



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

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

**I. CALL TO ORDER**

**A. Flag Salute**

**B. Roll Call**

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

1. White River Valley Museum & Mary Olson Farm Presentation  
Mayor Backus to recognize Patricia Cosgrove for receiving the King Conservation District Award for Mary Olson Farm.
2. Hilary Pittenger Book Publication  
Mayor Backus to recognize Hilary Pittenger on the publication of her book *Images of America: Auburn*.
3. Nancy Henderson - Pierce Transit Transportation Board Presentation
4. Proclamation - YMCA Healthy Kids Day  
Mayor Backus to proclaim Saturday, April 26, 2014 as YMCA Healthy Kids Day in the city of Auburn.
5. Proclamation - April 11, 2014 as "Arbor Day"  
Mayor Backus to proclaim April 11, 2014 as Arbor Day in the city of Auburn.
6. Proclamation - Volunteer Month  
Mayor Backus to proclaim April, 2014, as Volunteer Month in the city of Auburn.
7. Boards and Commissions Appointments  
City Council to confirm the appointment of James Tourangeau to the Urban Tree Board for a term to expire December 31, 2016.

***(RECOMMENDED ACTION: City Council confirm the appointment of James Tourangeau to the Urban Tree Board.)***

**D. Agenda Modifications**

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

**A. Public Hearings**

No public hearing is scheduled for this evening.

**B. Audience Participation**

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

**C. Correspondence**

There is no correspondence for Council review.

**III. COUNCIL COMMITTEE REPORTS**

**A. Municipal Services**

1. **March 24, 2014 Minutes\* (Peloza)**

**B. Planning & Community Development**

1. **March 24, 2014 Minutes\* (Holman)**

**C. Public Works**

1. **March 17, 2014 Minutes\* (Osborne)**

**D. Finance**

1. **March 17, 2014 Minutes\* (Wales)**

**E. Les Gove Community Campus**

**F. Council Operations Committee**

**IV. CONSENT AGENDA**

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

**A. Minutes of the March 17, 2014 regular meeting\***

**B. Claims Vouchers (Wales/Coleman)**

Check numbers 427873 through 428092 in the amount of \$3,606,818.41 and six wire transfers in the amount of \$49,196.83 and dated April 7, 2014.

**C. Payroll Vouchers (Wales/Coleman)**

Payroll check numbers 534581 through 534612 in the amount of \$303,098.61 and electronic deposit transmissions in the amount of \$1,360,792.80 for a grand total of \$1,663,891.41 for the period covering March 13, 2014 through April 2, 2014.

**D. Contract for False Alarm Billing & Tracking Services\* (Peloza/Lee)**

City Council approve the contract with AOT Public Safety Corporation for false alarm billing and tracking services.

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

**V. UNFINISHED BUSINESS**

There is no unfinished business.

**VI. NEW BUSINESS**

There is no new business.

## VII. ORDINANCES

### A. Ordinance No. 6503\* (Peloza/Lee)

An Ordinance of the City Council of the City of Auburn, Washington, amending Section 9.78.010 of the Auburn City Code relating to disorderly conduct

***(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6503.)***

## VIII. RESOLUTIONS

### A. Resolution No. 5041\* (Peloza/Faber)

A Resolution of the City Council of the City of Auburn, Washington authorizing the Mayor to execute an agreement between the City of Auburn and the Auburn Symphony Orchestra for services

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5041.)***

### B. Resolution No. 5048\* (Holman/Faber)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the acceptance of a grant from the Cultural Development Authority of King County ("4Culture") and authorizing the Mayor and City Clerk to execute the necessary contracts to accept said funds

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5048.)***

### C. Resolution No. 5050\* (Osborne)

A Resolution of the City Council of the City of Auburn, Washington, seeking to protect the health, safety, and economic well-being of local citizens and Auburn's drinking water supply and natural resources from the potential impact of increased crude oil rail traffic passing through the city of Auburn

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5050.)***

### D. Resolution No. 5053\* (Wales/Coleman)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement between the City of Auburn and King County for the 2014-2019 Parks Property Tax Levy allocation

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5053.)***

### E. Resolution No. 5054\* (Wagner/Heid)

A Resolution of the City Council of the City of Auburn, Washington, amending Resolution No. 5017 of the City Council of the City of Auburn, Washington, passed December 3, 2013, relating to the standing committees of the City Council of the City of Auburn

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5054.)***

### F. Resolution No. 5055\* (Peloza/Coleman)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the

Mayor to execute a lease between the City of Auburn and Century West for airport property

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5055.)***

G. **Resolution No. 5056\* (Pelosa/Lee)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute an agreement by and between the City of Auburn and the Muckleshoot Indian Tribe for police services

***(RECOMMENDED ACTION: City Council adopt Resolution No. 5056.)***

IX. **REPORTS**

*At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.*

A. **From the Council**

B. **From the Mayor**

X. **ADJOURNMENT**

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

\*Denotes attachments included in the agenda packet.



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

March 24, 2014 Minutes

**Date:**

April 3, 2014

**Department:**

Police

**Attachments:**

[March 24, 2014 Minutes](#)

**Budget Impact:**

\$0

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

Municipal Services

**Councilmember:** Peloza

**Staff:**

**Meeting Date:** April 7, 2014

**Item Number:** MS.1



**Municipal Services Committee  
March 24, 2014 - 3:30 PM  
City Hall Conference Room 3  
MINUTES**

**I. CALL TO ORDER**

Chair Pelozo called the meeting to order at 3:33 p.m. in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

**A. Roll Call**

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

**Staff present:** Mayor Nancy Backus, Chief of Police Bob Lee, Assistant Chief of Police Bill Pierson, Parks, Arts & Recreation Director Daryl Faber, Finance Director Shelley Coleman, City Attorney Dan Heid, Community Development/Public Works Director Kevin Snyder, Planning Services Manager Elizabeth Chamberlain, Auburn Airport Manager Jamelle Garcia, Art Coordinator Maija McKnight and Police Secretary/Scribe Terry Mendoza. **Others present:** Auburn Symphony Orchestra representatives Lee Valenta and Tanya Rottle, and Auburn Reporter representative Robert Whale.

**B. Announcements**

**C. Agenda Modifications**

Resolution No. 5055 (Coleman)

Finance Director Shelley Coleman reported on Resolution No. 5055 which authorizes the Mayor to execute a lease between the City and Century West for Airport Property. This is a lease of the office which the Airport Management Group (AMG) is currently operating out of - a small modular building owned by the City. Since the building will be vacated when the AMG moves over to the facility previously occupied by the Flight School, Century West (CW) would like to utilize the small 500-600 square foot space. CW is part of our agreement to be our consultant engineer on airport improvements and one of their requests was to be located on the airport property. The switch is tentatively set for May 1, 2014. Committee discussion followed.

Member DaCorsi moved to forward Resolution No. 5055 to full Council for consideration. Vice Chair Osborne seconded. Chair Pelozo concurred.

MOTION PASSED: 3-0

#### Imagine Auburn Visioning Workshop (Chamberlain)

Elizabeth Chamberlain, Planning Services Manager, invited the Committee and other staff in attendance to participate in the City's *Imagine Auburn* visioning workshop. This is the first step in the City's update to their comprehensive plan which is due in June of 2015. City-wide over 500 responses have been received so far and presentations have been made to several local City groups and neighborhood meetings. Manager Chamberlain asked four questions and recorded staff responses which will be submitted to the Planning Commission and the Planning and Community Development Committee in the form of a draft vision report. Committee discussion followed.

## II. **CONSENT AGENDA**

### A. February 24, 2014 Minutes

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

MOTION PASSED 3-0

### B. Contract for False Alarm Billing & Tracking Services (Lee)

Bill Pierson, Assistant Chief of Police, provided an update regarding the contract for False Alarm Billing and Tracking Services. The city currently contracts with AOT Public Safety Corporation (PSC) and their contract is set to expire in May. The Police Department (PD) has been pleased with the services PSC has provided over the last several years as our third party administrator for false alarms. As such, the PD is recommending that we continue to contract with PSC for these services. The only change made to the contract, as recommended by Legal, was the removal of set-up verbiage which was included in the original contract language. All other information remains the same. Committee discussion followed with the Committee requesting a few minor grammatical and formatting corrections.

Vice Chair Osborne moved to approve the Contract for False Alarm Billing and Tracking Services with the modifications as stated. Member DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

## III. **ORDINANCES**

A. Ordinance No. 6503 (Lee)

Assistant Chief of Police, Bill Pierson, briefed the Committee on Ordinance No. 6503. Due to recent arrest situations at the Police Department (PD) involving disorderly conduct, the PD has reviewed ACC 9.78.010 with the Legal department and is recommending an update. The addition of item 9 in Section 1 of ACC 9.78.010 is based on the same type of policy currently in place for other local jurisdictions. Committee discussion followed and a minor change was requested.

Vice Chair Osborne moved to forward Ordinance No. 6503 with the modification as stated to full Council for consideration. DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

**IV. RESOLUTIONS**

A. Resolution No. 5041 (Faber)

Daryl Faber, Director of Parks, Arts & Recreation, acknowledged the presence of Lee Valenta and Tanya Rottle from the Auburn Symphony Orchestra (ASO) at the meeting. Director Faber reported on the changes previously requested during discussion at the February 24, 2014 meeting of the Municipal Services Committee. All changes were addressed in meetings with the ASO and the City's Legal team. Changes include: (1) edited the type of contract to a general one between the City and the ASO for specified deliverables as listed in the scope of work; (2) actual symphony performance dates have been included in the contract; (3) clarification on the percent of marketing dollars and the ASO marketing budget were added to the contract; (4) information relating to the provision of free and/or discounted tickets has been discussed, clarified and included in the contract; (5) details were added on to the spreadsheet (chart) referencing the attendance at ASO events in prior years; and (6) the budget impact on the agenda bill was changed from \$75,000.00 to \$0.00. The amount has already been included in 2014 so there is no impact to the City's budget. Committee discussion followed with the Committee recommending additional changes. All parties agreed to the requested changes.

Vice Chair Osborne moved to forward Resolution No. 5041 with modifications as stated to full Council for consideration. Member DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

B. Resolution No. 5056 (Lee)

Chief of Police Bob Lee briefed the Committee on Resolution No. 5056 which authorizes the Mayor and City Clerk to execute an agreement by and between the City of Auburn and the Muckleshoot Indian Tribe (MIT) for police services. This agreement provides for one Auburn Police Officer to be assigned to the MIT on a full-time basis. The assigned officer will work closely with Auburn Police officers in the field but primary duties will be on the reservation. The assigned officer will at all times remain an employee of the City under the direct command and control of the Auburn Chief of Police however; the MIT shall direct daily patrol and work assignments from the Tribal Chief of Police. Committee discussion followed and minor formatting changes were recommended.

Vice Chair Osborne moved to forward Resolution No. 5056 to full Council for consideration. Member DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

## **V. DISCUSSION ITEMS**

### **A. Curfew ACC 9.10.080 (Lee)**

Chief of Police Bob Lee reported on the required 3-year review of ACC 9.10.080 relating to curfew. Upon review of this ordinance the Police Department did not come across any issues of concern and believe this to be a very successful tool for use in enforcing laws with respect to juveniles in the City. Since 2009, statistics show a decrease over the years in the number of juveniles arrested and/or contacted during curfew hours. None of the juveniles were arrested for being in violation of curfew however; it did provide officers with an opportunity to make contact with people (parents or guardians) so that arrangements could be made to get the youth(s) off the streets. Mayor Backus commented that the question about curfew was included in one of her recent weekly updates and she received an overwhelming amount of positive responses to continue with this curfew ordinance. Committee discussion followed.

### **B. Resolution No. 5048 (Faber)**

Director of Parks, Arts & Recreation, Daryl Faber, provided information on Resolution No. 5048 which authorizes the acceptance of a grant from the Cultural Development Authority of King County ("4Culture"). This is an ongoing source of support for the City from King County. It is for sustained support for local arts agencies which the City then re-grants these funds to various Auburn area agencies providing art programs and activities serving the Auburn citizens. Grant cycles are a bi-annual competitive process with funding allocated annually. Committee discussion followed.

C. Solid Waste - Rate Subsidy (Coleman)

Shelley Coleman, Finance Director, provided an update on the Solid Waste Rate Subsidy which was based on a completed study in October 2012. The result of the study led to Council's approval of increases in solid waste rates effective in January 2013. The goal was for staff to gradually eliminate inter-class rate subsidies between residential and commercial customer classes in the amount of \$250,000.00 in 2013 and \$200,000.00 in 2014. Director Coleman stated that the current review shows that the revised solid waste rates were sufficient to eliminate the subsidy of all residential customers even with the annexation of additional City customers. The ending working capital fund balance totaled \$1.5 million at the end of 2013 and the increase is due to stronger than anticipated revenues from commercial customers. The City will closely monitor the financial performance of the Solid Waste Utility in 2014 and no rate increases are anticipated for 2015. Committee discussion followed.

D. Resolution No. 5053 (Coleman)

Finance Director Shelley Coleman reported on Resolution No. 5053 and requested that the Municipal Services Committee take action on this item since it has already gone through the Finance Committee. This resolution authorizes the Mayor and City Clerk to execute an agreement between the City and King County for the 2014-2019 Parks Property Tax Levy allocation. In August 2013, Proposition No. 1 was approved by King County voters allowing for an additional six-year property tax levy at a rate of \$0.1877 per \$1,000 of assessed valuation in the first year (2014) with subsequent levies adjusted for inflation (2015-2019). The monies are to be used in the Parks program for open space, park acquisition and trails, and local park improvements. Director Coleman also brought the attention of an agenda bill formatting change by Finance to include information on the budget impact in the 'Summary' section of the agenda bill. The change will include a breakdown of the budget impact instead of just providing a total budget amount. Committee discussion followed.

Vice-Chair Osborne moved to forward to full Council for consideration. Member DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

E. Project Matrix

The following changes were identified for the Project Matrix:

Item 10P: Status updated.

Item 21P: Status updated.

Item 24P: Status updated.

Item 28P: Review date updated to 11/25/14. Status updated.

**VI. ADJOURNMENT**

The meeting was adjourned at 5:02 pm. The next regular meeting of the Municipal Services Committee is scheduled for Monday, April 14, 2014 in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

Signed this \_\_\_\_\_ day of April, 2014.

\_\_\_\_\_  
Bill Peloza, Chair

\_\_\_\_\_  
Terry Mendoza, Police Secretary/Scribe



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

March 24, 2014 Minutes

**Date:**

April 2, 2014

**Department:**

Planning and Development

**Attachments:**

[March 24, 2014 Minutes](#)

**Budget Impact:**

\$0

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

**Councilmember:** Holman

**Staff:**

**Meeting Date:** April 7, 2014

**Item Number:** PCD.1



**Planning and Community  
Development  
March 24, 2014 - 5:00 PM  
Annex Conference Room 2  
MINUTES**

**I. CALL TO ORDER**

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

**A. Roll Call**

Chair John Holman, Vice-Chair Largo Wales, and Member Yolanda Trout were present. Also present were Mayor Nancy Backus, Director of Community Development & Public Works Kevin Snyder, Assistant Director of Community Development Services Jeff Tate, Planning Services Manager Elizabeth Chamberlain, Economic Development Manager Doug Lein, Director of Administration Michael Hursh, Environmental Services Manager Chris Andersen, Environmental Services Planner Jamie Kelly, and Office Assistant Sue Van Slyke.

Members of the public present were Councilmember Bill Peloza, Robert Whale of the Auburn Reporter and Laura Westergard from the Auburn Downtown Association.

**B. Announcements**

There were no announcements.

**C. Agenda Modifications**

There were no agenda modifications.

**II. CONSENT AGENDA**

**A. Minutes - March 7, 2014 (Tate)**

Member Trout moved and Vice-Chair Wales seconded to approve the March 7, 2014 Planning and Community Development Committee minutes as written.

Motion carried unanimously. 3-0

### III. DISCUSSION ITEMS

#### A. Housing Home Repair Program Overview (Tate/Hursh)

Assistant Director of Community Development Services Jeff Tate presented an overview of the Housing Home Repair Program for low income residents in the City of Auburn. This is a joint endeavor administered by Department of Administration Michael Hursh and Duanna Richards, Neighborhood Programs Manager. This is a grant funded program whereby income qualified residents can submit an application to the City for consideration to have minor home improvements done on their property. The City of Auburn is currently completing around 50 properties each year through this program. The funding source is primarily through the Community Development Block Grant (CDBG) which is reviewed every couple of years to renew this source of funding. There is a thorough process which ensures that the repairs are completed to the satisfaction of all parties involved.

Assistant Director Tate displayed before and after photos of past projects completed through this program. Director Hursh reported that the City receives approximately \$500,000.00 per year for the CDBG and City funds match it 100%. He stated that this program is far reaching in that connections are established for people who do not have the resources to change their circumstances. The Committee was informed that this program also has relationships with outside organizations, such as PSE, which are able to assist on various projects through their respective programs.

#### B. Overview of the 2014 Environmental Restoration Projects (Andersen)

Environmental Services Manager Chris Andersen provided an overview of the 2014 Environmental Restoration Projects. The major projects include the Auburn Environmental Park, the Fenster Levee Setback, Phase 2 and the Mill Creek Wetland 5K Stream Restoration. Other projects include the Earth Day project -West Hill Lake Invasive Species Removal and the Clean Sweep project- Reddington Levee Native Plant Establishment. He informed the Committee extensively on the Mill Creek Wetland 5K Stream Restoration explaining all the aspects of the project and how the various organizations partner in completing this project. Funding sources, projected costs, current status and the next steps were presented with construction slated for 2015.

Mr. Andersen briefly covered the Fenster Levee Setback and the progress associated with this project that is located near the Green River. This is a priority project for the Salmon Habitat Plan Ecosystem Restoration Study. The goal is to restore the natural river processes and allow for some limited channel migration.

Mr. Andersen informed the Committee of the 1st annual Earth Day project that will be held on April 19, 2014, which will be lead by Environmental Services Planner Jaime Kelly. A work party will be organized to remove invasive ivy which is overpowering the vegetation on the West Hill Lake property. Notices for volunteers will be sent out via city channels for the 4 to 6 hour project. The goal is to make this an annual event to promote Earth Day.

The last project, Clean Sweep, will be conducted at the Reddington Levy. Though planting has been completed, existing mulch needs to be spread which will encourage the plants to thrive.

C. Director's Report (Tate)

Assistant Director Tate reported that a Certificate of Occupancy was just issued to a new business in the community, Jimmy John's.

He also informed the Committee of the Community Visioning workshops that have been held for informing the general public on the Comprehensive Plan and to gain valuable feedback which will be used when creating the long-range policy document. There has been an effort to reach out to many organizations within the City of Auburn presenting the same information and requesting their input.

Lastly, Assistant Director Tate informed the Committee that there will be more information regarding the Communal Residential Housing at the April 28, 2014 meeting. Currently, 10 properties have submitted either rental license applications or permit applications. There are at least 30 more properties identified that need to be reviewed for compliance with the new ordinance.

D. PCDC Status Matrix (Tate)

There were no changes or additions.

#### IV. **ADJOURNMENT**

There being no further business to come before the Planning and Community Development Committee, the meeting was adjourned at 6:22 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014

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John Holman  
Chairman

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Sue Van Slyke  
Office Assistant, Community Development Services



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

March 17, 2014 Minutes

**Date:**

April 2, 2014

**Department:**

Public Works

**Attachments:**

[Draft Minutes](#)

**Budget Impact:**

\$0

**Administrative Recommendation:****Background Summary:**

See attached draft minutes.

**Reviewed by Council Committees:**

Public Works

**Councilmember:** Osborne

**Staff:**

**Meeting Date:** April 7, 2014

**Item Number:** PW.1



**Public Works Committee  
March 17, 2014 - 3:30 PM  
Annex Conference Room 2  
MINUTES**

**I. CALL TO ORDER**

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

**A. Roll Call**

Chairman Wayne Osborne, Vice-Chair Bill Peloza, and Member Claude DaCorsi were present. Also present during the meeting were: Mayor Nancy Backus, Director of Administration Michael Hursh, Community Development & Public Works Director Kevin Snyder, Assistant Director of Engineering/City Engineer Ingrid Gaub, Assistant Director of Operations Randy Bailey, Acting Utilities Engineer Susan Fenhaus, Transportation Manager Pablo Para, Senior Project Engineer Jacob Sweeting, Project Engineer Seth Wickstrom, Engineering Aide Amber Mund and Public Works Office Assistant Molly Hoisington.

Members of the public in attendance included: Max Wills, Robinson Noble Inc. and Chuck Hartung, Hainline & Associates, Inc.

**B. Announcements**

There were no announcements.

**C. Agenda Modifications**

There were no modifications to the agenda.

**II. CONSENT AGENDA**

**A. Approval of Minutes**

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve the Public Works Committee Meeting minutes for date, March 3, 2014.

Motion carried 3-0.

**III. ACTION**

**A. Resolution No. 5051 (Hursh)**

Resolution of the City Council of the City of Auburn, Washington to adopt the 2013 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant Program

This resolution was moved to discussion, and for the purpose of these minutes was discussed prior to Discussion Item A.

Director of Administration Hursh stated the Consolidated Annual Performance and Evaluation Report (CAPER) is the City's report back to HUD for the City's actions on its annual action plan for the year.

Vice-Chair Pelozo suggested having verbiage changed in specific areas of the CAPER. Following discussion with Administrative Director Hursh, the following changes will be made:

- Page 7, Item H, the second sentence, the word "they" will be changed to "the"
- Third line, entire sentence will be reworked

Administrative Director Hursh answered questions asked by Chairman Osborne regarding public infrastructure.

- B. Right-of-Way Use Permit No. 13-07 (Mund)  
Approve Right-of-Way Use Permit No. 13-07 Amendment No. 1 for Muckleshoot Indian Tribe for Monitoring Wells

Engineering Aide Mund explained this is an amendment to Right-of-Way Use Permit 13-07 which allows the Muckleshoot Indian Tribe to add five more monitoring wells in the City's Right-of-Way on Fir Street and on Auburn Way South.

Engineering Aide Mund responded to question asked by Chairman Osborne regarding activity report on existing wells. Chairman Osborne asked that the report be made available to Committee; Mund responded that she will forward this information.

It was moved by Vice-Chair Pelozo, seconded by Member DaCorsi, that the Committee approve Right-of-Way Use Permit No. 13-07 Amendment No. 1 for Muckleshoot Indian Tribe for Monitoring Wells.

Motion carried 3-0.

- C. Public Works Consultant Agreement No. AG-C-450 (Wickstrom)  
Grant permission to enter into Consultant Agreement No. AG-C-450 with Brown and Caldwell for engineering services for Project No. CP1320, Maintenance and Operations Storm Drainage Improvement project

Project Engineer Wickstrom explained Consultant Agreement No. AG-C-450 will be with Brown and Caldwell to provide design engineering services and construction support for the Maintenance and Operations Storm Drainage Improvement Project. This project will be installing new storm ponds and expanding the decant facility at the Maintenance and Operations site which is located off of C Street SW.

Vice-Chair Pelozo requested to see a copy of the agreement which will be provided to the committee for informational purposes. Director Snyder, City Engineer Gaub, and Mayor Backus discussed with the Committee what has been the standard practice regarding Committee approvals of consultant agreements and cooperatively explained that for standard consultant agreements for design of capital projects, the standard practice has been to bring the scope of work to the Committee and not the entire agreement. Member DaCorsi requested a copy of the standard consultant agreement which will be provided to the committee.

Vice-Chair Pelozo requested to have ".00" added to the \$450,000 under the scope of work summary portion.

The Committee and staff had discussion regarding general information on this agreement.

It was moved by Vice-Chair Pelozo, seconded by Member DaCorsi that the Committee recommend City Council grant permission to enter into Consultant Agreement No. AG-C-450 with Brown and Caldwell.

Motion carried 3-0.

D. Resolution 5052 (Para)

A Resolution of the City Council of the City of Auburn, Washington, Authorizing the Mayor to Negotiate Agreements and Execute Documents Necessary to Acquire Property Related to Lea Hill Road Segment 1 Improvements

Transportation Manager Para explained this resolution is authorizing the Mayor to negotiate agreements necessary to acquire particular parcels on Lea Hill related to future improvements along the corridor.

The Committee and staff reviewed the particular parcels.

Transportation Manager Para responded to question asked by Chairman Osborne regarding the property line set back requirements and the future placement of the new roadway connection between 102nd Avenue SE and 104th Avenue SE.

It was moved by Vice-Chair Pelozo, seconded by Member DaCorsi, that the Committee recommend City Council adopt Resolution No. 5052.

Motion carried 3-0.

#### IV. DISCUSSION ITEMS

A. Capital Project Status Report (Sweeting)

Item 1 – C201A – M Street Underpass (Grade Separation): Answering questions asked by Chairman Osborne, Senior Project Engineer Sweeting confirmed there is minor work remaining on this project, mainly restoration of the private properties including replacement of lawn sod and other landscaping which was impacted by the grade lowering.

Item 7 – CP1207 – D Street NE Utility Improvements: Chairman Osborne mentioned there was additional funding added and wanted to know the status. Senior Project Engineer Sweeting responded that the added funding reflects the change order that was previously approved by the Committee and that there have been some delays due to wet weather.

Item 18 – CP1109 – 2011 Storm Pipeline Repair and Replacement, Phase 2: Senior Project Engineer Sweeting responded to a question asked by Chairman Osborne explaining the agreement was executed with the Lakehaven Utility District and the project is now moving forward.

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

Item 1- Green River Community College:  
Chairman Osborne requested to have this item removed as it has been completed.

C. Action Tracking Matrix (Gaub)

Item F – 320th Street SE Street Corridor:  
Chairman Osborne requested to have this item removed as it has been addressed.

**V. ADJOURNMENT**

There being no further business to come before the Public Works Committee, the meeting was adjourned at 4:24 p.m.  
Approved this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Wayne Osborne  
Chairman

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Molly Hoisington  
Public Works Office Assistant



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

March 17, 2014 Minutes

**Date:**

April 1, 2014

**Department:**

Administration

**Attachments:**

[3-17-2014 minutes](#)

**Budget Impact:**

\$0

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

**Councilmember:** Wales

**Staff:**

**Meeting Date:** April 7, 2014

**Item Number:** FN.1



**Finance Committee  
March 17, 2014 - 5:00 PM  
Annex Conference Room 1  
MINUTES**

**I. CALL TO ORDER**

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

**A. Roll Call**

Chair Wales, Vice Chair John Holman and Member Yolanda Trout were in attendance.

Officials and staff members in attendance during the meeting included: Mayor Nancy Backus, Director of Administration Michael Hursh, Finance Director Shelley Coleman, Community Development and Public Works Director Kevin Snyder, Interim Director of Human Resources and Risk Management Rob Roscoe, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, and City Clerk Danielle Daskam.

**B. Announcements**

There was no announcement.

**C. Agenda Modifications**

There was no change to the agenda.

**II. CONSENT AGENDA**

**A. Minutes of the March 3, 2014 regular meeting**

Vice Chair Holman moved and Member Trout seconded to approve the minutes of the March 3, 2014 meeting.

**MOTION CARRIED UNANIMOUSLY. 3-0**

**B. Claims Vouchers (Coleman)**

Claims voucher numbers 427693 through 427872 in the amount of \$2,125,047.07 and one wire transfer in the amount of \$48,230.11 and dated March 17, 2014.

Committee members briefly reviewed and discussed claims and payroll vouchers.

Member Trout moved and Vice Chair Holman seconded to approve the claims and payroll vouchers.

MOTION CARRIED UNANIMOUSLY. 3-0

- C. Payroll Vouchers (Coleman)  
Payroll check numbers 534554 through 534580 in the amount of \$856,770.99 and electronic deposit transmissions in the amount of \$1,284,256.90 for a grand total of \$2,141,036.89 for the period covering February 27, 2014 to March 12, 2014.

See claims vouchers above for approval of payroll vouchers.

### III. ORDINANCES

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

Finance Director Coleman presented Ordinance No. 6502, which was discussed by the Committee at the March 3, 2014 meeting. The budget amendment (#7) primarily consists of carry-forward of projects and programs that were authorized and started in 2013 but not yet complete. Funding is requested to be carried forward to 2014 for project continuation and completion.

Finance Director Coleman noted the amendment includes property acquisition at Les Gove Park. The funding (\$1.29 million) for the purchase will come from the Cumulative Reserve Fund.

In response to questions from Vice Chair Holman, Finance Director Coleman confirmed any purchase and sale agreement for property around Les Gove Park will be presented to the Council for approval.

In response to questions from Member Trout regarding discussion at the previous meeting related to carry forward funding for the one stop center and human services agreements, Director Hursh explained the neighborhood matching grant program has several projects that are weather dependent, and agreements that were made in 2013 need to be carried forward for completion in 2014. Additionally, there is some work related to the Veterans and Human Services Center development project that was not finished in 2013 and continues in 2014.

Chair Wales requested a list of agencies and programs funded by the City's human services funding in 2013. Director Hursh reported an

overview of human services funding will be part of the Council's Committee of the Whole meeting on March 31st. Chair Wales suggested the Council review the philosophy behind program funding decisions.

Chair Wales inquired regarding the \$50,000 in facility interfund charges to the Cemetery. Finance Director Coleman explained the interfund charges are for utility charges. The Cemetery has experienced a significant increase in utility charges and staff members are investigating the reason behind the increase in utility fees paid to Lakehaven Utility District.

Vice Chair Holman moved and Member Trout seconded to approve and forward Ordinance No. 6502 to the full Council.

#### **IV. RESOLUTIONS**

**A. Resolution No. 5037 (Coleman)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the transfer of funds for the purpose of making a loan or loans from the General Fund and/or the Cumulative Reserve Fund to a grant sustained or project focused Special Revenue Fund for up to a three-year period of time

Finance Director Coleman presented Resolution No. 5037. The Committee reviewed the Resolution at their March 3rd meeting.

The Resolution authorizes interfund loans to provide the operational flexibility to cover authorized expenditures, such as when the City is awaiting reimbursement of expenses from a grant. The Resolution provides that the Finance Department can prepare an interim interfund loan, when needed, from the General Fund and/or the Cumulative Reserve Fund to a grant sustained fund in the event the City is awaiting reimbursement of federal, state or local grant funds. The Resolution is a standard that has been used for several years and is renewed every three years.

Vice Chair Holman moved and Member Trout seconded to adopt Resolution No. 5037.

**MOTION CARRIED UNANIMOUSLY. 3-0**

**B. Resolution No. 5051 (Hursh)**

A Resolution of the City Council of the City of Auburn, Washington to accept the Consolidated Annual Performance and Evaluation Report (CAPER) for the 2013 program year

Director of Administration Hursh presented Resolution No. 5051. The Resolution will accept the Annual Performance and Evaluation Report

Page 3 of 6

for the 2013 Community Development Block Grant (CDBG) program year. The annual report is required by the Department of Housing and Urban Development in order to receive CDBG funding. The report delineates the amount of funding distributed through the program, how the funding was allocated, and assesses how the funding addresses the goals of the Consolidated Plan for housing and community development for low and moderate income residents.

Director Hursh highlighted the housing repair program where the program awards grants for minor home repairs to low-income residents and primarily senior homeowners. Also, the CDBG program provides several agencies with funding that helps prevent homelessness and provides emergency and transitional housing needs.

Director Hursh spoke briefly regarding the management and success of the program. Director Hursh estimated that 51 percent of the City's population are low to moderate income.

Member Trout moved and Vice Chair Holman seconded to adopt Resolution No. 5051.

MOTION CARRIED UNANIMOUSLY. 3-0

## **V. DISCUSSION ITEMS**

### **A. Resolution No. 5052 (Para)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to negotiate agreements and execute documents necessary to acquire property related to Lea Hill Road Segment 1 Improvements

Assistant Director of Engineering Services/City Engineer Gaub presented Resolution No. 5052. The Resolution authorizes the Mayor to execute documents necessary to acquire property related to the Lea Hill Road Segment 1 Project. Assistant Director Gaub briefly reviewed the planned parcel acquisitions and realignment of Lea Hill Road.

### **B. Resolution No. 5053 (Coleman)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement between the City of Auburn and King County for the 2014-2019 Parks Property Tax Levy allocation

Finance Director Coleman presented Resolution No. 5053. Last summer, voters approved King County Proposition No. 1 authorizing an additional six-year property tax levy for parks operation/maintenance, infrastructure, acquisition, trails, and distribution to cities on the basis of population and property assessed value. The estimated distribution to the City of Auburn is \$125,222.00 in 2014. The revenue can be used for parks and open spaces. In

Page 4 of 6

order for the City to receive the tax distribution, the City must enter into a property tax levy agreement with King County.

C. Pcard Statistics (Coleman)

Finance Director Coleman presented graphs and charts on the use of procurement cards, purchase orders, and rebates received by the City based on usage of the procurement cards during 2013. Use of the procurement card has greatly decreased the purchase order processing. The City received over \$16,000 in rebates in 2013.

D. Cemetery RFP (Faber)

Chair Wales spoke regarding the one response received for the proposed management of the Mountain View Cemetery. Chair Wales stated she was surprised to learn that the request for proposal was for the management of the cemetery. Chair Wales expressed a desire to review the cost for the maintenance of the cemetery facility. Interim Human Resources Director Roscoe explained that the City employs Maintenance Workers 1 and 2 at the cemetery, who perform a variety of duties including maintenance of the facility, lawn care, grave digging, plotting, etc. The current language in the collective bargaining agreement gives the City the ability to subcontract out all of the union work.

Chair Wales requested the Committee be provided with the salary and benefit expenses for the four maintenance workers at the cemetery. Chair Wales requested the Committee review the status of the cemetery in another month.

E. Funding for Kiosks

Chair Wales noted the City has installed three kiosks in the downtown area. However, lack of funding has prevented the construction of the remaining kiosks.

Community Development and Public Works Director Snyder reported seven more kiosks are planned. Each kiosk costs approximately \$30,000.00. Director Snyder also reported that of the three kiosks in place, one was grant funded. The Planning and Community Development Committee discussed the possibility of including the funding for the kiosks in phases in future budgets.

Director Snyder stated it was always the intent to request Council to support the kiosk construction, if possible, as part of the continued investment in the downtown area.

## VI. ADJOURNMENT

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

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Largo Wales, Chair

\_\_\_\_\_  
Danielle Daskam, City Clerk



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Minutes of the March 17, 2014 regular meeting

**Date:**

April 3, 2014

**Department:**

Administration

**Attachments:**

[Minutes](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council approve the minutes of the March 17, 2014 regular meeting.

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

**Meeting Date:** April 7, 2014

**Staff:**

**Item Number:** CA.A



**City Council Meeting  
March 17, 2014 - 7:30 PM  
Auburn City Hall  
MINUTES**

**I. CALL TO ORDER**

**A. Flag Salute**

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

**B. Roll Call**

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

Staff present: City Attorney Daniel B. Heid, Police Commander Mark Caillier, Economic Development Manager Doug Lein, Interim Human Resources and Risk Management Director Rob Roscoe, Community Development and Public Works Director Kevin Snyder, Parks, Arts and Recreation Director Daryl Faber, Director of Administration Michael Hursh, Finance Director Shelley Coleman, and City Clerk Danielle Daskam.

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

1. Appointments to Boards and Commissions  
City Council to confirm the appointment of Judi Roland to the Cemetery Board for a term to expire December 31, 2016.

Deputy Mayor Wagner moved and Councilmember Peloza seconded to confirm the appointment of Judi Roland to the Cemetery Board.

MOTION CARRIED UNANIMOUSLY. 7-0

**D. Agenda Modifications**

There was no change to the agenda.

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

**A. Public Hearings**

1. Consolidated Annual Performance and Evaluation Report (Hursh)  
City Council to conduct a public hearing on the 2013 Consolidated Annual Performance and Evaluation Report (CAPER) for the

## Community Development Block Grant Program

Director of Administration Michael Hursh presented the staff report for the 2013 Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER is an overall review of housing and community development activities undertaken in 2013 and delineates the amount of Federal funding that is distributed through the program and the impact on the City's housing and community development goals.

Mayor Backus opened the public hearing at 7:33 p.m. There was no public comment and the hearing was closed.

### B. **Audience Participation**

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

Jon Lindenauer, 29216 58th Place South, Auburn

Mr. Lindenauer stated he represents the No North Auburn Garbage Site citizens group. He thanked the City Council for its continued support in opposing the King County Solid Waste Division's plan to construct a transfer station in Auburn and for the City's comment letter on the King County Solid Waste Division Transfer Plan Review. Mr. Lindenauer also submitted his comments in writing.

Mary Ann Harkness, 29780 53rd Ave S, Auburn

Ms. Harkness identified herself as the Co-chair of the No North Auburn Garbage Site citizens group. She thanked Mayor Backus and City staff for the comment letter sent to the King County Solid Waste Division objecting to the recent review of the Solid Waste Transfer Plan. Ms. Harkness requested the City write an additional letter to King County Executive Dow Constantine calling for a third party independent review before the King County Council approves any capital expenditure for another South County transfer station. Ms. Harkness also submitted her comments in written form.

Bonnie Tiangsing, 29609 57th Place South, Auburn

Ms. Tiangsing expressed opposition to the location of a King County Transfer Station site in North Auburn.

Giovanni DiQuattro, 3803 W. Tapps Drive E, Lake Tapps

Mr. DiQuattro, owner of The Rainbow Cafe, thanked the City Council for their efforts regarding off-hour parking in and around his restaurant. He read a letter he received today, which was addressed to the Mayor and City Council and copied to Mr. DiQuattro, Chase Bank, and the Auburn Reporter, regarding parking spaces used by Chase Bank.

Mayor Backus stated the parking spaces in question are leased to

Chase Bank. City officials and staff continue to work on an overall parking plan for the area.

**C. Correspondence**

There was no correspondence for Council review.

**III. COUNCIL COMMITTEE REPORTS**

**A. Municipal Services**

Chair Peloza reported the Municipal Services Committee did not meet on March 10. The next regular meeting of the Municipal Services Committee is scheduled for March 24, 2014.

**B. Planning & Community Development**

Chair Holman reported the Planning and Community Development Committee met March 7, 2014. The Committee approved Resolution No. 5048 authorizing the acceptance of 4Culture grant. The Committee also discussed the environmental park zoning and existing non-conforming uses, local revitalization funding, streetscape and urban design for Main Street, and downtown permit parking. Chair Holman reported that a joint meeting of the Planning and Community Development Committee and Planning Commission will be held tomorrow. The next regular meeting of the Planning and Community Development Committee is scheduled for March 24, 2014.

**C. Public Works**

Chair Osborne reported the Public Works Committee met this afternoon at 3:30. The Committee approved a Right-of-way Use Permit for the Muckleshoot Indian Tribe for monitoring wells and a consultant agreement with Brown and Caldwell for engineering services related to Project No. CP1320, the Maintenance and Operations Storm Drainage Improvement Project. The Committee also approved Resolution No. 5052 authorizing the Mayor to negotiate agreements for the acquisition of property on the Lea Hill corridor. The Committee discussed Resolution No. 5051 regarding the Consolidated Annual Performance and Evaluation Report and the capital projects status report. The next regular meeting of the Public Works Committee is scheduled for April 7, 2014.

**D. Finance**

Chair Wales reported the Finance Committee met this evening at 5:00. The Committee approved claims vouchers in the amount of \$2.2 million and payroll vouchers in the amount of \$2.1 million. The Committee also reviewed Ordinance No. 6502 approving budget amendment number 7, Resolution No. 5037 related to interfund loans, and Resolution No. 5051 accepting the Consolidated Annual Performance and Evaluation Report. The Committee discussed Resolution No. 5053

regarding the 2014-2019 Park Property Tax Levy allocation and procurement card statistics. The next regular meeting of the Finance Committee is scheduled for April 7, 2014.

**E. Les Gove Community Campus**

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

**F. Council Operations Committee**

The next regular meeting of the Council Operations Committee is scheduled for March 24, 2014.

**G. Junior City Council**

Deputy Mayor Wagner reported the Junior City Council met earlier this evening. The Junior City Council received a presentation from Planning Services Manager Elizabeth Chamberlain on the "Imagine Auburn" Comprehensive Plan update. The next regular meeting of the Junior City Council is scheduled for April 21, 2014.

**IV. CONSENT AGENDA**

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

**A. Minutes of the March 3, 2014 regular meeting**

**B. Claims Vouchers (Wales/Coleman)**

Claims voucher numbers 427693 through 427872 in the amount of \$2,125,047.07 and one wire transfer in the amount of \$48,230.11 and dated March 17, 2014.

**C. Payroll Vouchers (Wales/Coleman)**

Payroll check numbers 534554 through 534580 in the amount of \$856,770.99 and electronic deposit transmissions in the amount of \$1,284,256.90 for a grand total of \$2,141,036.89 for the period covering February 27, 2014 to March 12, 2014.

**D. Public Works Consultant Agreement No. AG-C-450 (Osborne/Snyder)**  
City Council grant permission to enter into Consultant Agreement No. AG-C-450 with Brown and Caldwell for engineering services for Project No. CP1320, Maintenance and Operations Storm Drainage Improvement project.

Deputy Mayor Wagner moved and Councilmember Pelosa seconded to approve the Consent Agenda.

The Consent Agenda includes claims and payroll vouchers and a consultant services agreement.

**MOTION CARRIED UNANIMOUSLY. 7-0**

## **V. UNFINISHED BUSINESS**

There was no unfinished business.

## **VI. NEW BUSINESS**

There was no new business.

## **VII. ORDINANCES**

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

Councilmember Wales moved and Councilmember Holman seconded to introduce and adopt Ordinance No. 6502.

Ordinance No. 6502 approves budget amendment number 7, which carries forward projects and programs that were authorized and started in 2013 but not yet completed.

MOTION CARRIED UNANIMOUSLY. 7-0

## **VIII. RESOLUTIONS**

- A. Resolution No. 5037 (Wales/Coleman)  
A Resolution of the City Council of the City of Auburn, Washington, authorizing the transfer of funds for the purpose of making a loan or loans from the General Fund and/or the Cumulative Reserve Fund to a grant sustained or project focused Special Revenue Fund for up to a three-year period of time

Councilmember Wales moved and Councilmember Holman seconded to adopt Resolution No. 5037.

Resolution No. 5037 authorizes interfund loans from the General Fund and/or the Cumulative Reserve Fund to a grant sustained fund for short-term cash flow and funding needs.

In response to questions from Deputy Mayor Wagner, Finance Director Coleman explained that the resolution will allow the use of interfund loans for grant sustained funds, such as the Community Development Block Grant Fund and the Arterial Street Program, where funds are expended for the project or program prior to receiving reimbursement from the grant program. The funds are typically transferred in and out within thirty to sixty days.

Councilmember Pelosa spoke in favor of the resolution stating there appears to be little risk, and the funds are grant sustained.

Finance Director Coleman stated the interfund loans will cover the authorized expenditures from grant sustained funds while the City awaits for reimbursement of federal, state and local grant monies, which have been approved for allocation. Most grants reimburse expenditures within sixty days. Finance Director Coleman stated she has never seen a grant reimbursement take longer than a year.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Resolution No. 5051 (Wales/Hursh)  
A Resolution of the City Council of the City of Auburn, Washington to accept the 2013 Consolidated Annual Performance and Evaluation Report (CAPER) for the 2013 program year

Councilmember Wales moved and Councilmember Holman seconded to adopt Resolution No. 5051.

Resolution No. 5051 approves the Consolidated Annual Performance and Evaluation Report for 2013.

Councilmembers Wales and Pelosa spoke in favor of the Community Development Block Grant Program.

MOTION CARRIED UNANIMOUSLY. 7-0

- C. Resolution No. 5052 (Osborne/Snyder)  
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to negotiate agreements and execute documents necessary to acquire property related to Lea Hill Road Segment 1 Improvements

Councilmember Osborne moved and Councilmember Pelosa seconded to adopt Resolution No. 5052.

Resolution No. 5052 authorizes the Mayor to negotiate agreements for the acquisition of property along the Lea Hill Road corridor for future improvements.

MOTION CARRIED UNANIMOUSLY. 7-0

## IX. REPORTS

*At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.*

### A. From the Council

Deputy Mayor Wagner reported on his attendance at the Regional Access Mobility Partnership meeting, a DARE graduation ceremony at Dick Scobee Elementary, the Valley Regional Fire Authority Board meeting, a DARE graduation at Evergreen Heights Elementary, and the Senior Center coffee hour.

Councilmember Trout reported she interviewed Junior City Councilmember Mary Riel and reported on her attendance at the Planning and Community Development Committee meeting, the National League of Cities Conference, the King County Sustainable Cities Roundtable, and a Lions Club fundraiser.

Councilmember Osborne reported on his attendance at the monthly Law Enforcement Officers and Fire Fighters Disability Board meeting, the Regional Water Quality Committee meeting, and the National League of Cities Conference where he served as a member of the Transportation, Infrastructure and Services Committee.

Councilmember Pelosa reported on his attendance at the National League of Cities Conference where he chaired the Energy, Environment and Natural Resources Committee. Councilmember Pelosa also reported on his attendance at the Auburn International Farmers Market Board meeting, the Sister Cities Board meeting, and the King County Solid Waste Management Advisory Committee meeting. Councilmember Pelosa reported the timeline for the completion of the environmental impact statement for the South King County transfer station project is May 2014. King County Executive Constantine is expected to make a decision on the transfer station site in August 2014.

Councilmember Holman reported on his attendance at the Sound Cities Association (SCA) meeting, the SCA Growth Management Caucus, the Puget Sound Regional Council Growth Management Board meeting, and the National League of Cities Conference where he participated as a member of the Community and Economic Development Steering Committee and the First Tier Suburbs Steering Committee. Councilmember Holman announced that today is Chuck and Leila Booth's 57th wedding anniversary. Former mayor Chuck Booth and his wife, Leila, are much loved members of the Auburn community.

Councilmember Wales reported that nearly a year ago, the Auburn School District and other area school districts received a federal reading grant with the goal of improving reading scores through the Reading Map 2020 program. It was recently announced that six elementary schools in Auburn have already achieved the 2020 goals. Councilmember Wales also reported on her attendance at the National League of Cities Conference where she served on the Human Resources Committee and the Youth and Families Steering Committee.

Councilmember DaCorsi reported on his attendance at the National League of Cities Conference where he was able to watch proceedings in the U.S. Senate and House of Representatives and meet with the State congressional delegation regarding municipal bonds income tax exemption. Councilmember DaCorsi congratulated Councilmember Holman on his presentation at the National League of Cities Conference.

**B. From the Mayor**

Mayor Backus reported on a meeting with Dr. Eileen Ely, President of Green River Community College, regarding partnership opportunities between the City and Green River Community College. Mayor Backus also reported on her attendance at a ribbon cutting ceremony for U-float, a meeting and tour of the Skills, Inc., facility, a meeting of the King County Aerospace Alliance, the 2014 Northwest Regional Sport Stacking competition, the Christ Community Free Clinic fundraiser, the National League of Cities Conference where she met with members of Congress and representatives from the U.S. Conference of Mayors, the Senior Center coffee hour, the Green River Community College groundbreaking for the new Trades Building, and the Department Directors leadership retreat.

**X. EXECUTIVE SESSION**

At 8:41 p.m., Mayor Backus recessed the meeting to executive session for approximately 10 to 15 minutes to discuss pending/potential litigation pursuant to RCW 42.30.100(1)(i). No action is anticipated following the executive session. Department directors required for the executive session included City Attorney Heid and Community Development and Public Works Director Kevin Snyder.

At 9:02 p.m., the executive session was extended an additional 10 minutes.

The executive session concluded at 9:06 p.m.

**XI. ADJOURNMENT**

There being no further business to come before the City Council, the meeting adjourned at 9:06 p.m.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Nancy Backus, Mayor

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Danielle Daskam, City Clerk



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Claims Vouchers

**Date:**

April 2, 2014

**Department:**

Administration

**Attachments:**

No Attachments Available

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council approve claims vouchers.

**Background Summary:**

Check numbers 427873 through 428092 in the amount of \$3,606,818.41 and six wire transfers in the amount of \$49,196.83 and dated April 7, 2014.

**Reviewed by Council Committees:**

**Councilmember:** Wales

**Staff:** Coleman

**Meeting Date:** April 7, 2014

**Item Number:** CA.B



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Payroll Vouchers

**Date:**

April 2, 2014

**Department:**

Administration

**Attachments:**

No Attachments Available

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council approve payroll vouchers.

**Background Summary:**

Payroll check numbers 534581 through 534612 in the amount of \$303,098.61 and electronic deposit transmissions in the amount of \$1,360,792.80 for a grand total of \$1,663,891.41 for the period covering March 13, 2014 through April 2, 2014.

**Reviewed by Council Committees:**

Finance

**Councilmember:** Wales

**Staff:** Coleman

**Meeting Date:** April 7, 2014

**Item Number:** CA.C



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Contract for False Alarm Billing & Tracking Services

**Date:**

April 3, 2014

**Department:**

Police

**Attachments:**

[Contract with AOT Public Safety Corp](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council approve the Contract for False Alarm Billing and Tracking services.

**Background Summary:**

The city currently contracts with a third party administrator, AOT Public Safety Corporation (PSC), for false alarm billing and tracking services. The contract is due to expire in May and a new contract has been reviewed by PSC and the Police and Legal departments. The original contract was previously approved as a 'Consent Agenda' item by the City Council.

**Reviewed by Council Committees:**

Finance, Municipal Services Other: Legal, AOT Public Safety Corporation (PSC)

**Councilmember:** Peloza

**Staff:** Lee

**Meeting Date:** April 7, 2014

**Item Number:** CA.D

## CONTRACT FOR FALSE ALARM BILLING AND TRACKING SERVICES

**THIS CONTRACT FOR FALSE ALARM TRACKING AND BILLING SERVICES** (this "Contract") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the **City of Auburn, a Washington municipal corporation** ("Auburn") and **AOT Public Safety Corporation** ("Contractor" or "PSC"), a corporation of the State of Maryland with its principal offices located in Waldorf, Maryland.

### WITNESSETH:

**Whereas**, Chapter 9.30 of the City Code regulates alarm systems and false alarms; and

**Whereas**, PSC has been the City's contracted manager for enforcement of the False Alarm Ordinance since May 2009; and

**Whereas**, the parties wish to renew the contract for up to another five years.

**Now, Therefore**, the parties agree as follows:

#### 1. Term.

The term of this Contract shall commence as of the date first written above (the "Effective Date") and unless terminated as herein provided shall exist and continue for an initial term of one (1) year.

Auburn shall have the right at its option to extend the Contract for additional periods of one (1) year each upon the same terms and conditions. The total contract period shall not exceed five (5) years from the Effective Date. The option shall be deemed exercised in each successive year upon written notice by Auburn to the Contractor. The notice shall not be later than sixty (60) days prior to the expiration of the then effective remaining term.

#### 2. Contract Documents and Order of Precedence

The contract documents consist of the following Attachments which are incorporated into the Contract by this reference:

A. **Attachment A**, describes the Scope of Services to be provided by the Contractor and the City's operational responsibilities; **Attachment B**, Payment Terms; and, **Attachment C**, including the original Auburn Request for Proposals (RFP) for a Contract for False Alarm Administration Services; and the Contractor's original response to the RFP under its proposal to the City of Auburn (Proposal);.

B. The Order of Precedence shall be as follows: (1) this Contract; (2) Attachments A and B; (3) the RFP; and, (4) the Proposal.

#### 3. Alarm Management Scope of Services

A. The Contractor shall provide the False Alarm Administration Services (FAAS) in accordance with the **Scope of FAAS Services described in Attachment A**.

B. The Scope of FAAS Services shall assist Auburn in managing its Alarm Ordinance to include, without limitation, registration of responsible persons (including individuals, businesses and government agencies) who use alarm systems, issuance and notification of alarm permits and permit fees, issuance and notification of false alarm penalties in accordance with the Alarm Ordinance and at the direction and under the supervision of Auburn's Alarm Administrator, maintenance of a database of registered persons who use alarm systems, management of false alarm occurrences, collection of fees, the collection and enforcement of penalties for violations, generating performance and outcome reports and assuring the availability to Auburn of false alarm information, all as more specifically described in **Attachment A - Scope of FAAS Services**.

4. **Software license.**

Auburn shall be licensed and authorized to use the Software and any additional specific customization and development provided as part of the FAAS Services, all in accordance with **Attachment A**. The license shall cover all the Software, including, without limitation, software interfaces and software modifications. The scope of the license is non-transferable and non-exclusive and is authorized by PSC for use by Auburn to access its false alarm information.

5. **Duration of the Software License**

Auburn shall have the right to use the Software in accordance with **Attachment A** for so long as the Contractor provides FAAS Services to Auburn or in accordance with the Termination provisions in this Contract. This license shall apply for the duration of the Contract and any extensions provided for herein or agreed to in writing by the parties. In the event the business relationship with PSC is terminated or ended for any reason, Auburn's license rights to use the Software shall likewise terminate except as provided for in this Contract, including **Attachment B**.

6. **Modification of the Software**

A. Modifications or adaptations of the Software shall be limited to creating interfaces between the Software and Auburn's computer systems required to import or export data in order to implement the Software. Software "customization" includes, without limitation, adaptations necessary to meet the requirements established by Auburn for reasonable program, technical, and/or legislative changes.

B. Auburn shall retain a nonexclusive License to use the modified and/or "customized" interfaces with the Software, *provided, however*, the use of the original Software with such adaptations in any projects other than the management of the Alarm Ordinance shall be subject to additional compensation to PSC in an amount and subject to terms to be determined by the parties in writing prior to any such additional use.

7. **Protecting Confidential Information**

The proprietary information of both parties, PSC and Auburn, is and shall remain the valuable intellectual property of each respective party. Except as required by law, neither party shall disclose any such information to any third party for any reason without the express written consent of the other party and shall only use proprietary information for internal purposes to facilitate and assist PSC and Auburn staff in the administration of the Alarm Ordinance. In addition, the parties shall provide reasonable safeguards to protect their respective software, hardware systems and data from unauthorized intrusion by third parties.

PSC acknowledges that Auburn is subject to Washington's Public Records Act, Chapter 42.56 of the Revised Code of Washington. If Auburn gets a request for records that contains PSC's confidential information, Auburn will notify PSC of that request and Auburn's proposed response. Auburn shall give PSC 10 calendar days to obtain an injunction prohibiting the release of records. PSC shall be responsible for all litigation costs related to its decision to seek to enjoin release of records. If Auburn is assessed penalties or costs as a result of PSC's actions to enjoin release of records, PSC shall reimburse Auburn for those penalties or costs.

Names, addresses, type of alarm, identification information of any alarm monitoring company, or identification information of any person cited under the Alarm Ordinance shall not be released, exhibited or sold to a third party by PSC.

All data received hereunder shall be made a part of the Auburn's permanent records and files and preserved therein for a period in accordance with the requirements of Washington law, Auburn will inform PSC of the required retention time in writing as soon as that information is released by the Washington Secretary of State.

#### **8.           Reproduction and Copyright**

A.       The Software is protected under the Copyright and Patent laws of the United States, and as extended by treaty, with Canada. Auburn may not copy, or allow anyone else to copy or otherwise reproduce, any part of the Software without the prior written consent of PSC, except to store and/or install a copy of the Software on a storage device, such as a network server, used only to run the Software on other computers over an internal network and except for two copies for back-up or archive purposes.

B.       Auburn may copy the licensed Software as necessary to its hard disks or other such storage medium to efficiently operate the Software on Auburn's single-user system, multiple-user system, or network. The Software shall be copied as a whole, and the use of the copies shall be governed by this Contract. All other copying is prohibited.

#### **9.           Limitations on the Use of the Software.**

Auburn may not reverse engineer, decompile, or disassemble the Software. The Software is licensed as a single product. Its component parts may not be separated.

#### **10.          Notices of Intellectual Property Rights**

Auburn shall assure that PSC's notices of intellectual property (e.g., patent, trademark, and copyright notices) provided by PSC, if any, shall remain visible on the Software when displayed electronically, or when output created by it, is printed.

#### **11.          Payment.**

Auburn shall pay the Contractor for the FAAS Services described, in accordance with **Attachment B** ("Payment Terms"). Auburn is a Washington public entity and all financial obligations extending beyond the current fiscal year are subject to funds being budgeted and appropriated therefore.

#### **12.          Collection of Fines.**

Auburn shall support the collection of false alarm fees and fines in accordance with the Alarm Ordinance and at the direction of the Alarm Administrator. If Auburn directs PSC to engage a third-party collection organization for delinquent amounts, Auburn shall cause the necessary legislative and administrative procedures to be enacted and/or adopted in order to delegate to the Contractor the authority to collect unpaid fees on behalf of Auburn.

**13. Confidentiality of Auburn False Alarm Data.**

Any false alarm collection data provided to the Contractor during the performance of the FAAS Services shall be used only in a manner consistent with this Contract, and no false alarm collection data shall be disclosed without the prior written consent of Auburn. If such disclosure is compelled or required in any judicial or administrative proceeding, the Contractor shall, before disclosing such information, first notify Auburn and give Auburn an opportunity to object to the disclosure.

In the event Auburn objects to such disclosure, it shall notify the Contractor that it will indemnify it for any costs and expense incurred, including, without limitation, the cost of attorney fees expended in the defense of any action or proceeding, or relating to the refusal to disclose such information.

**14. Auburn Responsibilities.**

Reserved.

**15. Auburn Alarm Administrator.**

To facilitate effective communication between Auburn and the Contractor, and in accordance with the Alarm Ordinance, Auburn shall designate an Alarm Administrator. The Alarm Administrator shall have the power and authority to make decisions relating to the FAAS Services. A secondary Alarm Administrator will also be designated to act on behalf of the Alarm Administrator when the primary Alarm Administrator is unavailable. The Alarm Administrators shall be designated by the Chief of Police.

**16. Resolution of Disputes.**

A. *Mediation.* In the event of a dispute between the parties concerning any matter arising under this Contract, the parties shall proceed to good-faith mediation of the dispute. The mediation venue shall be Auburn, Washington. The cost of mediation shall be shared equally. If mediation is ineffective, either party may avail themselves of all legal remedies.

**17. Termination.**

A. *By Auburn.* Auburn may terminate this Contract for any reason and at any time by giving at least sixty (60) days written notice to the Contractor of such termination and specifying the effective date thereof. If the Contract is terminated by Auburn, the Contractor will be paid for any services already performed. The Contractor shall be liable to Auburn for any damages sustained by Auburn by virtue of any breach of the Contract by the Contractor. In addition, to other remedies it may have in law or equity, Auburn may withhold payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due Auburn from the Contractor is determined.

B. *By Ordinance or Procedures.* PSC and the City agree that should ordinance changes or procedure changes be effected in the Alarm management ordinances, the City and/or PSC shall have the option to request changes to the operating agreement parameters.

C. *By the Contractor for Cause.* If Auburn substantially changes the Alarm Ordinance by reducing or eliminating the system of false alarm fees collected through its administrative process, the Contractor shall provide thirty (30) days prior written notice that false alarm fee collections have not been made in accordance with this Contract. If enforcement procedures and/or collection obligations are not changed to the reasonable satisfaction of the Contractor, the Contractor may terminate this Contract after a further thirty (30) day written notice to Auburn.

#### 18. **Rights upon Termination**

A. If the Contractor is entitled to terminate this Contract, the Contractor shall offer Auburn an option, which must be exercised within thirty (30) calendar days after the Notice of Termination, to purchase a conditional, uninterrupted, non-exclusive and non-transferable license to use the proprietary FAAS Software, CryWolf®, as necessary to support and administer Auburn's Alarm Ordinance conditional on the payment of initial and annual license and services fees at the Contractor's then prevailing rates. Payment of the fees shall be within thirty (30) calendar days of the expiration of each prior paid year.

B. If Auburn terminates this Contract or if the Contractor terminates for cause, Auburn, in addition to payment of false alarm collections owed to the Contractor through the date of termination, shall undertake good faith efforts to collect any FAAS Service fees and civil penalties for Ordinance violations billed, but not yet collected, through the date of termination, in order to pay the Contractor, all amounts due the Contractor as a result of efforts engaged in by the Contractor on Auburn's behalf.

#### 19. **Indemnification**

A. The Contractor shall indemnify, hold harmless, and defend Auburn, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys fees, arising out of or resulting, directly or indirectly, from the Contractor's (or Contractor's subcontractors, if any) performance or breach of the Contract provided that such claim, damage, loss, or expense is not caused by the negligent act or omission or willful misconduct of Auburn or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification provision shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

B. In the event that a claim is made against the Contractor, which arises out of the negligence or willful misconduct of Auburn or any of Auburn's employees, Auburn shall indemnify the Contractor to the extent Auburn is liable under the law.

C. Any party seeking indemnification shall promptly notify the other party of its discovery of any matter giving rise to a claim of indemnity. For each individual claim, the indemnifying party shall have no obligation to the other or to any third party with respect to any expenses incurred by or on behalf of the other or its assumption of control of the defense of the claim, or with respect to any compromise or settlement made, without the prior written consent of both parties.

**20. Patent infringement**

The Contractor shall indemnify Auburn, its elected and appointed officials, officers, employees, agents, and successors in interest from and against all damages and expenses resulting from any infringement action brought against the Contractor, or against Auburn to the extent that any such action is predicated on the use of Contractor's software, during the term of this Contract. This Hold Harmless and Indemnification provision shall in no way be limited by any financial responsibility or insurance and shall survive termination of this contract.

**21. Limitation of Liability.**

In no event shall either Party be liable to the other for consequential, special, or incidental damages arising out of or relating to performance and nonperformance. This limitation shall apply regardless of the form of action, whether in contract or in tort, including negligence or misrepresentation.

**22. Insurance.**

This Contractor shall provide and maintain in full force and effect at no additional cost to Auburn for the duration of the Contract commercial general liability insurance or comprehensive general liability insurance with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and damage to property including contractual liability, premises/operations, products/completed operations, independent contractors, broad form property damage, and personal injury coverage and a minimum aggregate amount of \$1,000,000/00 or commercial/comprehensive general liability insurance plus additional excess umbrella liability insurance to meet these limits.

The Contractor agrees that it shall add Auburn, its elected and appointed officials, officers, employees, agents, and successors in interest to the Contractor's liability insurance policies as additional insureds. The Contractor shall require its insurance carrier or agent to certify that this requirement has been satisfied on all Insurance Certificates issued under this Contract.

Before any work is initiated and before any invoices are paid for work performed under this Contract, the Contractor shall provide written proof of compliance with the above insurance requirements by delivering to:

City of Auburn Police Department  
Attention: Assistant Chief William T. Pierson  
340 East Main Street, Suite 201  
Auburn, Washington 98002

a copy of a certificate or certificates of insurance completed by its insurance carrier or agent certifying that minimum insurance coverages as required above are in effect and that the coverage will not be canceled or changed until thirty (30) days after written notice is given to Auburn. The Contractor shall maintain, update, and renew the Certificate(s) for the term of this Contract.

**23. Assignment.**

This Contract shall not be assigned to any third party without prior written consent, which may be withheld in the sole and absolute discretion of either party.

**24 . Attorney's Fees.**

Should the parties or either of them employ an attorney to enforce by litigation in a court of competent jurisdiction, any of the contract provisions because of a disputed matter arising under this Contract, to assert damages for the breach of the Contract, or in order to obtain injunctive relief, then the prevailing party shall be entitled to recover reasonable attorney's fees, costs, charges, and any expenses expended or incurred.

**25 . Notices.**

Wherever under this Contract one party is required or permitted to give notice to the other, such notice shall be deemed given when delivered in hand or when mailed, by United States mail, certified, return receipt requested, postage prepaid, and addressed as follows:

In the case of the Contractor:

Public Safety Corporation  
103 Paul Mellon Court  
Waldorf, Maryland 20602  
Attention: Contract Administration

In the case of Auburn:

City of Auburn Police Department  
Attention: Assistant Chief William T. Pierson  
340 East Main Street  
Suite 201  
Auburn, Washington 98002

**26 . Governing Law.**

The substantive laws of the State of Washington shall govern this Contract without regard to the law of conflicts. Venue shall be in the Superior Court of King County, Washington. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section

**27 . Severability.**

If any provision of this Contract is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired.

**28 . No Waiver.**

The failure by any party to exercise any right stated in this Contract shall not be deemed a waiver of the right.

**29 . Complete Agreement**

This Contract when signed by both parties sets forth the entire understanding of the parties as to its subject matter, conditions and obligations and may not be modified except by further written agreement.

City of Auburn/PSC  
Page 7 of 13

**30. Independent Contractors.**

In performing the work under this Contract, the Contractor acts as an independent contractor and is solely responsible for necessary and adequate worker's compensation insurance, personal injury and property damage insurance, as well as errors and omissions insurance. The Contractor, as an independent contractor, is obligated to pay federal and state income tax on moneys earned. The personnel employed by the Contractor are not and shall not become employees, agents or servants of Auburn because of the performance of any work by this Contract.

[Remainder of Page Intentionally Left Blank]

**WHEREAS**, the individuals representing the parties are both authorized and have executed this Contract effective as of the date first written above.

**Auburn, Washington**

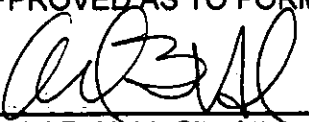
By: \_\_\_\_\_

Nancy Backus, Mayor

**ATTEST BY:**

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

**AOT Public Safety Corporation**

By: \_\_\_\_\_  
[Authorized Signing Officer]

\_\_\_\_\_  
[Name and Title – please print]

**ATTEST BY:**

\_\_\_\_\_

## **ATTACHMENT A FAAS Scope of Services**

### **Purpose**

The purpose of this Scope of Services is to summarize the duties and responsibilities of AOT Public Safety Corporation ("PSC"), and the City of Auburn, Washington ("Auburn") as described in more detail in the RFP and Proposal in Attachment C.

### **PSC Responsibilities**

PSC will be responsible for the daily operation of the Program. This will include:

1. Registering and updating alarm permits in accordance with the Auburn Alarm Ordinance ("Ordinance"). Permit registrations may be processed by mail and online;
2. Importing daily into the PSC alarm billing system, false alarm incident data (in formats prescribed by PSC) extracted from Auburn's CAD/911 System;
3. Initializing, maintaining, securing and backing up Program databases including alarm registration and incident data, alarm-related financial transactions and accounts receivable information. PSC will comply with the provisions of the Ordinance, and update Program business rules to comply with any Ordinance changes;
4. Processing false alarm incident data, including the matching of false alarm incidents with the security alarm registration / permit database maintained by PSC;
5. Billing and corresponding with alarm users in accordance with the Alarm Ordinance provisions. This will include but may not be limited to notifications of false alarms, invoices, and delinquent payment notices;
8. Providing Auburn specific information to include a checklist on false alarm reduction and Ordinance requirements in the first false alarm notice / warning letter sent to alarm users;
9. Answering telephone inquiries from Auburn alarm users that are placed to a false alarm program toll-free customer service number;
10. Processing fee / penalty payments mailed to and deposited in a Auburn-approved bank and received from other payment channels, e.g. online, as agreed on by PSC and Auburn, and applying these payments to alarm accounts;
11. Assisting Auburn in maintaining an appeal process that is user friendly to the public to include notifying Auburn of any appeals; providing a City Alarm Program representative with documentation supporting noticing/billing decisions; and updating the system with the disposition of any City hearing results;
12. Providing and maintaining computer equipment, software, mailing equipment and furniture at the Program processing facilities in Waldorf, Maryland;
13. Providing Auburn secure, online, on-demand access to alarm management information and

City of Auburn/PSC

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access to reports as described in the RFP and Proposal in Attachment C, including, but not limited to, alarm account transaction history, weekly registration/permit and suspension information, and weekly collections and deposits with format and content specified by the CryWolf® Alarm Management System and the designated Bank, and agreed on between Auburn and PSC; and,

14.. Performing special collection functions as approved by Auburn such as retaining third party collection agency, providing delinquent account information to other City agencies and / or filing property liens.

PSC is responsible for all costs of carrying out these responsibilities including, but not limited to, the costs of staff, facilities, equipment and consumable supplies. Only third-party bank and credit card fees, third party collection costs (if any), e.g. collection agency fee, citizen refunds and any special mailing costs (above U.S. First Class postage).

### **Auburn Responsibilities**

1. Appointing a Auburn Alarm Administrator ("Administrator") who will be the primary point of contact between PSC and Auburn. The Administrator is responsible for overseeing PSC's operation of the False Alarm Management Services Program ("Program") and accessing Program information, as needed, via PSC provided online access;
2. Requesting Alarm Companies to provide alarm system registration information and supporting PSC, as needed, to ensure that Alarm Companies comply with alarm system information requests;
3. Making any and all decisions about alarm call response, determining whether calls are false alarms, providing any on-scene communication of alarm related information to alarm users, and for documenting alarm related information within the Auburn CAD/911 system;
4. Extracting false alarm incident data from the CAD/911 System and transferring this data electronically to PSC (via email or PSC FTP site). Auburn staff are also responsible for entering, or causing to be entered, into the CAD/911 System any false alarm related information that Auburn may choose to display to CAD/911 System operators through the CAD/911 System;
5. Scheduling, conducting and making appeal decisions for any false alarm hearings;
6. Conducting, after consulting assistance from PSC, any general public education programs on false alarms; and,
7. Transferring any and all financial information from the Program generated alarm reports to other Auburn financial systems, as needed.

Auburn is responsible for all costs of carrying out these responsibilities, including, but not limited to the costs of staff, facilities, computer equipment and consumable supplies.

## **ATTACHMENT B**

### **PAYMENT TERMS**

#### **1. Revenue Sharing Percentage**

For the provision of all services and technology outlined in this contract, PSC shall obtain payment exclusively from the revenues PSC helps generate. There shall be no upfront systems development, licensing, conversion, equipment, travel or other costs. PSC shall purchase, configure, install, and customize all systems and processes PSC requires to provide the False Alarm Management Services described herein. The Revenue Sharing schedule is as follows:

#### **PSC's Percentage Share of Collected Revenue**

PSE shall be paid twenty-five percent (25%) of the net revenues received under the false alarm ordinance. The only amounts that shall be paid from the total collected revenue and subtracted from the total collected revenue before the revenue sharing percentages are applied are:

1. Refunds, authorized in writing by Auburn, of amounts paid to alarm users;
2. Bank fees charged by a Auburn-approved bank;
3. Special mailing costs, if any, in excess of U.S. Post Office first class rates; and,
4. Third-party credit card processing charges, if any.

#### **Payment Terms**

Auburn and PSC agree as follows:

1. All alarm permit and false alarm fee collections from any payment method, including but not limited to bank lockbox and online credit card, shall be deposited, as soon as practical, in a False Alarm Bank Account ("False Alarm Account") to be established at a mutually agreeable Commercial Bank;
2. Auburn and PSC agree to maintain a positive balance of available funds ("Minimum Balance") at all times in the False Alarm Account;
3. At the beginning of each month, PSC will reconcile the alarm related deposits for the most recent completed month and report the same to Auburn. Upon Auburn's approval, Auburn and PSC shall authorize and cause the issuance of electronic (ACH) transfers to Auburn and to PSC as follows:
  - a. With regard to the transfer to PSC, the amount will be calculated for PSC based on the Revenue Share provisions above. That amount, not to exceed 25% of the revenue collected during the preceding month, shall be transferred to a bank and account authorized by PSC; and,
  - b. The remaining balance, not to exceed 75% of the revenue collected during the preceding month, shall be transferred to a bank and account authorized by Auburn.

City of Auburn/PSC

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- 4 . At the termination of this Contract, any remaining balance shall be transferred to PSC and to Auburn on the same prorata basis, 25% and 75% respectively.
- 5 . Auburn is a Washington public entity and all financial obligations extending beyond the current fiscal year are subject to funds being budgeted and appropriated therefore.

**Delinquent Account Terms**

The parties shall define a mutually agreeable process and methods for collecting amounts due from delinquent accounts. If organizations other than Auburn and PSC are retained to collect overdue amounts, the parties agree that the collection costs shall be borne by the parties on a pro-rata basis as follows: PSC 25% and Auburn 75%.



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Ordinance No. 6503

**Date:**

April 3, 2014

**Department:**

Police

**Attachments:**

[Ordinance No. 6503](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council introduce and adopt Ordinance No. 6503.

**Background Summary:**

A review of ACC 9.78.010 relating to disorderly conduct was brought forth due to recent arrest situations at the Police department. The Auburn Police and Legal departments have reviewed the current ACC and have recommended the attached changes.

**Reviewed by Council Committees:**

Finance, Municipal Services Other: Legal

**Councilmember:** Pelloza

**Staff:** Lee

**Meeting Date:** April 7, 2014

**Item Number:** ORD.A

**ORDINANCE NO. 6 5 0 3**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF AUBURN, WASHINGTON, AMENDING SECTION  
9.78.010 OF THE AUBURN CITY CODE RELATING TO  
DISORDERLY CONDUCT**

WHEREAS, the current provisions of City ordinance and state law include provisions that prohibit Disorderly Conduct, including such things as fighting in public, engaging in conduct that creates the risk of assault, and other activities that disturb the peace; and

WHEREAS, it would be valuable for the city and its law enforcement officers to be able to address other instances where individuals engage in other conduct that is likely to disturb the peace, in addition to the current methods through which the violation of Disorderly Conduct can occur:

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

**Section 1. Amendment to City Code.**

Section 9.78.010 of the Auburn

City Code be, and the same hereby is amended to read as follows:

9.78.010 Disorderly conduct.

A. A person is guilty of disorderly conduct if he or she:

1. Fights or encourages others to fight in any public place within the city;
2. Willfully annoys, molests, bothers, insults, or offers an affront to another person and thereby intentionally creates the risk of assault;
3. Willfully breaks, impairs, injures or defaces any building, fence, awning, window, sign, signboard, tree, shrub, or other thing of value being the property of another;
4. Intentionally obstructs vehicular or pedestrian travel or traffic without lawful authority;
5. Removes, interferes with, carries away or destroys the property of another, or tears down, destroys or mutilates any notice or handbill lawfully posted in the city;
6. Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
7. Looks into the windows of the residence of another without a lawful right to do so; and

8. Urinates or defecates in any place open to the public view, other than in a restroom or toilet facility; or

9. Intentionally engages in conduct that tends to, or is reasonably likely to, disturb the peace, promote disorder or endanger the safety of others.

B. Disorderly conduct is a misdemeanor. (Ord. 5682 § 1, 2002.)

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

**Section 3. 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 4. Effective date.** This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: \_\_\_\_\_

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

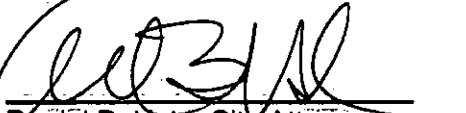
**CITY OF AUBURN**

ATTEST:

\_\_\_\_\_  
NANCY BACKUS, MAYOR

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Held, City Attorney

Published: \_\_\_\_\_

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Ordinance No. 6503

March 24, 2014

Page 2



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Resolution No. 5041

**Date:**

April 3, 2014

**Department:**

Parks/Art and Recreation

**Attachments:**

[Resolution No. 5041 and agreement](#)

**Budget Impact:**

\$75,000

**Administrative Recommendation:**

City Council adopt Resolution 5041.

**Background Summary:**

The City of Auburn has supported the Auburn Symphony Orchestra for the past several years to assist in promoting and marketing Auburn as a destination for arts and events that in turn contribute to the economy. Performing art programs serve as an economic driver and the activities of the Auburn Symphony Orchestra assists in attracting visitors to Auburn. Previous contracts have been specific to Orchestra concerts and Chamber concerts alone. For 2014, it is proposed that the City enters into one contract with a specific scope of services that ties to the entire Symphony season rather than individual concerts. The scope outlines sponsorship services, marketing, outreach and audience building, and organization efforts that assist in showcasing Auburn as a destination for arts and events.

**Reviewed by Council Committees:**

Finance, Municipal Services

**Councilmember:** Peloza

**Staff:** Faber

**Meeting Date:** April 7, 2014

**Item Number:** RES.A

**RESOLUTION NO. 5041**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
AUBURN, WASHINGTON, AUTHORIZING THE MAYOR  
TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF  
AUBURN AND THE AUBURN SYMPHONY ORCHESTRA  
FOR SERVICES**

WHEREAS, the Auburn Symphony Orchestra is a source of cultural and music education excellence, with a long history of drawing attendees from throughout the region; and,

WHEREAS, the City of Auburn supports the arts and music education, and wishes to provide sponsorship to the Auburn Symphony Orchestra in return for the many public benefits of cross-promotion with other arts organizations and local businesses to provide a total entertainment experience which would be beneficial to the City and to the residents and businesses of the City.

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

Section 1. That the Mayor is hereby authorized to execute an Agreement between the City and the Auburn Symphony Orchestra for cultural and music appreciation services, which agreement shall be in substantial conformity with the agreement attached hereto as Exhibit A and incorporated herein by this reference.

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

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

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

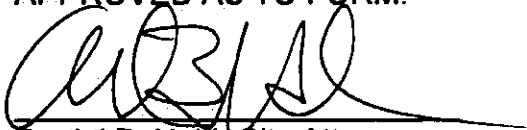
CITY OF AUBURN

\_\_\_\_\_  
NANCY BACKUS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

\_\_\_\_\_  
Resolution No. 5041  
March 24, 2014  
Page 2 of 2

Exhibit "A"



**CITY OF AUBURN and AUBURN SYMPHONY ORCHESTRA  
CONTRACT FOR SERVICES**

THIS CONTRACT is made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF AUBURN, a municipal corporation of the State of Washington, hereinafter referred to as the "City," and the AUBURN SYMPHONY ORCHESTRA, a not-for-profit corporation organized pursuant to 26 U.S.C. 501 (C)(3), hereinafter referred to as the "Service Provider" or "ASO," on the following terms and conditions.

1. **SCOPE OF SERVICES BY SERVICE PROVIDER** The Service Provider shall provide services to the City as follows:

**Sponsorship/Concerts**

1. Listing the City of Auburn as the primary concert sponsor and including the City of Auburn name and logo as a sponsor in advertisements and programs for such events for all Symphony Orchestra concerts; Chamber Orchestra performances and any summer Symphony concerts from July 2013 through June 2015.<sup>1</sup>
2. On stage acknowledgement at each performance of the City of Auburn support.
3. Performances for the 2013-2014 Season shall include:
  - a) Three Full Symphony programs to include the Triumph of Tchaikovsky (10/12/13 and 10/13/13); Musical Gems (2/15/2014 and 2/16/2014); The Farewell (4/26/2014 and 4/27/2014)
  - b) Four Chamber Concert programs to include From Classical to Romantic (11/24/2013); A Tale of Two Composers (1/19/2014); Bremen Town Musicians (3/2/2014); The Circus Ballet and a Little Jazz (3/9/2014)
  - c) Three Summer Concerts at Mary Olson Farm to include A Brassy Night (7/18/2013); Summer Serenade (8/1/2013); Animals in Music (8/15/2013)
4. Performances for the 2014-2015 Season shall include:
  - a) Three Full Symphony programs at Mountainview High School: 10/11/2014 and 10/12/2014; 2/14/2015 and 2/15/2015; 4/25/2015 and 4/26/2015
  - b) Three Chamber Concerts at St Matthew Episcopal Church to be held in November 2014, January 2015, and March 2015 (specific dates based on musician availability)
  - c) Three Summer Concerts at Mary Olson Farm to be held as follows:  
7/10/2014 (brass); 7/24/2014 (percussion); August 7, 2014 (strings)

<sup>1</sup> NOTE: While this Contract covers performances during 2014 and 2015, references are made to the ASO's 2013-2014 season, which includes periods covered in this Contract.

### **Marketing**

1. At least 30% of the organizational support provided by the City of Auburn each year to be directly spent on marketing.
2. Provide to the City a marketing plan and itemized marketing budget for the Symphony organization by July of each year of the Contract.
3. Develop brochures and pamphlets advertising the events including the City of Auburn as the home venue of the orchestra.
4. Demonstrated publicity efforts to solicit attendance from regional audiences outside of Auburn with a focus on a 25 mile radius of Auburn.

### **Outreach and Audience Building**

1. Demonstrated outreach efforts to schools, senior centers, businesses, and other organizations.
2. Participation as a community vendor at events that generate exposure for the Symphony.
3. Provide educational opportunities such as pre-concert lectures and other opportunities to learn.
4. Demonstrated efforts to write grants or seek sponsorships to provide at least one free public performance per year. (As an example, a chamber performance or symphony sampling at an Auburn location that will help build audience and exposure for the Symphony).
5. Provide discounted tickets to students attending Middle School and High School Orchestra within the City to attend full symphony concerts.

### **Organizational**

1. Consider options for annual fundraiser to be held at a location in Auburn.
  2. Submit ASO annual report to City of Auburn.
  3. Submit ASO season financial report along with breakout of where/how City funds were spent for funded season (to be completed September or October of 2014 for 2013-2014 ASO season)
  4. The City or its agents shall have the right to examine and inspect the books and records of the ASO for the purpose of validating reports and any other matters related to the performance of the Agreement.
  5. Provide concert reports from all performances that include audience statistics, including zip code demographics of ticket buyers and tracking of new versus regular attendees.
1. **TERM OF CONTRACT:** The Term of this Contract shall be from date of signing through December 31, 2015.
  2. **COMPENSATION TO SERVICE PROVIDER:**
    - a. The parties understand that the Service Provider operates on a fiscal year that runs from July 1 through the following June 30, and that its concert season is consistent with its fiscal year. The City's fiscal year is from January 1 through the following

December 31. The parties agree that the marketing services provided throughout the year are adequate consideration for the City to pay the Service Provider its full consideration due for the calendar year by the end of June each year in order to support the Service Provider's budget cycle.

- b. The total contract is for \$75,000 per calendar year. For 2014, the first payment of \$25,000.00 will be paid upon signing this Agreement. The second payment of \$25,000.00 will be paid on March 30, 2014. The third payment of \$25,000.00 will be paid on June 1, 2014. For calendar year 2015, the first payment of \$25,000 will be paid on January 31, 2015. The second payment of \$25,000.00 will be paid by the City to the Service Provider on March 30, 2015. The third payment of \$25,000.00 will be paid by the City to the Service Provider on June 1, 2015.
  - c. Invoicing and Reports. The Service Provider will submit invoices and reports not later than 30 calendar days before payment is due. For each reporting period, the Service Provider will provide report outlining how the Service Provider met the performance measures set forth in this Agreement.
3. **NON-APPROPRIATION OF FUNDS:** If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.
4. **RECORDS INSPECTION AND AUDIT:** All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced and all records and books of accounts pertaining to any work performed under this Contract shall be subject to inspection and audit by the City for a period of up to three 3 years from the final payment for work performed under this Contract.
5. **CONTRACT ADMINISTRATION:** This Contract shall be administered by Auburn Symphony Orchestra Manager Lee Valenta on behalf of the Service Provider and by Mayor or designee on behalf of the City. Any written notices required by terms of this Contract shall be served or mailed to the following addressees unless changed by written notice to the other party:  
  
If to the City: City of Auburn, 25 West Main Street, Auburn WA 98001  
If to the Service Provider: Auburn Symphony Orchestra, P.O. Box 2186, Auburn WA 98071
6. **NOTICES:** All notices or communications permitted or required to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail postage prepaid for mailing by certified mail return receipt requested and addressed if to a party of this Contract to the address

set forth next to such party's signature at the end of this Contract or if to a person not a party to this Contract to the address designated by a party to this Contract in the foregoing manner. Any party may change his or its address by giving notice in writing stating his or its new address to any other party all pursuant to the procedure set forth in this section of the Contract.

7. **INSURANCE:** The Service Provider shall be responsible for maintaining during the term of this Contract and at its sole cost and expense insurance coverages in amounts not less than the amounts set forth herein below. The Service Provider shall furnish evidence satisfactory to the City of all such policies during the term hereof the Service Provider shall take out and maintain in full force and effect the following insurance policies:
  - a. Comprehensive general liability insurance including automobile and property damage insuring the City and the Service Provider against loss or liability for damages for personal injury death or property damage arising out of or in connection with the performance by the Service Provider of its obligations hereunder with minimum liability limits of \$1,000,000.00 combined single limit for personal injury death or property damage in anyone occurrence.
  - b. Such workmen's compensation and other similar insurance as may be required by law.
8. **INDEMNIFICATION:** The Service Provider shall indemnify and hold harmless the City and its officers agents and employees or any of them from any and all claims actions suits liability loss costs expenses and damages of any nature whatsoever by any reason of or arising out of the negligent act or omission of the Service Provider its officers agents employees or any of them relating to or arising out of the performance of this Contract. If a final judgment is rendered against the City its officers agents employees and or any of them or jointly against the City and the Service Provider and their respective officers agents and employees or any of them the Service Provider shall satisfy the same to the extent that such judgment was due to the Service Provider's negligent acts or omissions.
9. **RESTRICTION AGAINST ASSIGNMENT:** Service Provider shall not assign this Contract or any interest herein nor any money due or to become due hereunder without first obtaining the written consent of the City nor shall the Service Provider subcontract any part of the services to be performed hereunder without first obtaining the written consent of the City.
10. **AMENDMENT MODIFICATION OR WAIVER:** No amendment modification or waiver of any condition provision or term of this Contract shall be valid or of any effect unless made in writing signed by the party or parties to be bound or such party's or parties duly authorized representative's and specifying with particularity the nature and extent of such amendment modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default.

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

11. **TERMINATION AND SUSPENSION:** Either party may terminate this Contract upon Ninety (90) days written notice to the other party. It is provided however that if the Service Provider has performed services pursuant to the Contract the Service Provider shall be compensated for such services in accordance with the rate of compensation provided herein.
12. **PARTIES IN INTEREST:** This Contract shall be binding upon and the benefits and obligations provided for herein shall inure to and bind the parties hereto and their respective successors and assigns provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Contract. This Contract is for the exclusive benefit of the parties hereto and it does not create a contractual relationship with or exist for the benefit of any third party including contractors, subcontractors and their sureties.
13. **COSTS TO PREVAILING PARTY:** In the event of litigation or other legal action to enforce any rights, responsibilities or obligations under this Contract, the prevailing party shall be entitled to receive its reasonable costs and attorney's fees.
14. **APPLICABLE LAW:** This Contract and the rights of the parties hereunder shall be governed by the laws of the State of Washington and interpreted in accordance with the laws of the State of Washington. Venue for any action hereunder shall be King County, State of Washington, provided however that it is agreed and understood that any applicable statute of limitation shall commence no later than the substantial completion by the Service Provider of the services.
15. **CAPTIONS, HEADINGS AND TITLES:** All captions, headings or titles in the paragraphs or sections of this Contract are inserted for convenience of reference only and shall not constitute a part of this Contract or act as a limitation of the scope of the particular paragraph or sections to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa, and masculine, feminine and neuter expressions shall be interchangeable. Interpretation or construction of this Contract shall not be affected by any determination as to who is the drafter of this Contract, this Contract having been drafted by mutual agreement of the parties.
16. **SEVERABLE PROVISIONS:** Each provision of this Contract is intended to be severable. If any provision hereof is found by a court of competent jurisdiction to be illegal or invalid or not applicable to any person or circumstance for any reason whatsoever, such illegality, invalidity or non-applicability shall not affect the legality or validity of the remainder of this Contract or its applicability to other persons or circumstances.
17. **ENTIRE AGREEMENT:** This Contract contains the entire understanding of the parties hereto in respect to the transactions contemplated hereby and supersedes all prior

agreements contracts and understandings between the parties with respect to such subject matter.

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

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

AUBURN SYMPHONY ORCHESTRA

CITY OF AUBURN

\_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

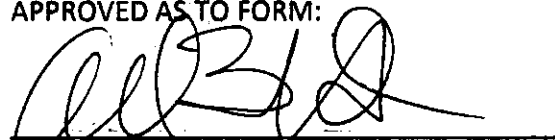
\_\_\_\_\_  
Nancy Backus, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Danielle Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Resolution No. 5048

**Date:**

February 20, 2014

**Department:**

Parks/Art and Recreation

**Attachments:**

[Resolution No. 5048](#)

[4Culture Grant Contract](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council approve Resolution 5048.

**Background Summary:**

The office of the Cultural Development Authority of King County, doing business as 4Culture, awarded a grant to the City of Auburn in the amount of \$17,000 per annum for the 2014-5 cycle as part of its Local Arts Agency Sustained Support Program. Funds for this program are provided through King County's Hotel/Motel Tax funding initiative. Grant cycles are a bi-annual competitive process. Funding is allocated annually.

The money supports City arts programming as well as community organizations that present art programs and/or activities serving the citizens of Auburn. All funded programs are required to acknowledge support from the City of Auburn and the 4Culture Hotel/Motel Tax fund in printed materials and their websites.

**Reviewed by Council Committees:**

Municipal Services, Planning And Community Development

**Councilmember:** Holman

**Staff:** Faber

**Meeting Date:** April 7, 2014

**Item Number:** RES.B

**RESOLUTION NO. 5048**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE CULTURAL DEVELOPMENT AUTHORITY OF KING COUNTY ("4CULTURE") AND AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY CONTRACTS TO ACCEPT SAID FUNDS

WHEREAS, the City of Auburn Arts Commission, on behalf of the City of Auburn, submitted an application to the Cultural Development Authority of King County (4CULTURE) for a Cultural Facilities Program Grant; and

WHEREAS, the City has been advised that it has been approved to receive a grant from said program in the amount of Seventeen Thousand and No/100s Dollars (\$17,000.00); and

WHEREAS, acceptance of the grant will benefit the citizens of Auburn.

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

**Section 1. Acceptance of Grant and Authorization of Contract.** The City Council hereby accepts the Sustained Support Program Grant from 4CULTURE, in the amount of Seventeen Thousand and No/100s Dollars (\$17,000.00), and authorizes the Mayor to execute the Contract with 4CULTURE in substantial conformity with the Contract marked as Exhibit "A" attached hereto and incorporated herein by this reference.

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

legislation, including assuring that the grant fund appropriation is included in the appropriate budget documents of the City.

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

SIGNED and DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF AUBURN**

\_\_\_\_\_  
NANCY BACKUS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
For Daniel B. Heid, City Attorney

Agreement No. 114260A  
Contractor's Federal Taxpayer ID No. (last 4 digits) \_\_\_\_\_

Contractor City of Auburn

Project Title: 2014 Programs

Contract Amount: \$17,000.00

Fund Source: CP – Arts Sustained Support

Contract Period From: 01/01/2014

To: 12/31/2014

#### AGENCY SERVICES CONTRACT 2014

THIS CONTRACT is entered into by the CULTURAL DEVELOPMENT AUTHORITY OF KING COUNTY ("4Culture"), whose address is 101 Prefontaine Place South, Seattle, WA 98104-2672 and telephone number is (206) 296-7580 and City of Auburn (the "Contractor"), whose address is 910 Ninth Street SE, Auburn, WA 98002 and telephone number is (253) 804-5043. Contractor is an art, cultural or historical organization or specialist qualified to receive funds pursuant to King County Code Sections 2.48 and 4.42 and RCW 67.28.180 and as hereinafter may be amended. The 4Culture Board of Directors approved providing funds for this project by **Motion No. 2014-11**.

4Culture desires to provide funds with which the Contractor shall render certain services to King County citizens. Such services are for the benefit of art museums, cultural museums, heritage museums, the arts, and/or the performing arts and are consistent with those defined in RCW 67.28.180 ("Public Benefit Services").

4Culture is organized pursuant to King County Ordinance 14482 and RCW 35.21.730, et seq. RCW 35.21.750 provides as follows: "[All] liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission, or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority."

The legislative authority of 4Culture has found and declared that providing funds to Contractor to reimburse Project costs in consideration of services provided hereunder constitutes a public purpose with the meaning of Article VII, Section 1 of the Washington State Constitution for which public funds may properly be expended or advanced.

NOW, THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

## I. SCOPE OF SERVICES

A. The Contractor shall provide services and comply with the requirements set forth hereinafter and in the following attached exhibits which are incorporated herein by reference:

|                                     |                                                                                                                         |                            |   |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------|----------------------------|---|
| <input checked="" type="checkbox"/> | Specific Scope of Services & Reimbursement Schedule                                                                     | Attached hereto as Exhibit | A |
| <input checked="" type="checkbox"/> | Project Proposal and Budget                                                                                             | Attached hereto as Exhibit | B |
| <input checked="" type="checkbox"/> | Insurance Requirements                                                                                                  | Attached hereto as Exhibit | C |
| <input type="checkbox"/>            | Personnel Inventory (K.C.C 12.16.060A)( In combination with other agreements, in excess of \$25,000 in a calendar year) | Attached hereto as Exhibit | D |
| <input type="checkbox"/>            | Affidavit and Certificate of Compliance (K.C.C 12.16.060B) (for Agreements in excess of \$25,000)                       | Attached hereto as Exhibit | E |
| <input type="checkbox"/>            | Disability Assurance of Compliance/Section 504 (KCC 12.16.060D) [ORGANIZATIONS ONLY]                                    | Attached hereto as Exhibit | F |

B. Purchase of Services. Funds awarded under this Agreement shall be used solely to reimburse the Contractor for expenses incurred expressly and solely in accordance with the Project Proposal and Budget and/or the Specific Scope of Services attached. Any amendment or modification to the Project Proposal and Budget or the Specific Scope of Services and Payment Schedule must be approved in writing by 4Culture. The work described generally by the Project Proposal and Budget and more specifically by the Specific Scope of Services shall hereinafter be referred to as the "Project".

C. In addition to performing the Project, Contractor shall provide any Public Benefit Provisions that may be specified in the Specific Scope of Services attached.

D. Contractor agrees to acknowledge 4Culture support with inclusion of the approved 4Culture logo in all marketing and promotional materials during the period this contract is in force:



Approved logos are available for download in a variety of formats at <http://www.4culture.org>

E. The Contractor agrees to notify 4Culture in advance of any public Project activities, including but not limited to ground breaking events, dedications, and other public programs.

## II. DURATION OF CONTRACT

This Agreement shall commence on January 1, 2014 and shall terminate on December 31, 2014. This Agreement, however, may be terminated earlier as provided in Section IV hereof.

## III. COMPENSATION AND METHOD OF PAYMENT

A. 4Culture shall reimburse the Contractor for its actual and authorized expenditures incurred in satisfactorily completing the Specific Scope of Services attached and otherwise fulfilling all requirements specified in this contract in an aggregate amount not to exceed \$17,000.00.

B. Contractor may apply to 4Culture for reimbursement upon completion of specified phases as detailed in the Specific Scope of Services and Reimbursement Schedule attached to this contract.

C. Contractor shall submit an invoice and all accompanying reports in the forms attached hereto as "EXHIBITS", not more than 30 days after the completion of each specified phase identified in the Specific Scope of Services and Reimbursement Schedule. 4Culture will initiate authorization for payment after approval of corrected invoices and reports. 4Culture shall make payment to the Agency not more than 60 days after the appropriate invoice is received.

D. Contractor shall submit its final invoice and all outstanding reports within 30 days of the date this Agreement terminates. If the Agency's final invoice and reports are not submitted by the day specified in this subsection, 4Culture will be relieved of all liability for payment to the Agency of the amounts set forth in said invoice or any subsequent invoice.

E. Accompanying the final invoice for the project, the Contractor shall also submit:

1. A project evaluation report upon the form provided by 4Culture.

2. If 4Culture requests, at least two images (prints, slides, or digital images accompanied by a high-quality print-out) of publishable quality for use by 4Culture to publicize its funding programs. Photos shall have credits, caption information, and permission to publish.

F. If the Contractor fails to comply with any terms or conditions of this contract or to provide in any manner the work or services agreed to herein, 4Culture may withhold any payment to the Contractor until 4Culture is satisfied that corrective action, as specified by 4Culture, has been completed. This right is in addition to and not in lieu of 4Culture's right to terminate this contract as provided in Section IV, any other rights of 4Culture under this Agreement and any other right or remedy available to 4Culture at law or in equity.

#### **IV. TERMINATION OF AGREEMENT**

A. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of its covenants, agreements or stipulations of this Agreement, 4Culture may terminate this Agreement and withhold the remaining allocation. Prior to so terminating this Agreement, 4Culture shall submit written notice to the Contractor describing such default or violation. 4Culture shall not so terminate this Agreement if 4Culture determines that Contractor has, within twenty (20) days of the date of such notice, fully corrected such default or violation.

#### **V. MAINTENANCE OF RECORDS**

A. The Contractor shall maintain accounts and records, including personnel, property, financial, and programmatic records and other such records as may be deemed necessary by 4Culture to ensure proper accounting for all contract funds and compliance with this Agreement. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and services provided in the performance of this Agreement.

B. These records shall be maintained for a period of six (6) years after termination of this Agreement unless a longer retention period is required by law.

## **VI. AUDITS AND EVALUATIONS**

A. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by 4Culture and/or federal/state officials so authorized by law during the performance of this Agreement and six (6) years after termination hereof.

B. The Contractor shall provide right of access to its facilities, including by any subcontractor to 4Culture, the King County, state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the services provided under this Agreement. 4Culture will give advance notice to the Contractor in the case of fiscal audits to be conducted by 4Culture.

C. The Contractor agrees to cooperate with 4Culture in the evaluation of the Contractor's performance under this contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.17 (Public Records Act).

## **VII. PROPRIETARY RIGHTS**

If any patentable or copyrightable material or article should result from the Project, all rights accruing from such material or article shall be the sole property of Contractor. Contractor agrees to and does hereby grant to 4Culture, an irrevocable, nonexclusive, and royalty-free license to use, according to law, any material or article and use any method that may be developed as part of the work under this Agreement. The foregoing license shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of Contractor which are modified for use in the performance of this Agreement.

## **VIII. FUTURE SUPPORT**

4Culture makes no commitment to support the services contracted for herein nor guarantee regarding the success of the services and assumes no obligation for future support of the Project except as expressly set forth in this Agreement.

## **IX. HOLD HARMLESS AND INDEMNIFICATION**

A. In providing services under this Agreement, the Contractor is an independent contractor, and shall determine the means of accomplishing the results contemplated by this Agreement. Neither the Contractor nor its officers, agents or employees are employees of 4Culture for any purpose. The Contractor shall comply with all applicable federal and state laws and regulations regarding employment, minimum wages and hours, and discrimination in employment. The Contractor is responsible for determining the compensation of its employees, for payment of such compensation, and for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services. The Contractor and its officers, agents, and employees shall make no claim of career service or civil service rights which may accrue to a 4Culture employee under state or local law. 4Culture assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of the Contractor, its employees and/or others by reason of this Agreement. To the extent allowed by law, the Contractor shall protect, defend, indemnify and save harmless 4Culture and its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Contractor's failure to pay any such compensation, wages, benefits, or taxes; (2) the supplying to the Contractor of work, services, materials, or supplies by Contractor employees or other suppliers in connection with or support of the performance of this Agreement. The Contractor shall also defend, indemnify, and save harmless 4Culture, and its officers, agents, and employees, from and against any and all claims made by Contractor's employees arising from their employment with Contractor.

B. To the full extent provided by applicable law, the Contractor shall protect, defend, indemnify, and save harmless 4Culture its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from the acts or omissions of the Contractor, its officers, employees, and/or agents, except to the extent resulting from 4Culture's sole negligence. If this Agreement is a "a covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate" within the meaning of RCW 4.24.225, the Contractor shall so protect, defend, indemnify, and save harmless 4Culture, its officers, employees, and agents only to the extent of the Contractor's, its officers', employees', and/or agents' negligence. The Contractor agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by or on behalf of any employees, or agents. In the event 4Culture incurs any judgment, award and/or cost arising there from including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor. Claims shall include, but are not limited to, assertions that the use or transfer of any software, book, document, report, film, tape or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright.

#### **X. INSURANCE REQUIREMENTS**

The Contractor shall procure and maintain for the duration of this Agreement insurance as described on the Exhibit labeled as Insurance Requirements attached here to.

#### **XI. CONFLICT OF INTEREST**

Chapter 42.23 RCW (Code Of Ethics For Municipal Officers--Contract Interests) is incorporated by reference as if fully set forth herein and the Contractor agrees to abide by all the conditions of said Chapter. Failure by the Contractor to comply with any requirements of such Chapter shall be a material breach of contract.

In addition, Contractor represents, warrants and covenants that no officer, employee, or agent of 4Culture who exercises any functions or responsibilities in connection with the planning and implementation of the Specific Scope of Contract Services funded herein, has or shall have any beneficial interest, directly or indirectly, in this contract. The Contractor further represents, warrants and covenants neither it nor any other person beneficially interested in this Agreement has offered to give or given any such officer, employee, or agent of 4Culture, directly or indirectly, any compensation, gratuity or reward in connection with this Agreement. The Contractor shall take all appropriate steps to assure compliance with this provision.

## **XII. NONDISCRIMINATION**

During the performance of this Agreement, Contractor shall comply with state, federal and local legislation requiring nondiscrimination in employment and the provision of services to the public, including, but not limited to: Title VI of the Civil Rights Act of 1964; chapter 49.60 RCW (the Washington state law against discrimination); K.C.C. chapter 12.16 regarding discrimination and affirmative action in employment by contractors, subcontractors and vendors; K.C.C. chapter 12.17 prohibiting discrimination in contracting; K.C.C. chapter 12.18 requiring fair employment practices; K.C.C. chapter and 12.22 prohibiting discrimination in places of public accommodation.

The Contractor shall maintain, until 12 months after completion of all work under this contract, all written quotes, bids, estimates or proposals submitted to the Contractor by all businesses seeking to participate in this Agreement. The Contractor shall make such documents available to 4Culture for inspection and copying upon request.

## **XIII. NOTICES**

Whenever this Agreement provides for notice to be provided by one party to another, such notice shall be in writing and directed to the chief executive officer of Contractor and the Executive Director of 4Culture at the addresses first written above. Any time within which a party must take some action shall be computed from the date that the notice is received by said party.

## **XIV. GENERAL PROVISIONS**

No modification or amendment to this Agreement shall be valid unless made in writing and signed by the parties hereto. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement. 4Culture's failure to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement. In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable. The parties agree that this Agreement is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement.

## **XV. ATTORNEYS' FEES; EXPENSES**

Contractor agrees to pay upon demand all of 4Culture's costs and expenses, including attorneys' fees and 4Culture's legal expenses, incurred in connection with the enforcement of this Agreement. 4Culture may pay someone else to help enforce this Agreement, and Contractor shall pay the costs and expenses of such enforcement. Costs and expenses include 4Culture's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Contractor also shall pay all court costs and such additional fees as may be directed by the court.

**XVI. SURVIVAL**

The terms and conditions of Sections III, V, VI, VII, VIII, IX, XI, XII, XIII, XIV and XV shall survive the termination of this Agreement and shall be continuing obligations of the parties.

**4CULTURE:**

\_\_\_\_\_  
4Culture-CDA Executive Director

\_\_\_\_\_  
Date

**CONTRACTOR:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Please type or print)

\_\_\_\_\_  
Title (Please type or print)

\_\_\_\_\_  
Date

## Exhibit A

### SCOPE OF SERVICE

City of Auburn and 4Culture, the Cultural Development Authority of King County, mutually agree that the following services be provided in accordance with the application and contract work sheet submitted to and approved by the 4Culture Board of Directors.

Support for 2014 Programs, including Auburn International Farmers Market, Performances/artists participate on selected Market days (July); Auburn Food Bank, Empty Bowls (May); Auburn Symphony Orchestra Sunset Chamber Series at the Mary Olson Farm (August); Auburn Art Walk printed materials and signage (May and September); Auburn Valley Creative Arts, Visiting Curators for Gallery Exhibitions (February, April, July, September); Pacific Ballroom Dance, Dancing Classrooms (September); Striped Water Poets, Monthly "Poetry at the Station Bistro" (November); White River Valley Museum Small Works, Big Presents: The Gift of Art (November); additional funding goes to support the and the BRAVO performing arts season at the Auburn Avenue Theater and Performing Arts Center (Sept–Nov). Events are open and publicized to the community.

AMOUNT \$17,000.00

For artist fees and program expenses. Payable upon completion, submittal of invoice and documentation regarding:

- Final budget, actual
- Completion of evaluation form
- Final report of program activities
- Programs, brochures, flyers if available

### PUBLIC BENEFIT

Programs are accessible to a broad range of King County residents. Public Benefits include regranting; \$12,000 goes to local arts organizations to support programming that would not be possible otherwise. The remaining support goes towards City of Auburn, Arts Commission programs which are accessible to a broad range of King County residents. With the exception of ticketed presentations as part of the BRAVO Performing Arts Season all the programs listed above are free-admission to patrons. Accessibility and public benefit is the paramount purpose and goal of all our municipally sponsored programs.

### PUBLICITY/PROMOTION POLICY

Prominent acknowledgment of 4Culture/ King County Lodging Tax Fund is required of all recipients for use in all publicity and promotional materials, including, but not limited to brochures, websites, press releases, programs, posters, public service announcements, flyers and advertisements. Please contact your 4Culture contract administrator or go to [www.4culture.org](http://www.4culture.org) to download the appropriate logo credit.

Final payment will not be made until acknowledgment is submitted on printed material

## City of Auburn Arts Commission

## EXHIBIT B

**Mailing Address**

910 Ninth St SE  
Auburn  
Washington  
98002-6200

**Website**

[www.auburnwa.gov/arts](http://www.auburnwa.gov/arts)

**Email**

[arts@auburnwa.gov](mailto:arts@auburnwa.gov)

**Shipping Address**

910 Ninth St SE  
Auburn  
Washington  
98002-6200

**King County Council District #**

7

**WA State Legislative District #**

31, 47

**Phone**

(253) 804-5043

**Date Incorporated**

09/09/1984

**Fax**

(253) 931-4005

**Federal Tax ID**

916001228

**WA State UBI#**

171-000-010

**Revenue last fiscal year**

\$343,110

**Revenue 2nd to last fiscal year**

\$309,650

**Organization Director**

Director, Auburn Parks, Arts & Recreation, Mr. Daryl Faber

**Director Email**

[dfaber@auburnwa.gov](mailto:dfaber@auburnwa.gov)

**Director Phone**

(253) 931-3043

**Organization Description**

City of Auburn Arts Commission is a local government agency founded by ordinance, comprised of an appointed (by Mayor and Council) 12-member advisory board whose purpose is to advise staff in order to offer quality arts programs and services for the citizens of Auburn.

**Mission**

The City of Auburn Arts Commission's purpose is to serve the citizens of Auburn by fostering cultural growth and enrichment, sponsoring programs representative of the entire arts spectrum and providing programs that are reflective of the growing diversity of the population of the City of Auburn.

**Contact Person**

Arts Coordinator, Maija McKnight

**Contact Phone**

(253) 804-5043

**Contact Email**

[mmcknight@auburnwa.gov](mailto:mmcknight@auburnwa.gov)

## **Community**

**a) Describe your community.**

**b) How is it changing?**

**We suggest you use about 250 words.**

Auburn is described as a city of "twos": two nations (USA and Muckleshoot Tribe), two counties (King and Pierce), two legislative districts (47 and 31), and two rivers (White and Green) and these unique distinctions define much of the city's character. Auburn serves as both the regions employment hub, as well as a 100+ year old community that has a strong sense of self as well as regional identity and history. The current population of 70,705 has grown from 49,000 in 2006 with the annexation of previously unincorporated surrounding communities. Outside city boundaries, Auburn regularly serves audiences northward to Kent, East to Enumclaw, West to Federal Way and South to Puyallup. Auburn's audiences are diverse in background, ethnicity and age.

Ethnic minorities make up 29.5% of Auburns population (17.5% speak a language other than English at home), with large communities of Hispanic, Asian, American Indian (Muckleshoot), and Ukrainian Americans. Persons below poverty level in Auburn is 14.1% (versus the Washington state average of 12.1%). Geographically, Auburn consists of the valley and the surrounding hill communities (Lea Hill and Lakeland Hills). The surrounding hillsides are largely planned newer developments that were incorporated in 2006 and serve as bedroom communities (commuters).

## **Programming**

**a) How does your programming respond to your community needs?**

**b) What program are you most proud of and why?**

**We suggest you use about 250 words.**

a) The Cultural Arts Division works to provide a well-rounded comprehensive arts programs that include visual art displays, live performances, concerts, festivals, and public art program, in order to provide access to art through various interests as well as free and ticketed opportunities.

We seek to develop relationships with various communities, encourage their participation, and showcase culture. In the past four years as part of Auburn's largest free festival (4th of July, est. attendance 12,000) arts staff worked closely with the Community Services division to implement a "Cultural Stage" in which local groups and communities are invited to perform (Taiko, Marshallese Stick Dancing, Ballet Folkloric, Ukrainian Jazz Band). Based on the success of this stage, an "International Festival" is now in its second year that occurs the 2nd week in August. A variety of local communities are invited to participate in the planning as well as performing on stage. The timing of this festival complements the 100 year old "Auburn Good Ol' Days" (that is not a City organized festival) and provides a new energy and new perspective on Auburn's population.

b) There are several items that we are very proud, many of which are referred to in separate sections of this application, including the success of the Community Players Community Theater productions, working closely with Auburn Valley Creative Arts group as well as the Auburn Art Walk volunteer committee in their formative stages, being able to leverage 4Culture funding to continue to implement new programming (Storefronts and Outdoor Sculpture Gallery), and the successful collaboration interdepartmentally to increase arts and arts accessibility in Auburn.

## **Management**

**a) How is your agency structured?**

**b) How do you collaborate with other municipal departments and community agencies?**

**c) How does your agency foster the development of art, local artists, and local arts organizations?**

**We suggest you use about 250 words.**

a) City of Auburn Arts Commission is a local government agency founded by ordinance, comprised of an

appointed (by Mayor and Council) 12-member advisory board whose purpose is to advise staff in order to offer quality arts programs and services for the citizens of Auburn.

The City of Auburn Arts Commission staff is within the Parks, Arts and Recreation Division of the City of Auburn. The staff consists of an Arts and Events Manager, Arts Coordinator, Theater Operations Specialist, and a part-time Arts and Events Assistant.

b) Arts staff has very strong collaborative ties with various departments specific examples include Planning, Community Services, and Parks Maintenance.

For example:

- Planning and Arts staff successfully partnered for the implementation of Storefronts Auburn as well as the upcoming Outdoor Sculpture Gallery through sharing of funding/grant resources and task division
- Community Services is an important partner through the communication of arts opportunities to the various neighborhoods and community meetings, as well as the Community Based Services Grant availability that has allowed for the creation of 7 mural projects over the past 3 years.
- Parks Maintenance staff have been proponents and advocates of art within the infrastructure of the parks. Assisting with all aspects of the public artwork that is sited, but also initiating new programs such as "poetry in sidewalks" (etching the poetry written by our new Poet Laureate in concrete areas that are being fixed/replaced throughout the Park system)

We very much pride ourselves on working collaboratively, and these are just three examples.

c) The Auburn Arts Commission fosters the development of art, local artists, and local arts organizations by a combination of funding support and programming that brings similar interest groups together with mentorship and learning.

- In 2012 we were able to re-grant \$12,000 of 4Culture Sustained Support to local arts groups and initiatives. (Auburn Good Ol' Days \$2100, Auburn Student Art Display/Auburn School District \$800, Uniquely Auburn \$2000, Auburn International Farmers Market \$1500, White River Valley Museum's Small Works, Big Presents Exhibition \$2000, Auburn Art Walk \$2000, Northwest Renaissance poetry workshop \$600, Empty Bowls \$1000). Also funded but outside of the re-grant process is Opera in Schools \$2200 and Auburn Symphony Orchestra.
- Bringing artists together through programming and events allows for a synergy and supports and builds an artistic community. Auburn Community Players is a City program that was formed after the local non-profit Auburn Regional Theater ended operations. The twice yearly production brings approximately 30 local actors together to present live theater as well as a environment of mentorship. The gallery program has served as an entry point for many beginning artists that benefit from the learning experience of how to work with a "gallery" as well as meet local artists as part of a public reception.

## **Future**

a) What plans does your agency have for advancing its mission?

b) What are the challenges?

c) If Sustained Support funding were reduced or eliminated, how would your activities be impacted?

We suggest you use about 250 words.

a) The Mission of the City of Auburn Arts Division is to serve the citizens of Auburn by fostering cultural growth and enrichment, sponsoring programs representative of the entire arts spectrum and providing programs that are reflective of the growing diversity of the population of the City of Auburn.

Continuation of the wide variety of arts programming and opportunities takes center stage for planning into the future. Immediate future plans for new programming run parallel to many of the downtown initiatives and economic development efforts. We have started conversations regarding code revision allowing live-work spaces and strengthening guidelines and resources for integrating art into private development. An example of cross departmental (economic development/facilities/arts) partnership resulted in the City recently leasing a City-owned space to the Auburn Valley Creative Arts Cooperative

group (which had its first business experience through the Storefront program).

The Arts Staff and Arts Commission are continually looking for opportunities that will allow Auburn to rise as a City of the Arts while working to provide quality arts experiences to all Auburn citizens.

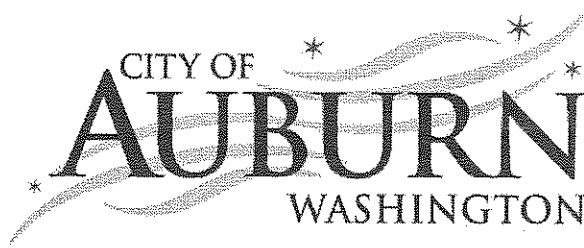
b) Auburn faces many of the same economic challenges as the rest of King County and mid-sized local government agencies. Auburn's Mayor and Council, however, are extremely supportive of the arts and understands the importance of a vibrant arts community to the quality of life for its citizens.

An ongoing goal, as well as challenge, is to increase, support and build the number of Auburn arts organizations. In comparison to other jurisdictions, the City of Auburn has relatively few non-profit arts organizations providing public arts programming. In order to build an artistic community, staff time is directed toward the assistance/mentorship of beginning organizations. For example, It has long been a desire of the City to have an Arts Walk, so when a group of volunteers expressed interest in starting this program, City arts staff has been the advocate, advisor and assistant for the first two years of the program. This allowed the volunteer committee to build a successful program that they could then carry forward into the future without adding it as a City program and budgetary expense.

In working to serve diverse communities (ethnic, financial, and geographic) this model as an incubator could potentially to overcome the challenges of time and finances. By partnering with invested individuals, staff can provide city assistance with the goal that the program can be carried forward within the community.

c) We are extremely proud to be able to leverage 4Culture funding to implement new programming that is then accepted into the general operating budget for the City. In 2009 & 10 part of the 4Culture Sustained Support funding supported the new ArtRageous festival which is now in the annual budget. In 2011 the funding supported the implementation of Storefronts Auburn, and 2012 is supporting the Outdoor Sculpture Gallery both of which will likely become annually supported programs (we are currently going through our bi-annual budgeting cycle for 2013 & 14). In addition to supporting the wide variety of community based projects and initiatives, the funding allows for the flexibility to 'test' new programming that otherwise we would not have the opportunity to explore.

The 4Culture funding allows us to be innovative and responsive. Without this funding, any new project or initiative would have to go through the regular budgeting cycle and be an unproven/unknown program which would greatly lessen the potential of being approved. That flexibility of this unrestricted funding has also been the primary factor in partnering inter-departmentally, because the arts budget can bring something to the table and be a true partner.



## **2012 City of Auburn – Arts Staff**

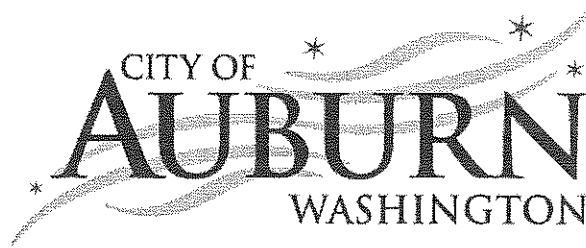
Daryl Faber, Parks, Arts and Recreation Director

Julie Brewer, Arts and Event Manager  
30% of time dedicated to arts programming

Maija McKnight, Arts Coordinator  
100% of time dedicated to arts programming

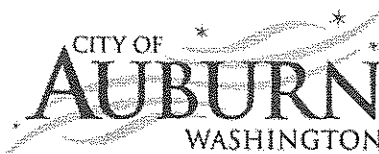
Jim Kleinbeck, Theater Operations Specialist  
100% of time dedicated to arts programming

Ashley Schalow, Arts and Events Assistant  
20 hours a week



## 2012 City of Auburn – Arts Commission

| 2012<br>Officers<br>Chairs | FIRST    | LAST       | ADDRESS                                    | City, State | Zip<br>Code |
|----------------------------|----------|------------|--------------------------------------------|-------------|-------------|
| Chair                      | Greg     | Watson     | 904 5 <sup>th</sup> Street NE              | Auburn WA   | 98002       |
| Vice<br>Chair              | Ronie    | Schwend    | 29821 108th Ave SE                         | Auburn WA   | 98092       |
|                            | Alan     | Abdulkader | 12722 SE 312 <sup>th</sup> Street<br>K 506 | Auburn WA   | 98082       |
|                            | Patricia | Judd       | 1428-A E. Main St.                         | Auburn WA   | 98002       |
|                            | Colleen  | Maloney    | 3438 Hampton Way                           | Kent, WA    | 98032       |
|                            | Cary     | Davidson   | 1016 4 <sup>th</sup> St NE                 | Auburn WA   | 98002       |
|                            | Nickole  | Evans      | 30409 155 <sup>th</sup> PL SE              | Kent WA     | 98042       |
|                            | Heidi    | Harris     | 30111-127th PI SE                          | Auburn WA   | 98092       |
|                            | DeNae    | McGee      | 27843 38th PI SE                           | Auburn WA   | 98001       |
|                            | Leslie   | Moore      | 416 Riverview Dr NE                        | Auburn WA   | 98002       |
|                            | Tanya    | Rottle     | 32021 169th Ave SE                         | Auburn WA   | 98092       |
|                            | Dan      | Norman     | 10842 SE 326 <sup>th</sup> Place           | Auburn WA   | 98092       |
|                            |          |            |                                            |             |             |
| City<br>Council<br>Liaison | Rich     | Wagner     | Auburn City Hall, 25<br>W. Main St.        | Auburn WA   | 98001       |



**2012 Auburn Arts Commission  
Annual Arts Programming**

| ACTIVITY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | EST. ATTENDANCE |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <b>Visual Art</b><br>Gallery (City Hall – monthly rotation & Senior Center – 2 month rotation)<br>Student Art Display with Auburn School District<br>Small Works, Big Presents Exhibition with White River Valley Museum<br>Juried Art Show (Summer)                                                                                                                                                                                                                                                                                                                                                        | 1,000           |
| <b>BRAVO Performing Arts Series 2012-13 (including performances at Auburn Avenue Theater &amp; Auburn Performing Arts Center)</b> <ul style="list-style-type: none"> <li>• PAC performances (5 shows)</li> <li>• Comedy at the Ave (8 shows)</li> <li>• Ave Kids Shows (10 shows) and Youth Theater Camp (6 shows)</li> <li>• Live at the Ave (18 shows)</li> <li>• Auburn Community Players Community Theater (12 shows)</li> <li>• Film Series (20 screenings)</li> </ul>                                                                                                                                 | 18,000          |
| <b>Public Art Projects: (5 projects) – Community Center, Lea Hill Park, Centennial Park (replace stolen artwork), Outdoor Sculpture Gallery, Storefronts Auburn</b>                                                                                                                                                                                                                                                                                                                                                                                                                                         |                 |
| <b>Event: ArtRageous Festival</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 2,000           |
| <b>Kids SummerStage (5 shows)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1,800           |
| <b>Summer Sounds and Cinema (3 events)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 2,000           |
| <b>Mural Projects: Clean Sweep; R Street Bridge</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 200             |
| <b>Support of Community Art Events:</b> <ul style="list-style-type: none"> <li>• Auburn Symphony Orchestra</li> <li>• White River Valley Museum – Small Works, Big Presents</li> <li>• Uniquely Auburn</li> <li>• Auburn Good Ol' Days</li> <li>• Great Western Community Concerts</li> <li>• Auburn International Farmers Market – Public Performances</li> <li>• Seattle Opera – Opera in Schools</li> <li>• Empty Bowls</li> <li>• Northwest Renaissance</li> <li>• Auburn Art Walk</li> <li>• Auburn Valley Creative Arts (Cooperative)</li> <li>• Community Events at Auburn Avenue Theater</li> </ul> | 10,000          |



4Culture LAA 2013 & 2014 Sustained Support  
2012 Budget/Expenses Report - Auburn Arts Commission

| Project Support Sponsorships (re-grants)                         | Sponsorship |
|------------------------------------------------------------------|-------------|
| Auburn Good Ol' Days                                             | \$2,100     |
| Auburn Student Art Display/Auburn School District                | \$800       |
| Uniquely Auburn                                                  | \$2,000     |
| Auburn International Farmers Market                              | \$1,500     |
| White River Valley Museum's Small Works, Big Presents Exhibition | \$2,000     |
| Auburn Art Walk                                                  | \$2,000     |
| Northwest Renaissance poetry workshop                            | \$600       |
| Empty Bowls                                                      | \$1,000     |
| Total                                                            | \$12,000    |

| Arts Commission Programs          | Expense          | Earned Income   | In-Kind         |
|-----------------------------------|------------------|-----------------|-----------------|
| Kids SummerStage                  | \$3,500          | free admission  |                 |
| ArtRageous Festival               | \$9,000          | free admission  |                 |
| BRAVO Perf Art Series             | \$53,000         | \$25,000        |                 |
| Auburn Ave Theater                | \$98,000         | \$75,000        |                 |
| Galleries                         | n/a              | free admission  |                 |
| Public Art Maintenance            | \$8,000          |                 |                 |
| Arts Education (Opera in Schools) | \$4,000          | \$150           |                 |
| <b>TOTALS</b>                     | <b>\$189,100</b> | <b>\$60,150</b> | <b>\$75,400</b> |

NOTES:

In-Kind = 2012 Multimedia. All design/print/distribution is a City Interfund "Multimedia" Expense.  
Expense reflects production costs, only. It does not incl. Salary/benefits, facility operation for the theater, or arts comm. general operations.

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

Contractor shall procure, at its sole cost and expense, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees, and/or subcontractors. The costs of such insurance shall be paid by the Contractor or subcontractors.

For All Coverages: Each insurance policy shall be written on an "Occurrence" form.

1. Minimum Scope of Insurance needed for this contract is as follows:

|                                     |                              |                                                                                                                                                      |
|-------------------------------------|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Commercial General Liability | Insurance Services Office form number (CG 00 01 Ed. 11-88)—Minimum Combined Single Limit of \$1,000,000 BI & PD with a General Aggregate per project |
| <input type="checkbox"/>            | Automobile Liability         | Covering all owned and non-owned and hired automobiles – Combined Single Limit of \$1,000,000 BI & PD                                                |

2. Deductibles and Self Insured Retentions.

Any deductibles or self-insured retentions must be declared to, and approved by, 4Culture. The deductible and/or self-insured retention of the policies shall not apply to the Contractor's liability to 4Culture and shall be the sole responsibility of the Contractor.

3. Other Insurance Provisions

A. The insurance policies are to contain, or be endorsed to contain, the following provisions:

(a) General Liability Policies

(1) 4Culture, its officers, employees and agents are to be covered as primary additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.

(2) To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects 4Culture, its officers, employees, and agents. Any insurance and/or self-insurance maintained by 4Culture, its officers, employees, or agents shall not contribute with the Contractor's insurance or benefit the Contractor in any way.

(3) The Contractor's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(b) All Policies

(1) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except as reduced in aggregate by paid claims, at any point during the life of this contract. No material change, or cancellation or nonrenewal of any policy required by this contract shall occur without thirty (30) days' prior written notice to 4Culture.

4. Acceptability of Insurers

Unless otherwise approved in writing by 4Culture, insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated with Best's, with minimum surpluses the equivalent of Bests' surplus size VIII.

5. Verification of Coverage

4Culture, reserves the right to request that contractor submit the certificate(s) of insurance evidencing compliance with all requirements set forth above.



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Resolution No. 5050

**Date:**

April 2, 2014

**Department:****Attachments:**

[Resolution No. 5050](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council adopt Resolution No. 5050.

**Background Summary:**

This resolution requests that the state review what steps it could take to make sure that oil transport activities by the railroads can be done as safely as possible. Burlington Northern Railroad has explained what it is doing and has been doing to ensure that its railroad lines are as safe as possible, but there may be other things that can be done by the state to ensure that there are no adverse impacts from transporting oil cars across local railroads.

**Reviewed by Council Committees:**

Finance, Public Works

**Councilmember:** Osborne

**Staff:**

**Meeting Date:** April 7, 2014

**Item Number:** RES.C

**RESOLUTION NO. 5050**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, SEEKING TO PROTECT THE HEALTH, SAFETY, AND ECONOMIC WELL - BEING OF LOCAL CITIZENS AND AUBURN'S DRINKING WATER SUPPLY AND NATURAL RESOURCES FROM THE POTENTIAL IMPACT OF INCREASED CRUDE OIL RAIL TRAFFIC PASSING THROUGH THE CITY OF AUBURN**

WHEREAS, the City Council of the City of Auburn, Washington is committed to the protection of its citizens, as well as the natural resources on which the City depends; and

WHEREAS, rail infrastructure in Western Washington runs through and across property on which the City depends for its source of drinking water; and

WHEREAS, the City Council is concerned about the potential impacts on public safety and economic disruption from a possible derailment and spill of crude oil as trains run through Auburn and the surrounding area; and

WHEREAS, the Federal Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a major safety alert on January 2, 2014, declaring that oil obtained in the Bakken Shale is more explosive; and

WHEREAS, on July 6, 2013, a train carrying crude oil derailed in Lac Megantic, Quebec killing over 40 people, destroying thirty buildings, and requiring the evacuation of over 1,000 people; and

WHEREAS, on December 30, 2013 a train carrying crude oil derailed in Casselton, North Dakota causing violent explosions and a hazardous plume of smoke; and

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Resolution No. 5050  
April 1, 2014  
Page 1

WHEREAS, On January 7, 2014 a train carrying crude oil derailed in New Brunswick; and

WHEREAS, on December 24, 1991 a train derailed dropping a freight car 80 feet onto an interstate highway just west of downtown Spokane, Washington, above Latah Creek; and

WHEREAS, State of Washington and King County officials are starting to review three new oil-terminal projects that could bring millions of gallons of crude oil a day through the state, the largest of which is proposed to be at the Port of Vancouver and could handle as much as 380,000 barrels of crude oil per day.

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

1. The Auburn City Council strongly requests the potential impacts to Auburn's public safety, water resources, environment, economy, and traffic be studied by the agencies conducting all environmental reviews and request that Auburn be included in any environmental impact statements pertaining to any project that may cause increase in associated oil rail traffic travelling through Auburn.

2. The Auburn City Council supports the creation of clear Federal guidelines for tracking the chemical composition of transported fuels so that local governments, citizens and first responders can better understand and plan for the risks associated with the specific type of fuel flowing through or to their communities.

3. The Auburn City Council requests that the Federal Government immediately implement safety regulations regarding older tank cars, train speeds, and other identified hazards associated with flammable crude oil.

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Resolution No. 5050  
April 1, 2014  
Page 2

4. The Auburn City Council urges the Washington State Legislature to adopt legislation promoting rail safety especially along transportation routes used in the transport of oil; and calls for the Washington State to coordinate state/governmental agencies to study rail-related safety preparedness and capacity to respond to an accident involving railcars transporting oil.

5. The Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation, including reviewing and commenting on the public emergency response and evacuation plans in the case of a derailment of an oil train.

6. This Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

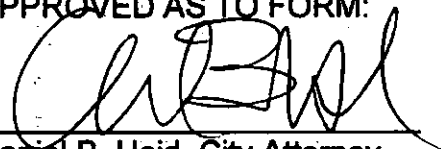
CITY OF AUBURN

\_\_\_\_\_  
NANCY BACKUS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

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Resolution No. 5050

April 1, 2014

Page 3



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Resolution No. 5053

**Date:**

March 31, 2014

**Department:**

Finance

**Attachments:**

[Resolution No. 5053](#)

[Agreement](#)

**Budget Impact:**

See background summary

**Administrative Recommendation:**

City Council adopt Resolution No. 5053.

**Background Summary:****Budget Impact:**

Current Budget: \$120,000.00

Proposed Revision: \$5,222.00

Revised Budget: \$125,222.00

In August 2013, voters in King County approved King County Proposition No.1, authorizing an additional six-year property tax levy at a rate of \$0.1877 per \$1,000 of assessed valuation in the first year (2014), with subsequent levies adjusted by inflation (2015-2019). The six-year levy approved in 2014 replaces two six-year King County park levies that expired at the end of 2013 (King County Parks Levy and the Open Space and Trails Levy).

According to King County, the 2014 levy would cost approximately \$56/year for the owner of a \$300,000 home and would generate approximately \$396 million over the six year period. Monies raised by this levy would be used to support the King County parks operations/maintenance (47%); county infrastructure, acquisition and trails (39%); distribution to cities on the basis of population and property assessed valuation (7%); and distribution to the Woodland Park Zoo (7%).

The estimated distribution to the City of Auburn is \$125,222 (in 2014). These distributions will be receipted into the Parks Construction Fund (Fund #321). The 2014 adopted budget included \$120,000 in anticipated distributions from this source.

In order for the City to receive the annual distributions (2014 through 2019), the County

requires each city in King County to sign a Parks Property Tax Levy Agreement. This agreement requires the City to prepare and submit an annual report to the County, summarizing the use of the levy proceeds and listing of projects for which the funding is used.

Council approval of Resolution No. 5053 will authorize the Mayor to sign and enter the City into this six-year agreement with the County. The signed agreement expires on December 31, 2019.

**Reviewed by Council Committees:**

Finance, Municipal Services

**Councilmember:** Wales

**Staff:** Coleman

**Meeting Date:** April 7, 2014

**Item Number:** RES.D

**RESOLUTION NO. 5053**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF AUBURN AND KING COUNTY FOR THE 2014-2019 PARKS PROPERTY TAX LEVY ALLOCATION**

WHEREAS, the King County Council approved Ordinance 17568 in April 2013 authorizing the placement on the August 6, 2013 primary election ballot Proposition 1, which proposed establishing a \$.1877 six-year property tax levy to finance King County parks operations and maintenance, park property acquisition, and park property and trail improvements, including distribution of funding to cities in King County for said purposes; and

WHEREAS, voters in King County approved King County Proposition 1 on August 6, 2013; and

WHEREAS, King County requires each city in King County to approve and sign a Parks Property Tax Levy Agreement, the approval of which authorizes King County to distribute property tax levy funding to the City of Auburn and obligates the City of Auburn to make specific annual reports to King County regarding the use of said property tax levy funds; and

WHEREAS, the anticipated distribution to the City of Auburn in 2014 is \$125,222, which will be deposited into the Parks Construction Fund (Fund No. 321).

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

**Section 1.** The Mayor of the City of Auburn is hereby authorized to execute the Parks Property Tax Levy Agreement between the City of Auburn and King County, which agreement shall be in substantial conformity with the agreement attached hereto as Exhibit A and incorporated herein by this reference.

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

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

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF AUBURN

\_\_\_\_\_  
NANCY BACKUS  
MAYOR

ATTEST:

\_\_\_\_\_  
Danielle Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

## **PARKS PROPERTY TAX LEVY AGREEMENT**

between

**KING COUNTY & (CITY) \_\_\_\_\_**

This Parks Property Tax Levy Agreement (the "Agreement") is made and entered into as of \_\_\_\_\_, 2014, by and between KING COUNTY, a political subdivision of the state of Washington (the "County") and the City of \_\_\_\_\_, a State of Washington municipal corporation ("CITY").

### **RECITALS**

- A. The County owns and operates a park system with over twenty-eight thousand (28,000) acres of regional parks and open spaces and over one hundred seventy-five (175) miles of regional trails. In addition, the County is the provider of local parks in the rural area and is the transitional provider of local parks in the urban incorporated areas.
- B. Since 2003, on recommendation of the Metropolitan Parks Task Force and direction from the County Executive and County Council, the County's Parks and Recreation Division has focused on managing a system of regional parks, open spaces and trails and a limited set of regional active recreation assets.
- C. Consistent with its role as a regional and local rural service provider under Countywide Planning Policies and the State Growth Management Act, the County has divested itself of local parks and facilities in urban unincorporated areas as these areas incorporate or annex to cities.
- D. In November 2006, the County Executive created the Parks Futures Task Force to recommend a funding plan for the current County park system, and to examine what steps should be taken, if any, regarding future park system acquisitions.
- E. In June of 2012, the County Executive convened the King County Parks Levy Task Force to recommend a funding plan for the current park system and to examine how to address the parks and recreation needs of King County residents in the future.
- F. The King County Parks Levy Task Force recommended that the County replace the expiring levies and put a ballot measure before the voters in 2013 that requests a six-year inflation adjusted property tax levy lift at a total rate of \$0.1901 per one thousand dollars of assessed value with a percentage of the levy proceeds to be distributed to cities for their local parks system projects.
- G. On April 30, 2013, the King County Council adopted Ordinance 17568 which called for a special election in accordance with RCW 29A.04.321 to authorize an additional 6-year property tax levy for specified park purposes..
- H. On August 6, 2013, King County voters approved Proposition No. 1 Parks Levy that

authorized an additional six year property tax levy at a rate of \$0.1877 in the first year, with subsequent levies adjusted by inflation for the purpose of: maintaining and operating King County's parks system, improving parks, recreation and mobility by acquiring open space, expanding park and recreation opportunities, continuing to develop regional trails; repairing, replacing, and improving local parks and trails in King County's cities; and funding environmental educations, maintenance, conservation, and capital programs at the Woodland Park Zoo.

NOW, THEREFORE, in consideration of the mutual promises and undertakings hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### **AGREEMENT**

1.1 **Definitions.** As used in this Agreement, the following terms shall have the following meanings:

- A. "Annual Report" shall mean the annual report prepared by the CITY and provided to the County annually by May 1 beginning in 2015 setting forth a summary of city projects for the preceding year, along with a complete financial accounting for the use of County Levy Proceeds, and a listing of all capital investments made at the CITY funded in whole or in part by County Levy Proceeds, and for the 2015 annual report the CITY shall identify the dollar amount of the CITY's Existing Funds.
- B. "CITY" shall mean the City of \_\_\_\_\_, State of Washington, and all of its boards, commissions, departments, agencies and other subdivisions.
- C. "CITY Proceeds" shall mean seven percent (7%) of the total County Levy Proceeds collected by King County and any interest earnings on these funds
- D. "CITY Projects" shall mean the City's local park system projects consistent with Ordinance 17568.
- E. "County" shall mean King County, State of Washington, and all of its boards, commissions, departments, agencies and other subdivisions.
- F. "County Council" shall mean the County Council of King County, State of Washington.
- G. "County Levy" means the annual King County property tax levy for park purposes imposed by the King County Council and authorized by Proposition No. 1 Parks Levy that was approved by the County voters on August 6, 2013 that replaced two levies expiring at the end of 2013.
- H. "County Levy Proceeds" shall mean the principal amount of the County Levy collected by the County.

- I. "Executive" shall mean the King County Executive or his or her functional successor.
  - J. "Existing funds" shall have the meaning, as defined by RCW 84.55.050.
  - K. "Regional trail system" shall mean the system-wide non-motorized network of designated off-road, shared-use paths, trails, or greenways for recreation and regional mobility.
- 2. Term of Agreement. The term of this Agreement (the "Term") shall be for a period commencing on the Effective Date (the "Commencement Date"), and expiring on December 31, 2019 (the "Termination Date").
  - 3. Receipt of County Levy Proceeds.
    - A. Generally. Each year the County shall distribute the CITY's proportionate share of the CITY Proceeds to the CITY as authorized by Ordinance 17568, subject to Council appropriation.
    - B. Receipt and Distribution of Levy Proceeds.
      - 1. Payment Schedule. Beginning in 2014 and through 2019, the County shall transfer the CITY Proceeds to the CITY on a monthly basis. The annual amounts transferred shall never exceed the CITY's proportionate share of the CITY Proceeds actually collected and appropriated by King County.
      - 2. Administrative Fee. The Parties agree that the County has authority to deduct a portion from CITY Proceeds for eligible expenditures related to the administration of the distribution of County Levy Proceeds, consistent with Ordinance 17568.
  - 4. Use of County Levy Proceeds. The City shall only use the transferred City Proceeds for its City Projects. On or before May 1 of each year throughout the Term of this Agreement, the CITY shall provide the County with a copy of the Annual Report and provide any further documentation showing that the City Proceeds were expended on CITY Projects. The City shall maintain financial records to account separately for the City Proceeds.
  - 5. Representations and Warranties. The CITY represents and warrants that all CITY Proceeds received by the CITY shall be used only for specific CITY Projects as defined in this Agreement and that such funds shall not be used to supplant Existing Funds. The CITY represents and warrants that all CITY Projects shall be consistent with the requirements in King County Ordinance 17568. The CITY represents and warrants that in addition to the CITY's proportionate share of the CITY's Proceeds, the CITY shall annually expend on CITY Projects an amount equal to the CITY's Existing Funds.
  - 6. Title to Improvements. All appurtenances, fixtures, improvements, equipment, additions and other property attached to or installed in the City's local parks system during the Term

shall be and remain the properties of CITY and shall not be deemed property of the County under any circumstances.

7. Notices. All notices required to be given hereunder shall be in writing and either delivered personally or sent by certified mail to the appropriate address listed below, or at such other address as shall be provided by written notice. Notice shall be deemed communicated upon actual receipt. For convenience of the parties, copies of notices may also be given by other means; however, neither party may give official or binding notice except by personal delivery or by certified mail.

If to the CITY:

CITY's Contact and Title: \_\_\_\_\_

City Name: \_\_\_\_\_

Mailing Address1: \_\_\_\_\_

Mailing Address2: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

If to King County:

Kevin R. Brown, Division Director  
King County Parks and Recreation Division  
Department of Natural Resources and Parks  
201 South Jackson  
Mailstop: KSC-NR-0700  
Seattle, WA 98104

8. Compliance with Laws. The CITY shall comply and conform with all applicable laws and all governmental regulations, rules and orders.
9. CITY Agreement to Comply with Audit Finding or Repay. The CITY agrees that it is financially responsible for the lawful use of the levy funds distributed under this contract. The City agrees that if the State Auditor makes an audit finding that the levy proceeds have not been spent properly, the City shall comply with the State Auditor's audit finding and correct any improper expenditure or, at the sole discretion of the County, repay any indicated amounts to the County. This duty to comply with the audit finding or repay shall not be diminished or extinguished by the prior termination of the Agreement pursuant to the Duration of Agreement or the Termination Sections.
10. Miscellaneous.
- A. Liability of the County. The County's obligations to the CITY under this Agreement shall be limited to the terms and conditions set forth herein. Notwithstanding any other provision in this Agreement to the contrary, in no event shall the County be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including without limitation lost

profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

- B. Dispute Resolution. In the event of a dispute between the CITY and the County regarding any term of this Agreement, the parties shall attempt to resolve the matter informally through the following mechanism: the CITY (reps.) or their respective designee(s), shall meet with County (reps) or their respective designee(s) to review and discuss the matter(s) in dispute; if the CITY (reps) and County (reps) are unable to reach a mutual resolution, the Executive and the mayor, or their respective designee(s) shall meet to review and discuss the matter(s) in dispute. If such persons are unable to resolve the matter informally, either party may submit the matter to a non-binding, structured mediation procedure fashioned by persons or organizations experienced in alternative dispute resolution ("ADR") procedures. The mediation may be requested by any party and shall be initiated within thirty (30) days from the date of the request unless extended by agreement of both parties. The alternative dispute resolution procedures utilized for the mediation shall include the exchange of written claims and responses, with supporting information, at least seven (7) days prior to the actual mediation. The positions expressed and mediator's recommendations shall not be admissible as evidence in any subsequent ADR or legal proceeding. If the matter is submitted to mediation and the matter is not resolved, an affected party shall be entitled to pursue any legal remedy available. Any disputes involving the lawful expenditure of levy proceeds shall be resolved by King County Superior Court if the parties cannot agree.
- C. No Implied Waiver. No failure by either party hereto to insist upon the strict performance of any obligation of the other party under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues (except in cases where this Agreement expressly limits the time for exercising rights or remedies arising out of a breach), shall constitute a waiver of such breach or of that party's right to demand strict compliance such term, covenant or condition or operate as a surrender of this Agreement. No waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of either party hereto given in any instance under the terms of this Agreement shall not relieve the other party of any obligation to secure the consent of the other party in any other or future instance under the terms of this Agreement.
- D. Headings and Subheadings. The captions preceding the articles and sections of this Agreement and in the table of contents have been inserted for convenience of reference and such captions in no way define or limit the scope or intent of any provision of this Agreement.
- E. Successors and Assigns. The terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the County and the CITY and, except

as otherwise provided herein, their personal representatives and successors and assigns. There are no third party beneficiaries to this Agreement.

- F. Agreement made in Washington. This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Washington. Venue of any action brought by one party against the other to enforce or arising out of this Agreement shall be in King County Superior Court.
- G. Integrated Agreement; Modification. This Agreement contains all the agreements of the parties hereto relating to the subject matter addressed herein, and cannot be amended or modified except by a written agreement approved by the King County Council and mutually executed between each of the parties hereto.
- H. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- I. Time of Essence. Time is of the essence of each provision of this Agreement.
- J. Signage. For each capital project funded with County Levy Proceeds, the CITY shall provide a sign including the following language: This project was funded (or as applicable, funded in part) with proceeds from the Proposition No. 1 Parks Levy approved by King County voters in August 2013 under an Agreement with King County Parks and Recreation Division.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014.

KING COUNTY, a Washington municipal  
corporation

CITY OF \_\_\_\_\_, a  
Washington municipal corporation

By \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Its \_\_\_\_\_

By authority of Ordinance No. 17568



## AGENDA BILL APPROVAL FORM

---

**Agenda Subject:**

Resolution No. 5054

**Date:**

March 31, 2014

**Department:**

Administration

**Attachments:**

[Resolution No. 5054](#)

[RES 5054 Attachment](#)

**Budget Impact:**

\$0

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

Council Operations Committee

**Councilmember:** Wagner

**Staff:** Heid

**Meeting Date:** April 7, 2014

**Item Number:** RES.E

**RESOLUTION NO. 5054**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING RESOLUTION NO. 5017 OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, PASSED DECEMBER 3, 2013, RELATING TO THE STANDING COMMITTEES OF THE CITY COUNCIL OF THE CITY OF AUBURN

WHEREAS, the Auburn City Council Operations Committee designates the formation and membership of the standing committees of the City Council, subject to the approval of a majority of the City Council; and

WHEREAS, on December 3, 2013, the Auburn City Council passed Resolution No. 5017 relating to the standing committees of the City Council of the City of Auburn; and

WHEREAS, Resolution No. 5017 was amended by Resolution No. 5034 on January 2, 2014; and

WHEREAS, the Council Operations Committee conducted a meeting on [March 24, 2014], at which time the Committee approved changes to the meeting time for the Council Operations Committee and recommended the City Council's adoption of the same.

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

**Section 1.** Section 3 of Resolution No. 5017 relating to the meeting schedule of the Council standing committees is amended as follows:

**Section 3.** Unless otherwise designated by the Chair, the day and time of the meetings of the Standing Committees of the City Council of the City of Auburn shall be as follows:

- A. **PUBLIC WORKS:**  
**3:30 P.M.**  
First and third Mondays of each month.
- B. **FINANCE COMMITTEE:**  
**5:00 P.M.**  
First and third Mondays of each month.
- C. **PLANNING AND COMMUNITY DEVELOPMENT COMMITTEE:**  
**5:00 P.M.**  
Second and fourth Mondays of each month.
- D. **MUNICIPAL SERVICES COMMITTEE:**  
**3:30 P.M.**  
Second and fourth Mondays of each month.
- E. **LES GOVE COMMUNITY CAMPUS COMMITTEE**  
**5:00 P.M.**  
Fourth Wednesday of each month.
- F. **COUNCIL OPERATIONS COMMITTEE**  
**~~4:00~~ 2:30 P.M.**  
Fourth ~~Wednesday~~ Monday of each month.
- G. **COMMITTEE OF THE WHOLE**  
The Council Committee of the Whole shall meet whenever there is a fifth Monday in any month or as needed.

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

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

DATED and SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF AUBURN

ATTEST:

\_\_\_\_\_  
NANCY BACKUS  
MAYOR

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

## 2014 AUBURN CITY COUNCIL COMMITTEES

### PLANNING & COMMUNITY DEVELOPMENT

*5:00 pm  
2nd & 4th Monday*

**John Holman, Chair**  
**Largo Wales, Vice Ch.**  
**Yolanda Trout**

- Land use, Zoning
- Code Enforcement
- Building Permits
- Annexation
- Economic Development
- Cultural Arts, Public Art
- Parks Capital
- Transportation (long-term planning, **TIP** \* action)
- Capital Improvement Plans (PW oversight)
- Communications
- Community Services
- Veterans and Human Services Center
- Parking

### PUBLIC WORKS

*3:30 pm  
1st & 3rd Monday*

**Wayne Osborne, Chair**  
**Bill Peloza, Vice Ch.**  
**Claude DaCorsi**

- Water
- Sanitary Sewer
- Stormwater Management
- Right-of-Way Management
- Streets
- Maintenance & Operations
- Equipment Rental
- Engineering (utilities, traffic, design standards, maintenance development)
- Transportation (current PW capital projects, traffic efficiency, **TIP**\*\* oversight, PW **CIP**\*\* action)

**\* TIP:** 6 year Transportation Improvement Program

### MUNICIPAL SERVICES

*3:30 pm  
2nd & 4th Monday*

**Bill Peloza, Chair**  
**Wayne Osborne, Vice Ch.**  
**Claude DaCorsi**

- Police
- Solid Waste
- Airport
- Golf Course
- Cemetery
- Parks & Rec. Operations
- Farmers' Market
- Animal Control
- Telecommunications
- Cable TV
- Emergency Planning
- Mary Olson Farm

#### MSC Liaisons:

- Airport Advisory Board
- Cemetery Board
- Farmers' Market Board
- Auburn Valley Humane Society Board
- Parks & Recreation Board (operational issues)

### FINANCE

*5:00 pm  
1st & 3rd Monday*

**Largo Wales, Chair**  
**John Holman, Vice Ch.**  
**Yolanda Trout**

- City Budget
- Capital Facilities Plan
- Finance
- Human Resources
- Court
- Legal
- Information Services
- City Real Property
- Facilities Management
- Governmental Affairs

#### FC Liaisons:

- Tourism Board
- Chamber of Commerce
- BIA, Bus.Improvement Area
- Fire Relief & Pension Board

### LES GOVE COMMUNITY CAMPUS

*5:00 pm  
4th Wednesday*

**Rich Wagner, Chair**  
**Largo Wales, Vice Ch.**  
**Wayne Osborne**

- Museum
- Senior Center
- Capital & Operating Policy for:
  - Community Center
  - Activity Center

#### LGCC Liaisons:

- Museum Board
- Boys & Girls Club
- King County Library

### COUNCIL OPERATIONS (COC)

*2:30 pm  
4th Monday*

**Rich Wagner, Chair**  
**Bill Peloza, Vice Ch.**  
**Largo Wales**

- Committee Structure
- Committee Membership
- Whole Council Issues
- Council Rules of Procedure
- Annual Visioning Retreat
- Junior City Council

### COMMITTEE OF THE WHOLE (COW)

*5th Monday in any month*

**Rich Wagner, Chair**  
**Bill Peloza, Vice Ch.**

**All Other Councilmembers**

- Broad implication issues
- No Council vote taken

### DEPUTY MAYOR

**Rich Wagner**

- Act in absence of the Mayor
- Alternate to all committees
- Councilmember training
- Support cooperative Councilmember relations
- Help maintain cooperative Council-Mayor relations
- Chair COW & COC
- Mentor Junior City Council



#### PCDC Liaisons:

- Planning Commission
- Human Services Commis'n
- Multicultural Roundtable
- Arts Commission
- Parks & Recreation Board (planning issues)
- Auburn Downtown Assoc.
- Urban Tree Board
- TTT Committee (Transportation, Transit & Trails)
- Sister Cities

RES.E



## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Resolution No. 5055

**Date:**

March 31, 2014

**Department:**

Finance

**Attachments:**

[Resolution No. 5055 with agreement](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council adopt Resolution No. 5055.

**Background Summary:**

Review the 5-year building space lease agreement at the Auburn Municipal Airport between Century West and the City of Auburn.

**Reviewed by Council Committees:**

Finance, Municipal Services

**Councilmember:** Peloza

**Staff:** Coleman

**Meeting Date:** April 7, 2014

**Item Number:** RES.F

**RESOLUTION NO. 5055**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A LEASE BETWEEN THE CITY OF AUBURN AND CENTURY WEST FOR AIRPORT PROPERTY

WHEREAS, City staff have negotiated lease terms with Century West for a five year lease of building space at the Auburn Municipal Airport, and recommends the same be approved.

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

Section 1. That the Mayor is hereby authorized to execute a Lease between the City and Century West for building space at the Auburn Municipal Airport which Lease shall be in substantial conformity with the agreement attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

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

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

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

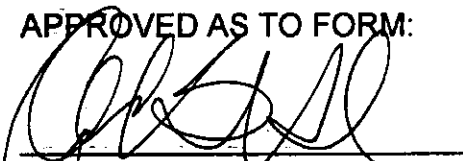
CITY OF AUBURN

\_\_\_\_\_  
NANCY BACKUS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

-----  
Resolution No. 5055

March 24, 2014

Page 1

RES.F

Exhibit "A"

**AIRPORT BUILDING LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (hereinafter the "Lease") is entered into as of the day of \_\_\_\_\_ 20 \_\_\_\_, by and between Landlord and Tenant, as described in the following basic lease information. Landlord and Tenant hereby agree as follows:

**ARTICLE 1  
BASIC LEASE INFORMATION**

In addition to the terms defined elsewhere in this Lease, the following terms shall have the following meanings:

**LANDLORD:** City of Auburn, a municipal corporation

**LANDLORD'S ADDRESS:** 25 West Main St.  
Auburn, WA 98001  
Attn: Airport Supervisor

**TENANT:** Century West

**TENANT ADDRESS:** 400 23rd St NE  
Auburn, WA 98002

**PREMISES:** A single story masonry and frame building

**TERM:** Five (5) years beginning on the Commencement Date and expiring on the Expiration Date.

**COMMENCEMENT DATE:** May 1, 2014

**EXPIRATION DATE:** April 30, 2019

**MONTHLY RENT:** Tenant agrees to pay Monthly Rent for the Premises. Rent shall be paid monthly at an initial rate of Five hundred dollars (\$500.00) per month, plus applicable Operating Costs as defined in Section 3.2.

**ARTICLE 2  
AGREEMENT; USE; MAINTENANCE AND REPAIR; AND TERM**

**2.1 Lease.** Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, according to the terms and conditions of this Lease. Landlord will be deemed to have delivered possession of the Premises to Tenant on the Commencement Date, and Tenant will be deemed to have accepted the Premises, based on its own inspection and not relying on any statement of the condition of the

Premises by Landlord or its agents, in its present "as-is" condition subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and any covenants or restrictions of record.

**2.2 Use.** Tenant shall use the Premises only for the purpose of conducting General office for aviation consulting and professional engineering consulting activities and for no other purpose. The operation may include any or all of the following uses:

- a. Aviation Consulting Engineering Services
- b. Professional Office and Field Supply and Storage
- c. Professional Consulting Engineering Services

The Tenant agrees to furnish these services on a fair, equal and not unjustly discriminatory basis to all users thereof.

Tenant shall not allow the Premises to be used for any unlawful purposes or for purposes that may result in a violation of any local, state or federal laws, statutes or ordinances applicable to the Premises.

The Tenant agrees, at its sole cost and expense, to conform to, comply with and abide by all lawful rules, codes, ordinances, requirements, orders, directions, laws, regulations and standards of the United States, the State of Washington, and City of Auburn or agency of any of said entities, including rules and regulations of Landlord, including without limitation those relating to environmental matters, now in existence or hereafter promulgated, applicable to the Tenant's use and operation of said Premises, including the construction of any improvements thereon, and not to permit said Premises to be used in violation of any of said rules, codes, laws or regulations. Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable attorney's fees, that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the covenants of this section.

**2.3. Use of Public Airport Facilities.** Tenant is granted the nonexclusive use of all public airport facilities including but not limited to taxiways, runways, aprons, navigational aids and facilities relating thereto for the purposes of landings, takeoffs and taxiing of Tenant and Tenant's aircraft. All such use shall be in accordance with the laws of the United States of America, the State of Washington, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations and ordinances of the Landlord now in force or hereafter prescribed or promulgated by ordinance or by law. Landlord agrees during the term of this lease to operate and maintain the airport and its public airport facilities as a public airport consistent with and pursuant to sponsor's assurances given by Landlord to the United States Government under the Federal Airport Act.

**2.4 Maintenance and Repair.** The Tenant shall maintain the leased premises in good repair and tenable condition, so that at the conclusion of the Lease, the premises shall

be in a condition as good as or better than its condition at the commencement of the Lease, ordinary wear and tear excepted.

**2.4.1 Exterior Repairs.** Landlord shall keep the foundations, adjacent sidewalks, exterior walls, roof and downspouts in good order and repair, provided; however, that Landlord shall not be required to repair damage which results from the act of negligence by the Tenant, his agents, servants, or employees. If Landlord refuses or neglects to commence or complete repairs, either promptly or adequately, Tenant may, but shall not be required to, commence or complete the repairs, and Landlord shall pay the costs thereof to Tenant on demand.

**2.4.2 Interior Repairs.** The Tenant shall make internal repairs including (but not limited to) repairs to interior walls, floors, wiring plumbing, heating, air-conditioning equipment; provided, however, that Tenant shall not be required to repair damage which results from acts of negligence by the Landlord, his agents, servants or employees, or when such damage is caused by any peril included within the Landlord's property insurance coverage. If Tenant refuses or neglects to commence or complete repairs within thirty days of written notice by the Landlord, Landlord may, but shall not be required to, commence or complete the repairs, and Tenant shall pay the costs thereof to Landlord on demand.

The Tenant shall keep the interior of the premises in good repair, at his own expense, subject to approval of Landlord, except as otherwise provided in this paragraph. Tenant may make interior alterations and additions at its own cost, subject to approval of the Landlord. The Tenant shall replace all windows glass and plate glass with the glass of same or similar quality whenever said glass is broken or destroyed.

## **2.5 Term.**

**2.5.1 Commencement.** The Term will commence on the Commencement Date and will expire on the Expiration Date.

**2.5.2. Option to Renew.** If this lease shall be in force and effect on the date of expiration of the original term, and the Tenant on that date shall have fully complied with the terms and conditions of this lease, the Parties may renew this Lease under mutually-agreeable terms. To exercise any renewal option, the Tenant shall give the Landlord at least one hundred eighty (180) days advance notice in writing. Landlord will notify Tenant not later than one hundred twenty (120) days before the end of the lease period whether it intends to renew the Lease. Unless otherwise negotiated by the parties, all other terms of the Lease shall remain in effect.

## **ARTICLE 3 RENT**

**3.1 Monthly Rent.** Tenant shall pay the Monthly Rent to Landlord as rent for the Premises. Monthly Rent will be paid in advance, to Landlord at Landlord's address or to such other person or place as Landlord designates to Tenant in writing, on or before the

first day of each calendar month of the Term, without written notice or demand. If the Term commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, then Monthly Rent will be appropriately prorated. The Rental Amount shall be adjusted annually, effective January 1 of each year during the term of this Lease, in accordance with the previous annual CPI-W for the Seattle-Tacoma-Bremerton area, measured from August to August. Rent shall not be decreased if the CPI-W is negative from any previous year.

**3.2 Operating Costs.** Tenant acknowledges and agrees that costs and expenses shall include, but are not limited to: Leasehold Excise Taxes at 12.84% of the Monthly Rent (if Leasehold Excise Tax is required by state statute); and any costs and expenses incurred by Landlord in each month in connection with the upkeep, operation, maintenance, repair, and management of the Premises.

Commencing on the Lease Commencement Date, Tenant shall pay any and all Impositions allocable to the Premises. The term "Impositions" shall mean all real estate taxes (to the extent any portion of the Premises and any improvements thereon are subject to real estate taxes), water, sanitary sewer and storm water charges, charges for public utilities, local improvement or general or special benefit district assessments, license and permit fees or other charges which shall or may during the Term be assessed, levied, charged, confirmed or imposed by any public authority upon or accrue or become due or payable out of or on account of or become a lien on the Premises or any part thereof, including without limitation all real property taxes allocable to the improvements, or for the use or occupancy of the Premises, and any tax on receipt of rents.

The term "Impositions" shall expressly include statutory leasehold excise tax imposed by Chapter 82.29A RCW on the taxable rent payable by Tenant hereunder, but shall exclude any income tax, estate, succession, or inheritance taxes. Either Tenant or Landlord may contest the validity or amount (including the assessed valuation upon the Premises and any exemptions applicable to any portion thereof) of any Imposition for which either is responsible in whole or in part, and which such party in good faith believes is excessive, improper or invalid. In such event, the payment thereof may be deferred during the pendency of such contest, if diligently prosecuted, but in no event shall Tenant allow a lien for any unpaid taxes which it is contesting to attach to the Premises. Each party agrees to join at the other's request in any such contest to the extent such joinder is prerequisite to such prosecution under statute, regulation or administrative practice. In connection with a judicial or administrative challenge to any assessment, Tenant may take advantage of any stay in collection available under statute, regulation, or court or administrative order or rules. Nothing herein contained, however, shall be so construed as to allow such items to remain unpaid for such length of time as shall permit the Premises, or any part thereof, to be sold by any governmental, city or municipal authority for the nonpayment of the same. Within ten (10) days after the amount of such contested item is finally determined to be due, the party liable for such Imposition shall pay the amounts so determined, together with the penalties, interest and expenses associated with such contest.

**3.3 Utilities.** Tenant agrees to contract with the appropriate provider and pay for all public utilities, which shall be used in or charged against the Premises, and to hold the Landlord harmless from such charges. Landlord shall cooperate, at no charge to Landlord, in the granting of easements and rights-of-way in, through, above, and/or under property owned and controlled by Landlord at the Airport and reasonably necessary for the provision of utilities to the Premises, provided that if any utility lines, including but not limited to storm water lines, need to be relocated, the responsibility to relocate them shall be borne solely by the Tenant.

It is the intent of Tenant and Landlord that the rent due hereunder shall be absolutely net to Landlord and that Tenant shall pay all costs expenses regarding the Premises whether specifically mentioned herein or not.

#### **ARTICLE 4 INSURANCE AND INDEMNITY**

**4.1 Tenant's Insurance.** At all times during the Term, Tenant will carry and maintain, at Tenant's expense, the following insurance in the amounts specified below or such other amounts as Landlord may from time to time reasonably request, with insurance companies and on forms satisfactory to Landlord to the extent allowed by applicable law:

Commercial General Liability insurance and Automobile coverage including all owned and non-owned vehicles, with a combined single limit, each occurrence limit of not less than \$1,000,000.00. All such insurance will be equivalent to coverage offered by a Commercial General Liability form including, without limitation, personal injury, death of persons or damage to property occurring in, on, or about the Premises, and contractual liability coverage for the performance by Tenant of the indemnity agreements set forth in Section 4.3 of this Lease;

Insurance covering all of Tenant's machinery, equipment, and any other personal property owned by Tenant and located on or about the Premises and any leasehold improvements to the Premises, in an amount not less than the full replacement cost. Property forms will provide coverage on a broad form basis insuring against "all risks of direct physical loss."

Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the State where the Premises is located, including employer's liability insurance in the limits required by the laws of the State where the Premises is located.

Any additional insurance reasonably requested by Landlord to cover any unusual risks created by the nature of Tenant's use of the Premises.

**4.2 Forms of the Policies.** Certificates of insurance, together with copies of Additional Insured endorsements, when applicable, listing Landlord and any others specified by Landlord as additional insureds, will be delivered to Landlord prior to Tenant's

occupancy of the Premises and from time to time at least 10 days' prior to the expiration of the term of each such policy. All Commercial General Liability or comparable policies maintained by Tenant will name Landlord and such other persons or entities as Landlord specifies from time to time as additional insureds entitling them to recover under such policies for any loss sustained by them, their agents and employees. All such policies maintained by Tenant will endeavor to provide that they may not be terminated nor may coverage be reduced except after 30 days' prior written notice to Landlord. All Commercial General Liability and property policies maintained by Tenant will be written as primary policies, not contributing with and not supplemental to the coverage that Landlord may carry.

**4.3 Tenant's Indemnification.** Tenant will neither hold nor attempt to hold Landlord, its employees or agents liable for, and Tenant will indemnify and hold harmless Landlord, its employees and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including, without limitation, reasonable attorneys' fees) which arise out of or relate to: (1) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant; (2) any activity, work, or thing done or permitted by Tenant in or about the Premises; (3) any breach by Tenant or its employees, agents, contractors or invitees of this Lease; and (4) any injury, loss or damage to the person, property or business of Tenant, its employees, agents, or contractors or any invitees entering upon the Premises under the express or implied invitation of Tenant. If any action or proceeding is brought against Landlord or its employees or agents by reason of any such claim for which Tenant has indemnified Landlord, Tenant, upon written notice from Landlord, will defend the same at Tenant's expense with counsel reasonably satisfactory to Landlord. It is further specifically and expressly understood that the indemnification provided herein constitutes the Tenant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**4.4 Waiver and Release.** Tenant, as a material part of the consideration to Landlord for this Lease, by this Section waives and releases all claims against Landlord, its employees and agents with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease.

**4.5 Waiver of Subrogation.** Tenant and Landlord hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the Premises or said building. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

## ARTICLE 5 GENERAL

**5.1 Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Lease: (i) the Premises is left vacant or are

abandoned, (ii) any part of the Monthly Rent or Parking Expenses are not paid when due, or (iii) any nonperformance, breach or default under any other provision of this Lease.

**5.2 Landlord's Remedies.** If any Event of Default occurs, then Landlord shall have the right, at its election.

5.2.1 To terminate this Lease, in which case Tenant's right to possession of the Premises will cease and this Lease will be terminated as if the expiration of the term fixed in such notice were the end of the Term.

5.2.2. To cure any Event of Default and to charge Tenant for the cost of effecting such cure, including without limitation reasonable attorneys' fees and Default Interest provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

**5.3 Rights and Remedies.** Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or at law or in equity. If a dispute arises under the terms of this Lease or if any payment required by this Lease is not paid when due and the matter is turned over to an attorney, the prevailing party in the dispute will be entitled to receive its reasonable attorneys' fees in addition to the other damages and costs recoverable under this Lease.

**5.4 Quiet Enjoyment.** So long as Tenant performs all covenants and obligations contained in this Lease, Landlord warrants quiet enjoyment of the Premises by Tenant; provided that Landlord, its agents or representatives may enter upon and inspect the Premises at reasonable times upon reasonable notice. Landlord's failure to comply with this Section shall not give Tenant any right to terminate this Lease, to abate or reduce the Monthly Rent, Parking Expenses or additional rent or fail to perform any of Tenant's obligations hereunder.

**5.5 Liens.** Tenant will keep the Premises free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under Tenant.

**5.6 Environmental Matters.**

5.6.1 Tenant's Obligations. Tenant will not cause or permit the storage, treatment or disposal of any Hazardous Materials in, on, or about the Premises by Tenant, its agents, employees or contractors. Tenant will not permit the Premises to be used or operated in a manner that may cause the Premises or any part of the Premises to be contaminated by any Hazardous Materials in violation of any Environmental Laws. Tenant will not use or permit the Premises to be used for maintenance of its vehicles.

Tenant will be solely responsible for and will defend, indemnify, and hold Landlord, its agents and employees harmless from and against all direct claims,

costs, and liabilities, including attorneys' fees and costs, arising out of or in connection with Tenant's breach of its obligations in this Section.

Tenant will be solely responsible for and will defend, indemnify and hold Landlord, its agents, and employees harmless from and against any and all direct claims, costs, and liabilities, including attorneys' fees and costs, arising out of or in connection with Tenant's introduction of Hazardous Materials to the Premises. Tenant's obligations under this Section shall survive the expiration or other termination of this Lease.

Hazardous Materials. "Hazardous Materials" means asbestos, petroleum products, explosives, radioactive materials, hazardous waste, hazardous substances, or hazardous materials including, without limitation, substances defined as "hazardous substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601-9657 ("CERCLA") the Hazardous Material Transportation Act of 1975, 49 U.S.C. Sec. 1801-1812; the Resource Conservation Recovery Acts of 1976, 42 U.S.C. Sec. 6901-6987; the Occupational Safety And health Act of 1970, 29 U.S.C. Sec. 6901-6987; the Occupational Safety And Health Act of 1970, 29 U.S.C. 651 et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, wastes or substances now or at any time hereinafter in effect (collectively, "Environmental Laws").

**5.7 Termination.** At the expiration or other termination of this Lease, Tenant will promptly quit and surrender the Premises to Landlord in good order and repair, ordinary wear and tear excepted. All effects, additions and improvements on the Premises after the end of the Term shall be deemed conclusively to have been abandoned and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant or any other person and without obligation to account for them.

**5.8 Assignment and Subletting.** Tenant shall not assign or sublet the Premises without the written approval of Landlord, which approval is at the sole discretion of the Landlord. If Landlord consents to a proposed assignment or sublease, then Landlord may require Tenant to pay to Landlord a sum equal to 50% of any rent and other consideration, profit or gain realized by Tenant from such sublease or assignment, in excess of the rent allocable to the transferred space then being paid by Tenant to Landlord pursuant to the Lease (after deducting the costs of Tenant, if any, in effecting the assignment or sublease, including reasonable alteration costs, commissions and legal fees).

**5.9 Subsequent Landlord.** In the event of any sale or lease of Landlord's interest in the Premises, the Landlord shall be relieved of all covenants and obligations hereunder, and this Lease shall be deemed terminated on notice to Tenant of such sale or lease.

**5.10 Notices.** Notices and other communications required under this Lease shall be in writing and shall be deemed given upon personal delivery; or three (3) business days after deposit in the United States mail, first class, postage prepaid, certified, return

receipt requested, or one (1) business day after timely delivery to an overnight courier, to the addresses as set forth in Section 1.1. Either party may by similar notice change the address to which future notices or other communications shall be sent.

**5.11 Time is of the Essence.** Time is of the essence for each and every provision of this Lease.

**5.12 No Waiver.** The waiver by either Landlord or Tenant of any agreement, condition, or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Lease.

**5.13 Jury Waiver.** If any action, proceeding, claim or counterclaim is brought by landlord or tenant against the other or their successors or assigns with respect to any matter whatsoever arising out of or in connection with this lease, the use and occupancy of the building, the relationship between landlord and tenant, any claim for injury or damage, or any emergency or statutory remedy, landlord and tenant each hereby knowingly and voluntarily waives trial by jury. If landlord commences any summary proceeding for nonpayment of rent, tenant will not interpose (and waives the right to interpose) any counterclaim in any such proceeding.

**5.14 Brokers.** Landlord and Tenant respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises and will defend, indemnify and hold the other party harmless from any claims or damages, including reasonable attorney& fees, arising from any breach of this provision.

**5.15 Authority.** Each of the parties executing this Lease on behalf of the Tenant or the Landlord represents to the other party that such party is authorized to do so by requisite action of the party to this Lease.

**5.16 Entry by Landlord.** Landlord, its agents, employees, and contractors may enter the Premises at any reasonable hour.

**5.17 Governing Law.** This Lease will be governed by and construed pursuant to the laws of the State of Washington, and the ordinances and regulations of the City.

**5.18 Entire Agreement: Amendment.** This Lease contains the entire agreement between Landlord and Tenant. No amendment, alteration, modification of, or addition to the Lease will be valid or binding unless expressed in writing and signed by Landlord and Tenant.

**5.19 Late Rent.** Any installment of Monthly Rent, Parking Expenses or additional rent not paid (within five (5) days) of) on its due date shall bear a late charge of 5% of the delinquent installment, to compensate Landlord for its administrative expenses relating to such delinquency. Further, any Monthly Rent or additional rent not paid when due will accrue interest at the default rate of the Prime Rate plus 5% per annum, but in no event

in an amount in excess of the maximum rate allowed by applicable law ("Default Interest") from the date on which it was due until the date on which it is paid in full with accrued interest.

The term "Prime Rate" shall mean the rate of interest from time to time as published in *The Wall Street Journal* under the table, "Money Rates," or any successor to it, as the prime rate. If the Wall Street Journal or any successor to it ceases to publish the prime rate, the Prime Rate will be a comparable interest rate designated by Landlord to replace the Prime Rate.

**5.20 Landlord Fees.** If Tenant requests that Landlord take any action or give any consent required or permitted under this Lease or execute an instrument or document of estoppel, subordination, non-disturbance or the like, Tenant will reimburse Landlord for their fees, costs and expenses incurred in reviewing, negotiating, preparing, processing, executing and delivering the proposed action, consent, instrument or document, including, without limitation, reasonable attorneys' fees (including Landlord's in-house counsel fees and costs, at market-rate) and engineers' fees (including Landlord's in-house engineers' fees and costs, at market rate), on or before ten (10) days after Landlord's delivery to Tenant of a statement of such fees, costs and expenses. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action or executes any such proposed instrument or document.

EXECUTED as of the day and year first above written.

LANDLORD  
City of Auburn, a municipal corporation

TENANT

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_



## **AIRPORT BUILDING LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (hereinafter the "Lease") is entered into as of the day of \_\_\_\_\_ 20 \_\_\_\_, by and between Landlord and Tenant, as described in the following basic lease information. Landlord and Tenant hereby agree as follows:

### **ARTICLE 1 BASIC LEASE INFORMATION**

In addition to the terms defined elsewhere in this Lease, the following terms shall have the following meanings:

**LANDLORD:** City of Auburn, a municipal corporation

**LANDLORD'S ADDRESS:** 25 West Main St.  
Auburn, WA 98001  
Attn: Airport Supervisor

**TENANT:** Century West

**TENANT ADDRESS:** 400 23rd St NE  
Auburn, WA 98002

**PREMISES:** A single story masonry and frame building

**TERM:** Five (5) years beginning on the Commencement Date and expiring on the Expiration Date.

**COMMENCEMENT DATE:** May 1, 2014

**EXPIRATION DATE:** April 30, 2019

**MONTHLY RENT:** Tenant agrees to pay Monthly Rent for the Premises. Rent shall be paid monthly at an initial rate of Five hundred dollars (\$500.00) per month, plus applicable Operating Costs as defined in Section 3.2.

### **ARTICLE 2 AGREEMENT; USE; MAINTENANCE AND REPAIR; AND TERM**

**2.1 Lease.** Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, according to the terms and conditions of this Lease. Landlord will be deemed to have delivered possession of the Premises to Tenant on the Commencement Date, and Tenant will be deemed to have accepted the Premises, based on its own inspection and not relying on any statement of the condition of the Premises by Landlord or its agents, in its present "as-is" condition subject to all applicable zoning, municipal, county and state laws, ordinances and regulations

governing and regulating the use of the Premises, and any covenants or restrictions of record.

**2.2 Use.** Tenant shall use the Premises only for the purpose of conducting General office for aviation consulting and professional engineering consulting activities and for no other purpose. The operation may include any or all of the following uses:

- a. Aviation Consulting Engineering Services
- b. Professional Office and Field Supply and Storage
- c. Professional Consulting Engineering Services

The Tenant agrees to furnish these services on a fair, equal and not unjustly discriminatory basis to all users thereof.

Tenant shall not allow the Premises to be used for any unlawful purposes or for purposes that may result in a violation of any local, state or federal laws, statutes or ordinances applicable to the Premises.

The Tenant agrees, at its sole cost and expense, to conform to, comply with and abide by all lawful rules, codes, ordinances, requirements, orders, directions, laws, regulations and standards of the United States, the State of Washington, and City of Auburn or agency of any of said entities, including rules and regulations of Landlord, including without limitation those relating to environmental matters, now in existence or hereafter promulgated, applicable to the Tenant's use and operation of said Premises, including the construction of any improvements thereon, and not to permit said Premises to be used in violation of any of said rules, codes, laws or regulations. Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable attorney's fees, that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the covenants of this section.

**2.3. Use of Public Airport Facilities.** Tenant is granted the nonexclusive use of all public airport facilities including but not limited to taxiways, runways, aprons, navigational aids and facilities relating thereto for the purposes of landings, takeoffs and taxiing of Tenant and Tenant's aircraft. All such use shall be in accordance with the laws of the United States of America, the State of Washington, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations and ordinances of the Landlord now in force or hereafter prescribed or promulgated by ordinance or by law. Landlord agrees during the term of this lease to operate and maintain the airport and its public airport facilities as a public airport consistent with and pursuant to sponsor's assurances given by Landlord to the United States Government under the Federal Airport Act.

**2.4 Maintenance and Repair.** The Tenant shall maintain the leased premises in good repair and tenable condition, so that at the conclusion of the Lease, the premises shall be in a condition as good as or better than its condition at the commencement of the Lease, ordinary wear and tear excepted.

**2.4.1 Exterior Repairs.** Landlord shall keep the foundations, adjacent sidewalks, exterior walls, roof and downspouts in good order and repair, provided; however, that Landlord shall not be required to repair damage which results from the act of negligence by the Tenant, his agents, servants, or employees. If Landlord refuses or neglects to commence or complete repairs, either promptly or adequately, Tenant may, but shall not be required to, commence or complete the repairs, and Landlord shall pay the costs thereof to Tenant on demand.

**2.4.2 Interior Repairs.** The Tenant shall make internal repairs including (but not limited to) repairs to interior walls, floors, wiring plumbing, heating, air-conditioning equipment; provided, however, that Tenant shall not be required to repair damage which results from acts of negligence by the Landlord, his agents, servants or employees, or when such damage is caused by any peril included within the Landlord's property insurance coverage. If Tenant refuses or neglects to commence or complete repairs within thirty days of written notice by the Landlord, Landlord may, but shall not be required to, commence or complete the repairs, and Tenant shall pay the costs thereof to Landlord on demand.

The Tenant shall keep the interior of the premises in good repair, at his own expense, subject to approval of Landlord, except as otherwise provided in this paragraph. Tenant may make interior alterations and additions at its own cost, subject to approval of the Landlord. The Tenant shall replace all windows glass and plate glass with the glass of same or similar quality whenever said glass is broken or destroyed.

## **2.5 Term.**

**2.5.1 Commencement.** The Term will commence on the Commencement Date and will expire on the Expiration Date.

**2.5.2. Option to Renew.** If this lease shall be in force and effect on the date of expiration of the original term, and the Tenant on that date shall have fully complied with the terms and conditions of this lease, the Parties may renew this Lease under mutually-agreeable terms. To exercise any renewal option, the Tenant shall give the Landlord at least one hundred eighty (180) days advance notice in writing. Landlord will notify Tenant not later than one hundred twenty (120) days before the end of the lease period whether it intends to renew the Lease. Unless otherwise negotiated by the parties, all other terms of the Lease shall remain in effect.

## **ARTICLE 3 RENT**

**3.1 Monthly Rent.** Tenant shall pay the Monthly Rent to Landlord as rent for the Premises. Monthly Rent will be paid in advance, to Landlord at Landlord's address or to such other person or place as Landlord designates to Tenant in writing, on or before the first day of each calendar month of the Term, without written notice or demand. If the Term commences on a day other than the first day of a calendar month or ends on a

day other than the last day of a calendar month, then Monthly Rent will be appropriately prorated. The Rental Amount shall be adjusted annually, effective January 1 of each year during the term of this Lease, in accordance with the previous annual CPI-W for the Seattle-Tacoma-Bremerton area, measured from August to August. Rent shall not be decreased if the CPI-W is negative from any previous year.

**3.2 Operating Costs.** Tenant acknowledges and agrees that costs and expenses shall include, but are not limited to: Leasehold Excise Taxes at 12.84% of the Monthly Rent (if Leasehold Excise Tax is required by state statute); and any costs and expenses incurred by Landlord in each month in connection with the upkeep, operation, maintenance, repair, and management of the Premises.

Commencing on the Lease Commencement Date, Tenant shall pay any and all Impositions allocable to the Premises. The term "Impositions" shall mean all real estate taxes (to the extent any portion of the Premises and any improvements thereon are subject to real estate taxes), water, sanitary sewer and storm water charges, charges for public utilities, local improvement or general or special benefit district assessments, license and permit fees or other charges which shall or may during the Term be assessed, levied, charged, confirmed or imposed by any public authority upon or accrue or become due or payable out of or on account of or become a lien on the Premises or any part thereof, including without limitation all real property taxes allocable to the Improvements, or for the use or occupancy of the Premises, and any tax on receipt of rents.

The term "Impositions" shall expressly include statutory leasehold excise tax imposed by Chapter 82.29A RCW on the taxable rent payable by Tenant hereunder, but shall exclude any income tax, estate, succession, or inheritance taxes. Either Tenant or Landlord may contest the validity or amount (including the assessed valuation upon the Premises and any exemptions applicable to any portion thereof) of any Imposition for which either is responsible in whole or in part, and which such party in good faith believes is excessive, improper or invalid. In such event, the payment thereof may be deferred during the pendency of such contest, if diligently prosecuted, but in no event shall Tenant allow a lien for any unpaid taxes which it is contesting to attach to the Premises. Each party agrees to join at the other's request in any such contest to the extent such joinder is prerequisite to such prosecution under statute, regulation or administrative practice. In connection with a judicial or administrative challenge to any assessment, Tenant may take advantage of any stay in collection available under statute, regulation, or court or administrative order or rules. Nothing herein contained, however, shall be so construed as to allow such items to remain unpaid for such length of time as shall permit the Premises, or any part thereof, to be sold by any governmental, city or municipal authority for the nonpayment of the same. Within ten (10) days after the amount of such contested item is finally determined to be due, the party liable for such Imposition shall pay the amounts so determined, together with the penalties, interest and expenses associated with such contest.

**3.3 Utilities.** Tenant agrees to contract with the appropriate provider and pay for all public utilities, which shall be used in or charged against the Premises, and to hold the

Landlord harmless from such charges. Landlord shall cooperate, at no charge to Landlord, in the granting of easements and rights-of-way in, through, above, and/or under property owned and controlled by Landlord at the Airport and reasonably necessary for the provision of utilities to the Premises, provided that if any utility lines, including but not limited to storm water lines, need to be relocated, the responsibility to relocate them shall be borne solely by the Tenant.

It is the intent of Tenant and Landlord that the rent due hereunder shall be absolutely net to Landlord and that Tenant shall pay all costs expenses regarding the Premises whether specifically mentioned herein or not.

#### ARTICLE 4 INSURANCE AND INDEMNITY

**4.1 Tenant's Insurance.** At all times during the Term, Tenant will carry and maintain, at Tenant's expense, the following insurance in the amounts specified below or such other amounts as Landlord may from time to time reasonably request, with insurance companies and on forms satisfactory to Landlord to the extent allowed by applicable law:

Commercial General Liability insurance and Automobile coverage including all owned and non-owned vehicles, with a combined single limit, each occurrence limit of not less than \$1,000,000.00. All such insurance will be equivalent to coverage offered by a Commercial General Liability form including, without limitation, personal injury, death of persons or damage to property occurring in, on, or about the Premises, and contractual liability coverage for the performance by Tenant of the indemnity agreements set forth in Section 4.3 of this Lease;

Insurance covering all of Tenant's machinery, equipment, and any other personal property owned by Tenant and located on or about the Premises and any leasehold improvements to the Premises, in an amount not less than the full replacement cost. Property forms will provide coverage on a broad form basis insuring against "all risks of direct physical loss."

Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the State where the Premises is located, including employer's liability insurance in the limits required by the laws of the State where the Premises is located.

Any additional insurance reasonably requested by Landlord to cover any unusual risks created by the nature of Tenant's use of the Premises.

**4.2 Forms of the Policies.** Certificates of insurance, together with copies of Additional Insured endorsements, when applicable, listing Landlord and any others specified by Landlord as additional insureds, will be delivered to Landlord prior to Tenant's occupancy of the Premises and from time to time at least 10 days' prior to the expiration of the term of each such policy. All Commercial General Liability or comparable policies

maintained by Tenant will name Landlord and such other persons or entities as Landlord specifies from time to time as additional insureds entitling them to recover under such policies for any loss sustained by them, their agents and employees. All such policies maintained by Tenant will endeavor to provide that they may not be terminated nor may coverage be reduced except after 30 days' prior written notice to Landlord. All Commercial General Liability and property policies maintained by Tenant will be written as primary policies, not contributing with and not supplemental to the coverage that Landlord may carry.

**4.3 Tenant's Indemnification.** Tenant will neither hold nor attempt to hold Landlord, its employees or agents liable for, and Tenant will indemnify and hold harmless Landlord, its employees and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including, without limitation, reasonable attorneys' fees) which arise out of or relate to: (1) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant; (2) any activity, work, or thing done or permitted by Tenant in or about the Premises; (3) any breach by Tenant or its employees, agents, contractors or invitees of this Lease; and (4) any injury, loss or damage to the person, property or business of Tenant, its employees, agents, or contractors or any invitees entering upon the Premises under the express or implied invitation of Tenant. If any action or proceeding is brought against Landlord or its employees or agents by reason of any such claim for which Tenant has indemnified Landlord, Tenant, upon written notice from Landlord, will defend the same at Tenant's expense with counsel reasonably satisfactory to Landlord. It is further specifically and expressly understood that the indemnification provided herein constitutes the Tenant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**4.4 Waiver and Release.** Tenant, as a material part of the consideration to Landlord for this Lease, by this Section waives and releases all claims against Landlord, its employees and agents with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease.

**4.5 Waiver of Subrogation.** Tenant and Landlord hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the Premises or said building. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

## ARTICLE 5 GENERAL

**5.1 Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Lease: (i) the Premises is left vacant or are abandoned, (ii) any part of the Monthly Rent or Parking Expenses are not paid when

due, or (iii) any nonperformance, breach or default under any other provision of this Lease.

**5.2 Landlord's Remedies.** If any Event of Default occurs, then Landlord shall have the right, at its election.

5.2.1 To terminate this Lease, in which case Tenant's right to possession of the Premises will cease and this Lease will be terminated as if the expiration of the term fixed in such notice were the end of the Term.

5.2.2. To cure any Event of Default and to charge Tenant for the cost of effecting such cure, including without limitation reasonable attorneys' fees and Default Interest provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

**5.3 Rights and Remedies.** Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or at law or in equity. If a dispute arises under the terms of this Lease or if any payment required by this Lease is not paid when due and the matter is turned over to an attorney, the prevailing party in the dispute will be entitled to receive its reasonable attorneys' fees in addition to the other damages and costs recoverable under this Lease.

**5.4 Quiet Enjoyment.** So long as Tenant performs all covenants and obligations contained in this Lease, Landlord warrants quiet enjoyment of the Premises by Tenant; provided that Landlord, its agents or representatives may enter upon and inspect the Premises at reasonable times upon reasonable notice. Landlord's failure to comply with this Section shall not give Tenant any right to terminate this Lease, to abate or reduce the Monthly Rent, Parking Expenses or additional rent or fail to perform any of Tenant's obligations hereunder.

**5.5 Liens.** Tenant will keep the Premises free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under Tenant.

**5.6 Environmental Matters.**

5.6.1 Tenant's Obligations. Tenant will not cause or permit the storage, treatment or disposal of any Hazardous Materials in, on, or about the Premises by Tenant, its agents, employees or contractors. Tenant will not permit the Premises to be used or operated in a manner that may cause the Premises or any part of the Premises to be contaminated by any Hazardous Materials in violation of any Environmental Laws. Tenant will not use or permit the Premises to be used for maintenance of its vehicles.

Tenant will be solely responsible for and will defend, indemnify, and hold Landlord, its agents and employees harmless from and against all direct claims,

costs, and liabilities, including attorneys' fees and costs, arising out of or in connection with Tenant's breach of its obligations in this Section.

Tenant will be solely responsible for and will defend, indemnify and hold Landlord, its agents, and employees harmless from and against any and all direct claims, costs, and liabilities, including attorneys' fees and costs, arising out of or in connection with Tenant's introduction of Hazardous Materials to the Premises. Tenant's obligations under this Section shall survive the expiration or other termination of this Lease.

Hazardous Materials. "Hazardous Materials" means asbestos, petroleum products, explosives, radioactive materials, hazardous waste, hazardous substances, or hazardous materials including, without limitation, substances defined as "hazardous substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601-9657 ("CERCLA") the Hazardous Material Transportation Act of 1975, 49 U.S.C. Sec. 1801-1812; the Resource Conservation Recovery Acts of 1976, 42 U.S.C. Sec. 6901-6987; the Occupational Safety And health Act of 1970, 29 U.S.C. Sec. 6901-6987; the Occupational Safety And Health Act of 1970, 29 U.S.C. 651 et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, wastes or substances now or at any time hereinafter in effect (collectively, "Environmental Laws").

5.7 Termination. At the expiration or other termination of this Lease, Tenant will promptly quit and surrender the Premises to Landlord in good order and repair, ordinary wear and tear excepted. All effects, additions and improvements on the Premises after the end of the Term shall be deemed conclusively to have been abandoned and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant or any other person and without obligation to account for them.

5.8 Assignment and Subletting. Tenant shall not assign or sublet the Premises without the written approval of Landlord, which approval is at the sole discretion of the Landlord. If Landlord consents to a proposed assignment or sublease, then Landlord may require Tenant to pay to Landlord a sum equal to 50% of any rent and other consideration, profit or gain realized by Tenant from such sublease or assignment, in excess of the rent allocable to the transferred space then being paid by Tenant to Landlord pursuant to the Lease (after deducting the costs of Tenant, if any, in effecting the assignment or sublease, including reasonable alteration costs, commissions and legal fees).

5.9 Subsequent Landlord. In the event of any sale or lease of Landlord's interest in the Premises, the Landlord shall be relieved of all covenants and obligations hereunder, and this Lease shall be deemed terminated on notice to Tenant of such sale or lease.

5.10 Notices. Notices and other communications required under this Lease shall be in writing and shall be deemed given upon personal delivery; or three (3) business days after deposit in the United States mail, first class, postage prepaid, certified, return

receipt requested, or one (1) business day after timely delivery to an overnight courier, to the addresses as set forth in Section 1.1. Either party may by similar notice change the address to which future notices or other communications shall be sent.

**5.11 Time is of the Essence.** Time is of the essence for each and every provision of this Lease.

**5.12 No Waiver.** The waiver by either Landlord or Tenant of any agreement, condition, or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Lease.

**5.13 Jury Waiver.** If any action, proceeding, claim or counterclaim is brought by landlord or tenant against the other or their successors or assigns with respect to any matter whatsoever arising out of or in connection with this lease, the use and occupancy of the building, the relationship between landlord and tenant, any claim for injury or damage, or any emergency or statutory remedy, landlord and tenant each hereby knowingly and voluntarily waives trial by jury. If landlord commences any summary proceeding for nonpayment of rent, tenant will not interpose (and waives the right to interpose) any counterclaim in any such proceeding.

**5.14 Brokers.** Landlord and Tenant respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises and will defend, indemnify and hold the other party harmless from any claims or damages, including reasonable attorney's fees, arising from any breach of this provision.

**5.15 Authority.** Each of the parties executing this Lease on behalf of the Tenant or the Landlord represents to the other party that such party is authorized to do so by requisite action of the party to this Lease.

**5.16 Entry by Landlord.** Landlord, its agents, employees, and contractors may enter the Premises at any reasonable hour.

**5.17 Governing Law.** This Lease will be governed by and construed pursuant to the laws of the State of Washington, and the ordinances and regulations of the City.

**5.18 Entire Agreement: Amendment.** This Lease contains the entire agreement between Landlord and Tenant. No amendment, alteration, modification of, or addition to the Lease will be valid or binding unless expressed in writing and signed by Landlord and Tenant.

**5.19 Late Rent.** Any installment of Monthly Rent, Parking Expenses or additional rent not paid (within five (5) days) of on its due date shall bear a late charge of 5% of the delinquent installment, to compensate Landlord for its administrative expenses relating to such delinquency. Further, any Monthly Rent or additional rent not paid when due will accrue interest at the default rate of the Prime Rate plus 5% per annum, but in no event

in an amount in excess of the maximum rate allowed by applicable law ("Default Interest") from the date on which it was due until the date on which it is paid in full with accrued interest.

The term "Prime Rate" shall mean the rate of interest from time to time as published in *The Wall Street Journal* under the table, "Money Rates," or any successor to it, as the prime rate. If the Wall Street Journal or any successor to it ceases to publish the prime rate, the Prime Rate will be a comparable interest rate designated by Landlord to replace the Prime Rate.

**5.20 Landlord Fees.** If Tenant requests that Landlord take any action or give any consent required or permitted under this Lease or execute an instrument or document of estoppel, subordination, non-disturbance or the like, Tenant will reimburse Landlord for their fees, costs and expenses incurred in reviewing, negotiating, preparing, processing, executing and delivering the proposed action, consent, instrument or document, including, without limitation, reasonable attorneys' fees (including Landlord's in-house counsel fees and costs, at market-rate) and engineers' fees (including Landlord's in-house engineers' fees and costs, at market rate), on or before ten (10) days after Landlord's delivery to Tenant of a statement of such fees, costs and expenses. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action or executes any such proposed instrument or document.

EXECUTED as of the day and year first above written.

LANDLORD  
City of Auburn, a municipal corporation

TENANT

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_





## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Resolution No. 5056

**Date:**

April 3, 2014

**Department:**

Police

**Attachments:**

[Resolution No. 5056 with agreement](#)

**Budget Impact:**

\$0

**Administrative Recommendation:**

City Council adopt Resolution No. 5056.

**Background Summary:**

This is an agreement between the City of Auburn and the Muckleshoot Indian Tribe (MIT) relating to law enforcement services. The position will work closely with Auburn officer in the Field. Primary duties will be on the reservation working with tribal members as well as other citizens on the reservation.

**Reviewed by Council Committees:**

Finance, Municipal Services Other: Legal, Muckleshoot Indian Tribe

**Councilmember:** Peloza

**Staff:** Lee

**Meeting Date:** April 7, 2014

**Item Number:** RES.G

**RESOLUTION NO. 5 0 5 6**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF AUBURN AND THE MUCKLESHOOT INDIAN TRIBE FOR POLICE SERVICES**

WHEREAS, the City of Auburn has portions of its corporate boundaries that are located within areas of the reservation of the Muckleshoot Indian Tribe; and

WHEREAS, currently, in connection with violations of law occurring in all areas of the City, the City Police are engaged in and are responsible for law enforcement activities; and

WHEREAS, the Muckleshoot Indian Tribe, however, is also engaged in law enforcement activities, particularly those activities occurring in areas of the reservation located outside of the City of Auburn; and

WHEREAS, the Muckleshoot Indian Tribe wishes to be more responsive to the needs of its tribal members and be more engaged in law enforcement activities in all areas of the reservation concerning its tribal members; and

WHEREAS, the City and the Tribe have developed an agreement whereby coordination and cooperation between the Tribe and the City law enforcement teams can occur so as to allow the Tribe to be more responsive to the law enforcement needs of its tribal members.

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

Section 1. That the Mayor and City Clerk are hereby authorized to execute an Agreement Between the City of Auburn and the Muckleshoot Indian Tribe Relating to

Law Enforcement Services, which agreement shall be in substantial conformity with the agreement attached hereto marked as Exhibit A and incorporated herein by this reference.

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

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

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF AUBURN

\_\_\_\_\_  
NANCY BACKUS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

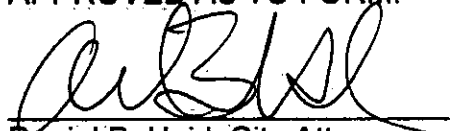
  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

EXHIBIT "A"

AGREEMENT BETWEEN  
THE CITY OF AUBURN AND  
THE MUCKLESHOOT INDIAN TRIBE  
RELATING TO LAW ENFORCEMENT SERVICES

This is an Agreement between the City of Auburn, a municipal corporation of the State of Washington, hereinafter referred to as "Auburn" or "City," and the Muckleshoot Indian Tribe, a federally-recognized Indian tribe, hereinafter referred to as the "Tribe."

WHEREAS, the Tribe has criminal jurisdiction over Indian persons who commit crimes within the boundaries of the Muckleshoot Reservation, hereinafter referred to as "Reservation"; and,

WHEREAS, Auburn has authority to enforce State criminal laws of general applicability against Indian persons committing crimes within that portion of Auburn located within the boundaries of the Reservation; and,

WHEREAS, the Tribe desires to contract with Auburn to add an additional officer in those portions of Auburn located within the Reservation where such services would be in addition to and not supplant those existing law enforcement services already provided by Auburn on the Reservation in the absence of this Agreement, and the Tribe has the authority pursuant to its Constitution to contract with Auburn for such additional services; and

WHEREAS, Auburn provides law enforcement services to persons residing on or present within that portion of Auburn located within the Reservation as part of Auburn's basic level of law enforcement services; and

WHEREAS, through this Agreement Auburn is able to provide an additional law enforcement officer that will provide additional police services on the Reservation that resides within the jurisdictional boundaries of Auburn and the City has authority pursuant to RCW 30.34 to contract with the Tribe to provide such services.

NOW, THEREFORE, the Tribe and Auburn hereby agree:

1. **Law Enforcement Services.**

1.1 Base Level Services. Auburn currently provides a patrol officer whose primary patrol responsibilities include providing police services to District 6. District 6 is within Auburn's jurisdictional boundaries and includes land areas within the Muckleshoot Reservation land. In addition thereto, this Agreement provides for law enforcement services beyond the Base Level Services, as defined herein. Base Level Services typically include, but are not limited to:

Communication Services, E-911. Communications service, including all call receiving, dispatching, and report taking, and

Dispatched Calls for Service. Provide, when available, a police response to 911 calls for service to enforce City, County and State laws and ordinances; and

Support Services. Support services generally include, but are not limited to, crime investigation and analysis, drug enforcement, major accident response and reconstruction, and vice control; and

Special Services. Special Operation services such as canine patrol, hostage negotiations, tactical unit, and traffic enforcement.

1.2 Additional Law Enforcement Services. The City currently provides one officer to District 6 for Base Level Services, as described in Section 1.1 above. Pursuant to the terms of this Agreement the City of Auburn will provide the Tribe with one additional law enforcement officer ("Additional Officer") to the Tribe whose primary responsibility will be dedicated to patrolling those portions of Auburn located within the Reservation.

The Additional Officer will at all times remain an employee of the City under the direct command and control of the Auburn Chief of Police however; the Tribe shall direct daily patrol and work assignments from the Tribal Chief of Police. The Additional Officer will work a patrol schedule determined by the Tribal Chief of Police in accordance with any labor agreements in place with the Auburn Police Officers Guild. The purpose of this Additional Officer is to increase the police coverage on the Reservation and during the term of this Agreement the City agrees that it will not count the Additional Officer towards any current minimum staffing levels for District 6, but will be at all times in addition to that minimum staffing already in place.

The City of Auburn will make all personnel decisions regarding the Additional Officer. The City will work with the Muckleshoot Chief and provide the Tribe an opportunity to comment on employment issues with the Additional Officer. The City shall make all final decisions regarding the Additional Officer including annual performance evaluations, promotional opportunities, disciplinary matters and the Additional Officer shall remain at all times subject to the Auburn Police Department's Manual of Standards and City's Administrative Policies and Procedures. The Tribe shall participate in the selection process as set out in section 3 below.

The Additional Officer's duties are the same as that of a general police officer patrolling on reservation land and shall include but not be limited to providing general law enforcement services/911 response; providing crime prevention and investigation, analysis and training to the tribal community. Community policing may also include block watch or community action programs; problem solving crime and disorder problems within the tribal community; interaction with and mentoring of tribal youth;

providing special emphasis to community concerns; and building partnerships with community members with the goal of preventing future crime. In order to further the purposes of this Agreement the Tribe may provide office space for the Additional Officer, and a telephone and telephone service.

The Additional Officer will at all times operate under the Auburn Police Department's Manual of Standards and Policy and Procedures. While it is the purpose to provide additional law enforcement services on the Muckleshoot Reservation the parties recognize that the Additional Officer may be called upon to respond to emergency calls originating from other portions of Auburn or from parts of the Reservation outside of Auburn. It is understood by both Parties that the primary role of the Additional Officer is to patrol Tribal Lands located within the jurisdictional boundaries of the City of Auburn and any request for service that takes the Additional Officer outside of the Tribal Reservation should be temporary and of short duration and upon conclusion of any calls outside of the tribal reservation boundaries the Additional Officer shall report their status to the Muckleshoot Chief.

1.3 Prosecution of Criminal Cases. The City of Auburn prosecutes misdemeanors, gross misdemeanors, and other non-felony offences occurring in those parts of the Reservation located within the corporate boundaries of the City of Auburn in the court of limited jurisdiction authorized to hear City of Auburn cases. All persons cited for violations occurring within the portion of the City of Auburn located within the Reservation shall be initially referred to the City's prosecutor for processing. Provided that if violators so referred are determined to be enrolled members of the Muckleshoot Indian Tribe or members of another federally recognized Indian tribe and the offense is one prosecutable under Muckleshoot law, those individuals shall be transferred to the Muckleshoot Indian Tribe Tribal Court for processing and adjudication. Provided further that if the transfer provided for in this paragraph will cause the City to lose jurisdiction, the case shall not be referred to the Muckleshoot Indian Tribe Tribal Court, in which case, the City shall advise the Muckleshoot prosecutor, and both the City and the Tribe may proceed as permitted by applicable law.

The City of Auburn, its Police Department and the Muckleshoot Police shall coordinate and consult on the implementation of this section 1.3. Nothing herein shall limit the ability of the Tribe to refer a case submitted to it under this section back to the City, as would be appropriate, or to agree with the City on a different disposition of a particular case.

As used herein, "Indian person" means any enrolled member of a federally-recognized Indian tribe.

In addition to the referrals set out above, either the County or City Prosecutor may elect to decline any other case consistent with State law and City and County procedures in which case the Tribe may elect to prosecute. If a case is cited into the Muckleshoot Tribal Court, the Auburn police officers shall be available to provide the Muckleshoot Tribal Prosecuting Attorney with police cooperation and assistance with testimonies in criminal proceedings to allow cases to be prosecuted in Tribal Court.

## **2. Compensation.**

2.1 Additional Officer Costs. The Tribe agrees to reimburse the City for the City's costs as contained in Exhibit A, which is incorporated herein by reference. Additional Officer reimbursable expenses shall include the Additional Officer's salary, benefits and specialty pays, if any, for the assigned officer assigned to provide services under this Agreement, along with any associated clothing allowance, quartermaster, overtime, supplies, services, telephone, motor pool, systems services, medical and workers' compensation insurance, equipment and associated administrative costs. The budget for 2014, set out in Exhibit B, represents all costs associated with funding the officer assigned under this Agreement for calendar year 2014.

Costs for subsequent years shall be determined by agreement of the parties at the time this Agreement is extended for additional periods. Such costs shall be consistent with any costing formula and Labor contract obligations applicable to all Auburn Police Officers. If the Additional Officer terminates employment or is removed from performing Additional Officer patrol duties then the City shall prepare a pro rata invoice for services rendered in accordance with Exhibit A of this Agreement, for payment by the Tribe.

2.2 Billing. The estimated contract amount shall be billed quarterly in four (4) equal amounts. Payments shall be due within 30 (thirty) days after receipt of invoices from Auburn.

## **3. Decisions and Policy-Making Authorities.**

3.1 Coordination. Auburn will provide the Tribal Council with an opportunity to interview the candidates for the Additional Officer position, provided for in Section 1.2 of this Agreement and make a selection recommendation to Auburn. The Tribal Council must concur with the City's selection of the Additional Officer. Prior to assignment, the Tribal Chief of Police and the Auburn Chief of Police or their designees will meet to establish a service schedule, discuss community needs, and prioritize duties consistent with the purposes and requirements of this Agreement. The Tribal Chief of Police and Auburn Chief of Police will confer at least bi-annually to evaluate the Additional Officer's services provided under this Agreement and discuss potential changes in assignments and duties. The Tribal Council shall be given an opportunity to consult with both Chiefs with respect to policing needs. Any significant recommendations coming out of the bi-annual meetings set out in this section shall be presented to the Tribal Council for approval. The Auburn Chief of Police and the Tribal Chief of Police shall report bi-annually to the Tribal Council on the implementation of this Agreement. Nothing in this Agreement shall prevent the Additional Officer from seeking promotional opportunities or receiving a promotion.

**4. Reporting.**

4.1 Criminal Reports. Criminal reports generated by the City as a result of activities on lands within the Muckleshoot Reservation will be maintained and used by the City and may be subject to state public disclosure and Privacy Act laws.

4.2 Quarterly Reports. Auburn will provide written quarterly reports on criminal activity and law enforcement responses within the Muckleshoot Reservation. Provided the Tribal and Auburn Chiefs of Police may agree on different means of sharing data and reports that assist in the provision of law enforcement services and met the purposes of this Agreement.

**5. Personnel and Equipment.**

Auburn is at all times under this Agreement acting as an independent contractor to the Muckleshoot Tribe.

5.1 Control of Personnel. Control of personnel, standards of performance, discipline and all other aspects of performance shall be governed by and shall remain under the City's control.

5.2 Liabilities. All liabilities for salaries, payroll taxes, benefits, wages and compensation, workers compensation, and sick leave shall remain with the City.

5.3 Vehicle. The Tribe will pay the City the costs associated with one new Auburn Police vehicle as set out in Exhibit B of this Agreement. The police vehicle will be used by the Additional Officer primarily on the Reservation, and shall bear the Auburn Police markings, plus an indication that it is assigned to the Muckleshoot Tribal Police. The vehicle shall meet the standards set out in Exhibit B to this Agreement. The parties agree that the amount set out in Exhibit B is sufficient to fund the police vehicle. The vehicle funded under this Agreement shall be owned and considered property of the City of Auburn and Auburn shall bear the responsibility for all of the vehicle's maintenance and upkeep. Auburn shall keep the vehicle insured to protect both the City and Tribe from liability arising out its use.

The parties agree that should this Agreement (or extensions thereof) terminate within five years of its initial effective date Auburn shall return the police vehicle to the Tribe. The Tribe and Auburn agree that Auburn may retain the vehicle in which case Auburn will reimburse the Tribe as follows: one fifth of the value of the vehicle on the date of termination times the number of years remaining in the first five years.

**6. Term.**

6.1 Duration. This Agreement is effective upon execution by both parties, except that the Additional Officer services and associated financial obligations shall commence on or about January 1, 2014. The contract period shall continue through December 31, 2014. Thereafter, this agreement shall renew automatically from year to year unless either party initiates the termination process outlined herein.

6.2 Termination. Either party may terminate this Agreement by providing the other party with ninety (90) days' advance written notice.

**7. Indemnification.**

7.1 Tribe Held Harmless. The City shall indemnify and hold the Tribe and its officers, agents, and employees harmless from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the City, its officers, agents, and employees relating to or arising out of performing Additional Officer services pursuant to this Agreement, including the operation of the police vehicle funded under the Agreement. In the event that any such suit based upon such a claim, action, loss, or damages is brought against the Tribe, the City shall defend the same at its sole cost and expense; provided that the Tribe reserves the right to participate in said suit if any principle of governmental, public law, Tribal law, or Indian law is involved; and if final judgment in said suit be rendered against the Tribe, and/or its officers, agents, and employees, or jointly against the Tribe and the City and their respective officers, agents, and employees, or any of them, the City shall satisfy the same.

7.2 Auburn Held Harmless. The Tribe shall indemnify and hold the City and its officers, agents, and employees harmless from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the Tribe, its officers, agents, and employees, or any of them relating to or arising out of activities authorized pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damages is brought against Auburn, the Tribe shall defend the same at its sole cost and expense; provided that Auburn reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the City, and/or its officers, agents, and employees, or jointly against the City and the Tribe and their respective officers, agents, and employees, the Tribe shall satisfy the same, to the extent of its general liability coverage required under this Agreement.

7.3 Limited Waiver of Immunity. The parties enter into a limited mutual waiver of their respective sovereign immunities for the sole and limited purpose of enforcing the mutual indemnities in Section 7 of this Agreement and for no other purpose. Neither party hereto waives its sovereign immunity for any other purpose or

with respect to or for the benefit of any other entity, person or government. Provided, that the Tribe's limited waiver of sovereign immunity set out in this paragraph is further limited to injunctive and declaratory relief related to the mutual indemnifications set out in this Section and to the recovery of damages to the extent covered by insurance. For this purpose, the Tribe shall maintain general liability insurance in the amount of two million dollars (\$2,000,000.00).

7.4 Waiver Under Washington Industrial Insurance Act. The foregoing indemnity is specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

7.5 No Special Duty or Relationship. All Auburn police officers, including the Additional Officer, have a primary obligation to the City, not the Tribe. They are expected to discharge all duties of their office while performing pursuant to this contract and will not perform any non-law enforcement/peacekeeping functions for the Tribe. Furthermore, this Agreement and performance thereof by the City police officers shall not create any special relationship with any person or duties to protect any specific persons from harm or injury including the party signing this Agreement. The law enforcement/peacekeeping duties to be performed pursuant to this Agreement are the same in extent and scope as those provided by police officers to every member of the public.

## **8. Miscellaneous.**

8.1 Audits and Inspections. The records and documents with respect to all Additional Officer services provided under this Agreement shall be subject to inspection, review or audit by the City or Tribe during the term of this Agreement and three (3) years after its termination.

8.2 Amendments. This Agreement may be amended at any time by mutual written agreement of the parties.

8.3 Dispute Resolution. Any dispute concerning the implementation of this Agreement shall be first directed to the Tribe's Chief of Police and the Auburn Chief of Police or their respective designees. If the dispute is not resolved at as provided above it shall then be referred to the Tribal Council and Auburn Mayor, who shall meet to resolve such dispute. Disputes relating to the implementation of this Agreement may not be resolved in any Court or by Administrative procedure. Termination shall be the sole remedy. Provided, that disputes involving the failure of the Tribe to provide compensation for services rendered, disputes involving the failure of the City to provide services for which payment has been made, and enforcement of sections 7.1, 7.2 and 7.3

may be resolved in a court of competent jurisdiction. In such action the remedy shall be limited to the recovery of money owed, the return of the vehicle or money damages limited as set out in this Agreement.

8.4 Entire Agreement/Waiver of Default. The parties agree that this Agreement is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

IN WITNESS THEREOF, the parties execute this Agreement.

City of Auburn

MUCKLESHOOT INDIAN TRIBE

\_\_\_\_\_  
Auburn Mayor

\_\_\_\_\_  
Tribal Council Chair,

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

Approved as to form:

  
\_\_\_\_\_  
Daniel Heid Auburn City Attorney  
City of Auburn

\_\_\_\_\_  
Robert L. Otsea, Jr. Chief Legal Counsel  
Muckleshoot Indian Tribe

Date: \_\_\_\_\_

Date: \_\_\_\_\_