



City Council Meeting

May 1, 2017 - 7:00 PM

Auburn City Hall

AGENDA

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

I. CALL TO ORDER

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

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

- A. West Auburn High School: Voice of the Community Awards
- B. Proclamation - "Never Again Day"
Mayor Backus to proclaim May 22, 2017 as "Never Again Executive Order 9066 Day" in the city of Auburn.

III. APPOINTMENTS

IV. AGENDA MODIFICATIONS

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. **2016 Community Development Block Grant Annual Action Plan Amendment (Continued from April 17, 2017) (Hinman)**
City Council to conduct the public hearing on the proposed amendment of the 2016 Annual Action Plan for Community Development Block Grant (CDBG) Projects
2. **Public Hearing for Franchise Agreement No. 17-09* (Snyder)**
City Council conduct a public hearing in consideration of Franchise Agreement No. 17-09 for MCImetro Access Transmission Services Corporation d/b/a Verizon Access Transmission Services

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 17, 2017, Regular City Council Meeting***

B. **Claims Vouchers (Coleman)**

Claims voucher numbers 443513 through 443670 in the amount of \$558,061.97 and four wire transfers in the amount of \$635,638.21 and dated May 1, 2017.

C. **Payroll Vouchers (Coleman)**

Payroll check numbers 537238 through 537275 in the amount of \$770,221.62 and electronic deposit transmissions in the amount of \$1,460,100.24 for a grand total of \$2,230,321.86 for the period covering April 13, 2017 to April 26, 2017.

D. **Golf Course Fireplace Smoke/Soot Remediation (Hinman)**

City Council award Small Public Work Contract No. 17-16 to Northwest Abatement Services, Inc. in the amount of \$47,700.00 plus Washington State sales tax of \$4,770.00 for a total contract price of \$52,470.00.

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

VIII. **UNFINISHED BUSINESS**

IX. **NEW BUSINESS**

X. **RESOLUTIONS**

A. **Resolution No. 5262* (Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement for services with Airport Management Group, LLC DBA Aviation Management Group for the day to day operation and management of the Auburn Municipal Airport

(RECOMMENDED ACTION: City Council adopt Resolution No. 5262.)

B. **Resolution No. 5284* (Heid)**

A Resolution of the City Council of the City of Auburn, Washington, affirming the value of all Auburn residents

(RECOMMENDED ACTION: City Council adopt Resolution No. 5284.)

C. **Resolution No. 5291* (Hinman)**

A Resolution of the City Council of the City of Auburn, Washington, approving amendment to the 2016 Annual Action Plan update of the Consolidated Plan

(RECOMMENDED ACTION: City Council adopt Resolution No. 5291.)

D. **Resolution No. 5294* (Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to accept federal grant funds to be administered through the Washington State Department of Transportation for Project No. CP1513, 22nd Street NE and I Street NE Intersection

(RECOMMENDED ACTION: City Council adopt Resolution No. 5294.)

XI. **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**

XII. **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:

2016 Community Development Block Grant Annual Action Plan Amendment (Continued from April 17, 2017)

Date:

April 25, 2017

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council conduct the public hearing. For more information on this item, please see Resolution No. 5291.

Background Summary:

The CDBG Annual Action Plan provides a concise summary of the actions, activities and specific federal and non-federal resource that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. Action Plan Amendments carry out new activities using funds covered under the consolidated plan. The process of a substantial amendment process is required by the U.S. Department of Housing and Urban Development (HUD) and the City's Consolidated Plan to reallocate funds received.

The City of Auburn will reallocate \$280,000 in CDBG funds for projects that are consistent with federal regulations and the objectives and policies of the Auburn Consolidated Housing and Community Development Plan. The funding will be used to make ADA updates to Les Gove Park restrooms and to complete housing repair projects for low-income homeowners in Auburn.

On April 17, 2017, the City Council continued the public hearing to the May 1st City Council meeting.

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

Hinman

Meeting Date: May 1, 2017

Item Number: PH.1



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing for Franchise Agreement No. 17-09

Date:

April 24, 2017

Department:

CD & PW

Attachments:

[Draft Ordinance No. 6643](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to conduct a public hearing in consideration of Franchise Agreement No. 17-09 for MCImetro Access Transmission Services Corporation d/b/a Verizon Access Transmission Services.

Background Summary:

Per Auburn City Code Chapter 20.06.030 a public hearing shall be held to consider Franchise Agreement No. 17-09 for MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services to build and operate a telecommunications system within the City's rights-of-way. The date of the public hearing was set by Resolution No. 5287 on April 17, 2017.

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

Snyder

Meeting Date: May 1, 2017

Item Number: PH.2

ORDINANCE NO. 6 6 4 3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP., D/B/A VERIZON ACCESS TRANSMISSION SERVICES, A DELAWARE CORPORATION, A FRANCHISE FOR TELECOMMUNICATIONS SERVICES

WHEREAS, MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services ("Grantee") has applied to the City of Auburn ("City") for a non-exclusive Franchise for the right of entry, use, and occupation of certain public right(s)-of-way within the City, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those right(s)-of-way; and

WHEREAS, following proper notice, the City Council held a public hearing on Grantee's request for a Franchise, at which time representatives of Grantee and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Grantee,

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

Section 1. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the right(s)-of-way and/or other public property specified in Exhibit "A", attached hereto and incorporated by reference within the City of Auburn (the "Franchise Area").

B. The Grantee is authorized to install, remove, construct, erect, operate, maintain, relocate and repair the types of facilities specified in Exhibit "B", attached hereto and incorporated by reference, and all necessary appurtenances

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thereto, ("Grantee Facilities") for provision of those services set forth in Exhibit "C" ("Grantee Services") in, along, under and across the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on public or private property elsewhere within the City.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise Area, unless the City determines that entering into such agreements interferes with Grantee's right set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads, rights-of-way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, the Grantee acknowledges its use of the Franchise Area shall have no value.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any right-of-way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to RCW 35.79.030, within which the Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. The Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to the City and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 2. Notice

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

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City: Engineering Aide,
Community Development and
Public Works Department - Transportation
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Telephone: (253) 931-3010; Fax: (253) 931-3048

with a copy to: City Clerk
City of Auburn
25 West Main Street
Auburn, WA 98001-4998

Grantee: MCImetro Access Transmission Services Corp. d/b/a Verizon
Access Transmission Services
Attn: Franchise Manager
600 Hidden Ridge
Mailcode: HQE02G295
Irving, TX 75038NAME

with copies (except for invoices) to:

Verizon Business Network Services
1320 North Courthouse Road, Suite 900
Arlington, VA USA 22201
Attn: Vice President and Deputy General Counsel, Network
Operations

B. Any changes to the above-stated Grantee information shall be sent to the City's Engineering Aide, Community Development and Public Works Department – Transportation Division, with copies to the City Clerk, referencing the title of this agreement.

C. The above-stated Grantee voice and fax telephone numbers shall be staffed at least during normal business hours, Pacific time zone. The City may contact Grantee at the following number for emergency or other needs outside of normal business hours of the Grantees: Network Operations Center 1-800-624-9675.

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Section 3. Term of Agreement

A. This Franchise shall run for a period of five (5) years, from the date of execution specified in Section 5.

B. **Renewal Option of Term:** The Grantee may renew this Franchise for an additional five (5) year period upon submission and approval of the application specified under ACC 20.06.130, as it now exists or is amended, within the timeframe set forth therein (currently 240 to 180 days prior to expiration of the then-current term). Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall only submit those materials deemed necessary by the City to address changes in the Grantee Facilities or Grantee Services, or to reflect specific reporting periods mandated by the ACC.

C. **Failure to Renew Franchise – Automatic Extension.** If the Parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

Section 4. Definitions

For the purpose of this agreement:

“ACC” means the Auburn City Code.

“Emergency” means a condition of imminent danger to the health, safety and welfare of persons or property located within the City including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

“Maintenance or Maintain” shall mean examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

“Relocation” means permanent movement of Grantee facilities required by the City, and not temporary or incidental movement of such facilities, or other revisions

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Grantee would accomplish and charge to third parties without regard to municipal request.

“Rights-of-Way” means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-ways and similar public properties and areas.

Section 5. Acceptance of Franchise

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit “D,” and incorporated by reference, (2) all verifications of insurance coverage specified under Section 15, and (3) the financial guarantees specified in Section 16 and (4) payment of any outstanding application fees per the City fee Schedule. These four items shall collectively be the “Franchise Acceptance”. The date that such Franchise Acceptance is filed with the City Clerk shall be the effective date of this Franchise.

B. Should the Grantee fail to file the Franchise Acceptance with the City Clerk within thirty (30) days after the effective date of the ordinance approving the Franchise, the City’s grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Grantee shall apply for, obtain, and comply with the terms of all permits required under ACC Chapter 12.24 for any work done within the City. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner.

B. Grantee agrees to coordinate its activities with the City and all other utilities located within the public right-of-way within which Grantee is under taking its activity.

C. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public right-of-way and may from time to time, pursuant to the applicable sections of this Franchise, require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Grantee.

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D. Before commencing any work within the public right-of-way, the Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City and in accordance with City ordinances, Grantee shall have the authority to reasonably trim trees upon and overhanging streets, public rights-of-way, and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, the City may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

Section 7. Repair and Emergency Work

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City telephonically during normal business hours (at 253-931-3010 and during non-business hours at 253-876-1985) as promptly as possible, before such repair or emergency work commences, and in writing as soon thereafter as possible. Such notification shall include the Grantee's emergency contact phone number for the corresponding response activity. The City may commence emergency response work, at any time, without prior written notice to the Grantee, but shall notify the Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to City and Third-Party Property

Grantee agrees that if any of its actions under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the satisfaction of the City Engineer.

Section 9. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility, other than the Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct or repair Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to the Grantee Facilities. However, to the extent that the Grantee Facilities are completed and installed prior to another utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any City road or right-of-way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require relocation. This Section shall not apply to any City facilities or utilities that may in the future require the relocation of Grantee Facilities. Such relocations shall be governed by Section 11.

B. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water, sanitary sewer and storm sewer facilities and ten (10) feet from above-ground City water facilities; provided, that for development of new areas, the City, in consultation with Grantee and other utility purveyors or authorized users of the Public Way, will develop guidelines and procedures for determining specific utility locations.

Section 10. Grantee Information

A. Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under state law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, as now or hereinafter existing, including the City's geographic information Service (GIS) data base. Grantee shall keep the City informed of its long-range plans for coordination with the City's long-range plans.

B. The parties understand that Washington law limits the ability of the City to shield from public disclosure any information given to the City. Accordingly, the City agrees to notify the Grantee of requests for public records related to the

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Grantee, and to give the Grantee a reasonable amount of time to obtain an injunction to prohibit the City's release of records.

Grantee shall indemnify and hold harmless the City for any loss or liability for fines, penalties, and costs (including attorneys' fees) imposed on the City because of non-disclosures requested by Grantee under Washington's open public records act, provided the City has notified Grantee of the pending request.

Section 11. Relocation of Grantee Facilities

A. Except as otherwise so required by law, Grantee agrees to relocate, remove, or reroute its facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the Public Way.

B. If a readjustment or relocation of the Grantee Facilities is necessitated by a request from a party other than the City, that party shall pay the Grantee the actual costs thereof.

Section 12. Abandonment and or Removal of Grantee Facilities

A. Within one hundred and eighty days (180) of Grantee's permanent cessation of use of the Grantee Facilities, or any portion thereof, the Grantee shall, at the City's discretion, either abandon in place or remove the affected facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Grantee shall underground the Grantee Facilities in the manner specified by the City Engineer at no expense or liability to the City, except

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as may be required by RCW Chapter 35.99. Where other utilities are present and involved in the undergrounding project, Grantee shall only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Indemnification and Hold Harmless

A. The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance under this Franchise, except to the extent such costs, claims, injuries, damages, losses, suits, or liabilities are caused by the sole or contributory negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

B. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee Facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, right-of-way, or other property, except to the extent any such damage or loss is directly caused by the negligence of the City, or its agent performing such work.

C. The Grantee acknowledges that neither the City nor any other public agency with responsibility for firefighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), the Grantee shall indemnify the City against any and all third-party costs, claims,

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injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

D. Acceptance by the City of any work performed by the Grantee shall not be grounds for avoidance of this section.

E. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 15. Insurance

A. The Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$1,000,000.00 per accident. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance with limits no less than \$1,000,000.00 each occurrence, \$2,000,000.00 general aggregate and a \$2,000,000.00 products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage and shall cover liability arising from premises-operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent form. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to the work

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performed under this Franchise using ISO Additional Insured Endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Professional Liability insurance with limits no less than \$1,000,000.00 per claim for all professionals employed or retained Grantee to perform services under this Franchise.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

1. The Grantee's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance and shall not contribute with it.

2. The Grantee's insurance shall be endorsed to state that coverage shall not be cancelled by the insurers except after thirty (30) days' prior written notice has been given to Grantee. Upon receipt of such notice, Grantee shall immediately notify by certified mail, return receipt requested, the City.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-:VII.

D. Verification of Coverage. Grantee shall furnish the City with documentation of insurer's A.M. Best rating and with original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of Grantee before commencement of the work.

E. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by the City.

F. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by

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such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 16. Performance Security

The Grantee shall provide the City with a financial guarantee in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered jointly and severally from the principal and any surety of such financial guarantee any damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to the City in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit the Grantee's liability to the guarantee amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 17. Successors and Assignees

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated without the express prior consent of the City by ordinance, which consent shall not be unreasonably withheld, conditioned, or delayed.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to the City not less than sixty (60) days prior to the proposed date of transfer: (a) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) An application fee which shall be set by the City, plus any other

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costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

D. Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee shall file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

Section 18. Dispute Resolution

A. In the event of a dispute between the City and the Grantee arising by reason of this Agreement, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case, and such fees shall be included in the judgment.

Section 19. Enforcement and Remedies

A. If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or should it fail to heed or comply with any notice given to Grantee under the provisions of this agreement, the City may, at its discretion, provide Grantee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure

Draft Ordinance No. 6643
March 7, 2017
Franchise Agreement No. 17-09
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the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the financial guarantee set forth in Section 16 for every day after the expiration of the cure period that the breach is not cured.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, the City reserves the right to cancel this Franchise and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Grantee's actions are not allowed under applicable federal and state or City laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Grantee shall comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms of this agreement appearing to the contrary, the Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City Ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, the Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the City may enact the proposed amendment, by incorporating the Grantee's concerns to the maximum extent the City deems possible.

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C. The City may terminate this Franchise upon thirty (30) days written notice to the Grantee, if the Grantee fails to comply with such amendment or modification.

Section 21. License, Tax and Other Charges

This Franchise shall not exempt the Grantee from any future license, tax, or charge which the City may hereinafter adopt pursuant to authority granted to it under state or federal law for revenue or as reimbursement for use and occupancy of the Franchise Area.

Section 22. Consequential Damages Limitation

Notwithstanding any other provision of this Agreement, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 23. Severability

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 24. Titles & Interpretation

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise. Interpretation or construction of this Agreement shall not be affected by any determination as to who is the drafter of this Agreement, this Agreement having been drafted by mutual agreement of the parties.

Section 25. Implementation.

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

Section 26. Effective date.

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

Draft Ordinance No. 6643
March 7, 2017
Franchise Agreement No. 17-09
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INTRODUCED: _____
PASSED: _____
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

Draft Ordinance No. 6643
March 7, 2017
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Exhibit A

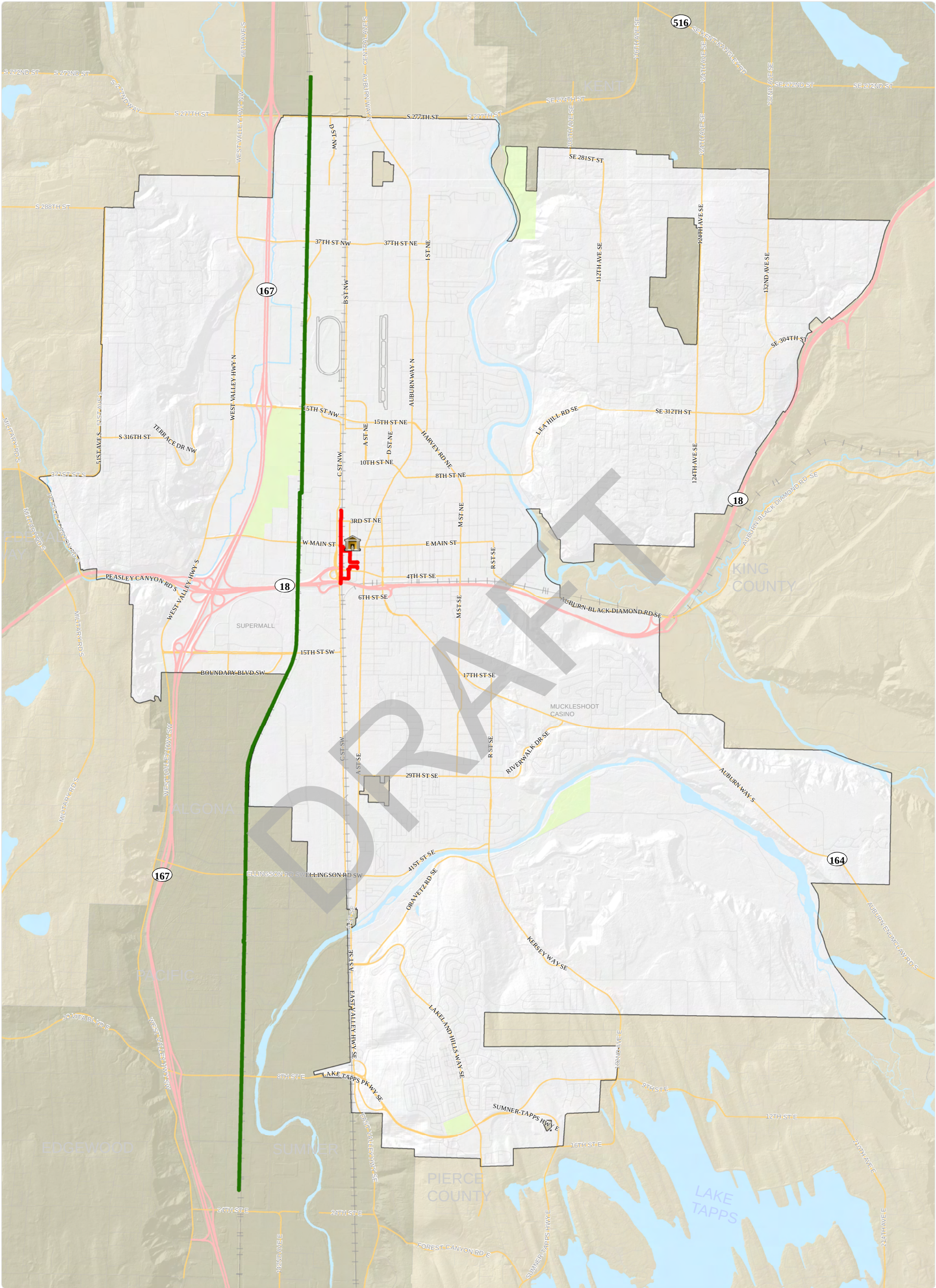


Exhibit B

Grantee Facilities

Grantee Facilities include, collectively or individually, any and all communications transmission and distribution systems, including but not limited to, wires, lines, conduits, ducts, cables, braces, guys, anchors, vaults, switches, fixtures, and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located across, above, along, below, in, over, through, or underground.

Grantee Facilities shall not include any wireless telecommunications facilities such as antennas, DAS, Small Cell facilities or other wireless transmission devices that are mounted on poles or other structures in the right-of-way.

Exhibit C

Grantee Services

The offering of communications and communications services, including, but not limited to a telephone service (as set forth in RCW § 82.16.010), integrated data services, internet access service, private line service, mobile fronthaul and backhaul services, and leasing of facilities (e.g., dark fiber) to affiliates and third parties. Grantee shall not offer a Cable Service or an Open Video System.

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

MCIMETRO ACCESS TRANSMISSION SERVICES CORP. D/B/A VERIZON ACCESS TRANSMISSION SERVICES, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

[Grantee]

By: _____ Date: _____
Name:
Title:

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 20xx, 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. 6643
March 7, 2017
Franchise Agreement No. 17-09
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AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the April 17, 2017, Regular City Council Meeting

Date:

April 25, 2017

Department:

Administration

Attachments:

[Minutes](#)

Budget Impact:

\$0

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

Meeting Date: May 1, 2017

Staff:

Item Number: CA.A



**CITY COUNCIL
MEETING MINUTES**

APRIL 17, 2017 7:00 PM

I. CALL TO ORDER

A. Pledge of Allegiance

Mayor Nancy Backus called the meeting to order at 7:00 p.m. and led those in attendance in the Pledge of Allegiance.

B. Roll Call

City Councilmembers present: Deputy Mayor Largo Wales, Bob Baggett, Claude DaCorsi, John Holman, Bill Peloza, and Yolanda Trout-Manuel. Councilmember Wagner arrived at 7:03 p.m.

Mayor Nancy Backus was in attendance, and the following department directors and staff members were present: Community Development and Public Works Director Kevin Snyder; Parks, Arts and Recreation Director Daryl Faber, Director of Administration Dana Hinman, Finance Director Shelley Coleman, City Attorney Daniel B. Heid; Police Chief Bob Lee, Innovation and Technology Director Paul Haugan, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, and Deputy City Clerk Shawn Campbell.

II. ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS

A. Proclamation - Goodwill Ambassador Proclamation

Mayor Backus to proclaim Elysia Hargrave, Miss Amazing 2017 as a "Goodwill Ambassador for the City of Auburn" during her service to the Auburn community.

Mayor Backus read and presented a proclamation declaring Elysia Hargrave a Goodwill Ambassador for the City of Auburn. Miss Hargrave thanked the Mayor and Council for their support and requested people visit her fundraising page to assist her with funds to attend the National Miss Amazing Pageant in Chicago Illinois in Auburn

B. Proclamation - Goodwill Ambassadors Proclamation

Mayor Backus to proclaim Heather Haggin, Miss Auburn 2017 and Elizabeth Enz, Miss Auburn's Outstanding Teen 2017 as "Goodwill Ambassadors for the City of Auburn" during their year of service to the Auburn community.

Mayor Backus read and proclaimed Heather Haggin and Elizabeth Enz as Goodwill Ambassadors for the City of Auburn.

Miss Haggin and Miss Enz thanked the Mayor Backus and Council for their support.

C. Proclamation - 2017 Heritage Tree

Mayor Backus to proclaim the Big Leaf Maple, located on Hole #9 at the Auburn Golf Course, as our "2017 Heritage Tree" in the city of Auburn.

Mayor Backus read and proclaimed the Big Leaf Maple as the 2017 Heritage Tree. Bryce Landrud, Chair of the Urban Tree Board and Director Faber accepted the proclamation and thanked Mayor Backus and Council for their support.

D. Proclamation - Stand Against Racism Day

Mayor Backus to proclaim April 28, 2017 as Stand Against Racism Day.

Mayor Backus read and proclaimed April 28th as Stand Against Racism Day. Mercedes Rippel, YWCA BankWork\$ Program Manager, thanked Mayor Backus and Council for the proclamation.

E. Proclamation - International Earth Day

Mayor Backus to proclaim April 22, 2017 as "International Earth Day" in the city of Auburn.

Mayor Backus read and proclaimed April 22nd as International Earth Day.

F. Proclamation - Sexual Assault Awareness Month

Mayor Backus to proclaim April as "Sexual Assault Awareness Month" in the city of Auburn.

Mayor Backus read and proclaimed April as Sexual Assault Awareness Month. Katie Gardner-Boehm accepted the proclamation and thanked Mayor Backus and Council for bringing

awareness to this important issue. **Legislative Update by Representative Morgan Irwin 31st District.**

Representative Irwin stated the legislature is working on the McCleary legislation. The legislature has fully funded four of the five issues, and the only item that is not fully funded at this time is teacher pay.

Representative Irwin stated he sponsored a bill to fight human trafficking. The City of Seattle is rated the fourth highest City in the nation for human trafficking. He is also supporting transportation funding. There has been \$300,000.00 set aside for a traffic study for Highway 410. He also supports a drug donation bill so that people will be able to donate unused drugs back to the community.

Council thanked Representative Irwin for his hard work and representation of Auburn.

III. APPOINTMENTS

There was no appointment for Council consideration.

IV. AGENDA MODIFICATIONS

A legislative update by Representative Morgan Irwin was added to the agenda and Resolution No. 5291 was removed from the agenda.

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. 2016 Community Development Block Grant Annual Action Plan Amendment (Hinman)

City Council to conduct a public hearing on the proposed amendment of the 2016 Annual Action Plan for Community Development Block Grant (CDBG) Projects

Director Hinman stated in 2016 staff recognized the City had unspent CDBG funds. The funds were allocated to three projects, and one of the projects lagged and did not fully spend the funds by the end of 2016. These funds have been reprogrammed to housing repair and for reconstruction of the bathroom at Les Gove Park.

Director Faber explained the new proposed project is a restroom at Les Gove Park. The project was scheduled for design in the 2017 and construction in 2018.

Councilmember Pelosa asked if the City did not use the grant funds for the restroom what other projects could the funds be used for. Director Hinman explained that because CDBG Grants are federal funds the projects have to fit within the HUD guidelines and because these funds are from a previous funding cycle they must be used on a project immediately or the City will risk losing these funds for future funding cycles.

Councilmember Pelosa asked staff to confirm the funds could be used in a different focus.

Mayor Backus opened the hearing at 7:45 p.m. No one came forward to speak. The Mayor continued the public hearing to the May 1, 2017 City Council Meeting.

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

There was no audience participation.

C. Correspondence

There was no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

Councilmember Baggett reported on behalf of the Finance ad hoc committee that reviews claims and payroll vouchers. Councilmember Baggett reported he and Councilmember Wagner reviewed the payroll vouchers in the approximate amount of \$2 million and claims vouchers in the amount of approximately \$5.6 million. The ad hoc committee had no questions and recommends approval of the claims and payroll vouchers as described on the Consent Agenda.

Councilmember DaCorsi reported on behalf of the ad hoc committee for the selection of Deputy Mayor. He said the Committee is wrapping up their work and will have a presentation for the full Council at the May 15th Council meeting.

Councilmember Trout-Manuel reported on behalf of the Inclusive/Safer City ad hoc committee. She said the Committee will have a presentation at the April 24th Study Session.

Deputy Mayor Wales reported on behalf of the ad hoc committee for the \$20 car tab fee. She stated the committee will be looking at the loss or gain of revenue and what it would cost to collect the funds. The roads need approximately \$7 million a year in funding.

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 3, 2017 Regular City Council Meeting

B. Claims Vouchers

Claims voucher numbers 443333 through 443512 in the amount of \$4,677,200.81 and four wire transfers in the amount of \$960,005.30 and dated April 17, 2017.

C. Payroll Vouchers

Payroll check numbers 537213 through 537237 in the amount of \$569,355.74 and electronic deposit transmissions in the amount of \$1,517,766.58 for a grand total of \$2,087,122.32 for the period covering March 30, 2017 to April 12, 2017.

D. Public Works Project No. CP1107

City Council to grant permission to advertise Project No. CP1107, Fulmer Well Field Improvements, Contract 17-09.

E. Public Works Project No. CP1515

City Council to approve Final Pay Estimate No. 7 to Contract No. 16-18 in the amount of \$51,906.89 and accept construction of Project No. CP1515, 2016 Local Street Reconstruction and Preservation Project.

F. Public Works Project No. CP1606

City Council to approve Change Order No. 01 in the amount of \$63,190.70 to Contract No. 17-04 for work on Project No. CP1606, Auburn Teen and Community Center (H Street SE Extension)

Deputy Mayor Wales moved and Councilmember Trout-Manuel seconded to accept the consent agenda.

Deputy Mayor Wales asked for clarification on the change order for Public Works Project CP1606. Director Faber explained it is for additional curbs and gutters on Auburn Way South. The City has a contractor doing curbs and gutters in a different area as part of the project. The area in front of Big Daddy's will need the sidewalk cuts repaired and it will be more cost effective to have the same contractor do both portions of work along with only having to close Auburn Way South once.

Deputy Mayor Wales asked if the funds could be spent for roads. Director Snyder stated these are funds that were allocated to the Auburn Teen and Community Center (H Street SE Extension).

Councilmember Trout-Manuel stated the Big Daddy's area is supposed to be used for car shows. She asked why take out the sidewalk cuts that allow access to the area. Assistant Director Gaub stated there is access to the area from a separate access point not on Auburn Way South. Leaving the sidewalk cuts is a safety concern because cars could drive into the park from Auburn Way South thinking it was an access point.

Councilmember DaCorsi stated a 16 percent change order is a concern. Expanding the work that an existing contractor is doing would explain the increased cost. Assistant Director Gaub confirmed there will be cost savings if the City uses the existing contractor instead of going out to bid on the curb and gutter repairs as a separate project.

Deputy Mayor Wales stated the City can use CDBG funds for sidewalks. She asked if this project could use the CDBG funding and use the funds from the General fund for road repairs. Director Faber stated if the City uses CDBG funds for this project the reporting requirements change and any cost savings would be lost.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. UNFINISHED BUSINESS

Councilmember Pelosa asked for staff to bring the costs for demolishing the public restroom at Les Gove Community Campus in its entirety and replace it with two Sani Cans that are handicap accessible for one year.

Deputy Mayor Wales stated she would like staff to provide additional documentation from HUD stating the City could not save the 1.5% grant

funds awarded for additional projects. She stated she would like to see the food bank considered for CDBG Grant funds. She also requested staff provide a list of projects submitted to HUD besides the restrooms and the reason for denial.

Councilmember DaCorsi asked if the City has an obligation period and expenditure period. Director Hinman explained HUD reviews the City's spending in November at that time they expect the funds to be spent down to approximately 1.5% of the total grant.

Deputy Mayor Wales expressed a concern that the Council was notified of the missed deadlines and required new project at the last minute.

Councilmember Trout-Manuel stated the City has other important projects like homelessness and roads that Council would like to focus on funding.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

A. Ordinance No. 6644

An Ordinance of the City Council of the City of Auburn, Washington, amending Sections 18.04.625, 18.23.030, and 18.57.035 of the City Code, relating to the residential uses allowed in the C-1, Light, Commercial Zoning District, and development standards for mixed-use development

Deputy Mayor Wales moved and Councilmember Trout-Manuel seconded to adopt Ordinance No. 6644.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Ordinance No. 6648

An Ordinance of the City Council of the City of Auburn, Washington, creating a new section 9.96.030 of the Auburn City Code relating to vehicle trespass

Councilmember Holman moved and Councilmember DaCorsi seconded to adopt Ordinance No. 6648.

Councilmember Holman stated this ordinance gives the police another tool to combat property crime.

MOTION CARRIED UNANIMOUSLY. 7-0

XI. RESOLUTIONS

A. Resolution No. 5287

A Resolution of the City Council of the City of Auburn, Washington, setting a public hearing to consider a franchise agreement with MCImetro Access Transmission Services Corp., D/B/A Verizon Access Transmission Services, a Delaware Corporation; a franchise for telecommunications services

Deputy Mayor Wales moved and Councilmember Baggett seconded to adopt Resolution No. 5287.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Resolution No. 5290

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to accept federal grant funds to be administered through the Washington State Department of Transportation for the A St SE Corridor Signal Safety & Operations Improvements Project

Councilmember Pelloza moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5290.

MOTION CARRIED UNANIMOUSLY. 7-0

XII. MAYOR AND COUNCILMEMBER REPORTS

A. From the Council

Councilmember DaCorsi reported he attended the Senior Center Coffee Hour.

Councilmember Wagner reported he attended the Puget Sound Regional Council Policy Board meeting.

Deputy Mayor Wales reported she attended the Junior City Council meeting. The Junior City Council will be presenting at the Study Session next week on their trip to the National League of Cities Conference.

Councilmember Baggett reported he attended an Emergency Management Advisory Committee meeting.

Councilmember Pelosa reported he attended the Easter Luncheon at the Senior Center and the King County Watershed Advisory Group meeting.

B. From the Mayor

Mayor Backus reported that she attended the final State of the City address by City of Kent Mayor Suzette Cook, the Kiwanis lunch meeting, and the Sister City travel to Guanghan, Sichuan Province, Republic of China.

XIII. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 8:40 p.m.

APPROVED THE 1st DAY OF May , 2017.

NANCY BACKUS, MAYOR

Shawn Campbell, Deputy City Clerk

City Council agendas and minutes are available to the public at the City Clerk's Office, on the City website, and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.

Internet: <http://www.auburnwa.gov>



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

April 25, 2017

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve the claims vouchers.

Background Summary:

Claims voucher numbers 443513 through 443670 in the amount of \$558,061.97 and four wire transfers in the amount of \$635,638.21 and dated May 1, 2017.

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

Coleman

Meeting Date: May 1, 2017

Item Number: CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

April 25, 2017

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve payroll vouchers.

Background Summary:

Payroll check numbers 537238 through 537275 in the amount of \$770,221.62 and electronic deposit transmissions in the amount of \$1,460,100.24 for a grand total of \$2,230,321.86 for the period covering April 13, 2017 to April 26, 2017.

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

Coleman

Meeting Date: May 1, 2017

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Golf Course Fireplace Smoke/Soot Remediation

Date:

April 19, 2017

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council award Small Public Work Contract No. 17-16 to Northwest Abatement Services, Inc. in the amount of \$47,700.00 plus Washington State sales tax of \$4,770.00 for a total contract price of \$52,470.00.

Background Summary:

The purpose of this project is conduct smoke and soot damage remediation work at the Golf Course Clubhouse Building after damage was discovered from an improperly vented natural gas fire place that is located in the Grand Foyer.

This project includes, but is not limited to, wiping down all surfaces, HVAC and duct cleaning of 6 units, replacement of ceiling tiles, carpet cleaning, and painting. The contract cost includes completing this project during off hours to avoid as much disruption to the Golf Course Clubhouse Building as possible.

This project is funded through an insurance claim.

The following bids were received:

ServPro \$65,232.55

Belfor \$59,736.92

Northwest Abatement Services \$52,247.00

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

Hinman

Meeting Date: May 1, 2017

Item Number: CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5262

Date:

April 26, 2017

Department:

Community Development &
Public Works

Attachments:

[Resolution No. 5262](#)
[Exhibit A](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5262.

Background Summary:

The City of Auburn has had a long-term services agreement with Aviation Management Group, LLC to manage airport operations at the Auburn Municipal Airport. The City of Auburn and Aviation Management Group, LLC last entered into a 2014-2015 services agreement on November 18, 2013, with the term of said Agreement being from January 1, 2015, to December 31, 2015. The City Council then approved Resolution No. 5166 on September 14, 2015, authorizing the First Addendum to the Agreement that was executed in October 5, 2015. This First Addendum extended the term of the 2014-2015 Services Agreement to December 31, 2016 along with some other modifications to the terms of the original Agreement.

On December 19, 2016, the City Council approved Resolution No. 5265 that only authorized a ninety (90) day extension, effective January 1, 2017, of the current Agreement for airport management services to March 31, 2017 to allow for these negotiations to conclude. Subsequent to the Council's approval of Resolution No. 5265, City staff and Aviation Management Group, LLC worked collaboratively to address outstanding contract negotiation issues and resolved all outstanding issues except a contractual issue pertaining to the payment of prevailing wages for certain services conducted at the Airport.

Community Development and Public Works Director Snyder; Jamelle Garcia, Managing Member, Aviation Management Group, LLC; and Assistant Director of Engineering Services/City Engineer Gaub provided an update on the new contract efforts to City Council at its March 13, 2017 study session. At this briefing, City staff and Mr. Garcia identified that contract negotiations were substantively concluded except one outstanding item pertaining to the payment of prevailing wages for

janitorial services and landscape maintenance services. City staff discussed that the payment of prevailing wages is a statutory requirement, and that if Aviation Management Group, LLC is to provide these services, there must be language pertaining to the payment of prevailing wages in the Agreement for Services. Mr. Garcia identified that he was evaluating whether he wants to take on the additional overhead and wages responsibilities and that he was attempting to obtain information from the Washington State Department of Labor and Industries to help him in his business decision-making. City staff noted at the time that if Mr. Garcia elected to not engage in the provision of these services, the City would be responsible for their provision either by City staff or through a third party contracted directly to the City. Subsequent to the March 13, 2017 City Council presentation, Mr. Garcia notified City staff that he had not yet received a response to his inquiry from the Washington State Department of Labor and Industries and requested consideration of additional time to conduct his necessary due diligence and make his business decision.

The City Council approved Resolution No. 5289 that authorized a sixty (60) day extension period to the current Agreement for Services. Mr. Garcia has subsequently decided to accept contractual responsibility to pay prevailing wages and this responsibility has been memorialized in the Agreement for Services that is attached to Resolution No. 5262. Mr. Garcia's decision concludes the contract negotiations for airport management services and as such, City staff are requesting City Council approval of Resolution No. 5262 that would authorize the provision of airport management services by Aviation Management Group, LLC through December 31, 2018.

Reviewed by Council Committees:

Other: Engineering & Legal

Councilmember:

Staff: Snyder

Meeting Date: May 1, 2017

Item Number: RES.A

RESOLUTION NO. 5 2 6 2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR SERVICES WITH AIRPORT MANAGEMENT GROUP, LLC dBA AVIATION MANAGEMENT GROUP FOR THE DAY TO DAY OPERATION AND MANAGEMENT OF THE AUBURN MUNICIPAL AIRPORT

WHEREAS, the City of Auburn and Airport Management Group, LLC dBA Aviation Management Group entered into an agreement on November 18, 2013, for the day to day operation and management of the Auburn Municipal Airport; and

WHEREAS, the City Council for the City of Auburn approved Resolution No. 5166 authorizing an addendum to said Agreement on October 5, 2015 for the expressed purpose of extending the termination date of the Agreement from December 31, 2015 to December 31, 2016; and

WHEREAS, the Agreement inclusive of the amendment executed on October 5, 2015 is set to expire on December 31, 2016; and

WHEREAS, the City Council passed Resolution No. 5265 on December 19, 2016 authorizing a ninety (90) day extension of the current Agreement from the December 31, 2016 expiration date to allow opportunity for continued negotiations; and

WHEREAS, the parties wish to enter into a new services agreement for a two (2) year term starting on June 1, 2017 and ending on December 31, 2018, unless otherwise extended by separate City Council action; and

WHEREAS, the City intends as part of this Agreement modify and update the previous scope of services between the parties to better meet the operational and management needs of the Airport Facilities.

Resolution No. 5262
April 27, 2017
Page 1

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

Section 1. The Mayor is authorized to execute an Agreement for Services in substantial conformity with Exhibits A (inclusive of Exhibit 1 attached to Exhibit A) attached herein between the City of Auburn and Airport Management Group, LLC dbA Aviation Management Group for the day to day operation and management of the Auburn Municipal Airport.

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

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

SIGNED and DATED this _____ day of _____, 2017

Nancy Backus, Mayor

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Resolution No. 5262
April 27, 2017
Page 2

Exhibit A

CITY OF AUBURN AGREEMENT FOR SERVICES AG-S-095

THIS AGREEMENT made and entered into on this 1st day of June, 2017, by and between the **City of Auburn**, a municipal corporation of the State of Washington, hereinafter referred to as "City" and **Airport Management Group, LLC, d/b/a Aviation Management Group** at 36618 55th Ave S, Auburn, WA 98001, hereinafter referred to as the "Provider."

WITNESSETH:

WHEREAS, the City is in need of the services of individuals, employees or firms for the operation of the Auburn Municipal Airport (Airport); and,

WHEREAS, the City desires to retain the Provider to provide said services in connection with the City's work, including certain physical and financial responsibilities of the operation, management and maintenance on a day to day basis of the Airport; and,

WHEREAS, the City has satisfied itself Provider is qualified and able to provide services in connection with the City's needs for the above-described work, and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW, THEREFORE, in consideration of the mutual covenants, and benefits contained herein, and subject to the following terms, conditions, covenants and provisions, the parties hereto agree as follows:

1. Scope of Services

The Provider agrees to perform in a good and professional manner the tasks described on Exhibit "1" which is attached hereto and by this reference made a part of this Agreement. The tasks described on Exhibit "1" shall be individually referred to as a "task," and collectively referred to as the "services." The Provider shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with the City.

2. Additional Services

In the event additional services with respect to related work are required beyond those specified in the Scope of Work, and not included in the compensation listed in this Agreement, a contract amendment shall be set forth in writing and shall be executed by the respective parties prior to the Provider's performance of the services there under, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an Amendment (agreement for additional services), such Amendment shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such Amendment were a part of this Agreement as originally executed. The performance of services pursuant to an Amendment shall be subject to the terms and conditions of this Agreement except where the Amendment provides to the contrary, in which case the terms and conditions of any such Amendment shall control. In all other respects, any Amendment shall supplement and be construed in accordance with the terms and conditions of this Agreement.

3. Performance of Additional Services Prior to Execution of an Amendment

The parties hereby agree that situations may arise in which services other than those described on Exhibit "1" are desired by the City and the time period for the completion of such services makes the execution of Amendment impractical prior to the commencement of the Provider's performance of the requested services. The Provider hereby agrees that it shall perform such services upon the written request of an authorized representative of the City pending execution of an Amendment, at a rate of compensation to be agreed to in connection therewith. The invoice procedure for any such additional services shall be as described in Section 9 of this Agreement.

4. Provider's Representations

The Provider hereby represents and warrants that the Provider has all necessary licenses and certifications to perform the services provided for herein, and is qualified to perform such services.

5. Schedule

Upon receipt of authorization to proceed, the Provider will perform its services in a diligent and timely manner, provided that the Provider shall not be liable for delays caused by circumstances out of the Provider's control. The City shall give prompt written notice to the Provider whenever the City becomes aware of any circumstance that may affect the timing of the performance of the services. Upon receipt of such notice, the Provider shall respond to the notice by appropriate action and report the response to the City within ten (10) working days.

6. City's Responsibilities

The City shall do the following in a timely manner so as not to delay the services of the Provider:

- a. Designate in writing a person to act as the City's representative with respect to the services. The City's designee shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services.
- b. Furnish the Provider with all information, criteria, objectives, schedules and standards for the project and the services provided for herein.
- c. Arrange for access to the property or facilities as required for the Provider to perform the services provided for herein.
- d. Examine and evaluate all studies, reports, memoranda, plans, sketches, and other documents prepared by the Provider and render decisions regarding such documents in a timely manner to prevent delay of the services.
- e. Provide certain equipment and facilities in connection herewith, as follows:
 - (1) Allow access to Airport Facilities
 - (2) Allow use of all or a portion of the Airport Management Office building, the area of which shall be agreed to by the parties.
 - (3) Allow use of Fueling Facilities, permanent and/or temporary
- f. Provide Major Capital Improvements, Major Repairs and Equipment Replacement Expenses that are not a result from negligence on the part of the Provider shall be the responsibility of the City. For the purpose of this agreement these shall be defined as follows:
 - (1) Major Capital Improvements, including but not limited to improvements or upgrades to the existing utility systems, city equipment, runway, taxiways, city owned pavements, city owned hangars and buildings except as otherwise provided under a lease or rental agreement, tie down areas, signage, gates and fencing.
 - (2) Major Repairs, which include repairs to any city-owned facilities or equipment that exceed \$2,000.00 to complete.
 - (3) Major Equipment Replacements include replacement at the end of equipment service life for City owned equipment that extends the life of significantly increases the value of the equipment unless provided for elsewhere in this agreement.

7. Prevailing Wages

When required by state law, and as directed in writing by the City, the Provider shall be responsible for the payment of prevailing wages for direct or subcontracted services such as janitorial services for City facilities that are not part of the Providers offices as provided in Section 6e of this Agreement for Services and landscape maintenance.

For any contractor or subcontractor hired by the Provider in connection here with, the Provider shall submit to the City a request for determination of the need to pay prevailing wages. The City shall respond in writing to such request within seven (7)

working days of the receipt of the request, unless the City communicates in writing to the Provider that additional time is needed for such determination.

The Provider shall comply with every provision of the Revised Code of Washington Chapter 39.12. A copy of a Statement of Intent to Pay Prevailing Wages, approved by the Industrial Statistician of the Department of Labor & Industries, must be submitted to the City prior to any payment for services rendered. An Affidavit of Wages Paid must be received by the City prior to issuance of final payment.

8. Acceptable Standards

The Provider shall be responsible to provide, in connection with the services contemplated in this Agreement, work products and services of a quality and professional standard acceptable to the City.

- a. The Provider and the City shall, at all time, act in good faith and cooperate fully with each other, their respective agents, employees, contractors, subcontractors, and concessionaires; any other parties leasing or using space or providing services at the Airport, and the patrons of the Airport and the future development thereof, including, but not limited to, the application for and obtaining of any government approvals in connection therewith; the administration and enforcement of the existing agreements; and the general performance by the Provider of its rights, duties and obligations under this Agreement.
- b. The Provider shall assist the City in securing any approvals from the Federal Aviation Administration (FAA) required for the Provider to operate and maintain the Airport under the City's FAA Operating Certificate. The City and the Provider jointly shall cooperate to maintain the FAA Operating Certificate throughout the term and any extended term of this Agreement.
- c. If this Agreement is terminated for any reason, or if it is to expire on its own terms, the Parties shall make every effort to assure to the fullest extent possible under the circumstances (a) an orderly transition to another provider of the services required under this Agreement, (b) an orderly demobilization of the Provider's own operations in connection with such services, (c) uninterrupted provision of such services during any transition period, and (d) compliance with the reasonable requests and requirements of the City in connection with such termination or expiration.
- d. The Provider shall interface with any private security services at the Airport, and shall jointly or separately perform daily inspections of the Airport premises insuring that gates are timely opened and closed, and shall further communicate to the City any concerns voiced by tenants or other users of the Airport, and where police, fire or other code or emergency response agency is called in, to cooperate with such responses and/or investigations.
- e. The Provider shall also obtain and maintain in good standing training to deal with emergencies, as directed by the City. The Provider shall also be

familiar with the City Emergency Preparedness Plan applicable to the Airport and its on-site fuel system, and shall act in accordance therewith.

- f. The Provider shall also notify, when and where appropriate, the FAA, and any other State, regional or federal agencies and the City when accidents, actions or occurrences take place at the Airport. In any event, the Provider shall notify the City, and with respect to a question of whether another outside agency should also be notified, and in the event that the Provider is unsure as to whether such outside agency, or which outside agency should be notified, the question shall be presented to the City and the City shall determine whether such notice shall be provided and to whom such notice would be provided.

9. Compensation

As compensation for the Provider's performance of the services provided for herein, the City shall pay the Provider the fees and costs as indicated here. The Provider shall submit to the City an invoice or statement of time spent on tasks included in the scope of work provided herein, and the City upon acceptance of the invoice or statement shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to the Provider thereafter in the normal course, subject to any conditions or provisions in this Agreement or Amendment. The Agreement number must appear on all invoices or statements submitted. The not-to-exceed amount for this agreement shall be \$233,588.25 for 2017 and \$419,535.00 for 2018.

10. Time for Performance and Term of Agreement

The Provider shall not begin any work under this Agreement until authorized in writing by the City. The Provider shall perform the services provided for herein in accordance with Exhibit "1" attached hereto and incorporated herein by this reference, unless otherwise agreed to in writing by the parties. The Term of this Agreement shall commence on the 1st day of June, 2017, and terminating on the 31st day of December, 2018, unless otherwise agreed to in writing by the parties.

11. Ownership and Use of Documents

All documents, reports, memoranda, diagrams, sketches, plans, surveys, design calculations, working drawings and any other materials created or otherwise prepared by the Provider as part of his performance of this Agreement (the "Work Products") shall be owned by and become the property of the City, and may be used by the City for any purpose beneficial to the City.

Provider shall maintain on site all records required for the operations of the Airport and shall be accessible to the City at all times. Upon termination or expiration of this agreement, all records shall be surrendered to the City. Records from previous years of service shall be kept for a minimum of 6 years and destroyed only after consultation with and approval by the City.

12. Records Inspection and Audit

All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by the City for a period of up to three (3) years from the final payment for work performed under this Agreement.

13. Continuation of Performance

In the event that any dispute or conflict arises between the parties while this Contract is in effect, the Provider agrees that, notwithstanding such dispute or conflict, the Provider shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.

14. Administration of Agreement

This Agreement shall be administered by Jamelle Garcia, Managing Member, Aviation Management Group, on behalf of the Provider, and by the Mayor of the City, or designee, on behalf of the City. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

City of Auburn:

Kevin Snyder, AICP
Community Development
& Public Works Director
25 West Main Street
Auburn, WA 98001
253-931-3091
ksnyder@auburnwa.gov

Aviation Management Group,

Jamelle Garcia
Managing Member
36618 55th Ave. S.
Auburn, WA 98001
253-939-4273
jamelle@S50wa.com

15. Notices

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above.

Either party may change his, her or its address by giving notice in writing, stating his, her or its new address, to the other party, pursuant to the procedure set forth above.

16. Insurance

The Provider shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Provider, or the Provider's agents, representatives, employees, or subcontractors.

Provider's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Provider to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

The Service Provider shall obtain insurance of the types described below:

- a. Airport Liability Insurance which includes coverage for premises liability, products/completed operations, independent contractors, stop gap liability, personal and advertising injury, hanger-keepers liability, pollution liability, liability assumed under contract and a breach of warranty clause. Provider shall maintain airport Liability Insurance with limits no less than \$10,000,000.00 per occurrence, \$10,000,000.00 general aggregate and \$10,000,000.00 products-completed operations aggregate limit. The City shall be named as an additional insured on the Airport Liability Insurance Policy.
- b. Automobile Liability insurance, covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. Provider shall maintain automobile insurance with minimum combined single limit for bodily injury and property damage of \$1,000,000.00 per accident.
- c. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage. Commercial General Liability insurance shall be written with limits no less than \$1,000,000.00 each occurrence, \$2,000,000.00 general aggregate, and a \$2,000,000.00 products-completed operations aggregate limit.

- d. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

- a. The Provider's insurance coverage shall be primary insurance as respects to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Provider's insurance and shall not contribute with it.
- b. The Provider's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after 30 days prior written notice by certified mail, return receipt requested, has been given to the City.

Insurance is to be placed with an authorized insurer in Washington State. The insurer must have a current A.M. Best rating of not less than A:VII.

Provider shall furnish the City with certificates of insurance and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Provider before commencement of the work. The City reserves the right to require that complete, certified copies of all required insurance policies be submitted to the City at any time. The City will pay no progress payments under Section 9 until the Provider has fully complied with this section.

17. Indemnification/Hold Harmless

The Provider shall defend, indemnify and hold the City and its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Provider and the City, its officers, officials, employees, and volunteers, the Provider's liability hereunder shall be only to the extent of the Provider's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Provider's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

18. Assignment

Neither party to this Agreement shall assign any right or obligation hereunder in whole or in part, without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. No assignment or transfer of any interest under this Agreement shall be deemed to release the assignor from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.

19. Nondiscrimination

The Provider may not discriminate regarding any services or activities to which this Agreement may apply directly or through contractual, hiring, or other arrangements on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, or where there is the presence of any sensory, mental or physical handicap.

20. Services in Potential Competition with Provider

The Provider shall provide services to clients, customers and tenants of the Airport with fairness and without regard to whether a client, customer or tenant is engaged in a business that competes or potentially competes with a business of the Provider, or with a business in which any principal, partner or participant of the Provider is also a principal, partner or participant. Towards that end, the Provider shall notify ALL clients, customers and tenants and prospective clients, customers and tenants of the Airport of this requirement, and shall also notify them that if they feel that the Provider has not treated them in a fair manner, they may seek relief from the Mayor or the Mayor's designee of the City in terms of the services, use of premises or other activity related to the Airport. Decisions by the Mayor or designee in such cases shall be binding on the parties, provided that any party aggrieved by such decision may appeal the decision to the City of Auburn Hearing Examiner, according to the procedures of the City of Auburn therefor.

There shall be no direct or indirect relationships, business or otherwise with private hangar owners or tenants during the term of the Agreement without the consent of the City. Consent will not be unreasonably withheld. If any exist, any and all relationships shall be terminated within thirty (30) calendar days of execution of this Agreement. For the purposes hereof, the City consents to the Airport Business Consulting Service currently being offered by the Provider.

21. Amendment, Modification or Waiver

No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound, or such party's or parties' duly authorized representative(s) and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not affect or impair any right arising from any subsequent default.

22. Remedies not Limited

Nothing herein shall limit the remedies or rights of the parties hereto under and pursuant to this Agreement.

23. Termination and Suspension

- a. Either party may terminate this Agreement upon written notice to the other party if the other party fails substantially to perform in accordance with the terms of this Agreement through no fault of the party terminating the Agreement.

It is provided, however, that the terminating party shall give the other party notice of the specific area(s) of performance that has/have not been performed and shall further give seven (7) working days for such performance to be fully performed in accordance with the terms of this Agreement prior to termination. If such failure to perform is corrected within said seven (7) working day's period, then the Agreement shall not be subject to termination under this sub-paragraph.

- b. The City or the Provider may terminate this Agreement upon not less than one hundred twenty (120) days written notice to the other party.
- c. If this Agreement is terminated through no fault of the Provider, the Provider shall be compensated for services performed prior to termination in accordance with the rate of compensation provided in Section 9 hereof.

24. Parties in Interest

This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the parties hereto and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the parties hereto and it does not create a contractual relationship with or exist for the benefit of any third party, including contractors, sub-contractors and their sureties.

25. Costs to Prevailing Party

In the event of such litigation or other legal action, to enforce any rights, responsibilities or obligations under this Agreement, the prevailing parties shall be entitled to receive its reasonable costs and attorney's fees.

26. Applicable Law

This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Washington and venue for any action hereunder shall be in of the county in Washington State in which the property or project is located, and if not site specific, then in King County, Washington; provided, however, that it is agreed and understood that any applicable statute of limitation shall commence no later than the substantial completion by the Provider of the services.

27. Captions, Headings and Titles

All captions, headings or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or sections to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and masculine, feminine and neuter expressions shall be interchangeable. Interpretation or construction of this Agreement shall not be affected by any determination as to who is the drafter of this Agreement, this Agreement having been drafted by mutual agreement of the parties.

28. Severable Provisions

Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

29. Entire Agreement

This Agreement contains the entire understanding of the parties hereto in respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to such subject matter.

30. Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the day and year first set forth above.

CITY OF AUBURN

**AIRPORT MANAGEMENT GROUP. LLC,
d/b/a AVIATION MANAGEMENT GROUP**

Nancy Backus, Mayor

Signature

Name: _____

Title: _____

Federal Tax ID No: _____

Attest:

Danielle Daskam City Clerk

Approved as to form:

Daniel B. Heid, City Attorney

EXHIBIT 1

SCOPE OF SERVICES

The PROVIDER shall provide the following services in the administration of the Auburn Municipal Airport (AIRPORT) on behalf and at the direction of the City of Auburn (CITY):

- A. PROVIDER shall assist in the administration and enforcement of the lease agreements, contracts, documents, and instruments relating to the AIRPORT or its operation to which CITY is a party. Such administration and enforcement assistance shall be consistent with the terms of the Agreement for Services and be done in a manner that PROVIDER, in consultation with the CITY, shall deem necessary or desirable for the efficient operation, maintenance, and management of the AIRPORT.
- B. CITY specifically authorizes PROVIDER to request and demand all rent and other such charges and to initiate collection activities when PROVIDER shall deem necessary or appropriate, on behalf of, and in the name of, CITY to collect such rent and other charges. All such rent and other charges described below shall be collected by PROVIDER on behalf of CITY, and accounted for as provided in the Agreement for Services. However, commencement of legal proceedings is subject to final approval of CITY and may, at the CITY's discretion, be handled by the CITY.
- C. PROVIDER may propose to the CITY capital improvement or property development work as a result of its concept development and planning functions or related work as set forth in the Agreement for Services.
- D. PROVIDER will manage and operate the AIRPORT for the use and benefit of CITY and the general public, in accordance with the requirements of the Agreement for Services, and on fair and reasonable terms without unjust discrimination, seven (7) days a week, twenty-four (24) hours a day, in a safe and efficient manner and maintain it in a clean, orderly, safe, and operational condition in conformity with applicable Federal, State and local laws, rules and regulations.
- E. Without limiting the foregoing services to be provided by PROVIDER services shall include any of the following as directed by the CITY: operation, management, concession, and janitorial service as needed in any CITY-owned AIRPORT building or activity and not provided for though other leases or if the space is vacant; advertising; compliance with applicable security requirements of the FAA or other jurisdictional agency, subject to Section BB of this Scope of Services; airport and grounds maintenance, ramp operations, airfield signage. and navigation, and general aviation facilities maintenance: operation and management; public relations, and marketing. PROVIDER shall not cause or permit any activity or action at the AIRPORT or on property in the vicinity of the AIRPORT which would interfere with its use of the AIRPORT for AIRPORT purposes.
- F. PROVIDER shall provide fueling services at the AIRPORT. In connection therewith, PROVIDER shall be responsible for purchasing the fuel wholesale, CITY and PROVIDER shall be jointly entitled to set the retail price of the fuel and each shall be entitled to retain fifty percent (50%) of the net proceeds from such fuel sales. Net proceeds is defined for these purposes as the remainder of

funds after all normal and applicable expenses have been deducted from revenue produced from fuel sales. Normal and applicable expenses do not include major repairs (as defined in Section 6 of the Agreement for Services) or improvements to the fueling facility. PROVIDER shall submit monthly an accounting of the fuel revenue. PROVIDER shall submit a detailed summary of revenue and applicable expenses to the CITY quarterly and remit the CITY'S share of the net proceeds from fuel sales.

- G. PROVIDER will develop and submit recommended schedules of rates, fees, and charges (exclusive of the retail price for fuel) annually for approval by CITY, provided that the schedule of rates, fees, and charges will not alter the rental rates in existing leases or agreements except as provided therein. PROVIDER will also collect and reconcile all rental and/or lease payments and fees due, using uniform procedures to provide accountability, control and security of funds.
- H. PROVIDER shall assist CITY, with respect to CITY's dealings with all applicable Federal and State authorities, provided, however, that CITY shall remain solely responsible to the Federal Aviation Administration ("FAA") for the compliance with CITY's obligations under the law and under Federal Grant Agreements unless such compliance is the responsibility of PROVIDER under the Agreement for Services. PROVIDER is aware of and agrees to honor and respect the existing grant agreements between the CITY and FAA, including related FAA assurances.
- I. No exclusive right for the use of the AIRPORT by any persons providing, or intending to provide, aeronautical services to the public shall be permitted within the meaning of Section 308 of the Federal Aviation Act of 1958.
- J. Security: PROVIDER agrees to provide AIRPORT security during non-business office hours, three hundred and sixty-five (365) days per year. The PROVIDER will bill each TENANT on the AIRPORT the rate as set in the City of Auburn Master Fee Schedule.
- K. Hours of Operation (business hours): PROVIDER shall operate the AIRPORT for public access twenty-four (24) hours daily. At least one PROVIDER staff person shall be available at the AIRPORT Monday through Friday 8:00a.m. to 5:00p.m. (exclusive of state and federal holidays) to assist the public. During non-business hours, PROVIDER shall maintain a method of contacting the on-duty staff person for assistance, via email or cellular telephone. PROVIDER will maintain and post a list, easily accessible to those needing fuel or other services, of Fixed Based Operations (FBO) able to provide fueling and ramp services on short notice outside of normal business hours.
- L. If after hours' callout is required due to emergency response related to Operations of the Airport requiring PROVIDER staff to be on site, a fee of \$75.00 per staff hour with a one-hour minimum will be billed to the CITY. The PROVIDER will notify the City within 24 hours of the emergency situation. The PROVIDER will provide all necessary documentation of the personnel, equipment and materials used in the emergency response as determined by the City for the City to seek reimbursement of costs. Provider will assist the CITY in recovering from the entity requiring the afterhours assistance.
- M. Operating Policies and Procedures: PROVIDER shall provide and maintain a staff training program and complete library of AIRPORT operating policies and procedures at the offices of the PROVIDER at the AIRPORT.
- N. Collection of Fees and Rentals: PROVIDER shall provide for routine invoicing and collection of all fees, rentals, and property lease charges due the AIRPORT including:

1. Property leases;
2. Hangar rents;
3. Transient and permanent tie-down fees;
4. Business office rent;
5. All other AIRPORT revenues

PROVIDER shall prepare and deposit cash receipts within 24 hours of receipt of the next business day if received on a non-business day on behalf of the CITY and forward bank's deposit slips to the City of Auburn Finance Department. The PROVIDER shall also prepare and submit to the City of Auburn Finance Department with carbon copy to the City of Auburn Community Development and Public Works Department a standard accounting report of all collections, on a monthly basis, no later than the fifth working day after the end of the month in which the collections are made.

- O. Credit Card Processing: In the event that the PROVIDER wishes to accept credit cards for payment of fees other than fueling, the PROVIDER will work with the City in advance to establish the process and procedures acceptable to the City.
- P. Emergency Preparedness: PROVIDER will have available persons trained in the manner required by applicable FAA regulations to respond to emergencies, such as fires, aircraft incidents, or disasters.
- Q. Financial Reports: PROVIDER shall maintain monthly records of all financial transactions relating to all rent and other such charges collected as defined in section B of Exhibit 1. The format and content of the monthly financial report shall be subject to the approval of the CITY's Finance Director with carbon copies to the Community Development and Public Works Director and Assistant Director of Engineering Services/City Engineer. Financial Reports will be submitted no later than the fifth working day after the end of the month.
- R. Support of AIRPORT Interest Groups: PROVIDER's management shall act as the representative of the CITY through participation in meetings and activities of present and future AIRPORT user or interest groups. Reports on such meetings and events shall be provided to the CITY.
- S. Emergency Expenditures: PROVIDER shall be authorized to make emergency expenditures not to exceed \$5,000.00 in situations where immediate action is deemed necessary to protect the safety of the general public or protect physical assets of AIRPORT.
 1. Report: Subsequent to authorizing emergency expenditures, PROVIDER shall provide a written report to the CITY within five (5) calendar days. The emergency action shall be reviewed by the CITY within fifteen (15) calendar days.
 2. Reimbursement: Upon review and approval by the CITY of the emergency expenditure, the CITY shall process the request for reimbursement to PROVIDER.
- T. CITY Reimbursement: If PROVIDER fails to perform any operational or financial obligation necessary to continued operation of the AIRPORT, CITY reserves the right to perform such obligation of PROVIDER as may be necessary to assure continued operation of the AIRPORT and to seek reimbursement from PROVIDER and/or withhold monies from any payments due to the PROVIDER.
- U. Maintenance/Utilities:
 1. Preventative Maintenance /Minor Repairs:

- a. PROVIDER agrees to develop and carry out at its sole expense a continuing program of preventative maintenance and minor repair activities providing general upkeep against normal wear and tear such that the AIRPORT facilities are at all times in a serviceable condition for use in the way and manner they were designed to be used. Preventative maintenance and minor repair activities do not include major repairs as defined in Section 6 of the Agreement for Services. PROVIDER's responsibility for "Preventative Maintenance and Minor Repairs" shall be limited to \$25,000.00 accumulated annually. All maintenance procedures and programs shall be consistent with requirements of Federal, State and CITY agencies.
- b. In furtherance of that responsibility, PROVIDER will:
 - i. Regularly inspect the AIRPORT for needed maintenance and repairs; and
 - ii. Perform scheduled preventative maintenance including preventative maintenance of the paved surfaces, hangar and other structure preventative maintenance, signage maintenance, mowing of grass, fencing maintenance and weather related maintenance; and
 - iii. Remove, to the greatest extent legally and practically possible, obstructions and restrictions as identified in FAA regulations; and
 - iv. Operate and maintain all existing or future upgraded AIRPORT owned systems necessary and appropriate for operation of the AIRPORT inclusive of lighting and markings necessary for runway operation.
- 2. Restorative Maintenance - Major Repairs: Subject to expenditures approved, budgeted and authorized by the Mayor of CITY or his/her designee, PROVIDER agrees to perform restorative maintenance and major repairs. PROVIDER also agrees to perform unanticipated major repairs. Unanticipated major repairs include, without limitation, the cost of major repair or replacement of fuel pumps and associated equipment such as fuel dispensing equipment, the fuel tanks and pedestal due to premature failure, and the office building adjacent to the fuel facility. All such work is subject to reimbursement by CITY as work compensated under the procedures of Section 2 of the Agreement for Services. CITY agrees to provide such reimbursement within forty-five (45) calendar days of presentation by PROVIDER of its invoices including all back up documentation as deemed necessary by the CITY.
- 3. Temporary Closure: Nothing contained herein shall be construed to require that the AIRPORT be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. PROVIDER will remove snow and ice within the capacity of the PROVIDER'S equipment. If the PROVIDER's Capacity is exceeded, the PROVIDER will notify the City Immediately of the need. CITY shall remove snow and ice from the runways and taxiways as City resources allow.
- 4. Federal Facilities: AIRPORT aids operated and maintained by the FAA shall be specifically excluded from any maintenance requirements under the Agreement for Services.

5. Emergency Support Services: PROVIDER and the CITY shall each maintain authorized representatives on call at all reasonable times to act on behalf of their respective Parties for unusual, difficult, or emergency maintenance situations at the AIRPORT.
 6. AIRPORT Utilities and Other Charges: PROVIDER agrees, at its sole expense, to pay all charges for the AIRPORT's electrical, water, sewer (if any), security personnel (if any), fire system monitoring, annual fire extinguisher inspection, fire system annual inspection and portable sanitation units that is not attributable to a specific tenant or leased property. PROVIDER is not responsible for the payment or collection of any storm water charges; but it is the responsibility of the CITY Utilities for billing and collection and the AIRPORT's enterprise fund for the payment of storm water fees.
- V. Industrial Storm Water Permit Compliance.
- a. The PROVIDER shall assist the CITY in maintaining compliance with the City's Industrial General Stormwater Permit (Permit) for the Airport. This includes but is not limited to:
 - i. File and Maintain on site the appropriate documents to meet the intent of the Permit conditions. These include but are not limited to the following:
 1. Monthly Inspection Reports
 2. Annual Report (Provided by the City)
 3. DMR Reports (Provided by the City)
 4. Quarterly Sampling Documentation and Lab Results (Provided by the City)
 5. Employee Training Log (For Providers Employees)
 6. Commercial Tenant Training Log
 7. Stormwater Pollution Prevention Plan (SWPPP) (Provided by the City)
 8. Copies of the Permit (Provided by the City)
 9. Copies of the Permit Coverage Letter (Provided by the City)
 10. Spill Log
 - ii. Perform monthly storm system and site inspections and complete monthly inspection reports on Monthly Site Inspection Form and provide a copy to the City.
 - iii. Perform annual Stormwater Pollution Prevention Plan (SWPPP) and Permit training for Providers Employees and Commercial tenants as required by the Permit. This includes training of new staff at the time of hire.
 - iv. Perform ongoing monitoring of pollutant sources and illicit discharges, including maintenance and implementation of specific Best Maintenance Practices (BMPs) as required for source control of pollutants associated with airport operations per the SWPPP. This includes but is not limited to such things as runway sweeping, fuel delivery to the on-site tank, and other BMP's per the SWPPP.
 - v. Perform corrective actions to control spills and pollutant sources as required by the Permit, including spill logs and communication with other required agencies as appropriate for the situation. In all cases, provide immediate notification to the City.

- vi. PROVIDER will assist the City with periodic updates of the Stormwater Pollution Prevention Plan (SWPPP) as needed and required by the City's NPDES Phase 2 Permit.
 - vii. Perform quarterly discharge monitoring for visual oil sheen during periods of consistent attainment as defined by the Permit through October of 2017.
- b. The City will provide the following:
- i. Copies of Permit documentation
 - ii. Copy of the SWPPP
 - iii. Copies of all DMR Reports completed by the City
 - iv. Annual Report completed by the City
 - v. Copy of the permit Coverage Letter when received by the City
 - vi. Sampling records and lab test results for sampling done by the City.
 - vii. Work with the PROVIDER to develop an appropriate training plan for the PROVIDER's employees and the commercial tenants.
 - viii. Provide any necessary training for the PROVIDER's employees to perform the monthly inspections, address spill issues, and completing the visual oil sheen inspections.

W. Environmental Protection.

1. With assistance from the PROVIDER, CITY shall develop and maintain policies to assure that the AIRPORT and AIRPORT tenants maintain compliance with Environmental Protection Agency (EPA) standards and City of Auburn codes and/or other federal and state regulations of treatment of waste oils, fuel, solvents, etc. which may be used in aircraft, or related to aircraft manufacturing, servicing, or repair.
2. Leases and other contracts and agreement and informational documents developed by CITY and approved by CITY, PROVIDER will advise AIRPORT tenants of their obligation to comply with all environmental laws, including, but not limited to, Environmental Protection Agency (EPA) standards and City of Auburn codes and/or other federal and state regulations for treatment of waste oils, fuel, solvents, and other hazardous or toxic materials which may be used in aircraft or in the course of aircraft manufacturing, servicing or repair, storm water runoff, wetlands, and other laws and requirements of the United States, the State of Washington, or CITY. Violations of those laws will be prosecuted by the responsible government agencies against the tenants directly.

X. Planning, Development, and Audit:

1. Planning and Development: CITY shall, with the assistance of PROVIDER and with the Airport Advisory Board, provide for planning and development of the AIRPORT and the surrounding AIRPORT lands in cooperation with CITY staff. PROVIDER shall assist as requested by the CITY in the development of new facilities and services in accordance with the currently approved Airport Master Plan.
2. Airport Layout Plan (ALP): PROVIDER shall submit periodic input concerning the ALP to CITY. CITY agrees to update the ALP database and provide revised copies of the ALP as requested by PROVIDER or required by governing agencies.

3. Five-Year Capital Plan: PROVIDER shall assist the CITY with the development of and updates to the currently adopted five-year AIRPORT Capital Improvement Plan. The Plan shall support requests for the continuing development of the AIRPORT with Federal and State funding. The CITY shall be responsible for updating the Washington State Department of Transportation-Aviation Division (WSDOT-Aviation) and FAA on changes to the AIRPORT's Capital Plan.
 4. Quality Review: It is agreed that PROVIDER will allow a review by an independent firm of the quality of management of the AIRPORT. This review may be conducted annually or at any time considered appropriate. CITY may select a firm to perform the review. CITY will also bear the cost of the review. PROVIDER shall make all records relating to the Agreement for Services available for review and audit during normal business hours by the CITY and/or independent auditor.
- Y. PROVIDER shall assist the CITY in the preparation of a Biennial Budget as requested that shall include the following:
1. Revenues: A detailed projection of revenues relating to AIRPORT fees and services collected by the PROVIDER for each calendar year shall be developed. The projection shall be submitted by PROVIDER on or about August 1 of the initial year of the Biennial Budget for review and concurrence. For the second year of the Biennial Budget, this plan shall be submitted by April 1 for the two (2) following years.
 2. Expenses: For Operational costs not identified in Exhibit 2 of the Agreement for Services, PROVIDER shall provide a detailed projection of operational needs anticipated for each calendar year.
 3. Capital Improvements: PROVIDER shall provide comments on the City's Capital Facilities Plan as requested by CITY.
- Z. Performance Standards: PROVIDER must perform reasonably, safely, legally, and in a manner consistent with the Agreement for Services. PROVIDER shall also be responsible to provide, in connection with the services contemplated in the Agreement for Services, work product and services of a quality and professional standard acceptable to the CITY. PROVIDER shall not conduct operations in or on the AIRPORT in a manner which in the reasonable judgment of CITY-
1. Interferes with the reasonable use by others of the AIRPORT.
 2. Hinders police, fire department or other emergency personnel in the discharge of their duties at the AIRPORT.
 3. Would constitute a hazardous condition at the AIRPORT.
 4. Would involve any illegal purpose.
 5. Is not materially in accordance with the Agreement for Services.
- AA. PROVIDER'S Duty to repair: PROVIDER shall repair any and all damage to the property of CITY located at the AIRPORT caused by PROVIDER, its agents or employees.
- BB. Compliance With Heightened Security Requirements: PROVIDER shall, if required by additional regulatory requirements for AIRPORT security of the FAA, Homeland Security or any other jurisdictional agency, make changes to the security procedures and/or equipment used to provide AIRPORT security, provided that CITY agrees to pay as work compensated under the procedures of Section 2 of the Agreement of Services the reasonable out of pocket cost incurred by

PROVIDER, subject to prior approval of the CITY, to comply with changed requirements imposed after the effective date for capital improvements such as additional or higher fencing, surveillance or monitoring equipment or other capital investments which are mandated by law. CITY shall have the right to inspect estimates of cost to comply before expenditures are made and suggest alternatives, but PROVIDER shall be reimbursed its reasonably necessary cost to comply with new security mandates within forty-five (45) calendar days of presenting invoices with all back up documentation deemed necessary by the CITY for such cost, following the inspection described above.

- CC. Exclusion for Litigation Support: The Scope of Services does not include services of PROVIDER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken where defended by CITY in connection with this Agreement in an action to which PROVIDER is not a party. All such services required or requested of PROVIDER by the CITY, will be work compensated under Section 2 of the Agreement.
- DD. Wildlife Depredation: PROVIDER shall, if required to maintain and protect the public health and safety resulting from and relating to airport operations, engage in a program of wildlife control measures, to include wildlife depredation, so long as said activities are conducted in compliance with the provisions of a Wildlife Hazard Management Plan acceptable by the Federal Aviation Administration. PROVIDER shall for any shooting activities comply with the terms of a current Migratory Bird Depredation Permit for any bird species protected by the Migratory Bird Treaty Act (16 U.S.C. 703-712. Shooting activities shall also comply with the Auburn Code 9.34.030 and all other applicable federal, state and local laws, and shall be conducted so as to minimize the risk of injury to persons or to real or personal property.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5284

Date:

April 26, 2017

Department:

City Attorney

Attachments:

[Resolution No. 5284](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5284.

Background Summary:

The Auburn City Council Safe Communities ad hoc committee has been meeting over the last several months to look at how it can address the need for City Council action espousing and updating an earlier resolution supporting an inclusive and diverse community.

Various different options were evaluated and considered, and at the April 24th Council Study the City Council consensus was a resolution updating the National League of Cities inclusiveness resolution adopted a number of years ago.

Resolution No. 5284 focuses on reaffirming the City Council's commitment to Auburn being an inclusive and diverse community. This Resolution also identifies the City's position with respect to the legal and constitutional rights enjoyed by all people residing in Auburn.

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

Heid

Meeting Date: May 1, 2017

Item Number: RES.B

RESOLUTION NO. 5 2 8 4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AFFIRMING OF THE VALUE OF
ALL AUBURN RESIDENTS

WHEREAS, the City of Auburn is committed to inclusiveness and diversity as fundamental aspects of our community; and

WHEREAS, the City is authorized by Section 35A.11.030 of the Revised Code of Washington (RCW) to define the functions, powers, and duties of its officers and employees and to adopt and enforce ordinances appropriate to the good government of the City; and

WHEREAS, under state law, the functions, powers, and duties of City officers and employees does not include responsibility for enforcement of federal immigration law; and

WHEREAS, the good government of the City includes recognizing that all people are vital to our shared prosperity and that all people must be respected and valued; and

WHEREAS, local elected officials can and should lead the way forward in making inclusiveness and diversity priorities; and

WHEREAS, the Fourteenth Amendment to the U.S. Constitution guarantees the equal protection of the laws to all persons, not just citizens and residents, stating that “[n]o state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” [U.S. Const. amend. XIV, § 1]; and

WHEREAS, the courts of this state as well as the United States have repeatedly stated that “the equal protection clause applies to resident aliens as well as citizens.”

Herriott v. City of Seattle, 81 Wn.2d 48, 500 P.2d 101 (1972), citing *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, 420, 68 S.Ct. 1138, 92 L.Ed. 1478 (1948); and the City Council finds that is in the best interest of the City to be an inclusive and diverse community for all people.

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

Section 1. That the City Council of the City of Auburn reaffirms its commitment to making inclusiveness and diversity fundamental aspects of our community, pledges active efforts to seek to achieve that goal, and urges all residents of the City of Auburn to join together to support this effort.

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

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2017.

CITY OF AUBURN

ATTEST:

NANCY BACKUS, MAYOR

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Resolution No. 5284
April 25, 2017

Daniel B. Heid, City Attorney



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5291

Date:

April 25, 2017

Department:

Administration

Attachments:

[Resolution No. 5291](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5291.

Background Summary:

The CDBG Annual Action Plan provides a concise summary of the actions, activities and specific federal and non-federal resource that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. Action Plan Amendments carry out new activities using funds covered under the consolidated plan. The process of a substantial amendment process is required by the U.S. Department of Housing and Urban Development (HUD) and the City's Consolidated Plan to reallocate funds received.

The City of Auburn will reallocate \$280,000 in CDBG funds for projects that are consistent with federal regulations and the objectives and policies of the Auburn Consolidated Housing and Community Development Plan. The funding will be used to make ADA updates to Les Gove Park restrooms and to complete housing repair projects for low-income homeowners in Auburn.

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

Hinman

Meeting Date: May 1, 2017

Item Number: RES.C

RESOLUTION NO. 5291

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON, APPROVING
AMENDMENT TO THE 2016 ANNUAL ACTION PLAN
UPDATE OF THE CONSOLIDATED PLAN**

WHEREAS, the City of Auburn was designated as an entitlement community by the U.S. Department of Housing and Urban Development (HUD) for its Community Development Block Grant (CDBG) Program; and

WHEREAS, the primary objective of the Consolidated Plan and CDBG Program is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income; and

WHEREAS, to allocate additional funds received a substantial amendment must be made to the Plan, the City of Auburn must amend the 2016 Annual Action Plan for its Consolidated Plan that serves as a federally required planning document to guide the City of Auburn's human service and community development efforts; and

WHEREAS, the planning process to develop the Consolidated Plan involved citizen participation and guidance from non-profit and governmental agencies serving low income residents in the community; and

WHEREAS, the City Council of the City of Auburn heard and considered public comment about its proposed use of Community Development Block Grant funds and amendment to the 2016 Annual Action Plan; and

Resolution No. 5291
April 25, 2017
Page 1 of 2

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,
WASHINGTON, DOES HEREBY RESOLVE:

Section 1. The 2016 Annual Action Plan heretofore adopted by the City of Auburn City Council is amended to update the City's Consolidated Plan, consistent with the attached Exhibit "A", making approximately \$250,000 of CDBG funds available for projects that are consistent with federal regulations and with the objectives and policies of the Auburn Consolidated Housing and Community Development Plan, primarily to complete housing repair projects for low-income homeowners in Auburn and to conduct a Fair Housing analysis.

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

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

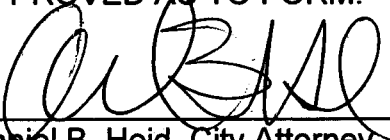
DATED and SIGNED this _____ day of _____, 2017.

Nancy Backus
Mayor

ATTEST:

Danielle Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Resolution No. 5291
April 25, 2017
Page 2 of 2

Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

Each year the City of Auburn executes specific actions to implement the goals and strategies of the Consolidated Plan for Years 2015-2019. Actions that will be undertaken in 2016 are outlined in this Annual Action Plan.

The City of Auburn received \$519,029 in Community Development Block Grant (CDBG) funds in 2016. The funds were allocated for the City's Housing Repair program (\$249,950), Public Service Activities (\$77,550), Economic Development (\$40,000), support of youth outreach (\$51,644), and general program management (\$100,000).

The City also had a total of \$300,XXX in unspent funds accumulated from prior years. The accumulation is due to projects that were unable to be completed.

The 2016 Action Plan Amendment proposes to reallocate \$261,552 of the accumulated funds to the update the City's Les Gove Park bathroom to make them ADA accessible and \$20,000 to the City's Housing Repair program.

The City of Auburn is committed to focusing more on achieving solutions to recurring social problems and achieve a greater collaboration among service providers.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

With the overall goal of reducing the number of people living in poverty within the City of Auburn, the following objectives for the 2016 Action Plan Amendment will be employed:

1. Rehabilitate housing occupied by low to moderate income persons.
2. Improve public facilities for a purpose that benefits all residents and at least 51% of those residents are low to moderate income.

Outcomes are as follows:

Annual Action Plan
2016

1

1. Increasing the affordability, accessibility and access to supportive services of affordable housing for low income Auburn residents.
2. Increase number Auburn residents using Les Gove Park services and activities.

To accomplish these outcomes and objectives, the City invests in programs that meet the community basic needs, increase self-sufficiency, provide opportunities to develop a safe community.

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

During the past year Auburn has accomplished significant achievement on its programs and impacted the lives of thousands of residents. In 2016 alone, projects funded by the City completed the following:

- Over 50 low income Auburn residents were able to avoid homelessness by providing maintenance to their deteriorating homes through the City's housing repair program.
- Over 200 low income Auburn residents avoided utilizing costly emergency healthcare services by receiving free medical and/or dental care.
- 12 low income small business owners received technical assistance to start or expand their small business in Auburn.

In the end of 2016 the Green River Small Business Assistance Center (economic development) notified the City that they were unable to meet their original deliverables detailed in their contract. Due to the unmet deliverables the City only awarded the amount for the services they were able to complete. The amount detailed in their original contract was \$40,000 for 27 small business owners. The City awarded \$20,000 for the 12 business owners they successfully provided services to.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

Notices of the Action Plan Amendment are sent out in the newspaper and public comment is made available at a City Council meeting. Review of the Amendment can be done per request of the City of Auburn's Human Services Manager.

Two public forums will be made available for the Annual Action Plan amendment. One prior to its approval and another after its approval Both public forums will be conducted at a City of Auburn Council Meeting that will be publicized in the City's vehicles of communication.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

6. Summary of comments or views not accepted and the reasons for not accepting them

7. Summary

Auburn residents along with stakeholders, community partners, service providers and others were consulted during the development of the Action Plan. They provided valuable input that supported to the development of the outcomes and objectives listed in the plan.

The City of Auburn will continue to use all of its funds to support residents of low/moderate income while maintaining a focus on underserved and special populations.

PR-05 Lead & Responsible Agencies - 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	AUBURN	
CDBG Administrator		
ESG Administrator		

Table 1 – Responsible Agencies

Narrative

Consolidated Plan Public Contact Information

Erica Azcueta, Human Services Manager

25 West Main Street, Auburn, WA 98001

eazcueta@auburnwa.gov 253-876-1965

AP-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

The City of Auburn consulted with local and regional public and private agencies during the development of the Action Plan Amendment. Agencies that participated in consultations included: the King County Department of Community and Human Services, and nonprofit agencies delivering services in Auburn and the subregion.

In addition to conducting consultations during the development of the plan, the City of Auburn collaborates and works closely with numerous coalitions, committees and government entities throughout the duration of the plan in efforts to enhance strategies and systems to meet established goals and objectives on the plan.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

The City of Auburn works closely with partnering King County jurisdictions, public housing authorities and health providers to develop systems in order to improve the quality of service and access for low-income residents as well as the community as a whole within the city and throughout the region. Additionally, the City participates in monthly meetings with King County Community and Human Services, Public Health King County, Valley Cities, the Multi-Service Center and King County Housing Authority to review program progress and delivery of services funded through regional efforts. This group has worked collaboratively to fund a full-time Homeless and Housing Planner to address needs and issues in the South King County region.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The City works closely with the King County CoC to ensure residents needs are being met and nonprofits delivering services have access to funds awarded through the CoC. The City also works closely with nonprofits in receipt of CoC funds including Auburn Youth Resources, King County YWCA and Valley Cities.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

All projects receiving CoC funding are required by HUD to apply for support through a local Continuum of Care. For King County, the Continuum of Care encompasses programs and activities within the borders of King County. Each continuum sets funding priorities and need for its community. The King County CoC priorities are set by All Home King County. Auburn staff contribute to the CoC by working collaboratively with All Home on efforts for King County to ensure coordination efforts between the two entities.

2. Agencies, groups, organizations and others who participated in the process and consultations

Table 2 – Agencies, groups, organizations who participated

1	Agency/Group/Organization	KING COUNTY
	Agency/Group/Organization Type	Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The City and King County meet regularly to discuss all CDBG related issues that impact our region. To improve coordination there have been more strategic systems put in place to increase communication and collaborative efforts.

Identify any Agency Types not consulted and provide rationale for not consulting

The City of Auburn consulted with all types of organizations that primarily serve the populations focused on in the Action Plan Amendment and implemented programs that addressed the greatest need in the community.

The only types of organizations not consulted with were corrections facilities and homeless shelters. The rationale for not consulting with these facilities is that the City does not host either type of organization in the region.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	King County	The goals of Auburn's Strategic Plan overlap with the goals of the CoC to address the needs of homeless residents in the community and reduce the risk of homelessness.

Table 3 - Other local / regional / federal planning efforts

Narrative

AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

Citizen participation plays a crucial role in the success of the City's Annual Action Plan. The goals are to hear the community's feedback and recommendations on how CDBG funds should be invested and how services can coordinate to achieve the greatest impact.

Citizens will be given two opportunities to participate in the process throughout the year. The first time will be prior to the submittal of the Amendment and the second will be after the Amendment is approved.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper Ad	Non-targeted/broad community		No comments were received.		
2	Public Meeting	Non-targeted/broad community				

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.420(b), 91.220(c) (1, 2)

Introduction

The City of Auburn anticipates funding for the duration of the Consolidated Plan from

- CDBG
- City of Auburn General Fund allocation for Community Services

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	529,029	0	277,808	806,837	1,587,427	
General Fund	public - local	Public Services	500,000	0	0	500,000	2,000,000	

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City of Auburn relies on CDBG funds to support community and economic development projects and activities in efforts to support low to moderate income populations become self-sufficient and sustain affordable housing. However, CDBG funds are not the only source of funds the City uses to support community projects and activities. The City's general funds are used to support community projects in addition to CDBG funds.

CDBG funds do not require matching funds.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

N/A

Discussion

The City of Auburn will use CDBG funds to support all eligible projects and activities that align with CDBG guidelines and regulations.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Ensure a Suitable Living Environment	2015	2019	Non-Housing Community Development		Homeless Prevention and Intervention Affordable Housing Development and Preservation	CDBG: \$66,664	Public service activities other than Low/Moderate Income Housing Benefit: 15 Persons Assisted Public service activities for Low/Moderate Income Housing Benefit: 55 Households Assisted
2	End Homelessness	2015	2019	Homeless		Homeless Prevention and Intervention	CDBG: \$62,500	Homelessness Prevention: 30 Persons Assisted
3	Ensure Decent, Affordable Housing	2015	2019	Affordable Housing Public Housing		Affordable Housing Development and Preservation Neighborhood Revitalization	CDBG: \$289,950	Public service activities other than Low/Moderate Income Housing Benefit: 30 Persons Assisted Homeowner Housing Rehabilitated: 55 Household Housing Unit
4	Planning and Administration	2015	2015	Planning and Administration			CDBG: \$100,000	

Table 6 - Goals Summary

Goal Descriptions

Annual Action Plan
2016

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1	Goal Name	Ensure a Suitable Living Environment
	Goal Description	
2	Goal Name	End Homelessness
	Goal Description	
3	Goal Name	Ensure Decent, Affordable Housing
	Goal Description	
4	Goal Name	Planning and Administration
	Goal Description	

Table 7 – Goal Descriptions

AP-35 Projects - 91.420, 91.220(d)

Introduction

Auburn's Annual Action Plan provides descriptions of proposals of how funds will be prioritized to achieve goals identified in the Consolidated Plan. Projects funded by the City will address the priority needs of providing assistance to prevent homelessness, ensure affordable housing and a suitable living environment. Projects and programs are selected through a competitive application process to ensure optimal quality services is provided to the community in use of the funds.

#	Project Name
1	HOUSING REPAIR
2	GRC SMALL BUSINESS ASSISTANCE CENTER
3	Les Gove Park Restroom Upgrade

Table 8 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocations proposed are based on the assessment of Auburn's needs, the resources available in the region, the availability of other funds also focusing on needs, and the purpose of Consolidated Plan funds.

Should CDBG revenues exceed the proposed amount, the additional resources shall be allocated in accordance to the following guidelines:

- Fill gaps in human services primarily healthcare, homeless prevention and intervention and affordable housing accessibility.
- Increase funding for physical development activities including housing, community facilities and economic development.

If increases are not significant enough to enhance projects or activities funds may be placed in contingency for programming later in the year or the following program year.

Should CDBG revenues come in lower than anticipated; the City will continue with its planned policy and to the extent allowed reduce funding allocations in physical development projects and administrative activities. Public service project funds will not be decreased.

Should CDBG revenues come in less than originally proposed, the City will continue managing the programs with decreased resources to the extent possible and reduce funding allocations in administrative activities and not public services.

If exceeded revenues are not significant enough to enhance or fund a project, funds may be placed in

contingency for programming later in the year or in the next program year.

AP-38 Project Summary

Project Summary Information

1	Project Name	HOUSING REPAIR
	Target Area	
	Goals Supported	Ensure a Suitable Living Environment
	Needs Addressed	Affordable Housing Development and Preservation Neighborhood Revitalization
	Funding	:
	Description	Maintain the affordability of decent housing for very low-income Auburn residents by providing repairs necessary to maintain suitable housing for low income Auburn homeowners.
	Target Date	12/29/2017
	Estimate the number and type of families that will benefit from the proposed activities	A minimum of 4 Auburn residents will benefit from the housing repair program.
	Location Description	Auburn city limits.
	Planned Activities	Minor home repairs and maintenance include but are not limited to: roof repair, ramp installation, furnace repair and replacement, plumbing, floor repair and weatherization.
2	Project Name	GRC SMALL BUSINESS ASSISTANCE CENTER
	Target Area	
	Goals Supported	Ensure a Suitable Living Environment
	Needs Addressed	Economic Opportunity

	Funding	CDBG: \$20,000
	Description	Create economic opportunities by providing the availability and access to counseling and training for approximately 12 Auburn residents who are either trying to sustain or create a small business and collectively generate jobs.
	Target Date	12/29/2017
	Estimate the number and type of families that will benefit from the proposed activities	12 Auburn residents will benefit from the proposed activity of Small Business Assistance.
	Location Description	1221 D Street NE Auburn, WA 98002
	Planned Activities	Provide counseling and technical assistance to low income Auburn residents who are small business owners looking to improve or expand their business as well as residents looking to start a small business in Auburn.
3	Project Name	Les Gove Park Restroom Upgrade
	Target Area	
	Goals Supported	Ensure a Suitable Living Environment
	Needs Addressed	Neighborhood Revitalization
	Funding	:
	Description	The City of Auburn Les Gove Park restroom has experienced significant deterioration over the years causing residents visiting the park to not feel safe using the restroom facilities. The Les Gove Park provides imperative programs and services to many of Auburn's low to moderate income residents. Ensuring all park facilities such as the restroom are safe and ADA compliant allow park staff to continue serving our residents and connect them with invaluable programs.
	Target Date	12/29/2017

	Estimate the number and type of families that will benefit from the proposed activities	The Les Gove Park hosts 80,000-90,000 visitors each year. All visitors of the Park and its facilities will benefit from the proposed activities with a specific benefit to those living with physical disabilities.
	Location Description	910 9th St. SE Auburn, WA 98002
	Planned Activities	Contain and stabilize project area using appropriate erosion control measures. Demolish and dispose of existing restroom building, and excavate project area to accommodate proposed building footprint. Upgrade existing water supply lines to accommodate the increase in restroom fixtures if necessary. Construct the new building using appropriate building materials based on today's construction materials. Install toilets, urinals and sinks based on design developed by project architect. Install landscape improvements to stabilize soils and to match existing landscaping in the vicinity of the project area.

AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The City of Auburn intends on distributing funds throughout the jurisdiction.

Geographic Distribution

Target Area	Percentage of Funds

Table 9 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

n/a

Discussion

Due to the fact that areas of low-income and minority concentrations are dispersed throughout all of Auburn, the City intends on investing throughout the entire jurisdiction to ensure that all populations throughout the region have access to beneficial programs and housing opportunities.

AP-85 Other Actions - 91.420, 91.220(k)

Introduction

The City of Auburn will continue to work with service providers throughout the region in coordination to develop systems and strategies to promote their efforts in providing optimal, easily accessible services. The City will work to reduce the number of families in poverty, sustain relationships with employment training agencies, and work to preserve the affordable housing stock in our community.

Actions planned to address obstacles to meeting underserved needs

By establishing a strong foundation of networks between local service providers, stakeholders and government agencies through committees and coalitions, the City will work in partnership to address obstacles and ameliorate barriers to meeting underserved needs. The collaborated organizations will develop detailed strategic plans that will delegate tasks, build systems and ongoing assessment of service delivery.

Actions planned to foster and maintain affordable housing

The City will continue to maintain the affordability of decent housing for low income Auburn residents by reallocating \$20,000 of CDBG funds to the City's Housing Repair Program. The program provides emergency repairs necessary to maintain safe housing for up to 55 Auburn homeowners, many of whom are senior citizens and/or are experiencing barriers safely accessing their homes due to physical disabilities or impairment.

In addition to Auburn's Housing Repair program, the City will maintain affordable housing by continuing to engage and partner with coalitions, committees and other government agencies to integrate and enhance efforts on the issue.

Actions planned to reduce lead-based paint hazards

The City of Auburn will continue to implement U.S. Department of Housing Urban Development (HUD) regulations to protect residents from lead-based paint hazards in housing that is financially assisted by the federal government. The requirements apply only to housing built prior to 1980, the year lead-based paint was banned nationwide for consumers.

Actions planned to reduce the number of poverty-level families

The City of Auburn's actions planned to reduce the number of poverty- level families include but are not

limited to:

- Allocating \$20,000 to the housing repair program
- Participate and partner with coalitions, committees and agencies that provide antipoverty services to develop and enhance strategies and efforts to reduce poverty level families

Actions planned to develop institutional structure

The City's planned actions to address the gaps and weaknesses identified in the strategic plan include:

- Maintaining partnerships with and participating in the South King County Homeless Coalition, the Committee to End Homelessness of King County and other regional human service providers, coalitions and committees who address homeless issues. The City will also continue to work collaboratively with partnering organizations and groups to integrate and enhance services to provide optimal services to individuals and families currently experiencing or at risk of homelessness.
- Continue to use the recommendations provided by the City's Homeless Task Force to address gaps in services to our homeless population and identify where resources can be leveraged to strengthen the safety net of supportive services available to our residents.

Actions planned to enhance coordination between public and private housing and social service agencies

The City of Auburn has heavily contributed and intends to continue cultivating relationships between public and private housing and social service agencies. In addition the City will continue to participate in collaborations with the South King County Homeless Forum, the South King County Council of Human Services, King County Housing Development Consortium and the Seattle-King County Joint Planners Meeting.

Discussion

The expressed goal of the City's Consolidated Plan is to reduce the number of people living in poverty within Auburn. The City intends to give funding priority to programs that in addition to complying with federal regulations and address a priority outlined in the Consolidated Plan are consistent with all of the goals and objectives identified.

Program Specific Requirements

AP-90 Program Specific Requirements - 91.420, 91.220(I)(1,2,4)

Introduction

The City of Auburn will use all CDBG funds to support projects and activities benefiting low and moderate income residents. The full allowable amount of funds will be used for Public Services and Planning and Administration with the remaining balance intended for housing rehab services and economic development.

Community Development Block Grant Program (CDBG) Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	0

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%

Discussion

The City of Auburn will continue to use all of its funds to support residents of low/moderate income while maintaining a focus on underserved and special populations.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5294

Date:

April 24, 2017

Department:

CD & PW

Attachments:

[Resolution No. 5294](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5294.

Background Summary:

Resolution No. 5294 authorizes the Mayor to accept a federal grant to be administered through the Washington State Department of Transportation (WSDOT) for Project No. CP1513, 22nd Street NE and I Street NE Intersection Improvements (Project). The \$940,000.00 federal grant will finance the construction of the project and requires a 20% (or \$235,000.00) local funding match.

The Project will improve the safety for drivers, pedestrians, and bicyclists crossing the intersection of 22nd Street NE and I Street NE by constructing a single lane roundabout in place of the existing all-way stop-control. The roundabout will reduce driver confusion and traffic delays compared with the current multilane all-way stop control. Pedestrians and cyclists will also be less exposed to traffic since crossing distances will be greatly reduced and median islands will allow them to cross the road one lane at a time and they will only have to look for vehicles coming from a single direction.

This Project will also reconfigure the existing storm drainage system in this intersection to accommodate the new intersection configuration, upsize the existing waterlines from 8-inches to 12-inches to accommodate future water demands, and replace the sewer service line to 901 22nd Street NE to reduce maintenance issues.

Construction of this Project is anticipated to begin in the summer of 2017.

Reviewed by Council Committees:

Councilmember:

Staff:

Snyder

Meeting Date: May 1, 2017

Item Number: RES.D

RESOLUTION NO. 5294

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO ACCEPT FEDERAL GRANT FUNDS TO BE ADMINISTERED THROUGH THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION FOR PROJECT NO. CP1513, 22ND STREET NE AND I STREET NE INTERSECTION

WHEREAS, the City of Auburn desires to improve safety and efficiency of the City's 22nd Street NE and I Street NE intersection; and

WHEREAS, the need for improvements at the 22nd Street NE and I Street NE intersection is recognized in Auburn's adopted Transportation Improvement Program; and

WHEREAS, completing the transportation improvement project will improve safety and efficiency of the 22nd Street NE and I Street NE intersection; and

WHEREAS, the City applied for and was awarded a Federal Highway Safety Improvement Program (HSIP) grant in the amount of \$940,000.00 to finance the construction of Project No. CP1513, 22nd Street NE and I Street NE Intersection Improvement project (20% local funding match required); and

WHEREAS, funding has been made available in the approved City budget to meet the local funding match requirements for the grant; and

Resolution No. 5294
April 19, 2017
Page 1

WHEREAS, it is in the best interest of the City to use grant monies to finance capital improvements to the transportation system.

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

Section 1. That the Mayor is hereby authorized to accept the federal grant for \$940,000.00 for Project No. CP1513, 22nd St NE and I Street NE Intersection Improvements. The Mayor is further hereby authorized to negotiate, finalize and execute the Local Agency Agreement between the City and the Washington State Department of Transportation for the constructing phase for the project, in substantial conformity with grant requirements and the agreement attached hereto, marked as Exhibit A and incorporated herein by this reference. The Mayor is further hereby authorized to negotiate, finalize and execute any further supplemental agreements consistent with project and grant requirements as may be necessary for any and all future phases for the Project, expending up to the total amount of the grant.

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

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Resolution No. 5294
April 19, 2017
Page 2

Dated and Signed this _____ day of _____, 2017.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:

Daniel B. Heid,
City Attorney

Resolution No. 5294
April 19, 2017
Page 3


**Washington State
Department of Transportation**

Agency City of Auburn

Address 25 West Main St
Auburn, WA 98001
Local Agency Agreement
CFDA No. 20.205

(Catalog or Federal Domestic Assistance)

Project No.**Agreement No.**

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name 22nd St NE and I St NE Roundabout

Length 350 feet

Termini Intersection of I St NE and 22nd St NE

Description of Work

The project will design and construct a modern roundabout at the 22nd St NE and I St NE intersection in place of the existing all-way stop control. The project will improve traffic operations, and will improve safety for non-motorized road-users and provide ADA accessibility.

Project Agreement End Date December 31, 2018

Proposed Advertisement Date May 30, 2017

Claiming Indirect Cost Rate

☐ Yes ☒ No

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE			
% a. Agency			
% b. Other			
Federal Aid Participation Ratio for PE			
c. Other			
d. State			
e. Total PE Cost Estimate (a+b+c+d)	\$ 0.00	\$ 0.00	\$ 0.00
Right of Way			
% f. Agency			
% g. Other			
Federal Aid Participation Ratio for RW			
h. Other			
i. State			
j. Total R/W Cost Estimate (f+g+h+i)	\$ 0.00	\$ 0.00	\$ 0.00
Construction			
20 % k. Contract	\$ 1,108,000.00	\$ 221,600.00	\$ 886,400.00
% l. Other Consultant	\$ 15,000.00	\$ 3,000.00	\$ 12,000.00
m. Other			
Federal Aid Participation Ratio for CN			
n. Other			
o. Agency	\$ 50,000.00	\$ 10,000.00	\$ 40,000.00
p. State	\$ 2,000.00	\$ 400.00	\$ 1,600.00
q. Total CN Cost Estimate (k+l+m+n+o+p)	\$ 1,175,000.00	\$ 235,000.00	\$ 940,000.00
r. Total Project Cost Estimate (e+j+q)	\$ 1,175,000.00	\$ 235,000.00	\$ 940,000.00

Agency Official

By

Title Nancy Backus, Mayor

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

✓ Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of hte federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

May 1 _____, 2017 _____, Resolution/Ordinance No. 5294

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

VICINITY MAP



Printed Date: 5/8/2014
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.

