

**City Council Meeting
February 1, 2016 - 7:00 PM
Auburn City Hall
AGENDA**

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

I. CALL TO ORDER

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

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

- A. MultiCare Health System Presentation
Bill Robertson, President & CEO and Lois Bernstein, Sr. Vice President of Community Health Services
- B. Goodwill Ambassadors Proclamation
Mayor Backus to proclaim Cami Werden, Miss Auburn 2016 and Jaclyn Seifert, Miss Auburn's Outstanding Teen 2016 as "Goodwill Ambassadors for the City of Auburn" during their year of service to the Auburn community.

III. APPOINTMENTS

- A. **Appointments to Boards and Commissions**
Mayor and City Council to approve the following Boards and Commission appointments. The appointments are each a three year term and will expire on December 31, 2018:

Airport Board

Sparrow Tang
Gary Gustafson

Auburn Lodging Tax Advisory Board

Andy Cho

(RECOMMENDED ACTION: City Council confirm the appointments.)

IV. AGENDA MODIFICATIONS

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

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

B. Audience Participation

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

C. Correspondence

There is no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

VII. CONSENT AGENDA

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

A. Minutes of the January 19, 2016 City Council Meeting*

B. Claims Vouchers (Coleman)

Claims voucher numbers 437183 through 437348 in the amount of \$1,943,037.32 and four wire transfers in the amount of \$164,685.98 and dated February 1, 2016.

C. Payroll Vouchers (Coleman)

Payroll check numbers 536193 through 536225 in the amount of \$689,429.77 and electronic deposit transmissions in the amount of \$1,387,256.78 for a grand total of \$2,076,686.55 for the period covering January 14, 2016 to January 27, 2016.

D. Public Works Project No. CP1412* (Snyder)

City Council approve Change Order No. 2 in the amount of \$94,555.44 to Contract No. 15-12 for work on Project No. CP1412 (Auburn Community and Teen Center).

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

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

X. ORDINANCES

A. Ordinance No. 6587, First Reading* (Coleman)

An Ordinance of the City Council of the City of Auburn, Washington, authorizing the issuance of a Limited Tax General Obligation Refunding Bond of the City in the principal amount of not to exceed \$4,000,000 for the purpose of refunding certain outstanding Limited Tax General Obligation Bonds of the City; providing the form of the bond; and authorizing the sale of the bond

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6587.)

B. Ordinance No. 6588, First Reading* (Coleman)

An Ordinance of the City Council of the City of Auburn, Washington, establishing the Local Sales and Use Tax rate for Local Revitalization Financing for 2016

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6588.)

XI. RESOLUTIONS

A. Resolution No. 5203* (Faber)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an amendment to the Conservation Futures Interlocal Cooperation Agreement between King County and the City of Auburn for Open Space Acquisition Projects

(RECOMMENDED ACTION: City Council adopt Resolution No. 5203.)

B. Resolution No. 5204* (Hinman)

A Resolution of the City Council of the City of Auburn, Washington, approving the Lodging Tax Grant disbursements recommended by the Auburn Lodging Tax Advisory Committee and the Auburn Tourism Board

(RECOMMENDED ACTION: City Council adopt Resolution No. 5204.)

C. Resolution No. 5207* (Coleman)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the City of Auburn to impose a Sales and Use Tax as authorized by RCW 82.14.415 as a credit against State Sales and Use Tax, relating to annexations

(RECOMMENDED ACTION: City Council adopt Resolution No. 5207.)

D. Resolution No. 5208* (Snyder)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to accept federal grant funds to be administered through the Washington State Department of Transportation

(RECOMMENDED ACTION: City Council adopt Resolution No. 5208.)

XII. MAYOR AND COUNCILMEMBER REPORTS

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

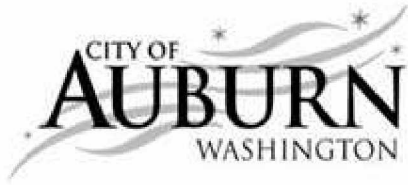
A. From the Council

B. From the Mayor

XIII. ADJOURNMENT

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

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the January 19, 2016 City Council Meeting

Date:

January 26, 2016

Department:

Administration

Attachments:

[Minutes](#)

Budget Impact:

\$0

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

Meeting Date: February 1, 2016

Item Number: CA.A



**City Council Meeting
January 19, 2016 - 7:00 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

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

Department Directors and staff members in attendance included: City Attorney Daniel B. Heid, Chief of Police Bob Lee, Parks, Arts and Recreation Director Daryl Faber, Innovation and Technology Director Paul Haugan, Finance Director Shelley Coleman, Community Development and Public Works Director Kevin Snyder, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Veterans and Human Services Coordinator Erica Azcueta, Environmental Services Manager Chris Andersen, Community Services Assistant Emily Pearson, and City Clerk Danielle Daskam.

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

There was no announcement, proclamation, or presentation.

III. APPOINTMENTS

There was no appointment for consideration.

IV. AGENDA MODIFICATIONS

There was no change to the agenda.

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. Public Hearing for 2016 Annual Action Plan (Hinman)
City Council to conduct a public hearing on the proposed 2016 Community Development Block Grant Annual Action Plan

Veterans and Human Services Coordinator Erica Azcueta provided a brief staff report for the public hearing on the 2016 Annual Action Plan. The preparation of the annual action plan is required by the U.S. Department of Housing and Urban Development in order for the City to receive federal funds under the Community Development Block Grant (CDBG) program. The City of Auburn anticipates approximately \$519,000.00 in CDBG funds in April 2016. The funds will be allocated among the housing repair program, Healthpoint, Youth Outreach Center, employment training, small business assistance, and general administration of the program.

Deputy Mayor Wales opened the public hearing at 7:03 p.m.

Virginia Haugen, 2503 R Street SE, Auburn
Ms. Haugen spoke about the need for Community Development Block Grant funds in the city.

There being no further public comment, the hearing was closed.

2. Public Hearing - Resolution No. 5187 (Moratorium on Residential Land Uses in the C-1 Zoning Designation) (Snyder)
City Council to conduct a public hearing to receive public comments and suggestions with regard to the proposed moratorium on residential land uses in the C-1 Zoning Designation

Community Development and Public Works Director Snyder provided the background on the public hearing. On December 7, 2015, the Council adopted Resolution No. 5187 establishing a one-year moratorium on the acceptance and processing of applications for all residential land uses on properties zoned C-1. The moratorium affects 261 properties in the city. City staff provided all required public noticing as well as notification to all affected property owners. To date, no written comment has been received nor has any party contacted staff for information.

Staff members will be working with the Planning Commission, citizens, and the City Council to investigate and review all the factors involved in continuing to allow residential land uses in the C-1 zoning designation and all options and alternatives for appropriate regulations.

Deputy Mayor Wales opened the public hearing at 7:07 p.m.

Sam Pace from the Seattle-King County Association of Realtors, 154th Avenue SE, Kent
Mr. Pace spoke on behalf of the Seattle-King County Association of Realtors. Mr. Pace spoke regarding the need for a housing supply in the city as well good working wage jobs. Mr. Pace also acknowledged the good work the City has done on housing issues. He spoke in favor of the moratorium to allow the City Council time to review residential uses in a C-1 zone.

Cindy Luther, 135 15th Street SE, Auburn
Ms. Luther expressed concern with the commercial zoning of her property. She recalled that approximately ten years ago the City rezoned her property from residential to C-1. She stated she has been unable to develop the property due to the zoning. She requested her property be returned to a residential use.

Virginia Haugen, 2503 R Street SE, Auburn
Ms. Haugen spoke regarding protection of residential neighborhoods in Auburn.

Community Development and Public Works Director Snyder commented that all projects that were submitted and accepted by the City prior to the Council's adoption of Resolution No. 5187 on December 7, 2015, are not affected by the moratorium. Director Snyder invited the public to participate in upcoming workshops and public hearings.

Julie Pederson, 1917 N Court SE, Auburn

Ms. Pederson expressed concern with public participation and inadequate notification of property owners.

There being no further public comment, the hearing was closed.

B. Audience Participation

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

Julie Pederson, 1917 N Court SE, Auburn

Ms. Pederson spoke regarding issues with construction in her neighborhood. She requested the City assist in remedying damages that have been caused by construction, including damages to a wooden fence adjacent to O Court SE, accumulation of garbage, plant refuse and rubble, damage to the planting strip, and rocks and dirt encroaching the retention pond.

Elam Anderson, 301 23rd Street SE, Auburn

Mr. Anderson expressed concern about fireworks in the city of Auburn.

Sam Pace, Seattle-King County Realtors Association, 154th Avenue SE, Kent

Mr. Pace expressed support for Resolution No. 5206 conveying the Council's support for the Auburn School District levy.

Virginia Haugen, 2503 R Street SE, Auburn

Ms. Haugen spoke briefly regarding homelessness in the city. Ms. Haugen also commented on the development occurring in the vicinity of O Court and N Court SE.

C. Correspondence

There was no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

Councilmember DaCorsi reported on behalf of the ad hoc committee that reviews claims and payroll vouchers. Councilmember DaCorsi reported that he and Councilmember Trout reviewed claims and payroll vouchers as presented and described on this evening's Consent Agenda, and the committee members recommend their approval.

VII. CONSENT AGENDA

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

A. Minutes of the January 4, 2016 City Council Meeting

B. Minutes of the November 2, 2015 Special City Council Meeting

C. Claims Vouchers (Coleman)

2015 claims voucher numbers 436939 through 437097 in the amount of \$4,010,571.29 and two wire transfers in the amount of \$629,890.09 and dated January 19, 2016.

2016 claims voucher numbers 436940, 437098 through 437182 in the amount of \$3,297,383.53 and one wire transfer in the amount of \$3,498.00 and dated January 19, 2016.

D. Payroll Vouchers (Coleman)

Payroll check numbers 536158 through 536192 in the amount of \$574,850.47, electronic deposit transmissions in the amount of \$1,350,190.07 for a grand total of \$1,925,040.54 for the period covering December 31, 2015 to January 13, 2016.

E. Public Works Project No. CP1122 (Snyder)

City Council approve Final Pay Estimate No. 7 to Contract No. 15-06 in the amount of \$16,997.37 and accept construction of Project No. CP1122, 30th Street NE Area Flooding – Phase 1a

Councilmember Holman moved and Councilmember Pelloza seconded to approve the Consent Agenda.

The Consent Agenda consists of minutes, claims and payroll vouchers, and the final pay estimate for Project No. CP1122.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. UNFINISHED BUSINESS

There was no unfinished business.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

A. Ordinance No. 6575, Second Reading (Snyder)

An Ordinance of the City Council of the City of Auburn, Washington, amending Ordinance No. 6491 and the T-Mobile West, LLC Franchise No.13- 37 to add an additional location

The first reading of Ordinance No. 6575 occurred on January 4, 2016. A motion to amend was also before the Council.

Councilmember Wagner stated the language change proposed by staff satisfies his proposed amendment to the ordinance. The amending language is: "For Site SE047151, the Grantee shall submit substantial changes to the City Engineer to ensure the antennas are in substantial conformance with the depiction in Exhibit B-2 and in compliance with the Federal Telecommunications act of 1996. For the purposes of this franchise, substantial changes shall be considered to be an increase in the height of the antennas by 10% or more, or an increase in the width of the antennas by 25% or more." Additionally, a modified A-2 map will be included as Exhibit B-2.

THE MOTION TO AMEND ORDINANCE NO. 6575 CARRIED UNANIMOUSLY. 7-0

THE MOTION TO ADOPT ORDINANCE NO. 6575, AS AMENDED, CARRIED UNANIMOUSLY. 7-0

B. Ordinance No. 6576, Second Reading (Snyder)

An Ordinance of the City Council of the City of Auburn Washington, vacating right-of-way of 64th Avenue South, south of South 300th Street, within the City of Auburn, Washington

The first reading of Ordinance No. 6576 occurred on January 4, 2016.

MOTION CARRIED UNANIMOUSLY. 7-0

- C. Ordinance No. 6580, Second Reading (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, relating to planning; adopting annual Comprehensive Plan text amendments pursuant to the provisions of RCW Chapter 36.70A

Councilmember Holman stated the Ordinance incorporates four school districts' Capital Facilities Plans in the City's Comprehensive Plan.

MOTION CARRIED UNANIMOUSLY. 7-0

- D. Ordinance No. 6581, Second Reading (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, amending Sections 19.02.115, 19.02.120, 19.02.130 and 19.02.140 of the Auburn City Code relating to school impact fees

The first reading of Ordinance No. 6581 occurred on January 4, 2016.

MOTION CARRIED UNANIMOUSLY. 7-0

- E. Ordinance No. 6582, Second Reading (Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, amending Section 10.41.020 of the Auburn City Code, entitled "Restricted Parking Zone Established" for the purpose of revising code language to clarify intent

The first reading of Ordinance No. 6582 occurred on December 7, 2015.

MOTION CARRIED UNANIMOUSLY. 7-0

XI. RESOLUTIONS

- A. Resolution No. 5192 (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute Service Agreement No. AG-S-088 for services related to Job Order Contracting with the Gordian Group, Inc.

Councilmember DaCorsi moved and Councilmember Trout seconded to adopt Resolution No. 5192.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Resolution No. 5196 (Haugan)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an Enterprise Agreement between the City of Auburn and Microsoft

Councilmember Holman moved and Councilmember Trout seconded to adopt Resolution No. 5196.

Resolution No. 5196 was discussed at the January 11, 2016 study session.

MOTION CARRIED UNANIMOUSLY. 7-0

- C. Resolution No. 5197 (Coleman)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the acceptance and appropriation of grant funds in the amount of Fifty Thousand Three Hundred and thirty-one Dollars (\$50,331.00), and authorizing the Mayor to

execute an Interlocal Agreement between the Department of Ecology and the City of Auburn to accept said funds for implementation of the 2015-2017 Coordinated Prevention Grant Program

Councilmember Pelosa moved and Councilmember Baggett seconded to adopt Resolution No. 5197.

MOTION CARRIED UNANIMOUSLY. 7-0

- D. Resolution No. 5202 (Faber)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a 2016 Youth Sports Facilities Grant Contract between the City of Auburn and King County, Washington

Councilmember Holman moved and Councilmember Trout seconded to adopt Resolution No. 5202.

MOTION CARRIED UNANIMOUSLY. 7-0

- E. Resolution No. 5205 (Hinman)
A Resolution of the City Council of the City of Auburn, Washington, adopting the 2016 Community Development Block Grant Action Plan for the Consolidated Plan years 2015-2019

Councilmember DaCorsi moved and Councilmember Baggett seconded to adopt Resolution No. 5205.

MOTION CARRIED UNANIMOUSLY. 7-0

- F. Resolution No. 5206 (Backus/Mayor Backus)
A Resolution of the City Council of the City of Auburn, Washington, supporting the Auburn School District's Educational Program and Operations Replacement Levy

**Auburn School District No. 408
Proposition No. 1
Educational Program and Operations Replacement Levy**

The Board of Directors adopted Resolution No. 1211 concerning educational funding. This proposition authorizes the District to levy the following excess taxes, to replace an expiring levy, on all taxable property within the District, to support the District's educational program and operations:

<u>Collection Years</u>	<u>Approximate Levy</u>	
	<u>Rate/\$1,000</u>	<u>Assessed Value</u>
2017	\$4.13	\$40,700,000
2018	\$4.23	\$43,000,000
2019	\$4.34	\$45,400,000
2020	\$4.43	\$47,750,000

all as provided in the Resolution. Should this proposition be approved?

Deputy Mayor Wales invited anyone in the audience to express opposing views.

Virginia Haugen, 2503 R Street SE, Auburn
Ms. Haugen spoke in favor of Resolution No. 5206.

Councilmember Holman moved and Councilmember Wagner seconded to adopt Resolution No. 5206.

MOTION CARRIED UNANIMOUSLY. 7-0

XII. MAYOR AND COUNCILMEMBER REPORTS

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

A. From the Council

Councilmember Holman reflected on Martin Luther King Junior Day of Service and Dr. King's commitment to community as demonstrated by Dr. King's words: "In a real sense all life is interrelated. All men are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly. I can never be what I ought to be until you are what you ought to be, and you can never be what you ought to be until I am what I ought to be. This is the interrelated structure of reality." Councilmember Holman quoted further from Dr. King: "Violence is immoral because it thrives on hatred rather than love. Violence is impractical because it is a descending spiral ending in destruction for all. It is immoral because it seeks to humiliate the opponent rather than win his understanding; it seeks to annihilate rather than convert. Violence ends up defeating itself. It creates bitterness in the survivors and brutality in the destroyers."

Councilmember Pelozo spoke in favor of a paint stewardship program that would provide for the recycling of unused paint. Councilmember Pelozo spoke regarding House Bill 1571 that was introduced during the 2015 legislative session but was never passed out of committee. HB 1571 would have required producers of architectural paint to participate in a stewardship program, and Councilmember Pelozo urged citizens to contact their state legislators and express their support for such a program. Councilmember Pelozo also reported on his attendance at the South County Area Transportation Board meeting, Green River Cyclery/Busted Bike Cafe ribbon cutting ceremony, and a Regional Policy Committee meeting.

Councilmember Wagner reported on his attendance at the Puget Sound Regional Council Transportation Policy Board meeting. Councilmember Wagner reported he opposed the Transportation Policy Board recommendation to decrease funding for transportation preservation.

Councilmember DaCorsi reported on his attendance at the Association of Washington Cities Federal Legislative Committee meeting and the Sound Cities Association Regional Transit Caucus meeting.

Deputy Mayor Wales reported on today's Junior City Council meeting and opportunities for Junior City Councilmembers in the next year.

B. From the Mayor

Mayor Nancy Backus was unable to attend tonight's meeting as she was attending the U.S. Congress of Mayors Conference in Washington, D.C.

XIII. EXECUTIVE SESSION

Deputy Mayor Wales recessed the meeting to executive session at 8:06 p.m. for approximately fifteen minutes in order to discuss pending/potential litigation pursuant

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to RCW 42.30.110(1)(i). City Attorney Heid and City Clerk Daskam attended the executive session. No formal action was anticipated following the executive session.

The regular meeting reconvened at 8:19 p.m.

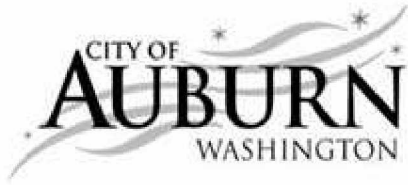
XIV. **ADJOURNMENT**

There being no further business to come before the Council, the meeting adjourned at 8:19 p.m.

APPROVED this 1st day of February, 2016.

NANCY BACKUS, MAYOR

Danielle Daskam, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

January 26, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve claims vouchers.

Background Summary:

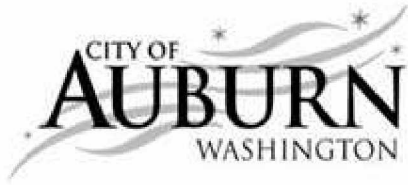
Claims voucher numbers 437183 through 437348 in the amount of \$1,943,037.32 and four wire transfers in the amount of \$164,685.98 and dated February 1, 2016.

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

Coleman

Meeting Date: February 1, 2016

Item Number: CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

January 26, 2016

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council to approve payroll vouchers.

Background Summary:

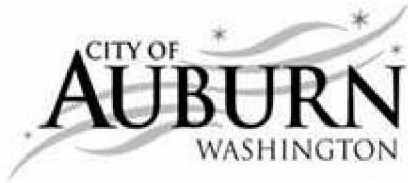
Payroll check numbers 536193 through 536225 in the amount of \$689,429.77 and electronic deposit transmissions in the amount of \$1,387,256.78 for a grand total of \$2,076,686.55 for the period covering January 14, 2016 to January 27, 2016.

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

Coleman

Meeting Date: February 1, 2016

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1412

Date:

January 26, 2016

Department:

CD & PW

Attachments:

[CP1412 Budget Status Sheet](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council approve Change Order No. 2 in the amount of \$94,555.44 to Contract No. 15-12 for work on Project No. CP1412 (Auburn Community and Teen Center).

Background Summary:

This project is constructing a community and teen center at the north end of the Les Gove Community Campus. The community and teen center will provide approximately 21,000 square feet of building space to be used for educational, cultural, and social activities. Emphasis will be made on creating spaces that will attract teens and encourage cross-generational interactions with the existing neighboring Senior Center. The community and teen center will be created by renovating the City's existing Parks, Recreation and Arts Administration Building (approximately 7,100 square feet) and adding approximately 13,700 square feet of new building space.

At the November 9th, 2015 Council Study Session, options for how the project contingency funds could be utilized to support the project and community were discussed. The options discussed included improvements that would improve safety and security within the campus and the surrounding neighborhood, reduce community center vehicular traffic on surrounding residential streets, provide improved campus street visibility and access, and provide improved pedestrian safety and accessibility. At the study session, Staff heard support from the City Council for moving forward with the following improvements:

- 1) Trail Lighting Adjacent to Community Center
- 2) H Street Extension and Connection to AWS and Closure of Deals Way
- 3) Neighborhood Sidewalk and Lighting Improvements

This change order provides for the implementation of additional lighting surrounding the community and teen center (Item No. 1 listed above). The additional lighting includes light poles to light the trail along the east side of the community center,

bollard/post lighting around the community center patio, and bollard/post lighting at the entrance to the community and teen center. The lighting will provide additional safety and security around the community and teen center. Future projects would extend the lighting throughout the park, consistent with the concepts documented in the recent Les Gove Master Plan Study.

Preliminary design of the H Street Extension Improvements (Item No. 2 listed above) is underway. Staff is evaluating opportunities for installing additional lights on existing Puget Sound Energy poles and constructing sidewalk improvements using the new Job Order Contracting program (Item No. 3 listed above).

A project contingency of \$802,251.00 remains in the 321 Parks Fund.

Reviewed by Council Committees:

Councilmember:

Staff: Snyder

Meeting Date: February 1, 2016

Item Number: CA.D

BUDGET STATUS SHEET

Project No: CP1412	Project Title: Auburn Community and Teen Center
Project Manager: Irma Dore/Jacob Sweeting	

Initiation Date: 10/6/14
 Advertisement Date: 6/9/15
 Award Date: 7/20/15

Project Initiation
Schematic Design
Contract Award
X Change Order Approval
Contract Final Acceptance

Date: 1/26/16

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

Funds Budgeted (Funds Available)

Funding	2014 (Actual)	2015 (Actual)	2016	2017	Total
State Appropriation		1,000,000	1,950,000		2,950,000
321 Fund (Parks)		2,200,000	2,340,781		4,540,781
REET 1	133,946	560,762	764,511		1,459,219
Total	133,946	3,760,762	5,055,292	0	8,950,000

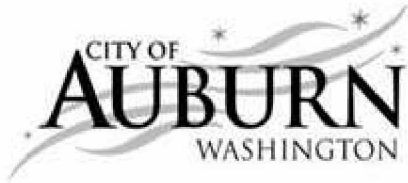
Estimated Cost (Funds Needed)

Activity	2014 (Actual)	2015 (Actual)	2016	2017	Total
Design - Consultant	131,532	712,168	0		843,700
Design - City	1,514	14,845	0		16,359
Permits and Fees	900	130,554	6,000		137,454
Construction Contract	0	1,020,874	4,019,280		5,040,154
Change Order 1 (Deducted from Authorized Contingency)	0	69,029	316,513		385,542
Change Order 2 (Lighting, Conduits)	0	0	94,555		94,555
Authorized Contingency	0	0	304,890		304,890
Construction Management - Consultant	0	172,592	402,607		575,199
Construction Management - City	0	11,251	10,000		21,251
Other Construction Costs	0	33,645	695,000		728,645
Total	133,946	2,164,958	5,848,845		8,147,749

321 Municipal Parks Construction Fund Budget Status

	2014 (Actual)	2015 (Actual)	2016	2017	Total
*321 Funds Budgeted ()	0	(2,760,762)	(5,055,292)	0	(8,950,000)
321 Funds Needed	0	2,164,958	5,848,845	0	8,147,749
*321 Fund Project Contingency ()	0	(595,804)	0	0	(802,251)
321 Funds Required	0	0	793,553	0	0

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



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6587, First Reading

Date:

January 25, 2016

Department:

Finance

Attachments:

[Ordinance No. 6587](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Ordinance No. 6587.

Background Summary:

The City has two outstanding bond issues eligible for refunding which would take advantage of the low interest rate environment; the 2005 and 2006A LTGO Bonds, which were issued for the construction of airport hangar rows 9 and 10 and the golf course and cemetery improvements, respectively.

The refunding will be considered a private placement versus a public sale. Investors purchasing these bonds would be an accredited financial (Bank) or institutional investor (Insurance or retirement funds).

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

Coleman

Meeting Date: February 1, 2016

Item Number: ORD.A

CITY OF AUBURN, WASHINGTON

ORDINANCE NO. 6587

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE ISSUANCE OF A LIMITED TAX GENERAL OBLIGATION REFUNDING BOND OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,000,000 FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING LIMITED TAX GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING THE FORM OF THE BOND; AND AUTHORIZING THE SALE OF THE BOND.

Passed February 16, 2016

PREPARED BY:
PACIFICA LAW GROUP LLP
Seattle, Washington

CITY OF AUBURN
ORDINANCE NO. 6587
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* This Table of Contents is provided for convenience only and is not a part of this ordinance.

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WHEREAS, the City of Auburn, Washington (the “City”) has outstanding its Limited Tax General Obligation Refunding Bonds, 2005 (the “2005 Bonds”), issued on September 1, 2005, pursuant to Ordinance No. 5931 passed by the City Council (the “Council”) on August 15, 2005 (the “2005 Bond Ordinance”), which remain outstanding as follows:

Maturity Dates (December 1)	Principal Amounts	Interest Rates
2017*	\$ 315,000	4.50%
2019*	365,000	4.50

*Term Bonds.

WHEREAS, the 2005 Bond Ordinance provides that the 2005 Bonds maturing on or after December 1, 2017 (the “2005 Refunding Candidates”) may be refunded prior to their stated maturities at the option of the City on any date on or after December 1, 2015 as a whole or in part, at the price of par plus accrued interest, if any, to the date of redemption; and

WHEREAS, the City has outstanding its Limited Tax General Obligation Bonds, Series 2006A (the “2006A Bonds”), issued on August 22, 2006, pursuant to Ordinance No. 6039 passed by the Council on August 7, 2006 (the “2006A Bond Ordinance”), which remain outstanding as follows:

Maturity Dates (December 1)	Principal Amounts	Interest Rates
2016	\$ 265,000	5.00%
2017	280,000	4.50
2018	290,000	4.50
2019	305,000	4.50
2020	320,000	4.50
2021	330,000	4.50
2022	345,000	4.50
2023	360,000	4.50
2024	380,000	4.50
2025	395,000	4.50

WHEREAS, the 2006A Bond Ordinance provides that the 2006A Bonds maturing on or after December 1, 2017 (the “2006A Refunding Candidates,” and together with the 2005 Refunding Candidates, the “Refunding Candidates”) may be refunded prior to their stated maturities at the option of the City on any date on or after December 1, 2016 as a whole or in part, at the price of par plus accrued interest, if any, to the date of redemption; and

WHEREAS, after due consideration it appears that all or a portion of the Refunding Candidates (the “Refunded Bonds”) may be defeased and refunded by the proceeds of limited tax general obligation bonds at a savings to the City and its taxpayers; and

WHEREAS, the Council deems it in the best interest of the City to issue a limited tax general obligation refunding bond in the principal amount of not to exceed \$4,000,000 (the “Bond”) to redeem and defease the Refunded Bonds and to pay costs of issuing the Bond; and

WHEREAS, the City intends to issue a request for proposals from various financial institutions to purchase the Bond; and

WHEREAS, the Council now wishes to authorize the issuance of the Bond and the sale of the Bond to the successful respondent subject to the terms and conditions set forth in this ordinance;

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

Section 1. Definitions and Interpretation of Terms.

(a) *Definitions.* As used in this ordinance, the following words shall have the following meanings:

Acquired Obligations means the Government Obligations acquired by the City under the terms of this ordinance and the Escrow Agreement to effect the defeasance and refunding of the Refunded Bonds.

Bank means the financial institution that is the successful respondent to a request for proposals to purchase the Bond, selected by the Designated Representative.

Bond means the Limited Tax General Obligation Refunding Bond, 2016 authorized to be issued by the City pursuant to this ordinance.

Bond Counsel means Pacifica Law Group LLP, Seattle, Washington, or any other attorney or firm of attorneys, which is admitted to practice law before the highest court of any state in the United States of America or the District of Columbia and nationally recognized and experienced in legal work relating to the issuance of tax-exempt bonds who is or are selected by the City.

Bond Fund means the “Bond Redemption Fund” authorized to be created pursuant to Section 9 of this ordinance.

Bond Register means the registration records for the Bond maintained by the Bond Registrar.

Bond Registrar means the Finance Director of the City, whose duties include registering and authenticating the Bond, maintaining the Bond Register, transferring ownership of the Bond, and paying the principal of and interest on the Bond.

Call Date or ***Call Dates*** means the dates set forth in the Escrow Agreement for the refunding of each series of the Refunded Bonds.

City means the City of Auburn, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington.

City Council or ***Council*** means the City Council of the City as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

Clerk means the duly appointed and acting City Clerk or the successor to the duties of that office.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Commitment means the commitment of the Bank to purchase the Bond.

Designated Representative means the Finance Director, or his or her designee.

Escrow Agent means U.S. Bank National Association, Seattle, Washington.

Escrow Agreement means the Escrow Deposit Agreement between the City and the Escrow Agent authorized to be entered into pursuant to this ordinance.

Federal Tax Certificate means the Federal Tax Certificate signed by the Finance Director pertaining to the tax-exemption of interest on the Bond.

Finance Director means the duly appointed and acting Finance Director of the City, the successor to the duties of that office, or his or her designee.

Government Obligations mean those obligations now or hereafter defined as such in chapter 39.53 RCW.

Mayor means the duly appointed and acting Mayor of the City or the successor to the duties of that office.

Refunded Bonds mean those Refunding Candidates designated by the Finance Director for refunding pursuant to Section 7 and Section 11.

Refunding Account means the account by that name established pursuant to Section 7.

Refunding Candidates mean any or all of the 2005 Refunding Candidates and the 2006A Refunding Candidates as shown in the recitals to this ordinance.

Registered Owner means the person in whose name the Bond is registered on the Bond Register.

Rule means the Securities and Exchange Commission's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

2005 Bond Ordinance means Ordinance No. 5931 passed by the Council on August 15, 2005, authorizing the issuance of the 2005 Bonds.

2005 Bonds mean the Limited Tax General Obligation Refunding Bonds, 2005 of the City, issued pursuant to the 2005 Bond Ordinance as described in the recitals of this ordinance.

2006A Bond Ordinance means Ordinance No. 6039 passed by the Council on August 7, 2006, authorizing the issuance of the 2006A Bonds.

2006A Bonds mean the Limited Tax General Obligation Bonds, 2006A of the City, issued pursuant to the 2006A Bond Ordinance as described in the recitals of this ordinance.

(b) *Interpretation.* In this ordinance, unless the context otherwise requires:

(1) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this ordinance;

(2) Words of the masculine gender shall mean and include correlative words of the feminine and neutral genders and words importing the singular number shall mean and include the plural number and vice versa;

(3) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(4) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(5) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Authorization of the Bond. For the purpose of refunding the Refunded Bonds and paying costs of issuance and the costs of the refunding, the City is hereby authorized to issue and sell a limited tax general obligation refunding bond in the principal amount of not to exceed \$4,000,000 (the “Bond”).

Section 3. Bond Details. The Bond shall be designated the “City of Auburn, Washington, Limited Tax General Obligation Refunding Bond, 2016,” or other such designation

as set forth in the Bond and approved by the Finance Director.

The Bond shall be dated as of its date of delivery, shall be fully registered as to both principal and interest, shall be in one denomination, and shall mature on the date set forth in the Bond. The Bond shall bear interest from its dated date or the most recent date to which interest has been paid at the interest rate set forth in the Commitment. Interest on the principal amount of the Bond shall be calculated per annum on a 30/360 basis, or as otherwise provided in the Bond and in the Commitment. Principal of and interest on the Bond shall be payable at the times and in the amounts as set forth in the Commitment and in the payment schedule attached to the Bond.

Section 4. Registration, Exchange and Payments.

(a) *Registrar/Bond Registrar.* The Finance Director of the City shall act as Bond Registrar. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bond if transferred or exchanged in accordance with the provisions of the Bond and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance.

(b) *Registered Ownership.* The City and the Bond Registrar may deem and treat the Registered Owner of the Bond as the absolute owner for all purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of the Bond shall be made only as described in subsection (e) below. All such payments made as described in subsection (e) below shall be valid and shall satisfy the liability of the City upon the Bond to the extent of the amount so paid.

(c) *No Transfer or Exchange of Registered Ownership.* The Bond shall not be transferrable without the consent of the City unless (i) the Bank's corporate name is changed and the transfer is necessary to reflect such change; or (ii) the transferee is a successor in interest of

the Bank by means of a corporate merger, an exchange of stock, or a sale of assets. Notwithstanding the foregoing, the Bond may be transferred upon satisfaction of the requirements, if any, set forth in the Commitment and in the Bond.

(d) *Registration Covenant.* The City covenants that, until the Bond has been surrendered and canceled, it will maintain a system for recording the ownership of the Bond that complies with the provisions of Section 149 of the Code.

(e) *Place and Medium of Payment.* Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Principal and interest on the Bond shall be payable by check, warrant, Automated Clearing House/electronic funds transfer or by other means mutually acceptable to the Registered Owner and the City. Payment of principal of and interest on the Bond will be made by the City directly to the Registered Owner and not through a third party paying agent. Upon final payment of principal and interest of the Bond, the Registered Owner shall surrender the Bond for cancellation at the office of the Bond Registrar in accordance with this Section 4 and Section 13.

(f) *Additional Provisions.* The Bond will not be registered with The Depository Trust Company, New York, New York, or any other securities depository. No official statement, prospectus, offering circular or other offering statement containing material information with respect to the City or the Bond will be provided in connection with the issuance of the Bond, the Bond will be unrated, and the Bond will not be assigned a CUSIP number.

Section 5. Form of Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$ _____

STATE OF WASHINGTON
CITY OF AUBURN
LIMITED TAX GENERAL OBLIGATION REFUNDING BOND, 2016

INTEREST RATE: _____ %
MATURITY DATE: DECEMBER 1, 2025
REGISTERED OWNER:
PRINCIPAL AMOUNT: _____ MILLION AND NO/100 DOLLARS

The City of Auburn, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the “City”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, on or before the Maturity Date identified above, the Principal Amount identified above. This bond shall bear interest at the fixed rate stated above (the “Interest Rate”). Interest on this bond shall accrue from its dated date until paid and shall be computed per annum on the principal amount outstanding on a 30/360 basis. Principal of and accrued interest on this bond shall be payable on the dates set forth in the payment schedule attached hereto.

Both principal of and interest on this bond shall be payable in lawful money of the United States of America. Principal and interest on this bond shall be payable by check or warrant or by other means mutually acceptable to the Registered Owner and the City. Upon final payment of principal and interest of this bond, the Registered Owner shall surrender this bond for cancellation at the office of the Bond Registrar in accordance with Ordinance No. 6587 of the City (the “Bond Ordinance”).

This bond is issued pursuant to the Bond Ordinance, to refund certain outstanding limited tax general obligation bonds of the City and to pay costs of issuance and costs associated with the refunding. Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

[The City may prepay this bond without prepayment penalty or fee.]

This bond has been designated by the City as a “qualified tax-exempt obligation” within the meaning of Section 265(b) of the Code.

The City has in the Bond Ordinance authorized the creation of a fund to be used for the payment of debt service on this bond, designated as the “Bond Redemption Fund” (the “Bond Fund”). The Bond Fund shall be drawn upon for the sole purpose of paying the principal of and interest on this bond.

The City hereby irrevocably covenants and agrees with the owner of this bond that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to the City without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is issued pursuant to the Constitution and laws of the State of Washington, and duly adopted ordinances of the City. This bond is transferable upon compliance with the conditions set forth in the Bond Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond exist, have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Auburn, Washington, has caused this bond to be executed by the manual or facsimile signature of the Mayor of the City Council and attested by the manual or facsimile signature of the Clerk, as of this ____ day of _____, 2016.

[SEAL]

CITY OF AUBURN, WASHINGTON

By _____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk

REGISTRATION CERTIFICATE

This bond is registered in the name of the Registered Owner on the books of the City, in the office of the Finance Director of the City (the "Bond Registrar"), as to both principal and interest, as noted in the registration blank below. All payments of principal of and interest on this bond shall be made by the City from the Bond Fund.

Date of Registration	Name and Address of Registered Owner	Signature of Bond Registrar
_____, 2016		_____ Finance Director

PAYMENT SCHEDULE

Principal and interest on this bond shall be payable as set forth in the following schedule:

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Payment</u>
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Section 6. Execution of Bond. The Bond shall be executed on behalf of the City with the manual or facsimile signature of the Mayor, and shall be attested by the manual or facsimile signature of the Clerk.

Only such Bond as shall bear thereon a Certificate of Authentication in the form earlier recited, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bond shall cease to be an officer or officers of the City before the Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond may also be signed and attested on behalf of the City by such persons who at the date of the actual execution of the Bond, are the proper officers of the City, although at the original date of such Bond any such person shall not have been such officer of the City.

Section 7. Application of Bond Proceeds; Plan of Refunding. For the purpose of debt service savings, the City proposes to defease and/or refund each series of the Refunded Bonds as set forth herein. The Finance Director shall designate all or a portion of each series of

the Refunding Candidates as Refunded Bonds and such designation shall be set forth in the Escrow Agreement.

A portion of the proceeds of the Bond shall be deposited with the Escrow Agent pursuant to the Escrow Agreement to be used immediately upon receipt thereof to defease the Refunded Bonds as authorized by the 2005 Bond Ordinance and the 2006A Bond Ordinance, as applicable, and to pay costs of issuance of the Bond. The net proceeds deposited with the Escrow Agent and any interest earnings on any Acquired Obligations will provide for the payment of:

- (1) interest on each series of Refunded Bonds as such becomes due on and prior to the applicable Call Date; and
- (2) the redemption price (100 percent of the principal amount) of each series of Refunded Bonds on the applicable Call Date.

Such Acquired Obligations shall be purchased at a yield not greater than the yield permitted by the Code and regulations relating to acquired obligations in connection with refunding bond issues.

A beginning cash balance, if any, and the Acquired Obligations, if any, shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. In order to carry out the purposes of this Section 7, the Finance Director is authorized and directed to execute and deliver to the Escrow Agent, an Escrow Agreement.

The City hereby calls the Refunded Bonds for redemption on their respective Call Dates in accordance with the provisions of the bond ordinance authorizing the redemption and retirement of the applicable 2005 Bonds and 2006A Bonds prior to their fixed maturities.

Said defeasance and call for redemption of the Refunded Bonds shall be irrevocable after the issuance of the Bond and delivery of the proceeds of such Bond and/or Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notices of the defeasance and/or redemption of the Refunded Bonds in accordance with the applicable provisions of the 2005 Bond Ordinance and the 2006A Bond Ordinance. The costs of publication of such notices shall be an expense of the City.

The City will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent for the Refunded Bonds shall be paid when due.

Section 8. Tax Covenants. The City will take all actions necessary to assure the exclusion of interest on the Bond from the gross income of the owners of the Bond to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Bond, including but not limited to the following:

(a) *Private Activity Bond Limitation.* The City will assure that the proceeds of the Bond are not so used as to cause the Bond to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(b) *Limitations on Disposition of Project.* The City will not sell or otherwise transfer or dispose of (i) any personal property components of the projects financed with proceeds of the Refunded Bonds (the “Projects”) other than in the ordinary course of an established government program under Treasury Regulation 1.141-2(d)(4) or (ii) any real property components of the Projects, unless it has received an opinion of Bond Counsel to the effect that such disposition

will not adversely affect the treatment of interest on the Bond as excludable from gross income for federal income tax purposes.

(c) *Federal Guarantee Prohibition.* The City will not take any action or permit or suffer any action to be taken if the result of such action would be to cause the Bond to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(d) *Rebate Requirement.* The City will take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bond.

(e) *No Arbitrage.* The City will not take, or permit or suffer to be taken by the Escrow Agent or otherwise, any action with respect to the proceeds of the Bond which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bond would have caused the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

(f) *Registration Covenant.* The City will maintain a system for recording the ownership of the Bond that complies with the provisions of Section 149 of the Code until the Bond has been surrendered and canceled.

(g) *Record Retention.* The City will retain its records of all accounting and monitoring it carries out with respect to the Bond for at least three years after the Bond matures or is redeemed (whichever is earlier); however, if the Bond is redeemed and refunded, the City will retain its records of accounting and monitoring at least three years after the earlier of the maturity or redemption of the obligations that refunded the Bond.

(h) *Compliance with Federal Tax Certificate.* The City will comply with the provisions of the Federal Tax Certificate with respect to the Bond, which are incorporated herein

as if fully set forth herein. The covenants of this Section will survive payment in full or defeasance of the Bond.

(i) *Bank Qualification.* The City hereby designates the Bond for purposes of paragraph (3) of Section 265(b) of the Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in Section 141 of the Code, except qualified 501(c)(3) bonds as defined in Section 145 of the Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2016.

Section 9. Pledge of Funds and Credit; General Obligation. The City hereby authorizes the creation of a fund to be used for the payment of debt service on the Bond, designated as the “Bond Redemption Fund” (the “Bond Fund”). No later than the date each payment of principal of or interest on the Bond becomes due, the City shall transmit sufficient funds, from the Bond Fund or from other legally available sources, to the Bond Registrar for the payment of such principal or interest. Money in the Bond Fund may be invested in legal investments for City funds.

The City hereby irrevocably covenants and agrees for as long as the Bond is outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with other revenues and money of the City legally available for such purposes, to pay the principal of and interest on the Bond when due.

The City hereby irrevocably pledges that the annual tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to cities without a vote of the people, and that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bond will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bond when due.

Section 10. Right of Prepayment. The City may prepay the Bond in whole or in part on any date as set forth in the Commitment and approved by the Designated Representative pursuant to Section 11. If the Bond is prepaid in full, interest shall cease to accrue on the date such prepayment occurs.

Section 11. Issuance of the Bond. The Council has determined that it would be in the best interest of the City to delegate to the Designated Representative for a limited time the authority to request proposals from financial institutions and/or other qualified buyers to purchase the Bond and to approve the final terms of the Bond, as set forth in the Commitment of the successful respondent. The Designated Representative shall solicit proposals to purchase the Bond and shall select the Bank that submits the proposal that is in the best interest of the City.

Subject to the terms and conditions set forth in this Section 11, the Designated Representative is hereby authorized (a) to select the Bank, (b) to select the Refunded Bonds, (c) to approve the principal amount, principal payment dates, dated date, denominations, interest payment dates, redemption/prepayment provisions and interest rate or rates for the Bond, (d) to accept the Commitment, and (e) to execute the sale of the Bond to the Bank; provided that (1)

the principal amount of the Bond does not exceed \$4,000,000, (2) the final maturity of the Bond is no later than December 1, 2025, (3) the Bond is sold for a price that results in a minimum net present value debt service savings over the Refunded Bonds (in the aggregate) of 4.00%, and (4) the true interest cost for the Bond does not exceed 3.00%.

Following the sale of the Bond, the Designated Representative shall provide a report to Council describing the sale and final terms of the Bond approved pursuant to the authority delegated in this section. The authority granted to the Designated Representative by this Section 11 shall expire on June 1, 2016. If the Bond has not been sold by June 1, 2016, the authorization for the issuance of the Bond shall be rescinded, and the Bond shall not be issued nor its sale approved unless such Bond shall have been re-authorized by ordinance of the Council. The ordinance re-authorizing the issuance and sale of such Bond may be in the form of a new ordinance repealing this ordinance in whole or in part or may be in the form of an amendatory ordinance approving a Commitment or establishing terms and conditions for the authority delegated under this Section 11.

Upon the passage and approval of this ordinance, the proper officials of the City including the Designated Representative, are authorized and directed to undertake all action necessary for the prompt execution and delivery of the Bond to the Bank and further to execute all closing certificates, agreements, loan agreement, and documents required to effect the closing and delivery of the Bond in accordance with the terms of the Commitment.

Section 12. Ongoing Disclosure; Covenants.

(a) *Ongoing Disclosure.* The Bond is exempt from ongoing disclosure requirements of the Rule.

(b) *Covenants.* The City may agree to provide the Bank certain financial or other information and agree to such covenants as determined to be necessary by the Designated Representative and as set forth in the Commitment and approved by the Designated Representative pursuant to Section 11.

Section 13. Lost, Stolen or Destroyed Bond. In case the Bond shall be lost, stolen or destroyed while in the Registered Owner's possession, the Bond Registrar may at the request of the Registered Owner execute and deliver a new Bond of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City and the Bond Registrar in connection therewith and upon its filing with the City written certification that such Bond was actually lost, stolen or destroyed and of its ownership thereof. In the case the Bond shall be lost, stolen, or destroyed while in the Registered Owner's possession, the Registered Owner may elect upon final payment of principal and interest of the Bond to surrender a photocopy of the Bond for cancellation at the office of the Bond Registrar together with written certification that such Bond was actually lost, stolen or destroyed and of its ownership thereof.

Section 14. Severability; Ratification. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond. All acts taken pursuant to the authority granted in this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 15. Effective Date of Ordinance. This ordinance will become effective five days from and after its passage, approval and publication.

PASSED by the City Council of the City of Auburn, Washington, at a regular meeting of the City Council held on February 16, 2016.

FIRST READING: _____

SECOND READING: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN, WASHINGTON

Nancy Backus, Mayor

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Pacifica Law Group LLP, Bond Counsel

CERTIFICATE

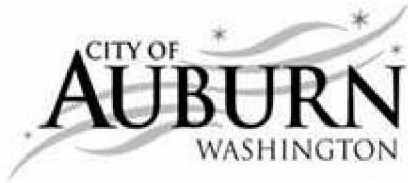
I, the undersigned, City Clerk of the City of Auburn, Washington, DO HEREBY CERTIFY:

1. That the attached is a true and correct copy of Ordinance No. 6587 (the "Ordinance") of the City, duly passed at a regular meeting of the City Council (the "Council") of the City held on February 16, 2016.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of said Ordinance; that all other requirements and proceedings incident to the proper passage of said Ordinance have been fully fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of February, 2016.

City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6588, First Reading

Date:

January 25, 2016

Department:

Finance

Attachments:

[Ordinance No. 6588](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Ordinance No. 6588.

Background Summary:

Ordinance No. 6588 levies a .0209% sales tax credit against the state sales tax for local revitalization financing. SB 5045 authorizing the tax credit was passed by the state legislature during the 2009 regular session. The intent of the legislation was to provide financial assistance to Cities to assist with financing public improvements in an identified revitalization area to promote community and economic development.

The City first applied for the use of local revitalization financing on August 11, 2009 and the Department of Revenue approved the City's application on September 16, 2009, authorizing up to \$250,000 per year for the local revitalization program (Promenade capital improvements).

In 2010, the City issued \$7.24 million in 2010 C/D Bonds for the purpose of funding capital improvements for the Promenade. Annual debt service payments for these bonds continue through the year 2035. Funds from EDA grants, combined with REET2 funds and interest earnings, are used to pay for the annual debt service costs of the local revitalization project. As of the end of 2015, the remaining principal balance is \$6.1 million.

The tax credit is available to the City for up to 25 years. 2016 will be the seventh year that the City has asked the State for the tax credit. As provided by the state, in order for the City to continue receiving the tax credit, the City must request this each year by Ordinance.

Based upon historical taxable retail sales, the above rate of .0209% is estimated to generate \$250,000 for local revitalization funding during the State's fiscal year, July 1, 2016 to June 30, 2017.

Reviewed by Council Committees:

Councilmember:

Staff: Coleman

Meeting Date: February 1, 2016

Item Number: ORD.B

ORDINANCE NO. 6 5 8 8

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON, ESTABLISHING
THE LOCAL SALES AND USE TAX RATE FOR
LOCAL REVITALIZATION FINANCING FOR 2016**

WHEREAS, the City of Auburn ("City") enacted Ordinance No. 6301 on April 19, 2010, which established a local sales and use tax as provided for in Section 39.14.510 of the Revised Code of Washington ("RCW"); and

WHEREAS, this tax is imposed in order to pay the debt service on Local Revitalization Financing bonds in accordance with Chapter 39.14 RCW; and

WHEREAS, Chapter 39.14 RCW provides that the City shall, from time to time, adjust the tax rate so that it is set at the rate reasonably necessary to receive the state contribution over 10 months, in accordance with RCW 82.14.510(3); and

WHEREAS, the Local Sales and Use Tax Rate is set at a rate to generate approximately \$250,000.00 between July 1, 2016 through June 30, 2017, for Local Revitalization Financing.

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

Section 1. The sales and use tax rate initially established in Section 3.2 of Ordinance No. 6301, and most recently amended by Ordinance No. 6494, is hereby amended to .0209%, effective July 1, 2016.

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.

FIRST READING: _____

SECOND READING: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



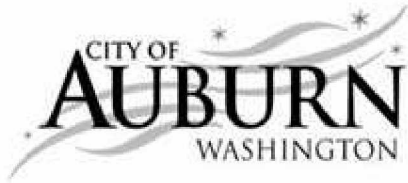
Daniel B. Heid, City Attorney

Published: _____

Ordinance No. 6588

January 21, 2016

Page 2 of 2



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5203

Date:

January 14, 2016

Department:

Parks/Art and Recreation

Attachments:

[Resolution No. 5203](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5203.

Background Summary:

The City of Auburn was successful in a grant to receive funds from King County Conservation Futures Tax Levy related to the acquisition of the "Herr Properties". The scope of this application was to seek matching funds to purchase four parcels of land totaling 1.44 acres (parcel numbers 192105-9006, 192105-9299, 192105-9158, 192105-9154, that would allow for the acquisition of existing commercial space that, as required by this source of funds, must be converted into park space. The location of the acquisition is adjacent to Auburn's Les Gove Park. To utilize this source of funds the acquired properties must be redeveloped into "park space" consistent with the Les Gove Master Plan. The application noted that "Les Gove Park is envisioned as Auburn's "Central Park" but it is blocked visible from Auburn Way by a large commercial block of properties. City Council has long had a goal of "opening up Les Gove Park to Auburn Way".

The parcels, that were acquired in 2014, are located on Auburn Way South as well as on 12th Street. The acquisition of these parcels provide the opportunity for expansion of the urban park as well as provide a welcoming site corridor into the existing 21 Acre Park. Les Gove Park is the home to the Auburn Senior Center, White River Valley Museum, King Counties Auburn Library as well as the Auburn Community and Teen Center that is under construction.

The acceptance and allocation of these funds will authorize the City of Auburn to seek reimbursement of up to \$546,906. These funds will provide substantial dollars for the design and development of the Auburn Community Campus at Les Gove Park and may be used for matching funds for other grant opportunities.

Reviewed by Council Committees:

Councilmember:

Staff: Faber

Meeting Date: February 1, 2016

Item Number: RES.A

RESOLUTION NO. 5203

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO
EXECUTE AN AMENDMENT TO THE CONSERVATION
FUTURES INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF AUBURN
FOR OPEN SPACE ACQUISITION PROJECTS**

WHEREAS, King County has established a Conservation Futures Levy Fund and has appropriated proceeds to provide for the acquisition of open spaces within the County; and

WHEREAS, King County Council passed Ordinance Number 17707, which appropriates specific Conservation Futures Levy proceeds for the City of Auburn Les Gove Park expansion acquisition project; and

WHEREAS, the City of Auburn is interested and willing to enter into an Amendment to the Conservation Futures Interlocal Cooperation Agreement between the County and the City for open space acquisition, beneficial to the Les Gove Park in conformity with the requirements of the Interlocal Cooperation Agreement.

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

Section 1. The Mayor of the City of Auburn is hereby authorized to execute a Amendment to the Conservation Futures Interlocal Cooperation Agreement between King County and the City of Auburn for open space acquisition related to the Les Gove Park, which Amendment to the Conservation Futures Interlocal Cooperation Agreement shall be in substantial conformity with the document attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 2. The Mayor is hereby authorized to take such administrative and/or procedural action as may be necessary and/or appropriate 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 _____, 2016.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

**AMENDMENT TO THE CONSERVATION FUTURES
INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF AUBURN
FOR OPEN SPACE ACQUISITION PROJECTS**

Preamble

The King County Council, through Ordinance 9128, has established a Conservation Futures Levy Fund and appropriated proceeds to King County, the City of Seattle and certain suburban cities. This amendment is entered into to provide for the allocation of additional funds made available for open space acquisition.

THIS AMENDMENT is entered into between the CITY OF AUBURN and KING COUNTY, and amends and attaches to and is part thereof of the existing Interlocal Cooperation Agreement entered into between the parties on the 3rd day of October, 2005, as previously amended.

The parties agree to the following amendments:

Amendment 1: Article 1. Recitals

A paragraph is hereby added to the Recitals Section to provide for Conservation Futures Levy Fund allocations for the Les Gove Park Expansion acquisition Project, and hereafter reads:

- On December 9, 2013 the King County Council passed Ordinance 17707, which appropriated a total of Three Hundred and Twenty-Five thousand dollars (\$325,000) in Conservation Futures Levy proceeds to the City of Auburn for the Les Gove Park Expansion acquisition Project. On April 28, 2014 the King County Council passed Ordinance 17795, authorizing the King County Executive to enter into interlocal agreements with the City of Seattle and the suburban cities for the disbursement of Conservation Futures Funds appropriated in Ordinance 17707.
- On July 28, 2014, the King County Council passed Ordinance 17855, which appropriated a total of One Hundred Thousand Dollars (\$100,000) in Conservation Futures Levy proceeds to the City of Auburn for the Les Gove Park Expansion acquisition Project. On December 15, 2014, the King County Council passed Ordinance 17957, authorizing the King County Executive to enter into interlocal agreements with the City of Seattle and the suburban cities for the disbursement of Conservation Futures Funds appropriated in Ordinance 17855.

- On September 14, 2015 the King County Council passed Ordinance 18110, which appropriated a total of One Hundred Twenty-One, Nine Hundred and Six dollars (\$121,906) in Conservation Futures Levy proceeds to the City of Auburn for the Les Gove Park Addition acquisition Project. On November 9, 2015, the King County Council passed Ordinance 18151, authorizing the King County Executive to enter into interlocal agreements with the City of Seattle and the suburban cities for the disbursement of Conservation Futures Funds appropriated in Ordinance 18110.

Amendment 2: Article V. Conditions of Agreement

Section 5.1 is amended to include Attachment D, which lists 2014 and 2015 Conservation Futures Levy proceeds allocations for the Les Gove Park Expansion acquisition Project.

Amendment 3: Article VII. Responsibilities of County

The first two sentences of this article are amended to include references to Attachment D, which lists 2014 and 2015 Conservation Futures Levy proceeds allocations for the Les Gove Park Expansion acquisition Project:

Subject to the terms of this agreement, the County will provide Conservation Futures Levy Funds in the amounts shown in Attachments A through D, to be used for the Projects listed in Attachments A through D. The City may request additional funds; however, the County has no obligation to provide funds to the City for the Projects in excess of the total amounts shown in Attachments A through D. The County assumes no obligation for the future support of the Projects described herein except as expressly set forth in this agreement.

AMENDMENT 4: Attachment D

The Attachments to the interlocal agreement are hereby amended by adding Attachment D, which is hereby attached to the interlocal agreement, incorporated therein and made a part thereof.

In all other respects, the terms, conditions, duties and obligations of both parties shall remain the same as agreed to in the Interlocal Cooperation Agreement as previously amended.

This document shall be attached to the existing Interlocal Cooperation Agreement.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below:

KING COUNTY

CITY OF AUBURN

Dow Constantine
King County Executive

Mayor

Date: _____
Acting under the authority of
Ordinances 17795, 17957 and 18151

Date _____
Acting under the authority of
Ordinance _____

Approved as to form:

Approved as to form:

Dan Satterberg
King County Prosecuting Attorney



City Attorney

EXHIBIT D

2014 and 2015 CONSERVATION FUTURES LEVY CITY OF AUBURN ALLOCATIONS

Jurisdiction	Project	Allocation
Auburn (Ordinance 17707/17795)	Les Gove Park Expansion	\$325,000
Auburn (Ordinance 17855/17957)	Les Gove Park Expansion	\$100,000
Auburn (Ordinance 18110/18151)	Les Gove Park Expansion	\$121,906
TOTAL		\$546,906

Project Descriptions:

(Ordinances 17707/17795):

1122033 Auburn - WLCF Les Gove Park Expansion

This is a new four-parcel acquisition project totaling 1.44 acres on Auburn Way at 12th Street SE in downtown Auburn. The primary purpose of the project is to create a visual presence for Les Gove Park from Auburn Way South, one of Auburn's most traveled thoroughfares.

(Ordinances 17855/17957):

1122033 Auburn – Les Gove Park Expansion

This is a four-parcel acquisition project totaling 1.44 acres on Auburn Way at 12th Street SE in downtown Auburn. The primary purpose of the project is to create a visual presence for Les Gove Park from Auburn Way South, one of Auburn's most traveled thoroughfares.

2014: \$100,000 is transferred to this project from the abandoned City of Auburn Chuck Perry Property, as this project has an acquisition funding shortfall.

(Ordinances 18110/18151):

1122033 Auburn – Les Gove Park Addition

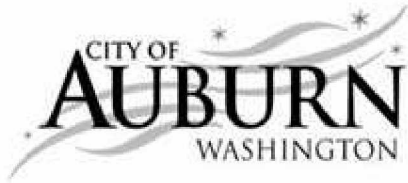
This is a four-parcel acquisition project totaling 1.44 acres on Auburn Way at 12th Street SE in downtown Auburn. The primary purpose of the project is to create a visual presence for Les Gove Park from Auburn Way South, one of Auburn's most traveled thoroughfares.

2015: \$121,905 in Conservation Futures funds, reallocated from the completed Auburn West Hill Lake Open Space Conservation Futures project, are added to the Auburn Les Gove Addition Conservation Futures project to help meet a funding shortfall.

City of Auburn Les Gove Park Expansion

\$546,906

Amendment D
CFT Interlocal Auburn – King County
2014 & 2015 CFT proceeds



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5204

Date:

January 14, 2016

Department:

Administration

Attachments:

[Resolution No. 5204](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5204.

Background Summary:

The Lodging Tax Advisory Committee (LTAC) sent out Request for Proposal for use of Lodging Tax Revenue Funds.

Uses for Lodging Tax Grant Funds:

- Marketing and operations of special events and festivals designed to attract tourists
- Operations and capital expenditures of tourism-related facilities owned or operated by a municipality or a public facilities district
- Operations of tourism-related facilities owned or operated by nonprofit organizations.
([RCW 67.28.1816](#))
- Staff support of the Lodging Tax Advisory Committee
 - Direct costs of administration would be allowed
 - The allocation of support services must demonstrate it provides a benefit to the Committee
 - Local government must document those services and the costs to ensure that they are fair and equitable. Must be solely for the purpose of paying all or any part of the cost of tourism promotion. The creation of the tourism board's primary function is to promote and market tourism

Who may apply:

- Convention and visitors bureaus
- Destination marketing organizations

- Nonprofits, including main street organizations, lodging associations, or chambers of commerce

LTAC reviews applications and makes recommendations for funding. After the Lodging Tax Advisory Committee recommends funding their recommendations go to City Council for their review and authorization.

Reviewed by Council Committees:

Councilmember:

Staff: Hinman

Meeting Date: February 1, 2016

Item Number: RES.B

RESOLUTION NO. 5 2 0 4

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, APPROVING THE LODGING
TAX GRANT DISBURSEMENTS RECOMMENDED BY THE
AUBURN LODGING TAX ADVISORY COMMITTEE AND
THE AUBURN TOURISM BOARD**

WHEREAS, the City of Auburn has businesses within its corporate limits that collect lodging tax dollars in accordance with Chapter 67.28 of the Revised Code of Washington (RCW); and

WHEREAS, the City of Auburn has a lodging tax advisory committee, the Auburn Lodging Tax Advisory Committee, established pursuant to Chapter 2.76 of the Auburn City Code (ACC), in accordance with RCW 67.28.1817; and

WHEREAS, the City of Auburn also has a tourism board, the Auburn Tourism Board, established pursuant to Chapter 2.77 ACC; and

WHEREAS, in accordance with ACC 2.76.040, the Lodging Tax Advisory Committee shall make recommendations to the City Council on tourism promotion and tourism related issues; and

WHEREAS, pursuant to ACC 2.77.060 , the Tourism Board shall assist the City Council in formulating strategies for tourism related activities and programs geared to promote the city of Auburn as a tourist destination, and shall make recommendations to the City Council on tourism promotion and tourism related issues; and

WHEREAS, on January 7, 2016 and January 11, 2016, the Auburn Lodging Tax Advisory Committee met to consider proposals for expending lodging tax dollars (taxes

collected in accordance with Chapter 67.28 RCW), and consider proposals from various different potential recipients in terms of expanding lodging tax dollars in a way to promote the City of Auburn as a tourist destination; and

WHEREAS, after the January 7, 2016 and January 11, 2016, meeting, the Lodging Tax Advisory Committee voted on the proposals and requests they received for expenditure of lodging tax dollars; and

WHEREAS, the Lodging Tax Advisory Committee have submitted their recommendations for expenditure of lodging tax dollars to the City Council for consideration and approval.

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

Section 1. Approval of Recommendations. The City Council hereby approves and endorses the expenditure of lodging tax dollars in accordance with the lodging tax disbursements recommended by the Auburn Lodging Tax Advisory Committee as shown on the lodging tax grants/recommended disbursements list, a copy of which is attached hereto, marked as exhibit "A" and incorporated herein by this reference.

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

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

Dated and Signed this _____ day of _____, 2016.

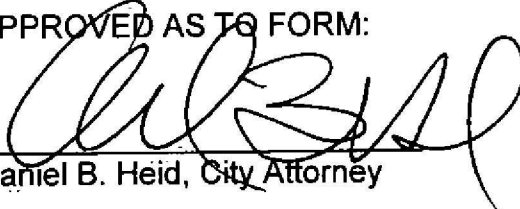
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

RESOLUTION NO. 5204 EXHIBIT A

Lodging Tax Grant

Event: EMD 3on3 Basketball Tournament

**Approved Amount
\$4,500.00**

Amount Requested: \$3,500.00

LTAC Vote was Unanimous

Comments:

- Funds increased to add Hotel Logos to Hoop Pads
- Event is on August 6 & 7, 2016
- Two Day Event, 4th year
- Funds are for advertising
- Does put heads in beds

Event: Veterans Day Band Competition

**Approved Amount
\$6,500.00**

Amount Requested: \$6,500.00

LTAC Vote was Unanimous

Comments:

- Funds for advertising to Eastern Washington
- Event is on November 5, 2016
- 25,000 attendance
- Does put heads in beds

Event: Petpalooza

**Approved Amount
\$5,000.00**

Amount Requested: \$5,000.00

LTAC Vote was Unanimous

Comments:

- 15,000 attendance
- Event is on May 21, 2016
- Funds are for advertising 50 + miles
- Does put heads in beds

Event: Geocaching

**Approved Amount
\$3,500.00**

Amount Requested: \$6,000.00

LTAC Vote 6 Yes 1 No

Comments:

- Two Day Event
- Event is on October 14 & 15, 2016
- Funds for marketing and event cost
- Does put heads in beds

Event: Art Walk - May 13, 2016 & September 9, 2016

**Approved Amount
\$2,500.00**

Amount Requested: \$2,500.00

LTAC Vote was Unanimous

Comments:

- **2 Events, May 13, 2016 & September 9, 2016**
- **Funds are for advertising**
- **Does put heads in beds**

Event: Diesel Drags Pacific Raceways

**Approved Amount
\$4,000.00**

Amount Requested: \$5,000.00

LTAC Vote was Unanimous

Comments:

- **One Day Event**
- **Funds are for Advertising**
- **Event is on July 17, 2016**
- **Does put heads in beds**

Event: Nostalgia Drag Race at Pacific Raceways

**Approved Amount
\$4,000.00**

Amount Requested: \$5,000.00

LTAC Vote was Unanimous

Comments:

- **Only race if its kind at Pacific Raceways**
- **Funds are for Advertising 50 + miles**
- **Event is on July 10, 2016**
- **Does put heads in beds**

Event: Tough Mudder

**Approved Amount
\$8,500.00**

Amount Requested: \$8,500.00

LTAC Vote was Unanimous

Comments:

- **Two Day Event, it is a team oriented obstacle course challenge**
- **Attendance 9,500**
- **Event is on September 24 & 25, 2016**
- **4,500 come from over 50 miles**
- **Average overnight stays 2**
- **7% International Travelers**
- **Will use funds for Digital Marketing**
- **Does put heads in beds**

Event: Mexican Independence Day

Approved Amount

\$4,000.00

Amount Requested: \$10,000.00

LTAC Vote was Unanimous

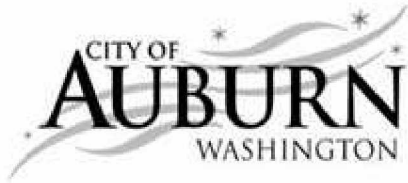
Comments:

- **One Day Event**
- **Funds are for advertising**
- **Does put heads in beds**

2016 Total Approved by the LTAC

Approved Amount

\$42,500.00



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5207

Date:

January 25, 2016

Department:

Finance

Attachments:

[Resolution No. 5207](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5207.

Background Summary:

Resolution No. 5207 levies the 0.1% sales tax credit against the state sales tax for annexation of the Lea Hill Area. Washington State Senate Bill 6686 authorizing the tax credit was passed by the state legislature during the 2006 regular session. The intent of the legislation was to provide financial assistance to Cities with Planned Annexation Area (PAA's) that did not produce revenues sufficient to cover the costs of urban levels of services. The tax credit will provide funding, along with the other revenues of the area, to provide those services.

The City moved forward with the annexation of Lea Hill based upon the availability of this tax credit. Cities wishing to take advantage of this tax credit incentive had to commence annexation prior to January 1, 2010. The tax credit is available to the city for up to 10 years and is limited to the maximum of a 0.1% credit against the State tax or the difference between the City's cost to provide, maintain, and operate municipal services for the annexation areas and the general revenues that the City receives from the annexation area during a given year. The tax credit began July 1, 2008 and will sunset June 30, 2018.

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

Coleman

Meeting Date: February 1, 2016

Item Number: RES.C

RESOLUTION NO. 5207

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE CITY OF AUBURN TO IMPOSE A SALES AND USE TAX AS AUTHORIZED BY RCW 82.14.415 AS A CREDIT AGAINST STATE SALES AND USE TAX, RELATING TO ANNEXATIONS

WHEREAS, this is not a new tax but a reallocation of the sales tax already collected by the state which will then be remitted to the City to assist with funding the costs of the newly annexed area; and

WHEREAS, in accordance with Chapter 35A.14 RCW, on the 16th day of January, 2007 and on the 16th day of April, 2007, the City Council of the City of Auburn, Washington, passed its Resolution Numbers 4138 and 4176 respectively, calling for special elections to be held in connection with the primary election on August 21, 2007, at which election the question of annexation was presented to the voters of the Lea Hill Annexation Area; and

WHEREAS, the notice of intention to annex was filed with the King County Boundary Review Board and subsequently approved; and

WHEREAS, in accordance with Chapter 35A.14 RCW the annexation was put to a vote of the people in the annexation area on August 21, 2007; and

WHEREAS, the King County Records, Elections and Licensing Services Division, on September 5, 2007, certified that the referendum had been approved by the voters; and

WHEREAS, following a favorable vote on the annexation proposition, the City Council of the City of Auburn, Washington, adopted its Ordinance No.

6121, on September 17, 2007, annexing said Lea Hill Annexation Area, an annexation area that has a population of at least ten thousand people; and

WHEREAS, the City Council of the City of Auburn, Washington, finds and determines that the projected cost of at least \$6,370,756 to provide municipal services to the annexation area exceeds the projected general revenue estimated to be \$3,694,864 that the City would otherwise receive from the annexation area on an annual basis; and

WHEREAS, pursuant to RCW 82.14.415, the City is authorized, under the circumstances of this annexation, to impose a sales and use tax as authorized with that tax being a credit against the state tax.

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

Section 1. **Purpose.** The Auburn City Council does hereby authorize the City's Finance Director to set the threshold for imposing the sales and use tax credit at Two Million Six Hundred Seventy-six Thousand Dollars (\$2,676,000.00) for the Lea Hill annexation area.

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

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

DATED and SIGNED THIS _____ DAY OF _____, 2016.

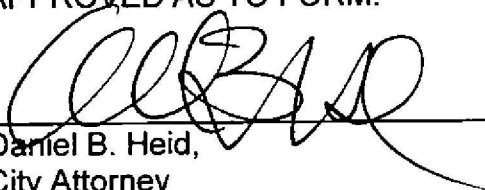
CITY OF AUBURN

ATTEST:

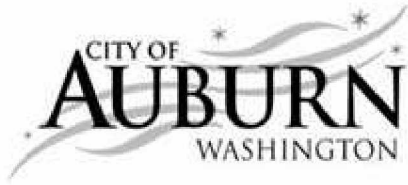
NANCY BACKUS, MAYOR

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5208

Date:

January 25, 2016

Department:

CD & PW

Attachments:

[Resolution No. 5208](#)

[Exhibit A](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5208.

Background Summary:

Resolution No. 5208 authorizes the Mayor to accept federal grants to be administered through the Washington State Department of Transportation (WSDOT).

The City applied for and was awarded the following federal grants with required local funding match percentages as indicated:

- \$750,000.00 to finance the design, environmental permitting, and construction phases of the Lake Tapps Parkway Preservation Project. This grant requires a 13.5% local funding match. This project will patch and overlay portions of the pavement on Lake Tapps Parkway SE from the Western City limits to Lakeland Hills Way; and
- \$817,500.00 to finance the design, environmental permitting, and construction phases of the 15th Street NW/NE Preservation Project. This grant requires a 50% local funding match. This project will grind and overlay 15th Street NW/NE from the Right of Way line of SR167 to Auburn Way N; and grind and overlay Harvey Road NE from Auburn Way N to 8th Street NE. The work will also include upgrading curb ramps to meet current ADA standards, as well as remove unused driveway openings as an upgrade to non ADA compliant pedestrian facilities.

Funding has been made available in the approved City budget to meet the local funding match requirements of each grant.

Reviewed by Council Committees:

Councilmember:

Staff:

Snyder

Meeting Date: February 1, 2016

Item Number: RES.D

RESOLUTION NO. 5 2 0 8

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO ACCEPT FEDERAL GRANT FUNDS TO BE ADMINISTERED THROUGH THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

WHEREAS, the City desires to improve safety, capacity, and efficiency of the City's street network throughout Auburn; and

WHEREAS, the need for each of the improvements listed for the Lake Tapps Parkway Preservation Project and the 15th Street NW/NE Preservation Project is recognized in Auburn's adopted Transportation Improvement Program; and

WHEREAS, completing each of these projects will improve safety, capacity, and efficiency of the City's street network; and

WHEREAS, the City applied for and was awarded the following federal grants to be administered by the Washington State Department of Transportation (WSDOT) with required local funding match percentages as indicated:

- \$750,000 to finance the design, environmental permitting, and construction phases of the Lake Tapps Parkway Preservation Project (13.5% local funding match required); and
- \$817,500 to finance the design, environmental permitting, and construction phases of the 15th Street NW/NE Preservation Project (50% local funding match required);

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

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

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

Section 1. That the Mayor is hereby authorized to accept the federal grants for those grants for which the City has sought federal funding and has been awarded grants, including (1) Lake Tapps Parkway Preservation Project, and (2) 15th Street NW/NE Preservation Project. The Mayor is further hereby authorized to negotiate, finalize and execute the Local Agency Agreements between the City and the Washington State Department of Transportation for the design phase for each of the above identified projects, in substantial conformity with grant requirements and the agreement attached hereto, marked as Exhibit A and incorporated herein by this reference. The Mayor is further hereby authorized to negotiate, finalize and execute any further supplemental agreements consistent with project and grant requirements as may be necessary for any and all future phases for each of the Projects, expending up to the total amount of the grants.

Section 2. That the Mayor is authorized to implement such other 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 _____, 2016.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney



**Washington State
Department of Transportation**

Local Agency Agreement

Agency [REDACTED]

Address [REDACTED]

CFDA No. 20.205

(Catalog or Federal Domestic Assistance)

Project No. [REDACTED]

Agreement No. [REDACTED]

For OSC WSDOT Use Only

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

Project Description

Name [REDACTED] Length [REDACTED]

Termini [REDACTED]

Description of Work

[REDACTED]

Project Agreement End Date [REDACTED]

Proposed Advertisement Date [REDACTED]

Claiming Indirect Cost Rate

☐ Yes ☐ No

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] %	b. Other	[REDACTED]	[REDACTED]	[REDACTED]
Federal Aid	c. Other	[REDACTED]	[REDACTED]	[REDACTED]
Participation	d. State	[REDACTED]	[REDACTED]	[REDACTED]
Ratio for PE	e. Total PE Cost Estimate (a+b+c+d)	0.00	0.00	0.00
Right of Way	f. Agency	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] %	g. Other	[REDACTED]	[REDACTED]	[REDACTED]
Federal Aid	h. Other	[REDACTED]	[REDACTED]	[REDACTED]
Participation	i. State	[REDACTED]	[REDACTED]	[REDACTED]
Ratio for RW	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00
Construction	k. Contract	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] %	l. Other	[REDACTED]	[REDACTED]	[REDACTED]
Federal Aid	m. Other	[REDACTED]	[REDACTED]	[REDACTED]
Participation	n. Other	[REDACTED]	[REDACTED]	[REDACTED]
Ratio for CN	o. Agency	[REDACTED]	[REDACTED]	[REDACTED]
	p. State	[REDACTED]	[REDACTED]	[REDACTED]
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00
	r. Total Project Cost Estimate (e+j+q)	0.00	0.00	0.00

Agency Official

By [REDACTED]

Title [REDACTED]

Washington State Department of Transportation

By [REDACTED]

Director, Local Programs

Date Executed [REDACTED]

Construction Method of Financing (Check Method Selected)

State Ad and Award

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

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of \$ [REDACTED] at \$ [REDACTED] per month for [REDACTED] months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

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

[REDACTED], [REDACTED], Resolution/Ordinance No. [REDACTED]

Provisions

I. Scope of Work

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

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

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

II. Delegation of Authority

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

III. Project Administration

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

IV. Availability of Records

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

V. Compliance with Provisions

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

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

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

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

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

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

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

VI. Payment and Partial Reimbursement

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

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

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

1. Project Construction Costs

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

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

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

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

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

VII. Audit of Federal Consultant Contracts

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

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

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

VIII. Single Audit Act

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

IX. Payment of Billing

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

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

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

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

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

XI. Indemnity

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

XII. Nondiscrimination Provision

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

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

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

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

The Agency also agrees:

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

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

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

XIII. Liquidated Damages

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

XIV. Termination for Public Convenience

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

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

XV. Venue for Claims and/or Causes of Action

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

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

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

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

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

XVII. Assurances

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

Additional Provisions

