

City Council Meeting

April 20, 2015 - 7:00 PM

Auburn City Hall

AGENDA

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[Watch the meeting video](#)

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

I. CALL TO ORDER

A. **Pledge of Allegiance**

B. **Roll Call**

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

A. 2014 Presidential Volunteer Service Awards

The President's Volunteer Service Award • The President's Volunteer Service Award recognizes United States citizens who have achieved the required number of hours of service over a 12-month time period or cumulative hours over the course of a lifetime. • The awards are offered in multiple levels and are designed to recognize each milestone of one's service achievement. Levels include bronze, silver, gold, and the highest honor, the President's Lifetime Achievement Award for those who contribute more than 4,000 hours of service in their lifetime. In 2014, 13 volunteers with Auburn Emergency Management volunteered in the community enough to reach one of the milestones. Volunteers receiving awards on behalf of Auburn Emergency Management at the Council meeting: • Darlene Aguiluz- Bronze Award with 172 hours • John Calnan- Bronze Award with 103 hours • Diane Costenbader- Silver Award with 354 hours • Jannette Douglas- Bronze Award with 166 hours • Kurtis Harstad- Silver Award with 57 hours • Richard Lundstrom- Bronze Award with 194 hours • Thomas Petrakis- Bronze Award with 124 hours • Dave Tate- Bronze Award with 105 hours.

In addition, Officer Jessica Smith will be in attendance for the deliverance of Laurie Watson's award as she dedicated numerous hours to the Auburn Police Department in addition to Emergency Management in 2014.

B. National Day of Prayer Proclamation

Mayor Backus to declare May 7, 2015 as National Day of Prayer in the City of Auburn

C. YMCA Healthy Kids Day

Mayor Backus to proclaim April 25, 2015 as "YMCA HEALTHY KIDS DAY" in the City of Auburn

III. APPOINTMENTS

IV. AGENDA MODIFICATIONS

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

A. **Public Hearings**

No public hearing is scheduled for this evening.

B. **Audience Participation**

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

C. **Correspondence**

There is no correspondence for Council review.

VI. **COUNCIL AD HOC COMMITTEE REPORTS**

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

VII. **CONSENT AGENDA**

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

A. **Minutes of the February 23, 2015 Study Session***

B. **Minutes of the April 6, 2015 City Council Meeting***

C. **Claims Vouchers (Coleman)**

Claims voucher numbers 433074 through 433314 in the amount of \$5,845,475.51 and dated April 20, 2015

D. **Payroll Vouchers (Coleman)**

Payroll check numbers 535471 through 535505 in the amount of \$903,516.96, electronic deposit transmissions in the amount of \$1,301,415.72 for a grand total of \$2,204,932.68 for the period covering April 02, 2015 to April 15, 2015.

E. **Public Works Project No. CP1219* (Snyder)**

City Council to award Contract No. 15-03, to Pacific Coast General LLC on their low bid of \$896,753.65 plus Washington State sales tax of \$85,191.60 for a total contract price of \$981,945.25 for Project No. CP1219, Valley AC Main Replacement

F. **Annual On-Call Amendment (Snyder)**

City Council to grant permission to enter into Amendment No. 2 to Consultant Agreement No. AG-C-446 with David Evans and Associates for On-Call Land Survey Services

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

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

X. ORDINANCES

A. Ordinance No. 6560 (First Reading)* (Snyder)

An Ordinance of the City Council of the City of Auburn, Washington, amending sections 18.04.031, 18.04.125, 18.04.249, 18.04.390, 18.04.440, 18.04.660, 18.04.835, 18.04.891, 18.07.020, and 18.31.130 of the Auburn City Code relating to Communal Residences

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6560.)

XI. RESOLUTIONS

A. Resolution No. 5142* (Hursh)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute an agreement between the City of Auburn and Longhorn Barbecue Outpost, INC for concessions at the Auburn Golf Course

(RECOMMENDED ACTION: City Council adopt Resolution No. 5142.)

XII. MAYOR AND COUNCILMEMBER REPORTS

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

A. From the Council

B. From the Mayor

XIII. ADJOURNMENT

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

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the February 23, 2015 Study Session

Date:

April 13, 2015

Department:

Administration

Attachments:

[Minutes](#)

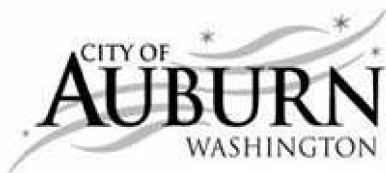
Budget Impact:

\$0

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

Meeting Date: April 20, 2015

Item Number: CA.A



**City Council Study Session
February 23, 2015 - 5:30 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

Deputy Mayor John Holman called the meeting to order at 5:30 p.m. in the Council Chambers at Auburn City Hall, 25 West Main Street in Auburn.

A. Roll Call

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

City officials and staff members present included: Mayor Nancy Backus, Community Development and Public Works Director Kevin Snyder, Utilities Engineering Manager Lisa Tobin, Assistant City Engineer Jacob Sweeting, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Water Utility Engineer Susan Fenhaus, Assistant Director of Community Development Services Jeff Tate, Urban Design Planner Lauren Flemister, Water Quality Programs Coordinator Chris Thorn, IT Customer Support Manager Reba Stowe, IT Operations Manager Ashley Riggs, Parks, Arts and Recreation Director Daryl Faber, Director of Administration Michael Hursh, Police Commander David Colglazier, Financial Planning Manager Bob Brooks, Emergency Preparedness Manager Sarah Miller, Assistant City Attorney Neil Wachter, and City Clerk Danielle Daskam.

II. AGENDA ITEMS FOR COUNCIL DISCUSSION

- A. Stormwater Management Program Update (10 minutes) (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, approving the 2015 Stormwater Management Program Plan and authorizing the Mayor to include a copy of the program plan in the National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit Annual Report for 2014 to the Washington State Department of Ecology

Water Quality Programs Coordinator Chris Thorn, along with Storm Drainage Engineer Tim Carlaw, presented a brief review of the Stormwater Management Program Plan. The Stormwater Management Program Plan and its annual update is a requirement of the City's National Pollutant Discharge Elimination System (NPDES) permit issued by the Washington State Department of Ecology. The Plan includes requirements for public participation and outreach, illicit discharge detection and elimination, controlling runoff from new development, redevelopment and construction sites, municipal operations and

maintenance, and compliance with total maximum daily load requirements and monitoring. The public comment period starts today with a public hearing on the Plan scheduled for March 16, 2015.

Mr. Thorn noted the Council agenda packet includes a copy of the Annual Report for 2014 for the NPDES permit. Mr. Thorn reviewed 2014's accomplishments and highlights of the 2015 Plan. The 2015 Plan provides for actively implementing new requirements of the NPDES permit and monitoring requirements, participation in stormwater outreach opportunities, providing stewardship opportunities, continuing a program to detect and remove illicit discharges and connections, mapping for stormwater utility asset management, and developing a stormwater management manual.

In response to a question from Councilmember Wagner, Mr. Thorn explained the NPDES permit requires inspection of 100 percent of catch basins during the first four years of the permit, and the goal is to inspect 25 percent of the catch basins annually. Councilmember Wagner questioned how the Plan looks to new technologies for stormwater treatment and management. Storm Utility Engineer Carlaw responded the City follows the new technologies approved by the Department of Ecology and through Washington State Department of Transportation. New technologies are applied through development review and in the Stormwater Management Manual for new development and redevelopment.

Councilmember Wales questioned the types of illicit discharges that could occur. Mr. Thorn explained examples of illicit discharges include the spill of vehicle fluids at an auto accident, paint dumped in a storm drain, and dumping of animal waste in the street. Illicit connections include an unauthorized piped discharge into the storm drainage system.

Councilmember Pelosa questioned whether pet waste stations should be installed at each city park.

Councilmember Osborne recommended the inclusion of a definition for pervious pavement in the definition and acronym section.

B. System Development Charges - Fee Update (30 minutes) (Snyder)

Assistant Director of Engineering Services/City Engineer Ingrid and Utilities Engineering Manager Lisa Tobin presented information on proposed changes to system development charges (SDCs) for utility services.

Manager Tobin explained some of the information was previously provided to committees in 2014. This evening's agenda packet includes a summary of previous discussions, the consultant's report from FCS Group, and a letter from the Master Builders Association.

SDCs are charges for new development to "buy in" to connect to existing utility systems. They are collected as part of the building permit

process. SDCs are for building new or expanded utilities to support current and future growth and development in the city (not for operations and maintenance). SDCs provide for intergenerational equity between existing and new customers for the cost of the utility systems. SDCs are based on the Capital Program costs of the existing and future utility systems for upgrade and expansion. The Capital Program is based on the Comprehensive Plans approved by the Council.

Manager Tobin reviewed the current system development charges for single-family residence: \$2,424.00 water SDC for 3/4 inch water meter, \$850.00 sewer SDC per Residential Customer Equivalent, and \$1,162.00 storm SDC per Equivalent Service Unit. The current SDCs have been in effect since 2006. The sewer SDC has not had a significant increase since 1996.

The City's consultant evaluated the City's SDCs by analyzing the value of the existing utility systems, the cost of necessary expansions and upgrades needed over the next 20 years based on a one percent growth rate, and proposed revisions to the SDCs based on existing value and future costs divided by existing and future customers.

Some of the major utility infrastructure projects (existing and future) include: purchase of water capacity from Tacoma Pipeline 5, building and improving wells and treatment facilities, expansion of Coal Creek and West Hill water supply facilities, identified the need for a new valley reservoir and water pump station expansions, need for new sewer and storm water interceptors and pump stations, and need for a new regional storm water improvements.

Staff recommends the SDCs should be updated because policy decisions made during comprehensive planning processes include identifying system expansion needs, system expansion costs change over time due to inflation and increased regulatory requirements, charges based on outdated costs and growth projections will not collect sufficient revenue for desired improvements or to meet level-of-service expectations, need to reflect new cost and growth projections to ensure future customers are paying their fair share of costs for the systems, and utility comprehensive plan policies state that "growth pays for growth".

The SDC evaluation considered multiple options to meet revenue needs. In 2014, the Public Works and Planning and Community Development Committees recommended implementing a full increase in 2015. Other options include adjusting 2006 rates only for inflation, phasing in the required increase over a three-year period, and phasing in the required increase over a five-year period.

The recommended SDC changes are (based on single family home):

Water SDC from existing \$2,424.00 to \$6,272.00

Sewer SDC from existing \$850.00 to \$2,327.00

Storm SDC no change to existing \$1,162.00 proposed

Councilmember Pelozo asked for information on the Metro costs as well.

Manager Tobin presented a comparison of SDC charges for surrounding utility providers. Auburn's existing water and sewer SDC charges are low by comparison. The proposed charges would increase Auburn's charges so that Auburn's rates are in the mid range of surrounding utility providers.

Manager Tobin reviewed the former Public Works and Planning and Community Development Committees' recommendations to: implement the full change in water and sewer SDCs in 2015, use the same SDC for 3/4 inch and one-inch meters for all water customers, storm SDC will remain unchanged in 2015, and base future annual increases for water, sewer and storm SDCs on Construction Cost Index (CCI) adjustments, but not less than 0% per year.

City Engineer Gaub reported the SDCs will be reviewed annually in the future. Manager Tobin reported the consultant's evaluation report contains a chart on the revenue generated under the three scenarios for implementing the new charges.

Councilmember Wagner spoke in favor of implementing the full increase in SDCs as proposed. Councilmembers Pelozo and Osborne concurred.

Manager Tobin stated an ordinance will be presented at the Council's regular meeting on March 16, 2015 for consideration.

C. Comprehensive Water Plan (30 minutes) (Snyder)

Water Utility Engineer Susan Fenhaus and Utilities Engineering Manager Lisa Tobin reviewed portions of the Comprehensive Water Plan, including Chapters 1, 10-12 and the Executive Summary.

Councilmembers reviewed the Executive Summary. In response to questions from Councilmembers, Engineer Fenhaus explained that Figure 6.4 represents the utility's ability to pump based on a maximum daily demand and also reflects the largest source or largest pump out of service. Councilmember Wagner suggested including all interties in the scenario when the largest source/pump is out of service.

Deputy Mayor Holman asked staff to perform a historical search of the policy to consider interties in determining the City's ability to pump.

There were no comments on Chapter 1, Introduction, of the Plan.

Councilmembers reviewed Chapter 10, Capital Improvements Plan, of the Plan. Engineer Fenhaus referred Council to pages 10-23 and 10-24, which set out the Capital Improvement Program.

Councilmember Osborne expressed concern with the amount spent on

emergency and backup power systems for wells and pump stations. Manager Tobin stated backup power systems are necessary to provide for public safety and for public health in the event of a major emergency.

Councilmembers briefly discussed cost estimates and planning level estimates.

Councilmembers reviewed Chapter 11, Financial. Engineer Fenhaus reported the chapter includes the current 2014 system development charges.

Councilmembers reviewed Chapter 12, Operations and Maintenance. Councilmember Wagner requested more details on the benefits of Automated Metering Infrastructure (AMI).

D. Public Works Project No. CP1412, Community Center Youth Center Conceptual Design Discussion (30 minutes) (Snyder)

The Community Center Youth Center presentation was provided immediately following Item III.A of these minutes.

Assistant City Engineer Jacob Sweeting and Stan Lokting, Principal Architect of ARC Architects, presented an update and the schematic design (30% design level) for the community and youth centers at Les Gove Community Campus. The scope of the project includes 21,000 square feet of space, of which approximately 7,000 square feet will be a remodel of the existing Parks administration building. Assistant City Engineer Sweeting reviewed the project schedule. Design is scheduled to be complete in June 2015 and bids solicited and awarded by August 2015. Construction is targeted to be complete in June 2016. The project budget is \$9 million.

Mr. Lokting reviewed the public outreach and engagement efforts with city officials and the community, which led to a series of guiding principles. Mr. Lokting reviewed the site plan, which was developed using a guiding concept to preserve open space by not building in the open areas east of the existing buildings. Mr. Lokting spoke regarding connections to the park and major primary indoor spaces to outdoor spaces adjacent to them. All of the new parking (69 spaces) will occur adjacent to the centers and buffers will be constructed to mitigate the impact on neighboring residences. Appropriate lighting will be installed for safety and wayfinding.

Mr. Lokting reviewed the floor plans for the youth center and community center. Mr. Lokting pointed out shared areas. The youth center includes multi-functional space intended for informal uses such as gathering, games and socializing as well as an arts classroom, computer lab, youth center staff offices and an entry and reception area.

Mr. Lokting stated the men's and women's restrooms are part of the shared area and will be updated. The kitchen will be remodeled and will serve as a teaching kitchen and a warming kitchen. There will be a

shared classroom between the two. The lobby serves as the connection between the youth center and the community center. The community center will include a reception desk that is adjacent to Parks staff. A lounge area with a fireplace looks out to a view of the park. The community center includes a fitness room, staff administration offices, support spaces and a multi-use space, and a 3,500 square foot multi-purpose room, which can accommodate 200 to 275 seated people for dinner or up to 500 unseated people. The large multi-purpose room can be divided into three separate rooms, with a storage room for each.

There was brief discussion regarding the size and operation of the kitchen and the number of fixtures in the restrooms.

Councilmember Wagner suggested eliminating the fireplace. Councilmember Osborne spoke in favor of retaining the fireplace.

Mr. Lokting reported the roof shape and walls allow for future installation of solar panels. HVAC will be standard roof-mount units that will meet the LEED certification requirements.

Councilmember Wagner requested an opportunity to discuss movable storage units with the design team.

In response to questions from Councilmember Wagner regarding potential future expansion of the facilities, Mr. Lokting stated another bay could be added to the east and would encroach in to the park and may get very close to the bocce courts.

E. Resolution No 5129 - Comprehensive Emergency Management Plan (15 minutes) (Hursh)

A Resolution of the City Council of the City of Auburn, Washington, adopting the City of Auburn Comprehensive Emergency Management Plan (CEMP)

Emergency Preparedness Manager Sarah Miller presented Resolution No. 5129 adopting the Comprehensive Emergency Management Plan (CEMP). By law, the City is required to update its plan every four years; the last Plan was adopted in 2009. The Plan serves as a City-wide guide to all disaster response, recovery, mitigation and planning efforts conducted by the City. The Plan follows the national standard.

Deputy Mayor Holman suggested an educational session where Manager Miller could brief the Council on the expectations of Council during a disaster event.

F. Resolution No. 5133 - Auburn Design Standards (10 minutes) (Snyder)

A Resolution of the City Council of the City of Auburn, Washington, amending the City of Auburn Design Standards for its Downtown Urban Center Zone

Assistant Director of Community Development Services Jeff Tate and Urban Design Planner Lauren Flemister presented Resolution No.

5133 amending the City's design standards for the Downtown Urban Center zoning district. The amendments eliminate awnings as a required design feature on downtown buildings in favor of allowing awnings as an optional feature with design guidelines.

The proposed amendments are in response to concerns expressed at the Business Summit. The language of the proposed standards provides guidance on how to achieve awning and canopy designs that enhance the attractiveness of downtown. The amendments clarify the purpose of awnings, lighting requirements for awnings, and materials and styles that are considered appropriate for downtown.

Planner Flemister stated a Façade Improvement Program will be implemented this year. Funding of \$200,000.00 has been budgeted for the program. The program details have not been finalized but may include grants, low-interest loans, in-kind contributions and cash contributions by business owners.

III. OTHER DISCUSSION ITEMS

Councilmember Wales reported the ad hoc committee on committees is expected to report on its activities at the March 23rd study session.

IV. ADJOURNMENT

There being no further discussion, the meeting adjourned at 7:41 p.m.

APPROVED this _____ day of _____, 2015.

NANCY BACKUS, MAYOR

Danielle Daskam, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the April 6, 2015 City Council Meeting

Date:

April 15, 2015

Department:

Administration

Attachments:

[Minutes](#)

Budget Impact:

\$0

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

Meeting Date: April 20, 2015

Item Number: CA.B



**City Council Meeting
April 6, 2015 - 7:00 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

A. Pledge of Allegiance

Deputy Mayor John Holman called the meeting to order at 7:00 p.m. in the Council Chambers located at Auburn City Hall, 25 West Main Street in Auburn and led those in attendance in the Pledge of Allegiance.

B. Roll Call

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

Department Directors and staff members present included: Community Development and Public Works Director Kevin Snyder, Parks, Arts and Recreation Director Daryl Faber, Innovation and Operations Manager Ashley Riggs, City Attorney Daniel B. Heid, Director of Administration Michael Hursh, Finance Director Shelley Coleman, Police Commander Mark Caillier, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Assistant Director Community Development Services Jeff Tate, Environmental Services Manager Chris Andersen, Community Services Assistant Emily Pearson, and City Clerk Danielle Daskam.

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

A. Pierce County Transit Presentation

Nancy Henderson, Pierce County Transit Commissioner, to present an update on Pierce Transit.

Dr. Nancy Henderson, Pierce Transit Commissioner and Steilacoom Town Councilmember, accompanied by Service Innovation Manager Tina Lee, updated the Council on the activities of Pierce Transit using a PowerPoint presentation. As a member of the Board of Commissioners for Pierce Transit, Commissioner Lee represents the cities of Auburn, Pacific, Ruston, Fircrest, Gig Harbor, and Steilacoom. Commissioner Henderson reviewed Pierce Transit's Strategic Plan and goals, operating revenues, service hours, demographics of customers, regional connections, sustainability efforts, and changes and projects on the horizon for Pierce Transit. Currently, the portion of the city serviced by Pierce Transit includes the Lakeland shuttle service.

Councilmember Osborne questioned the Pierce Transit fare box recovery rate of 14 percent while King County Metro reflects a 29 percent fare box recovery. Service Innovation Administrator Lee stated the overall fare box recovery rate for Pierce Transit is 17 percent, and Pierce Transit's goal is to increase fares to achieve 19 to 20 percent.

Councilmember Wales urged Pierce Transit to ensure the preservation of paratransit services. Councilmember Wagner agreed with Councilmember Wales' comments and added transit service should be evaluated on the social service it provides to the community.

B. Arbor Day Proclamation

Mayor Backus to proclaim April 16th 2015 as "Arbor Day" in the City of Auburn.

Deputy Mayor Holman read and presented the Mayor's proclamation declaring April 16, 2015, as Arbor Day in the city of Auburn to Parks, Arts and Recreation Director Daryl Faber. Director Faber announced City officials, along with volunteers from the Auburn Garden Club, Auburn Tree Board, Auburn Park Board, representatives from the state Department of Natural Resources and the Washington Community Forestry Council will be planting a Stewartia tree as part of the Arbor Day commemoration.

C. Volunteer Week Proclamation

Mayor Backus to proclaim April 12-18th, 2015 as Volunteer Week in the City of Auburn.

Deputy Mayor Holman read and presented the Mayor's proclamation declaring the month of April as Volunteer Month in the city of Auburn to Parks, Arts and Recreation Director Daryl Faber. Director Faber reported over 55,000 volunteer hours are provided in parks, police, and other departments. Director Faber reminded Auburn's largest community volunteer effort, Clean Sweep, will take place April 25, 2015.

III. APPOINTMENTS

There was no appointment for Council consideration.

IV. AGENDA MODIFICATIONS

There was no change to the agenda.

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

No public hearing was scheduled for this evening.

B. Audience Participation

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

Brock Snyder, 405xx 264th Avenue SE, Enumclaw. Mr. Snyder spoke regarding tent cities and homeless encampments. He requested the City change its laws to allow tent cities to provide a safe place for the homeless. Mr. Snyder stated he has worked with the SHARE and WHEEL organizations, which are self-organized groups of homeless and formerly homeless people. Mr. Snyder submitted written materials regarding SHARE and WHEEL.

Linda Redmond, 27xx 18th Street SE, Auburn. Ms. Redmond suggested the former Children's Home Society building at north Auburn be used for

homeless women and children. She submitted a written proposal in support of her comments.

C. Correspondence

There was no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

Councilmember Trout reported on behalf of the Council ad hoc committee on finance responsible for reviewing claims and payroll vouchers. Councilmember Trout reported she and Councilmember Wales reviewed claims vouchers in the amount of \$2,807,258.30 and two wire transfers in the amount of \$153,901.86 and payroll vouchers in the total amount of \$1,595,408.61. The committee recommends approval of claims and payroll vouchers as they appear on the agenda this evening.

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 March 16, 2015 City Council Meeting
- B. Claims Vouchers (Coleman)
Claims voucher numbers 432843 through 433073 in the amount of \$2,807,258.30 and two wire transfers in the amount of \$153,901.86 and dated April 6, 2015.
- C. Payroll Voucher (Coleman)
Payroll check numbers 535440 through 535470 in the amount of \$289,951.97, electronic deposit transmissions in the amount of \$1,305,456.64 for a grand total of \$1,595,408.61 for the period covering March 12, 2015 to April 01, 2015.
- D. Public Works Project No. CP1409 (Snyder)
City Council to approve Final Pay Estimate No. 1 to small works Contract No. 14-20 in the amount of \$95,019.02 and accept construction of Project No. CP1409, Oravetz PI SE Flooding Mitigation
- E. Public Works Project No. CP0765 (Snyder)
City Council to award Contract No. 15-04 to Paso Robles Tank, Inc. on their low bid of \$1,242,580.00 plus Washington State sales tax of \$118,045.10 for a total contract price of \$1,360,625.10 for Project No. CP0765, Lakeland Hills Reservoir 5 Improvements
- F. Public Works Project No. CP1308 (Snyder)
City Council to approve Change Order No. 3 in the amount of \$208,050.00 to Contract No. 14-04 for work on Project No. CP1308, BNSF Utility Crossings

Councilmember Pelosa moved and Councilmember Wales seconded to approve the Consent Agenda.

Councilmember Pelozo questioned Public Works Project No. CP0765, Lakeland Hills Reservoir 5 Improvements, particularly the portion of the contract for painting the mural on the reservoir. City Engineer Gaub explained the cost of coating the tank does not change whether there is a mural or not. The low bid for the mural on the tank is \$18,000.00.

Councilmember Wales spoke in favor of the cosmetic treatment to the reservoirs once they are coated. Councilmember Wales stated some tanks are very close to residential areas, and the mural is well worth the cost. City Engineer Gaub added part of the project includes the removal of trees too close to the tank, which will make the tank more visible to nearby residences.

Councilmember Pelozo suggested using the \$18,000.00 for a more beneficial purpose.

Councilmember Wagner spoke in favor of the mural on the reservoir stating \$18,000.00 of a total \$1,242,580.00 project is less than one percent of the project and is a good investment in improving the aesthetics of the reservoir.

Councilmember Trout concurred with Councilmember Wales' statement.

Councilmember DaCorsi spoke in favor of the project and the aesthetic value of the mural.

Councilmember DaCorsi questioned the lowest responsible bid at thirteen percent above the engineer's estimate. City Engineer Gaub stated the project is weather sensitive, and the City is requiring full containment of the reservoir during the coating and painting due to the proximity to homes. City Engineer Gaub stated the higher than anticipated cost of the project is largely due to the sensitivity to weather conditions and the need to get the project completed before the end of summer.

Councilmember Pelozo inquired regarding the dewatering for Project No. CP1308, BNSF Utility Crossings. City Engineer Gaub stated staff members were not able to get on the BNSF property to test the water conditions under the tracks during design. Once construction started, it was determined that additional dewatering, beyond the amount initially anticipated, was required for boring. Additional project costs include approximately \$200,000.00 for dewatering and additional flaggers required by BNSF during the project construction at about \$100,000.00.

Councilmember Pelozo requested the removal of Public Works Project CP0765 from the Consent Agenda to be considered separately.

MOTION TO APPROVE THE CONSENT AGENDA, WITH THE EXCEPTION OF PUBLIC WORKS PROJECT NO. CP0765 PASSED UNANIMOUSLY. 7-0

VIII. UNFINISHED BUSINESS

Councilmember Osborne moved and Councilmember DaCorsi seconded to approve the award of Public Works Project No. CP0765.

Councilmember Pelosa disagreed with spending \$18,000.00 for aesthetics when there are other needs in the city.

Councilmember Osborne spoke in favor of the motion and noted the residents of the neighborhood where the reservoir is located are in favor of the mural.

MOTION CARRIED. 6-1 Councilmember Pelosa voted no.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

- A. Ordinance No. 6558 (Second Reading) (Coleman)
An Ordinance of the City Council of the City of Auburn, Washington, amending Ordinance No. 6533, the 2015-2016 Biennial Budget Ordinance, authorizing amendment to the City of Auburn 2015-2016 Budget as set forth in Schedule "A" and Schedule "B"

MOTION TO ADOPT ORDINANCE NO. 6558 PASSED UNANIMOUSLY.
7-0

- B. Ordinance No. 6559 (First Reading) (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, approving the Final Plat of Mountain View North, PLT14-0009

Councilmember Osborne moved and Councilmember Wales seconded to adopt Ordinance No. 6559.

Councilmember Wagner moved and Councilmember Osborne seconded to suspend the rules and adopt Ordinance No. 6559 on first reading.

MOTION CARRIED UNANIMOUSLY. 7-0

XI. RESOLUTIONS

- A. Resolution No. 5135 (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a water service area boundary line agreement between the City of Auburn and the City of Bonney Lake

Councilmember Osborne moved and Councilmember Pelosa seconded to adopt Resolution No. 5135.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Resolution No. 5136 (Hursh)
A Resolution of the City Council of the City of Auburn, Washington, expressing support for King County Proposition No. 1 - the Emergency Public Safety Radio Network Replacement Project

King County Proposition No. 1
Regular Property Tax Levy for Emergency Public Safety Radio Network Replacement Project

The King County council passed Ordinance 17993 concerning funding for a new, upgraded regional emergency radio network. This proposition would provide funding to replace the current aging emergency radio network used for dispatching and communicating with police, fire and other first responders. The proposition would fund capital and transition costs as defined in Ordinance 17993 and would authorize King County to levy an additional regular property tax of \$0.07 per \$1,000 of assessed valuation for nine years with collection beginning in 2016. The 2015 levy amount would be used to compute limitations under Chapter 84.55 RCW for the eight succeeding years. Should this proposition be:

Approved
Rejected

City Attorney Heid read the title of Resolution No. 5136. City Attorney Heid noted the title of King County Proposition No. 1 appears on the agenda.

Deputy Mayor Holman invited anyone in the audience to speak for or against Resolution No. 5136. No one in the audience requested an opportunity to address the Council.

Councilmember Pelosa moved and Councilmember Trout seconded to adopt Resolution No. 5136.

Councilmember Wales spoke in favor of the resolution and the need for the levy to provide funding to replace the current emergency radio network.

Councilmember Pelosa spoke in support of the resolution and the proposed levy to replace the emergency public safety radio network.

Councilmember Trout spoke in favor of the resolution and the proposed levy.

Councilmember DaCorsi spoke in favor of the proposed levy and the need to replace the current emergency public safety radio network. The proposed levy equates to \$0.07 per \$1,000 of assessed valuation for a nine year period.

Councilmember Osborne stated the resolution expresses the Council support of King County Proposition No. 1, which will be on the ballot on April 28, 2015.

MOTION CARRIED UNANIMOUSLY. 7-0

- C. Resolution No. 5139 (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, to provide an address change for 35 City owned and operated park properties
Councilmember Osborne moved and Councilmember DaCorsi seconded to adopt Resolution No. 5139.

Parks, Arts and Recreation Director Faber reported that during the

preparation of the Parks, Recreation and Open Space Master Plan, it was discovered that several parks and facilities did not have addresses or were incorrectly addressed. The new addresses were reviewed by the City's Addressing Committee comprised of representatives of Valley Regional Fire Authority, Police, IT, Utility Billing and Traffic.

MOTION CARRIED UNANIMOUSLY. 7-0

- D. Resolution No. 5140 (Hursh)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a Human Services agreement between the City of Auburn and Public Health - Seattle & King County to fund the Auburn Public Health Center in 2015-2016

Councilmember Wales moved and Councilmember Osborne seconded to adopt Resolution No. 5140.

Councilmember Wales stated she believes funding for public health and the Auburn clinic should be the responsibility of Seattle-King County Public Health. However, she commended the partnership between, the City, neighboring cities, the business community, the Muckleshoot Tribe, and other partners to provide the funding needed to keep the Auburn health clinic and its satellites open for the next two years.

In response to a question from Councilmember Peloza, Director of Administration Hursh responded that the cities of Algona, Pacific, Enumclaw, Black Diamond, the Muckleshoot Indian Tribe and other private investors approved similar but separate funding agreements with Seattle-King County Public Health.

Councilmember DaCorsi commended Mayor Backus, Councilmembers, and customers of the Auburn clinic for a united effort to ensure the Auburn clinic would remain open to serve those in need.

Councilmember Wales stated she is working behind the scenes to ensure dedicated funding for the Auburn clinic. She expressed interest in receiving data on the amount of revenue the Auburn clinic generates. Director Hursh noted the agreement with Seattle-King County Public Health requires quarterly reports to the City.

Councilmember Wagner questioned home visit targets mentioned in Exhibit A of the agreement. Director Hursh explained the home visit targets are established based on previous years' experience and the expected growth or decline.

MOTION CARRIED UNANIMOUSLY. 7-0

- E. Resolution No. 5141 (Heid)
A Resolution of the City Council of the City of Auburn, Washington, selecting a Nominee to serve as a member of the Board of Commissioners for Pierce Transit

Councilmember Wagner moved and Councilmember DaCorsi seconded to adopt Resolution No. 5141.

Councilmember Wagner spoke in favor of Resolution No. 5141 and nominee Nancy Henderson, Councilmember from the Town of Steilacoom.

MOTION CARRIED UNANIMOUSLY. 7-0

XII. MAYOR AND COUNCILMEMBER REPORTS

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

A. From the Council

Councilmember DaCorsi reported on his attendance at the Regional Law, Safety and Justice Committee meeting where discussion items included restorative justice and compassionate policing. Councilmember DaCorsi also reported he participated in an Association of Washington Cities Legislative Priorities Committee meeting telephonically to discuss the excise tax on marijuana and revenue sharing.

Councilmember Wagner reported on his attendance at the Pierce County Regional Council meeting where the members discussed expansion of urban growth areas. Councilmember Wagner also reported he attended a meeting with the Muckleshoot Indian Tribe and the Sound Cities Association meeting.

Councilmember Pelosa reported on his attendance at the South King County Area Transportation Board meeting, the Auburn Airport Advisory Board meeting, and the King County Regional Policy Committee meeting.

Councilmember Trout reported she participated in a tour of the Valley Cities Counseling and Consultation facilities.

Deputy Mayor Holman announced King County Assessor Lloyd Hara will be holding a Town Hall meeting at Auburn City Hall on April 21st at 7:00 p.m. to discuss property values and the Assessor's Office new web tools.

Deputy Mayor Holman asked for a volunteer to serve on the ad hoc committee on finance. Appointments will rotate every six months. Councilmember Wales offered to continue to serve as chair of the ad hoc committee. Councilmember Trout announced she is stepping down to let another Councilmember serve on the ad hoc committee and so that each rotation is staggered for the two committee members. Councilmember Osborne offered to serve as the newest member of the ad hoc committee on finance.

B. From the Mayor

Mayor Backus was out of town and not in attendance at this meeting.

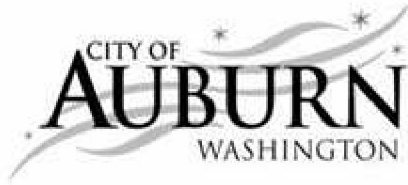
XIII. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 8:26 p.m.

APPROVED this 20th day of April, 2015.

NANCY BACKUS, MAYOR

Danielle Daskam, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

April 15, 2015

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

Approve claims vouchers.

Background Summary:

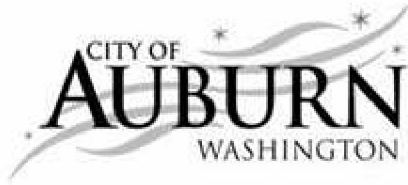
Claims voucher numbers 433074 through 433314 in the amount of \$5,845,475.51 and dated April 20, 2015

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

Coleman

Meeting Date: April 20, 2015

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

April 15, 2015

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

Approve payroll vouchers

Background Summary:

Payroll check numbers 535471 through 535505 in the amount of \$903,516.96, electronic deposit transmissions in the amount of \$1,301,415.72 for a grand total of \$2,204,932.68 for the period covering April 02, 2015 to April 15, 2015.

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

Coleman

Meeting Date: April 20, 2015

Item Number: CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1219

Date:

April 13, 2015

Department:

CD & PW

Attachments:

[Budget Status Sheet](#)

[Bid Tab Summary](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council award Contract No. 15-03, to Pacific Coast General LLC on their low bid of \$896,753.65 plus Washington State sales tax of \$85,191.60 for a total contract price of \$981,945.25 for Project No. CP1219, Valley AC Main Replacement.

Background Summary:

The City received 11 responsive bids and the low bid was approximately 3% below the engineer's estimate. Staff has performed reference checks and other verifications to determine that Pacific Coast General LLC meets the responsible bidding criteria and recommends award.

The purpose of the Valley AC Main Replacement project is to abandon 6-inch and 8-inch asbestos cement water mains along 49th Street NW / NE, 85th Avenue S, Auburn Way N, and B Street NW and replace them with 12-inch ductile iron water mains. The project also includes new water services to affected customers, associated pavement restoration, and all appurtenances.

Construction of the Valley AC Main Replacement project is expected to begin in May 2015 and be completed by October 2015.

A project budget contingency of \$141,683.00 remains in the 430 Water Fund.

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

Snyder

Meeting Date:

April 20, 2015

Item Number: CA.E

BUDGET STATUS SHEET

Project No: CP1219

Project Title: Valley AC Main Replacement

Project Manager: Joel Chalmers

Initiation Date: 6/3/13

Advertisement Date: 3/24/2015

Award Date: _____

- ☐ Project Initiation

☐ Permission to Advertise

☒ Contract Award

☐ Change Order Approval

☐ Carry Forward to 2015

Date: April 8, 2015

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

Funds Budgeted (Funds Available)

Funding	Prior Years	2014	2015	Future Years	Total
430 Fund - Water Repair and Replacement	42,828	62,118	1,363,628		1,468,574
Total	42,828	62,118	1,363,628	0	1,468,574

Estimated Cost (Funds Needed)

Activity	Prior Years	2014	2015	Future Years	Total
Design Engineering - City Costs	42,828	61,694	25,000		129,523
Construction Contract Bid			981,945		981,945
Authorized Contingency			100,000		100,000
Other - King County review/permits/inspection		424	25,000		25,424
Construction Engineering - City Costs			90,000		90,000
Total	42,828	62,118	1,221,945	0	1,326,892

430 Water Budget Status

	Prior Years	2014	2015	Future Years	Total
*430 Funds Budgeted ()	(42,828)	(62,118)	(1,363,628)	0	(1,468,574)
430 Funds Needed	42,828	62,118	1,221,945	0	1,326,892
*430 Fund Project Contingency ()	0	(0)	(141,683)	0	(141,683)
430 Funds Required	0	0	0	0	0

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

**BID TABULATION
BID TOTALS SUMMARY**

Project Name: CP1219, Valley AC Main Replacement, Contract 15-03

Prepared by: City of Auburn

Bid Date: 4/7/15

ENGINEER'S ESTIMATE:	\$	926,653.00			
AVERAGE BASIC BID AMOUNT:	\$	973,353.96			
BASIC BID SPREAD AMOUNT:	\$	221,056.35	Basic BID Amount	Spread \$	Spread %

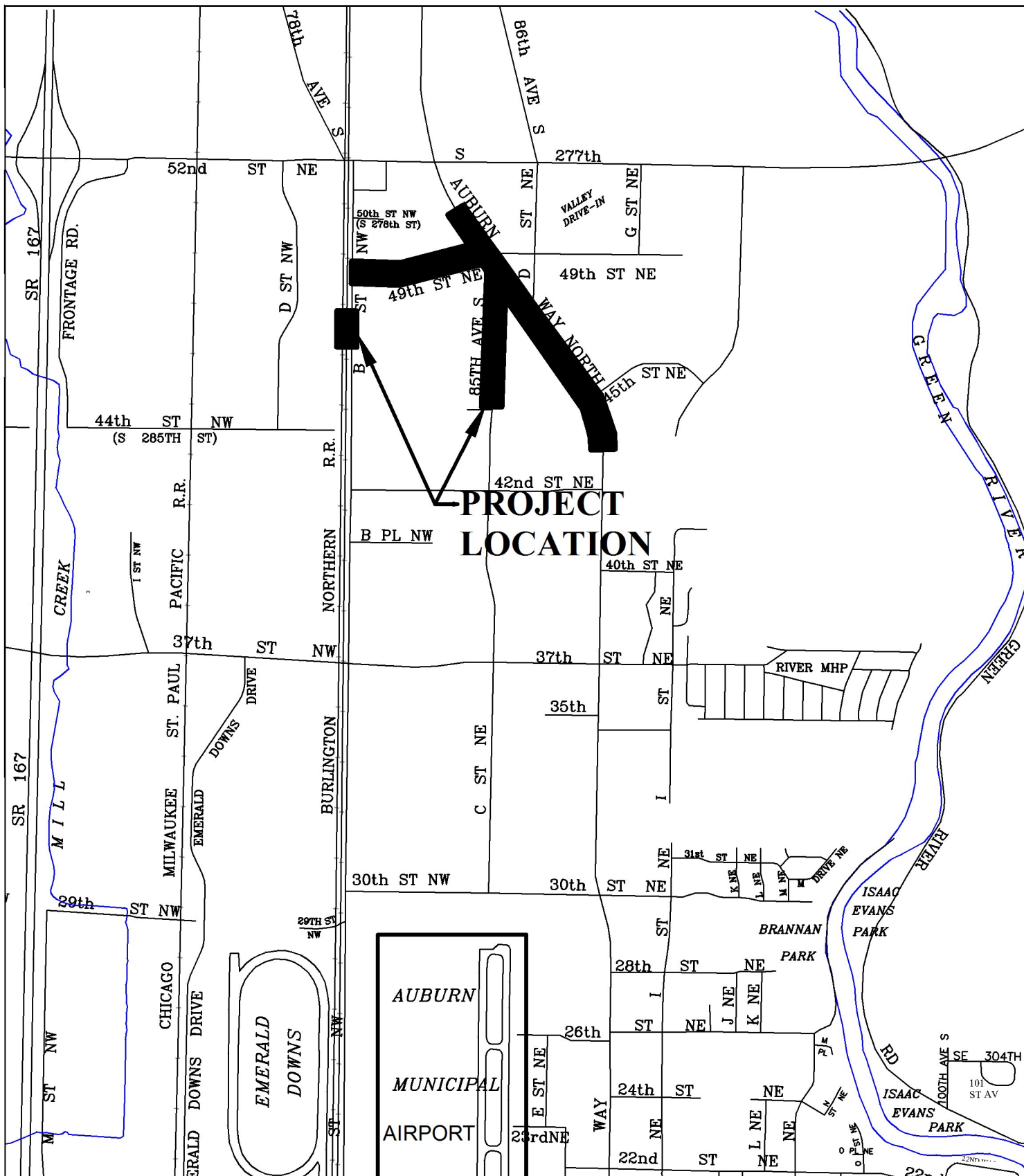
LOW BIDDER:	Pacific Coast General LLC	\$	896,753.65	-\$29,899.35	-3.23%
Second Bidder:	Pacific Civil & Infrastructure	\$	919,430.70	-\$7,222.30	-0.78%

	Basic BID (Tax not Included)		Total BID (Tax Included)	
Pacific Coast General LLC	\$	896,753.65	\$	981,945.25
Pacific Civil & Infrastructure, Inc.	\$	919,430.70	\$	1,006,776.62
Pape & Sons Construction	\$	932,613.20	\$	1,021,211.45
Stafford Excavating	\$	934,555.00	\$	1,023,337.73
Laser Underground & Earthworks, Inc.	\$	935,689.50	\$	1,024,580.00
R. L. Alia Company	\$	963,810.30	\$	1,055,372.28
Titan Earthworks	\$	965,737.75	\$	1,057,482.84
Northwest Cascade, Inc.	\$	979,751.00	\$	1,072,827.35
Kar-Vel Construction	\$	991,727.60	\$	1,085,941.72
Waunch Construction & Trucking	\$	1,069,014.81	\$	1,170,571.22
Stan Palmer Construction	\$	1,117,810.00	\$	1,224,001.95

NOTE: An evaluation of whether a bidder is responsible or non-responsible was only made for the low bidder. This does not indicate, one way or the other, how other bidders would be considered if they were the low bidder.

4/9/2015 (12:38 PM)

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AGENDA BILL APPROVAL FORM

Agenda Subject:

Annual On-Call Amendment

Date:

April 13, 2015

Department:

CD & PW

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

Council grant permission to enter into Amendment No. 2 to Consultant Agreement No. AG-C-446 with David Evans and Associates for On-Call Land Survey Services.

Background Summary:

The annual on-call agreements are used to supplement the City's staff resources or to perform specialized services not available within the City. Having these resources available provides the City with the flexibility to complete small tasks or projects in an efficient and timely manner as they are needed throughout the year.

In January 2014, the City entered into an annual on-call agreement with David Evans and Associates for Land Survey services in the total amount of \$30,000.00. On-call Land Survey Services work consists of performing topographic, design, construction and boundary surveys as necessary to supplement the City survey Crew. This on-call agreement was amended on December 16, 2014 to extend it through December 31, 2015.

At this time, the City has utilized David Evans and Associates to complete Land Survey tasks for a variety of projects and is nearing the maximum limit of \$30,000.00 in the original contract. It is anticipated that additional funds in the amount of \$60,000.00 are needed for 2015 to allow the City to continue to utilize David Evans and Associates to perform survey work to support capital projects. In particular, David Evans and Associates offers mobile mapping services that allows survey data to be collected on high traffic volume streets, such as Auburn Way, without the need for extensive and expensive traffic control. The total agreement "Not to Exceed" amount including the amendment will be \$90,000.00.

Reviewed by Council Committees:

Councilmember:

Staff:

Snyder

Meeting Date: April 20, 2015

Item Number: CA.F



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6560 (First Reading)

Date:

April 14, 2015

Department:

Community Development & Public Works

Attachments:

[Ordinance No. 6560](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6560

Background Summary:

On September 3, 2013, under Ordinance No. 6477, City Council accepted the Planning Commission's recommendation to adopt new rules that established regulations and procedures for the licensing of Communal Residences. These rules were adopted in large part because of an increase in the amount of shared student housing within non-owner occupied homes that are near Green River Community College. Ordinance No. 6477 established an effective date of January 1, 2014 in order to allow property owners ample opportunity to bring their property into compliance with the new rules. City staff prepared and mailed notification to all property owners on Lea Hill south of SE 304th Street.

On June 16, 2014 City Council enacted Resolution No. 5079 which established a one year moratorium on the acceptance and issuance of communal residence business licenses and permits. City Council took this action because it appeared as though the rules adopted under Ordinance No. 6477 did not fully address the issues and impacts of communal residence uses. In particular, the lack of an occupant limit, the ability of the conditional use permit process to be used to exceed 4 occupants, and the lack of integration that the communal residence standards has with other shared housing arrangements.

On March 3, 2015 staff presented a series of draft amendments to the Planning Commission that were intended to assist in lifting the moratorium and establish permanent communal residence licensing and use regulations. On March 17, 2015 the Planning Commission held a public hearing on the draft amendments. At the conclusion of the public hearing, the Planning Commission deliberated on the code changes and voted to make modifications to the staff recommendation and to

recommend that City Council adopt the amendments displayed in proposed Ordinance No. 6560.

Highlights of the draft amendments include:

1. Eliminating the ability to obtain a conditional use permit that allows more than 4 tenants which also has the effect of establishing a 4 tenant occupancy limit.
2. Require that one on-site parking space be designated for each tenant.
3. Clarify that other forms of defined group housing arrangements are not the same as a communal residence.
4. Clarify that a communal residence is a form of business activity.

Reviewed by Council Committees:

Other: Legal and Planning

Councilmember:

Staff: Snyder

Meeting Date: April 20, 2015

Item Number: ORD.A

ORDINANCE NO. 6 5 6 0

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 18.04.031, 18.04.125, 18.04.249, 18.04.390, 18.04.440, 18.04.660, 18.04.835, 18.04.891, 18.07.020, AND 18.31.130 OF THE AUBURN CITY CODE RELATING TO COMMUNAL RESIDENCES

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

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

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

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

WHEREAS, in order to give the City adequate time to fully consider all the options and

alternatives for appropriate regulations, and to fully investigate and review all of the factors involved in communal residence rental housing related uses, the City Council determined it had a need to impose a moratorium on accepting and processing applications for communal residence rental housing uses, until its review of needed regulations and the adoption and implementation of needed regulations can be completed; and

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

WHEREAS, consistent with the provisions of RCW 35A.63.220, on June 16, 2014, the City Council passed its Resolution No. 5079, implementing and establishing a moratorium on the acceptance or processing of applications for business licenses and other licenses, permits and approvals for communal residential rental housing; and

WHEREAS, since the passage of Resolution No. 5079, members of the Planning Department and other City staff have been working with the City of Auburn Planning Commission to evaluate, consider and propose amendments to the City Code to address communal residential rental housing; and

WHEREAS, on March 17, 2015, the City of Auburn Planning Commission held a public hearing to hear comments regarding communal residential rental housing, and following the public hearing and the receipt of comments and discussion related thereto, the Planning Commission moved to forward to the City Council its recommendations regarding communal residential rental housing, set forth herein below.

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

Section 1. AMENDMENT TO CITY CODE. That Section 18.04.031 of the City Code be, and the same is hereby amended to read as follows:

18.04.031 Adult family home.

"Adult family home" means a residential home licensed by the state in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. Adult Family Homes are not Communal Residences. (Ord. 6245 § 3, 2009.)

Section 2. AMENDMENT TO CITY CODE. That Section 18.04.125 of the City Code be, and the same is hereby amended to read as follows:

18.04.125 Assisted living facility.

"Assisted living facility" means a combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. An establishment with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential. An Assisted Living Facility is not a Communal Residence. (Ord. 6245 § 3, 2009; Ord. 6140 § 1, 2007.)

Section 3. AMENDMENT TO CITY CODE. That Section 18.04.249 of the City Code be, and the same is hereby amended to read as follows:

18.04.249 Communal residence.

"Communal residence" is a business where a dwelling unit, without an owner occupant, is rented to a group of unrelated individuals. Adult Family Homes, Foster Care Homes, Group Residence Facilities, Special Needs Housing, and Supportive Housing are not Communal Residences. (Ord. 6477 § 10, 2013.)

Section 4. AMENDMENT TO CITY CODE. That Section 18.04.390 of the City Code be, and the same is hereby amended to read as follows:

18.04.390 Foster care home.

"Foster care home" means a home which provides regular care for up to four developmentally disabled adults, or up to four adults who are recipients of state or federal financial assistance services, or up to four foster children under the age of 18, or up to three expectant mothers in a residential structure of the person or persons under whose direct care and supervision the people are placed. A Foster Care Home is not a Communal Residence. (Ord. 6245 § 3, 2009; Ord. 4229 § 2, 1987.)

Section 5. AMENDMENT TO CITY CODE. That Section 18.04.440 of the City Code be, and the same is hereby amended to read as follows:

18.04.440 Group residence facility.

“Group residence facility” means a facility licensed by the state and operated with full-time supervision for housing resident persons who, by reasons of their mental or physical disability, addiction to drugs or alcohol, or family and social adjustment problems, require a transitional nonmedical treatment program for rehabilitation and social readjustment. For the purposes of this title, a nonmedical treatment program consists of counseling, vocational guidance, training, group therapy and other similar rehabilitative services but does not include drug and/or alcohol detoxification. Monitoring the taking of prescription medication shall be permitted. The use of medication by any resident shall be incidental to that person’s residence in the facility and shall not be a criterion for residence in the facility. This definition does not include residential dwellings which meet all other requirements of this title, that provide programs related to this definition or which provide services of a nursing home as defined by ACC 18.04.660. A Group Residence Facility is not a Communal Residence. (Ord. 6245 § 3, 2009; Ord. 4590 § 2 (Exh. A), 1992; Ord. 4304 § 1(2), 1988; Ord. 4229 § 2, 1987.)

Section 6. AMENDMENT TO CITY CODE. That Section 18.04.660 of the City Code be, and the same is hereby amended to read as follows:

18.04.660 Nursing home.

“Nursing home,” “rest home,” “convalescent home,” “guest home” and “home for the aged” mean a home operated similarly to a boardinghouse but not restricted to any number of guests or guest rooms, the operator of which is licensed by the state or county to give special care and cure to his or her charges, and in which nursing, dietary and other personal services are furnished to convalescents, invalids and aged persons, and in which homes are performed no surgery, maternity or any other primary treatments such as customarily provided in hospitals, and in which no persons are kept or served who normally would be admitted to a mental hospital or to a group residence facility. This definition does not include group residence facilities as defined in this title. A Nursing Home is not a Communal Residence. (Ord. 6245 § 3, 2009; Ord. 4304 § 1(5), 1988; Ord. 4229 § 2, 1987.)

Section 7. AMENDMENT TO CITY CODE. That Section 18.04.835 of the City Code be, and the same is hereby amended to read as follows:

18.04.835 Special needs housing.

“Special needs housing” is housing that meets the definition of nursing home, group home, or other housing that meets the needs of special populations that need assistance or special accommodation in housing. See Chapter 18.49 ACC. Special Needs Housing is not a Communal Residence. (Ord. 6245 § 3, 2009.)

Section 8. AMENDMENT TO CITY CODE. That Section 18.04.891 of the City Code be, and the same is hereby amended to read as follows:

18.04.891 Supportive housing.

“Supportive housing” means a multiple-family dwelling owned or sponsored by a nonprofit corporation or government entity, designed for occupancy by individual adults that are either (A) homeless or at risk of homelessness; (B) are experiencing a disability that presents barriers to employment and housing stability; or (C) generally require structured supportive services to be successful living in the community; is permitted at a greater unit density than otherwise allowed within a particular zone; and is intended to provide long-term, rather than transitional, housing. Long-term housing is approximately longer than two years, whereas transitional housing is no more than two years. Supportive Housing is not a Communal Residence. (Ord. 6245 § 3, 2009; Ord. 6167 § 1, 2008.)

Section 9. AMENDMENT TO CITY CODE. That Section 18.07.020 of the City Code be, and the same is hereby amended to read as follows:

18.07.020 Uses.

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C =Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
A. Residential Uses.							
Accessory dwelling units	P	P	P	P	X ¹	X ¹	X ¹
Accessory use, residential	P	P	P	P	P	P	P
Adult family home	P	P	P	P	P	P	P

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C =Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Bed and breakfast	P	P	P	P	P	P	P
Communal residence four or less unrelated individuals	P	P	P	P	P	P	P
Duplexes; provided, that minimum lot size of zoning designation is met and subject to compliance with Chapter 18.25 ACC (Infill Residential Development Standards)	X	X	A	P	P	P	X
Foster care homes	P	P	P	P	P	P	P
Group residence facilities (7 or more residents)	X	X	X	X	C	C	C
Group residence facilities (6 or fewer residents)	P	P	P	P	P	P	P
Keeping household pets ⁴	P ²	P ²	P ²	P ²	P ²	P ²	P ²
Multiple-family dwellings	X	X	X	X	A	P	P
Neighborhood recreational buildings and facilities owned and managed by the neighborhood homeowners' association	A ⁶	A ⁶	A ⁶	A ⁶	A ⁶	P	P
Renting of rooms, for lodging purposes only, to accommodate not more than two persons in addition to the family or owner occupied unit ⁸	P	P	P	P	P	P	P
Residential care facilities including but not limited to assisted living facilities, convalescent homes, continuing care retirement facilities	P	P	X	X	A	P	P
Single-family detached dwellings, new	P	P	P	P	P	P	X
Supportive housing, subject to the provisions of ACC 18.31.160	X	X	X	X	X	P	P

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C =Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Swimming pools, tennis courts and similar outdoor recreation uses only accessory to residential or park uses	P	P	P	P	P	P	P
Townhouses (attached)	X	X	X	X	P	P	P
B. Commercial Uses.							
Commercial horse riding and bridle trails	A	X	X	X	X	X	X
Commercial retail, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
Daycare, limited to a mini daycare center. Daycare center, preschool or nursery school may also be permitted but must be located on an arterial	X	A	A	A	A	A	A
Home-based daycare as regulated by RCW 35.63.185 and through receipt of approved city business license	P	P	P	P	P	P	P
Home occupations subject to compliance with Chapter 18.60 ACC	P	P	P	P	P	P	P
Mixed-use development ³	X	X	X	X	P	P	P
Nursing homes	X	X	X	X	C	C	C
Private country clubs and golf courses, excluding driving ranges	X	X	C	C	C	X	X
Privately owned and operated parks and playgrounds and not homeowners' association-owned recreational area	X	A	A	A	A	P	P
Professional offices, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C =Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
C. Resource Uses.							
Agricultural enterprise: ⁶							
When 50 percent, or more, of the total site area is dedicated to active agricultural production during the growing season, and with 52 or less special events per calendar year	A ⁷	X	X	X	X	X	X
When less than 50 percent of the total site area is dedicated to active agricultural production during the growing season, or with more than 52 special events per calendar year	C ⁷	X	X	X	X	X	X
Agricultural type uses are permitted provided they are incidental and secondary to the single-family use:							
Agricultural crops and open field growing (commercial)	P	X	X	X	X	X	X
Barns, silos and related structures	P	X	X	X	X	X	X
Commercial greenhouses	P	X	X	X	X	X	X
Pasturing and grazing ⁴	P	X	X	X	X	X	X
Public and private stables ⁴	P	X	X	X	X	X	X
Roadside stands, for the sale of agricultural products raised on the premises. The stand cannot exceed 300 square feet in area and must meet the applicable setback requirements	P	X	X	X	X	X	X
Fish hatcheries	C	X	X	X	X	X	X
D. Government, Institutional, and Utility Uses.							
Civic, social and fraternal clubs	X	X	X	X	A	A	A
Government facilities	A	A	A	A	A	A	A

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C =Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Hospitals (except animal hospitals)	X	X	X	X	X	C	C
Municipal parks and playgrounds	A	P	P	P	P	P	P
Museums	X	X	X	A	A	A	
Religious institutions, less than one acre lot size	A	A	A	A	A	A	A
Religious institutions, one acre or larger lot size	C	C	C	C	C	C	C
Transmitting towers	C	C	C	C	C	C	C
Type 1-D Wireless Communication Facility (see ACC 18.04.912(J))	P	P	P	P	P	P	P
Utility facilities and substations	C ^b	C ^b	C ^b	C ^b	C ^b	C ^b	C ^b

1. An accessory dwelling unit may be permitted with an existing single-family residence pursuant to ACC 18.31.120.
2. Please see the supplemental development standards for animals in ACC 18.31.220.
3. Individual uses that make up a mixed-use development must be permitted within the zone. If a use making up part of a mixed-use development requires an administrative or conditional use permit, the individual use must apply for and receive the administrative or conditional use approval, as applicable.
4. Proximity of pasture or livestock roaming area to wells, surface waters, and aquifer recharge zones is regulated by the King or Pierce County board of health, and property owners shall comply with the provisions of the King County board of health code.
5. Excludes all public and private utility facilities addressed under ACC 18.02.040(E).
6. Administrative use permit not required when approved as part of a subdivision or binding site plan.
7. Agricultural enterprise uses are subject to supplemental development standards under ACC 18.31.210, Agricultural enterprises development standards.
8. An owner occupant that rents to more than two persons but no more than four persons is required to obtain a City of Auburn Rental Housing Business License and shall meet the standards of the International Property Maintenance Code.

(Ord. 6477 § 8, 2013; Ord. 6369 § 2, 2011; Ord. 6363 § 3, 2011; Ord. 6269 § 3, 2009; Ord. 6245 § 5, 2009.)

Section 10 AMENDMENT TO CITY CODE. That Section 18.31.130 of the City Code be, and the same is hereby amended to read as follows:

18.31.130 Communal residence standards.

A. Parking Requirements. There must be one off-street parking stall that meets City standards of ACC 18.52.050, 'Parking design, development, and maintenance standards' per tenant. The applicant must demonstrate that each off-site parking space is under their ownership. In condominium or townhouse communities the applicant can also provide legal documentation that demonstrates that they have exclusive use of a common area parking space. The city shall reduce the off-street parking requirement if the property owner provides and maintains a notarized affidavit signed separately by each tenant, certifying that a tenant does not own a vehicle or have control of a vehicle while at the residence. A copy of the affidavit must be provided to the City upon request.

B. Solid Waste Management Requirements.

1. ACC 8.08.070 requires all occupied communal residences to have minimum garbage service. The landlord is required to provide tenants with adequate garbage and recycle receptacles meeting the minimum garbage service level of this code section.

2. The landlord is responsible to provide each tenant with the solid waste collection schedule at the time of the tenant's initial occupancy and that schedule is to be posted within the unit.

C. Annual Inspection Required. An annual building inspection is required for a communal residence as part of the required initial issuance and annual renewal of the rental housing business license.

D. Occupancy limits.

1. International Property Maintenance Code occupancy requirements are applicable to a communal residence regardless of the number of individuals living in the residence.

2. The occupancy limit for a Communal Residence shall not exceed four (4) people.

(Ord. 6477 § 9, 2013; Ord. 6245 § 15, 2009.)

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

Section 12. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 13. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

FIRST READING: _____

SECOND READING: _____

PASSED: _____

APPROVED: _____

ATTEST:

NANCY BACKUS, MAYOR

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

PUBLISHED: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5142

Date:

April 15, 2015

Department:

Administration

Attachments:

[Res 5142](#)

Budget Impact:

\$0

Administrative Recommendation:

Approve Resolution No. 5142

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

Hursh

Meeting Date: April 20, 2015

Item Number: RES.A

RESOLUTION NO. 5 1 4 2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF AUBURN AND LONGHORN BARBECUE OUTPOST, INC FOR CONCESSIONS AT THE AUBURN GOLF COURSE

WHEREAS, the City of Auburn is the owner of the Auburn Golf Course located at 29630 Green River Road in Auburn, Washington; and

WHEREAS, the City of Auburn is the owner of the concession buildings located at the Auburn Golf Course; and

WHEREAS, the City has a need for concession services at the Auburn Golf Course and Longhorn Barbecue Outpost, Inc. has the ability to provide for those services at a cost that is acceptable to the City.

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

Section 1. The Mayor of the City of Auburn and the Auburn City Clerk are hereby authorized to execute an Agreement between the City of Auburn and Longhorn Barbecue Outpost, Inc. for concession services at the Auburn Golf Course which agreement shall be in substantial conformity with the Agreement a copy of which is attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

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

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

Dated and Signed this _____ day of _____, 2015.

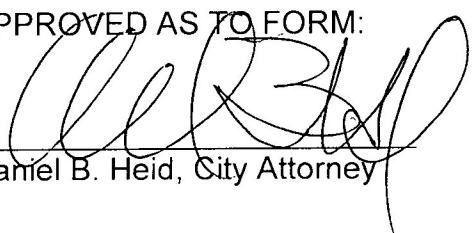
CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Resolution No. 5142
April 20, 2015
Page 2 of 2

AUBURN GOLF COURSE RESTAURANT CONCESSIONAIRE AGREEMENT

This Agreement ("Agreement") is entered into by and between the CITY OF AUBURN, a municipal corporation of the State of Washington (hereinafter referred to as the "City") and LONGHORN BARBECUE OUTPOST, INC. a Washington corporation (hereinafter referred to as the "Concessionaire").

WITNESSETH:

In consideration of the mutual promises, covenants and agreement contained herein, the parties hereby agree as follows:

I. CONCESSION RIGHTS GRANTED

The City hereby grants to the Concessionaire for the term and upon the conditions and provisions contained herein the exclusive restaurant, lounge, catering, and other food concession rights at the Auburn Golf Course located at 29630 Green River Road, Auburn, Washington, legally described in Exhibit A attached hereto and incorporated herein by reference. The facilities available to the Concessionaire to carry on all activities authorized in this Agreement shall be located within the Club House and shall hereinafter be referred to as the "Concession Areas" and shall include the use and control of spaces as set forth in and to the extent described in Exhibit "B" attached hereto and incorporated herein by reference, and shall include the Kitchen (Room 101), the Restaurant (Room 102), the Banquet/Meeting Room(s) (Room(s) 103 (A & B)) (subject to City reserved rights), the Storage Room (next to the Banquet/Meeting Room(s)) (Room 104) (subject to City reserved rights), the Outdoor Patio (adjacent to the Restaurant and the Banquet/Meeting Room(s)), and the North Screened Area (Room 117), as well as joint/shared use of the Banquet Room Hall (next to the Banquet/Meeting Room(s)) (Room 108), the Lobby (Room 109), the Men's Restroom (Room 110), the Women's Restroom (Room 111), the Hall (Restrooms) (Room 112), the Janitorial Room (Room 113), the Mechanical/Electrical Room (Room 114), the West Veranda - Main Entry (Room 115), and the North Veranda - Side Entry (Room 116), as such rooms are shown on the Architectural Floor Plan attached as Exhibit C attached hereto and incorporated by reference. Restaurant employees and customers may also use the Golf Course Club House Parking Lot.

In addition, the City grants the Concessionaire the exclusive right to operate one or more beverage/snack cart(s) ("Beverage Cart") on the golf course. The Beverage Cart may serve and sell alcoholic beverages, food items, and sundries. The Beverage Cart shall be operational on at least the following days: Friday through Sunday from April 1st through April 30th; seven (7) days per week from the first day of May through Labor Day; Friday through Sunday from the day after Labor Day through September 30th; provided, that the Beverage Cart need not be operational during inclement weather. The City shall provide gasoline and maintenance for the operation of the Beverage Cart, to be paid for by the Concessionaire. The City reserves the right, and

Concessionaire acknowledges the City's right, for the golf course pro shop to sell drip coffee, bottled water, prepackaged snacks, health bars, and candy bars. The City reserves the right and the Concessionaire acknowledges the City's right to sell breakfast items, such as, but not limited to bagels, donuts, and orange juice when the Concessionaire is not open or is scheduled to be closed for the breakfast period.

The City also grants the Concessionaire the right to schedule use the Auburn Golf Course Tent Area when such use will not conflict with use of the Tent Area by the Golf Course or the City.

II. TERM OF CONCESSION AGREEMENT & OPTIONS

This Agreement shall commence on the 1st day of May, 2015, and shall expire on the 30th day of April, 2022.

The Concessionaire shall also have the opportunity to extend the Concessionaire Agreement for two (2) five-year extensions in accordance with the terms and conditions as agreed to by the City and the Concessionaire in advance of each such extension.

III. CONCESSION FEES AND PAYMENTS

A. Beginning May 1, 2015 the Concessionaire shall pay to the City monthly Concession Fees of Five Thousand Dollars (\$5,000.00). Beginning May 1, 2016 the Concession Fees shall be increased to Five Thousand and Five Hundred Dollars (\$5,500.00) per month. Beginning May 1, 2017 the Concession Fees shall be increased to Six Thousand Dollars (\$6,000.00) per month. The total annual Concession payment during the first three years of the agreement include payment of the lease and leasehold excise tax. Effective May 1, 2018 the Concession Fees shall be adjusted annually effective May 1 hereafter, of each year, during the term of this Agreement, in accordance with the previous Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) June to June. In addition to the Concession Fees after May 1, 2018, the Concessionaire shall be responsible to pay a leasehold excise tax in lieu of payment of property tax on the underlying base Concession Fees, which tax is added thereto at a rate of 12.84%.

B. The City and Concessionaire shall pay for utility charges in accordance with the division of rooms/facilities set forth in Exhibit "B" of this Agreement. Utility charges include charges for water, sewer, electricity, Metro sewer utility, propane, garbage and recycling. The City shall provide phone services to the Concessionaire in accordance with the division set forth in said Exhibit "B." Additionally, the parties shall each be responsible for any CATV and Internet services provided to the rooms/facilities for which they are responsible in accordance with the division of rooms/facilities set forth in Exhibit "B" of this Agreement.

C. The Concession Fees and Leasehold Tax, and any other fees or payments to be paid by the Concessionaire to the City shall be delivered to the:

Finance Director
Auburn City Hall
25 West Main
Auburn, WA 98001

D. Any payments to utility companies or any third parties related to the operation of the Restaurant operations shall be paid when due and the accounts therefore shall be kept up to date.

IV. OPERATIONS AND SERVICE

A. The Concessionaire shall:

(1) Provide the number of personnel (in Concessionaire's sole, reasonable judgment) to adequately manage and staff the Restaurant portion of the Concession Areas. Personnel shall include a manager, whose principal employment responsibility shall be the management of this Restaurant and who shall spend a majority of his/her hours on site at the Restaurant.

(2) Prepare the application for, and assume responsibility for all costs and expenses of, the obtaining the appropriate license issued by the Washington State Liquor Control Board. Concessionaire shall abide by the rules and regulations of the Liquor Control Board relative to any such licenses. The City shall cooperate in the application including, without limitation, executing any reasonable, appropriate documents as "owner" of the Concession Areas that may be required in conjunction with such application.

(3) Provide complete food services, in compliance with all applicable health and food service regulations, during each day the City of Auburn Golf Course is in operation, including holidays and all weekends (except as agreed to by and between the parties); provided, that limited food service as reasonably approved by the City may be provided during the period(s) when remodeling and equipment installation is taking place. Food service shall not be limited at any other time without prior written approval of the City.

(4) Operate the Restaurant not less than ten (10) hours per day of operation, including being open and in operation between the hours of eleven o'clock (11:00) a.m. and nine o'clock (9:00) p.m. The Concessionaire shall work with the City to ensure that at all times that the Restaurant is open, the restrooms (Rooms 110 and 111), are to be open to the public.

(5) Keep the areas for which the Concessionaire is responsible under this Agreement open and use them to transact business with the public daily during hours designated by the Concessionaire. Holidays the Concession Areas may be closed are Christmas Eve, Christmas Day, New Year's Day, and Thanksgiving Day. Subject to

the approval of the City, the Concessionaire may, upon posting a written notice to the public of not less than one week, close the restaurant and lounge for a reasonable period of time for repairs or remodeling as authorized, for taking inventory, or to accommodate construction by the City of public improvements.

(6) Provide necessary advertising to publicize the Restaurant, Lounge and Banquet Room and establish an advertising program acceptable to and approved by the City's Director of Parks and Recreation Department or designee. The City shall not unreasonably withhold its approval of an advertising program proposed by the Concessionaire, provided it is in conformance with applicable laws and regulations, is generally accepted as advertising practices for similar business operations, and reflects community standards.

(7) The entire facility, including the outdoor patio, shall be smoke free.

(8) The City shall allow the Concessionaire to operate beverage/snack cart(s) ("Beverage Cart") on the golf course. The Beverage Cart may serve and sell alcoholic beverages, food items, and sundries. The Beverage Cart shall be operational on at least the following days: Friday through Sunday from April 1st through April 30th; seven (7) days per week from the first day of May through Labor Day; Friday through Sunday from the day after Labor Day through September 30th; provided, that the Beverage Cart need not be operational during inclement weather. The City shall provide gasoline and maintenance for the operation of the Beverage Cart to be paid for by the Concessionaire. The purchase of additional Beverage Carts will be the responsibility of the Concessionaire.

B. The Concessionaire shall establish all prices for goods and services provided by Concessionaire in the Concession Areas and Beverage Cart, subject to the right of the City to periodically review the price schedules for all food and beverages to ensure competitive pricing with other golf course concessions.

C. The Concessionaire may not subcontract all or any portion of the Concession Areas or Beverage Cart operations.

D. All signs (entry, interior, exterior) and graphics placed upon or affixed to any of the Concession Areas shall be subject to the prior written approval of the City. The Concessionaire shall submit detailed plans and secure any needed permits/approvals for all exterior and interior signs. In all cases, signage shall be consistent in size, color, lettering and theme to the clubhouse design and regular park signage and specifications, and in accordance all governmental regulations.

E. The Concessionaire shall use reasonable, good faith efforts to communicate to and coordinate with golf course management staff all reservations and "private" function activities in the Concession Areas so as to avoid unreasonable conflicts with golf course events and activities. If the Concession Areas and the golf course have both scheduled events that will need use of the parking lot, then the event

scheduled to begin first shall have priority for use of the parking lot - unless the City and the Concessionaire can reach an agreement on shared use for the events. Concessionaire shall maintain at all times readily accessible, up to-date scheduling records associated with the Restaurant and Banquet Room.

F. The following shall be excluded from the Concessionaire's operation:

(1) Non-food products unless approved by the City;

(2) Vending machines unless approved by the City, provided, however, that the Concessionaire shall be allowed to install and maintain one (1) Automated teller machine (ATM or cash machine) in the Concession Area, at a location approved by the City, and provided that the Concessionaire shall be responsible for making sure that the ATM/cash machine remains in proper working order (such that if the ATM/cash machine is not working , it shall be promptly repaired, replaced or removed); and

(3) Video games or gambling devices unless approved by the City.

V. RELATED RIGHTS

A. The City shall have the right at any time to establish necessary, reasonable rules and regulations in the use of the facility, grounds, golf course, and proximate areas provided that the City shall give thirty (30) days written notice to Concessionaire prior to imposing such rules and regulation. The rules and regulations may include, but are not limited to, general rules of conduct regarding use of the Restaurant, provided that such rules shall be consistent with the spirit of this Agreement and the operation of a first-class restaurant operation, and shall not materially increase Concessionaire's operating costs.

B. The City reserves the right to use the Banquet Room for ten (10) events annually, at no fee to the City. The City shall schedule such Banquet Room events in writing with Concessionaire not less than thirty (30) days prior to the planned event date and scheduling shall be subject to events scheduled by Concessionaire prior to receipt of the City's scheduling notice.

C. The City shall retain all rights to make improvements to the Club House building to enhance access or use. Prior to commencing any such improvements, the City shall give the Concessionaire not less than thirty (30) days prior written notice of the nature and schedule of such improvements in order for Concessionaire to review and comment on the proposed improvements. The City shall review and duly consider the comments of the Concessionaire and other relevant information prior to making a final decision regarding the completion of the improvements. The City shall use best efforts to minimize disruption, construction-related dust, and to otherwise not interfere with Concessionaire's operations in the Concession Areas. The City shall not unreasonably interfere with access to the Premises by Concessionaire, its employees, vendors, and customers.

VI. PRICES AND WEIGHTS

Concessionaire and its employees shall not make or permit any misrepresentation as to kind, quality, weight or price of food, beverages or merchandise offered for sale, nor refuse to sell the same, which have been displayed or advertised (except due to unavailability of the particular item or running out of stock).

VII. SECURITY SERVICES

Any electronic security measures of the Concessionaire Area shall be the responsibility of the Concessionaire.

VIII. CAPITAL IMPROVEMENTS

A. Any capital improvements or structural changes to the Golf Course Clubhouse building must be approved by the City in advance. The Concessionaire shall, prior to commencing formal planning for any facility alterations, improvements or construction (interior or exterior), submit to the City's Director of Parks, Arts and Recreation a concept proposal paper including preliminary sketches of such work. If approved by the Director of Parks, Arts and Recreation, the Concessionaire may then submit to the City in writing, formal plans for alterations, improvements, and construction along with a breakdown of costs for such improvements.

B. All plans submitted are subject to the approval of the City prior to commencement of any alteration, improvements or construction. The City agrees to promptly review said plans, and if the alterations, improvements, and construction are acceptable, to promptly approve the same, and the plans as approved shall be attached to an executed copy of this Agreement and incorporated herein.

C. All work performed shall be done to the satisfaction of the City and shall be carried out in a manner that minimizes impact upon the use of the golf course by the public. The Concessionaire shall be responsible for obtaining all governmental permits and meeting all code requirements and shall submit copies of the same to the City or its representative prior to commencing any construction on the Concession Areas.

D. The City may conduct inspections of any capital improvement work at any time to assure itself that such work is in accordance with the plans approved by the City. In the event any such work is not according to plans as then approved by the City, the City shall send a Notice of Non-Compliance to the Concessionaire. In the event the Concessionaire fails to make corrections within twenty (20) days after the Concessionaire's receipt of such Notice of Non-Compliance, the City may make whatever corrections necessary to bring such work into compliance with the plans as approved, and shall charge the Concessionaire for all reasonable costs of such corrective work.

E. All alterations, improvements, and construction shall become the property of the City upon termination or expiration of this Agreement and shall be installed solely at the Concessionaire's expense unless the City expressly agrees in writing to contribute toward the costs thereof. Notwithstanding any provision to the contrary contained herein, upon termination of this Agreement, Concessionaire shall have the right to de-identify the Concession Areas by removing all brand-identity elements such as proprietary signage, custom lighting, trade fixtures, and personal property related to the Concessionaire's restaurant brand. In addition, Concessionaire shall have the right to remove, upon expiration of this Agreement the items listed in Exhibit "D" hereto.

X. CUSTODIAL/MAINTENANCE

A. Concessionaire shall, at all times, maintain and keep the Concession Area and locations identified in Exhibit "B" as being the Concessionaire's responsibility, including the kitchen equipment, fixtures and plumbing (including but not limited to stoves, ovens, hood, water lines, sewer lines and grease trap), in a neat, clean, safe and sanitary condition, and in compliance with all applicable codes, standards of the restaurant industry and in accordance to the standards set forth in Exhibit "F" attached hereto and incorporated herein by reference. Concessionaire shall keep the glass of all windows and doors clean and presentable, furnish all cleaning supplies and materials needed to operate the Concession Areas in a manner prescribed in this Agreement, and provide all necessary janitorial services to adequately maintain Concession Areas. The City or a representative of the City may inspect the Concession Area at any reasonable times to ensure that the terms and conditions of this Agreement are being complied with.

B. Concessionaire shall be responsible for all maintenance in the Concession Areas and shall repair and replace all damage arising out of its use, or the use of its patrons, of the concession areas. The Concessionaire will perform all repairs and normal periodic maintenance and servicing as recommended by the manufacturer or as required by any local fire code, for the following: range hood duct work, exhaust fans, hood fire suppression system, and kitchen make-up air ductwork. Maintenance shall include scheduled cleaning and servicing (following manufacturer's recommendations), refinishing and painting of the interior of the Concession Areas specifically including the restaurant, lounge, kitchen, banquet room, and interior restrooms and patio areas. The City or a representative of the City may inspect the Concession Area at any reasonable times to ensure that the terms and conditions of this Agreement are being complied with.

C. The City shall maintain the building structure (including roof, structural elements, exterior walls, doors and windows), foundation, Heating Ventilation and Air Conditioning (HVAC) system (does not include kitchen range ventilation, make up air and exhaust system), electric power lighting panels and distribution circuits, plumbing system, including plumbing fixtures; provided, that any damages or repairs to any of the above-described building structures which are the result of the Concessionaire's negligent or intentional acts shall be the responsibility of the Concessionaire. The City

acknowledges that it is responsible for the construction and installation of the plumbing system, including the dishwasher drain and any grease traps. The City shall provide and maintain for the use of the Concessionaire, its patrons and employees, the parking lots on the golf course property, which shall be used in common with patrons of the golf course. To the extent reasonably necessary, the City shall endeavor to remove accumulations of snow and ice from the parking lot and from the walkways leading to the clubhouse.

D. The Concessionaire and the City shall each have a representative attend meetings as needed to discuss and resolve any maintenance problems or concerns.

XI. INSTALLATION OF EQUIPMENT

A. Concessionaire shall, at no expense to the City, install, on or by the date the Concession Areas are open to the public, the restaurant/lounge furnishings and kitchen equipment described on Exhibit "D" attached hereto and incorporated by reference. All such equipment shall remain the property of the Concessionaire under the conditions and provisions of this Agreement.

XII. HAZARDOUS SUBSTANCES

A. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material, which is or becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in affect pertaining to environmental protection, contamination, or cleanup (collectively, "Environmental Laws").

B. The Concessionaire shall keep in a location in the Concession Areas accessible to the City during normal business hours copies of all reports regarding hazardous or toxic materials in the Concession Areas that the Concessionaire has provided to any governmental agency in the previous quarter.

C. The Concessionaire shall, upon request and at the Concessionaire's sole expense, provide the City with a copy of any such report. In the event of any accident, spill, or other incident involving Hazardous Substances that the Concessionaire is required to report to any governmental agency, the Concessionaire shall immediately report the same to the City and supply the City with all information and reports with respect to the same, together with the Concessionaire's clean-up or remediation plan and schedule. If such clean-up or remediation plan is not acceptable to the City, the City may so notify the Concessionaire and, upon 48 hours prior written notice (or without notice if the City determines that an emergency situation exists) may enter on the Concession Areas to conduct the cleanup or remediation and charge the Concessionaire the costs thereof. All information described herein shall be provided to the City regardless of any claim by the Concessionaire that it is confidential or privileged, provided that the City shall not publish or disclose the information to any third party except as pursuant to Chapter 42.17 RCW.

D. Indemnification: The Concessionaire agrees to hold harmless, protect, indemnify, and defend the City from and against any damage, loss, claim, or liability; INCLUDING reasonable attorney's fees and costs; resulting from the Concessionaire's use, disposal, transportation, generation, and/or sale of any Hazardous Substances. The City agrees to hold harmless, protect, indemnify, and defend the Concessionaire from and against any damage, loss, claim, or liability, including attorney's fees and costs, resulting from (a) Hazardous Substances existing on the Concession Areas as of the date of execution of this Agreement; or (b) Hazardous Substances thereafter used, disposed of, or generated on the Concession Areas by the City; or (c) Hazardous Substances used, disposed of, or generated on the Concession Areas by any third party unrelated to the Concessionaire. These indemnities will survive the termination of this Agreement, whether by expiration of the Term or otherwise.

XIII. TERMINATION

A. The parties may terminate this Agreement by providing the other party with ninety (90) days written notice of termination.

B. The City may terminate this Agreement and take immediate possession of the Concession Areas in the event that the Concessionaire shall have failed to perform any of the covenants or conditions of this Agreement and such default or deficiency in performance was not remedied by the Concessionaire within thirty (30) days after receiving notice in writing stating with reasonable specificity the nature of the default or deficiency and the City's intention to terminate if not corrected; provided, however, that in the event of a default or deficiency that the City determines is of a nature requiring more than thirty (30) days to remedy, the Concessionaire shall not be in default so long as the City determines that the Concessionaire undertakes to remedy the default or deficiency within the 30 day period and thereafter diligently pursues completion of the remedy.

C. In addition, upon providing written notice to the Concessionaire, the City may immediately terminate this Agreement and take immediate possession of the Concession Areas in the event that the Concessionaire shall have been convicted of committing or engaging in or found to have committed or engaged in any illegal activity as a part of the concession operations, including the willful failure to pay all taxes and required fees, whether the finding is by a court of competent jurisdiction or by the City following due process and investigation separate and apart from any formal judicial process.

D. In the event that after termination or expiration of the term of this Agreement, as provided herein, the Concessionaire has not removed its property and fixtures within the time allowed under Article XIII E, the City may, but need not, remove said personal property and hold it for the owners thereof, or place the same in storage, all at the expense and risk of the owners thereof, and the Concessionaire shall reimburse the City for any expense incurred by the City in connection with such removal

and storage. The City shall have the right to sell such stored property, without notice to the Concessionaire, after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied first to the cost of such sale, second to the payment of the charges for storage, and the third to the payment of any other amounts which may then be due from the Concessionaire to the City, and the balance, if any, shall be paid to the Concessionaire. Notwithstanding any provision to the contrary contained herein, the City's and the Concessionaire's rights under this Article shall be subject to the applicable laws of the State of Washington.

E. Upon termination or expiration of the term of this Agreement, the Concessionaire shall remove all its goods, wares and merchandise from the Concession Areas and shall remove any equipment or fixtures placed therein by the Concessionaire pursuant to the terms of any written Agreement providing for removal by the Concessionaire upon expiration. The Concessionaire shall have twenty (20) days to complete removal of such property from the Concession Areas. The Concessionaire shall restore any areas damaged by the installation of fixtures or equipment to the condition of the area before installation occurred, reasonable wear and tear excepted. No fixtures or improvements or additions to the Concession Areas shall be removed unless previously agreed in this Agreement or a separate writing signed by both parties.

F. Upon termination or expiration of the term of this Agreement, the Concessionaire shall surrender the Concession Areas to the City and promptly surrender and deliver to the City all keys that it may have to any and all parts of the Concession Areas. The Concessionaire shall surrender the Concession Areas to the City in as good condition as at the date of execution of this Agreement, except for the effects of reasonable wear and tear, alterations and repairs made with the concurrence of the City, and property damage caused by risks insured against under fire, extended coverage and vandalism insurance in current practice.

XIV. STANDARDS OF CONDUCT

A. The Concessionaire recognizes that, although it is operating the concession facilities as an independent operator for profit, the City's Department of Parks, Arts and Recreation is organized and exists for the purpose of maintaining park and recreation facilities for the use and enjoyment of the general public. The Concessionaire and its employees will devote their best efforts toward rendering courteous service to the public as though the Concessionaire and its employees were employees of the City, with a view of adding to the enjoyment of the patrons of this recreational facility.

B. The Concessionaire shall operate and conduct the concessions in the Concession Areas in a business like manner, and will not permit any acts or conduct on the part of the Concessionaire's employees that would be detrimental to the City's image and operation of the golf course.

C. All of the Concessionaire's personnel shall be dressed in neat appearing attire, which shall include a standard uniform and shirt logo for the Concessionaire's personnel that shall uniquely identify a Concessionaire's employee but which shall not in any way infer association with or depict representation of the City.

XV. COMPLIANCE WITH LAWS

The Concessionaire, its officers, employees, and agents shall comply with applicable federal, state, county, and local laws, statutes, rules, regulations, and ordinances, in performing its obligations under this Agreement. Such compliance shall include abiding by all applicable federal, state and local policies to ensure equal employment opportunity based on ability and fitness to all persons regardless of race, creed, color, national origin, religion, sex, sexual orientation, marital status, families with children, physical handicaps or age. The Concessionaire shall comply with applicable laws, standards, and regulations pertaining to employment practices and employee treatment. Conditions of the Washington Industrial Safety and Health Act of 1973 (WISHA). The Concessionaire is also responsible for meeting all pertinent local, state and federal health and environmental regulations and standards applying to any operation in the performance of this Agreement. The Concessionaire agrees to indemnify and hold the City harmless from all damages assessed for the Concessionaire's failure to comply with the Acts and Standards issued thereunder.

XVI. PHOTOGRAPHS

Either party shall have the right without liability to the other to make photographs or motion pictures of the facilities, grounds, golf course, and proximate spaces, activity therein, and/or displays or exhibits.

XVII. ADDRESSES FOR NOTICES

Except for payments and Gross Receipt reports as directed by Article III D. above, any notice required or permitted hereunder must be in writing and will be effective upon the earlier of personal delivery or three days after being mailed by certified mail, return receipt requested, addressed to the Concessionaire or to the City at the address for that party designated herein. Either party may specify a different address for notice purposes by written notice to the other. All notices shall be delivered to the following addresses:

To the City at the following address:

Office of the Mayor/Administration
Auburn City Hall
25 West Main Street
Auburn, WA 98001

And to the Concessionaire at the following address:

With a copy to:

XVIII. ASSIGNMENT OF AGREEMENT

The City and the Concessionaire each agree to be bound to the other party in respect to all covenants, agreements, and obligations contained in this contract. Neither party shall assign the contract in part or as a whole, without the written consent of the other, which consent shall not be unreasonably withheld, conditioned or delayed. The Concessionaire shall not subcontract any of the Concession Areas, services, facilities, or equipment, or delegate any of its duties under this Agreement without the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed.

XIX. EQUALITY OF TREATMENT

A. The Concessionaire shall comply with all applicable Federal, State, County, and City laws, ordinances, rules and regulations regarding nondiscrimination and shall conduct its business in a manner which assures fair, equal and nondiscriminatory treatment at all times in all respects to all persons without regard to race, color, religion, sex, sexual orientation, disability or the use of a trained dog guide or service animal by a disabled person, age, or national origin. No person shall be refused service, be given discriminatory treatment, or be denied any privilege, use of facilities or participation in activities on the Concession Areas on account of race, color, creed, sexual orientation, marital status, families with children, disability or the use of a trained dog guide or service animal by a disabled person, religion, sex, age or national origin.

B. The Concessionaire shall comply with all applicable Federal, State, County, and City laws, ordinances, rules and regulations regarding nondiscrimination in employment and shall not discriminate in employment on the basis of creed, families with children, race, color, national origin, sex, sexual orientation, religion, age, marital status, or disability or the use of a trained dog guide or service animal by a disabled person, except for employment actions based on bona fide occupational qualification.

XX. CASUALTY TO OR DEMOLITION OF CONCESSION AREAS

The parties agree that the primary use of the premises is the operation of a golf course. Secondary to that use is the concession that is the subject to this Agreement. The parties recognize that some one or more of these uses may be interfered with or prevented because of fire, earthquake, flood, storm, landslide, act of war, vandalism, theft or other extraordinary casualty.

A. **Material Damage.** If the Concession Areas are rendered partially tenantable by fire or other insured casualty as determined by the City's Building Official, in consultation with the Concessionaire, and if the damage is repairable within ninety (90) days from the date of the occurrence, (with the repair work and preparations therefore to be done during regular working hours on regular work days), which repair time-frame shall be as determined by the City's Building Official, in consultation with the Concessionaire, the City shall repair the premises with due diligence, to the extent of the insurance proceeds available, and the monthly rent shall be abated in the proportion that the tenantable portion of the Concession Areas bears to the whole thereof for the period from the date of the casualty to the completion of the repairs; Provided that even if the premises are only partially damaged, if the portion that is damaged prevents the Concessionaire from being able to use the premises for Concessionaire's intended purposes, as determined by the Concessionaire, the Concessionaire shall be relieved from its obligations hereunder to the extent that the premises are so unable to be used..

B. **Total Destruction.** If the Concession Areas are completely destroyed by fire or other casualty, or if they are damaged by uninsured casualty, or by insured casualty to such an extent that the damage cannot be repaired within ninety (90) days of the occurrence, City shall have the option to restore the Concession Areas or terminate this Lease on thirty (30) days' written notice. If this Section becomes applicable, the City shall advise Concessionaire within thirty (30) days after the City learns of such casualty whether the City elects to restore the Concession Areas and, if so, shall commence and prosecute the restoration work with diligence. For the period from the date of the casualty until completion of the repairs (or the date of termination of the Lease, if the City elects not to restore the premises), the monthly rent shall be abated.

C. **Uninsured Damage.** In addition, the Concessionaire has the right to terminate this Agreement if damage or destruction is caused by a peril not required to be insured against hereunder and for which insurance proceeds are not available. If insurance is unavailable either the City or the Concessionaire may terminate this Agreement by thirty (30) days written notice to the other of its election so to do and the Agreement shall be deemed to have terminated as of such date unless the other party agrees in writing to pay for such repairs or restoration.

XXI. NO LIENS OR ENCUMBRANCES

It is mutually understood and agreed that the Concessionaire shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or

nature whatsoever upon, or in any manner to bind, the interest of the City in the Concession Areas or to charge the rentals payable hereunder for any claim in favor of any person dealing with the Concessionaire, including those who may furnish materials or perform labor for any construction or repairs, and each such claim shall affect and each such lien shall attach to, if at all, only the right and interest granted to the Concessionaire by this Agreement. If any such liens are filed, the City may, without waiving its rights and remedies for breach, and without releasing the Concessionaire from its obligations hereunder, require the Concessionaire to post security in form and amount reasonably satisfactory to the City or cause such liens to be released by any means the City deems proper, including payment in satisfaction of the claim giving rise to the lien. The Concessionaire shall pay to the City upon demand any sum paid by the City to remove the liens. Further, the Concessionaire agrees that it will save and hold the City harmless from any and all loss, cost, or expenses based on or arising out of the asserted claims or liens, against this Agreement or against the right, title, and interest of the City in the Concession Areas or under the terms of this Agreement, including reasonable attorney's fees and costs incurred by the City in removing such liens, and in enforcing this Article. Additionally, it is mutually understood and agreed that this Article is intended to be a continuing provision applicable to future repairs and improvements after the initial construction phase.

XXII. INSURANCE

A. Fire, Earthquake, & Casualty Insurance: During the term of this Agreement and any extension thereof, the City shall maintain a property insurance policy on the Auburn Golf Course building in the amount of the replacement cost of the building, including the restrooms, hallways and common areas, for damage from fire, earthquake and other perils. Said insurance policy shall also insure the replacement value of the City's kitchen equipment, fixtures and other equipment provided or owned by the City and tenant improvements provided by the Concessionaire pursuant to this Agreement.

The Concessionaire shall be responsible for maintaining its own fire and hazard insurance on Concessionaire owned personal property placed within the Premises. All personal property of any kind or description whatsoever in the Concession Areas shall be at the Concessionaire's sole risk, and the City shall not be liable for any damage done to, or loss of, such personal property.

B. Liability Insurance: Not less than thirty (30) days prior to the date of the Concessionaire's entry onto the Concession Areas, the Concessionaire, at its own expense shall obtain and file with the City's Director of Risk Management a Certificate of Insurance evidencing commercial general liability insurance coverage ("CGL") providing coverage of at least one million (\$1,000,000.00) per occurrence and two million (\$2,000,000.00) general aggregate. The Commercial General Liability insurance shall include either by endorsement or a stand-alone policy, liquor liability in an amount not less than one million dollars (\$1,000,000.00) per occurrence and one million (\$1,000,000.00) aggregate.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises, products/completed operations, broad form property damage, independent contractors, personal injury/advertising liability, and contractual liability. The City shall be named as a named insured on the Concessionaire's Commercial General Liability insurance policy. This Certificate of Insurance and a copy of the amendatory endorsement, including, but not necessarily limited to, the named insured endorsement, evidencing the insurance requirements of the Concessionaire shall be subject to approval by the City's Director of Risk Management as to company, terms and coverage, and said approval shall not be unreasonably withheld.

The CGL policy shall remain in full force and effect at the Concessionaire's sole expense for liability for property damage or personal injury that may occur in connection with activities or omissions by the Concessionaire or its patrons, and provide coverage for the full term of this Agreement. The Concessionaire shall insure that the City is given thirty (30) calendar days prior written notice, by certified mail, of any cancellation, lapse, reduction or modification of such insurance. The insurance policies are to contain, or be endorsed to contain that The Concessionaire's insurance coverage shall be primary insurance as respect to the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Concessionaire's insurance and shall not contribute to it. The Concessionaire shall have the right to maintain a deductible level of up to \$5,000.00.

C. Release and Waiver of Subrogation: Any policy of insurance carried by either the City or the Concessionaire pursuant to any obligation under this Agreement, shall, to the extent available, contain a waiver of subrogation clause on the part of the insurer. Such waiver shall apply to damages to adjacent property. Notwithstanding any other provision of this Agreement, neither the City nor the Concessionaire shall be liable to the other party or to any insurance company (by subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or tangible personal property of the other occurring in or about the Concession Areas, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if such loss or damage is covered by insurance issued by an insurance carrier authorized or licensed by the Insurance Commissioner of the State of Washington to issue lines of insurance, benefiting the party suffering such loss or damage or was required under the terms of this Agreement to be covered by insurance by the party covering the loss.

XXIII. HOLD HARMLESS, INDEMNIFICATION, & INDUSTRIAL INSURANCE

A. Hold Harmless & Indemnification: Each party hereto agrees to be responsible and assumes liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the fullest extent required by law. Each party agrees to indemnify, defend, and hold the other party harmless against all liability, loss, damages, and expenses, including costs and attorney's fees, resulting from actions, claims and lawsuits arising or alleged to have arisen, in whole or in part, out of

or in consequence of the acts or failures to act of the other party, its employees, its subcontractors, its agents, or its assigns, which arise in any way out of the performance of this Agreement. In the case of negligence of both the City and the Concessionaire, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in proportion to the percentage of negligence attributable to the other party.

B. Industrial Insurance: The Concessionaire expressly waives any immunity under industrial insurance whether arising from Title 51 of the Revised Code of Washington (RCW) or any other statute or source, to the extent of the indemnity set forth in this Article.

The City expressly waives any immunity under industrial insurance whether arising from Title 51 of the Revised Code of Washington or any other statute or source, to the extent of the indemnity set forth in this Article.

Extent of Indemnification: In no event shall the Concessionaire's obligations hereunder be limited to the extent of any insurance available to it.

XXIV. RELATIONSHIP OF PARTIES

A. Concessionaire Independent Contractor: The parties intend that an independent contractor relationship shall be created by this Agreement. Nothing contained herein shall create the relationship of principal and agent or of partnership or of joint venture between the parties hereto, and neither the method of computation of consideration nor any other provision contained herein shall be deemed to create any relationship between the parties hereto other than the relationship of the City as granting a concession to the Concessionaire. The Concessionaire has the experience, ability, and resources to develop and operate restaurant facility and is performing independent functions and responsibilities within its field of expertise. The Concessionaire and its personnel are independent contractors and not employees of the City. No agent, employee, servant, or representative of the Concessionaire shall be deemed to be an employee, agent, servant or representative of the City. The Concessionaire and its personnel have no authority to bind the City or to control the City's employees. As an independent contractor, the Concessionaire is responsible for its own management. The City's administration and enforcement of this Agreement shall not be deemed an exercise of managerial control over the Concessionaire or the Concessionaire's personnel.

B. No Third Party Rights Created: It is mutually understood and agreed that this Agreement is solely for the benefit of the PARTIES hereto and gives no right to any other party.

XXV. PERMITS, LICENSES, TAXES AND FEES

A. The Concessionaire shall obtain and at all times maintain a current Auburn Business License and shall obtain all liquor, health, and all other regulatory licenses and permits as may be required or become necessary, including all construction and building permits, necessary to fulfill the Concessionaire's obligations under this Agreement at the Concessionaire's sole expense. Each party agrees to execute such additional or other documents as may be required to fully implement the intent of this Agreement.

B. As an independent contractor, the Concessionaire shall be solely responsible for all taxes, fees and charges incurred, including but not limited to license fees, business and occupation taxes, workers' compensation and unemployment benefits, all federal, state, regional, county and local taxes and fees, including income taxes, leaseholder taxes, permit fees, operating fees, surcharges of any kind that apply to any and all persons, facilities, property, income, equipment, materials, supplies or activities related to the Concessionaire's obligations under this Agreement.

XXVI. WAIVER

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. No waiver of any right or obligation of either party hereto shall be effective unless in writing, specifying such waiver, executed by the party against whom such waiver is sought to be enforced. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

XXVII. ADVERTISING

The Concessionaire shall submit for the City's approval, not to be unreasonably withheld, all advertisements for commercial vendors related to the concession operation.

XXVIII. REMEDIES

In addition to all other remedies provided by law, the parties hereto agree that the actual damages suffered by the City may be difficult to calculate and, in the event of the abandonment of the premises by the Concessionaire or entry by the City because of breach or default by the Concessionaire, the Concessionaire shall leave behind all of the Tenant Improvements identified in Exhibit "D" except for items numbered one (1) through five (5) which shall remain with the Concessionaire.

XXIX. COSTS & ATTORNEY'S FEES

In any action brought to enforce any provision of this Agreement, including actions to recover sums due or for the breach of any covenant or condition of this Agreement, or for the restitution of the Concession Areas to the City or eviction of the Concessionaire during the term or after expiration thereof, the substantially prevailing

party shall be entitled to recover from the other party all reasonable costs and reasonable attorney's fees incurred, including the fees of accountants, appraisers, and other professionals, at trial or on appeal, and without resort to suit.

XXX. ARTICLE HEADINGS, GENDER, & NUMBER

Article headings are not to be construed as binding provisions of this concession; they are for the convenience of the parties only. The masculine, feminine, singular and plural of any word or words shall be deemed to include and refer to the gender and number appropriate in the context.

XXXI. ENTIRE AGREEMENT

This Agreement and its Exhibits constitutes the entire agreement between the parties, and the Parties acknowledge that there are no other agreements, written or oral, that have not been set forth in the text of this Agreement.

XXXII. CHOICE OF LAW & VENUE

This Agreement shall be interpreted according to the laws of the State of Washington. Any judicial action to resolve disputes arising out of this Agreement shall be brought in King County Superior Court.

XXXIII. ARBITRATION

Any controversy or claim arising out of or relating to this Agreement, or its breach, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules then in effect. The decision of the arbitrator(s) is final and judgment thereon may be enforced by any court of competent jurisdiction. Notwithstanding the foregoing, either party may seek injunctive relief in Washington state court.

XXXIV. MODIFICATION

This Agreement may only be modified by written instrument signed by both parties.

XXXV. ILLEGAL PROVISIONS - SEVERABILITY

Should any part of this Agreement be found void, illegal, or unenforceable, the balance of the Agreement shall remain in full force and effect.

XXXVI. COUNTERPARTS

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XXXVII. RECORDING

Upon the execution of this Agreement the City will cause this Agreement to be recorded with the land use records of King County, Washington.

IN WITNESS WHEREOF, this Agreement has been entered into by and between the City of Auburn and _____, as of the _____ day of _____, 20____.

LONGHORN BARBECUE OUTPOST, INC

CITY OF AUBURN

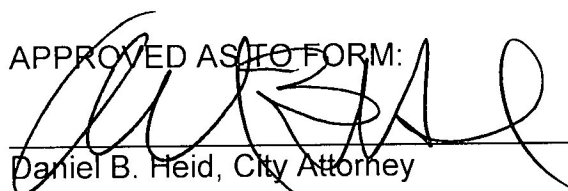
By: David Allen Davis

By: Nancy Backus, Mayor

ATTEST:

Dani Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

LIST OF EXHIBITS

Exhibit A	Legal Description of Property on Which Restaurant is Located
Exhibit B	Rights in Use and Control of Facility Spaces with Apportioning of Utility, Maintenance and Custodial Costs
Exhibit C	Architectural Floor Plan
Exhibit D	City Property used, maintained and/or replaced by Concessionaire
Exhibit E	Property of the Concessionaire
Exhibit F	Janitorial Schedule

EXHIBIT "A"

Legal Description of Property on Which Restaurant is Located*

052105 11 Government Lot 6 less county road together with west 1/2 of southwest 1/4 subject to transmission line right-of-way as identified in King County, Washington Tax Parcel Identification Number 0521059011.

*This Exhibit identifies the property on which the Restaurant is located but does not expand Concessionaire Rights to the entire property. Concessionaire Rights shall only apply to that part of the above-described property rights identified on Exhibit B as set forth therein.

EXHIBIT "B"

Rights in Use Control of Facility Spaces with Apportioning of Utility, Maintenance, and Custodial Costs

The City and the Concessionaire have agreed that joint operations of the facility require 1) that rights and responsibilities for the use and control of spaces be established, 2) that operating costs respective to those spaces which require utilities, 3) necessary maintenance and repair, and 4) custodial services be delineated. Unless expressly described otherwise in the Auburn Golf Course Restaurant Concessionaire Agreement, the following table depicts these responsibilities:

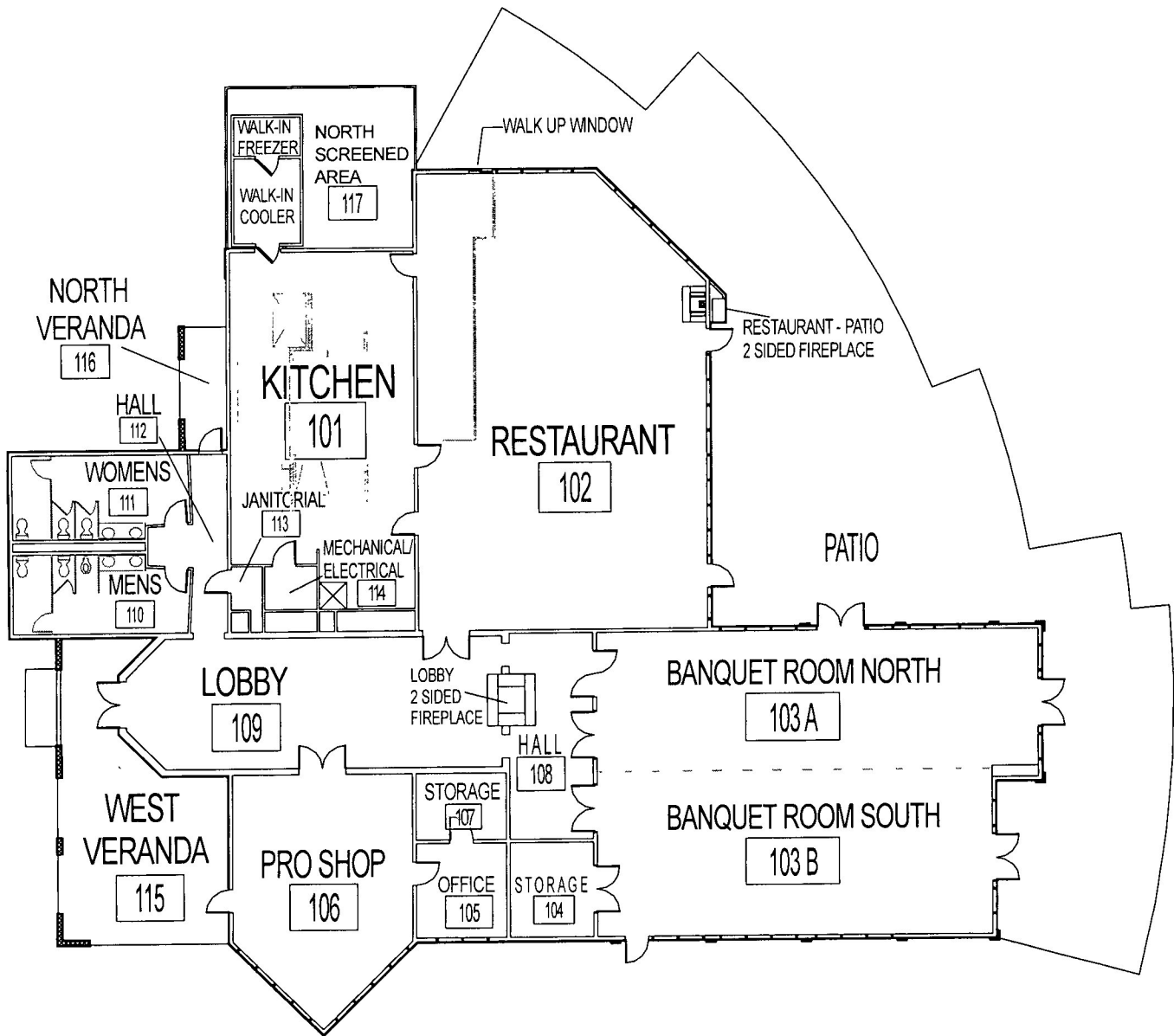
Room #	Room / Space Name	1 – Right	2 – Utility	3 – Maintenance	4 – Custodial
101	Kitchen	Concessionaire	Concessionaire	Concessionaire	Concessionaire
102	Restaurant	Concessionaire	Concessionaire	Concessionaire	Concessionaire
103	Banquet / Meeting Room	Concessionaire	Concessionaire	Concessionaire	Concessionaire
104	Storage (Meeting Rooms)	Concessionaire	Concessionaire	Concessionaire	Concessionaire
105	Office (Pro-Shop)	City	City	City	City
106	Pro Shop	City	City	City	City
107	Storage Golf Retail	City	City	City	City
108	Banquet Room Hall	Joint Use	City	City	City
109	Lobby	Joint Use	City	City	City
110	Men's Restroom	Joint Use	City	City	City
111	Women's Restroom	Joint Use	City	City	City
112	Hall (Restrooms)	Joint Use	City	City	City
113	Janitorial Room	Joint Use	City	City	City
114	Mechanical/Electrical Room	Joint Use	City	City	City
115	West Veranda – Main Entry	Joint Use	City	City	City
116	North Veranda – Side Entry	Joint Use	City	City	City
117	North Screened Area	Concessionaire	Concessionaire	Concessionaire	Concessionaire
	Patio	Concessionaire	Concessionaire	City	Joint (note Exhibit F)
	Parking Lots	Joint Use	City	City	City
	Exterior Site Lighting	Joint Use	City	City	City

EXHIBIT "B" (continued)

Notes of Explanation

1. **Patios:** Daily maintenance is jointly shared in that the City will perform daily cleaning in its proximity and landscape. The concessionaire will be responsible for wastes, cleaning fixtures and furnishings include food and beverage stains and annual pressure wash.
2. **Utilities:** In consideration of overall HVAC, power, sewer, water, waste disposal, CATV, landscape, parking lot cleaning, exterior building maintenance and lighting, site and facility utility needs overall utility use considering rights to spaces were deliberated. Facility utility loads, durations of daily operations, were considered and utility responsibilities are apportioned by balancing some areas against others. The right of use of the room or space does not strictly assign responsibility for utilities.
Phone/Data/CATV: Infrastructure is provided by the City. 6 telephone lines (numbers) with optional voice mail on three lines and internet access for up to two computers will be supplied by the City at a fee not to exceeded \$300.00 per month. This includes installation and maintenance of the services, up to six telephone handsets and long distance not to exceed 500 minutes per motion. Additional long distance may be billed at .05/minute. The City will provide drops for cable service, but the Concessionaire will be responsible to pay for ongoing service.
Gas: Gas usage has been established by separate meters and separate accounts.
Water/Sewer: Interior water and sewer use is the responsibility of the Concessionaire; exterior water for irrigation and other uses are the responsibility of the City.
Waste Disposal &/or Recycling: is the responsibility of the Concessionaire, as to the Concession Area; on-course waste disposal is the responsibility of the City.
Power: Power is sub-metered by manual process from within the electrical room based on right of use to spaces. Power attributable to the concessionaire will be inspected jointly and monthly and the City will invoice the Concessionaire.
3. **Maintenance:** "Maintenance" refers not to routine custodial work, but to the maintenance of walls, carpets, fixed and portable furnishings – the condition of the space and its contents. It includes replacements of light bulbs, repairs, stain removal, painting, and refurbishing of spaces as it deteriorates through use over time.
4. **Custodial:** Refers to routine daily and other custodial functions, including but not limited to: sweeping, mopping, vacuuming, dusting, surface cleaning, and waste disposal.

EXHIBIT "C"
Architectural Floor Plan



RESTAURANT
FLOOR PLAN



EXHIBIT "D"

City Property used, maintained and/or replaced by Concessionaire

1. Grease traps
2. Kitchen water heater
3. Kitchen floor sinks, drains in floor
4. Stand alone Freezers/Coolers
5. Freezers/Coolers Walk-ins
6. Including interior & exterior condensers
7. Refrigeration lines
8. Condensation lines for FSE
9. All sheet & stainless metal items (stainless steel wall flashing under the hood systems)
10. Bar & Back Bar
11. Shelving and cabinetry in areas of Concessionaire responsibility
12. Interior & exterior tables and chairs
13. Interior & exterior service stations
14. Fireplace adjacent to Restaurant and Patio

EXHIBIT "E"
Property of the Concessionaire

1. Televisions in areas of Concessionaire responsibility
2. Point of Sale "POS" system in areas of Concessionaire responsibility
3. Music System
4. Utensils, supplies, cookware, crockery, glassware, silverware, serving equipment, chaffing dishes, all banquet equipment
5. Hostess station
6. Soda lines
7. Burglar Alarm system in areas of Concessionaire responsibility
8. Data/AV/Phones/Computers Equipment in areas of Concessionaire responsibility
9. Speakers in areas of Concessionaire responsibility
10. Signage in areas of Concessionaire responsibility

EXHIBIT "F"
Janitorial Standards for Concessionaire

The Concessionaire shall at all times and at no expense to the City, keep the Concession Areas in a neat, clean, safe and sanitary condition. The Concessionaire shall at all times keep the glass of all windows and doors clean and presentable (both interior and exterior); furnish all cleaning supplies, materials and equipment needed to operate the Concession Areas in a manner prescribed in this Agreement; and provide all necessary janitorial service to adequately maintain the Concession Areas on the frequency schedule made part of this Exhibit, which by this reference is incorporated herein.

The City through its representative shall conduct periodic inspections of the Concession Area and shall notify the Concessionaire in writing to make changes in maintenance methods. The Concessionaire shall make changes and/or repairs within the time, or times, indicated by the City.

The Concessionaire shall contract with a qualified pest control company to control the rodent population around the Premises. The Concessionaire may provide for janitorial services by contract with a third party, which shall be subject to this Agreement and the prior written approval of the City.

The Concessionaire shall provide a list of emergency phone numbers including those of any firms performing contract maintenance to contact in case of emergency, (e.g. fire extinguishing system maintenance or alarm company).

The Concessionaire shall provide fire extinguishers and other items required by the Fire Authority in the Concession Area. All kitchen equipment must be approved for use by the City's Building Division and the local Fire Authority.

FREQUENCY SCHEDULE CONCESSIONAIRE AREA

Including, but not limited to the following:

Daily

1. Empty all trash including patio receptacles and place in dumpster. Brush and/or wipe wastebaskets. Wash wastebaskets as needed.
2. Dust all desks, tables, counters, files, telephones, and other furniture within reach. Remove any spillage as needed.
3. Wash table tops, counters and all surfaces.
4. Sweep/damp mop all epoxy floors. Remove spillage on all floors each night.
5. Replace burned out light bulbs.
6. Pick up trash, dump trash container to primary dumpster located in parking lot. Keep the surrounding area of the dumpster free of debris.

EXHIBIT "F"
Janitorial Standards for Concessionaire (continued)

7. Spot clean marks and smudges from walls, especially doors, around push plates, and light fixtures.
8. Keep storage areas neat and clean.
9. Vacuum carpeted areas and all entry mats. Spot clean as required.
10. Sweep clean patio areas.
11. Clean door glass.
12. Provide litter control for any litter generated through the use of the restaurant, lounge, and banquet facilities out to service road.

Weekly

1. Perform high dusting such as upper walls, ventilator grills. Perform high dusting of piping, floor and window casings, and other surfaces not done on a more frequent basis.
2. Use damp cloth or dust rag to clean the interior and outer surfaces of all lights.
3. Dust/clean all walls.
4. Clean grease trap and drain.
5. Maintain area around compactor/dumpster off kitchen area. If utilized, maintain the compactor/dumpster and area within the fenced enclosure of the parking lot.
6. Hose down patio area.
7. Hose down dumpster area off kitchen (daily if needed).

Monthly

1. Clean interior and exterior window and door glass.

Quarterly to Semi-Annually

1. Clean carpet.

Semi-Annually To Annually

1. Pressure wash the patio prior to season use.
2. Grease holding tank pumped not less than semi-annually.

Periodic

1. Range hood, bar, and refrigerator to receive normal periodic maintenance and on an as-needed basis per the manufacturer's specifications.