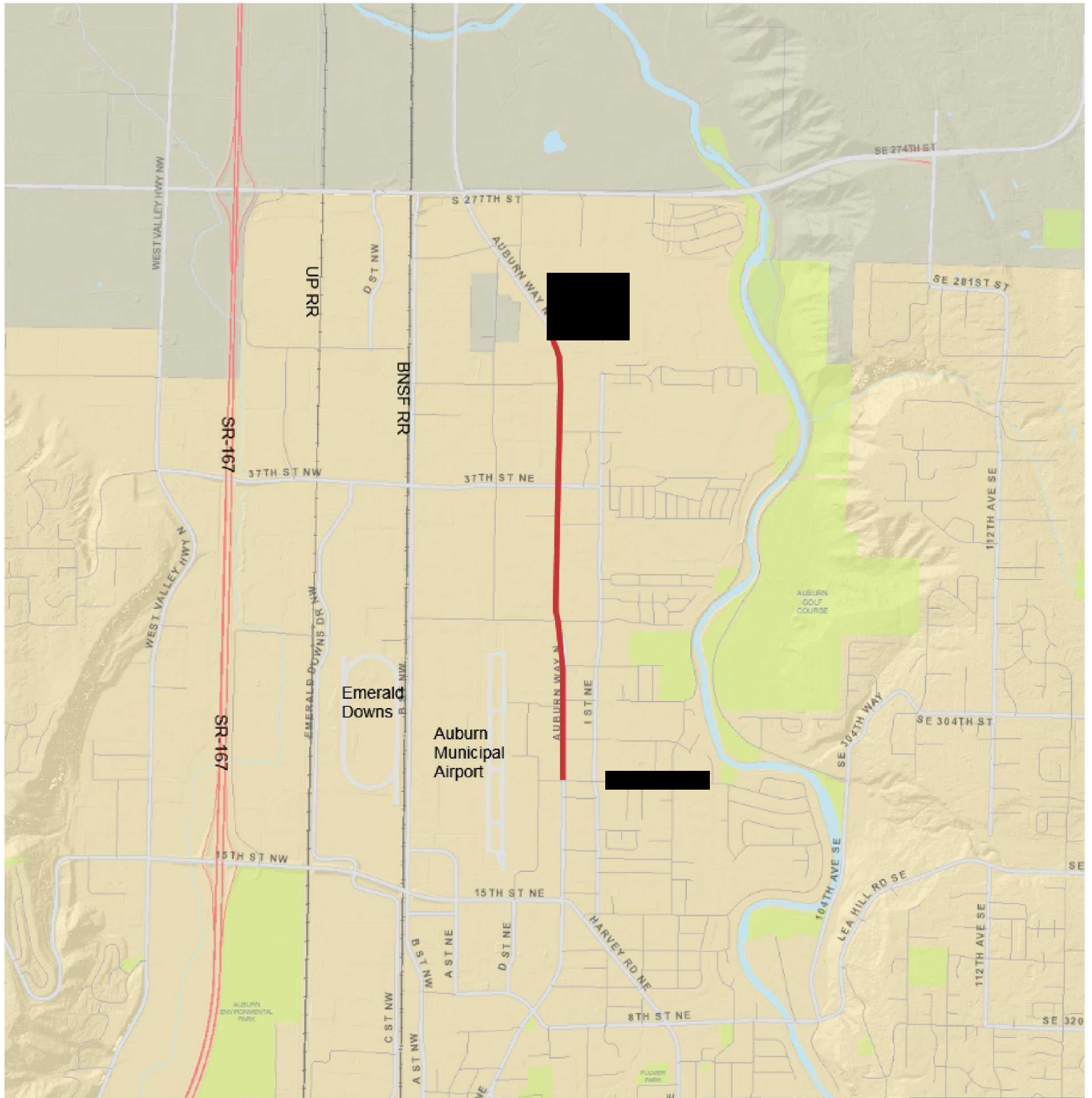
	Prior Years	2015 (Actuals)	2016	Future Years	Total
*461 Funds Budgeted ()	0	(5,000)	(70,000)	0	(75,000)
461 Funds Needed	0	1,860	47,811	0	49,671
*461 Fund Project Contingency ()	0	(3,140)	(22,189)	0	(25,329)
461 Funds Required	0	0	0	0	0

462 Storm Budget Status

	Prior Years	2015 (Actuals)	2016	Future Years	Total
*462 Funds Budgeted ()	0	0	(42,500)	0	(42,500)
462 Funds Needed	0	0	85,649	0	85,649
*462 Fund Project Contingency ()	0	0	0	0	0
462 Funds Required	0	0	43,149	0	43,149

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

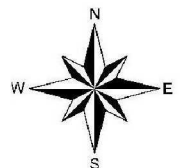
Auburn Way North Preservation

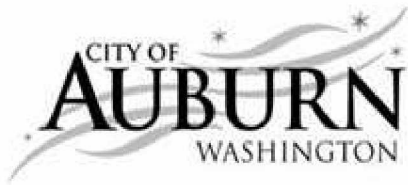


 Auburn Way North
Preservation Project

Printed Date: 5/6/2014
Map Created by City of Auburn eGIS

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





AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1411

Date:

April 25, 2016

Department:

CD & PW

Attachments:

[Budget Status Sheet](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council grant permission to advertise for bids for Project No. CP1411, Muckleshoot Indian Tribe Master Meters.

Background Summary:

This project will install 2 master meters and backflow prevention assemblies at the Muckleshoot Indian Tribe (MIT) casino site located at 2600 Auburn Way South in the City's Academy service area, as shown in the attached vicinity map. This project will isolate the MIT on-site water system from the City's public water system and ease both the City and MIT account administration as well as business and maintenance and operation interference.

Advertising for construction bids is anticipated to begin in May 2016 with construction anticipated to begin in July 2016. Construction of the project is expected to last 3 months.

Unless bids are lower than expected, it is anticipated that an in-fund budget adjustment of \$65,836.00 from the 460 Water Fund will be required this year to fund the project. These funds are available from other projects where the actual expenditures are less than originally budgeted. The actual amount of this adjustment (if any) will be addressed in the award consent item brought to Council for consideration in June. This in-fund adjustment will be included in Budget Amendment #6 which will occur after the Council's consideration of award of this project.

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

Snyder

Meeting Date: May 2, 2016

Item Number: CA.F

BUDGET STATUS SHEET

Project No: CP1411

Project Title: Muckleshoot Indian Tribe Master Meters

Project Manager: Joel Chalmers

Initiation Date: 9/14/2014

Advertisement Date: _____

Award Date: _____

- ☐ 60% Design Cost

☒ Permission to Advertise

☐ Contract Award

☐ Change Order Approval

☐ Contract Final Acceptance

Date: April 26, 2016

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

Funds Budgeted (Funds Available)

Funding	Prior Years	2015 (Actual)	2016	Future Years	Total
460 Fund - Water Repair and Replacements	4,419	18,410	57,170		80,000
460 Fund - Water Bond Issuance			400,000		400,000
Total	4,419	18,410	457,170	0	480,000

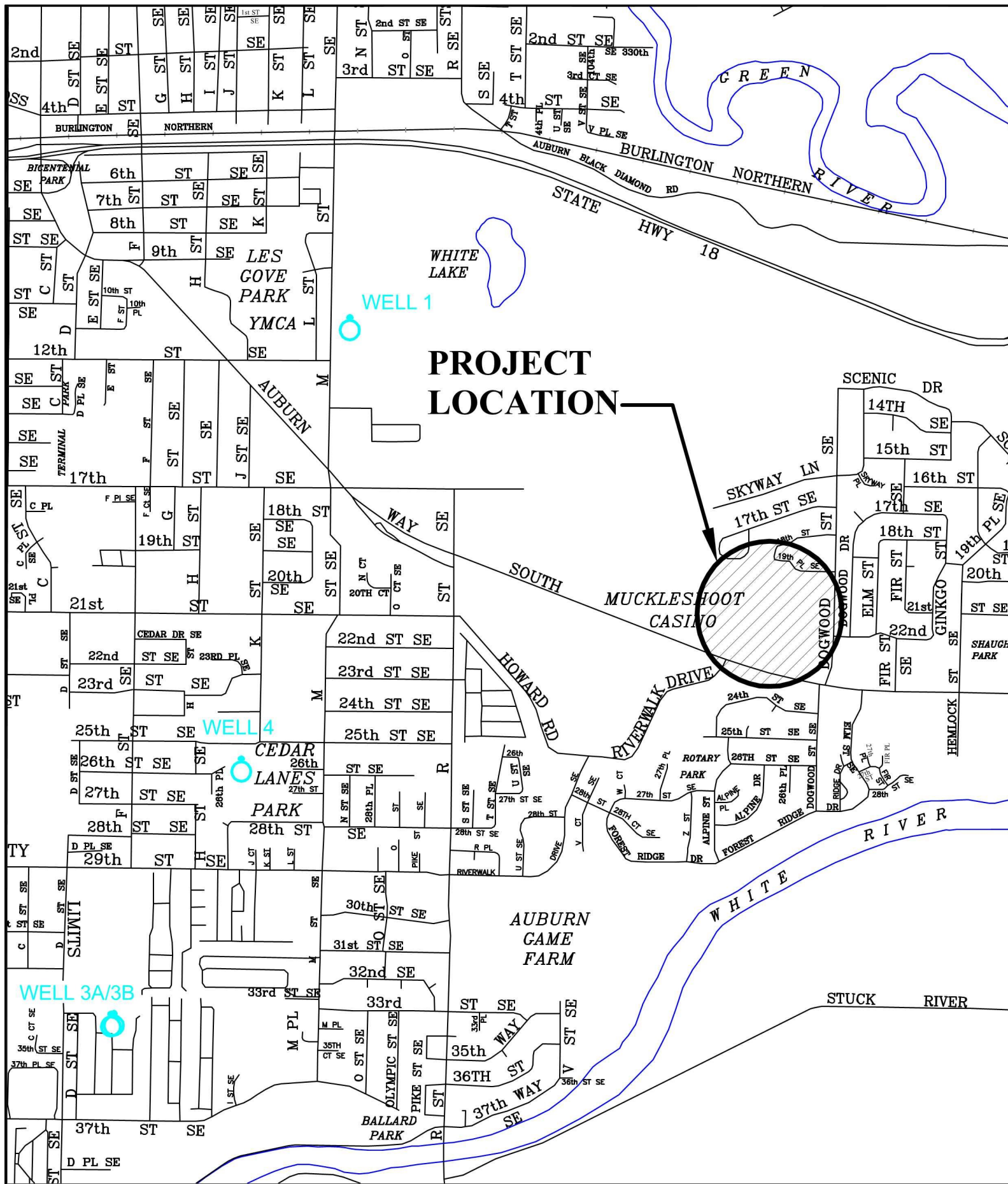
Estimated Cost (Funds Needed)

Activity	Prior Years	2015 (Actual)	2016	Future Years	Total
Design Engineering - City Costs	4,419	18,410	28,200		51,030
Construction Estimate			422,606		422,606
Authorized Contingency (10%)			42,200		42,200
Construction Engineering - City Costs			30,000		30,000
Total	4,419	18,410	523,006		545,836

460 Water Budget Status

	Prior Years	2015 (Actual)	2016	Future Years	Total
*460 Funds Budgeted ()	(4,419)	(18,410)	(457,170)	0	(480,000)
460 Funds Needed	4,419	18,410	523,006	0	545,836
*460 Fund Project Contingency ()	0	0	0	0	0
460 Funds Required	0	0	65,836	0	65,836

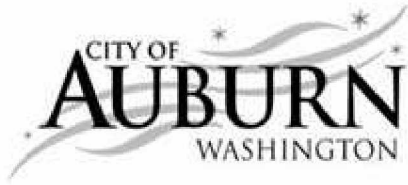
* (#) in the Budget Status Sections indicates Money the City has available.



MUCKLESHOOT INDIAN TRIBE MASTER METERS



VICINITY MAP
APRIL 2016
NOT TO SCALE



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6567, First Reading

Date:

April 26, 2016

Department:

Community Development & [Ordinance No. 6567](#)
Public Works

Attachments:**Budget Impact:**

\$0

Administrative Recommendation:

City Council adopt Ordinance No. 6567

Background Summary:

On March 14, 2016 staff representing the City Attorney's Office and the Department of Community Development and Public Works presented a series of draft code amendments pertaining to the enforcement procedures for business license compliance. The proposed amendments are contained in Chapter 5.10 (General Business Licenses), Chapter 5.15 (Business License Enforcement), Chapter 5.20 (Individual License Regulations), and Chapter 5.22 (Rental Housing Business License and Strategies). The purpose of the code amendments is to allow for the use of the "civil infraction" and "civil penalty" options that are already laid out in Chapter 1.25 (Civil Penalties for Violations).

Chapter 1.25 of the City Code defines the majority of procedures and penalties available to code enforcement. In situations where voluntary compliance is not achieved, the City can wither pursue civil infractions which is a \$250.00 infraction that functions much like a ticket, or a civil penalty which is a \$500 fine plus \$100 per day that may be liened against the property.

Currently, the Chapter 1.25 procedures are not available for use in the enforcement of business licenses. Instead, business license violations are listed as a misdemeanor punishable by \$1,000 or 90 days in jail. It is staff's opinion that most business license violations are appropriately remedied using the civil procedures outlined in Chapter 1.25 and that prosecution as a misdemeanor is an excessive first step.

Additionally, Ordinance 6567 clarifies and adds to the list of information an applicant must provide when applying for a business license.

This matter was presented to City Council during the March 14, 2016 study session where support was provided for bringing Ordinance 6567 to a future City Council for consideration of adoption.

Reviewed by Council Committees:

Councilmember:

Staff: Snyder

Meeting Date: May 2, 2016

Item Number: ORD.A

ORDINANCE NO. 6 5 6 7

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 5.10.040, 5.15.110, 5.20.080 AND 5.22.120 OF THE AUBURN CITY CODE RELATING TO ENFORCEMENT OF THE CITY'S BUSINESS LICENSE REQUIREMENT

WHEREAS, the City of Auburn requires that all businesses operating in Auburn obtain a business license issued by the City; and

WHEREAS, the City of Auburn code currently classifies the crime of operating an unlicensed business in the City as a misdemeanor; and

WHEREAS, the reasons some individuals fail to obtain a business license do not justify the severity of penalty associated with a misdemeanor crime; and

WHEREAS, progressive penalties allow for more flexible enforcement of the business license obligation.

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

Section 1 Amendment to City Code. That section 5.10.040 of the Auburn City Code be and the same hereby is amended to read as follows:

5.10.040 General business license required – Exception.

A. Any person desiring to establish or conduct any business enterprise or undertaking as defined in ACC 5.10.020 within the corporate limits of the city, shall first apply to the business license clerk, as designated by the mayor, for a license to conduct such business and obtain such license as approved by the city. The application shall be upon a form furnished by the business license clerk on which the applicant shall state the business name, address, and telephone number; the owner's date of birth and government-issued identification number (e.g. driver's license number); the nature of the business activity or activities in which the applicant desires to engage; the place where the business will be conducted; the number of employees, and the name of the contact person

along with an address, date of birth, government-issued identification number, and telephone number, and the business identification number issued by the state of Washington; and the IRS letter testifying to nonprofit status or the copy of the application to the IRS

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

C Specific businesses identified in Chapters 3.80, 3.84, 3.88, 5.20, 5.30, 5.84 ACC or elsewhere in this title or other titles of the Auburn City Code will be required to obtain an individual business license as otherwise indicated.

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

E. Exception to City Business Licensing Requirement. A business license is not required by the city of any person or persons who has/have a valid, lawful license issued by the state of Washington to produce, process or sell marijuana, marijuana concentrates, usable marijuana and/or marijuana-infused products in conformity with the requirements of the state of Washington related to such license pursuant to RCW 69.50.301 through 69.50.369, and WAC 314-55-005 through 314-55-540 (Ord. 6525 § 3, 2014, Ord. 5897 § 3, 2005, Ord. 5814 § 2, 2004, Ord. 5754 § 1, 2003, Ord. 4012 § 2, 1984)

Section 2. Amendment to City Code. That section 5.15.1100 of the Auburn City Code be and the same hereby is amended to read as follows.

5.15.110 ~~5.15.110~~—Violations – Penalty

~~Any person violating or failing to~~A. It shall be a violation of city code for any person or entity to fail to comply with any provision of this title, or any other business license or regulation ordinance, or any terms and conditions of a business license of the city. Unless a specific penalty is expressly provided for a particular violation, violations of this title shall constitute either (1) a civil infraction or civil penalty, punishable in accordance with Chapter 1.25 of this code, or (2) a misdemeanor, punishable shall be guilty of a violation of city ordinance and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or imprisonment in jail for any term not exceeding 90 days, or both.

B. In determining which penalty shall be used to enforce violations of this title, if the offense is of a serious nature, it poses a risk to public safety, the violator has not made good faith efforts to achieve compliance, or there are limited other avenues for effective enforcement, the investigation officer may refer a violation to the city attorney for charging as a misdemeanor.

C. Additional Relief. The city may seek legal or equitable relief to enjoin any acts or practices or abate any condition which constitutes or will constitute a violation of the applicable provisions of this chapter when penalties provided here are inadequate to effect compliance. (Ord. 5754 § 2, 2003.)

Section 3. Amendment to City Code. That section 5.20.080 of the Auburn City Code be and the same hereby is amended to read as follows.

5.20.080 Violation – Penalty

A. Any violation of the provisions of this chapter is a ~~misdemeanor~~ punishable in accordance with ACC ~~5.15.110~~~~4.24.010~~.

B. ~~Each day of such violation constitutes a separate offense under this chapter. (Ord. 5683 § 12, 2002; Ord. 4012 § 2, 1984)~~

Section 4. Amendment to City Code. That section 5.22.120 of the Auburn City Code be and the same hereby is amended to read as follows:

5.22.120 Violation – Penalty

Failure of a rental housing business owner, manager or operator to operate a rental housing business without obtaining or maintaining in good standing a rental housing business license, as required by this chapter, is a ~~misdemeanor punishable in accordance with ACC 5.15.110~~by a fine of up to \$1,000 or by a jail sentence of up to 90 days, or by a combination of said fine and jail sentence. (Ord. 5882 § 1, 2005, Ord. 5651 § 1, 2002.)

Section 5. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 6. Severability The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence,

paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 7 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

FIRST READING: _____

SECOND READING: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST

Danielle E. Daskam, City Clerk

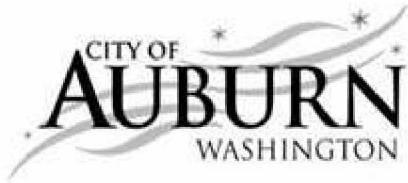
APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____

Ordinance No. 6567
April 26, 2016
Page 4 of 4



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6599, First Reading

Date:

April 26, 2016

Department:

Planning and Development
& Public Works

Attachments:

[Exhibit 1 Ordinance No. 6599](#)
[Exhibit 2 - Final Plat Map](#)
[Exhibit 3 - City Engineer's "Certificate of Improvements"](#)
[Exhibit 4 - Hearing Examiner Decision](#)
[Exhibit 5 - Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Ordinance No. 6599

Background Summary:

Mark Tolas, representing Dulcinea Development, Inc., has made application for the Final Plat of "Dulcinea"; located on the north side of SE 307th PL, approximately 300 ft. west of 124th AVE SE, in the "Lea Hill" area of the City. This Final Plat subdivides the 1.45-acre site (King County Tax Parcel No. 0921059090) into 6 single-family residential lots, 1 tract (Tract A) dedicated to Dulcinea Development, Inc. and its successors and assigns as private open space, and dedication of public right-of-way. See Exhibit 2.

The Preliminary Plat was approved as a single phase by the Hearing Examiner on August 1, 2011 (PLT10-0001) with 4 conditions; see Exhibit 4. The plat, including minor adjustments to the approved Preliminary Plat consistent with Auburn City Code (ACC) 17.10.100(A), has been developed in accordance with the R5 Residential zoning district, Title 17 ACC – "Land Adjustments and Division", Chapters WAC 58.17 and RCW 35A.58, and the 4 conditions of the Preliminary Plat approval.

A Certificate of Improvements has been issued by the City Engineer, accepting completion of all required plat public improvements in accordance with all applicable standards of the City's Engineering Design Standards in effect at the time of Preliminary Plat approval.

The Final Plat has been reviewed by the various divisions of the Community Development and Public Works Department and the Valley Regional Fire Authority (VRFA), who find that all requirements have been met.

The role of the City Council in review of a Final Plat is ministerial in that it is limited to determining whether or not the Final Plat meets the requirements of the Preliminary Plat.

The City Council, in its Final Plat approval, cannot add, subtract or modify Preliminary Plat requirements. Its decision is to either (1) approve the final plat if all Preliminary Plat requirements have been met; or (2) deny approval of the Final Plat if any Preliminary Plat requirements have not been met. If a Final Plat is being denied, it is also appropriate for the City Council to identify any/all Preliminary Plat requirements that have not been met.

Reviewed by Council Committees:

Other: Legal, CDPW, Survey, Building

Councilmember:

Staff: Snyder

Meeting Date: May 2, 2016

Item Number: ORD.B

ORDINANCE NO. 6 5 9 9

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

WHEREAS, the City of Auburn received a final plat application for the Plat of Dulcinea, Application No PLT16-0003, the final approval of which is appropriate for City Council Action; and

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

FINDINGS OF FACT

- 1 Dulcinea Development, Inc. has made application for the Final Plat of "Dulcinea"
2. The Preliminary Plat of "Dulcinea" (PLT10-0001) was approved by the Hearing Examiner on August 1, 2011, as a single phase.
3. The Final Plat of "Dulcinea", which includes minor adjustments to the approved Preliminary Plat consistent with Auburn City Code (ACC) 17 10 100(A), has been developed in accordance with all applicable conditions of the Preliminary Plat.
- 4 A Certificate of Improvements has been issued by the City Engineer, accepting completion of all required plat improvements in accordance with all applicable standards of the City's Engineering Design Standards.
- 5 The Final Plat includes one publicly dedicated tract, Tract A, a private open space tract.

CONCLUSIONS OF LAW

- 1 The Final Plat is in compliance and in conformity with applicable Zoning and Land Division Ordinances and other applicable land use controls.
2. The Final Plat of "Dulcinea" is consistent with the Comprehensive Plan.
- 3 The Final Plat meets the requirements of Chapter 58 17 RCW

Ordinance No. 6599
April 25, 2016
Page 1 of 4

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

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

THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHEAST
QUARTER OF THE NORTHEAST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 21
NORTH, RANGE 5 EAST, W.M., IN KING COUNTY,
WASHINGTON;

EXCEPT THE NORTH 135 FEET OF THE SOUTH 300 FEET OF
THE EAST 330 FEET OF SAID NORTHEAST QUARTER FO THE
NORTHWEST QUARTER OF SAID SECTION;

AND EXCEPT THE EAST 30 FEET FOR COUNTY ROAD

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

[King County Tax Parcel No. 0921059090]

is hereby approved, and deemed to conform to the requirements for Plat
approval pursuant to State and local law and Chapter 58.17 of the Revised Code
of Washington and Section 58 17 140 thereof.

Section 2. Constitutionality or Invalidity. If any section, subsection
clause or phase of this Ordinance is for any reason held to be invalid or
unconstitutional such invalidity or unconstitutionality shall not affect the validity or
constitutionality of the remaining portions of this Ordinance, as it is being hereby
expressly declared that this Ordinance and each section, subsection, sentence,

Ordinance No. 6599
April 25, 2016
Page 2 of 4

clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

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

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

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

FIRST READING: _____

SECOND READING. _____

PASSED. _____

APPROVED. _____

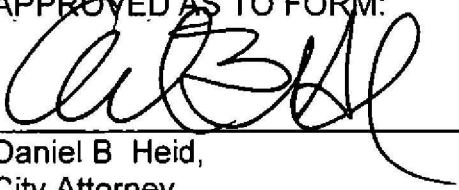
CITY OF AUBURN

NANCY BACKUS,
MAYOR

ATTEST

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

Published. _____

Ordinance No. 6599
April 25, 2016
Page 4 of 4

PLAT OF
DULCINEA

VOL/PG

IN THE NE 1/4 OF THE NW 1/4 OF SECTION 9, TOWNSHIP 21 N., RANGE 5 E., W.M., CITY OF AUBURN, KING COUNTY, WASHINGTON

DEDICATION

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

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

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

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

IN WITNESS WHEREOF WE SET OUR HANDS AND SEALS.

DULCINEA DEVELOPMENT, INC., A WASHINGTON CORPORATION

BY: _____
ITS: _____

ACKNOWLEDGMENTS

STATE OF WASHINGTON
COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____
_____ SIGNED THIS INSTRUMENT, ON OATH STATED THAT (HE/SHE) WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE _____
OF DULCINEA DEVELOPMENT, INC., A WASHINGTON CORPORATION, TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED _____
SIGNATURE OF _____
NOTARY PUBLIC _____
PRINTED NAME _____
TITLE _____
MY APPOINTMENT EXPIRES _____

LEGAL DESCRIPTION

THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE NORTH 135 FEET OF THE SOUTH 300 FEET OF THE EAST 330 FEET OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION;

AND EXCEPT THE EAST 30 FEET FOR COUNTY ROAD.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

NOTES

- DIRECT RESIDENTIAL ACCESS TO 124TH AVENUE SE IS PROHIBITED.
- TRACT 'A' IS A PRIVATELY-HELD OPEN SPACE TRACT AND SHALL BE OWNED AND MAINTAINED BY DULCINEA DEVELOPMENT, INC., THEIR SUCCESSORS AND ASSIGNS, AND IS SUBJECT TO THE PROVISO THAT IT MAY BE CONVERTED TO PRIVATE BUILDABLE LAND PROVIDED IT CONFORMS TO ALL APPLICABLE ZONING AND OTHER DEVELOPMENT STANDARDS. THE TRACT SHALL BE SUBJECT TO SUCH TERMS AND CONDITIONS THAT THE CITY ATTORNEY'S OFFICE FINDS NECESSARY TO PROTECT THE PUBLIC INTEREST AND CARRY OUT THE TERMS AND INTENT OF THIS CONDITION.
- TITLE INFORMATION PER RAINIER TITLE ORDER NUMBER 692554RT DATED JANUARY 20, 2016.
SCHEDULE B EXCEPTIONS:
5. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:
GRANTEE: PUGET SOUND POWER & LIGHT COMPANY
PURPOSE: ELECTRIC LINE
AREA AFFECTED: A PORTION OF SAID PREMISES
RECORDED: AUGUST 17, 1966
RECORDING NO.: 6070386
6. RIGHT TO MAKE NECESSARY SLOPES FOR CUTS OR FILLS UPON THE LAND HEREIN DESCRIBED AS GRANTED TO KING COUNTY BY DEED RECORDED UNDER RECORDING NO. 6152530.
7. PETITION FOR ANNEXATION, ANNEXATION AGREEMENT AND DECLARATION OF COVENANT AND THE TERMS AND CONDITIONS THEREOF:
RECORDED: MAY 25, 1994
RECORDING NO.: 9405250608
8. PETITION FOR ANNEXATION, ANNEXATION AGREEMENT AND DECLARATION OF COVENANT AND THE TERMS AND CONDITIONS THEREOF:
RECORDED: JULY 6, 2000
RECORDING NO.: 20000706000841
9. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:
GRANTEE: PUGET SOUND ENERGY, INC.
PURPOSE: ONE OR MORE UTILITY SYSTEMS
AREA AFFECTED: A PORTION OF SAID PREMISES
RECORDED: MARCH 4, 2005
RECORDING NO.: 20050304000021
10. PAYBACK AGREEMENT # 98 KINGSLEY MEADOWS FAC03-0013 AND THE TERMS AND CONDITIONS THEREOF:
RECORDED: AUGUST 22, 2005
RECORDING NO.: 20050822000174

OWNER/APPLICANT

DULCINEA DEVELOPMENT, INC.
3618 LAKERIDGE DR E, SUMNER WA 98390
PHONE: 253-222-1782
EMAIL: JAMESTOLAS@COMCAST.NET

APPROVALS

FINANCE DIRECTOR'S CERTIFICATE

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

AUBURN DIRECTOR OF FINANCE

CITY ENGINEER'S CERTIFICATE

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

AUBURN CITY ENGINEER

COMMUNITY DEVELOPMENT ASSISTANT CERTIFICATE

I HEREBY CERTIFY ON THIS _____ DAY OF _____, 20____, THAT THIS FINAL PLAT IS IN SUBSTANTIAL CONFORMANCE WITH THE PRELIMINARY PLAT AND ANY CONDITIONS ATTACHED THERETO, WHICH PRELIMINARY PLAT WAS APPROVED BY RESOLUTION NUMBER _____ OF THE AUBURN CITY COUNCIL ON THE _____ DAY OF _____, 20____, OR BY THE DECISION OF THE HEARING EXAMINER FOR THE CITY OF AUBURN DATED THE _____ DAY OF _____, 20____.

AUBURN ASSISTANT DIRECTOR OF COMMUNITY DEVELOPMENT

APPROVAL

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

MAYOR

ATTEST: _____
AUBURN CITY CLERK

ASSESSOR'S APPROVAL

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

KING COUNTY ASSESSOR

DEPUTY KING COUNTY ASSESSOR

ACCOUNT NUMBER _____

FINANCE DIVISION CERTIFICATE

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

MANAGER, FINANCE DIVISION

DEPUTY

COUNTY RECORDING OFFICIAL'S INFORMATION BLOCK (WAC 332-130-050)

LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT OF DULCINEA IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 9, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., THAT THE COURSES AND DISTANCES ARE SHOWN CORRECTLY THEREON; THAT THE MONUMENTS WILL BE SET AND THE LOT AND BLOCK CORNERS WILL BE STAKED CORRECTLY ON THE GROUND AS CONSTRUCTION IS COMPLETED AND THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF THE PLATTING REGULATIONS.

 **CRABTREE SURVEYING, LLC**
7328 104TH ST E
PUYALLUP, WA 98373
253-845-0048
crabtreesurveying.com



JAMES HAWK CRABTREE, PROFESSIONAL LAND SURVEYOR. CERTIFICATE NO. 46311
CRABTREE SURVEYING LLC
7328 104TH ST E
PUYALLUP, WASHINGTON 98373
PHONE: 253-845-0048

RECORDING CERTIFICATE

FILED FOR RECORD AT THE REQUEST OF THE KING COUNTY COUNCIL THIS _____ DAY OF _____, 20____, AT _____ MINUTES PAST ____M. AND RECORDED IN VOLUME _____ OF PLATS, PAGE(S) _____, RECORDS OF KING COUNTY, WASHINGTON.

DIVISION OF RECORDS AND ELECTIONS

MANAGER

SUPERINTENDENT OF RECORDS

RECORDING NO. _____

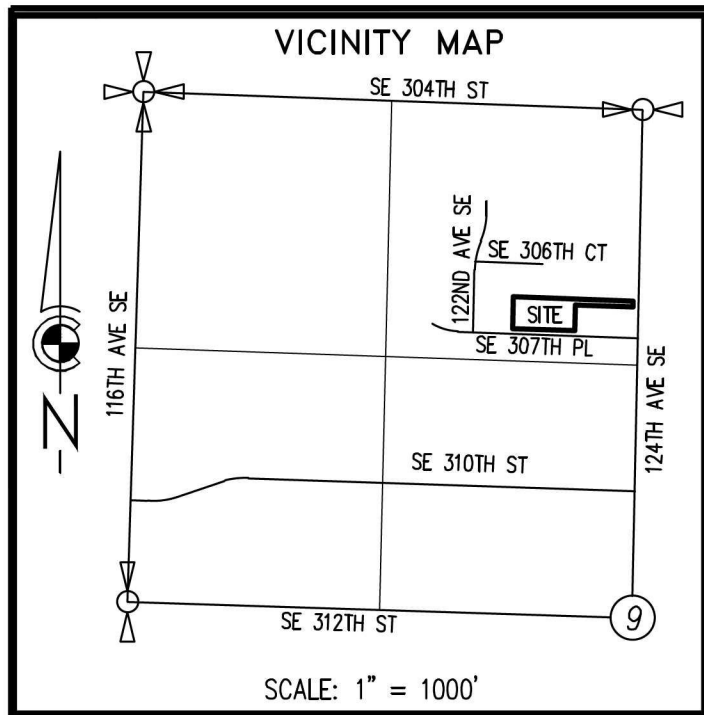
PORTION OF THE NE QUARTER OF THE NW QUARTER, SECTION 9, TOWNSHIP 21 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, CITY OF AUBURN, KING COUNTY, WASHINGTON.

CITY OF AUBURN PLAT NO. PLT 16-0003

JOB NO 284

SHEET 1 OF 3

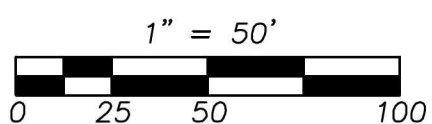
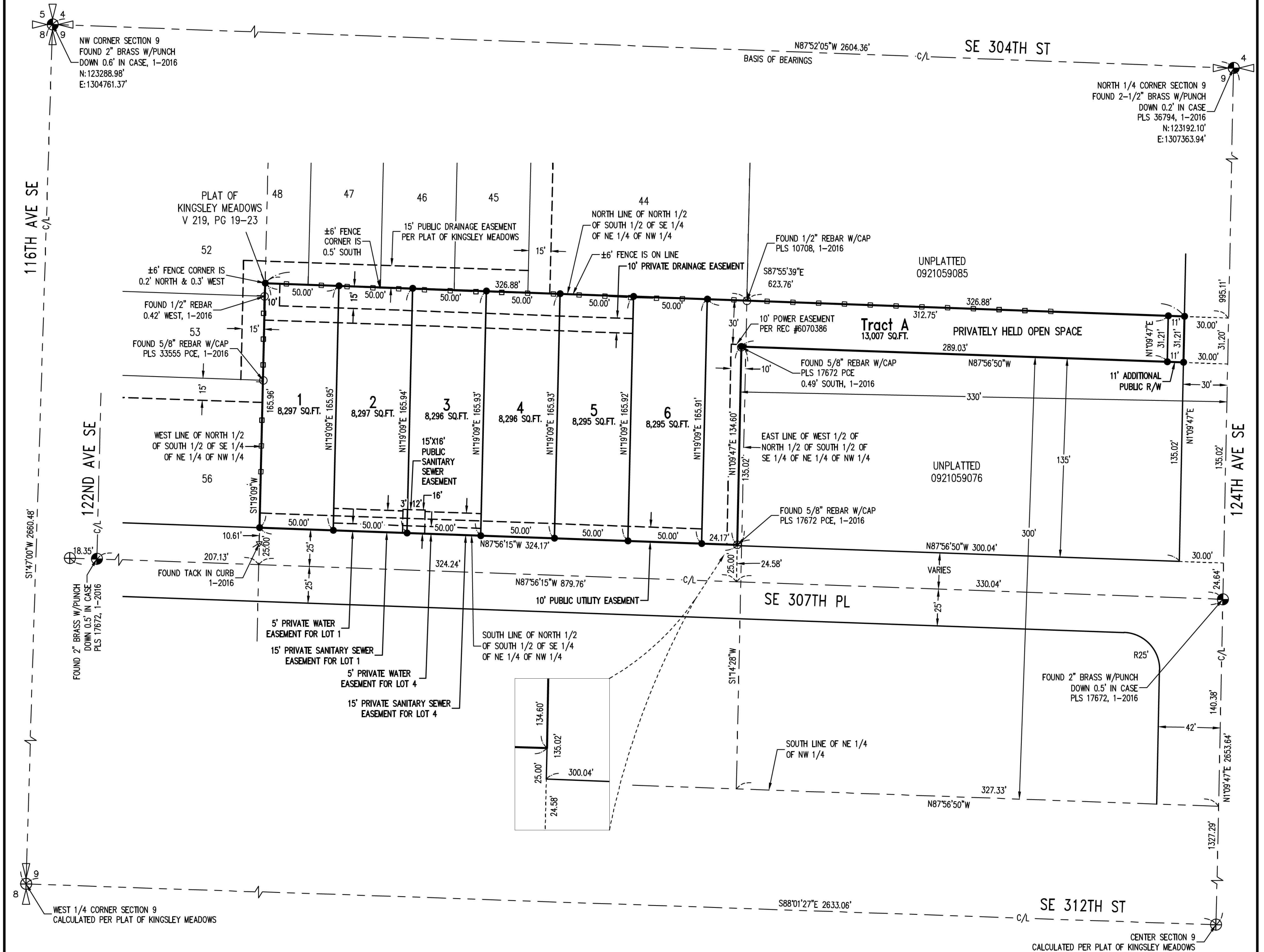
VOL/PG



PLAT OF DULCINEA

IN THE NE 1/4 OF THE NW 1/4 OF SECTION 9, TOWNSHIP 21 N., RANGE 5 E., W.M., CITY OF AUBURN, KING COUNTY, WASHINGTON

VOL/PG



BASIS OF BEARINGS:

WASHINGTON COORDINATE SYSTEM OF 1983, NORTH ZONE
NAD83(2011) EPOCH 2010
N87°52'05"W ON NORTH LINE OF NW 1/4 OF SECTION 9
PER PIERCE COUNTY "PC3N" SURVEY CONTROL NETWORK
ALL DIMENSIONS ARE SHOWN AT GROUND LEVEL, UNLESS
OTHERWISE NOTED.

EQUIPMENT/PROCEDURES:

FIELD TRAVERSE: TOPCON IS303
RTK/STATIC GPS: TOPCON HIPER GA
THIS SURVEY COMPLIES WITH ALL THE STANDARDS
AND GUIDELINES OF THE "SURVEY RECORDING ACT"
CHAPTER 58.09 RCW AND WAC 332-130.

REFERENCES:

DEED RECORDING #20001011000417
PLAT RECORDING #20031216000631, KINGSLEY MEADOWS
PLAT RECORDING #20090728000714, STERLING COURT
SHORT PLAT RECORDING #20000823900009
SURVEY RECORDING #9506229011
SURVEY RECORDING #9905259032
RAINIER TITLE CO. ORDER NO. 692554RT

SYMBOL LEGEND:

- FOUND MONUMENT AS NOTED
- CALCULATED MONUMENT AS NOTED
- FOUND AS NOTED
- SET 1/2" REBAR W/ PLASTIC CAP, PLS 46311

LINETYPE LEGEND:

- WOODEN FENCE

ADDRESSES

LOT 1	12224 SE 307TH PL
LOT 2	12230 SE 307TH PL
LOT 3	12236 SE 307TH PL
LOT 4	12242 SE 307TH PL
LOT 5	12248 SE 307TH PL
LOT 6	12254 SE 307TH PL



CITY OF AUBURN PLAT NO. PLT 16-0003

JOB NO 284

SHEET 2 OF 3

PLAT OF
DULCINEA

VOL/PG

IN THE NE 1/4 OF THE NW 1/4 OF SECTION 9, TOWNSHIP 21 N., RANGE 5 E., W.M., CITY OF AUBURN, KING COUNTY, WASHINGTON

EASEMENT NOTES:

1. THE 10' PRIVATE DRAINAGE EASEMENT SHOWN OVER AND ACROSS LOTS 1 THROUGH 5, INCLUSIVE, IS ESTABLISHED FOR THE BENEFIT OF THE DULCINEA HOMEOWNER'S ASSOCIATION. THE COST OF MAINTENANCE, REPAIRS OR RECONSTRUCTION OF THE DRAINAGE SYSTEM SHALL BE BORNE BY THE DULCINEA HOMEOWNER'S ASSOCIATION AND WHEN NECESSARY THE DULCINEA HOMEOWNER'S ASSOCIATION SHALL HAVE A RIGHT OF ENTRY FOR INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE DRAINAGE FACILITIES CONTAINED THEREIN.
2. THE 5' PRIVATE WATER EASEMENT SHOWN OVER AND ACROSS LOT 2 IS ESTABLISHED FOR THE BENEFIT OF LOT 1. THE COST OF MAINTENANCE, REPAIRS OR RECONSTRUCTION OF THE WATER SYSTEM SHALL BE BORNE BY THE OWNER OF LOT 1 AND WHEN NECESSARY THE THE OWNER OF LOT 1 SHALL HAVE A RIGHT OF ENTRY FOR INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE WATER FACILITIES CONTAINED THEREIN.
3. THE 5' PRIVATE WATER EASEMENT SHOWN OVER AND ACROSS LOT 3 IS ESTABLISHED FOR THE BENEFIT OF LOT 4. THE COST OF MAINTENANCE, REPAIRS OR RECONSTRUCTION OF THE WATER SYSTEM SHALL BE BORNE BY THE OWNER OF LOT 4 AND WHEN NECESSARY THE THE OWNER OF LOT 4 SHALL HAVE A RIGHT OF ENTRY FOR INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE WATER FACILITIES CONTAINED THEREIN.
4. THE 15' PRIVATE SANITARY SEWER EASEMENT SHOWN OVER AND ACROSS LOT 2 IS ESTABLISHED FOR THE BENEFIT OF LOT 1. THE COST OF MAINTENANCE, REPAIRS OR RECONSTRUCTION OF THE SANITARY SEWER SYSTEM SHALL BE BORNE BY THE OWNER OF LOT 1 AND WHEN NECESSARY THE THE OWNER OF LOT 1 SHALL HAVE A RIGHT OF ENTRY FOR INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE WATER FACILITIES CONTAINED THEREIN.
5. THE 15' PRIVATE SANITARY SEWER EASEMENT SHOWN OVER AND ACROSS LOT 3 IS ESTABLISHED FOR THE BENEFIT OF LOT 4. THE COST OF MAINTENANCE, REPAIRS OR RECONSTRUCTION OF THE SANITARY SEWER SYSTEM SHALL BE BORNE BY THE OWNER OF LOT 4 AND WHEN NECESSARY THE THE OWNER OF LOT 4 SHALL HAVE A RIGHT OF ENTRY FOR INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE WATER FACILITIES CONTAINED THEREIN.
6. THE 15' PUBLIC SANITARY SEWER EASEMENT ACROSS LOTS 2 AND 3 IS HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, SUCCESSORS AND/OR, ASSIGNS. A PERPETUAL NONEXCLUSIVE EASEMENT UNDER, OVER, THROUGH AND ACROSS THE REAL PROPERTY AS DESCRIBED HEREIN FOR THE PURPOSE OF LAYING, MAINTAINING, INSTALLING AND CONVEYING SANITARY SEWER, AND APPURTENANCES THEREOF, PER THE ENGINEERING PLANS APPROVED BY THE CITY OF AUBURN, FOR THIS PLAT, TOGETHER WITH THE ABSOLUTE RIGHT, AT ALL TIMES AS NECESSARY FOR IMMEDIATE ACCESS (INGRESS AND EGRESS), TO ENTER SAID EASEMENT FOR THE PURPOSE OF INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE SANITARY SEWER FACILITIES CONTAINED THEREIN WITHOUT INCURRING ANY LEGAL OBLIGATION OR LIABILITY THEREFORE.

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

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

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

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

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

7. THE 10' PUBLIC UTILITY EASEMENT ACROSS LOTS 1 THROUGH 6, INCLUSIVE, IS HEREBY GRANTED AND CONVEYED TO THE CITY OF AUBURN, SUCCESSORS AND/OR, ASSIGNS. A PERPETUAL NONEXCLUSIVE EASEMENT UNDER, OVER, THROUGH AND ACROSS THE REAL PROPERTY AS DESCRIBED HEREIN FOR THE PURPOSE OF LAYING, MAINTAINING, INSTALLING AND CONVEYING UTILITIES, AND APPURTENANCES THEREOF, PER THE ENGINEERING PLANS APPROVED BY THE CITY OF AUBURN, FOR THIS PLAT, TOGETHER WITH THE ABSOLUTE RIGHT, AT ALL TIMES AS NECESSARY FOR IMMEDIATE ACCESS (INGRESS AND EGRESS), TO ENTER SAID EASEMENT FOR THE PURPOSE OF INSPECTING, OPERATING, MAINTAINING, REPAIRING, RECONSTRUCTING AND IMPROVING THE UTILITY FACILITIES CONTAINED THEREIN WITHOUT INCURRING ANY LEGAL OBLIGATION OR LIABILITY THEREFORE.

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

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

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

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

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



CRABTREE
SURVEYING LLC

7328 104TH ST E
PUYALLUP, WA 98373
253-845-0048
crabtreesurveying.com

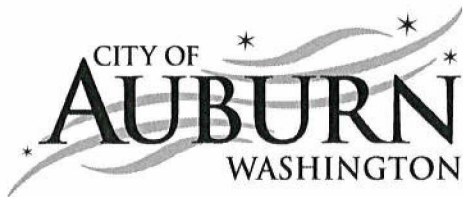


4-2-2016

CITY OF AUBURN PLAT NO. PLT 16-0003

JOB NO 284

SHEET 3 OF 3



CERTIFICATE OF IMPROVEMENTS

FINAL PLAT APPLICATION FAC15-0008

COMPLETION OF IMPROVEMENTS

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



City Engineer



Date

SECURITY IN LIEU OF COMPLETION

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

City Engineer

Date

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

Street \$ _____

Street Trees / Sod \$ _____

cc: File: FAC15-
Planner
Developer

August 4, 2011

Mr. James Tolas
Tolas Development
3618 Lakeridge Drive E
Lake Tapps, WA 98391

Re: Application No. **PLT10-0001** – Dulcinea Preliminary Plat

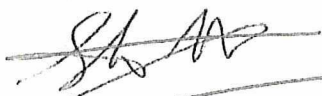
Dear Mr. Tolas:

Attached is the Hearing Examiner's official decision regarding your request that was considered by the Hearing Examiner on July 20, 2011.

Your land use posting board sign must stay posted until completion of the request for reconsideration period as stated in the Request for Reconsideration portion of this document.

If you have any questions regarding the attached, please give me a call at (253) 804-5031.

Sincerely,



Stuart Wagner
Planner
Planning and Development Department

SW/bh
CORR11-494
Attachments

cc: Dani Daskam, City Clerk
Kevin H. Snyder, Planning and Development Director
Dennis Dowdy, Public Works Director
Rick Hopkins, Building Official
Elizabeth Chamberlain, Planning Manager
Jeff Dixon, Principal Planner
Hillary Taylor, Senior Planner

REQUEST FOR RECONSIDERATION

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than August 11, 2011, by 5:00 p.m. Reconsideration requests should be addressed to: City of Auburn Hearing Examiner, 25 West Main Street, Auburn, WA. 98001-4998.

NOTICE OF RIGHT TO APPEAL

The decision of the Hearing Examiner is final; however, the planning director or any interested party affected by the examiner's written final decision may appeal the decision to superior court of the county in which the project is located. See Auburn City Code Zoning Ordinance Chapter 18.66 for specific information.

1 **BEFORE THE HEARING EXAMINER FOR THE CITY OF AUBURN**

2 Phil Olbrechts, Hearing Examiner

3

4 RE: Tolas/Dulcinea	5 FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION.
6 Preliminary Plat	
7 PLT10-0001	

8 **INTRODUCTION**

9 The Applicant has proposed to subdivide 1.45 acres into 6 single-family residential
10 lots ranging in size from 8,049 square feet to 8,297 square feet. The subdivision is
11 approved.

12 **ORAL TESTIMONY**

13 Stuart Wagner, Auburn Planner, summarized the staff report. He noted the Auburn
14 Public Works department and the Applicant had agreed on a modification to the
15 preliminary plat drawings and recommended conditions of approval with respect to
16 sanitary sewer facilities. These changes were memorialized in a memorandum to the
17 Hearing Examiner dated July 20, 2011 (Exhibit 10).

18 **EXHIBITS**

19 The Exhibits 1-9 listed at page 8 of the July 7, 2011 staff report as well as the
20 memorandum to the Hearing Examiner dated July 20, 2011 (Exhibit 10) are all
21 admitted into evidence.

22 **FINDINGS OF FACT**

23 **Procedural:**

- 24 1. Applicant. James Tolas, dba Dulcinea Development.
- 25 2. Hearing. The Hearing Examiner conducted a hearing on the application at
5:30 p.m. at Auburn City Hall in the Council Chambers on July 20, 2011.

Substantive:

3. Site/Proposal Description. The Applicant has proposed to subdivide a
1.45 acre panhandle shaped lot into 6 single-family residential lots ranging in size

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from 8,049 square feet to 8,297 square feet together with an encroachment tract and future development tract.

4. Characteristics of the Area. Single-family homes on R-5 zoned property surround the property on all sides.

5. Adverse Impacts. There are no adverse impacts that have been identified in association with the proposal.

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

A. Road Design. All proposed lots will front directly on to SE 307th Place, a fully developed road. No off-site improvements are required.

B. Emergency Access. All proposed lots will front directly on to SE 307th Place, a fully developed road. No emergency access provisions are required.

C. Drainage. Storm drainage for the project will be addressed by individual infiltration trenches on each lot. Runoff that fails to infiltrate will be conveyed via a ditch along the rear portion of the development to a catch basin near the northwest end of the development that enters a nearby storm management system originally constructed for the Kingsley Meadows subdivision. Staff have found that the proposed drainage plan has adequate drainage facilities.

D. Sewer. Sewer will be provided by the City of Auburn.

E. Water. Water will be provided by the City of Auburn.

F. Sidewalks. All lots will front onto SE 307th Place which is currently developed with curbs and sidewalks. No sidewalk improvements are required.

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

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

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

CONCLUSIONS OF LAW

Procedural:

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

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1 One issue the Examiner clearly does not have authority to adjudicate are claims to
2 adverse possession. Since the property subject to the plat application appears to
3 contain land subject to potential adverse possession claims, it may be inappropriate to
4 issue any plat decision at this time.

5 The Applicant proposes "tracts" to reserve land for what appear to be areas subject to
6 at least potential (if not actual) adverse possession claims. The courts have ruled that
7 if an adverse possession claim attaches to a portion of a proposed subdivision, the
8 local government must cease review until the adverse possession claim has been
9 adjudicated. See *Halverson v. Bellevue*, 41 Wn. App. 457 (1985). In *Halverson*, the
10 City of Bellevue was advised that a portion of the property subject to a proposed
11 subdivision under City review was also subject to an adverse possession claim that
12 had been filed in superior court. The adverse possession claimant gave notice of the
13 judicial action to the City after filing but prior to approval of the plat application. The
14 Court of Appeals ruled that once the City of Bellevue was put on notice of the
15 adverse possession claim, it had to cease its review of the application until the judicial
16 claim was resolved. As noted by the Court of Appeals, the City had no authority to
17 adjudicate an adverse possession claim and had to wait for such a ruling from the
18 superior court. 41 Wn. App. at 460. A determinative factor in the court's reasoning
19 was that a plat cannot be approved without the signed consent of the owners of the
20 subdivision property.

21 The record does not contain any information to determine whether an adverse
22 possession claim has been filed with superior court and it is unclear from the
23 *Halverson* decision on how "mature" an adverse possession claim must be in order to
24 compel a city to stop processing a plat application. Nonetheless, the Applicant
25 essentially proposes to divide land that it may very well not own, apparently without
the owner's consent. It is also unclear whether the City Attorney's Office had
considered the *Halverson* decision when it reviewed the proposed encroachments or
whether the persons with the adverse possession claims have given any consent to the
subdivision. The record does not contain enough information for the Examiner to
make a ruling on the *Halverson* issues. For these reasons, the plat will be conditioned
to require the City Attorney's Office to determine whether the plat decision should
issue given *Halverson*. Ideally, written consent from the person(s) with the potential
adverse possession claim so that *Halverson* does not become a stumbling block in the
processing of this application.

22 Substantive:

23 2. Zoning Designation. The property is zoned Single Family Residential
24 District, R-5. The Auburn Comprehensive Plan designation for the property is Single
25 Family Residential.

3. Review Criteria and Application. The criteria for preliminary plat
applications are governed by RCW 58.17.020(9) and ACC 17.04 and 17.10.070. The

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criteria for preliminary plat approval are satisfied as outlined below where each criterion is quoted in italics and applied through corresponding Conclusions of Law.

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

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

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

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

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

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

6. As discussed in the staff report for the proposal and incorporated in this conclusion by reference, the project is in conformance with the general purposes of Title 17 ACC and other applicable policies or plans adopted by the City Council.

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

7. As discussed in depth in the staff report for the proposal and incorporated in this conclusion by reference, the project is in conformance with the general purposes of Title 17 ACC.

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

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1 **ACC 17.04.200:** "Lot" means an area of land under single or common ownership,
2 which has been created by any of the various land division methods for the purpose of
3 lease, sale or transfer of ownership, defined by fixed and definite boundaries, and
4 having sufficient area and dimension to accommodate development allowed by the
zone in which it is located. As per RCW 58.17.020(9), the term "lot" shall include
tracts or parcels. The term shall not include those tracts or parcels which are not
buildable, but are created for common or public use, such as road and utility tracts.

5 **ACC 17.04.385:** "Tract" means a piece of land created and designated as part of a
6 land division that is not a lot of record, or a street or public right-of-way. Tracts are
7 created and designed for a specific purpose. Land uses within a tract are restricted to
8 those uses consistent with the stated purpose as described on the plat, or in the
9 maintenance agreements. Examples include but are not limited to stormwater
management tracts, private street or alley tracts, tree preservation tracts,
environmental resource tracts, and open space tracts.

10 8. With the exception of the "future development" tract, the proposal
11 satisfies ACC 17.10.070(E) as discussed in depth in the staff report and incorporated
in this conclusion by reference, including staff's analysis of Chapter 17.16 ACC.

12 The proposed "future development" tract potentially does not comply with the City's
13 zoning ordinance, since it probably qualifies as a "lot" instead of a tract, which in turn
14 does not comply with minimum lot width requirements. This problem can be easily
remedied by a re-designation of the parcel.

15 As noted in the definitions quoted above, a "tract" is for an area of land that is not
16 buildable and that is designated for a specific purpose, usually for open space,
17 environmental protection or infrastructure needs. The "future development" tract is
18 somewhat between the definition of a lot and tract. It is not clear from the record, but
19 apparently the "tract" is not intended to be buildable until it is subjected to another
20 plat application or possibly a lot line adjustment. The "tract" will also not be used for
21 any common purpose traditionally associated with tracts and listed in ACC 17.04.385,
22 such as for stormwater facilities or tree preservation tracts. Although the Applicant
appears to have some definite plans for the "tract" at this time, those plans can always
fall through and there is left a "future development" tract in private ownership. As
happens all too frequently, a developer a couple decades from now will then demand
a variance to bulk and dimensional requirements in order to exercise their
constitutional right to reasonable use of their property.

23 In order to avoid the problems identified in the preceding paragraph, the plat will be
24 conditioned to re-designate the "future development" tract as a privately held open
25 space tract, with the proviso that it can be converted to private buildable land if and
when it can meet all applicable zoning requirements.

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

4 9. The project site has been altered through a prior grading permit with King
5 County (Exhibit 10). The prior project included the importation of approximately
6 13,000 cubic yards of fill. King County issued a SEPA DNS for the grading and fill
7 work on July 18, 2003. Because the project proposes to create 20 or less residential
8 units, the subdivision is categorically exempt from SEPA review under ACC
9 16.06.055. The City has determined the project will not create unacceptable adverse
10 effect upon the quality of the environment.

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

13 10. No public nuisances are discernable from the record.

14 DECISION

15 The preliminary plat application is approved subject to the following conditions:

16 1. The face of the final plat shall include a note that states direct residential access to
17 124th Avenue SE is prohibited.

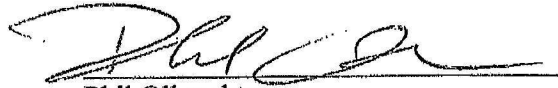
18 2. The proposed encroachment tract (identified as Tract B) shall be removed from
19 the plat. The Applicant shall include on the face of the final plat that a fence
20 encroachment exists and is being shown pursuant to RCW 58.17.255. *Ex.*
21 *Encroachment Note: "Existing Fence Encroachments have been shown pursuant to*
22 *RCW 58.17.255 and shall be disclosed in the title report prepared by the title insurer*
23 *and issued after the filing of the final plat".*

24 3. The City Attorney's Office shall consider the applicability of *Halverson v.*
25 *Bellevue* as discussed in Conclusion of Law No. 2 and whether the subject plat
application should continue to be processed. If the City Attorney's Office
determines that the processing of the plat application cannot continue until the
adverse possession claims are resolved, this plat application shall not be considered
approved.

4. The "future development" tract will be re-designated as a privately-held open
space tract, subject to the proviso that it may be converted to private buildable land
provided it conforms to all applicable zoning and other development standards. The
tract shall be subject to such terms and conditions that the City Attorney's Office
finds necessary to protect the public interest and carry out the terms and intent of this
condition.

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1 Dated this 1st day of August 2011.

2
3 

4 Phil Olbrechts
5 City of Auburn Hearing Examiner

6 **Appeal**

7 18.70.060 Appeal of hearing examiner's decision: The hearing examiner's decisions
8 may be appealed to superior court in the manner prescribed in Chapter 18.66 ACC.

9 **Change in Valuation**

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

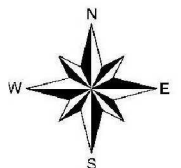
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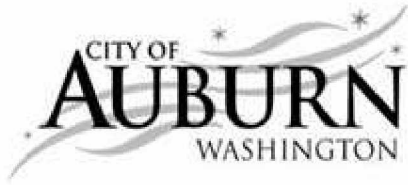
Exhibit 5 Vicinity Map (Dulcinea Final Plat)



Printed Date: 4/19/2016
Map Created by City of Auburn eGIS

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





AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5217

Date:

April 26, 2016

Department:

City Attorney

Attachments:

[Resolution No. 5217](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5217.

Background Summary:

Summary of Changes Proposed in Draft Rules Amendment

The changes included in the draft City Council Rules of Procedure change three areas within the rules.

1. Section 3 of the Rules is amended to delete sections relating to a first and second reading of ordinances, providing instead for preliminary review of ordinances at Study Sessions (prior to placement on City Council Regular or Special Meeting agendas for Council review and adoption.)

2. Section 16 of the Rules is amended to address review of ordinances at Study Sessions (prior to placement on City Council Regular or Special Meeting agendas for Council review and adoption.)

3. Section 17 of the Rules is amended to provide clarity with respect to Council liaison positions and reports to the City Council.

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

Heid

Meeting Date: May 2, 2016

Item Number: RES.A

RESOLUTION NO. 5 2 1 7

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AMENDING THE CITY COUNCIL
RULES OF PROCEDURE AS ADOPTED BY ORDINANCE NO
5802 AND AMENDED BY RESOLUTION NOS 4282, 4429,
4467, 4615, 4686, 4740, 4813, 4909, 5105, 5112 AND 5115

WHEREAS, on February 2, 2004, the Auburn City Council adopted Ordinance
No 5802 approving the Rules of Procedure of the City Council; and

WHEREAS, Ordinance No. 5802 also provided that future amendments or
modifications to the Council Rules of Procedure could be accomplished by Resolution
properly introduced and passed by the City Council; and

WHEREAS, on December 12, 2007, December 15, 2008, April 6, 2009, July 6,
2010, February 22, 2011, August 15, 2011, May 21, 2012, February 19, 2013,
November 3, 2014, December 1, 2014 and December 15, 2014, the City Council
passed Resolution Numbers 4282, 4429, 4467, 4615, 4686, 4740, 4813, 4909, 5105,
5112 and 5115, respectively, which Resolutions adopted certain modifications to the
Council Rules of Procedure; and

WHEREAS, it would be appropriate for the City Council to amend its rules and
procedures so as to accommodate Council liaison reports and the review of ordinances
prior to adoption; and

WHEREAS, rather than the current procedure for first and second readings of
ordinances, the intended review could be accomplished through a procedure by which

Resolution No. 5217
April 25, 2016
Page 1 of 3

ordinances would be placed on the agenda for a Study Session prior to inclusion of the ordinances on City Council Meeting agendas for adoption; and

WHEREAS, such a change to the rules would accommodate the need of the City Council to expedite review of ordinances where no further discussion is needed or to slow down the process when more discussion would be helpful.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, IN A REGULAR MEETING DULY ASSEMBLED, HERewith RESOLVES AS FOLLOWS.

Section 1 The Rules of Procedure of the City Council, as adopted by Ordinance No. 5802 on February 2, 2004, amended by Resolution No 4282 on December 12, 2007, Resolution No 4429 on December 15, 2008, Resolution No. 4467 on April 6, 2009, Resolution No 4615 on July 6, 2010, Resolution No. 4686 on February 22, 2011, Resolution No 4740 on August 15, 2011, Resolution No. 4813 on May 21, 2012, Resolution No. 4909 on February 19, 2013, Resolution No. 5105 on November 3, 2014, Resolution No. 5112 on December 1, 2014, and Resolution No 5115 on December 15, 2014 are hereby amended as set forth in Exhibit "A", attached hereto and incorporated herein.

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

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

Resolution No 5217
April 25, 2016
Page 2 of 3

DATED and SIGNED this ____ day of _____, 2016

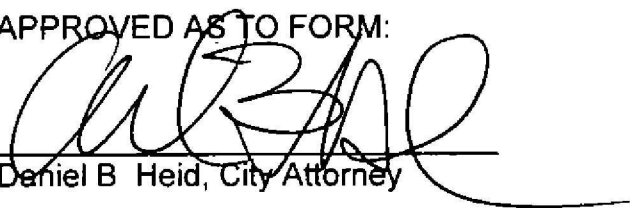
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Resolution No. 5217
April 25, 2016
Page 3 of 3

**RULES OF PROCEDURE OF THE CITY COUNCIL OF
THE CITY OF AUBURN, WASHINGTON**

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**RULES OF PROCEDURE OF THE CITY COUNCIL OF
THE CITY OF AUBURN, WASHINGTON**

SECTION 1 - AUTHORITY

The Auburn City Council hereby establishes the following rules for the conduct of Council meetings, proceedings and business. These rules shall be in effect upon adoption by resolution of Council and until such time as they are amended or new rules are adopted in the manner provided by these rules.

SECTION 2 - COUNCIL MEETINGS

All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting of this body, except as provided in RCW Chapter 42.30

The City Clerk shall be responsible for preparing agendas for all City Council meetings pursuant to the authority of Section 2.03.100 of the City Code¹

The City Clerk shall cause to be prepared action minutes of all of the Council meetings, which minutes shall contain an account of all official actions of the Council. Council meetings shall be electronically recorded and retained for the period of time as provided by State law

- 2.1 **Regular Meetings** - In accordance with Sections 2.06.010(A) and 2.06.020 of the City Code, the regular meetings of the City Council shall be held on the first and third Mondays of every month in the City Hall Council Chambers located at 25 West Main Street, Auburn, Washington. The regular meeting location may be changed by a majority vote of the City Council.

Regular Council meetings will begin at the hour of 7:00 p.m.

A quorum shall constitute four or more Councilmembers for the transaction of business.

In the event that a scheduled Regular Council meeting falls on a legal holiday, the meeting shall be held at 7:00 p.m. on the first business day following the holiday

The Presiding Officer shall be as set forth in Section 5.1 herein.

The Presiding Officer shall be seated at the center of the dais, and the Deputy Mayor shall be seated to the Presiding Officer's immediate left. When the Deputy Mayor is acting as the Presiding Officer, in the absence of the Mayor, the Deputy Mayor shall be seated in the center of the dais. The seating arrangement for the other members of the Council shall be as directed by the City Council pursuant to a motion duly made and seconded and approved by a majority of the City Council, following the recommendation of an ad hoc committee of three Councilmembers called for that purpose.

¹ 2.03.100 Meeting coordination duties.

The mayor or the mayor's designee shall be responsible for the preparation of agendas for the meetings of the council and of the various boards, commissions and committees of the city, and for including in those agendas the items and issues forwarded by the city council and/or or by the ad hoc committees designated to act on behalf of the city council, and for including in those agendas the items and issues proposed by the mayor and city administration, for consideration by the council. The mayor or the mayor's designee shall also be responsible for publishing notices for meetings and for public hearings for the meetings of the council and the various boards, commissions and committees of the city, and for setting the dates and times for said public hearings, except in those instances when setting dates and times for public hearings is required by statute to be done through council resolution. (Ord. 6405 § 1, 2012; Ord. 5761 § 1, 2003.)

[See ACC 2.06 010 (Ord. 3916 § 1, 1983, 1957 code § 1 04 010); ACC 2.06.020 (Ord. 3759 § 1, 1982; 1957 code § 1 04 020); ACC 2.06.030 (1957 code § 1 04 060); ACC 2.06.080 (1957 code § 1 04 090).]

2.2 Study Sessions - In accordance with Sections 2.06 010(B) and 2.06 020 of the City Code, Study Sessions of the City Council shall held on the second, fourth and fifth Mondays of every month in the City Hall Council Chambers located at 25 West Main Street, Auburn, Washington. The regular meeting location of Study Sessions may be changed by a majority vote of the City Council. Study Sessions shall be subject to the following:

- A. The Deputy Mayor shall preside over Study Sessions.
- B Study Sessions will begin at the hour of 5 30 p.m.
- C A quorum shall constitute four or more Councilmembers for the transaction of business.
- D In the event that a scheduled Study Session falls on a legal holiday, the meeting shall be held at 5 30 p.m. on the first business day following the holiday
- E. No particular seating arrangement shall be required for the Deputy Mayor or other members of the Council, or for the Mayor or any other persons invited to sit at the table of Study Sessions.

2.3 Regular Meeting Times²

The regularly scheduled meetings of the City Council shall be held at the following times, unless re-scheduled and/or reset to different times.

- A. First Monday of the month - Regular Council Meeting - - 7:00 PM
- B Second Monday of the month - Council Study Session - - 5 30 PM
- C Third Monday of the month - Regular Council Meeting - - 7:00 PM.
- D Fourth Monday of the month - Council Study Session - - 5 30 PM
- E. Fifth Monday of the month - Council Study Session_ - - 5.30 PM.

2.4 Special Meetings - In accordance with Section 2.06 040 of the City Code and Section 35A.12.110 RCW, a special meeting of the City Council may be called by the Mayor or any three members of the Council by written notice delivered to

² Any of these regularly scheduled meetings may be cancelled if not needed.

each member of the Council at least 24 hours before the time specified for the proposed meeting; provided, however, that no ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed, at any special meeting unless public notice of such meeting has been given by such notice to the local press, radio and television as will be reasonably calculated to inform the city's inhabitants of the meeting.

[See ACC 2.06.040 (1957 code § 1 04 070)]

2.5 **Emergency Meetings** - Emergency meetings may be called by the Mayor, in accordance with Section 42.30 070 RCW, when by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by the City Council to meet the emergency, in which case, the meeting site notice requirements otherwise applicable shall not apply

2.6 **Executive Sessions** - A Council meeting that is closed except to the Council, the Mayor, City Attorney and authorized staff members and/or consultants authorized by the Mayor. The public is restricted from attendance.

Executive sessions may be held during Regular and Special meetings, and Study Sessions, of the City Council, and will be announced by the Presiding Officer. Executive session subjects are limited to considering such matters as permitted by State law

[See former ACC 2.06.070 (1957 code § 1 04 080)]

2.7 **Cancellation of Meetings** - Meetings may be canceled by a majority vote of the Council and proper notice given by the City Clerk.

SECTION 3 - ORDER OF BUSINESS OF REGULAR COUNCIL MEETING AGENDA

All items to be included on the Council's agenda for consideration should be submitted to the City Clerk, in full by 12:00 Noon on the Tuesday preceding each regular Council meeting. The City Clerk shall then prepare a proposed agenda according to the order of business, for approval by the Mayor, or his/her designee. A final agenda will then be prepared by the City Clerk and distributed to Councilmembers as the official agenda for the meeting.

~~In connection with the action of the City Council at Regular Council Meetings, certain items of business shall be subject to First and Second Readings prior to final approval by the City Council.~~

~~3.1 The protocol for First and Second Readings shall be as follows:~~

~~A. First and second readings apply to Ordinances only.~~

- ~~B. Resolutions/consent items/contract awards, etc. would still be acted on at only one Regular Council Meeting.~~
- ~~C. Ordinance action, especially those resulting in changes to City codes — to which First and Second Readings would apply — may take more consideration and discussion than other types of action.~~
- ~~D. First and Second Readings would be beneficial to a transparent public process.~~
- ~~E. First Reading — discussion only at one Regular Council Meeting.~~
- ~~F. Second Reading — action at the next Regular Council Meeting or could be a future subsequent Council meeting depending on Council's discussion and any needed staff follow up.~~
- ~~G. Provides Council with opportunity to ask questions and get information at First Reading.~~

3.23.1 The agenda format of the Regular City Council meeting shall be as follows:

A. Call to order

The Presiding Officer shall call the meeting to order

B. Pledge of Allegiance.

The Presiding Officer, Councilmembers and, at times, invited guests will lead the Pledge of Allegiance.

C Roll call.

The City Clerk will call the roll. Councilmembers may request to be excused from a meeting by requesting the same of the Mayor in advance of the meeting. The reason for the request shall be given at the time of the request.

D Announcements, Proclamations and Presentations

A proclamation is defined as an official announcement made by the Presiding Officer or the City Council regarding a non-controversial event, activity or special interest group which has a major city-wide impact.

E. Appointments

Appointing individuals to various committees, boards and commissions. Confirmation of appointments, where confirmation is called for, may be preceded by discussion in executive session, where appropriate.

F Agenda modifications

Changes to the Council's published agenda are announced at this time.

G. Public Hearings and Appeals

Individuals may comment on public hearing and appeal items, provided that when an appeal is a closed record appeal, the matter shall be considered based on information, evidence and documents in the record. Argument on the appeal shall refer only to matters, information, documents and evidence presented at the underlying hearing from which the appeal is taken, and no new information, evidence or documents may be added, and argument on the appeal may only deal with information, evidence and documents in the record. The Presiding Officer will state the public hearing and/or appeal procedures before each hearing.

H. Audience Participation

Members of the audience may comment on items relating to any matter related to City business under the Audience Participation period. Comments are limited to three (3) minutes per person, and a total of fifteen (15) minutes per topic. Groups who have a designated speaker may have a total of ten (10) minutes to speak. Public comments sign-up forms will be available at the City Clerk's desk at each meeting for use of those citizens wishing to address the Council. The City Clerk shall serve as timekeeper. The Presiding Officer may make exceptions to the audience participation time restrictions when warranted, in the discretion of the Presiding Officer.

Citizens may also speak on individual agenda items on the printed agenda at the time they are considered by the Council as requested by the Presiding Officer.

I. Correspondence

J Council Ad Hoc Committee Reports

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

K. Consent Agenda

Approval of the Consent Agenda, including items considered to be routine and non-controversial, may be approved by one motion. Items on the Consent Agenda include but are not limited to the following. Any Councilmember may remove any item from the Consent Agenda for separate discussion and action.

- 1 Approval of minutes.
2. Fixing dates for public hearings and appeals.
3. Approval of claims and vouchers, bid awards and contracts.
- 4 Approval of surplus property
5. Other items designated by the City Council.

L. Unfinished Business

Unfinished business of a general nature and that it was removed from the Consent Agenda for separate discussion and action.

M. New Business

Business, other than ordinances and resolutions, that has not been previously before the City Council.

N Ordinances

- 1 All ordinances shall be in writing, and the titles thereof shall be read aloud by the City Attorney prior to a vote being called on their adoption, provided that any councilmember may upon request, have a full reading of the text of a proposed ordinance prior to the vote on its adoption. It shall not require a second to the request for a full reading of an ordinance. It is further provided, however, that the requirement for a reading of the title of the proposed ordinance, or a full reading of the text of the proposed ordinance may be waived upon a motion duly made, seconded and approved by a majority of the councilmembers in attendance at the council meeting.

2. First & Second Reading Prior to any ordinance being considered for adoption by the City Council, the ordinance shall be included on a Study Session agenda, for review and discussion as provided in Section 16.1 (C)(5). Provided, however, that if the Mayor believes that special, emergency or exigent circumstances exist regarding the to need consider adoption of an ordinance without the ordinance having been placed on a Study Session agenda, the Mayor may place the ordinance on a Regular or Special City Council Meeting agenda with a request that the City Council consider adoption of the ordinance at such Regular or Special Meeting of the City Council. If there is not agreement among members of the City Council as to whether the ordinance should be considered for adoption at the Regular or Special Meeting of the City Council, the matter shall be presented for a separate vote at the Regular or Special City Council Meeting, and decided by majority vote of the members of the City Council at said meeting.

a. If a majority of the City Council members vote in favor of considering adoption of the ordinance, the consideration of the adoption of the ordinance shall be the next matter before the City Council.

b. If a majority of the City Council votes in favor of reviewing and discussing the ordinance at a Study Session prior to voting on its adoption, the ordinance shall be placed on an upcoming Study Session agenda for review and discussion.

~~Prior to the vote on a motion to adopt or otherwise address an Ordinance, each Ordinance shall be submitted to the City Council for its consideration at a First and Second Reading, as follows:~~

~~a. First Reading. The First Reading of an Ordinance shall take place at a Regular City Council Meeting.~~

~~1. The Ordinance shall be included on the Meeting Agenda under Ordinances and shall include the indication of "First Reading."~~

~~2. The Ordinance shall be read by the City Attorney, in accordance with Section 3.2, Paragraph M, of these Rules.~~

- ~~3. The Ordinance shall be placed before the City Council by a motion to adopt or approve the Ordinance, which motion shall be seconded.~~
 - ~~a) After the motion is seconded, Councilmembers may discuss the merits of or issues related to the Ordinance.~~
 - ~~b) If there is no second to the motion, the motion dies.~~
 - ~~c) Discussion on the motion shall be in accordance with Section 7 of these Rules.~~
 - ~~d) There shall be no vote on the motion until after the Second Reading, unless the Second Reading is waived as provided for below.~~
- ~~b. Waiver of Second Reading. The City Council may choose to waive the Second Reading of an Ordinance if it feels the need for expedience in adopting or acting on the Ordinance.~~
 - ~~1. Waiver of Second Reading shall be made by a motion to waive the Second Reading, duly seconded and approved by a super majority [a majority plus one] of Councilmembers present.~~
 - ~~2. If the Second Reading is waived, the City Council may approve or act on the Ordinance at the point in the agenda following the approval of the motion to waive Second Reading.~~
- ~~c. Second Reading. The Second Reading of an Ordinance shall take place at the Regular City Council Meeting next following the date of the Regular City Council Meeting of the First Reading of the Ordinance.~~
 - ~~1. The Ordinance shall be included on the Meeting Agenda under Ordinances and shall include the indication of "Second Reading."~~
 - ~~2. The Ordinance shall be read by the City Attorney, in accordance with Section 3.2, Paragraph M, of these Rules.~~
 - ~~3. No new motion is necessary to place the Ordinance before the City Council if a motion to adopt or approve~~

~~the Ordinance was duly made and seconded on the date of the meeting of the First Reading. Councilmembers may discuss the merits of or issues related to the Ordinance.~~

~~a) Discussion on the motion shall be in accordance with Section 7 of these Rules.~~

~~b) Following discussion on the motion, the City Council may vote on the motion or take such other action as is appropriate under these Rules of Procedure or other appropriate rules of parliamentary procedure.~~

After a motion to adopt an ordinance has been made and seconded, the Councilmember making the motion is encouraged to give a very brief description of the issues involved with the ordinance, without simply repeating the ordinance title as read by the City Attorney and may choose to comment on any results of Council discussion or action regarding the issue.

Discussion and debate by the City Council on ordinances will be held prior to the vote on an ordinance. Councilmembers shall decide whether or not to amend the ordinance, or direct staff to further review the proposed ordinance.

An ordinance shall be adopted by a majority vote of a quorum of the City Council, provided that adoption of any ordinance that grants or revokes a franchise or license shall require the affirmative vote of at least a majority of the whole membership of the Council, and provided that public emergency ordinances require a vote of a majority plus one of the whole Council membership. A public emergency ordinance is one designated to protect public health and safety, public property, or public peace.

O Resolutions

All resolutions shall be in writing, and the titles thereof shall be read aloud by the City Attorney prior to a vote being called on their passage, provided that any councilmember may upon request, have a full reading of the text of a proposed resolution prior to the vote on its passage. It shall not require a second to the request for a full reading of a resolution. It is further provided, however, that the requirement for a reading of the title of the proposed resolution, or a full reading of the text of the proposed resolution may be waived upon a motion duly made, seconded and

approved by a majority of the councilmembers in attendance at the council meeting.

After a motion to pass a resolution has been made and seconded, the Councilmember making the motion is encouraged to give a very brief description of the issues involved with the resolution without simply repeating the resolution title as read by the City Attorney, and the councilmember may choose to comment on any results of Council discussion or action regarding the issue.

Discussion and debate by the City Council on resolutions will be held prior to the vote on a resolution. Councilmembers shall decide whether or not to amend the resolution, or direct staff to further review the proposed resolution.

A resolution shall be passed by a majority vote of a quorum of the Council, Provided that passage of any resolution for the payment of money shall require the affirmative vote of at least a majority of the whole membership of the Council.

P Mayor and Councilmember Reports

The Mayor and Councilmembers may report on their significant City-related activities since the last regular meeting. The Mayor and Councilmembers shall limit their reports to not more than three (3) minutes, with sensitivity to avoiding duplicate reporting.

Q. Adjournment

3 3 Recess - The foregoing agenda may be interrupted for a stated time as called by the Presiding Officer to recess for any reason, including executive sessions.

3 4 Amendment to Agenda - The sequence of handling items on the agenda of a particular Regular Council Meeting may be amended from order listed on the printed/approved agenda as follows.

A. Motion to Suspend the Rules. Any member of the City Council may move to suspend the rules so as to provide that an item on the agenda may be taken out of order - considered at a different order or placement in the agenda. Such motion shall require a second, and upon approval by a majority of Councilmembers in attendance at the meeting, the item shall be considered at the point in the agenda as indicated in the approved motion.

- B Adjustment of Agenda by Mayor If the Mayor, as the presiding official, determines that an item on the agenda of a Regular Council Meeting should be taken out of order - considered at a different order or placement in the agenda.as set forth in the agenda - to accommodate members of the City Council or others at the Council Meeting, the Mayor may call for the amendment of the agenda to accomplish such adjustment. Such action by the Mayor does not require a motion or vote by the City Council; provided that if the City Council does not wish to have the item moved - agenda adjusted - as directed by the Mayor, the City Council may, by motion duly made, seconded and approved by a majority of Councilmembers in attendance at the meeting keep the agenda unchanged.

[See former ACC 2.06.110 (Ord. 5687 § 1, 2002; Ord 4166 § 2, 1986); ACC 2.06.120 (1957 code § 1 04 120); ACC 2.06 140 (1957 code § 1 04 140); ACC 2.06.170 (1957 code § 1 04 190); ACC 2.06 180 (Ord. 5635 § 2, 2002; 1957 code § 1 04.200)]

SECTION 4 - COUNCILMEMBER ATTENDANCE AT MEETINGS

- 4 1 Councilmembers shall attend Regular Council meetings and Study Sessions. Councilmembers shall inform the Mayor or the City Clerk if they are unable to attend any Regular Council meeting or Study Session, or if they knowingly will be late to any such meetings. If a Councilmember has informed the Mayor or City Clerk that he or she is unable to attend such meeting, the minutes for that meeting will show the Councilmember as having an excused absence for that meeting. Provided that excessive, continued or prolonged absences may be addressed by the City Council on a case by case basis.

[See ACC 2.06 050 and RCW 35A.12.060]

- 4.2 Councilmembers are expected to attend the meetings of the Ad Hoc_Council Committees to which they are assigned. Councilmembers should inform the Chair of such Ad Hoc Council Committees or the City Clerk if they are unable to attend any meetings of such Ad Hoc Council Committees, and should inform the Chair or City Clerk if they expect to be late to any such Ad Hoc Council Committee meeting. If a Councilmember has informed the Chair or City Clerk that he or she is unable to attend such Ad Hoc Committee meeting, the minutes for that meeting, if minutes are required and/or taken, shall show the Councilmember as having an excused absence for that meeting. Provided that excessive, continued or prolonged absences may be addressed by the City Council on a case by case basis.
- 4 3 Councilmembers shall attend the Special Meetings of the City Council. Councilmembers, shall inform the Mayor or the City Clerk if they are unable to attend any such meetings, or shall so inform the Mayor or City Clerk if they

expect to be late to any such Special meeting. If a Councilmember has informed the Mayor or City Clerk that he or she is unable to attend such Special meeting, the minutes for that meeting shall show the Councilmember as having an excused absence for that meeting. Provided that excessive, continued or prolonged absences may be addressed by the City Council on a case by case basis.

- 4 4 Attendance at Ad Hoc Council Committee meetings and Special meetings will not be considered "regular meetings" for the purposes of RCW 35A.12.060, applicable to Regular City Council meetings. However, in addition to the application of RCW 35A.12.060 to Regular City Council meetings, unexcused absences from any Regular or Special meetings, or Ad Hoc Committee meetings, shall constitute a violation of these Rules of Procedure.

SECTION 5 - PRESIDING OFFICER - DUTIES

5 1 Conduct of Meetings

The Presiding Officer at all Regular Meetings of the Council shall be the Mayor and in the absence of the Mayor, the Deputy Mayor will act in that capacity. If both the Mayor and Deputy Mayor are absent and a quorum is present, the Council shall elect one of its members to serve as Presiding Officer until the return of the Mayor or Deputy Mayor. Additionally, the Deputy Mayor shall serve as the presiding officer for Council Study Sessions. It is further provided that, though not the Presiding Officer of Study Sessions, the Mayor is encouraged to attend Study Sessions.

[See former ACC 2.06.090 (1957 code § 1 04 100)]

5.2 The Presiding Officer

- A. Shall preserve order and decorum at all meetings of the Council and cause the removal of any person from any meeting for disorderly conduct;
- B. Shall observe and enforce all rules adopted by the Council;
- C. Shall decide all questions on order, in accordance with these rules, subject to appeal by any Councilmember;
- D. Shall recognize Councilmembers in the order in which they request the floor, giving every councilmember who wishes an opportunity to speak, provided that the mover of a motion shall be permitted to debate it first, and provided that the Presiding Officer may also allow discussion of an issue prior to the stating of a motion when such discussion would facilitate wording of a motion;

- E. May affix approximate time limit for each agenda item;
- F. When matters on the agenda are placed, or are able to be placed under more than one classification or category, as defined by the Order of Business, and the matters involve or are closely related to other subject matter, then the Presiding Officer may, in the Presiding Officer's discretion, present such matters before the Council, for discussion, consider and vote, at a different place in the agenda without the necessity of any vote thereon, notwithstanding their initial different placement on the written agenda.

[See former ACC 2.06 100 (1957 code § 1 04 170); ACC 2.06 190 (1957 code § 1 04.210).]

SECTION 6 - COUNCILMEMBERS

- 6 1 Remarks. - Councilmembers desiring to speak shall address the presiding officer, and when recognized, shall confine himself/herself to the question under debate.
- 6.2 Questioning. - Any member of the Council, including the Presiding Officer, shall have the right to question any individual, including members of the staff, on matters germane to the issue properly before the Council for discussion. Under no circumstances shall such questioning be conducted in a manner to the extent that such would constitute a cross-examination of or an attempt to ridicule or degrade the individual being interrogated.
- 6 3 Obligation to the Public Agency. - Notwithstanding the right of Councilmembers to express their independent opinions and exercise their freedom of speech, Councilmembers should act in a way that reflects positively on the reputation of the City and of the community. Councilmembers shall also interact with other members of the City Council and City staff in ways that promote effective local government.
- 6 4 Council Training. - Councilmembers are expected to participate in training offered by individuals, agencies, entities and organizations including but not limited to the Association of Washington Cities and the State of Washington, so as to afford the Councilmembers the opportunity to better understand their roles as City Councilmembers.
- 6 5 Participation in Committees, Agencies and Organizations. - To better represent the interests of the City of Auburn, Councilmembers are encouraged to participate in assignments to local, regional, state and national committees, agencies and organizations.

[See former ACC 2.06.130 (1957 code § 1 04 130).]

SECTION 7 - DEBATES

- 7 1 Speaking to the Motion. - No member of the Council, including the Presiding Officer, shall speak more than twice on the same motion except by consent of the Presiding Officer or a majority of the Councilmembers present at the time the motion is before the Council.
- 7.2 Interruption. - No member of the Council, including the Presiding Officer, shall interrupt or argue with any other member while such member has the floor, other than the Presiding Officer's duty to preserve order during meetings as provided in Section 5.2.A of these rules.
- 7 3 Courtesy - All speakers, including members of the Council, which includes the Presiding Officer, in the discussion, comments, or debate of any matter or issue shall address their remarks to the Presiding Officer, be courteous in their language and deportment, and shall not engage in or discuss or comment on personalities, or indulge in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant to the question or matter under discussion.
- 7 4 Transgression. - If a member of the Council shall transgress these rules on debates, the Presiding Officer shall call such member to order, in which case such member shall be silent except to explain or continue in order. If the Presiding Officer shall transgress these rules on debate or fail to call such member to order, any other member of the Council may, under a point of order, call the Presiding Officer or such other member to order, in which case the Presiding Officer or such member, as the case may be, shall be silent except to explain or continue in order.
- 7 5 Challenge to Ruling. - Any member of the Council, including the Presiding Officer, shall have the right to challenge any action or ruling of the Presiding Officer, or member, as the case may be, in which case the decision of the majority of the members of the Council present, including the Presiding Officer, shall govern.

[See former ACC 2.06 130 (1957 code § 1 04 130).]

SECTION 8 - PARLIAMENTARY PROCEDURES AND MOTIONS

- 8 1 All City Council meeting discussions shall be governed by *ROBERTS RULES OF ORDER, NEWLY REVISED* (latest edition).

- 8.2 If a motion does not receive a second, it dies. Matters that do not constitute a motion include nominations, withdrawal of motion by the person making the motion, request for a roll call vote, and point of order or privilege; therefore a second is not needed.
- 8.3 A motion that receives a tie vote is deemed to have failed, provided that except where prohibited by law, the Mayor, as Presiding Official, shall be allowed to vote to break a tie vote.
- 8.4 When making motions, Councilmembers shall be clear and concise and not include arguments for the motion within the motion.
- 8.5 After a motion has been made and seconded, the Councilmembers may discuss their opinions on the issue prior to the vote.
- 8.6 If any Councilmember wishes to abstain, from a vote on the motion pursuant to the provisions of Section 9 hereof, that Councilmember shall so advise the City Council, and shall remove and absent himself/herself from the deliberations and considerations of the motion, and shall have no further participation in the matter. Such advice shall be given prior to any discussion or participation on the subject matter or as soon thereafter as the Councilmember perceives a need to abstain, provided that, prior to the time that a Councilmember gives advice of an intent to abstain from an issue, the Councilmember shall confer with the City Attorney to determine if the basis for the Councilmember's intended abstention conforms to the requirements of Section 9. If the intended abstention can be anticipated in advance, the conference with the City Attorney should occur prior to the meeting at which the subject matter would be coming before the City Council. If that cannot be done, the Councilmember should advise the City Council that he/she has an "abstention question" that he/she would want to review with the City Attorney, in which case, a brief recess would be afforded the Councilmember for that purpose.
- 8.7 A motion may be withdrawn by the maker of the motion at any time without the consent of the Council.
- 8.8 A motion to table is nondebatable and shall preclude all amendments or debates of the issue under consideration. A motion to table is to be used in instances where circumstances or situations arise which necessitate the interruption of the Councilmembers' consideration of the matter then before them. A motion to table, if passed, shall cause the subject matter to be tabled until the interrupting circumstances or situations have been resolved, or until a time certain, if specified in the motion to table. To remove an item from the table in advance of the time certain requires a two-thirds' majority vote.

- 8.9 A motion to postpone to a certain time is debatable, is amendable and may be reconsidered at the same meeting. The question being postponed must be considered at a later time at the same meeting, or to a time certain at a future Regular or Special City Council meeting.
- 8 10 A motion to postpone indefinitely is debatable, is not amendable, and may be reconsidered at the same meeting only if it received an affirmative vote.
- 8 11 A motion to call for the question shall close debate on the main motion and is not debatable. This motion must receive a second and fails without a two-thirds' vote; debate is reopened if the motion fails.
- 8.12 A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting.
- 8.13 Motions that cannot be amended include: Motion to adjourn, lay on the table (table), roll call vote, point of order, reconsideration and take from the table.
- 8 14 Amendments are voted on first, then the main motion as amended (if the amendment received an affirmative vote)
- 8 15 Debate of the motion only occurs after the motion has been moved and seconded.
- 8 16 The Presiding Officer, City Attorney or City Clerk should repeat the motion prior to voting.
- 8 17 The City Clerk will take a roll call vote, if requested by the Presiding Officer, a Councilmember, or as required by law
- 8 18 When a question has been decided, any Councilmember who voted in the majority may move for reconsideration. In order to afford Councilmembers who voted in the majority the potential basis for a motion for reconsideration, Councilmembers who voted in the majority may inquire of Councilmembers who voted with the minority as to the reasons for their minority vote, if not stated during debate prior to the vote.
- 8.19 The City Attorney shall act as the Council's parliamentarian and shall decide all questions of interpretations of these rules which may arise at a Council meeting.
- 8.20 These rules may be amended, or new rules adopted, by a majority vote of the full Council.

[See former ACC 2.06 160 (1957 code § 1 04 180); ACC 2.06.170 (1957 code § 1 04 190); ACC 2.06.200 (1957 code § 1 04.220); ACC 2.06.210 (1957 code § 1 04.230).]

SECTION 9 - VOTING

- 9 1 Voice vote - A generalized verbal indication by the Council as a whole of "yea or nay" vote on a matter, the outcome of which vote shall be recorded in the official minutes of the Council. Silence of a Councilmember during a voice vote shall be recorded as a vote with the prevailing side, except where such a Councilmember abstains because of a stated conflict of interest or appearance of fairness.
- 9.2 Roll call vote - A roll call vote may be requested by the Presiding Officer or by any Councilmember
- 9 3 Abstentions - It is the responsibility of each Councilmember to vote when requested on a matter before the full Council. However, a Councilmember may abstain from discussion and voting on a question because of a stated conflict of interest or appearance of fairness.
- 9 4 Votes by Mayor - Except where prohibited by law, the Mayor, as Presiding Official, shall be allowed to vote to break a tie vote.

[See former ACC 2.06 150 (1957 code § 1 04 150).]

SECTION 10 - COMMENTS, CONCERNS AND TESTIMONY TO COUNCIL

- 10.1 Persons addressing the Council, who are not specifically scheduled on the agenda, will be requested to step up to the podium, give their name and address for the record, and limit their remarks to three (3) minutes, in addition to filling out the speaker sign-in sheet available at the City Clerk's desk. All remarks will be addressed to the Council as a whole. The City Clerk shall serve as timekeeper. The Presiding Officer may make exceptions to the time restrictions of persons addressing the Council when warranted, in the discretion of the Presiding Officer.
- 10.2 Any person making personal, impertinent or slanderous remarks while addressing the Council shall be barred from further audience participation by the Presiding Officer, unless permission to continue is granted by a majority vote of the Council.

[See former ACC 2.06 130 (1957 code § 1 04 130).]

SECTION 11 - PUBLIC HEARINGS AND APPEALS

- 11.1 Quasi-judicial hearings require a decision be made by the Council using a certain process, which may include a record of evidence considered and specific findings made. The following procedure shall apply:
- A. The Department Director of the department (most) affected by the subject matter of the hearing, or said Director's designee, will present the City's position and findings. Staff will be available to respond to Council questions.
 - B. The proponent spokesperson shall speak first and be allowed (10) minutes. Council may ask questions.
 - C. The opponent spokesperson shall be allowed ten (10) minutes for presentation and Council may ask questions.
 - D. Each side shall then be allowed five (5) minutes for rebuttal, with the proponent spokesperson speaking first, followed by the opponent spokesperson.
 - E. The City Clerk shall serve as timekeeper during these hearings.
 - F. After each proponent and opponent spokesperson have used their speaking time, Council may ask further questions of the speakers, who shall be entitled to respond but limit their response to the question asked.
- 11.2 Public hearings where a general audience is in attendance to present arguments for or against a public issue:
- A. The Department Director or designee shall present the issue to the Council and respond to questions.
 - B. A person may speak for three (3) minutes. No one may speak for a second time until everyone who wishes to speak has had an opportunity to speak. The Presiding Officer may make exceptions to the time restrictions of persons speaking at a public hearing when warranted, in the discretion of the Presiding Officer.
 - C. The City Clerk shall serve as timekeeper during these hearings.
 - D. After the speaker has used their allotted time, Council may ask questions of the speaker and the speaker may respond, but may not engage in further debate.

- E. The hearing will then be closed to public participation and open for discussion among Councilmembers.
- F. The Presiding Officer may exercise changes in the procedures at a particular meeting or hearing, but the decision to do so may be overruled by a majority vote of the Council.

SECTION 12 - DEPUTY MAYOR

12.1 Annually or more often as deemed appropriate, the members of the City Council, by majority vote, shall designate one of their members as Deputy Mayor for such period as the Council may specify

- A. Any member of the City Council may be nominated for the position of Deputy Mayor by having that Councilmember's name placed in nomination by a Councilmember [The nomination of a councilmember for this position does not require a second, and a councilmember may nominate him or herself]
- B. The Councilmember receiving a majority of the votes cast by the members of the City Council shall be elected Deputy Mayor. A Councilmember may vote for him or herself
- C. The names of all nominees for the position of Deputy Mayor shall be included in the vote.
- D. If no single Councilmember received a majority of the votes cast, a second vote/ballot, between the two nominees who received the largest number of votes, would be needed. In the second vote/ballot, whichever of these two nominees received the larger number of votes would be elected to the position of Deputy Mayor³

[See RCW 35A.12.065]

12.2 The Deputy Mayor shall perform the following duties:

- A. Intra-Council Relations
 - 1. Serve as the Chair of the Council Study Sessions

³ It may be that if there were a larger number of nominees in the initial election, there would not be (only) two councilmembers who received the largest number of votes. For instance, if one nominee received three votes a second nominee received two votes and a third nominee also received two votes, it might be appropriate to have an initial run off between the second and the third nominees to determine who would be included in the final run-off against the first nominee.

2. Serve as an ex-officio member of all other_ad hoc committees of the City Council
- 3 Assist in new councilmember training
- 4 Support cooperative and interactive relationships among council members
- 5 Work with Administration to prepare agendas for Council Study Sessions

B. Mayor-Council Relations

- 1 Help maintain a positive and cooperative relationship between the Mayor and the City Council
2. Act as conduit between the Mayor and the City Council on issues or concerns relating to their duties

C Intergovernmental and Community Relations

- 1 Act in absence of Mayor as requested and/or as required
2. Be aware of all City regional and intergovernmental policies and activities in order to be prepared to step into the role of Mayor if necessary
- 3 Serve as the Chair of the City's Emergency Management Compensation Board

[See former ACC 2.06 090 (1957 code § 1 04 100)]

SECTION 13 - COUNCIL POSITION VACANCY OR ABSENCE

- 13.1 In the event that an unexpired Council position becomes vacant, the City Council has ninety (90) days from the occurrence of the vacancy to appoint, by majority vote of a quorum of the Council, a qualified person to fill the vacancy pursuant to State law. The Council may make such appointment at its next regular meeting, or at a special meeting called for that purpose. If the Council does not appoint a person within the ninety (90) day period, the Mayor may make the appointment from among the persons nominated by members of the Council.
- 13.2 In the event of extended excused absences or disability of a Councilmember, the remaining members by majority vote may appoint a Councilmember Pro Tempore to serve during the absence or disability

SECTION 14 - COUNCIL MEETING STAFFING

- 14.1 Department Directors shall attend all meetings of the Council unless excused.
- 14.2 The City Attorney shall attend all meetings of the Council unless excused, and shall upon request, give an opinion, either written or oral, on legal questions. The City Attorney shall act as the Council's parliamentarian. The Assistant City Attorney shall attend meetings when the City Attorney has been excused.

[See former ACC 2.06.060 (1957 code § 1 04 160)]

SECTION 15 - COUNCIL RELATIONS WITH STAFF

- 15.1 There will be mutual courtesy and respect from both City staff and Councilmembers toward each other and of their respective roles and responsibilities.
- 15.2 City staff will acknowledge the Council as policy makers, and the Councilmembers will acknowledge City staff as administering the Council's policies.
- 15.3 It is the intent of Council that all pertinent information asked for by individual Council members shall be made available to the full Council.
- 15.4 Individual Councilmembers shall not attempt to coerce or influence City staff in the selection of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or the granting of City licenses or permits. Councilmembers may, at the request of the Mayor, participate in discussions and decisions related to these matters.
- 15.5 Other than through legislative action taken by the Council as a whole, individual Councilmembers shall not interfere with the operating rules and practices of any City department.
- 15.6 No individual Councilmember shall direct the Mayor to initiate any action or prepare any report that is significant in nature, or initiate any project or study without the consent of a majority of the Council. This provision, however, does not prohibit individual Councilmembers from discussing issues with the Mayor or making individual requests or suggestions to the Mayor. The Mayor shall endeavor to advise and update the Councilmember(s) on the status or follow-up of such issues.
- 15.7 All councilmember requests for information, other than requests for legal advice from the City Attorney's Office, shall be directed through the Mayor in order to assign the task to the proper staff. The Deputy Mayor may work with the Mayor's

designated staff to prepare Study Session agendas and facilitate Study Session work.

- 15 8 Any written communication with staff shall also include the Mayor as a recipient.

**SECTION 16 - COUNCIL STUDY SESSIONS, COMMITTEES
AND CITIZEN ADVISORY BOARDS**

- 16 1 In addition to the regularly scheduled City Council meetings (Regular Council Meetings) scheduled on the first and third Mondays of the month, City Council shall regularly schedule Council Study Sessions on the second, fourth and fifth Mondays of the month for review of matters that would come back before the City Council at Regular Council Meetings. Different than the format for Regular Council Meetings (identified in Section 3 hereof), Study Sessions shall be less formal than Regular Council Meetings and shall give the City Council the opportunity to discuss and debate issues coming before it for action at Regular Council meetings. The format for these meetings shall be as follows:

A. Meeting Times.

Study Sessions shall be scheduled as set forth in Section 2.3, above.

B Study Sessions should conform to the following:

- 1 Meeting facilitation - the Deputy Mayor shall preside over/conduct Study Sessions.
2. Four or more Councilmembers shall constitute a quorum for Study Sessions.
- 3 Two and one half hours maximum timeframe (goal).
- 4 Maximum of five agenda items (goal).
- 5 Timeframe per agenda item - up to 30 to 40 minutes.
- 6 Agenda items should relate to future policy-making, strategic planning or key state or federal issues affecting current or future city operations.
- 7 Agenda items should be substantive only (e.g., traffic impact fee increase proposals, comprehensive plan updates, rather than day-to-day operational issues. [Non-substantive items (e.g., accepting a grant, authorizing contract bidding, etc.) should go directly to the Regular City Council meeting.

C Study Session Meeting Format⁴

1 Call to Order

The Presiding Officer shall call the meeting to order

2. Roll call

The City Clerk will call the roll. Councilmembers may request to be excused from a meeting by requesting the same of the Mayor or City Clerk in advance of the meeting. The reason for the request shall be given at the time of the request.

3 Announcements, Reports and Presentations

The Presiding Officer shall provide any announcements, reports or presentations that need to be shared with the City Council in advance of the agenda discussion items. After that these announcements, reports or presentations, City Council members may have questions or wish to discuss the issues at this time or request that they be put on a future Study Session agenda for further discussion.

4 Agenda items for Council Discussion.

The Presiding Officer shall announce each of the various items that are on the agenda for Council discussion, and, as warranted, request a preliminary report from staff or a consultant or other individual(s) involved in the issue. The Presiding Officer shall endeavor to call upon the members of the City Council in the order of their requests to discuss the Agenda Item.

After such report(s), if any, the Presiding Officer shall open the floor for Council discussion on the agenda items in their order on the agenda, unless a different order is approved by a majority of the Councilmembers present.

Council discussion shall be in conformity with the provisions of Section 7 of these rules, other than the requirement that there be a motion before Council discussion.

⁴ It is the intention of the City Council that Study Sessions shall be televised on the City's public access channel if reasonably possible.

At the conclusion of the discussion, or at the point the Council feels its questions have been answered and discussion vetted, the Presiding Officer shall move the attention of the Council to the next discussion item on the agenda; provided that if, after a lengthy discussion on a particular agenda item, the Presiding Officer concludes that discussion should be continued to a later date, the Presiding Officer may conclude discussion on that agenda item and schedule the matter for a later Study Session.

With the support of a consensus of Councilmembers, the Deputy Mayor shall call for Study Session agenda items requiring formal Council action to be included in agendas for upcoming Regular Council Meetings.

5. Ordinances

Prior to an ordinance being included for adoption on the agenda of a Regular or Special Meeting of the City Council, the ordinance shall be included on the agenda of a Study Session for Council review and discussion.

a. The Study Session ordinance review requirement shall be met even if the version to be considered at an upcoming City Council Meeting is amended from the version included on the Study session agenda following review and discussion at the Study Session.

b. If, after City Council review and discussion of an ordinance at a Study Session, the City Council is not ready to vote on a proposed ordinance, the ordinance may be included on another Study session agenda for further review and discussion. If there is not agreement among members of the City Council as to whether the ordinance should next come before the City Council at a regular or Special Meeting of the City Council for consideration of adoption or whether it should return for further review and discussion at a Study Session, the matter shall be presented for a vote at the Study Session, and decided by majority vote of the members of the City Council at the Study Session.

5.6. Other Discussion Items

The Presiding Officer and/or members of the City Council may bring up other discussion items to be discussed at this time or to be scheduled for discussion at a future Study Session, provided that if

the Presiding Officer concludes that there is not sufficient time to discuss or continue discussing the topic, the Presiding Officer may defer discussion or continued discussion to a future Study Session.

6.7. Adjourment

The Presiding Officer shall adjourn the Study Session after conclusion of discussion on the agenda items.

- 16.2 The Mayor or a majority of the City Council may establish such ad hoc committees as may be appropriate to consider special matters that require special approach or emphasis. Such ad hoc committees may be established and matters referred to them at study sessions, without the requirement that such establishment or referral take place at a regular City Council meeting. The Mayor shall appoint Council representatives to intergovernmental councils, boards and committees, provided that the Deputy Mayor shall appoint Councilmembers to Council ad hoc committees. It is further provided that the Mayor shall appoint members to Council ad hoc committees if the Deputy Mayor is disabled or precluded from acting in that capacity. Councilmember appointments to intergovernmental councils, boards and committees, including ad hoc committees, shall be periodically reviewed to determine which councilmembers could best be able to represent the City on such councils, boards and committees.
- 16 3 Ad hoc council committees shall consider all matters referred to them. The chair of such ad hoc committee shall report to the City Council the findings of the committee. Committees may refer items to the Council with a committee recommendation or with no committee recommendation.
- 16 4 Advisory Boards, Committees and Commissions established by ordinance, consisting of citizens appointed pursuant to the establishing Ordinance and serving in the capacity and for the purposes indicated in the Ordinance, shall act as an advisory committee to the City Council.
- 16 5 Committee Chairpersons shall have broad discretion in conducting their meetings. They will generally follow Roberts Rules of Order, Newly Revised.
- 16 6 Unless otherwise expressly provided for an ad hoc committee of the City Council, such committees shall not receive public testimony or allow audience participation in connection with or related to the agenda item being discussed by the Committee,. Unless otherwise expressly provided for such ad hoc committee, it is the intention of the City Council that such ad hoc committees function informally and not in any way that takes action in lieu of or on behalf of the full City Council. The purpose and function of such ad hoc committees shall be to review matters in advance of their consideration by the full City Council, and

perhaps record and make recommendations to the full City Council. With that, it is the intention that these committees operate informally, without the need for compliance with the Open Public Meetings Act (Chapter 42.30 RCW).

- 16 7 Committee Chairpersons shall approve all agenda items and may, at their discretion, remove or add agenda items during the course of the meeting.

SECTION 17 - COUNCIL REPRESENTATION & INTERNAL COMMUNICATION

- 17 1 If a Councilmember meets with, attends a meeting or otherwise appears on before individuals, another governmental agency, a community organization, or a private entity or organization, including individuals, agencies, or organizations with whom or with which the City has a business relationship, and makes statements directly or through the media, commenting on an issue that does or could affect the City, the Councilmember shall state the majority position of the City Council, if known, on such issue. Personal opinions and comments which differ from those of the Council majority may be expressed if the Councilmember clarifies that these statements do not represent the City Council's position, and the statements are those of the Councilmember as an individual. Additionally, before a Councilmember discusses anything that does or could relate to City liability, the Councilmember should talk to the City Attorney or the City's Risk Manager, so that the Councilmember would have a better understanding of what may be said or how the discussion should go to control or minimize the City's liability risk and exposure.
- 17.2 Councilmembers need to have other Councilmember's concurrence before representing another Councilmember's view or position with the media, another government agency or community organization.
- 17 3 Councilmembers shall not knowingly communicate with an opposing party or with an opposing attorney in connection with any pending or threatened litigation in which the City is a party or in connection with any disputed claim involving the City without the prior approval of the City Attorney, unless the Councilmember is individually a party to the litigation or is involved in the disputed claim separate from the Councilmember's role as a City official.
- 17 4 Communication among Councilmembers shall conform to the following parameters.
- A. Except in connection with Council members meeting, informally, in committees not subject to the Open Public Meetings Act, to assure that communication on agenda items occurs to the greatest extent possible at the public meetings, and to avoid even the perception that email is being used in a way that could constitute a public meeting, e.g., successive communications on City Council topics that involve a quorum of the Councilmembers. Councilmembers should refrain from emailing

Councilmembers about such agenda items. Councilmembers should be prepared to communicate about matters that are on upcoming Council agendas at the public meetings. If Councilmembers wish to share information with other councilmembers about matters that are on upcoming agendas, the councilmembers should forward that information to the Mayor for distribution in the council meeting packets.

- B Councilmembers may communicate via email to other Councilmembers, including to a quorum of the full City Council about matters within the scope of the City Council's authority or related to City business, but not yet scheduled on upcoming Council agendas, to indicate a desire that certain items be included on upcoming meeting agendas, provided that Councilmembers shall never ask for responses from the other Councilmembers in that communication.
- C Email communication among Councilmembers relating to City operations should also include the Mayor as a recipient/addressee.
- D Councilmembers may email the Mayor about City business without limitations or restrictions.

17.5 Internet & Electronic Resources/Equipment Use.

- A. Policy It is the policy of the City Council that Internet and electronic resources equipment use shall conform to and be consistent with the requirements of City of Auburn Administrative Policy and Procedure 500-03, "Internet & Electronic Resources/Equipment Use – Elected Officials" adopted hereby and incorporated herein by this reference.

It is important to note that all letters, memoranda, and interactive computer communication involving City Councilmembers and members of advisory boards and commissions, the subject of which relates to the conduct of government or the performance of any governmental function, with exceptions stated by the Public Records Act (RCW 42.56), are public records.

- B Electronic Communications.

- 1 Informal messages with no retention value and that do not relate to the functional responsibility of the recipient or sender as a public official, such as meeting notices, reminders, telephone messages and informal notes, do not constitute a public record. Users should delete these messages once their administrative purpose is served.

2. All other messages that relate to the functional responsibility of the recipient or sender as a public official constitute a public record. Such records are subject to public inspection and copying.
3. Electronic communications that are intended to be shared among a quorum of the City Council or of an ad hoc Council Committee, whether concurrently or serially, must be considered in light of the Open Public Meetings Act, if applicable. If the intended purpose of the electronic communication is to have a discussion that should be held at an open meeting, the electronic discussion shall not occur. Further, the use of electronic communication to form a collective decision of the Council shall not occur.
4. Electronic communication should be used cautiously when seeking legal advice or to discuss matters of pending litigation or other confidential City business. In general, electronic communication is discoverable in litigation, and even deleted electronic communication is not necessarily removed from the system. Confidential electronic communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived.
5. Electronic communication between Councilmembers and between Councilmembers and staff shall not be transmitted to the public or news media without the filing of a public disclosure request with the City Clerk.
6. As a cautionary note, if an elected public official uses his or her personal home computer to send electronic communications dealing with City business, the electronic communications and electronic records may be subject to discovery demands and public disclosure requests. That possibility amplifies the need for caution in how one uses electronic communication for City business.

17.6 Council Relations with City Boards and Commissions.

A Council Liaisons.

Different than where a City Councilmember is appointed by the City Council or the Mayor to serve as a member of a board, commission, committee, task force or any other advisory body, the City Council may, for limited purposes or under unusual circumstances, appoint a Councilmember to serve as a non-member Liaison to a board, commission, committee, task force or any other advisory body. Anytime a Councilmember is appointed as such a Liaison, the position or role of

Liaison is subordinate to that of Councilmember, and the Councilmember's responsibility is first and foremost to the City and to the City Council. The role and responsibility of the Councilmember-Liaison is to keep the City Council apprised of the activities, positions and actions of the entity or organization to which the Councilmember has been appointed Liaison, and not to communicate to the board, commission, committee, task force or other advisory body a statement as the position of the City Council, except as authorized or directed by the City Council. Insofar as a Council Liaison position does not give all councilmembers equal access to the activities, functions and information of or about a board, commission, committee, task force or any other advisory body, appointments to Council Liaison positions should be reserved to those instances where a Report to the Council by the board, commission, committee, task force or any other advisory body would not be convenient or practical.

B. Reports to the Council.

Each board, commission, committee, task force or any other advisory body of the City shall be requested to present a report to the City Council at a Regular Meeting or a Study Session of the City Council, as scheduled by the Mayor or Deputy Mayor. Such reports shall be scheduled for a Regular Council Meeting or a Council Study Session, and shall be delivered by the chair of the board, commission, committee, task force or any other advisory body or designee. The reports shall inform the City Council of the activities, functions and information with which the board, commission, committee, task force or any other advisory body has been involved since the previous report, and shall include the opportunity for questions by Councilmembers.

- 17 7 Whenever a member of the City Council attends any meeting of any other entity or organization, he or she should endeavor to be prudent in what he or she says or does at such meeting. Further, the Councilmember should avoid attending such meeting if that attendance would impose an interference with the meeting or the operations of the other entity or organization, or of the operations of the City

SECTION 18 - TRAVEL AUTHORIZATION

- 18 1 In accordance with the City of Auburn travel policy, approvals or expenditure of travel related costs and/or approval of specific travel events or activities by Councilmembers beyond the authority provided in the travel policy and budget shall be as follows: the requesting Councilmember shall submit his/her request to expend travel related costs and/or request for authorization for specific travel purposes to the Mayor to be included on an upcoming Council meeting agenda in advance of the date(s) of such expenditure or travel. The City Council may

pursuant to a motion, approve the request by a majority vote of a quorum of the City Council at the meeting in which the matter is considered.

SECTION 19 - CONFIDENTIALITY

- 19 1 Councilmembers shall keep confidential all written materials and verbal information provided to them during Executive Sessions, to ensure that the City's position is not compromised. Confidentiality also includes information provided to Councilmembers outside of Executive Sessions when the information is considered by the exempt from disclosure under exemptions set forth in the Revised Code of Washington.

SECTION 20 – ENFORCEMENT OF RULES OF PROCEDURE

- 20 1 Councilmembers shall conform their conduct to the requirements, standards and expectations set forth in these Rules of Procedure. In addition to and notwithstanding whatever other enforcement mechanisms may exist for legal, ethical or practical obligations on Councilmember performance or conduct, violations of these Rules of Procedure by Councilmembers may be enforced by action of the City Council through sanctions such as votes of censure or letters of reprimand, and such other action as may be permitted by law.

City Council Rules of Procedure:

Adopted: February 2, 2004

Ordinance No. 5802

Amended by Resolution No. 4282, December 17, 2007

Amended by Resolution No. 4429, December 15, 2008

Amended by Resolution No. 4467, April 6, 2009

Amended by Resolution No. 4615, July 6, 2010

Amended by Resolution No. 4686, February 22, 2011

Amended by Resolution No. 4740, August 15, 2011

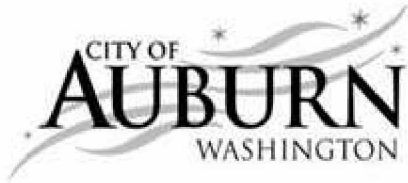
Amended by Resolution No. 4813, May 21, 2012

Amended by Resolution No. 4909, February 19, 2013

Amended by Resolution No. 5105, November 3, 2014

Amended by Resolution No. 5112, December 1, 2014

Amended by Resolution No. 5115, December 15, 2014



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5223

Date:

April 25, 2016

Department:

CD & PW

Attachments:

[Resolution No. 5223](#)

[Draft Ordinance No. 6593](#)

[Ordinance No. 6018](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5223.

Background Summary:

Resolution No. 5223 sets the date of the public hearing for renewal of Franchise Agreement No. 06-21 for Puget Sound Energy, Inc for May 16, 2016 at 7:00 pm in Council Chambers.

Puget Sound Energy, Inc (PSE) has applied for renewal and amendment to their existing Franchise Agreement to continue to operate within the City's rights of way natural gas transmission and distribution facilities for sale and service to customers throughout the City. During review of the existing Franchise Agreement the City determined that minor amendments to the Agreement were needed to provide for better communication and coordination between PSE and the City. Per Auburn City Code Chapter 20.06.140 a public hearing shall be held prior to granting or denying renewal of a franchise agreement.

Draft Ordinance No. 6593 and Franchise Agreement No. 06-21, Ordinance No. 6018 are attached as back up documentation for Resolution No. 5223.

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

Snyder

Meeting Date: May 2, 2016

Item Number: RES.B

RESOLUTION NO. 5223

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, SETTING A PUBLIC HEARING TO CONSIDER THE RENEWAL OF FRANCHISE AGREEMENT NO 06-21 AND AMENDMENT OF ORDINANCE NO 6018 WITH PUGET SOUND ENERGY, INC.

WHEREAS, Puget Sound Energy, Inc. ("Grantee") has applied to the City for renewal and amendment to their existing Franchise Agreement No. 06-21 for the right of entry, use, and occupation of certain public rights-of-way within the City of Auburn; and

WHEREAS, the City has reviewed the Grantee's application materials, and the City Engineer is satisfied that the application is sufficiently complete, so as to warrant holding a public hearing before the City Council to consider the renewal and amendment to the franchise agreement, pursuant to ACC 20.06.140 of the Auburn City Code (ACC).

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

Section 1 That a hearing on the application by the Grantee for renewal and amendment to Franchise Agreement No. 06-21, Ordinance No. 6018 with the City of Auburn is hereby set for 7:00 p.m. on the 16th day of May, 2016, at the City Council Chambers at 25 West Main Street, Auburn, Washington, 98001, with all persons wishing to speak to the application at the public 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.

Resolution No. 5223
Franchise Agreement No. 06-21 Renewal
March 21, 2016
Page 1 of 2

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

DATED and SIGNED this _____ day of _____, 2016.

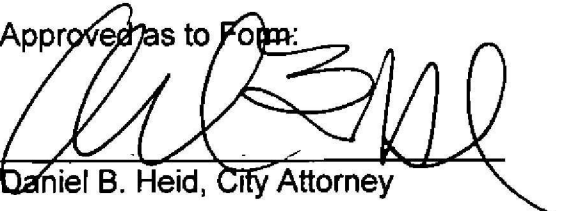
CITY OF AUBURN

Nancy Backus
Mayor

Attest:

Danielle E. Daskam, City Clerk

Approved as to Form:



Daniel B. Heid, City Attorney

Resolution No. 5223
Franchise Agreement No. 06-21 Renewal
March 21, 2016
Page 2 of 2

ORDINANCE NO. 6593

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE RENEWAL AND AMENDMENT OF ORDINANCE NO. 6018 FOR PUGET SOUND ENERGY, INC FRANCHISE AGREEMENT FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS

WHEREAS, on June 14, 2006, the City Council adopted Ordinance No. 6018, granting a natural gas franchise to Puget Sound Energy, Inc. ("PSE"); and,

WHEREAS, Puget Sound Energy, Inc. wishes to renew said Franchise Agreement for an additional five year term; and

WHEREAS, the City wishes to make minor amendments to the terms of the Agreement; and

WHEREAS, following proper notice, the City Council held a public hearing on PSE's request for renewal and amendment of Ordinance No. 6018, at which time representatives of PSE 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, based upon the foregoing recital clauses and 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

Draft Ordinance No. 6593
PSE Gas Franchise Agreement Renewal
March 21, 2016
Page 1 of 6

inhabitants that the renewal and amendment of Ordinance No. 6018 be granted to PSE.

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

Section 1. The City approves PSE's application for renewal for one five-year period as provided for in Section 14 of Ordinance No. 6018, a copy of which is attached hereto, marked as Exhibit A, under the conditions set forth in this Ordinance. Such five-year renewal period shall commence on the effective date of this Ordinance.

Section 2. Section 17.6 and Section 17.7 of Ordinance No. 6018 are hereby amended as follows;

17.6 During the term of this Franchise, PSE shall also provide the City (and maintain current) a written list showing the names and telephone numbers of the specific departments and (if applicable) individuals within PSE that may be contacted by the City to identify and address problems and issues that arise under this Franchise. PSE shall ensure that the list includes contact information for addressing emergency support and technical support issues (with emergency support being available 24 hours per day), and shall ensure that the names and telephone numbers appearing on the list in those areas have the expertise and authority (or access to the same) needed to address the problem or issue promptly and

effectively. PSE shall use all reasonable efforts to respond to requests from the City promptly, to work diligently with the City in resolving any problems or issues identified by the City, and to actively communicate with the City regarding each problem or issue from the time it is first identified by the City until the time it is resolved. PSE shall update the list a minimum of annually or more frequently as necessary to ensure that it remains current and shall give written notice of the change to the City.

17.7 PSE and the City shall meet at a minimum of annually or more frequently as necessary, as reasonably requested by the other party ~~from time to time, to~~ discuss and coordinate their activities and upcoming projects with respect to construction which may affect the public ways in any manner in and effort to minimize public inconvenience, disruption or damages.

Section 3. PSE shall, within thirty (30) days after the effective date of this Ordinance, file with the City, a fully executed Statement of Acceptance of this Ordinance, which written acceptance shall be Exhibit B, attached hereto and incorporated herein by this this reference.

Section 4. This Ordinance shall supersede Ordinance No. 6018 to the extent that it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of Ordinance No.

6018. All other provisions of Ordinance No. 6018 shall remain unchanged and in full force and effect.

Section 5. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 6. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 7. 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.

FIRST READING: _____

SECOND READING: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

Draft Ordinance No. 6593
PSE Gas Franchise Agreement Renewal
March 21, 2016
Page 5 of 6

EXHIBIT "B"

STATEMENT OF ACCEPTANCE

Puget Sound Energy, Inc., for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise Agreement, Ordinance No. 6018, attached hereto and incorporated herein by this reference as amended by Ordinance No. 6593.

Puget Sound Energy
6905 S 228th Street
Kent, WA 98032

By: _____ Date: _____
Name:
Title: Municipal Liaison Manager

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 2016, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____, residing at _____
MY COMMISSION EXPIRES: _____

Draft Ordinance No. 6593
PSE Gas Franchise Agreement Renewal
March 21, 2016
Page 6 of 6

ORDINANCE NO. 6018

AN ORDINANCE GRANTING PUGET SOUND ENERGY, INC., A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO PROVIDE FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS

WHEREAS, on May 1, 2006, the City Council of the City of Auburn held a public hearing to consider authorization of a natural gas franchise for Puget Sound Energy; and

WHEREAS, the City Council of the City of Auburn finds that the general public health, safety, welfare, necessity and convenience require that facilities to provide for transmission, distribution and sale of natural gas be constructed, maintained and repaired in an orderly manner when such facilities are located in, under, on or along City rights-of-way.

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

In consideration of the mutual benefits and conditions set forth below, including acceptance and agreement of the Franchise by Puget Sound Energy in the form substantially as set forth in Exhibit "A" hereto, the City of Auburn agrees and ratifies acceptance to the Public Way Agreement, as follows:

Section 1. Definitions.

1.1 Where used in this franchise (the "Franchise") the following terms shall mean:

1.1.1 "PSE" means Puget Sound Energy, Inc., a Washington corporation, and its successors and assigns.

1.1.2 "City" means the City of Auburn, a code city of the State of Washington, and its successors and assigns.

1.1.3 "Franchise Area" means any, every and all of the roads, streets, avenues, alleys, highways and public rights-of-way of the City as now

laid out, platted, dedicated or improved; and any, every and all roads, streets, avenues, alleys, highways and public rights-of-way that may hereafter be laid out, platted, dedicated or improved within the present limits of the City and as such limits may be hereafter extended.

1.1.4 "Facilities" means, collectively, any and all natural gas distribution systems, including but not limited to, natural gas pipes, pipelines, mains, laterals, conduits, feeders, regulators, valves, meters, meter-reading devices, fixtures, and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way pertaining to any and all of the foregoing, whether the same be located above ground or underground.

1.1.5 "Ordinance" means Ordinance No. 6018, which authorizes and sets forth the terms and conditions of this Franchise.

1.1.6 "Public Improvement" means any capital improvement or repair within the Franchise Area that is undertaken by or on behalf of the City and is funded by the City (either directly with its own funds or with other public monies obtained by the City). For the avoidance of doubt, the term "Public Improvement" shall include any such capital improvement or repair undertaken by the City which requires the relocation of PSE's Facilities within the Franchise Area, even if the capital improvement or repair entails, in part, related work performed for a third party county or municipality under a valid interlocal agreement between the City and such county or municipality (except to the extent the relocation of PSE's Facilities is caused by the work done for such third party), but shall not include, without limitation, any other improvements or repairs undertaken by or for the benefit of third party private entities.

Section 2. Facilities Within Franchise Area.

2.1 The City does hereby grant to PSE the right, privilege, authority and franchise to set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use Facilities in, upon, under, along, across and through the Franchise Area only to provide for the transmission, distribution and sale of natural gas.

2.2 This Franchise shall not convey any right to PSE to install its Facilities on or to otherwise use City-owned or City-leased properties outside the Franchise Area; provided, however, that this Franchise shall convey the right to PSE to maintain, repair and operate Facilities installed pursuant to prior franchise agreements with the City regardless of whether said Facilities are outside the Franchise Area, but such right shall be subject to the provisions of Sections 2.3 and 7. For purposes of the application of this Section 2 to Section 7 only, these Facilities shall be deemed to be within the Franchise Area.

2.3 Existing Facilities installed or maintained by PSE on public grounds and places within the City in accordance with prior franchise agreements (but which such Facilities are not within the Franchise Area as defined in this Franchise) may continue to be maintained, repaired and operated by PSE at the location such Facilities exist as of the effective date of this Franchise for the term of this Franchise; provided, however, that no such Facilities may be enlarged, improved or expanded without the prior review and approval of the City pursuant to applicable ordinances, codes, resolutions, standards and procedures.

Section 3. Noninterference and Maintenance of Facilities.

3.1 PSE's Facilities shall be constructed, installed, maintained and repaired within the Franchise Area so as not to unreasonably interfere with the free passage of traffic, both vehicular and pedestrian, or the use of the Franchise Area for City owned utility facilities and in accordance with the laws of the State of Washington, and the ordinances, rules and regulations of the City which are not inconsistent with the terms of this Franchise. PSE shall exercise its rights within the Franchise Area in accordance with applicable City codes and ordinances governing use and occupancy of the Franchise Area; provided, however, that in the event of any conflict or inconsistency of such codes and ordinances with the terms of this Franchise, the terms of this Franchise shall govern and control; provided further that nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded PSE by such City codes and ordinances. If, during the term of this Franchise, the City is specifically required by federal or state law to pass any code or ordinance which conflicts or is inconsistent with any provision of this Franchise, the provisions of Section 18 will thereafter apply.

3.2 Any repair of PSE's Facilities within the Franchise Area shall be made within the time and in a manner which conforms with generally accepted customs, practices and standards in the industry. In the event of any emergency in which PSE's Facilities located in or under the Franchise Area break or are damaged, or if PSE's Facilities within the Franchise Area are otherwise in a condition as to immediately endanger the property, life, health or safety of any individual, PSE shall, upon learning of such a dangerous condition, take all reasonable actions to correct the dangerous condition.

3.3 Whenever PSE permanently discontinues use of any above ground or at grade Facilities within the Franchise Area, such as valves or meters, due to modifications or upgrades to PSE's Facilities within the Franchise Area, the discontinued Facilities shall be removed promptly.

Section 4. Permits; Restoration.

4.1 Whenever it shall be necessary for PSE to engage in any work within the Franchise Area, PSE shall apply for all necessary City permits to do such work, and shall, except to the extent inconsistent with the terms and conditions of this Franchise or where expressly provided otherwise herein, comply with all requirements and conditions of such permits, including but not limited to location restrictions, traffic control, and restoration, repair or other work to restore the surface of the Franchise Area, as nearly as practicable, to its condition immediately prior to the work, or as otherwise specified in the permit issued by the City in connection with the work. Such restoration responsibility shall continue for a period of time to correspond to the remaining life of the existing structure, pavement and/or surface in which the work was accomplished, but shall not apply to any subsequent repair or restoration made necessary by the acts or omissions of the City or any third party. It is further provided that in the event that PSE has any work in the Franchise Area completed by any of its authorized agents or subcontractors, PSE shall remain fully responsible for the permit, permitted work and any other permit requirements, notwithstanding any provisions of this Franchise to the contrary.

4.2 In the event of an emergency situation in which PSE's Facilities within the Franchise Area are in such a condition so as to immediately endanger the property, life, health or safety of any individual, PSE may take immediate action to correct the dangerous condition without first obtaining any required permit, provided that PSE shall notify the City telephonically or in person within twenty-four (24) hours of the event, and provided that PSE applies for any necessary permit(s) from the City for such work as soon as reasonably practicable thereafter. For the purposes hereof, "as soon as reasonably practicable" means that the permit application shall be submitted to the City not later than ten (10) business days after the date of the commencement of the action that requires such permit.

4.3 Nothing in this Franchise is intended, nor shall it be construed, as a hindrance to PSE's ability to take such actions as it deems necessary to discharge its public service obligations in accordance with the laws of the State of Washington.

Section 5. Maps and Drawings.

5.1 PSE shall provide the City, upon the City's reasonable request, copies of available drawings in use by PSE showing the location of its Facilities within the Franchise Area, provided the request is limited to Facilities at specific locations in the Franchise Area and is made in connection with the City's planning of capital improvement projects. Further, PSE shall, upon the City's reasonable request, discuss and explore ways in which PSE and the City may

cooperate and coordinate activities with respect to the development of drawing file layers compatible with the City's Geographic Information System ("GIS") which show PSE's Facilities at specific locations in the Franchise Area.

5.2 As to any such drawings and drawing file layers so provided, PSE does not warrant the accuracy thereof and, to the extent the location of Facilities are shown, such Facilities are shown in their approximate location. With respect to any excavations within the Franchise Area undertaken by or on behalf of PSE or the City, nothing herein is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining the location of utility facilities.

5.3 Upon the City's reasonable request in connection with a Public Improvement undertaken by or on behalf of the City, including designing new streets and intersections, major renovations of existing streets and intersections, right-of-way use permits, and street vacations, PSE shall further provide to the City (a) the vertical and horizontal location and size of PSE's Facilities at those specific locations within the Franchise Area affected by the City's project or action by either field markings or by locating the Facilities in the City's design drawings, and (b) other reasonable cooperation and assistance; provided, however, that nothing in this Section 5 or any other provision of this Franchise is intended to (or shall) relieve any person or entity of its obligations under applicable law with respect to determining the location of underground facilities.

Section 6. Right to Complete Work.

6.1 In the event that PSE should fail in its restoration responsibilities set forth in Section 4, and such failure continues for a period of ten (10) days after PSE receives written notice from the City regarding such failure, the City may, but in no event is obligated to, perform or contract for such work and, thereafter, PSE shall, upon the City's written request, reimburse the City for the reasonable costs incurred by the City in having such work performed.

Section 7. Relocation of Facilities.

7.1 Whenever the City causes a Public Improvement to be constructed within the Franchise Area, and such Public Improvement requires the relocation of PSE's then-existing Facilities within the Franchise Area (for purposes other than those described in Section 7.2 below):

7.1.1 The City shall provide PSE written notice requesting such relocation, along with review plans for the Public Improvement that are sufficiently complete to allow for the initial evaluation and coordination of the relocation, not less than (2) weeks prior to the date of a meeting to be held between the City and PSE; and

7.1.2 The City and PSE shall, at the meeting described in Section 7.1.1, above, jointly identify and define the project requirements, schedule, construction standards and tasks that both parties agree shall govern the relocation, after which the parties shall prepare such plans, schedules and other construction documents as they agree are necessary to coordinate the Public Improvement and the relocation.

PSE shall, after completion of the activities described in Sections 7.1.1 and 7.1.2 above, relocate the identified Facilities at no charge to the City, subject to any applicable tariffs on file with the Washington Utilities and Transportation Commission and any different arrangement expressly set forth in a separate agreement signed by PSE and the City. The City shall use its best efforts to avoid the subsequent relocation of any Facilities for a period of five (5) years from the date of such relocation, provided that if the City requires such subsequent relocation, the City shall bear the cost thereof, excepting in circumstances which the City could not reasonably have foreseen as of the date of such relocation.

7.2 Whenever (i) any public or private development within the Franchises Area, other than a Public Improvement, requires the relocation of PSE's Facilities within the Franchise Area to accommodate such development; or (ii) the City requires the relocation of PSE's Facilities within the Franchise Area for the benefit of any person or entity other than the City (including, without limitation, any condition or requirement imposed by the City pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development), then in such event, PSE shall have the right as a condition of such relocation, to require such developer, person or entity to make payment to PSE, at a time and upon terms acceptable to PSE, for any and all costs and expenses incurred by PSE in the relocation of PSE's Facilities.

7.3 Nothing in this Section 7 "Relocation of Facilities" shall require PSE to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from this Franchise.

Section 8. Trench Repair for Street Restorations.

8.1 At any time during the term of this Franchise, if a PSE Facility or trench within the Franchise Area causes a street to crack, settle, or otherwise fail, the City will notify PSE of the deficiency and PSE agrees to restore the deficiency and repair the damage within thirty (30) days of written notice by the City.

8.2 For purposes of this Section, "street" shall mean all City owned improvements within a Franchise Area right-of-way, include, but is not limited to, the following: pavement, sidewalks, curbing, above and below-ground utility facilities, and traffic control devices.

Section 9. Indemnification.

9.1 PSE shall indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, engineers, and consultants from any and all claims, costs, judgments, awards, or liability, including reasonable attorney fees, to any person arising from injury or death of any person or damage to property to the extent the same is caused by the negligent acts or omissions of PSE, its agents, servants, officers, or employees in performing under this Franchise. This covenant of indemnification shall include, but not be limited by this reference to, claims against the City arising as a result of the negligent acts or omissions of PSE, its agents, servants, officers, or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work in the Franchise Area or in any other public place in performance of work or services permitted under this Franchise.

9.2 Inspection or acceptance by the City of any work performed by PSE at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

9.3 In the event any claim or demand for which indemnification is provided under Section 9.1 is presented to, or suit or action is commenced against, the City based upon any such claim or demand, the City shall promptly notify PSE thereof, and PSE may elect, at its sole cost and expense, to settle and compromise such suit or action, or defend the same with attorneys of its choice. PSE will consider in good faith, and will not unreasonably refuse, the City's tender of the defense of any suit or claim for which indemnification is provided under Section 9.1. In the event that PSE refuses the tender of defense in any suit or any claim for which indemnification is provided under Section 9.1, said tender having been made pursuant to this indemnification clause, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal on the part of PSE, then PSE shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fees of recovering under this indemnification clause.

9.4 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 PSE and the City, its officers, employees and agents, PSE's liability hereunder shall be only to the extent of PSE's negligence. It is further specifically and expressly understood that, solely to the extent required to

enforce the indemnification provided herein, PSE waives its immunity under RCW Title 51; provided, however, the foregoing waiver shall not in any way preclude PSE from raising such immunity as a defense against any claim brought against PSE by any of its employees. This waiver has been mutually negotiated by the parties.

9.5 Notwithstanding any other provisions of this Franchise, PSE assumes the risk of damage to its Facilities located in the Franchise Area from activities conducted by the City, its officers, agents, employees, and contractors, except as set forth below. PSE releases and waives any and all claims against the City, its officers, agents, employees, or contractors for damage to or destruction of PSE's Facilities within the Franchise Area caused by or arising out of activities conducted by the City, its officers, agents, employees, and contractors, in the Franchise Area, except to the extent any such damage or destruction is caused by or arises from the negligence or any willful or malicious action on the part of the City, its officers, agents, employees, or contractors.

9.6 In the event it is determined that RCW 4.24.115 applies to this Franchise, PSE's indemnification obligations under Section 9.1 shall apply to the maximum extent permitted thereunder, to the full extent of PSE's negligence. Further, in any such action, the City shall have the right to participate, at its sole cost and expense, through its own attorney in any suit or action which arises pursuant to this Franchise when the City determines that such participation is in the City's best interest.

9.7 The provisions in this Section 9 shall survive the expiration or termination of this Franchise with respect to any claim, demand, suit or action for which indemnification is provided under Section 9.1 and which is based on an act or omission that occurred during the term of this Franchise.

Section 10. Reservation of Rights.

10.1 In the event the City vacates any portion of the Franchise Area during the term of this Franchise, the City shall, in its vacation procedure, reserve and grant an easement to PSE for PSE's existing Facilities of an appropriate size as reasonably requested by PSE unless the City reasonably determines that to do so would be impracticable in light of the nature of the vacation, providing that PSE provides timely and applicable input to the City upon notification of such proposed vacation action.

10.2 The existence of this Franchise shall not preclude the City from acquiring by condemnation, in accordance with applicable law, all or any portions of PSE's Facilities within the Franchise Area.

Section 11. Recovery of Costs; Permit Fees.

11.1 As specifically provided by RCW 35.21.860, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon PSE as a result of this Franchise. However, as provided in RCW 35.21.860, the City may recover from PSE the actual administrative expenses incurred by the City that are directly related to: (i) receiving and approving a permit, license or this Franchise, (ii) inspecting plans and construction, or (iii) preparing a detailed statement pursuant to Chapter 43.21C RCW. With respect to its payment of such administrative expenses, the City shall submit to PSE statements/billings which specify the amounts due. PSE shall make payment to the City in reimbursement of such expenses within thirty (30) days of the receipt of such statements/billings. Failure by PSE to pay such amount within such thirty (30) day time period shall constitute a failure to comply with the Franchise for the purposes of Section 12. Additionally, the failure by PSE to timely pay said amounts shall be grounds for the City to preclude the processing of any applications and/or issuing permits until payment has been fully made. Furthermore, any late payment shall also accrue interest computed at the rate of twelve percent (12%) per annum from the thirtieth day.

11.2 With respect to the payment of permit fees, PSE shall comply with all applicable payment terms set forth in applicable codes, ordinances or permits of the City, including, without limitation, any such terms relating to the schedule for payment and the City's right to withhold permits or charge interest in connection with any payment default by PSE; provided, however, the City shall accept payment of such permit fees directly from contractors of PSE that perform work in the Franchise Area on behalf of PSE so long as PSE has notified the City in writing that the contractor is authorized to do so on PSE's behalf and PSE remains responsible for compliance with the terms of the permit.

Section 12. Default.

12.1 If PSE shall fail to comply with the provisions of this Franchise, the City may serve upon PSE a written order to so comply within thirty (30) days from the date such order is received by PSE. If PSE is not in compliance with this Franchise after the expiration of said thirty (30) day period, the City may, by ordinance, declare an immediate forfeiture of this Franchise. The parties expressly acknowledge and agree, however, that the forgoing rights and obligations of the parties are subject in all respects to excused performance based on a Force Majeure Event (as defined in Section 17.14).

12.2 No provision of this Franchise shall be deemed to bar the right of either party to seek or obtain judicial relief from a violation by the other party of any provision of this Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in

this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of either party to recover monetary damages for such violations by the other party, or to seek and obtain judicial enforcement of the other party's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

Section 13. Nonexclusive Franchise.

13.1 This Franchise is not, and shall not be deemed to be, an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area that do not interfere with PSE's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

Section 14. Franchise Term.

14.1 This Franchise is and shall remain in full force and effect for a period of ten (10) years from and after the effective date of the Ordinance; provided, however, PSE shall have no rights under this Franchise nor shall PSE be bound by the terms and conditions of this Franchise unless PSE shall, within sixty (60) days after the effective date of the Ordinance, file with the City its written acceptance of the Ordinance. It is further provided that upon PSE's request for an extension, the City may, at its discretion extend this Franchise for up to one five (5) year extension pursuant to Section 17.2. It is provided, however, that the City will not consider the request to extend the Franchise unless PSE is in full compliance with the terms and conditions of the Franchise. In any such extension, if granted by the City, the terms and conditions of this Franchise shall remain in full force and effect, except as may be otherwise mutually agreed by the parties hereto.

Section 15. Insurance; Bond.

15.1 PSE shall maintain the following liability insurance coverages, insuring PSE and, as additional insureds, the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted to PSE:

15.1.1 General liability insurance with limits no less than (a) five million dollars (\$5,000,000) for bodily injury or death to each person; (b) five million dollars (\$5,000,000) for property damage resulting from any one accident; and (c) five million dollars (\$5,000,000) for all other types of liability.

15.1.2 Automobile liability for owned, non-owned and hired vehicles with a combined single limit of \$3,000,000 for bodily injury and property damage.

15.1.3 Worker's compensation as required by the Industrial Insurance laws of the State of Washington.

15.1.4 Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).

15.2 The liability insurance described herein shall be maintained by PSE throughout the term of this Franchise, and such other period of time during which PSE is operating its Facilities within the Franchise Area without a franchise, or is engaged in the removal of its Facilities from the Franchise Area. Payment of deductibles and self-insured retentions shall be the sole responsibility of PSE. Coverage under this policy shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The City shall be named as an insured under PSE's Commercial General Liability insurance policy. PSE shall be the primary insured as respects the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, consultants, agents, and volunteers shall be in excess of PSE's insurance or self-insurance and shall not contribute with it.

15.3 The liability insurance described herein, and any subsequent replacement policies, shall provide that insurance shall not be cancelled or materially changed so as to be out of compliance with these requirements without first providing thirty (30) days written notice to the City. If the insurance is cancelled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, PSE shall provide a replacement policy. PSE agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required for the duration of this Franchise and, in the case of the Commercial General Liability, for at least three (3) years after expiration of the term of this Franchise. Any lapse in the required insurance coverage shall be cause for termination of this Franchise.

15.4 In lieu of the insurance requirements set forth in this Section 15, PSE may self-insure against such risks in amounts as are consistent with good utility practice. Upon the City's request, PSE shall provide the City with a financial statement that provides evidence of PSE's capacity to respond to claims within any self-insured retention level.

15.5 Before undertaking any of the work authorized by this Franchise, PSE shall furnish a bond executed by PSE and a corporate surety authorized to do surety business in the State of Washington in a sum to be mutually agreed upon by the parties. The bond shall be conditioned so that PSE shall restore or replace any defective work or materials discovered in the restoration of the Franchise Area within a period of two (2) years from the inspection date of any such restoration. PSE may meet the obligations of this Section with one or more bonds acceptable to the City. In lieu of a separate bond for routine individual projects involving work in the Franchise Area, PSE may satisfy the City's bond requirements under this Section by posting a single on-going performance bond. In the event that a bond issued pursuant to this Section is canceled by the surety, after proper notice and pursuant to the terms of said bond, PSE shall, prior to the expiration of said bond, procure a replacement bond which complies with the terms of this Section.

15.6 PSE's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of PSE 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. Assignment.

16.1 PSE shall not assign or transfer its rights, benefits and privileges in and under this Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. Prior to any assignment, the intended assignee shall, within thirty (30) days of the proposed date of any assignment, file written notice of the intended assignment with the City together with its written acceptance of all terms and conditions of this Franchise. If PSE assigns this Franchise without the City's consent in violation of this Section 16.1, the City may, by ordinance, declare an immediate forfeiture of this Franchise. Notwithstanding the foregoing, PSE shall have the right, without such notice or such written acceptance, to mortgage its rights, benefits and privileges in and under this Franchise for the benefit of bondholders.

Section 17. Miscellaneous.

17.1 If any term, provision, condition or portion of this Franchise shall be held to be invalid, or is held to be inapplicable to any person or circumstance, such invalidity shall not affect the validity of the remaining portions of this Franchise which shall continue in full force and effect, and its application to other persons and circumstances shall not be affected. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

17.2 This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 9 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by PSE of any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

17.2.1 References this Franchise; and

17.2.2 States that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

17.3 This Franchise is subject to the provisions of any applicable tariff on file with the Washington Utilities and Transportation Commission or its successor. In the event of any conflict or inconsistency between the provisions of this Franchise and such tariff, the provisions of such tariff shall control, subject only to Section 18 with respect to any such tariff which is adopted after the date of this Franchise.

17.4 In connection with its performance of work under this Franchise, PSE shall, during the term of this Franchise, fully comply with all applicable equal employment or non-discrimination provisions and requirements of federal, state and local laws.

17.5 During the term of this Franchise, each party shall notify and keep the other party apprised of its local address for the service of notices by mail. All notices and other communications given or required to be given under this Franchise shall be sent postage prepaid to such respective address and such notices shall be effective upon receipt. The City and PSE may change their respective addresses by written notice to the other party at any time. As of the effective date of this Franchise:

PSE's notice address shall be:

Puget Sound Energy
6905 S 228th Street
Kent WA 98032
Attention: Municipal Liaison Manager

The City's notice address shall be:

City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Attention: City Engineer

17.6 During the term of this Franchise, PSE shall also provide the City (and maintain current) a written list showing the names and telephone numbers of the specific departments and (if applicable) individuals within PSE that may be contacted by the City to identify and address problems and issues that arise under this Franchise. PSE shall ensure that the list includes contact information for addressing emergency support and technical support issues (with emergency support being available 24 hours per day), and shall ensure that the names and telephone numbers appearing on the list in those areas have the expertise and authority (or access to the same) needed to address the problem or issue promptly and effectively. PSE shall use all reasonable efforts to respond to requests from the City promptly, to work diligently with the City in resolving any problems or issues identified by the City, and to actively communicate with the City regarding each problem or issue from the time it is first identified by the City until the time it is resolved. PSE shall update the list to ensure that it remains current and shall give written notice of the change to the City.

17.7 PSE and the City shall, as reasonably requested by the other party from time to time, discuss and coordinate their activities with respect to construction which may affect the public ways in any manner in an effort to minimize public inconvenience, disruption or damages.

17.8 This Franchise shall be binding upon the parties hereto and their permitted successors and assigns.

17.9 Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party, act toward third persons or the public in any manner that would indicate any such relationship with the other.

17.10 The failure of either party at any time to require performance by the other party of any provision hereof shall in no way affect the right of such party

thereafter to enforce the same. Nor shall the waiver by a party of any breach of any provision hereof by the other party be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

17.11 This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. The venue and jurisdiction over any dispute related to this Franchise shall be with the King County Superior Court, Regional Justice Center, Kent, Washington (or, if the Regional Justice Center is no longer in operation, such other local facility as is then operated by the King County Superior Court).

17.12 If either party shall be required to bring any action to enforce any provision of this Franchise, or shall be required to defend any action brought by the other party with respect to this Franchise, and in the further event that one party shall prevail in such action, the other party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

17.13 This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral negotiations between the parties.

17.14 In the event (and only to the extent) that either party is prevented or delayed in the performance of any of its obligations under this Franchise by any event or circumstance beyond its reasonable control (a "Force Majeure Event"), then that party's performance shall be excused only during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm or other condition which necessitates the mobilization of the personnel of a party or its contractors to restore utility service; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a third party; or any failure or delay in the performance by the other party, or a third party who is not an employee, agent or contractor of the party claiming a Force Majeure Event, in connection with this Franchise. Upon removal or termination of the Force Majeure Event, the party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation. The parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.

Section 18. Changes in Laws.

18.1 If, during the term of this Franchise, there becomes effective any change in federal or state law (including, but not limited to, a change in any tariff filed by PSE with the Washington Utilities & Transportation Commission) and such change:

18.1.1 specifically requires the City to enact a code or ordinance which conflicts or is inconsistent with any provision of this Franchise; or

18.1.2 results in a PSE tariff which conflicts or is inconsistent with any provision of this Franchise;

then, in such event, either party may, within ninety (90) days of the effective date of such change, notify the other party in writing that such party desires to commence negotiations to amend this Franchise. Such negotiations shall only encompass the specific term or condition affected by such change in federal or state law and neither party shall be obligated to reopen negotiations on any other term or condition of this Franchise. Within thirty (30) days from and after the other party's receipt of written notice to so commence such negotiations, the parties shall, at a mutually agreeable time and place, commence such negotiations. The parties shall thereafter conduct such negotiations at reasonable times, in a reasonable manner, in good faith and with due regard to all pertinent facts and circumstances; provided, however, that (a) in the event the parties are unable, through negotiation, to reach mutual agreement upon terms and conditions of such amendment, then either party may, by written notice to the other, demand that the parties seek to arrive at such agreement through mediation or, if no such demand has previously been submitted, terminate this Franchise upon not less than ninety (90) days prior written notice to the other party; and (b) pending such negotiations, mediation and/or termination, and except as to any portion thereof which is in conflict or inconsistent with such change in federal or state law, the Franchise shall remain in full force and effect. For purposes of this Section, the term "mediation" shall mean mediation at the local offices of Judicial Arbitration and Mediation Services, Inc. ("JAMS"), or, if JAMS shall cease to exist or cease to have a local office, mediation at the local offices of a similar organization. The parties may agree on a jurist from the JAMS panel. If they are unable to agree, JAMS will provide a list of the three available panel members and each party may strike one. The remaining panel member will serve as the mediator.

18.2 PSE shall, in connection with any application for changes in its tariffs that would be in conflict or inconsistent with the provisions of this Franchise or would modify the rights or responsibilities of either party under this Franchise, notify the City in writing of the application promptly after it is filed with the Washington Utilities & Transportation Commission ("WUTC"). Further, PSE shall ensure that the City is notified (either directly or through the WUTC

proceeding) of the final adoption by the WUTC of changes in applicable PSE tariffs resulting from any such application of PSE.

Section 19. Severability.

19.1 If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

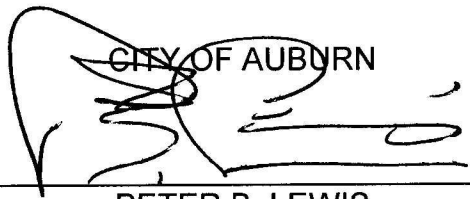
Section 20. Ratification.

20.1 Any act of the City consistent with the authority granted by the City prior to the effective date of this Ordinance is hereby ratified and affirmed by the City.

Section 21. Effective Date.

21.1 This Ordinance shall be effective on June 14, 2006, having been: (i) introduced to the City Council not less than five days before its passage; (ii) first submitted to the City Attorney on May 24, 2006; (iii) published at least five days prior to the above-referenced effective date and as otherwise required by law; and (iv) passed at a regular meeting of the legislative body of the City of Auburn by a vote of at least five members of the City Council on June 5, 2006.

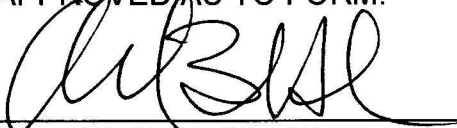
INTRODUCED: JUN 5 2006
PASSED: JUN 5 2006
APPROVED: JUN 5 2006


CITY OF AUBURN
PETER B. LEWIS
MAYOR

ATTEST:


Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'DBH', written over a horizontal line.

Daniel B. Held, City Attorney

Published: June 9, 2006

EXHIBIT A

HONORABLE MAYOR AND CITY COUNCIL CITY OF AUBURN, WASHINGTON

232-5
CITY OF AUBURN, WA
CITY CLERK'S OFFICE

In the matter of the application
of Puget Sound Energy, Inc., a
Washington corporation, for a
franchise to construct, operate
and maintain facilities in, upon,
over under, along, across and
through the franchise area of the
City of Auburn,
Washington

Franchise Ordinance No. 6018

ACCEPTANCE

WHEREAS, the City Council of the City of Auburn, Washington, has granted a franchise to Puget Sound Energy, Inc., a Washington corporation, its successors and assigns, by enacting Ordinance No. 6018, bearing the date of _____, 2006; and

WHEREAS, a copy of said Ordinance granting said franchise was received by the Puget Sound Energy, Inc. on June 14, 2006, from said City of Auburn, King and Pierce Counties, Washington.

NOW, THEREFORE, Puget Sound Energy, Inc., a Washington corporation, for itself, its successors and assigns, hereby accepts said Ordinance and all the terms and conditions thereof, and files this, its written acceptance, with the City of Auburn, King and Pierce Counties, Washington.

IN TESTIMONY WHEREOF said Puget Sound Energy, Inc. has caused this written Acceptance to be executed in its name by its undersigned Terry J. Oxley thereunto duly authorized on this 14 day of June, 2006.

ATTEST:

Jason Van Thut

Copy received for City of Auburn

on Jan 23, 2006

By: David E. Dasher
City Clerk

PUGET SOUND ENERGY, INC.

By: Terry J. Oxley