City Council
Regular Meeting
February 18, 2025 - 7:00 PM
City Hall Council Chambers

AGENDA

CALL TO ORDER

LAND ACKNOWLEDGEMENT

We would like to acknowledge the Federally Recognized Muckleshoot Indian Tribe, the ancestral keepers of the land we are gathered on today. We thank them for their immense contributions to our state and local history, culture, economy, and identity as Washingtonians.

PUBLIC PARTICIPATION

A. The Auburn City Council Meeting scheduled for Tuesday, February 18, 2025, at 7:00 p.m. will be held in person and virtually.

Virtual Participation Link:
To view the meeting virtually please click the below link, or call into the meeting at the phone number listed below. The link to the Virtual Meeting is:
https://www.youtube.com/user/watchauburn/live/?nomobile=1

To listen to the meeting by phone or Zoom, please call the number below or click the link:

Telephone: 253 215 8782
Toll Free: 877 853 5257
Zoom: https://us06web.zoom.us/j/89333901317

PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

APPOINTMENTS

A. Auburn Lodging Tax Advisory Committee
City Council to approve the reappointment of Elizabeth Burton to the Auburn Lodging Tax Advisory Committee for a three-year term expiring December 31, 2027

(RECOMMENDED ACTION: Move to approve the reappointment of Elizabeth Burton to the Auburn Lodging Tax Advisory Committee for a three-year term expiring December 31, 2027.)

B. Business Improvement Area (BIA) Committee
City Council to approve the appointments of Rachel Perry and Trevor Schneckloth to the BIA Committee for a three-year term expiring December 31, 2027

(RECOMMENDED ACTION: Move to approve the appointments of Rachel Perry and Trevor Schneckloth to the BIA Committee for a three-year term expiring December 31, 2027.)

C. Cemetary Board
City Council to approve the appointment of Bridget Jones to the Cemetery Board for a three-year term expiring December 31, 2027

(RECOMMENDED ACTION: Move to approve the appointment of Bridget Jones to the Cemetery Board for a three-year term expiring December 31, 2027.)

D. Parks & Recreation Board
City Council to approve the appointment of John Boatman to the Parks & Recreation Board for a three-year term expiring December 31, 2027

(RECOMMENDED ACTION: Move to approve the appointment of John Boatman to the Parks & Recreation Board for a three-year term expiring December 31, 2027.)

AGENDA MODIFICATIONS

AUDIENCE PARTICIPATION

This is the place on the agenda where the public is invited to speak to the City Council on any issue.

A. The public can participate in-person or submit written comments in advance.

Participants can submit written comments via mail, fax, or email. All written comments must be received prior to 5:00 p.m. on the day of the scheduled meeting and must be 350 words or less.
Please mail written comments to:
City of Auburn
Attn: Shawn Campbell, City Clerk
25 W Main St
Auburn, WA 98001

Please fax written comments to:
Attn: Shawn Campbell, City Clerk
Fax number: 253-804-3116

Email written comments to: publiccomment@auburnwa.gov

If an individual requires accommodation to allow for remote oral comment because of a difficulty attending a meeting of the governing body, the City requests notice of the need for accommodation by 5:00 p.m. on the day of the scheduled meeting. Participants can request accommodation to be able to provide a remote oral comment by contacting the City Clerk's Office in person, by phone (253) 931-3039, or by email (publiccomment@auburnwa.gov).

CORRESPONDENCE

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 from the February 3, 2025, City Council Meeting

B. Minutes of the February 10, 2025, Study Session Meeting

C. Claims Vouchers (Thomas)
Claims voucher list dated February 12, 2025 which includes voucher numbers 478948 through voucher 478948, in the amount of $11,741.00

Claims voucher list dated February 12, 2025 which includes voucher numbers 478949 through voucher 479055, in the amount of $3,474,771.99, 20 electronic fund transfers in the amount of $31,561.30 and two wire transfers in the amount of $809,995.94

D. Payroll Voucher (Thomas)
Payroll check numbers 539647 through 539654 in the amount of $108,068.21, electronic deposit transmissions in the amount of $2,869,056.90 for a grand total of $2,977,125.11 for the period covering January 30, 2025 to February 12, 2025

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

UNFINISHED BUSINESS

A. Council Rules of Procedure Ad Hoc Committee Selection

NEW BUSINESS

ORDINANCES

A. Ordinance No. 6963 (Thomas)
An Ordinance amending Sections 3.53.120, 3.54.030, 3.54.060, 3.54.070, 3.54.080, 3.54.140, 3.54.155, and 3.54.210 of the Auburn City Code (ACC) relating to the imposition and administration of the City Business & Occupation (B&O) Tax

(RECOMMENDED ACTION: Move to approve Ordinance No. 6963.)

B. Ordinance No. 6964 (Thomas)
An Ordinance amending Auburn City Code Chapter 3.41 related to the Administration of City's Solid Waste Garbage Utility Tax and Chapter 3.62 Administrative City Code related to Utilities, Admissions, and Gambling Tax

(RECOMMENDED ACTION: Move to approve Ordinance No. 6964.)

C. Ordinance No. 6967 (Thomas)
An Ordinance amending Auburn City Code (ACC) Chapter 3.52 related to the Administration of City Admission Tax

(RECOMMENDED ACTION: Move to approve Ordinance No. 6967.)

D. Ordinance No. 6968 (Thomas)
An Ordinance establishing the Local Sales and Use Tax Rate for Local Revitalization Financing for 2025

(**RECOMMENDED ACTION**: **Move to approve Ordinance No. 6968.)**

E. Ordinance No. 6969 (Whalen)
An Ordinance relating to Appeal Procedures, and amending Sections 2.46.035, 2.46.160, 5.15.070, 5.22.070, 5.22.090, and 15.76.040 of the Auburn City Code

(RECOMMENDED ACTION: Move to approve Ordinance No. 6969.)

RESOLUTIONS

A. Resolution No. 5811 (Krum)
A Resolution authorizing the Mayor to execute an agreement between the City of Auburn and Segale Properties LLC and Otak Inc for Consulting Services related to the Stuck River Road and Mount Rainier Vista Special Planning Areas

(RECOMMENDED ACTION: Move to adopt Resolution No. 5811.)

MAYOR AND COUNCILMEMBER REPORTS

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

A. From the Council

B. From the Mayor

ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office and on the City website (http://www.auburnwa.gov).

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Minutes from the February 3, 2025, City Council Meeting

Meeting Date:
February 18, 2025

Department:
City Council

Attachments:
02-03-2025 Minutes

Budget Impact:

Administrative Recommendation:

Background for Motion:

Background Summary:

Councilmember:

Staff:

City Council
Regular Meeting
February 3, 2025 - 7:00 PM
City Hall Council Chambers

MINUTES

CALL TO ORDER

Mayor Nancy Backus called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street.

LAND ACKNOWLEDGEMENT

Mayor Backus acknowledged the Federally Recognized Muckleshoot Indian Tribe as the ancestral keepers of the land we are gathered on today.

PUBLIC PARTICIPATION

The City Council Meeting was held in person and virtually.

PLEDGE OF ALLEGIANCE

Mayor Backus led those in attendance in the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Deputy Mayor Cheryl Rakes, Hanan Amer, Kate Baldwin, Clinton Taylor, Tracy Taylor, and Yolonda Trout-Manuel. Councilmember Larry Brown was excused.

Mayor Nancy Backus and the following staff members present included: Senior City Staff Attorney Taryn Jones, Chief of Police Mark Caillier, Director of Community Development Jason Krum, Director of Public Works Ingrid Gaub, and Acting City Clerk Hannah Scholl.

ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

A. Black History Month

Mayor Backus proclaimed February 2025 as "Black History Month" in the City of Auburn.

Members of the Green River College (GRC) Black Student Union accepted the proclamation, they thanked Mayor and Council for their support. They also provided more information about the Black Student Union at GRC including their mission and vision for the program, and invited everyone to come to their Community Day event at GRC on February 25, 2025.

B. Advanced Certificate of Municipal Leadership Award

Mayor Backus presented Councilmember T. Taylor with her Advanced Certificate of Municipal Leadership, and acknowledged her hard work and dedication.

APPOINTMENTS

A. Transportation Advisory Board
City Council to approve the appointment of Lori-Ann Black to the Transportation Advisory Board, for the American with Disabilities (ADA) position, for a three-year term expiring December 31, 2027

Deputy Mayor Rakes moved and Councilmember Trout-Manuel seconded to approve the appointment of Lori-Ann Black to the Transportation Advisory Board, for the American with Disabilities (ADA) position, for a three-year term expiring December 31, 2027.

MOTION CARRIED UNANIMOUSLY. 6-0

AGENDA MODIFICATIONS

There were no modifications to the agenda.

AUDIENCE PARTICIPATION

Written Comments:

Rocky Salvador
Rocky provided comments regarding protecting the immigrant community in Auburn.

Sherri Barber
Sherri expressed concerns regarding the management of the Auburn Valley Humane Society (AVHS), and the treatment of the animals.

Kelli Stephens
Kelli expressed concerns regarding the management at AVHS.

Genevieve S.
Genevieve provided comments regarding their positive experience with AVHS, and their management.

Sherri Duensing, Auburn WA
Sherri provided comments regarding their positive experience working with AVHS and their staff.

Member of the Community
They expressed concerns regarding AVHS and the level of care for the animals.

Mars Flannery, Auburn WA
Mars provided comments regarding their support of AVHS and their management.

Olivia Henry
Olivia provided comments regarding their positive working experience at the AVHS Cat Cafe and with the AVHS staff.

Emily Mattison, Tacoma WA
Emily expressed concerns regarding the management of the AVHS, veterinarian shortages, and the safety of both the staff and animals.

<u>In-Person Comments:</u>

Jennifer Haskins, Tacoma WA
Jennifer expressed concerns regarding AVHS, its management, and the safety of the staff.

Ron Morgan, Auburn WA
Ron expressed appreciation for the Mayor and Council, and spoke about the future of Auburn.

Emily Mattison, Tacoma WA
Emily expressed concerns regarding AVHS, including the management, staff shortages, and the safety of staff.

Lalie Pete, Lake Tapps WA
Lalie expressed concerns regarding animal care and the treatment of staff at the AVHS.

Sarah Shier, Lake Tapps WA
Sarah expressed concerns regarding the safety of the staff, animals, and customers at the AVHS.

Jessica Jones, Bonney Lake WA
Jessica expressed concerns regarding the management and safety of the staff and animals at the AVHS.

Virginia Haugen, Auburn WA
Virginia expressed concerns regarding the upcoming widening project on R Street.

Erin Donovan, Tacoma WA
Erin expressed concerns regarding AVHS and the safety of the staff at both AVHS and Northwest Spay and Neuter Center.

Trayvon, Auburn WA
Trayvon provided comments regarding Lodging Tax and invited everyone to attend the State Tourism meetings.

Mayor Backus thanked everyone for coming to speak and informed everyone about the City's upcoming meeting with the AVHS Board Chair and Vice Chair.

CORRESPONDENCE

There was no correspondence for Council to review.

CONSENT AGENDA

A. Minutes from the January 13, and January 27, 2025, Study Session Meetings

B. Minutes from the January 21, 2025, City Council Meeting

C. Claims Vouchers (Thomas)
Claims voucher list dated January 29, 2025 which includes voucher numbers 478800 through voucher 478947, in the amount of $3,103,941.50, one electronic fund transfer in the amount of $200.00 and three wire transfers in the amount of $884,055.61

D. Payroll Voucher (Thomas)
Payroll check numbers 539641 through 539646 in the amount of $685,821.75, electronic deposit transmissions in the amount of $2,594,722.71, for a grand total of $3,280,544.56 for the period covering January 16, 2025 to January 29, 2025

Deputy Mayor Rakes moved and Councilmember Amer seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 6-0

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

ORDINANCES

A. Ordinance No. 6962 (Gaub)
An Ordinance granting to City of Kent, a Washington Municipal Corporation, a Franchise for Water Facilities

Councilmember T. Taylor moved and Councilmember C. Taylor seconded to approve Ordinance No. 6962.

MOTION CARRIED UNANIMOUSLY. 6-0

B. Ordinance No. 6971 (Whalen)
An Ordinance relating to the time period to correct Code Violations, and amending Section 1.25.030.A.2 of the Auburn City Code

Councilmember T. Taylor moved and Councilmember Baldwin seconded to approve Ordinance No. 6971.

MOTION CARRIED UNANIMOUSLY. 6-0

RESOLUTIONS

A. Resolution No. 5803 (Thomas)
A Resolution authorizing the Mayor to execute an agreement between the City of Auburn and King County to implement the 2025 Local Hazardous Waste Management Program and to accept and expend Program Grant Funds

Councilmember Baldwin moved and Councilmember Amer seconded to adopt Resolution No. 5803.

MOTION CARRIED UNANIMOUSLY. 6-0

B. Resolution No. 5806 (Whalen/Gaub)
A Resolution authorizing the Mayor to execute an amendment to the Auburn Municipal Airport Land Lease with Cascade Helicopter Services relating to the implementation of the 2025 Fair Market Value Lease Rate Adjustment and other Terms

Councilmember Baldwin moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5806.

MOTION CARRIED UNANIMOUSLY. 6-0

C. Resolution No. 5810 (Krum)
A Resolution approving the Lodging Tax Grant disbursements recommended by the Auburn Lodging Tax Advisory Committee and authorizing the Mayor to execute an agreement between the City of Auburn and the Auburn Area Chamber of Commerce for the purpose of Tourism and Marketing Services

Councilmember T. Taylor moved and Councilmember Amer seconded to adopt Resolution No. 5810.

Council discussed the grant application from the Auburn Area Chamber.

MOTION CARRIED UNANIMOUSLY. 6-0

MAYOR AND COUNCILMEMBER REPORTS

A. From the Council

Council had no reports.

B. From the Mayor

Mayor Backus had no report.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:47 p.m.

APPROVED this 18th day of February 2025.

NANCY BACKUS, MAYOR	Hannah Scholl, Acting City Clerk

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Minutes of the February 10, 2025, Study Session Meeting

Meeting Date:
February 18, 2025

Department:
City Council

Attachments:
02-10-2025 Minutes

Budget Impact:

Administrative Recommendation:

Background for Motion:

Background Summary:

Councilmember:

Staff:

City Council
Study Session
Municipal Services SFA
February 10, 2025 - 5:30 PM
City Hall Council Chambers

MINUTES

CALL TO ORDER

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

PUBLIC PARTICIPATION

The Study Session Meeting was held in person and virtually.

ROLL CALL

Councilmembers present: Deputy Mayor Cheryl Rakes, Hanan Amer, Kate Baldwin, Tracy Taylor, and Yolonda Trout-Manuel. Councilmembers Larry Brown, and Clinton Taylor were excused.

Mayor Nancy Backus and the following staff members present included: Deputy City Attorney Paul Byrne, Assistant Chief of Police Samuel Betz, Director of Community Development Jason Krum, Assistant Director of Community Development Steve Sturza, Director of Public Works Ingrid Gaub, Assistant Director of Public Works Jacob Sweeting, Planning Services Manager Alexandria Teague, Director of Human Resources and Risk Management Candis Martinson, Director of Finance Jamie Thomas, and Deputy City Clerk Hannah Scholl.

AGENDA MODIFICATIONS

There were no modifications to the agenda.

ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

A. Planning Services 2025 Look Ahead (Krum) (20 Minutes)
A brief presentation on some anticipated topics that are likely to be brought before City Council for further discussion and action agenda items in 2025

Manager Teague provided Council with a presentation on the 2025 Planning Look Ahead including proposed implementation actions related to Step

Housing Types, Battery Energy Storage Systems (BESS), State Environmental Policy Act (SEPA), Critical Areas, and the Downtown Plan and Regulations. She also discussed updates and proposed implementation of the Mixed Use and Multifamily Design Standards, the current progress of the Climate Action Plan and next steps, and the annual amendments to the Comprehensive Plan.

Council discussed BESS standards, public comments, the Downtown Plan, the Climate Action Plan, and design standards.

MUNICIPAL SERVICES DISCUSSION ITEMS

A. Medical and Dental Benefit Options for Councilmembers (Martinson) (10 Minutes)

Director Martinson provided Council with an overview of the Medical and Dental benefit options for Councilmembers including Association of Washington Cities (AWC) plan options; Kaiser Permanente, Delta Dental and/or Willamette, and Standard Long Term Disability (LTD). She also discussed participation requirements, Medicare considerations, costs, and stipend options.

Council discussed premiums, budget, other jurisdictions, Public Employees' Retirement System (PERS), and criteria for a City to have full-time councils.

By consensus of the Council, it was requested to have a future presentation regarding more information on PERS eligibility, and which local municipalities have full-time councils.

AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6963 (Thomas) (10 Minutes)
An Ordinance amending Sections 3.53.120, 3.54.030, 3.54.060, 3.54.070, 3.54.080, 3.54.140, 3.54.155, and 3.54.210 of the Auburn City Code (ACC) relating to the imposition and administration of the City Business & Occupation (B&O) Tax

Director Thomas provided Council with an overview of Ordinance No. 6963 including the proposed amendments.

Council discussed penalties, and the appeal process.

B. Ordinance No. 6964 (Thomas) (10 Minutes)
An Ordinance amending Auburn City Code Chapter 3.41 related to the Administration of City's Solid Waste Garbage Utility Tax and Chapter 3.62 Administrative City Code related to Utilities, Admissions, and Gambling Tax

Director Thomas provided Council with an overview of Ordinance No. 6964 including the proposed amendments.

Council discussed Waste Management services.

C. Ordinance No. 6967 (Thomas) (10 Minutes)
An Ordinance amending Auburn City Code (ACC) Chapter 3.52 related to the Administration of City Admission Tax

Director Thomas provided Council with an overview of Ordinance No. 6967 including the proposed amendments.

Council discussed the clarity language.

D. Ordinance No. 6968 (Thomas) (5 Minutes)
An Ordinance establishing the Local Sales and Use Tax Rate for Local Revitalization Financing for 2025

Director Thomas provided Council with an overview of Ordinance No. 6968.

E. Ordinance No. 6969 (Whalen) (10 Minutes)
An Ordinance relating to Appeal Procedures, and amending Sections 2.46.035, 2.46.160, 5.15.070, 5.22.070, 5.22.090, and 15.76.040 of the Auburn City Code

Deputy City Attorney Byrne provided Council with an overview of Ordinance No. 6969 including the proposed amendments.

Council discussed other jurisdictions.

Deputy Mayor Rakes announced the need to establish the Council Rules of Procedure Ad Hoc Committee, and asked Council who had interest in being on the Committee.

Councilmember Baldwin and C. Taylor expressed interest. Deputy Mayor Rakes announced they will bring this forward for a vote at the next City Council meeting.

F. Resolution No. 5811 (Krum) (20 Minutes)
An overview of the Stuck River Road/Mount Rainier Vista Sub-Area Planning Process relating to a Resolution authorizing the Mayor to execute an agreement between the City of Auburn and Segale Properties LLC and Otak Inc for Consulting Services related to the Stuck River Road and Mount Rainier Vista Special Planning Areas

This item was moved to the beginning of the Agenda Items for Council Discussion section.

Assistant Director Sturza and Manager Teague provided Council with an overview of Resolution No. 5811 including the project location, growth centers, Land Use Designation, Zoning District, the Environmental Impact Statement process, and infrastructure needs and opportunities.

Project Manager Mandi Roberts with Otak, Inc., provided Council with an overview of the Otak Team, City of Auburn projects, and relevant experience and implementation relating to Subarea Plans, Planned Action Environmental Impact Statement's (EIS's), Mixed Use Centers, Mines/Pits, and Housing Analysis. She also discussed the proposed project process and timeline, engagement with the City, and community interests.

Council discussed community outreach, critical areas, wilderness parks, the EIS process, and public comments.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:15 p.m.

APPROVED this 18th day of February, 2025.

CHERYL RAKES, DEPUTY MAYOR	Hannah Scholl, Deputy City Clerk

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Claims Vouchers (Thomas)
Claims voucher list dated February 12, 2025 which includes voucher numbers 478948 through voucher 478948, in the amount of $11,741.00

Claims voucher list dated February 12, 2025 which includes voucher numbers 478949 through voucher 479055, in the amount of $3,474,771.99, 20 electronic fund transfers in the amount of $31,561.30 and two wire transfers in the amount of $809,995.94

Meeting Date:
February 18, 2025

Department:
Finance

Attachments:
None

Budget Impact:

Administrative Recommendation:
City Council to approve Claim Vouchers.

Background for Motion:

Background Summary:
Claims voucher list dated February 12, 2025 which includes voucher numbers 478948 through voucher 478948, in the amount of $11,741.00.

Claims voucher list dated February 12, 2025 which includes voucher numbers 478949 through voucher 479055, in the amount of $3,474,771.99, 20 electronic fund transfers in the amount of $31,561.30 and two wire transfers in the amount of $809,995.94.

Councilmember: Kate Baldwin

Staff: Jamie Thomas

AGENDA BILL APPROVAL FORM

Agenda Subject:
Payroll Voucher (Thomas)
Payroll check numbers 539647 through 539654 in the amount of $108,068.21, electronic deposit transmissions in the amount of $2,869,056.90 for a grand total of $2,977,125.11 for the period covering January 30, 2025 to February 12, 2025

Meeting Date:
February 18, 2025

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

Department:	**Attachments:**	**Budget Impact:**
Finance	None	

Administrative Recommendation:
City Council to approve Payroll Vouchers.

Background for Motion:

Background Summary:
Payroll check numbers 539647 through 539654 in the amount of $108,068.21, electronic deposit transmissions in the amount of $2,869,056.90 for a grand total of $2,977,125.11 for the period covering January 30, 2025 to February 12, 2025.

Councilmember: Kate Baldwin **Staff:** Jamie Thomas

AGENDA BILL APPROVAL FORM

Agenda Subject:
Council Rules of Procedure Ad Hoc Committee Selection

Meeting Date:
February 18, 2025

Department:
City Council

Attachments:
None

Budget Impact:

Administrative Recommendation:

Background for Motion:

Background Summary:

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

Section 16.2 Ad Hoc Committees

The Mayor, the Deputy Mayor or interim Deputy Mayor, or a majority of the City Council may establish an Ad Hoc Committee as may be appropriate to consider special matters that require special approach or emphasis. The Deputy Mayor or Interim Deputy Mayor, shall be the ex-officio member of all Ad Hoc Committees. The remaining two members shall be voted on by the full Council.

A. Ad Hoc Committees may be established and matters referred to them at Study Sessions, without the requirement that such establishment or referral take place at a regular City Council Meeting.

B. Ad Hoc Committees shall consider all matters referred to them and take action by majority consensus only when all Ad Hoc Councilmembers are present. The Chair of such Ad Hoc Committee shall report to the Council the findings of the committee. Committees may refer items to the Council with a committee recommendation or with no committee recommendation.

C. Unless otherwise expressly provided for when forming an Ad Hoc Committee, it is the intention of the Council that Ad Hoc Committees function informally and not in any way that takes action in lieu of or on behalf of the full Council. The purpose and function of such Ad Hoc Committees shall be to review matters in advance of their consideration by the full Council, and perhaps record and make recommendations to the full Council. They are not “committees of a governing body” subject to the requirements of the Open Public Meetings Act (Chapter 42.30. RCW). Ad Hoc Committees shall not receive public testimony or allow audience participation in connection with or related to the agenda item being discussed by the Committee.

D. Councilmembers on Ad Hoc Committees may request a staff liaison, and City Attorney or City Attorney's designee, be present to assist the Councilmembers with institutional knowledge on the subject matter to be discussed. All requests for staff assistance must be approved by the Mayor prior to allocating resources.

Councilmember:	**Staff:**

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6963 (Thomas)
An Ordinance amending Sections 3.53.120, 3.54.030, 3.54.060, 3.54.070, 3.54.080, 3.54.140, 3.54.155, and 3.54.210 of the Auburn City Code (ACC) relating to the imposition and administration of the City Business & Occupation (B&O) Tax

Meeting Date:
February 18, 2025

(RECOMMENDED ACTION: Move to approve Ordinance No. 6963.)

Department:	**Attachments:**	**Budget Impact:**
Finance	Ordinance No. 6963, Ordinance No. 6963 Exhibit A - Chapter 3.53 ACC, Ordinance No. 6963 Exhibit B - Chapter 3.54 ACC	

Administrative Recommendation:
City Council to approve Ordinance No. 6963.

Background for Motion:
This Ordinance would update Auburn City Code to add consistency and clarity for the administration of B&O Tax.

Background Summary:
The City first adopted the Business and Occupation Tax Code and Administrative Provisions in 2021. When the Code was first written and adopted, it was acknowledged that there would be a series of revisions in the first several years in order to provide better clarity and alignment.

Ordinance No. 6963 makes five primary amendments:

1. Repeal Auburn Business Improvement Area (BIA) assessment credit. Prior to September 27, 2021, there existed a credit equal to the BIA assessment fee imposed by Chapter 2.98 of the ACC. The BIA assessment was eliminated by Ordinance No. 6831 in September 2021, and therefore no further credits were issued. No further credits shall be issued under this Section (3.53.120);

2. Remove a reference to monthly filing as an invalid filing frequency (3.54.030);

3. Remove tax payment methods that are no longer available (3.54.070);

4. Amend records retaining period from five to ten years to maintain consistency with City Code

(3.54.080); and

5. Amend to identify the different types of penalties and applicability of penalties to mirror the language contained in RCW 82.32.090. The penalties were revised to the extent needed to maintain consistency with City Code (3.54.140).

The purpose of all the amendments is to add greater clarity for application and compliance with the Tax Code.

Councilmember: Kate Baldwin **Staff:** Jamie Thomas

ORDINANCE NO. 6963

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON AMENDING SECTIONS 3.53.120, 3.54.030, 3.54.060, 3.54.070, 3.54.080, 3.54.140, 3.54.155, AND 3.54.210 OF THE AUBURN CITY CODE (ACC) RELATING TO THE IMPOSITION AND ADMINISTRATION OF THE CITY BUSINESS & OCCUPATION (B&O) TAX

WHEREAS, Auburn City Code (ACC) Chapter 3.53 enacts the City's B&O tax and ACC 3.54 provides for administration of the B&O tax; and

WHEREAS, sections of Chapter 3.53 and Chapter 3.54 ACC would benefit from amendments for clarity, Code consistency, and to match City updates related to administration of the Chapters;

WHEREAS, Section 3.53.120.B ACC as amended would repeal the *Auburn Business Improvement Area (BIA) Assessment* credit. Prior to September 27, 2021, there existed a credit equal to the BIA assessment fee imposed by Chapter 2.98 ACC. The BIA assessment was eliminated by Ordinance 6831 in September 2021, and therefore no further credits issued. No further credits shall issue under this section; and

WHEREAS, Sections 3.54.030 and 3.54.060 ACC as amended would modify the definition for "reporting period" to exclude a monthly filing requirement; Section 3.54.070 ACC as amended would remove tax payment methods no longer available; and Section 3.54.080 ACC as amended would to change the records retention period from five to ten years to maintain consistency with City Code; and

WHEREAS, Section 3.54.140 ACC related to "penalties" for late payments, evasion, and disregard of written instructions. This Section previously referenced the penalties imposed for the same under State law contained in RCW 82.32.090, but as amended incorporates the language and alters it to the extent necessary to maintain consistency with City Code and City administration; and

WHEREAS, Section 3.54.155.B ACC as amended corrects a reference to ACC 3.54.140; and

WHEREAS, Section 3.54.210 ACC as amended adds an electronic method of submission of tax notice; and

WHEREAS, the revisions proposed in this ordinance are in the best interest of the City and its taxpayers.

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

Section 1. **Amendment to City Code.** Section 3.53.120 ACC is hereby amended to read as set forth in Exhibit A attached to this Ordinance.

Section 2. **Amendment to City Code.** Sections 3.54.030; 3.54.060; 3.54.070; 3.54.080; 3.54.140; 3.54.155; and 3.54.210 ACC are hereby amended to read as set forth in Exhibit B attached to this Ordinance.

Section 3. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 4. **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 of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. **Effective date.** This Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: ________________

PASSED: _____________________

APPROVED: __________________

____
NANCY BACKUS, MAYOR

ATTEST:

____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

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Jason Whalen, City Attorney

Published: ____

3.53.120 Tax credits.

A. *New Business Tax Credit.*

1. *Purpose.* The city believes that providing a temporary tax credit relating to new businesses is a meaningful method of fostering such new businesses to establish a solid financial foundation during its start-up process. Further, the city finds that a credit related to the creation of new full-time equivalent ("FTE") employees within the city will benefit other local businesses. Therefore, considering situations particular and unique to the city, the city finds that it is appropriate to differ from the business and occupation tax model ordinance in providing for a new business tax credit as described in this section.

2. There may be credited against the tax imposed by ACC 3.53.040, the amount up to $1,000 per FTE position in the city of Auburn per quarter. To take the credit authorized by this section, a taxpayer must be able to document all of the following:

a. The taxpayer has not, for any period of time, engaged in business in the city of Auburn within the five years preceding application of the tax credit;

b. The taxpayer employs 20 or more full-time equivalent positions in Auburn. An FTE position is defined as each 1,920 worker hours per calendar year;

c. The taxpayer may be required to submit its payroll information and/or other documentation in support of such employee hours worked in the city;

d. The taxpayer must report, on each return filed, the taxpayer's total number of full-time employment positions created and positions currently filled; and

e. The taxpayer must employ a minimum of 20 FTEs in each quarter the credit is being applied.

3. The tax credit can be taken for the first 12 consecutive reporting quarters or three reporting years.

4. This credit is not considered a payment of taxes for purposes of seeking a refund of overpayment of tax pursuant to the provisions contained in Chapter 3.54 ACC, or any other

purpose. As such, unused credit amounts will not be refunded, carried over from reporting period(s) to reporting period(s), and will not accrue interest.

5. The director is authorized to promulgate rules implementing, interpreting, and enforcing the provisions of this section.

~~B. *Auburn Business Improvement Area Assessment Credit.*~~

~~1. *Purpose.* Certain businesses operating within the business improvement area (BIA) boundaries, as identified in Chapter 2.98 ACC, are subject to an annual assessment. The purpose of the assessment is to enhance trade, economic vitality, and livability within the city of Auburn. The city believes that providing business and occupation tax relief to local businesses that are subject to the BIA assessment helps ensure their continued downtown presence, which contributes towards a vibrant downtown core and further benefits other local businesses not subject to the BIA assessment.~~

~~2. There may be credited against the tax imposed by ACC 3.53.040, an amount equal to the BIA assessment fee paid as imposed by Chapter 2.98 ACC.~~

~~3. This credit is not considered a payment of taxes for purposes of seeking a refund of overpayment of tax pursuant to the provisions contained in Chapter 3.54 ACC, or any other purpose. As such, unused credit amounts will not be refunded, carried over from reporting period(s) to reporting period(s), and will not accrue interest.~~

~~4. The director is authorized to promulgate rules implementing, interpreting, and enforcing the provisions of this section.~~

3.54.030 Definitions.

For purposes of this chapter:

The definitions contained in Chapter 3.53 ACC shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply:

A. "Cash basis" means a basis of accounting which recognizes revenues and expenses as occurring in the reporting period when they were actually either received or paid.

B. "City" means the city of Auburn and all of its departments, including Auburn public libraries and Auburn public utilities.

C. "Department" means the tax division of the finance department of the city or any successor department.

D. "Director" means the director of the finance department of the city or any officer, agent, or employee of the city designated to act on the director's behalf.

E. "Generally accepted accounting principles" means those national accounting standards promulgated by the Financial Accounting Standards Board for businesses and nonprofit associations or by the Governmental Accounting Standards Board for state agencies or local governments.

F. "Records" means the books of accounts and other business-related records of a taxpayer subject to the city's tax code or license code. Such records include ledgers, subsidiary ledgers, invoices, receipts, registration and incorporation documents, federal, state and local tax returns, and any other records necessary to establish the amounts due under the provisions of this code.

G. "Reporting period" means:

~~1. A one-month period beginning the first day of each calendar month (monthly); or~~

1~~2~~. A three-month period beginning the first day of January, April, July or October of each year (quarterly); or

2~~3~~. A 12-month period beginning the first day of January of each year (annual).

H. "Return" means any document a person is required by the city to file to satisfy or establish a tax or fee obligation that is administered or collected by the city and that has a statutorily defined due date.

I. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

J. "Tax" means the amount, usually based upon gross income, assessed upon a person doing business under the provisions of Chapter 3.53 ACC.

K. "Tax year" or "taxable year" means the calendar year.

3.54.060 When due and payable – Reporting periods – ~~Monthly,~~ Q~~q~~uarterly~~,~~ and annual returns – Threshold provisions or relief from filing requirements – Computing time periods – Failure to file returns.

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by Chapter 3.53 ACC shall be submitted using only city-authorized tax return forms, and shall be due and payable as follows:

1. Taxpayers with gross income of less than $2,000 per calendar year that do not maintain a permanent operating location within the city are exempt from the tax and return requirements imposed by this chapter.

2. Taxpayers who were directly contacted by the director or the total estimated tax due imposed under Chapter 3.53 ACC for a calendar year exceeds $3,000, shall be due in quarterly installments, and paid on or before the thirtieth day of the month after the end of the quarterly period in which the income was received.

3. All other businesses who did not receive a written notification from the director or whose estimated annual tax due imposed by this chapter is less than $3,000 shall be due annually and paid on or before April 30th of the year following the year in which the income was received. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

B. Director reserves the right to review and reassign tax return filing frequency on a case-by-case basis, as warranted by administrative requirements and applicable under this chapter.

C. For purposes of the tax imposed by Chapter 3.53 ACC, any person whose value of products, gross proceeds of sales, or gross income of the business is equal to or less than $500,000 in the current calendar year and/or whose combined taxable business warehouse square footage within the city is 4,000 square feet or less, shall file a return declaring no tax due and submit the return to the director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

D. Taxes shall be paid as provided in this chapter and accompanied by a return on city-authorized forms as prescribed by the director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

E. Tax returns must be filed and returned by the due date whether or not any tax is owed, unless a taxpayer qualifies for an exemption under subsections (A)(1) and(C) of this section and will be placed on the nonreporting status. Each taxpayer who claims a tax filing exemption must submit a written request to the director providing the detailed explanations. The director will inform a taxpayer in writing about the status change and only written notice from the director confirms the nonreporting status.

F. A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

G. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or city or federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or city or federal legal holiday.

H. Unless otherwise provided in this chapter, if any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the city by the taxpayer. The director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.54.070 Payment methods – Mailing returns or remittances – Time extension – Deposits – Recording payments – Payment must accompany return – NSF checks.

A. Taxes shall be paid to the director in United States currency by ~~bank draft,~~ certified check, cashier's check, personal check, money order, ~~cash, or by wire transfer~~ or electronic payment if such wire transfer or electronic payment is authorized by the director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the director shall not discharge the tax or fee due unless the amount paid is the full amount due.

B. A return or remittance that is transmitted to the city by United States mail shall be deemed filed or received on the date shown by the cancellation mark stamped by the post office upon the envelope containing it. The director may allow electronic filing of returns or remittances from any taxpayer. A return or remittance which is transmitted to the city electronically shall be deemed filed or received according to procedures set forth by the director.

C. The director shall keep full and accurate records of all funds received or refunded. The director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.

D. For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

E. Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "nonsufficient funds" (NSF) charge of $35.00 is received by the director. Any license issued upon payment with a NSF check will be considered void, and shall not be reissued until payment (including the $35.00 NSF fee) is received.

F. The director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to obtain any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter. (Ord. 6898 § 2 (Exh. B), 2023; Ord. 6814 § 2 (Exh. B), 2021.)

3.54.080 Records to be preserved – Examination – Estoppel to question assessment.

Every person liable for any fee or tax imposed by this chapter shall keep and preserve, for a period of ~~five~~ ten years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the director or its duly authorized agent. Every person's business premises shall be open for inspection or examination by the director or a duly authorized agent.

A. If a person does not keep the necessary books and records within the city, it shall be sufficient if such person (1) produces within the city such books and records as may be required by the director, or (2) bears the cost of examination by the director's agent at the place where such books and records are kept; provided, that the person electing to bear such cost shall pay in advance to the director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

B. Any person who fails, or refuses a finance department request, to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes made by the city for any period for which such records have not been provided, made available or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the city by the taxpayer. The director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.54.140 Late payment – Disregard of written instructions – Evasion – Penalties.

A. Delinquent Penalty. ~~If payment of any tax due on a return to be filed by a taxpayer is not received by the director by the due date, the director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.~~ If a taxpayer fails to pay any tax due on a return by its due date, there may be assessed a penalty of nine percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there is assessed a total penalty of nineteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there is assessed a total penalty of twenty-nine percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars.

B. Substantially Underpaid Penalty. ~~If the director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.~~ If the director determines that a taxpayer has substantially underpaid any tax, the director may add a penalty to the tax as follows:

1. There may be assessed a penalty of five percent of the amount of the tax determined by the department to be due.

2. If payment of any tax determined by the director or designee to be due is not received by the City by the due date specified in the notice, or any extension thereof, there is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the director to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection.

3. No penalty so added may be less than five dollars.

4. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the director to be due for all of the types of taxes included in, and for the entire period of time covered by, the City's examination, and the amount of underpayment is at least one thousand dollars.

~~C. If a citation or criminal complaint is issued by the director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.~~

C~~D~~. Failure to Register Penalty. ~~If the director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the director a license as required by Chapter 5.10 ACC, the director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under this subsection D if the person who has engaged in business without a license obtains a license prior to being notified by the director of the need to be licensed.~~ If the director finds that a person has engaged in any taxable business or activities under this title without a license required by Chapter 5.10 ACC, the director must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required. No penalty shall be imposed under this subsection if the person obtains the required license before receiving written notice of the licensing requirement from the director.

D~~E~~. Failure to Follow Written Tax Reporting Instructions. ~~If the director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.~~ If the director determines that all or any part of a taxpayer's deficient tax payment resulted from the taxpayer's failure to follow specific city written tax reporting instructions, the director shall assess a penalty of ten percent of the amount of the tax that should have been reported or the additional tax found due if there is a deficiency because of the failure to follow the instructions.

1. A taxpayer disregards specific written instructions when the City has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless, in the case of a deficiency, the City has not issued final instructions because the matter is under appeal pursuant to this chapter or City Code.

2. The City may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the City to that taxpayer. A taxpayer will be considered to have made a good faith effort to comply with specific written instructions to file returns only if the taxpayer can show good cause for the failure to comply with such instructions.

3. "Good cause" means the inability of a taxpayer to comply with the requirements of this Chapter because any circumstance or condition exists that, in the director's judgment, prevents the taxpayer from complying with the requirements of this section. "Good cause" also includes any circumstance that, in the director's judgment, supports the efficient or effective administration of the tax code of the City.

4. Specific written instructions may be given as a part of a tax assessment, audit, determination, closing agreement, or other written communication, provided that such specific written instructions apply only to the taxpayer addressed or referenced on such communication. Any specific written instructions by the director must be clearly identified as such and must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

5. If the director determines that it is necessary to provide specific written instructions to a taxpayer that does not comply with the requirement to file returns as provided by this Chapter, the specific written instructions must provide the taxpayer with a minimum of forty-five days to come into compliance with its payment obligations before the City may impose the penalty authorized in this subsection.

E~~F~~. Evasion penalty. ~~If the director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.~~ If the director finds that all or any part of a taxpayer's deficient tax payment resulted from an intent to evade the tax, the director shall assess a further penalty of fifty percent of the additional tax found to be due.

F~~G~~. The penalties imposed under subsections A through D~~E~~ of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

G~~H~~. The director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

~~I. For the purposes of this section, "return" means any document a person is required by the city of Auburn to file to satisfy or establish a tax or fee obligation that is administered or collected by the city, and that has a statutorily defined due date.~~

~~J. If incorporation into the city of Auburn code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time the ordinance codified in this chapter is effective shall apply.~~

3.54.155 Voluntary registration prior to director contact.

If an unregistered taxpayer doing business in the city voluntarily registers with the director pursuant to ACC 3.54.050 prior to being contacted by the director:

A. The director's assessment of taxes and/or interest pursuant to ACC 3.54.060(G) shall be limited to four calendar years before the year of registration; and

B. The taxpayer's payments for the registration year and prior assessed years shall not be subject to the ~~late~~ "Failure to Register" penalty in ACC 3.54.140.

3.54.210 ~~Mailing~~ Submission of notices.

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail and/or electronically submitted to, ~~addressed to~~ the address of the taxpayer or licensee as shown by the records of the director. Failure of the taxpayer or licensee to receive any such ~~mailed~~ notice shall not release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. It is the responsibility of the taxpayer to inform the director in writing about a change in the taxpayer's mailing and/or email addresses.

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6964 (Thomas)
An Ordinance amending Auburn City Code Chapter 3.41 related to the Administration of City's Solid Waste Garbage Utility Tax and Chapter 3.62 Administrative City Code related to Utilities, Admissions, and Gambling Tax

Meeting Date:
February 18, 2025

(RECOMMENDED ACTION: Move to approve Ordinance No. 6964.)

Department:	**Attachments:**	**Budget Impact:**
Finance	Ordinance No. 6964, Ordinance No. 6964 Exhibit A, Ordinance No. 6964 Exhibit B	

Administrative Recommendation:
City Council to approve Ordinance No. 6964.

Background for Motion:
This Ordinance would update the Auburn City Code to add definitions for Solid Waste Utility Tax, and to align administrative provisions for Utility Taxes, with the administrative provisions for other Business Taxes.

Background Summary:
The City of Auburn first imposed a Solid Waste Utility Tax in 1986. The original purpose of the Solid Waste Tax was to tax the collection and hauling of solid waste. Over time, technology and services involving solid waste have evolved significantly. The purpose of Ordinance No. 6964 makes two primary revisions: to add significant language to the Solid Waste Garbage Utility Tax (Chapter 3.41) definition section; to account for industry changes and align City Code with definitions in RCW; and amend the Administrative Code for Certain City Taxes (Chapter 3.62) to align administrative procedures between Utility Taxes (including solid waste), Admissions Taxes, and Gambling Taxes.

Definition changes to Section 3.41 include:

1. Moving definitions currently in Section 3.41.010 into the definition Section 3.41.011;

2. Adding definitions for "compostables", "food scraps", "garbage", "hazardous substances", hazardous waste", putrescible waste", "recyclables", "recycling", "solid waste", "solid waste collection service", "special waste", "swill", and "yard debris"
and added additional definitions to enable greater clarity and precision in the administration and implementation of the City's Solid Waste Utility tax; and

Administrative changes to Section 3.62 include:

1. Remove monthly filing definition (3.62.015);

2. Remove tax payment methods that are no longer available (3.62.040);

3. Amend to identify the different types of penalties and applicability of penalties to mirror the language contained in RCW 82.32.090. The penalties were revised to the extent needed to maintain consistency with City Code (3.62.070); and

4. Add electronic method as method of submission notice (3.62.140)

The purpose of all the amendments is to add greater clarity for application and compliance with the Tax Code.

Councilmember: Kate Baldwin **Staff:** Jamie Thomas

ORDINANCE NO. 6964

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON AMENDING AUBURN CITY CODE CHAPTER 3.41 RELATED TO THE ADMINISTRATION OF CITY'S SOLID WASTE GARBAGE UTILITY TAX AND CHAPTER 3.62 ADMINISTRATIVE CITY CODE RELATED TO UTILITIES, ADMISSIONS, AND GAMBLING TAX

WHEREAS, Chapter 3.41 ACC imposes a tax on solid waste utility activities within the City;

WHEREAS, Sections 3.41.010 and 3.41.011 as amended will provide more expansive definitions and more comprehensive tax imposition language to enable greater clarity and precision in the administration and implementation of the City's Solid Waste Garbage Utility Tax; and

WHEREAS, Chapter 3.62 ACC provides the administrative provisions for the imposition of utility, admission, gambling and other taxes within the City, including the Solid Waste Garbage Utility Tax;

WHEREAS, Section 3.62.015 ACC as amended will remove monthly filing requirement; Section 3.62.040 ACC as amended will remove tax payment methods are no longer available; and Section 3.62.080 ACC as amended will change the record retention period from five to ten years to maintain consistency with City Code and facilitate administration of the Solid Waste Garbage Utility Tax; and

WHEREAS, Section 3.62.070 ACC related to "penalties" for late payments, evasion, and disregard of written instructions. This Section previously referenced the penalties imposed for the same under State law contained in RCW 82.32.090, but as amended incorporates the language and alters it to the extent necessary to maintain consistency with City Code and City administration; and added naming for each type of penalty for greater clarity and guidance; and

WHEREAS, Section 3.62.140 ACC as amended adds electronic method of submission of notice; and

WHEREAS, these revisions and additions to the City tax code will enable greater clarity and precision in the administration and implementation of City taxes and are in the best interest of the City and its taxpayers.

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

Section 1. **Amendments to City Code.** Chapter 3.41 ACC are hereby amended to read as set forth in Exhibit A attached to this Ordinance.

Section 2. **Amendments to City Code.** Chapter 3.62 ACC are hereby amended to read as set forth in Exhibit B attached to this Ordinance.

Section 3. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 4. **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 of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. **Effective date.** This Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _______________

PASSED: ____________________

APPROVED: _________________

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NANCY BACKUS, MAYOR

ATTEST:

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Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

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Jason Whalen, City Attorney

Published: ____

Chapter 3.41

SOLID WASTE GARBAGE UTILITY TAX

Sections:

3.41.010 Garbage and solid waste utility tax created.

A. There is hereby levied upon and shall be collected from every person engaging in or carrying on the solid waste collection business and every business enterprise or other entity engaged in handling solid waste, a tax equal to 11.5 percent of the total gross income from such business conducted within the City. ~~, created an 11.5 percent tax to be levied on and after January 1, 2023, against and upon the gross receipts and total annual revenues of:~~

~~1. The city's garbage fund; and~~

~~2. All solid waste utilities and every business enterprise or other entity engaged in handling solid waste.~~

~~B. For the purposes of this section, "solid waste" means garbage, recyclables and yard debris.~~

B~~C~~. The finance director is directed to collect this tax and to pay the collected funds into the city's general expense fund, subject to subsection C~~D~~ of this section.

C~~D~~. On and after January 1, 2023, the finance director shall allocate two and one-half percent of the tax revenue received under this section for the purpose of acquiring, investing in, constructing, improving, providing, operating, preserving, maintaining and/or funding transportation improvements in the city.

D~~E~~. The tax rate in subsection A of this section shall automatically revert to nine percent if the state of Washington provides the city's arterial street preservation fund with a long-term sustainable funding source that is sufficient to maintain the city's arterial street system's pavement condition index (PCI) at an average of 70 PCI out of a score of 100 PCI for the foreseeable future.

E~~F~~. Pursuant to RCW 35.58.560, nothing in this section shall be intended or construed to impose a tax on any county owned or operated solid waste facility.

3.41.011 Definitions.

~~A. "Solid waste" means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use, infectious, hazardous, or toxic wastes, and recyclable or reusable materials collected, in whole or part, for recycling or salvage.~~

~~B. "Solid waste collection service" means receiving solid waste for transfer, processing, treatment, storage, or disposal including, but not limited to, all collection services, public or private dumps, transfer stations, and similar operations.~~

The following definitions apply to throughout this Chapter:

A. "Compostables" means yard debris, shredded compostable mixed paper, and food scraps separately or combined.

B. "Food scraps" means all compostable pre – and post-consumer organic wastes, such as whole or partial pieces of produce, meats, bones, cheese, bread, cereals, coffee grounds or eggshells, and food-soiled paper such as paper napkins, paper towels, paper plates, coffee filters, paper take-out boxes, pizza boxes, or other paper or biodegradable products.

C. "Garbage" means all putrescible and nonputrescible solid and semi-solid wastes, including, but not limited to, rubbish, ashes and discarded commodities. The term "garbage" shall not include special wastes, swill, construction/demolition materials segregated from other wastes, or source-separated recyclables and compostables.

D. "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste. Hazardous substances also includes any item or substance deemed a hazardous waste or hazardous substance under Chapter 70A.300 RCW.

E. "Hazardous waste" means and includes all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.

F. "Putrescible waste" means solid waste which contains material capable of being readily decomposed by microorganisms.

G. "Recyclables" means certain reclaimable materials that are separated from garbage by the generator for recycling or reuse, including, but not limited to, paper fibers, metals, glass, plastics, organics and other materials.

H. "Recycling" means any process by which solid waste materials are transformed into reusable resources or reusing waste materials and extracting valuable materials from a waste stream.

I. "Solid waste" means garbage, recyclables, compostables, and special waste.

J. "Solid waste collection service" means collecting and/or receiving solid waste for transfer, processing, treatment, recycling, storage, or disposal including, but not limited to, all collection services, public or private dumps, transfer stations, and similar operations.

K. "Special waste" means any discarded material from a nonresidential source including: process sludges, waste from a pollution control process, waste containing free liquids, unknown chemical containing equipment removed from service, residue from the cleanup of a spill of a waste chemical, contaminated residuals from the cleanup of a facility associated with chemical waste, off-specifications and outdated commercial products or chemicals, friable asbestos, asbestos-bearing process waste, untreated medical waste, treated medical waste, residues/sludges from septic tanks, incinerator ash, oil, paint and emission control filters. Special waste also includes hazardous waste and hazardous substances.

L. "Swill" means and includes every waste accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetables, except coffee grounds.

M. "Yard debris" means leaves, grass clippings of woody as well as fleshy plants. Nonflocked Christmas trees are acceptable as yard debris if cut up and bundled. Material larger than four inches in diameter or four feet in length is excluded. Degradable string or twine, not nylon or other synthetic material, shall secure bundles of yard debris.

3.41.012 Administration and collection of tax.

The tax imposed by this chapter shall be administered and collected in accordance with Chapter 3.62 ACC.

3.41.013 Deductions.

A. Taxpayers may deduct from gross receipts any revenues derived from business that state or federal law prohibits the city from taxing.

B. Solid waste collection businesses may deduct from gross receipts the amount of excise taxes the business collects and remits pursuant to Chapter 82.18 RCW.

3.41.014 Overpayment of tax.

Repealed by Ord. 6921.

3.41.015 Special internal tax created.

Repealed by Ord. 6801.

3.41.020 Levy and collection of tax.

Repealed by Ord. 6801.

Chapter 3.62

ADMINISTRATIVE CODE FOR CERTAIN CITY TAXES

Sections:

3.62.010 Purpose of chapter.

The purpose of this chapter is to set forth the administrative requirements for the collection and payment of city taxes imposed by Chapters 3.40, 3.41, 3.42, 3.52, 3.80, 3.84, and 3.88 ACC. Refer to Chapter 3.54 ACC for the administrative requirements related to the city's business and occupation (B&O) tax imposed by Chapter 3.53 ACC.

3.62.015 Definitions.

Unless defined otherwise in an applicable section of this code, the following definitions apply to this chapter and to Chapters 3.40, 3.41, 3.42, 3.52, 3.80, 3.84, and 3.88 ACC:

A. "Cash basis" means a basis of accounting which recognizes revenues and expenses as occurring in the reporting period when they were actually either received or paid.

B. "City" means the city of Auburn and all of its departments.

C. "Department" means the city's finance department (or any successor city department responsible to administer city taxation).

D. "Director" means the director of the city's finance department, or any city officer, agent, or employee designated to act on the director's behalf.

E. "Gambling" means any activity identified in RCW 9.46.0237.

F. "Generally accepted accounting principles" means those national accounting standards promulgated by the financial accounting standards board for businesses and nonprofit associations or by the governmental accounting standards board for state agencies or local governments.

G. "Gross income" means the value proceeding or accruing by reason of the transaction of business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidence of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments, however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued without any deduction on account of losses.

H. "Gross receipts" has the same meaning as gross income.

I. "Person" means any individual or entity subject to or potentially subject to taxation under Chapters 3.40, 3.41, 3.42, 3.52, 3.80, 3.84, and 3.88 ACC.

J. "Records" means the books of accounts and other business-related records of a taxpayer subject to the city's tax code or license code. Such records include ledgers, subsidiary ledgers, invoices, receipts, registration and incorporation documents, federal, state and local tax returns, and any other records necessary to establish the amounts due under the provisions of this code.

K. "Reporting period" means:

~~1. A one-month period beginning the first day of each calendar month (monthly); or~~

12. A three-month period beginning the first day of January, April, July or October of each year (quarterly); or

23. A 12-month period beginning the first day of January of each year (annual).

L. "Return" means any document a person is required by the city to file to satisfy or establish a tax or fee obligation that is administered or collected by the city and that has a statutorily defined due date.

M. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

N. "Tax" means the amount, usually based upon gross income, assessed upon a person doing business under the provisions of Chapters 3.40, 3.41, 3.42, 3.52, 3.80, 3.84 and 3.88 ACC.

O. "Tax year" or "taxable year" means the calendar year.

3.62.016 Registration/license requirements.

No person shall engage in any business or conduct any business activity without first obtaining a valid current business registration as required by Chapter 5.10 ACC, General Business License.

3.62.020 Exemption from tax return and payment requirements.

A. Persons with a gross income of less than $2,000 in a calendar year that do not maintain a permanent operating location within the city are exempt from the tax return and payment requirements imposed by this chapter and by Chapters 3.40, 3.41, 3.42, 3.52, 3.80, 3.84 and 3.88 ACC.

B. Taxpayers claiming an exemption under this section must submit a written exemption request to the director. The director must approve an exemption request in writing before a taxpayer will be granted an exemption from the tax and return requirements in this chapter.

3.62.030 Tax return filing and payment requirements.

A. *Taxpayers Subject to the Tax Imposed by Chapters 3.40, 3.41, 3.42, 3.80, 3.84 and 3.88 ACC.* Taxpayers subject to these chapters shall record and report tax due on a city tax return form, and shall file the return and pay the corresponding tax due to the city finance director, as follows:

1. *Taxpayers With Gross Income of $20,000 per Month or Less.* Unless ACC 3.62.020(A) applies, the taxes imposed by those chapters shall be due annually, and paid on or before April 30th of the year following the year in which the income was received.

2. *Taxpayers With Gross Income Exceeding $20,000 per Month.* The taxes imposed by those chapters shall be due in quarterly installments, and paid on or before the thirtieth day of the month after the end of the quarterly period in which the income was received.

B. *Taxpayers Subject to the Tax Imposed by Chapter 3.52 ACC.* Taxpayers subject to the tax imposed by Chapter 3.52 ACC shall record and report tax due on a city tax return form. Tax owed under this chapter is due and payable in quarterly installments and shall be paid on or before the thirtieth day of the month after the end of the quarterly period in which the taxpayer received the income.

C. If a taxpayer is subject to multiple taxes imposed under different Chapters 3.40, 3.41, 3.52, 3.53, 3.80, 3.84 and 3.88 ACC, a taxpayer shall report all taxes on the same city tax return form, using the same filling frequency, determined in accordance with subsections (A)(1), (A)(2) and B of this section.

D. The director reserves the right to review and reassign the tax return filing frequencies in this section case by case.

E. *Taxpayer Accounting Methods.* Taxpayers may file tax returns listing amounts based on cash receipt only if the taxpayer's records are kept on a cash basis. Otherwise, taxpayers must file returns listing amounts based on an accrual accounting method.

F. Taxes shall be paid as provided in this chapter and accompanied by a return on the city authorized tax forms as prescribed by the director. Taxpayer returns shall be signed by the taxpayer or by their authorized agent. The individual signing the return shall swear or affirm that the return information is true and complete. Unless exempt from taxation under ACC 3.62.020, taxpayers must file city tax ~~reutrns~~ returns whether or not any tax is owed.

G. Unless otherwise provided in this chapter, if any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the city by the taxpayer. The director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.62.040 Tax payment methods and requirements.

A. Taxpayers shall pay taxes due to the director in United States currency by ~~bank draft,~~ certified check, cashier's check, personal check, money order, ~~cash, or by wire transfer~~ or electronic payment (if authorized by the director). The director's acceptance of any sum shall not discharge the tax or fee due unless and until the city actually receives required payments.

B. A return or remittance mailed to the city shall be deemed received on the date of the mailing's post office stamp. The director may allow taxpayers to file or pay taxes electronically. A return or remittance that is electronically transmitted to the city shall be deemed filed or received according to procedures set forth by the director.

C. The director shall keep full and accurate records of all taxpayer funds received or refunded. The director shall apply payments received from taxpayers first against any penalties and interest owing, and then to tax owed, without regard to any direction of the taxpayer.

D. Taxpayers who file a tax return without including payment of any tax due shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

E. Taxpayer payments that are returned for lack of sufficient funds (or for any other reason) will not be considered received, and are subject to a $35.00 "nonsufficient funds" (NSF) charge.

F. The director is authorized (but not required) to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from the tax filing and payment obligations under this chapter.

3.62.050 Assessments – Overpayment or underpayment of tax.

A. Unless otherwise provided in this chapter or in Chapter 3.40, 3.41, 3.42, 3.52, 3.80, 3.84 or 3.88 ACC, if a taxpayer fails, neglects or refuses to file a tax return as required by this chapter, the director is authorized to assess the taxpayer's tax obligation to the city. The director's assessment shall be deemed prima facie correct and the assessed amount shall be the taxpayer's tax owed to the city. The director shall notify the taxpayer in writing of the tax assessed, together with any penalty, interest, and fees, which shall be immediately due and payable.

B. The director shall not assess (or correct an assessment for) taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except:

1. Against a person who is not currently registered or licensed as required by ACC Title 5, unless the person voluntarily registers or becomes licensed under ACC Title 5 before director contact;

2. Against a person who has not filed a tax return as required by this chapter or by Chapter 3.40, 3.41, 3.42, 3.52, 3.80, 3.84 or 3.88 ACC for taxes due within the period

commencing 10 years prior to the close of the calendar year in which the director contacted the person in writing;

3. Against a person that has committed fraud or who has misrepresented a material fact in connection with a tax return or tax obligation under this title; or

4. Against a person that has provided the director with a signed written waiver of this assessment limitation.

C. *Underpayment of Tax.* If the director's review of any tax returns or other information obtained reveals that a person has paid a tax or penalty less than that properly due, the director shall assess the additional amount found to be due and shall add interest to the unpaid tax only. The director shall notify the person by mail of the additional amount, which shall be due and payable within 30 days from the date of the notice, or within such time as the director may provide in writing. Substantial tax underpayments are further subject to ACC 3.62.070(B).

D. *Overpayment of Tax.*

1. If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection B of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

2. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the director discovers that a refund or credit is due.

3. Refunds shall be made by means of vouchers approved by the director and by the issuance of a city check or warrants drawn upon and payable from such funds as the city may provide.

4. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection C of this section, upon the filing with the director a certified copy of the order or judgment of the court.

5. Interest on overpayments of taxes for reporting periods beginning on or after January 1, 2005, shall be computed in accordance with RCW 82.32.060, as now enacted or hereafter amended.

3.62.060 Records to be preserved – Examination – Estoppel to question assessment.

A. Persons liable for any fee or tax imposed by Chapters 3.40, 3.41, 3.42, 3.52, 3.80, 3.84 or 3.88 ACC shall keep and preserve records necessary to determine their city tax liability for ~~five~~ ten years after filing a tax return. "Records" shall include the taxpayer's federal and state income tax returns and any books, papers, invoices, vendor lists, inventories, or other data needed to determine the taxpayer's city tax liability. The taxpayer's records and business premises shall be open for director examination.

B. Persons who keep the records required by this section outside the city may either produce them to the director for examination or pay in advance the director's costs to examine the records outside the city (which may include round-trip fare, lodging, meals and incidental expenses).

C. Any person who fails or refuses a finance department request to provide or make available records, or to allow inspection or examination of a business premises, shall be forever barred from questioning in a court action the correctness of any city tax assessment for any period for which such records have not been provided, made available or kept and preserved, or for which inspection or examination of the business premises has been denied.

D. The director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the city by the taxpayer. The director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.62.070 Late payment – Disregard of written instructions – Evasion – Penalties.

A. Delinquent Penalty. ~~If payment of any tax due on a return to be filed by a taxpayer is not received by the director by the due date, the director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.~~ If a taxpayer fails to pay any tax due on a return by its due date, there may be assessed a penalty of nine percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there is assessed a total penalty of nineteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there is assessed a total penalty of twenty-nine percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars.

B. Substantially Underpaid Penalty. ~~If the director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.~~ If the director determines that a taxpayer has substantially underpaid any tax, the director may add a penalty to the tax as follows:

1. There may be assessed a penalty of five percent of the amount of the tax determined by the department to be due.

2. If payment of any tax determined by the director or designee to be due is not received by the City by the due date specified in the notice, or any extension thereof, there is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the director to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection.

3. No penalty so added may be less than five dollars.

4. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the director to be due for all of the types of taxes included in, and for the entire period of time covered by, the City's examination, and the amount of underpayment is at least one thousand dollars.

~~C. If a citation or criminal complaint is issued by the director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.~~

C~~D~~. Failure to Register Penalty. ~~If the director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the director a license as required by Chapter 5.10 ACC, the director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under this subsection D if the person who has engaged in business without a license obtains a license prior to being notified by the director of the need to be licensed.~~ If the director finds that a person has engaged in any taxable business or activities under this title without a license required by Chapter 5.10 ACC, the director must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required. No penalty shall be imposed under this subsection if the person obtains the required license before receiving written notice of the licensing requirement from the director.

D~~E~~. Failure to Follow Written Tax Reporting Instructions. ~~If the director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.~~ If the director determines that all or any part of a taxpayer's deficient tax payment resulted from the taxpayer's failure to follow specific city written tax reporting instructions, the director shall assess a penalty of ten percent of the amount of the tax that should have been reported or the additional tax found due if there is a deficiency because of the failure to follow the instructions.

1. A taxpayer disregards specific written instructions when the City has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless, in the case of a deficiency, the City has not

issued final instructions because the matter is under appeal pursuant to this chapter or City Code.

2. The City may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the City to that taxpayer. A taxpayer will be considered to have made a good faith effort to comply with specific written instructions to file returns only if the taxpayer can show good cause for the failure to comply with such instructions.

3. “Good cause” means the inability of a taxpayer to comply with the requirements of this Chapter because any circumstance or condition exists that, in the director’s judgment, prevents the taxpayer from complying with the requirements of this section. "Good cause" also includes any circumstance that, in the director’s judgment, supports the efficient or effective administration of the tax code of the City.

4. Specific written instructions may be given as a part of a tax assessment, audit, determination, closing agreement, or other written communication, provided that such specific written instructions apply only to the taxpayer addressed or referenced on such communication. Any specific written instructions by the director must be clearly identified as such and must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

5. If the director determines that it is necessary to provide specific written instructions to a taxpayer that does not comply with the requirement to file returns as provided by this Chapter, the specific written instructions must provide the taxpayer with a minimum of forty-five days to come into compliance with its payment obligations before the City may impose the penalty authorized in this subsection.

E~~F~~. Evasion penalty. ~~If the director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.~~ If the director finds that all or any part of a taxpayer’s deficient tax payment resulted from an intent to evade the tax, the director shall assess a further penalty of fifty percent of the additional tax found to be due.

F~~G~~. The director may impose the penalties in this section cumulatively on any city tax owed, except that the penalties of subsections D~~E~~ and E~~F~~ of this section shall not be imposed on the same delinquent tax. This subsection does not prohibit or restrict the application of other penalties authorized by law.

~~H. If future changes to RCW 82.32.090 are deemed invalid, the provisions of RCW 82.32.090 incorporated into this section at the time of its enactment shall apply.~~

3.62.080 Waiver of penalties and interest.

A. The director may waive penalties or interest otherwise required by this chapter or by Chapter 3.40, 3.41, 3.42, 3.52, 3.80, 3.84 or 3.88 ACC if a taxpayer's failure to pay required taxes when due was caused by circumstances beyond the taxpayer's control.

B. A taxpayer may submit a written request to the director for the waiver of penalties or interest under this section within 30 days after the finance department mails the taxpayer a notice that penalties are due. The request must contain facts supporting a waiver under this section. In all cases the burden of producing facts rests upon the taxpayer.

C. The director may waive or cancel a penalty when a taxpayer is ineligible for a penalty waiver or cancellation under subsection A of this section, if:

1. The taxpayer has timely filed all tax returns and paid all required taxes due for 24 months immediately preceding the period for which the waiver was requested.

D. The director may also waive or cancel interest imposed under this chapter if:

1. The timing of the taxpayer's tax payment was in direct reliance on written instructions from the director to the taxpayer; or

2. The timing of a taxpayer's assessment deficiency payment was based on a due date established for the sole convenience of the director.

E. The director may adopt rules for the waiver or cancellation of penalties and interest under this section.

3.62.090 Taxpayer quitting business – Liability of successor.

A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within 10 days thereafter, make a return and pay the tax due.

B. Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the city from the taxpayer until such time as: (1) the taxpayer shall produce a receipt from the city showing payment in full of any tax due or a certificate that no tax is due, or (2) more than six months has passed since the successor notified the director of the acquisition and the director has not issued and notified the successor of an assessment.

C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.

D. Notwithstanding the above, if a successor gives written notice to the director of the acquisition, and the finance department does not within six months of the date it received the notice issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the successor shall not be liable for the tax.

3.62.100 Administrative review and appeal.

A. *Request for Conference to Review Assessment.* Persons issued a city finance department notice of assessed taxes, delinquent taxes, interest, or penalties may request a conference with the finance department to review the assessment.

1. Conference requests must be written and received by the finance department within 30 days after issuance of the assessment notice (or within the period of any due date extension granted by the finance department).

2. Assessed interest and penalties will continue to accrue while a conference request is pending and during any finance department review (unless the department determines

that the assessment was erroneously high or the review is unreasonably delayed by the finance department).

3. If the department grants a review conference, at its conclusion the department will make a final decision regarding the assessment and issue the taxpayer a written notice of its decision within 60 days of the conference (unless notified otherwise by the department). The department's written decision is subject to appeal as provided in this section. Written decisions not appealed under this section become final and immediately due and payable.

B. *Appeal of Finance Department Decision.* Persons aggrieved by any fee, tax, interest, penalty or decision by the director under this chapter may appeal using the following procedures:

1. Appealing parties must fully pay the department's assessed amount(s) under appeal before starting the appeal process, and appeals must include a finance department receipt (as proof of payment "under protest") showing full payment of the assessed fee, tax, interest and/or penalty being appealed.

2. Appealing parties must pay a filing fee with the appeal in accordance with Chapter 2.46 ACC.

3. Appeals must be written and contain the following:

   a. The taxpayer's name, business address, and phone number; and

   b. The taxpayer's statement:

      i. Identifying the department decision being appealed;

      ii. Setting forth the appeal basis and identifying the specific alleged errors the finance department made in its decision; and

      iii. Identifying the requested relief sought in the appeal.

4. Appeals must be filed with the city clerk and the director no later than 20 days after the finance department's written decision being appealed mailed to the taxpayer.

Failure to follow the appeal procedures in this section, including paying the filing fee and payment "under protest," shall preclude the taxpayer's right to appeal.

5. *Appeal Hearing.* The hearing examiner shall notify the taxpayer and director in writing of an appeal hearing date.

   a. Appeal hearings will be conducted in accordance with this chapter and rules and procedures developed by the hearing examiner.

   b. Both the appealing taxpayer and the director shall have the opportunity to be heard and to introduce evidence in an appeal hearing.

   c. The appellant taxpayer shall have the burden of proving the allegations in their appeal statement by a preponderance of the evidence.

   d. The hearing examiner shall preserve a record of appeal hearings in a form and manner that the examiner deems proper.

   e. Following the hearing, the hearing examiner shall enter a written decision supported by findings and conclusions. A copy of the decision shall be mailed to the appellant taxpayer and to the director. The decision shall state the examiner’s decision of the correct fee, tax, interest or penalty amount owing. If the hearing examiner determines that the taxpayer is owed a refund, such refund amount shall be paid to the taxpayer.

6. *Interest Accrual or Payment.* Interest and/or penalties shall continue to accrue on all unpaid amounts despite the filing of an appeal.

3.62.110 Judicial review of hearing examiner decision.

The taxpayer or the city may seek judicial review of a hearing examiner decision in accordance with applicable laws and court rules.

3.62.120 Director may make rules.

The director shall have the power to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with other applicable law to carry out this chapter’s provisions.

Any such rules and regulations shall be presumed valid and shall have the force of law, and it shall be unlawful to violate them.

3.62.140 ~~Mailing~~ Submission of notices.

The department shall send any required notices in this chapter to taxpayers by ordinary mail and/or electronically submitted to the address of the taxpayer or licensee~~, addressed~~ as shown in the records of the director. A taxpayer's failure to receive any such notice shall not release the taxpayer from any tax, fee, interest, or any penalties, nor shall the failure extend any time limit in this chapter. It is every taxpayer's responsibility to inform the director of a mailing and/or email addresses address change in writing.

3.62.150 Tax declared additional.

License fees and taxes levied in this chapter are additional to any imposed or levied under any other city law or ordinance, except as otherwise expressly provided.

3.62.170 Unpaid taxes constitute debt.

Unpaid license fees, taxes, interest and penalties under this chapter are a debt to the city of Auburn and the city may collect them in the same manner as any other debt, in addition to all other existing remedies.

3.62.180 Unlawful actions – Violation – Penalties.

A. It is unlawful for any person, firm or corporation subject to this chapter (or other chapters as listed):

1. To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the director;

2. To make any false statement on any license application or tax return;
3. To aid or abet any person in any attempt to evade payment of a license fee or tax;
4. To fail to appear or testify in response to a subpoena issued pursuant to the rules of procedure of the office of the hearing examiner;
5. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter.

B. Violation of any of the provisions of this chapter is a gross misdemeanor punishable by 364 days in jail and/or a $1,000 fine. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.

C. Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed $5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

3.62.190 Settlement agreement provisions.

The director may enter into written agreements with persons relating to their liability for any tax imposed by this chapter or any chapter listed within this chapter. Such agreements shall be final and conclusive as to their stated subject matter, and (except upon a showing of fraud or malfeasance, or misrepresentation of a material fact):

A. The matters agreed upon in an agreement shall not be reopened, and no agreement may be modified except in a writing agreed to by the director and the taxpayer; and

B. In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

3.62.200 Charge off of uncollectable taxes.

The director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer.

3.62.210 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

Code reviser's note: This section was adopted by Ordinance 6921 as ACC 3.62.290. It has been editorially renumbered at the request of the city.

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6967 (Thomas)
An Ordinance amending Auburn City Code (ACC) Chapter 3.52 related to the Administration of City Admission Tax

Meeting Date:
February 18, 2025

(RECOMMENDED ACTION: Move to approve Ordinance No. 6967.)

Department:
Finance

Attachments:
Ordinance No. 6967, Ordinance No. 6967 Exhibit A

Budget Impact:

Administrative Recommendation:
City Council to approve Ordinance No. 6967.

Background for Motion:
This Ordinance would update Auburn City Code to add and expand certain definitions within the Admission Tax Code to add greater clarity for consistent application of the tax.

Background Summary:
The City of Auburn first imposed an Admission Tax Code in 1982. The original purpose of the Admission Tax remains the same today as it did in 1982 - to assess a 5% tax on the persons paying for the privilege of admission to certain events or certain activities. Ordinance No. 6967 makes two primary revisions: to move the exemption language into its own Section and to add several clarifications to the definitions in Section 3.52.020.

Section 3.52.010 is amended to clarify the Tax Rate language, but it does not change the Tax Rate.

Exemption language changes include moving exemptions into its own Section, from Section 3.52.010 to Section 3.52.040 of the Auburn City Code. The new Section adds an exemption for any activities performed by the City of Auburn.

Amendments to Section 3.52.020 add additional examples and clarifications to definitions which include:

1. Clarify the applicability of cover charges for reserved seats and tables;

2. Add examples under charges for equipment or facility rentals, which include: golf, golf driving ranges, pickle ball, swimming, pools, archery, pool, billiards, bowling, ace throwing, shuffleboard, picture and virtual reality machines, automatic baseball/batting cages, table-tyle bowling games, all

other ball-operated games;

3. Clarify when Admissions Tax is applicable for the charge of food and refreshments;

4. Add a definition for "Elementary or Secondary Schools";

5. Add examples of the definition of "Place" to include: "private clubs, cabarets, any private club conducting cabaret activities, or any similar place of entertainment";

6. Clarify the definition of "subscriptions" includes memberships, dues or fees for sports-type performances.

All of these changes enable greater clarity and precision in the administration and implementation of the City's Admission Tax and simplify and improve readability of the City's Admission Tax Code.

Councilmember: Kate Baldwin **Staff:** Jamie Thomas

ORDINANCE NO. 6967

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON AMENDING AUBURN CITY CODE (ACC) CHAPTER 3.52 RELATED TO THE ADMINISTRATION OF CITY ADMISSION TAX

WHEREAS, Chapter 3.52 ACC imposes and administers an Admissions Tax within the City;

WHEREAS, Sections 3.52.010 and 3.52.040 ACC as amended would remove the exemption language from ACC 3.52.010 and place the exemptions into the previously repealed and reserved Section 3.52.040. In addition, as amended Section 3.52.040 ACC would add an exemption allowing any activities performed by City of Auburn to be exempt from collection and remittance of the tax under this chapter; and

WHEREAS, Section 3.52.020 ACC as amended would add additional definitions and examples to enable greater clarity and precision in the administration and implementation of the City's Admission Tax; and

WHEREAS, Section 3.52.010 and Section 3.52.120 ACC re-phrase the tax rate language, simplifying the sections and improving the readability of the code; and

WHEREAS, the revisions proposed in this ordinance are in the best interest of the City and its taxpayers.

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

Section 1. Amendment to City Code. Sections 3.52.010, 3.52.020, 3.52.040, and 3.52.120 ACC are hereby amended to read as set forth in Exhibit A attached to this Ordinance.

Section 2. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives 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 of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. **Effective date.** This Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _______________

PASSED: ____________________

APPROVED: _________________

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NANCY BACKUS, MAYOR

ATTEST:

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Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

____
Jason Whalen, City Attorney

Published: ____

Chapter 3.52
ADMISSION TAX

Sections:

3.52.010 Tax levied.

Pursuant to the provisions of RCW 35.21.280 there is levied and fixed a tax rate of 5 (five) percent (0.0500) ~~of one cent on $0.20 or fraction thereof~~ to be paid by the person who pays an admission charge to any place within the city limits. This includes a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same privileges or accommodations. The city shall require anyone who receives payment for an admission charge to collect and remit the tax to the city as hereinafter provided, unless exempt under ACC 3.52.040. ~~Provided, however, this tax shall not be imposed on persons paying an admission to: (A) any activity of elementary or secondary school, (B) any activity which is $0.50 or less, (C) any activity of any nonprofit corporation, trust, society, order, institution, organization, or association exclusively engaged in or devoted to any religious, charitable, scientific, literary, educational, public or other like work, where the net~~

~~earnings of such activity apply exclusively to the purpose for which tax exempt status was granted.~~

3.52.020 Definitions.

A. "Admission charge," in addition to its usual and ordinary meaning, includes:

1. Charge made for season tickets or subscriptions;

2. A cover charge or a charge made for the use of seats or tables reserved <u>(regardless if there is an assigned seat/table/space or general admission reservation)</u> or otherwise, and similar accommodations;

3. A charge made for rental or use of equipment or facilities for purposes of recreation or amusement<u>, including, but not limited to, golf, golf driving ranges, pickle ball, swimming pools, archery, pool, billiards, bowling, axe throwing, shuffleboard, picture and virtual reality machines, automatic baseball/batting cages, table-tyle bowling games, all other ball-operated games, etc</u>. If persons renting or using the equipment or facilities also pay a charge to enjoy or participate in the recreation or amusement, the total combined charge shall be the admission charge;

4. A charge made for admission to any theater, cabaret, tavern, dance hall, amphitheater, private club, auditorium, observation tower, stadium, athletic pavilion or field, baseball or athletic park, golf course, or any similar place, and includes equipment to which persons are admitted for purposes of recreation such as merry-go-rounds, ferris wheels, dodge 'ems, roller coaster, go carts and other rides, whether such rides are restricted to tracks or not;

5. Charge made for automobile parking where the amount of the charge is determined according to the number of passengers in an automobile;

6. A sum of money referred to as a "donation" which must be paid before entrance is allowed;

7. The amount of an increase in the price of refreshments, service or merchandise in a place if no fixed admission charge or cover charge is imposed, but the price charged for

refreshments, service or merchandise is higher during the time entertainment or dancing is provided than at other times.

8. A charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided.

9. “Admission charge” also includes any service charge, mailing fee, or other ancillary payment, per ticket and/or per order, whether or not they are printed on the ticket.

B. “Elementary or secondary schools” shall mean any school enrolling students in any of the grades from kindergarten through 12.

BC. “Place” includes, but is not limited to, theaters, dance halls, amphitheaters, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, side shows, swimming pools, golf courses, outdoor and indoor amusement parks, and such attractions as merry-go-rounds, F~~f~~erris wheels, dodge ’ems, roller coasters, ~~and~~ observation towers within the city limits, private clubs, any cabaret, any private club conducting cabaret activities, or any similar place of entertainment.

~~C~~D. “Subscription” means, in addition to its usual and ordinary meaning, annual membership dues or fees in an organization whose principal purpose is to present theatrical, ~~or~~ musical, sport, and any other type of performance for its members.

3.52.030 Sign to be posted.

Whenever a charge is made for admission to any place, a sign shall be posted in a conspicuous place on the entrance or ticket office stating that a city admission tax rate of 5 (five) percent (0.0500) ~~of one cent on each $0.20 or fraction thereof~~ is included in the admission charge.

3.52.040 ~~Certificate of registration.~~ Exemptions.

~~Repealed by Ord. 6944.~~

The following are exempt from imposition of an admission tax under this Chapter:

A. Any activity of elementary or secondary school;

B. Any activity which is $0.50 or less;

C. Any activity of any nonprofit corporation, trust, society, order, institution, organization, or association exclusively engaged in or devoted to any religious, charitable, scientific, literary, educational, public or other like work, where the net earnings of such activity apply exclusively to the purpose for which tax-exempt status was granted; and

D. Activities performed by City of Auburn are exempt from collecting and remitting tax under this chapter.

3.52.050 Administration, collection and remittance of taxes.

A. *Collection and Remittance.* Any person (including any municipal or quasi-municipal corporation) who receives payment for a taxable admission charge under this chapter shall collect the tax amount from the admission payer and remit it the same to the finance director. Persons collecting the required tax under this chapter shall be deemed to hold it in trust until remittance.

B. *Liability for Uncollected Tax.* Any person who fails to collect or remit the required tax under this chapter shall be liable to the city for the tax amount whether such failure is the result of their own act or acts or conditions beyond the person's control.

C. The city shall administer and collect the tax imposed by this chapter in accordance with Chapter 3.62 ACC.

3.52.060 Collection and remittance for transitory or temporary amusements.

Whenever a person makes an admission charge subject to the tax levied in this chapter, and the activity, entertainment, amusement or exhibit is of a temporary or transitory nature or there exists a reasonable question of financial responsibility, of which the finance director shall be the judge, the finance director may require the report and remittance of the tax immediately upon the collection of same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the finance director shall determine.

The failure to comply with any requirement of the finance director as to report and remittance of the tax as required shall be a violation of this chapter.

3.52.070 Reports and remittances by owner.

Whenever the applicant for a certificate of registration obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition is not the owner, lessee or custodian of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in ACC 3.52.060 by the person who is the owner, lessee or custodian if not paid by the person conducting the amusement, entertainment or exhibition. The applicant for a certificate of registration in any such case shall furnish to the director on the application form the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the clerk of the issuance of such certificate and of their joint liability for collection and remittance of such tax.

3.52.080 Records to be kept.

Repealed by Ord. 6921.

3.52.090 City to adopt rules and regulations.

Repealed by Ord. 6921.

3.52.100 Delinquent payments – Penalty.

Repealed by Ord. 6921.

3.52.110 Examination of books and records.

Repealed by Ord. 6921.

3.52.120 Collection of tax by civil action.

Any registration fee or tax due and unpaid and delinquent under this chapter, and all penalties therein, may be collected by civil action, which remedies shall be in addition to any and all other existing remedies.

3.52.130 Violations – Penalty.

A violation of or failure to comply with the provisions of this chapter is a misdemeanor punishable in accordance with ACC 1.24.010.

3.52.140 Effective date.

This chapter shall take effect January 1, 1983.

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6968 (Thomas)
An Ordinance establishing the Local Sales and Use Tax Rate for Local Revitalization Financing for 2025

Meeting Date:
February 18, 2025

(**RECOMMENDED ACTION**: **Move to approve Ordinance No. 6968.)**

Department:
Finance

Attachments:
Ordinance No. 6968

Budget Impact:

Administrative Recommendation:
City Council to approve Ordinance No. 6968.

Background for Motion:
Ordinance No. 6927 levies a 0.014% sales tax credit against the state sales tax to help pay the debt service on Local Revitalization Financing bonds issued by the City in 2010 and refunded in 2020.

Background Summary:
Ordinance No. 6968 levies a 0.014% Sales Tax credit against the State Sales Tax for Local Revitalization Financing. Senate Bill 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. In October 2020, the City refunded the remaining portion of these bonds by issuing the 2020B Limited Tax General Obligation (LTGO) Bonds. The balance of the 2020B Bonds at the end of 2024 was $3.2 million. Funds from Real Estate Excise Tax (REET) 2 funds, combined with Economic Development Administration (EDA) Grants and interest earnings, are used to pay the annual debt service costs of the local revitalization project.

The tax credit is available to the City for up to 25 years. 2025 will be the sixteenth 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 0.014% is estimated to generate $250,000 for local revitalization funding during the State's fiscal year, from July 1, 2025, to June 30, 2026.

Councilmember: Kate Baldwin **Staff:** Jamie Thomas

ORDINANCE NO. 6968

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 2025

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 RCW 82.14.510; and,

WHEREAS, this tax is imposed in order to pay the debt service on Local Revitalization Financing bonds in accordance with Chapter 39.104 RCW; and,

WHEREAS, Chapter 39.104 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 between July 1, 2025 through June 30, 2026, 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. 6927, is hereby amended to 0.014%, effective July 1, 2025.

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

INTRODUCED: _______________

PASSED: ____________________

APPROVED: _________________

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NANCY BACKUS, MAYOR

ATTEST:

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Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

____
Jason Whalen, City Attorney

Published: ____

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6969 (Whalen)
An Ordinance relating to Appeal Procedures, and amending Sections 2.46.035, 2.46.160, 5.15.070, 5.22.070, 5.22.090, and 15.76.040 of the Auburn City Code

Meeting Date:
February 18, 2025

(RECOMMENDED ACTION: Move to approve Ordinance No. 6969.)

Department:
Legal

Attachments:
Ordinance No. 6969, Ordinance No. 6969 Exhibit A

Budget Impact:

Administrative Recommendation:
City Council to approve Ordinance No. 6969.

Background for Motion:
Ordinance No. 6969 would amend Auburn City Code 1.25.030.A.2 to refine the time period for which a violation of City Code is to be corrected, increasing flexibility depending on the type of violation, scope, and requirements for correction.

Background Summary:
In the last decade or longer, there has been increased conversation and criticism of legislative bodies serving quasi-judicial roles where their elected capacity has the appearance of creating a conflict between their legislative role and their role when acting in the stead of a neutral magistrate. Because of those discussions and criticisms, having legislative bodies serve quasi-judicial roles is becoming less common and any resulting decisions are subject to higher scrutiny. Previously, portions of the Auburn City Code were revised to direct appeals of Director or Hearing Examiner decisions to the applicable appeal process and to a neutral magistrate.

Ordinance No. 6969 aims to complete those revisions and has identified multiple areas of City Code where appeals are currently still directed to the City Council, and Code amendments redirect them to a uniform appeal process taking advantage of any judicial branch avenues for relief. The proposed amendments create a uniform procedure for appeal, enhancing understanding and clarity of the appeals system in the City; protects the Council as a legislative body from conflicts between their legislative roles and a quasi-judicial role subject to the appearance of fairness doctrine; and the amendments enhance trust and fairness in the City's appeal process. These amendments will be protective to the City's decision-making authority, serve the residents of the City, and overall serve to create or apply a fair, uniform procedure.

Councilmember: Cheryl Rakes

Staff: Jason Whalen

ORDINANCE NO. 6969

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO APPEAL PROCEDURES, AND AMENDING SECTIONS 2.46.035, 2.46.160, 5.15.070, 5.22.070, 5.22.090, AND 15.76.040 OF THE AUBURN CITY CODE

WHEREAS, the City Code was previously revised in part to refer certain appeals of hearing examiner final decisions to superior court(s) or other available review methods authorized by law; and

WHEREAS, there remain provisions in the City Code which refer appeals to the city council for determination; and

WHEREAS, there has been general question and criticism of city councils serving quasi-judicial roles and whether such a practice meets the requirements of the appearance of fairness doctrine which is a rule of law requiring government decision-makers to conduct non-court hearings and proceedings in a manner that is fair and unbiased in both appearance and fact; and

WHEREAS, referring appeals or reviews to neutral magistrates in the judicial branch of government avoids the council, as the legislative body, from having to act as a quasi-judicial body ensuring trust and accountability in the city processes and procedures; and

WHEREAS, consistency throughout appeal procedures within the City Code benefits the City, its residents, and creates streamlined, uniform, and fair procedures applicable to all; and

WHEREAS, the law provides for jurisdiction for a limited number of appeals to the superior court under RCW 2.08.020, and provides other legal mechanisms for review where the superior court does not have jurisdiction such as writs or other authorized relief; and

WHEREAS, code revisions are necessary to refer appeals of the final written decision of a hearing examiner to relief through superior courts and any other available legal mechanisms, as well as clarify where hearing examiner decisions are related to application recommendations and are not final and subject to appeal.

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

Section 1. **Amendment to City Code.** Sections 2.46.035, 2.46.160, 5.15.070, 5.22.070, 5.22.090, and 15.76.040 of the Auburn City Code is amended to read as shown in Exhibit A.

Section 2. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives 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 of it to any person or circumstance, will 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 will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _______________

PASSED: ____________________

APPROVED: _________________

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NANCY BACKUS, MAYOR

ATTEST:

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Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

____
Jason Whalen, City Attorney

Published: ____

2.46.035 Powers and areas of jurisdiction.

The hearing examiner shall have the power to receive and examine available information, conduct public hearings, prepare a record thereof and enter findings of fact, conclusions based upon those facts and enter decisions as provided by ordinance. Notwithstanding any other provision in the Auburn City Code, the hearing examiner's areas of jurisdiction shall include those matters contained in this chapter.

A. The decision of the hearing examiner on the following matters shall be final:

1. Appeals of assessed civil penalties. (ACC 1.25.065(E))

2. Appeals regarding the city's decision on refunds from the construction sales tax exemption. (ACC 3.60.036(F))

3. Appeals from the planning director's denial of an application for a multifamily tax exemption (MFTE). (ACC 3.94.070(F))

4. Appeals from the planning director's denial of an extension of a conditional certificate for MFTE. (ACC 3.94.090(B))

5. Appeals of a dangerous dog determination. (ACC 6.35.020(D))

6. Appeals of a decision by the planning director regarding expansion of hours for construction noise. (ACC 8.28.010(B)(8)(d))

7. Appeals of a decision by the city engineer regarding construction permits. (ACC 12.24.090(C))

8. Appeals of a decision by the city engineer regarding undergrounding of utilities. (ACC 13.32A.130(D))

9. Appeals of decisions by the building official or fire code official regarding building and code violations. (ACC 15.07.130)[1]

10. Applications for a shoreline conditional use permit (ACC 16.08.010) (note that, by statutes, the State Department of Ecology has final approval authority).

B. The decision of the hearing examiner on the following matters shall be final unless such decision is appealed ~~to the city council as provided in this chapter~~ consistent with ACC 2.46.160:

1. Appeals from denial, civil penalty suspension or revocation of a business license. (ACC 5.15.070)

2. Appeals from denial of a rental housing business license. (ACC 5.22.070(D))

3. Appeals from revocation or notice of intent to revoke a rental housing business license. (ACC 5.22.090(B))

C. The decision of the hearing examiner on the following matters shall be the final administrative decision of the city:

1. Appeals from the planning director's denial of a final certificate for multifamily property tax exemption (MFTE). (ACC 3.94.100(G))

2. Appeals from the planning director's cancellation of a tax exemption for MFTE. (ACC 3.94.120(C))

3. Appeals of a decision by the public works director regarding commute trip reductions. (ACC 10.02.120)

4. Appeals from denial of an adult entertainment establishment license, issuance or renewal. (ACC 5.30.070)

5. Appeals of a decision by the public works director regarding required public improvements. (ACC 12.64A.060)

6. Appeals of a decision by the public works director regarding system development charges. (ACC 13.41.070)

7. Hear and resolve tenant complaints against landlords regarding utility billing practices (third party billing). (ACC 13.52.050)

8. Appeals of a decision by the planning director on a relocation report and plan related to the closure of a mobile home park. (ACC 14.20.120)

9. Appeals of a decision by the floodplain administrator on floodplain development permits. (ACC 15.68.240)[1]

10. Appeals of a decision by the landmarks and heritage commission on historical designations. (ACC 15.76.040)

11. Appeals of a decision by the SEPA responsible official on threshold determinations (ACC 16.06.250) – public hearing needed.

12. Appeals from critical area review decisions. (ACC 16.10.140)

13. Applications for a reasonable use exception due to critical area regulations. (ACC 16.10.150)

14. Applications for a buffer width variance of critical areas regulations which exceeds 10 percent of a quantifiable standard (ACC 16.10.160).

15. Applications for a public agency special exception to critical area regulations (ACC 16.10.170).

16. Appeals from a decision of the planning director regarding boundary line adjustments (ACC 17.06.030).

17. Applications for a preliminary plat (ACC 17.10.050).

18. Applications for modification of standards and specifications related to a preliminary plat (ACC 17.18.010).

19. Applications for alteration of any subdivision (ACC 17.20.030).

20. Appeals from a decision of the planning director regarding site plan approval of a business park.

21. Applications for a special home occupation permit (ACC 18.60.040(A)).

22. Applications for a surface mining permit (ACC 18.62.030).

23. Appeals from a decision of the planning director regarding administrative use permits (ACC 18.64.020(A)).

24. Applications for a conditional use permit (ACC 18.64.020(B)).

25. Applications for a variance (ACC 18.70.010).

26. Appeals from a decision of the planning director regarding administrative variances (ACC 18.70.015).

27. Applications for a special exception (ACC 18.70.020).

28. Applications for a variance in the regulatory floodplain (ACC 18.70.025).

29. Appeals from any administrative decision under ACC Title 18, Zoning (ACC 18.70.050).

30. Appeals from a decision of the planning director regarding fire impact fees (ACC 19.06.080).

31. Appeals from a decision of the director of parks and recreation regarding park impact fees (ACC 19.08.040).

D. On the following matters, the hearing examiner shall enter findings of fact, conclusions of law, and recommendations to the city council:

1. Applications for vacating a subdivision or portion of a subdivision, or any land dedicated for public use, except rights-of-way associated with public streets (ACC 17.22.030).

2. Application for a business park (conceptual approval).

3. Applications for a Site-Specific Rezone, Category 1 (ACC 18.68.030(A)(1)).

4. Applications for major amendments to the Lakeland Hills PUD (ACC 18.76.130).

1 The appeal shall be processed and the hearing conducted according to the provisions of ACC 15.07.130.

2.46.160 Appeal of final decisions.

~~The responsible director or a~~Any interested party affected by the hearing examiner's written final decision may appeal the decision to superior court ~~of the county in which the project is located~~ consistent with any applicable court rules and state law requirements or restrictions. Where state law and court rules do not provide for an appeal mechanism to superior court, an interested party may seek a writ consistent with any applicable state law requirements, or any other relief provided for by law.

5.15.070 Appeal from denial or from notice or order.

A. The city hearing examiner is designated to hear appeals by applicants or licensees aggrieved by actions of the mayor, or designee, pertaining to any denial, civil penalty suspension, or revocation of business licenses, in accordance with Chapter 1.25 ACC; provided, that the hearing examiner may adopt reasonable rules and regulations for conducting such appeals. Copies of all rules and regulations so adopted shall be filed with the business license clerk, who shall make them freely accessible to the public.

B. Any licensee may, within 20 days after receipt of a notice of denial of application or of a notice and order, file with the business license clerk a written notice of appeal containing the following:

1. A heading with the words: "Before the Hearing Examiner of the City of Auburn";
2. A caption reading: "Appeal of ________" giving the names of all appellants participating in the appeal;
3. A brief statement setting forth the legal interest of each of the appellants in the business involved in the denial or notice and order;
4. A brief statement, in concise language, of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant or appellants;
5. A brief statement, in concise language, of the relief sought, and the reasons why it is claimed the protested action or notice and order should be reversed, modified, or otherwise set aside;
6. The signatures of all persons named as appellants, and their official mailing addresses;
7. The verification (by declaration under penalty of perjury) of each appellant as to the truth of the matters stated in the appeal.

C. As soon as practicable after receiving the written appeal, the business license clerk shall fix a date, time, and place for the hearing of the appeal by the hearing examiner. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing by the business license clerk, by mailing a copy thereof, postage prepaid, by certified mail with return receipt requested, addressed to each appellant at their address shown on the notice of appeal.

D. At the hearing, the appellant or appellants shall be entitled to appear in person, and to be represented by counsel and to offer such evidence as may be pertinent and material to the denial or to the notice and order. The technical rules of evidence need not be followed.

E. Only those matters or issues specifically raised by the appellant or appellants in the written notice of appeal shall be considered in the hearing of the appeal.

F. Within 10 business days following conclusion of the hearing, the hearing examiner shall make written findings of fact and conclusions of law, supported by the record, and a decision which may affirm, modify, or overrule the denial or order of the mayor, or designee, and may further impose terms as conditions to issuance or continuation of a business license; provided, that where deemed necessary by the hearing examiner, at the conclusion of the hearing or within the 10 business days following conclusion of the hearing, the hearing examiner may announce the need for a longer time-period, not to exceed 30 days, within which the written findings of fact and conclusions of law and decision shall be made.

G. Any party aggrieved by the decision of the hearing examiner may appeal the decision consistent with ACC 2.46.160. ~~to the city council by filing a written notice of appeal, within 10 days after receipt of the decision of the hearing examiner, with the business license clerk. The business license clerk shall transmit a complete copy of the hearing examiner's record, findings and conclusions, and decision, and all exhibits, to the city council and shall cause the appeal to be placed upon the agenda of the city council within 30 days after receipt of the notice of appeal. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing by the business license clerk, by mailing a copy thereof, postage prepaid, by certified mail with return receipt requested, addressed to each appellant at their address shown on the notice of appeal.~~

H. Enforcement of any suspension or revocation of any business license, or other order of or by the mayor, or designee, shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

I. Failure of any aggrieved party to file an appeal in accordance with the provisions of this chapter, or in accordance with any applicable laws and/or court rules, shall constitute a waiver of the right to an administrative hearing and adjudication of the denial or of the notice and order.

5.22.070 License application – Approval or disapproval procedure.

The issuance of a city of Auburn business license shall be subject to the applicant and/or license holder being compliant with all the corrective actions imposed pursuant to ACC 5.22.050. The issuance and possession of such license shall not imply an automatic issuance or license renewal in subsequent years. The department shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

A. Adopt all forms and prescribe the information required to implement this chapter;

B. Submit all applications to department heads or designee of the city of Auburn building, fire, planning and police departments;

C. Notify any applicant of the acceptance or rejection of his/her application and shall, upon denial of any license, state in writing the reasons therefor, the process for appeal and deliver them to the applicant;

D. Deny any application for license upon written findings that the granting would violate this chapter. A violation of this chapter shall be considered to be detrimental to the public peace, health or welfare:

1. Whenever any such license is denied the applicant may within 15 calendar days from date of action file written notice of appeal to the city's hearing examiner. Action of the hearing examiner may be appealed ~~15 calendar days from date of action to the city council and action of the council shall be conclusive and not subject to review~~ consistent with ACC 2.46.160.

2. When the issuance is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued pursuant to a judgment ordering the same.

5.22.090 License – Revocation.

A. Any license issued under the provisions of this chapter may be revoked by the mayor or designee for any reason if the further operation thereof would be in violation of this chapter and therefore detrimental to public peace, health or welfare. Any license issued under the provisions of this chapter may also be revoked in the following circumstances:

1. The license was obtained through fraud or misrepresentation of fact;
2. The owner or manager has been convicted of a crime, or suffered civil judgment or is the subject of a consent decree which bears a direct relationship to the rental housing business;
3. The owner or manager takes action or contributes to action in violation of the city's zoning codes or development regulations, or commits or permits a public nuisance on the premises licensed pursuant to this chapter;
4. When the owner/manager's inaction or failure to correct an identified threat to public health and safety reasonably puts other tenants or neighboring property owners/occupants at risk;
5. Failure of the owner and/or manager to comply with any or all federal, state and local laws and regulations that bear a direct relationship to the conduct of the business licensed pursuant to this chapter.

B. Except in the case of emergency due to significant physical danger to one or more tenants, a notice of intent to revoke the business license shall be mailed to the owner and posted on the premises at least 30 days in advance of the effective date for revocation. In the case of emergency described above the notice of intent to revoke shall be provided to the owner and posted on the premises as early as possible. The premises shall be completely vacated upon the date the revocation becomes effective unless the city determines that there is no imminent physical danger to the tenants. If the city determines that there is no imminent physical danger they may make arrangements with the tenants to continue to reside on the premises for a reasonable amount of time in order to allow time for orderly relocation. Whenever any such license is revoked or notice of impending revocation is sent out, the licensee may within 15 calendar days from date of action file written notice of appeal to the city's hearing examiner. Action of the hearing examiner may be appealed ~~within 15 days from date of action to the city council and action of the council shall be conclusive and not subject to review~~ consistent with ACC 2.46.160.

15.76.040 Appeal procedure.

A. Any person aggrieved by a decision of the commission designating or rejecting a nomination for designation of a landmark or issuing or denying a certificate of appropriateness may, within 35 calendar days of mailing notice of such designation or rejection of nomination, or of such issuance or denial or approval of a certificate of appropriateness, appeal such decision in writing to the hearing examiner pursuant to Chapter 2.46 ACC. The written notice of appeal shall be filed with the planning director and shall be accompanied by a statement setting forth the grounds for the appeal, supporting documents, and argument.

B. If, after examination of the written appeal and the record, the examiner determines that:

1. An error in fact may exist in the record, it shall remand the proceeding to the commission for reconsideration; or, ~~if the city council determines that:~~

2. The decision of the commission is based on an error in judgment or conclusion, it may modify or reverse the decision of the commission.

C. The examiner's decision shall be based solely upon the record; provided, that the examiner may at their discretion publicly request additional information of the appellant, the commission or the planning director.

D. The examiner shall take final action on any appeal from a decision of the commission by entering written findings of fact and conclusions of law from the record and reasons therefrom which support its action. The examiner may adopt all or portions of the commission's findings and conclusions.

E. The decision of the examiner is final unless an appeal is filed pursuant to ACC 2.46.160. ~~An appeal may also be filed by the King County landmarks and heritage commission to the planning director, who will forward the appeal to the city council.~~

~~F. The action of the city council sustaining, reversing, modifying or remanding a decision of the examiner shall be final unless within 20 calendar days from the date of the action an aggrieved person obtains a writ of certiorari from the superior court of King or Pierce County, state of Washington, for the purpose of review of the action taken.~~

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5811 (Krum)
A Resolution authorizing the Mayor to execute an agreement between the City of Auburn and Segale Properties LLC and Otak Inc for Consulting Services related to the Stuck River Road and Mount Rainier Vista Special Planning Areas

Meeting Date:
February 18, 2025

(RECOMMENDED ACTION: Move to adopt Resolution No. 5811.)

Department:
Community Development

Attachments:
Resolution No. 5811, Res 5811 - Attachment A

Budget Impact:

Administrative Recommendation:
City Council to adopt Resolution No. 5811.

Background for Motion:
The contract work associated with Resolution No. 5811 will allow the City's consultant to start the important work of evaluating options and potential development impacts of this identified growth center that will shape the future of Auburn for years to come.

Background Summary:
The City of Auburn has determined (per the Comprehensive Plan) that a Sub-Area Plan should be prepared for the areas referred to as the Stuck River Road and Mount Rainier Vista Proposed Special Planning Areas. These identified areas are generally bounded by Stuck River Drive on the north, Kersey Way SE on the west, 53rd Street SE on the south and the White River on the east. The development of a Sub-Area Plan necessitates the preparation of a Planned Action Environmental Impact Statement (EIS) to evaluate the potential impacts of future development.

While the City will be the lead agency for the EIS, the services of a consultant skilled in Sub-Area Plan and EIS preparation to prepare the same are necessary. The City has selected Otak Inc., to provide consulting services to prepare the Sub-Area Plan and Planned Action EIS.

Resolution No 5811 would authorize the Mayor to execute an agreement between the City of Auburn, Segale Properties, and Otak to carry out the Sub-Area Plan and EIS process. Segale Properties is a proponent of the Sub-Area Plan and EIS work to determine the future potential of development. In accordance with the agreement, Segale Properties will financially support the work of Otak but the City will be responsible for overseeing the work and distributing payment for consulting services. The three party agreement will offer an opportunity for an impartial consultant to ensure the Sub-Area

Plan considers impacts and concerns of the surrounding property owners and citizens of Auburn and offer an objective assessment of existing conditions, impacts, mitigation measures and alternatives. The agreement will be budget neutral and will not impact the City budget.

Councilmember: Tracy Taylor **Staff:** Jason Krum

RESOLUTION NO. 5811

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF AUBURN AND SEGALE PROPERTIES LLC AND OTAK INC FOR CONSULTING SERVICES RELATED TO THE STUCK RIVER ROAD AND MOUNT RAINIER VISTA SPECIAL PLANNING AREAS

WHEREAS, the City of Auburn has determined pursuant to its Comprehensive Plan that a Sub-Area Plan should be prepared for the areas referred to as the Stuck River Road and Mount Rainier Vista Proposed Special Planning Areas which are generally bounded by Stuck River Drive on the north, Kersey Way SE on the west, 53rd Street SE on the south, and a portion of the White River on the east; and

WHEREAS, a Sub-Area Plan is intended to identify zoning, infrastructure, and standards for development for the area, including a rezone of the Sub Area Property, where current zoning does not support the property's potential as articulated in the adopted Comprehensive Plan; and

WHEREAS, Segale Properties LLC, a Washington limited liability company, is a proponent for the creation of a sub-area plan and SEPA documents that will guide development of the Stuck River Road and Mount Rainier Vista Sub Areas; and

WHEREAS, the proponent proposes to develop a plan for development of the sub-area property sufficient to allow environmental review of the development as a "planned action" as defined in the State Environmental Policy Act (SEPA) at WAC 197-11-164; and

WHEREAS, the City of Auburn has determined pursuant to Auburn City Code Chapter 16.06 that a Draft _Planned Action Environmental Impact Statement and a Final Planned Action Environmental Impact Statement) (hereinafter "EIS") are necessary prior to action by the CITY on the Comprehensive Plan amendment for the Sub-Area Plan or on the planned action to be submitted by the proponent; and

WHEREAS, the City of Auburn and proponent desire that the Sub-Area Plan and EIS be prepared by an impartial party to ensure that the Sub-Area Plan considers the impacts and concerns of the surrounding property owners and the citizens of Auburn and that the EIS provides an objective assessment of existing conditions, impacts, mitigating measures and alternatives and that it provides a credible decision-making document for review by the public, other agencies, and the decision maker(s); and

WHEREAS, the City of Auburn desires to retain the services of a consultant skilled in sub-area plan and EIS preparation to prepare the same; and

WHEREAS, the City of Auburn has selected Otak Inc. to provide consulting services to prepare the Sub-Area Plan and Planned Action EIS (attached as “Attachment A”); and

WHEREAS, proponent has approved the consulting selection made by the City of Auburn; and

WHEREAS, Otak is qualified, willing and able to perform necessary studies and prepare the Sub- Area Plan and Planned Action EIS; and

WHEREAS, the services to be performed by Otak are temporary in duration.

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

Section 1. The Mayor is authorized to execute an Agreement between the City, Segale Properties LLC, and Otak Inc., which agreement will be in substantial conformity with the agreement attached hereto.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this Resolution.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: ______________________

CITY OF AUBURN

____
NANCY BACKUS, MAYOR

ATTEST:

____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

____
Jason Whalen, City Attorney

CITY OF AUBURN AND SEGALE PROPERTIES LLC

AGREEMENT FOR CONSULTING SERVICES

PREPARATION OF SUB AREA PLAN AND SEPA DOCUMENT FOR

THE STUCK RIVER ROAD AND RAINIER VISTA SUB AREA PLAN

THIS AGREEMENT is entered into this _____ day of _______________, 2025, by and between the CITY OF AUBURN, DEPARTMENT OF COMMUNITY DEVELOPMENT, hereinafter referred to as the CITY; and OTAK, hereinafter referred to as the CONSULTANT; and SEGALE PROPERTIES LLC, a Washington limited liability company hereinafter referred to as the PROPONENT.

WHEREAS, the PROPONENT is proposing creation of a sub area plan and SEPA documents that will guide development of the Stuck River Road and Rainier Vista Sub Areas, legally described in Exhibit A and incorporated by reference, hereinafter referred to as the SUB AREA PROPERTY in the Southeast Auburn area to a mixed use residential development with as many as 8,000 residential units, 500,000 square feet of commercial space, and/or an industrial park; or possibly combinations of each land use; and

WHEREAS, the CITY has determined pursuant to its Comprehensive Plan that a Sub-Area Plan should be prepared for these areas which are generally bounded by Stuck River Drive on the north, Kersey Way SE on the west, 53rd Street SE on the south, and a portion of the White River on the east. The Sub-Area Plan is intended to identify zoning, infrastructure, and standards for development for the area, including a rezone of the SUB AREA PROPERTY, where current zoning does not support the property's potential as articulated in the adopted Comprehensive Plan; and

WHEREAS, the PROPONENT proposes to develop a plan for development of the SUB AREA PROPERTY sufficient to allow environmental review of the development as a "planned action" as defined in the State Environmental Policy Act (SEPA) at WAC 197-11-164. The plan to be developed is to be a planned multiple-use development that will include the potential for commercial or professional office space and housing; and

WHEREAS, the CITY has determined pursuant to Auburn City Code Chapter 16.06 that a Draft Planned Action Environmental Impact Statement and a Final Planned Action Environmental Impact Statement) (hereinafter "EIS") are necessary prior to action by the CITY on the Comprehensive Plan amendment for the Sub-Area Plan or on the planned action to be submitted by the PROPONENT; and

WHEREAS, the CITY and PROPONENT desire that the Sub-Area Plan and EIS be prepared by an impartial party to ensure that the Sub-Area Plan considers the impacts and concerns of the surrounding property owners and the citizens of Auburn and that the EIS provides an objective assessment of existing conditions, impacts, mitigating measures and alternatives and that it provides a credible decision-making document for review by the public, other agencies, and the decision maker(s); and

WHEREAS, the CITY desires to retain the services of a consultant skilled in sub-area plan and EIS preparation to prepare the same; and

WHEREAS, the CITY has selected a CONSULTANT to prepare the Sub-Area Plan and Planned Action EIS; and

WHEREAS, the PROPONENT has approved the CONSULTANT selection made by the CITY; and

WHEREAS, the CONSULTANT is qualified, willing and able to perform necessary studies and prepare the Sub- Area Plan and Planned Action EIS; and

WHEREAS, the services to be performed by the CONSULTANT are temporary in duration.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, performed and fulfilled by the respective parties hereto, the parties mutually agree as follows:

SECTION 1. LEGAL COMPLIANCE. This Agreement is subject to the terms and conditions of Auburn City Code 16.06 and other applicable ordinances, statutes and regulations.

SECTION 2. SCOPE OF WORK. Subject to the limitations of SEPA, the City shall determine the scope of study and methodology to assist in the expeditious preparation, review, and release of the Sub-Area Plan and Planned Action EIS. The CONSULTANT shall perform all services and carry out all work necessary to prepare, and shall prepare, the Sub-Area Plan and EIS and related documents for the Project, as described in the attached "Scope of Services" referred to as Exhibit B, which is attached and incorporated herein by this reference. The parties agree and understand that the CONSULTANT'S responsibility is to the CITY, in preparing an accurate and adequate environmental analysis. The Scope of Services, Schedule, Budget, and Communication Protocol is as defined in Exhibit B attached hereto and by this reference made a part hereof.

SECTION 3. RESPONSIBLE OFFICIAL. The Responsible Official of the City, who shall be the Director of Community Development, shall have responsibility for overseeing and directing the CONSULTANT'S preparation of SEPA documents, the EIS, and the Sub-Area Plan and shall coordinate all communication with the CONSULTANT from the CITY regarding the Sub-Area Plan and EIS. The assigned contact person for the CITY for this Agreement shall be Jason Krum, Director of Community Development. Telephone: (253) 804-5069. Email: jkrum@auburnwa.gov.

SECTION 4. PREPARATION OF DOCUMENTS.

4.1 The services to be performed under this Agreement shall include preparation of a preliminary Draft EIS, preparation of a Draft EIS, preparation of a preliminary Final EIS, and preparation of a Final EIS pursuant to the provisions of WAC 197-11-560(4) or (5), as described in Exhibit B The CITY shall provide the PROPONENT copies of these documents upon receipt from CONSULTANT, and with respect to the preliminary Draft and the preliminary Final EIS, shall request that the PROPONENT review and comment, and shall review and incorporate PROPONENT'S comments where appropriate prior to the printing and distribution of the documents. The CITY shall discuss with PROPONENT any comments or revisions it deems inappropriate for inclusion in the EIS. The services to be performed also include the preparation of a preliminary Draft Sub-Area Plan, Draft Sub-Area Plan, preliminary Final Sub-Area Plan and Comprehensive Plan Amendment, and a Final Sub-Area Plan and Comprehensive Plan Amendment, as described in Attachment A.

4.2 The CONSULTANT shall consult with the CITY and the PROPONENT during the preparation of preliminary documents for the purpose of information gathering regarding the Project, and shall discuss with the CITY and the PROPONENT the CONSULTANT'S preliminary findings regarding impacts and potential alternatives and mitigating measures. The CONSULTANT shall notify the CITY and the PROPONENT of all correspondence by copy and of substantive telephone conversations and meetings by memorandum of record where either the CITY or PROPONENT was not a participant in a communication between the CONSULTANT and the CITY or PROPONENT.

4.3 The CITY shall make documents prepared by CONSULTANT under this Agreement available to the public on request when required under the Washington Public Records Act, Chapter 42.56 RCW. The CONSULTANT shall work with the CITY as needed to provide documents and records to the CITY for review for potential disclosure under the Public Records Act. The CITY will retain the ultimate authority to determine what is and is not subject to disclosure under the Public Records Act.

4.4 The CONSULTANT shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the CONSULTANT.. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the CITY by the CONSULTANT.

4.5 The CITY or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers, and records of the CONSULTANT which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the CITY with applicable laws.

SECTION 5. INFORMATION PROVIDED BY PROPONENT AND THE CITY. The PROPONENT shall provide the CONSULTANT with a legal description of the site of its proposed development, which the CONSULTANT shall be entitled to rely upon for completeness and accuracy. The CITY shall provide a legal description for the planning area to be affected by the comprehensive plan amendment, which the CONSULTANT shall be entitled to rely upon for completeness and accuracy. The PROPONENT shall provide copies of any site studies produced by other consultants relevant to the EIS, and such other information the PROPONENT has or may cause to have prepared during development of the plan that is relevant to the preparation of the EIS. The PROPONENT shall provide to the CITY and the CONSULTANT a statement of the PROPONENT'S objective, the project description, and any proposed phasing for use in preparation of the EIS. The PROPONENT shall submit a statement of alternatives, including a description of reasonable alternative proposals that could feasibly attain the PROPONENT'S objective.The CITY and PROPONENT shall cooperate with the CONSULTANT to facilitate the efficient and prompt preparation of the EIS. In its preparation of documents under this Agreement, the CONSULTANT shall use its best professional judgment in evaluating or relying on reports gathered or prepared by PROPONENT or its subconsultants. The CITY shall provide the CONSULTANT with guidance on City objectives for the Southeast Auburn Sub-Area Plan, including identifying any adopted policy statements that pertain to the planning area.

SECTION 6. PAYMENT. The CITY shall pay the CONSULTANT for services and for such other costs and expenses incurred and documented in accordance with the Scope of Services, Attachment A hereto; PROVIDED, HOWEVER, that:

6.1. The total cost paid to the CONSULTANT shall not exceed nine hundred fourty thousand dollars ($940,000) which includes any funding paid by the City pursuant to sections 6-8. This total cost shall be as set forth in Attachment A hereto, unless the Scope of Services is modified in accordance with the provisions of Section 9 of this Agreement subsequent to the date of this Agreement. The cost for printing and mailing both the Draft and the Final EIS shall be paid by the PROPONENT. The cost of printing and mailing both the Draft and Final Sub-Area Plan shall be paid by the PROPONENT.

6.2. The total cost of preparation of the Final EIS is based upon the assumptions and format specified in Attachment A and WAC 197-11-560(5), consisting of an addendum with comments, responses, factual corrections, and an updated fact sheet. If a substantial revised Final EIS is prepared under WAC 197-11-560(1)(a)-(c) requiring additional work tasks not foreseen in the Scope of Services, a revised Scope of Services shall be prepared as provided in Section 9 of this Agreement.

6.3 Payment to the CONSULTANT by the CITY is contingent upon PROPONENT meeting the obligations for depositing of sufficient funds to the CITY, as outlined in section 7.

SECTION 7. DEPOSIT. The PROPONENT shall deposit with the CITY four hundred seventy thousand dollars ($470,000) (the "Initial Deposit"), which constitutes fifty percent (50%) of the amount specified in Section 6.1 which shall be placed in a non-interest bearing account, or shall deposit the Initial Deposit in an assigned account with the financial institution chosen by the CITY and agreed to by the PROPONENT. As the CITY disburses to the CONSULTANT amounts deposited with the CITY or in an assigned account pursuant to Section 8, the PROPONENT shall replenish such funds according to the following terms: if the CITY notifies the PROPONENT that the amount on deposit is at any time twenty-five percent (25%) or less of the amount specified in Section 6.1, then the PROPONENT shall deposit within five (5) business days sums adequate to increase the amount on deposit to the amount of the Initial Deposit; provided, however, that PROPONENT need not continue to replenish such funds after the aggregate amount deposited by PROPONENT has equalled or surpassed the amount specified in Section 6.1. An assigned account shall be in a form approved by the CITY and shall provide for disbursement of the amount on deposit from the CITY to pay the CONSULTANT for its services. All deposited funds shall be under the control of the CITY until the project is completed or upon termination of the Agreement. At completion of the Project, all unspent funds shall revert to the PROPONENT. The CITY shall disburse funds to the CONSULTANT in accordance with Section 8 of this Agreement. The CITY shall notify CONSULTANT if the PROPONENT does not make the above-referenced deposit, and CONSULTANT shall suspend performance of its Services until such time as PROPONENT completes the above deposit.

SECTION 8. DISBURSEMENT. The CONSULTANT agrees to submit monthly progress reports and invoices for services and costs to date as specified in the Scope of Services, which shall describe the services rendered and costs incurred. Original invoices shall be submitted to the CITY with one copy to be sent to the PROPONENT. Payment shall be authorized by the CITY on the basis of hourly costs relating to progress on specific work tasks outlined in the Scope of Services or documentation of completion of a specified percentage of the work required as documented in the monthly progress report. If the PROPONENT objects to payment within ten (10) days of receipt of the invoice and advises the CITY in writing of the reasons for the objection and the CITY concurs with the objection and reasons, or if the CITY determines that adequate documentation for satisfactory completion or progress made on a work task is not provided, the CITY shall withhold payment to the CONSULTANT, notify the CONSULTANT of the reasons for withholding payment, and notify the CONSULTANT of the information or performance required for payment. The CITY shall be the final decision-maker with respect to the amount of any disputed payment. The CITY shall withhold the final ten percent (10%) of the total contract amount for the Draft EIS until delivery and CITY approval of the Draft EIS. The CITY shall withhold the final ten percent (10%) of the total contract amount for the Final EIS until delivery and CITY approval of the Final EIS. The CITY shall withhold the final ten percent (10%) of the total contract amount for the Sub-Area Plan until delivery and CITY final acceptance of the Sub-Area Plan. The subconsultants shall prepare all invoices for payment directly from the CITY. CONSULTANT shall review all subconsultant invoices and forward approved subconsultant invoices to the CITY for payment. In the case of subconsultant preparation of technical reports or other products required in the scope of work as defined in Attachment A, the CITY shall withhold ten percent (10%) of the total payment amount until acceptance of the work as completed if payment is made directly to the subconsultants. Payment shall be mailed by the CITY within forty-five (45) calendar days of actual receipt by the CITY of a properly completed invoice.

The City shall not be liable for payment beyond the deposit received from the proponent except as provided in Section 8. The parties agree that the above-referenced approvals shall not be unreasonably withheld.

SECTION 9. MODIFICATION OF SERVICES. In the course of research and preparation of the Draft EIS, the parties acknowledge that the CITY--subject to the limitations of SEPA and WAC 197-11-600 and 197-11-620--may request additional information and require additional work tasks, utilization of the alternate methodologies, or other requirements not included in the original Scope of Services as detailed in Attachment A. Any proposal initiated by the CONSULTANT for changes in the Scope of Services required to produce an adequate analysis of significant environmental impacts shall be submitted to both the CITY and PROPONENT and shall include estimates of added costs. If the CITY proposes changes in the Scope of Services in order to produce an adequate analysis of significant environmental impacts, or if the PROPONENT revises the Project in a way that changes significant environmental impacts or proposes consideration of additional alternatives, the CONSULTANT shall prepare a revised Scope of Services and cost estimate for review by the CITY and PROPONENT. If the CITY finds that changes to the Scope of Services are necessary to produce an adequate analysis of significant environmental impacts pursuant to WAC 197-11-440 and 197-11-442, such amendments to the Scope of Services shall be made to Attachment A and the PROPONENT shall deposit additional funds adequate to increase the amount deposited to fifty percent (50%) of the revised total cost amount, as required by the CITY. Failure to obtain such deposit from PROPONENT shall be grounds for suspension of further administrative action and work on the Sub-Area Plan and EIS until such funds as determined by the CITY to be necessary for completion are received under the terms of this Agreement, or until other agreement is reached among the CITY and the PROPONENT.

SECTION 10. INDEPENDENT CONTRACTOR.

10.1. The parties intend that an independent consultant relationship will be created by this Agreement. No agent, employee or representative of the CONSULTANT or its subconsultants shall be deemed to be an agent, employee or representative of the CITY or the PROPONENT for any purpose under this Agreement. Employees of the CONSULTANT or of its subconsultants are not employees of the CITY and are not entitled to any of the benefits the CITY provides to CITY employees. The CONSULTANT shall be solely and entirely responsible for the acts of its employees, agents and subcontractors during the performance of this Agreement.

10.2. In the performance of the services under this Agreement, the CONSULTANT is an independent contractor with the authority over the details of the work, and the work of its subcontractors, subject to the applicable SEPA regulations. However, the results of the work contemplated herein shall be subject to the CITY's general rights of review and approval as required by WAC 197-11-420.

SECTION 11. ARBITRATION.

11.1 The parties to this Agreement must refer all disputes solely between the parties arising out of or relating to this Agreement or its breach other than disputes concerning disbursements per Section 9 of this agreement to arbitration in accordance with the American Arbitration Association (AAA) Construction Industry Arbitration Rules and Mediation Procedures, amended and effective March 1, 2024.

11.2 Notice of demand for arbitration must be filed in writing with the other parties to this Agreement and with the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute, or other matter in question has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations. Venue of the arbitration shall be King County, Washington and all issues will be decided in accordance with the laws of the State of Washington. The prevailing party in any arbitration or litigation will be entitled to recover reasonable attorneys' fees, legal costs, arbitration fee and other claim-related expenses, including reasonable fees for the time of its personnel.

SECTION 12. INDEMNIFICATION. The CONSULTANT shall defend, indemnify and hold the CITY and PROPONENT, and their officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the CONSULTANT in performance of this Agreement, except for injuries and damages caused by the sole negligence of the CITY and PROPONENT.

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

SECTION 13. ANTIDISCRIMINATION. The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, marital status, sensory, mental or physical handicap. The CONSULTANT shall take affirmative action to ensure that applicants for employment are hired and that employees are treated during employment without regard to their race, creed, color, sex, age, national origin, marital status, sensory, mental or physical handicap.

SECTION 14. TERMINATION. The right is reserved by the CITY and the PROPONENT to suspend or terminate this Agreement at any time for due cause including, but not limited to, withdrawal of the application, failure of the PROPONENT to provide deposits, inadequate or untimely performance of work by the CONSULTANT, or the CITY's withdrawal of the determination of significance. Any termination is effective upon ten (10) days written notice to the CONSULTANT and the PROPONENT by the CITY or to the CITY and the CONSULTANT by the PROPONENT. The CONSULTANT shall be entitled to receive just and equitable compensation for costs incurred prior to suspension or termination for satisfactory work completed on the Project prior to the date of suspension or termination provided that the CITY shall not be liable for payment beyond the deposit of funds received from the PROPONENT except as provided in Section 8.

SECTION 15. ASSIGNMENT. This Agreement may not be assigned or otherwise transferred by any party or parties hereto without the prior written consent of all the parties, which consent shall not be unreasonably withheld. The CONSULTANT shall not subcontract, assign, or delegate any of the rights, duties, or obligations covered by this Agreement without prior, express written consent of the CITY. Any attempt by the CONSULTANT to subcontract, assign, or delegate any portion of the CONSULTANT's obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

SECTION 16. PUBLIC DOMAIN. The parties hereto agree that the Sub-Area Plan and EIS and all materials submitted by the CONSULTANT in the course of execution of this Agreement shall be considered in the public domain and not subject to copyright. The CONSULTANT further agrees to make research notes and other work products produced in fulfillment of this Agreement available to the CITY and PROPONENT for reproduction, upon request and consistent with Section 4 of this Agreement.

SECTION 17. CONFLICT OF INTEREST. The CONSULTANT agrees that it and its subconsultants shall not have a personal or professional bias or financial interest in the Project other than fees due under this Agreement. The CONSULTANT and PROPONENT shall disclose to the CITY on Exhibit C prior contracts between the CONSULTANT and PROPONENT and prior services performed by the CONSULTANT for the PROPONENT. All parties agree that, subsequent to the effective date of this Agreement, any consultant or subconsultant described on Attachment B may perform services or contract to perform services described on Attachment B. Before the expiration of one hundred eighty (180) days after completion of services under the Agreement, the CONSULTANT shall not perform services or contract to perform services for the PROPONENT.

SECTION 18. TIMING OF ENVIRONMENTAL REVIEW. This Agreement shall take effect upon the occurrence of any of the following events: (1) the application by the PROPONENT for a rezone, administrative use permit, conditional use permit, or other development permit relating to the Project; (2) the submission by the PROPONENT of a completed site plan relating to the Project; or (3) the CITY's commencement of early environmental review relating to the Project under WAC 197-11-055 and 197-11-406.

SECTION 19. INSURANCE.

A. Insurance Term. The CONSULTANT shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

B. No Limitation. The CONSULTANT's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the CONSULTANT to the coverage provided by such insurance, or otherwise limit the CITY'S recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance. The CONSULTANT shall obtain insurance of the types and coverage described below:

1. <u>Automobile Liability</u> insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. <u>Commercial General Liability</u> insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The CITY shall be named as an additional insured under the CONSULTANT'S Commercial General Liability insurance policy with respect to the work performed for the CITY using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. <u>Workers' Compensation</u> coverage as required by the Industrial Insurance laws of the State of Washington.
4. <u>Professional Liability</u> insurance appropriate to the CONSULTANT'S profession.

D. Minimum Amounts of Insurance. The CONSULTANT shall maintain the following insurance limits:

1. <u>Automobile Liability</u> insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.
2. <u>Commercial General Liability</u> insurance shall be written with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate.
3. <u>Professional Liability</u> insurance shall be written with limits no less than $2,000,000 per claim and $2,000,000 policy aggregate limit.

E. Other Insurance Provision. The CONSULTANT'S Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the CITY. Any insurance, self-insurance, or self-insured pool coverage maintained by the CITY shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

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

G. **Verification of Coverage.** The CONSULTANT shall furnish the CITY with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement before commencement of the work.

H. **Notice of Cancellation.** The CONSULTANT shall provide the CITY with written notice of any policy cancellation within two business days of their receipt of such notice.

I. **Failure to Maintain Insurance.** Failure on the part of the CONSULTANT to maintain the insurance as required shall constitute a material breach of contract, upon which the CITY may, after giving five business days notice to the CONSULTANT to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the CITY on demand, or at the sole discretion of the CITY, offset against funds due the CONSULTANT from the CITY.

J. **City Full Availability of Consultant Limits.** If the CONSULTANT maintains higher insurance limits than the minimums shown above, the CITY shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the CONSULTANT, irrespective of whether such limits maintained by the CONSULTANT are greater than those required by this Agreement or whether any certificate of insurance furnished to the CITY evidences limits of liability lower than those maintained by the CONSULTANT.

SECTION 20. ENTIRE AGREEMENT. This Agreement, including attachments incorporated by reference, represents the entire agreement and understanding between the parties in relation to this EIS, and any negotiations, proposals, purchase orders, or oral agreements are intended to be integrated herein and to be superseded by this written Agreement.

SECTION 21. WAIVER OF CONSEQUENTIAL DAMAGES AS TO PROPONENT. In respect of its services under this Agreement, the CONSULTANT shall not be liable to the PROPONENT for incidental, indirect, or consequential damages arising out of, or connected in any way to the project or this Agreement. This includes, but is not limited to, loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action arising in tort, statute, or contract.

SECTION 21. GOVERNING LAW. This Agreement is to be governed by, and construed in accordance with, the laws of the City of Auburn, King County, and the State of Washington.

SECTION 22. SEVERABILITY. Each provision of this Agreement is intended to be severable. The illegality or invalidity of any provision in this Agreement will not affect the validity of the Agreement's remaining provisions.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

CITY: **CITY OF AUBURN**

By ____

Nancy Backus, Mayor

ATTEST:

____
______________, City Clerk

APPROVED AS TO FORM:

____
______________, City Attorney

CONSULTANT: Otak

By ______________
Its President

PROPONENT: Segale Properties LLC

By ____
Its ________________________________

Exhibits:

A – Legal Description of Sub Area Property
B - Scope of Services, Budget, and Communication Protocol
C - Disclosure of Prior Contracts or Services and Permitted Future Contracts or Services

PROPONENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of ____________________, 2025, before me a Notary Public in and for the State of Washington, personally appeared ____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that _____ was authorized to execute the instrument, and acknowledged it as the _______________ of Segale Properties LLC a (State of origin) (type of business: corporation, etc.), to be the free and voluntary act and deed of said (type of business, as above) for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

____
NOTARY PUBLIC in and for the State of Washington,
residing at ___________________________________.
My appointment expires ________________________.

CONSULTANT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of ____________________, 2025, before me a Notary Public in and for the State of Washington, personally appeared ____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that _____ was authorized to execute the instrument, and acknowledged it as the _______________ of Otak, to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

____
NOTARY PUBLIC in and for the State of Washington,
residing at ___________________________________.
My appointment expires ________________________.

CITY

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of ____________________, 2025, before me a Notary Public in and for the State of Washington, personally appeared ____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Mayor and City Clerk, respectively, of the CITY OF AUBURN, to be the free and voluntary act and deed of said CITY for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

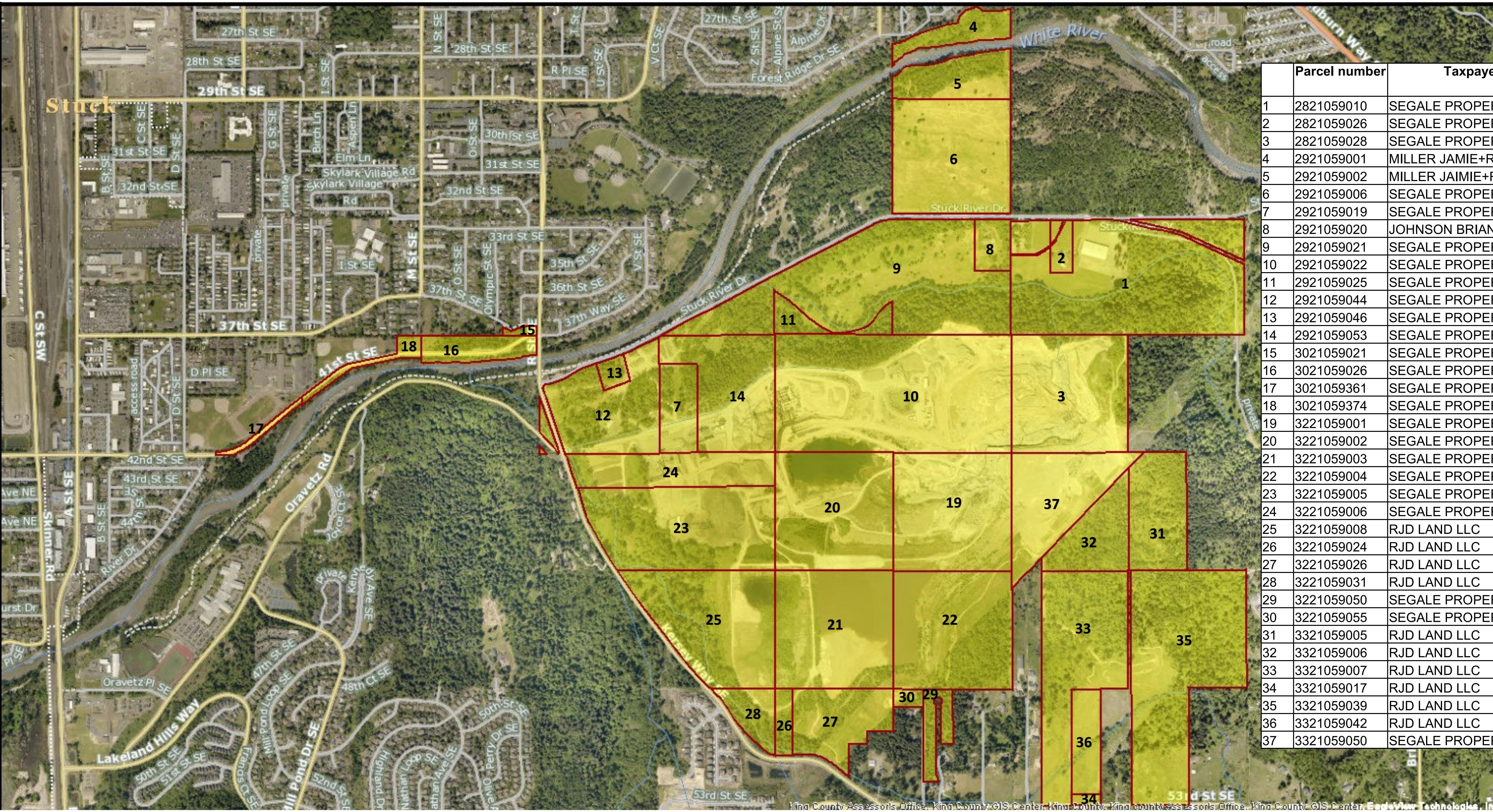
____
NOTARY PUBLIC in and for the State of Washington,
residing at ___________________________________.
My appointment expires ________________________.

EXHIBIT A

Legal Description of Sub Area property

[see attached]

EXHIBIT A



	Parcel number	Taxpayer name
1	2821059010	SEGALE PROPERTIES LLC
2	2821059026	SEGALE PROPERTIES LLC
3	2821059028	SEGALE PROPERTIES LLC
4	2921059001	MILLER JAMIE+RADKE KEVIN
5	2921059002	MILLER JAIMIE+RADKE KEVIN
6	2921059006	SEGALE PROPERTIES LLC
7	2921059019	SEGALE PROPERTIES LLC
8	2921059020	JOHNSON BRIAN E & NITA S
9	2921059021	SEGALE PROPERTIES LLC
10	2921059022	SEGALE PROPERTIES LLC
11	2921059025	SEGALE PROPERTIES LLC
12	2921059044	SEGALE PROPERTIES LLC
13	2921059046	SEGALE PROPERTIES LLC
14	2921059053	SEGALE PROPERTIES LLC
15	3021059021	SEGALE PROPERTIES LLC
16	3021059026	SEGALE PROPERTIES LLC
17	3021059361	SEGALE PROPERTIES LLC
18	3021059374	SEGALE PROPERTIES LLC
19	3221059001	SEGALE PROPERTIES LLC
20	3221059002	SEGALE PROPERTIES LLC
21	3221059003	SEGALE PROPERTIES LLC
22	3221059004	SEGALE PROPERTIES LLC
23	3221059005	SEGALE PROPERTIES LLC
24	3221059006	SEGALE PROPERTIES LLC
25	3221059008	RJD LAND LLC
26	3221059024	RJD LAND LLC
27	3221059026	RJD LAND LLC
28	3221059031	RJD LAND LLC
29	3221059050	SEGALE PROPERTIES LLC
30	3221059055	SEGALE PROPERTIES LLC
31	3321059005	RJD LAND LLC
32	3321059006	RJD LAND LLC
33	3321059007	RJD LAND LLC
34	3321059017	RJD LAND LLC
35	3321059039	RJD LAND LLC
36	3321059042	RJD LAND LLC
37	3321059050	SEGALE PROPERTIES LLC

EXHIBIT B

Scope of Services, Budget, and Communication Protocol

[see attached]

Stuck River Road/Mount Rainier Vista Subarea Plan and Planned Action Environmental Impact Statement
Scope of Services

Final, December 16, 2024

Introduction

The Scope of Work developed below is based on a thorough review of the description of work provided in the City of Auburn's request for proposals (RFP) document, provided as an attachment to this agreement, as well as coordination and discussions with the property owner, Segale, and their consultants who have been involved in technical analysis to date.

The Otak team (consultant/consultant team) will complete the following five key phases of work. Engagement of key interests, surrounding property owners, as well as collaboration with City staff and Segale, briefings with City leadership, and coordination with other agencies and partners will be an integral part of the process.

1.0 Project Discovery

2.0 Initiate Planning Process, Review Background and Existing Conditions, Facilitate Visioning, and Validate Extent of Technical Work Needed

3.0 Layered Resource Site Planning, Alternatives Development and Analysis, Infrastructure Planning, and Planned Action DEIS Content Development

4.0 Draft Subarea Plan, Draft Environmental Impact Statement (DEIS), and Facilitation of Public and Agency Review Process

5.0 Final Environmental Impact Statement (FEIS), Final Subarea Plan, Final Planned Action Ordinance, and Adoption Process

Scope of Work

Work activities related to each of these stages are described in the work plan below, along with anticipated deliverables and outcomes for each stage.

1.0 Project Discovery

The major tasks and subtasks in this "early start" stage of work include meeting with subject matter and technical experts who have been involved in studying various aspects in the project area, review of initial background information and materials, and a site tour of the project area with City of Auburn representatives and property owner, Segale. See Attachment C for a list of these firms and their areas of expertise to be subcontracted as part of this scope of work. This stage also includes gathering and review of documents and elements of analysis completed to date.

Timeline:
This work will be completed September through December 2024.

Subtasks:

1.1 Hold meetings with consultants and analysts—consultant team members have been meeting with the property owner, Segale, and their consultants to understand the status of various areas of analysis and work completed to date. Ten meetings have been held to date and attended by two to four members of the consultant team.

1.2 Set up Sharepoint folder system and conduct initial review of information and materials developed by others.

1.3 Prepare for and attend site tour with Segale and City of Auburn representatives.

1.4 Hold initial coordination meetings with the City of Auburn and Segale—members of the consultant team (up to six people) will attend up to four one-hour meetings (not including the site tour covered under 1.3 above).

Task 1.0 Deliverables to be Prepared and Provided by the Consultant Team:

- Draft scope of work/work plan and schedule
- Team roster and contact information
- Project-specific file sharing system on Sharepoint
- Notes to file from meetings and site tour

2.0 Initiate Planning Process; Review Background and Existing Conditions; Facilitate Visioning; and Validate Extent of Technical Work Needed

Timeline:
This work will be completed within the approximate period from December 2024 through June 2025 (approximately 7 months).

Subtasks:

2.1 Finalize project work plan, schedule, internal communications, and other protocols to guide the planning process and the work of the team and hold project kick-off meetings with the City, Segale, and key interests, as well as the broader consultant team. An important element of the kick-off meetings will be goal setting and identifying measures of success for the planning effort. Up to three kick off meetings of maximum 90 minutes each in duration are assumed with one as in-person attended by up to six team members and two being remote focused more internal to the consultant team.

2.2 Develop the public involvement and external communications plan, with defined engagement and outreach activities. The involvement plan will define the why, who, what, where, and when of the engagement and external communication efforts in alignment with the overall planning process and schedule.

2.3 Assess existing conditions—collect, organize, and review relevant data and background information; assess existing conditions; this will include review of relevant planning background data, plans and policies (including the City's 2024 Comprehensive Plan), and relevant studies and plans to the project area. Key components of this work will include the following:

2.3.1 The consultant team will prepare base mapping and foundational GIS work for the planning area, mapping of resources and topography, and integration of analysis and findings by others (see additional subtasks below). The City will provide access to all relevant GIS files and data for this task to the extent readily available.

2.3.2 The consultant (supported by subconsultant Leland Consulting Group) will assess housing needs/demands, prepare population, housing units, and employment forecasts/targets, and complete other economic and market analysis to help shape the further development and refinement of alternatives to be analyzed in the DEIS. The consultant will profile and assess potential housing and jobs needs based on market conditions and land capacity analysis in alignment with the City's 2024 Comprehensive Plan, as well as county, region, and state guidance and parameters. The year 20 will be applied as the planning horizon to align with the Comprehensive Plan. However, it should be noted that the planning horizon for the planned action will be determined through this process and may extend for a longer period (such as to 2050); needed projects/improvements for build-out of the project will be defined with assigned phasing for the threshold year that is determined through the planning process.

The consultant will assess potential housing types as well as the potential for industry and jobs generation in the subarea with a strong understanding of potential market drivers and geographic considerations. The consultant will forecast population and demographic changes and trends, along with future population profiles based (setting a population, housing units, and jobs growth target range for the subarea to be achieved based on capacity of the site (land capacity) and the anticipated build out life cycle.

The City will make data available to the team, including: population, demographic, housing, employment, and other related data from the City's work on the 2024 Comprehensive Plan to reference as part of our planning and analysis work, as well as traffic analysis zone forecasts used for 2024 transportation planning by the City. (See 2.3.3.)

2.3.3 The consultant (supported by subconsultant Transpo Group) will evaluate the existing multi-modal transportation system and connectivity needs related to all modes including vehicle Level of Service (LOS) intersection delay and queuing, pedestrian LOS based on Level of Traffic Stress (LTS), bike Level of Service based on LTS, transit LOS based on existing transit services. The consultant will collect traffic counts needed to supplement those already available from the City and the consultant will collect relevant regional, county, and city data and information to support the work, which will assess existing and future travel patterns by all modes within the planned transportation network and identify gaps and needs that recommended plan actions and projects could address. The consultant will review and integrate work with the regional model and recent modelling and analysis done as part of the City's 2024 Comprehensive Transportation Plan. Traffic counts will be collected by consultant (subconsultant's vendor) for specific corridors and intersections not studied in the 2024 Comprehensive Transportation Plan.

Transportation analysis should identify where the project would decrease LOS such that minimum standard is not met or/and where project worsens current LOS standards for areas not currently meeting standards. Modeling will examine existing/baseline conditions (to a year agreed upon with the City), the year of start of construction, and year of construction completed (future years) with and without the project for the alternatives.

Due to the scale and duration of the project, analysis will also identify interim development thresholds that will trigger specific improvements. Recurring monitoring and analysis may be required to track actual conditions relative to the EIS analysis.

2.3.4 The consultant team will assess the affected environment for and analyze existing earth, water, and air conditions, as well as existing capacities of utilities and public services and facilities, including schools; parks, recreation, and open space; trails; police; fire and emergency; and other services. The consultant will review and become familiar with the specific parks, recreation, open space, and trails elements coming forward in the City's plans. The consultant will assess potential opportunities and constraints for development of public services within the project area, including evaluation of past planning concepts for schools, parks, trails, and other services. Information gathering meetings and research with public services providers are covered under this subtask.

The City and Segale will provide pertinent, relevant information, data, and studies related to public services to the consultant, including key contacts for public services providers, information gathered from the School District (including a memorandum received from the District); strategic plans from service providers, and other information.

The consultant team will confirm and analyze existing and future utilities services including the capacity, facilities, and existing and planned service levels for utilities (water, sewer/wastewater, solid waste management, power and communications, and surface/stormwater management), coordinating with the City and utilities providers to gather information on existing plans, facilities, and services in the project area. The consultant will conduct modelling for water and sewer/wastewater with and without the project for the baseline year, future year start of construction and future year of build out for the alternatives studied. The consultant will hold information gathering meetings and conduct research with public services providers under this subtask.

The City will provide pertinent, relevant information on utilities to the consultant, including but not limited to the latest systems plans/comprehensive planning documents, lists of contacts for utilities providers, and other information.

In addition to the work by subconsultants Leland Consulting Group and Transpo Group described above, discipline reports for existing conditions assessments, impacts analysis, and mitigation measures recommendations* to support EIS work under Tasks 2, 3, 4, and 5 will be provided by these subconsultants:

- Ramboll (air quality)
- Coffman (sound/noise)
- Consor (water service—existing conditions and modelling of alternatives);
- Carollo (sanitary sewer/wastewater existing conditions and modelling of alternatives);
- EcoNW (evaluation of potential framework for Tax Increment Financing (TIF) use in Auburn including the project location; potential applications for TIF; and a comprehensive funding strategy for the project)

Also, see listed deliverables below to be provided by Segale to support the work of this task.

2.4 Engage key interests, property owners, tribal interests, City boards and commissions, and the public in initial informational meetings about the project (online and in-person as possible) and conduct other engagement activities. The consultant will prepare for, schedule, and attend meetings with county, region (PSRC), and state (Commerce, WDFW, DOE, etc.) agency representatives as part of this work.

This work assumes up to 10 meetings and/or separate activities related to engagement attended by up to three people at each meeting.

The consultant will develop the project identity and related graphic design templates for engagement and project materials and publications, including templates for presentations, display boards, and other outreach materials and documents.

The consultant will support standing up the City's project webpages with key information about the project, study process, schedule, who to contact, etc. Materials developed as part of this subtask can be adapted for use in briefings with/presentations to City Council by City staff and other outreach purposes.

2.5 Conduct environmental scoping (public and agency) under the State Environmental Policy Act (SEPA), 197-11 WAC, to confirm the scope of the environmental analysis to be completed. The consultant will prepare the official scoping and threshold determination notice for the City to publish and facilitate a scoping public meeting during the 30 day scoping period. The City will conduct the scoping meeting and the consultant will prepare and provide a presentation and display materials for the meeting. Two members of the consultant team will attend the meeting.

2.6 The consultant will prepare outlines for the subarea plan and planned action DEIS documents for review by the City of Auburn and Segale.

2.7 The consultant will facilitate (prepare for and attend) bi-weekly project management and coordination meetings with the core consultant team to coordinate ongoing work efforts; facilitate information sharing through Sharepoint and other collaborative team work during this stage of work); assumes 14 meetings all remote (approximately 30 to 60 minutes each). The consultant will provide ongoing project management and coordination with subconsultants and the team and will prepare monthly project status reports to accompany invoicing.

2.8 The consultant will facilitate (prepare for and attend) bi-weekly coordination sessions with the City of Auburn and Segale to discuss and check in on work in process and coordination across the team and discipline experts involved; assumes 14 meetings, with 7 remote and 7 in person. It is anticipated that these meetings will each be 30 to 60 minutes in duration with structured agendas.

2.9 Tax increment financing (TIF) feasibility study and project funding/financing strategy to be completed by EcoNorthwest and also supported by input from Leland Consulting Group.

Task 2.0 Deliverables to be Prepared and Provided by the Consultant Team:

- Final scope of work/work plan, schedule document; internal communications plan
- Kick-off meeting agendas, hand-outs, and notes documenting the discussions
- Public involvement/external communications plan (draft and final)
- GIS base mapping and geospatial data analysis for the subarea
- Housing needs, employment, market, and land capacity analysis technical memorandum from the consultant team (subconsultants will prepare and submit draft and final memorandums to the consultant
- Multimodal transportation system assessment technical memorandum by the consultant team (subconsultants will prepare and submit draft and final memorandums to the consultant
- Utilities (water, wastewater, and surface water) subconsultants will prepare technical memorandums for submittal to the consultant
- Discipline reports from air, noise, and hydrology on existing conditions from subconsultants to the consultant
- Tax increment financing memorandum (Part 1)
- Existing Conditions Assessment and Subarea Vision Technical Report—Incorporating all the work completed as part of Task 1 (vision, goals and policies, land use considerations, housing, employment, and market analysis; multimodal transportation system assessment; discipline reports; public services research and analysis; utilities analysis; and other information. The Existing Conditions Assessment Report will form the basis of the Affected Environment section of the DEIS.
- Facilitation of and materials for the first round of engagement workshops and activities; includes preparation of materials for briefings and presentations to City Council, boards, commissions, and others; assumes up to 10 meetings/activities and project website materials
- Environmental scoping under SEPA, including draft and final scoping/threshold determination notice, materials for the public and agency scoping meeting, and documentation of scoping comments and outcomes
- Draft subarea plan and planned action DEIS outlines and beginning of drafting plan and DEIS chapters/sections on background and the existing context and conditions
- Agendas, meeting notes, and action items tracking sheet for bi-weekly team meetings (up to 14)

- Agendas, meeting notes, and action items tracking sheet for bi-weekly meetings with City of Auburn and Segale (up to 14)

The following information/deliverables will be provided by Segale to support the work under Tasks 2 through 5:

- Individual discipline studies by experts who are already under contract to Segale for preparation of existing conditions and background documentation:
    - Hydrology, earth sciences, and geotechnical (AESI)
    - Cultural and archaeological resources (Perteet)
    - Wetlands and wildlife (Raedeke)
    - Existing stormwater conditions report (Goldsmith)
    - Bridge and transportation analysis/costs support report (CPM)
    - Traffic analysis work completed to date (TenW)
    - Site planning concepts to date (Makers)

3.0 Layered Resource Analysis and Site Planning; Alternatives Development and Analysis; Infrastructure Planning; and Planned Action DEIS Content Development

This stage of work will involve development of alternatives/scenarios for the subarea that consider the outcomes of the work in Task 1 and build on previous concept plans developed by Segale.

Timeline:

This work will be completed from approximately June 2025 through the end of 2025 (approximately 7 months).

Subtasks:

3.1 Subarea planning scenarios and alternatives and related infrastructure development—during this stage of work, the consultant will advance the subarea plan by developing and evaluating potential scenarios and alternatives in a two-step process:

3.1.1 Based on layered resource planning, the consultant will develop and complete a high level of analysis of up to six scenarios for redevelopment, building on the previous three concepts developed by Segale. The consultant will develop high level screening/evaluation criteria with the City and Segale and conduct a screening process to screen out scenarios that will not be carried forward and to identify up to three action alternatives to move forward in the DEIS process. The consultant will document this level of analysis in a brief technical memorandum.

3.1.2 Refinement and planned action level analysis of the three action alternatives, infrastructure planning, and completion of preliminary draft analysis in all the discipline areas (based on scoping and decision making by the City) for the DEIS. The analysis will evaluate three action alternatives and one no action alternative. No action must be considered under SEPA, and in this case, "no action" would examine the implications of not moving forward with the subarea plan and analyzing assumed development of applying currently established zoning and design standards. The preliminary draft analysis will be reviewed by the City of Auburn and Segale before incorporation into the DEIS that will go out for public and agency review.

3.2 Narrow to Three Action Alternatives and Conduct More Detailed Alternatives Analysis—each action alternative will include specific land use recommendations; land use/zoning types; housing types and densities; employment types and jobs generation; mixed use town center areas; parks, recreation, schools, trails and other community features; all multimodal transportation system features (circulation and access); utilities and other infrastructure (bridges; major off-site improvements needed; etc.) and related demand assumptions; public services and related demand assumptions for each alternative; and other factors.

For analysis of community design and aesthetics, the consultant will develop a baseline set of high level design guidelines that specify anticipated development and built form (areas of development, buffers, open spaces, parks, building heights, setbacks), architectural style, view corridors, and other considerations. The consultant will conduct a study of existing zoning and code provisions and note where there may be a need for amendments (if any) for the project. Model projects such as Issaquah Highlands, Tehaleh, and others will be researched to support development of the design guidelines. While this work would not involve development of more detailed design standards, which the property owner anticipates developing as part of project-level permitting, the design guidelines and analysis will be of a sufficient level to support planned action SEPA compliance.

The consultant team will complete preliminary analysis for all elements of the environment and discipline areas (gathering and compiling individual discipline reports from subconsultants and integrating with work into one document). The analyses will compare the characteristics and demand assumptions of the alternatives to identified capacities and levels of service for public services, transportation, and utilities (infrastructure analysis).

The analysis and subarea planning package of deliverables will include the following for each of the three alternatives:

- Conceptual site (master) plans showing locations of land uses, densities, and built form expectations for each alternative, including locations for varying types of residential and mixed use development, employment focused areas, "town center(s)" and village hubs, and other key site land uses

- Conceptual multimodal transportation network plans identifying potential arterials, collector, and local roadways, as well as trails and pedestrian and bicycle networks, access to transit schematics, and other transportation considerations (service access, fire and emergency access, etc.)
- Conceptual plans for utilities (water, wastewater, stormwater, power, communications)
- Public services and amenities conceptual plans—parks, open space, trails network, school sites and design parameters, and other special features of the community

The consultant will thoroughly evaluate potential environmental impacts and identify a full range of measures to avoid and mitigate environmental impacts, including potential construction related impacts. Given the planned action proposal for the DEIS, analysis will be completed to a project planning level of detail rather than a programmatic level of detail.

A matrix analysis summarizing each alternative and alignment with the draft vision and policy framework, as well as characteristics related to each element of the environment. This scope of work assumes that the following topics/elements will be analyzed in the Planned Action DEIS:

- Natural Environment (Earth, Water)
- Archaeological and Cultural Conditions
- Consistency with Plans and Policies
- Land Use Patterns
- Housing
- Community Design and Aesthetics
- Multimodal Transportation
- Air Quality and Greenhouse Gas Emissions
- Noise/Sound
- Utilities (water, wastewater/sewer, stormwater, power/energy, and communications)
- Public Services (parks and recreation, schools, police, fire and emergency services, solid waste management)

While the environmental scoping process under Task 2.5 may further shape the environmental analysis areas of focus, this scope of work assumes that all typical topics/elements of analysis will need to be addressed in the planned action EIS.

The planned action will identify a potential 2044 threshold for development in accordance with a phasing strategy tied to the funding/financing strategy developed in Task 1. The consultant will develop a "Part 2" of the funding and financing strategy as an outcome of the DEIS process and selection of a preferred alternative (see Task 4.6). Potential affordable housing incentives and financing tools will be considered as part of the planning process (and integrated into the funding/financing strategy).

3.3 Engage key interests, property owners, tribal interests, City Council, City boards and commissions, and the public during this phase of the project (online and in-person) and conduct other engagement activities. The consultant will facilitate and attend an additional round of meetings with county, region (PSRC), and state (Commerce, WDFW, DOE, etc.) agency representatives as part of this stage of work.

This work assumes up to 10 meetings and/or separate activities related to engagement and updating project website information. Materials developed as part of this subtask can be adapted for use in briefings with/presentations to City Council by City staff and other outreach purposes.

3.4 The consultant will facilitate (prepare for and attend) bi-weekly project management and coordination meetings with the core consultant team to coordinate on ongoing work efforts; facilitate information sharing through Sharepoint and other collaborative team work during this stage of work); assumes 14 meetings all remote. It is anticipated that these meetings will each be 30 to 60 minutes in duration with structured agendas. The consultant will provide ongoing project management and coordination with subconsultants and with the team and will prepare monthly project status reports to accompany invoicing.

3.5 The consultant will facilitate (prepare for and attend) bi-weekly coordination sessions with the City of Auburn and Segale to discuss and check in on work in process and coordination across the team and discipline experts involved; assumes 14 meetings, with 7 remote and 7 in person. It is anticipated that these meetings will each be 30 to 60 minutes in duration with structured agendas. We may be able to drop back to monthly meetings later in the process, as the DEIS preparation begins.

Task 3.0 Deliverables to be Prepared and Provided by the Consultant Team:

- Technical Memorandum summarizing scenarios development and screening process and documenting decision making about the three action alternatives selected to move forward through the DEIS process
- Updated discipline area technical reports by the consultant team (including subconsultants – see Task 2 deliverables) related to alternatives analysis, prescribed mitigation measures, and cost estimates as relevant.
- Preliminary Alternatives Analysis Technical Memorandum and Conceptual Plans Deliverable Package for review by the City of Auburn and Segale – representing a project level of analysis in alignment with SEPA requirements for the planned action DEIS. The alternatives will be graphically represented for the subarea in maps, narrative, visual reference examples, renderings and 3D illustrations/ sketch up models, and other materials to show the distinct differences between the alternatives and

the components of each. The content of this memorandum will form the basis of the alternatives analysis and mitigation measures in the DEIS. (See Task 3.2 for more explanation of the conceptual level plans that will be developed.)

- Facilitation of and materials for the second round of engagement workshops and activities; includes preparation of materials for briefings and presentations to City Council, boards, commissions, and others; assumes up to 10 meetings/activities and project website materials
- Draft sections of the subarea plan addressing the development of scenarios and alternatives and including scenarios considered and rejected, as well as documentation of the alternatives moving forward into analysis in the planned action DEIS
- Agendas, meeting notes, and action items tracking sheet for bi-weekly team meetings (up to 14)
- Agendas, meeting notes, and action items tracking sheet for bi-weekly meetings with City of Auburn and Segale (up to 14)

4.0 Draft Subarea Plan, Draft Environmental Impact Statement (DEIS), and Facilitation of Public and Agency Review Process

This stage of work will involve compiling the full Planned Action DEIS for publishing and supporting the agency and public review process.

Timeline:

This work will be completed during the first part of 2026, with anticipated publishing of the DEIS in March or April 2026, exact dates to be determined—approximately 4 months in duration.

Subtasks:

4.1 The consultant will compile the full Planned Action DEIS document for review by City staff and Segale and confirm if the City and Segale would like to identify a preferred alternatives in the DEIS or wait until after the DEIS public and agency review process to identify a preferred alternative based on the outcomes of Task 3.0 and review of the preliminary alternatives analysis. As stated under Task 3.2, it is assumed that the following topics/elements will be carried forward in the DEIS under this scope of work:

- Natural Environment (Earth, Water)
- Archaeological and Cultural Conditions
- Consistency with Plans and Policies
- Land Use Patterns
- Housing
- Community Design and Aesthetics
- Multimodal Transportation
- Air Quality and Greenhouse Gas Emissions
- Noise/Sound
- Utilities

- Public Services

4.2 The consultant will make one round of edits and refinements to the DEIS document based on review comments from City staff and Segale, and then the consultant will advance the Draft Planned Action EIS document for public and agency review. The consultant will prepare the publishing notice and support the City in noticing the DEIS availability and public meeting date.

4.3 The consultant will facilitate the public and agency review process, including holding a public meeting during the DEIS review period. The consultant will document and organize comments received on the DEIS and begin preparing responses in preparation for work on the FEIS under Task 5. The City will conduct the DEIS/Planned Action public meeting, and the consultant will prepare materials for the meeting (presentation/displays) and up to three people from the consultant team will be available at the meeting for support.

4.4 In addition to the public meeting, the consultant will engage key interests, property owners, tribal interests, City boards and commissions, and others during this phase of the project (online and in-person) and conducting other engagement activities. This work assumes up to 5 meetings and/or separate activities related to engagement and updating project website information. Materials developed as part of this subtask can be adapted for use in briefings with/presentations to City Council by City staff and other outreach purposes.

4.5 The consultant team will compile the full draft subarea plan assembling components prepared as part of other tasks and outcomes of the alternatives analysis, preliminarily identifying a preferred alternative either as part of the DEIS or as an outcome of the DEIS. The subarea plan will include all supporting maps, sketch-up models, renderings, and concept illustrations, refined and advanced to more detail for the preferred land use scenario reflected in the plan, including plans for land use and zoning changes, the public realm, planning level mapping and network identification for the multi-modal transportation system, and planning level utility infrastructure concepts to support implementation of the plan. Anticipated contents of the subarea plan (draft) include:

- Introduction and Background
- Existing Conditions
- Project Vision and Relationship to Auburn Comprehensive Plan (Goals and Policies)
- Design Principles/Foundational Intent of Design
- Alternatives Analyzed
- Preferred Alternative/Planned Action
    - Land Use Mix/Densities
    - Proposed Planned Action Thresholds
    - Zoning Recommendations
    - Housing
    - Employment and Economic Development

- Parks, Open Space, and Trails System
    - Multimodal Transportation
    - Utilities
    - Public Services
- Anticipated Phasing and Incremental Implementation Strategy
    - Probable Opinion of Project Costs (Planning Level) for Infrastructure
    - Funding and Financing

4.6 The consultant will prepare an incremental implementation strategy (with updated funding/financing strategy recommendations—the Part 2 work described earlier). The incremental implementation strategy will include a list of projects and actions, including capital improvements, facilities, and actions (as identified through the Planned Action EIS analysis), as needed to support implementation of the project through the horizon year of 2044. The incremental implementation strategy will include strategic actions, partnership opportunities, funding, and incentives that will help to drive implementation, formatted into a draft incremental implementation strategy included in the subarea plan.

4.7 The consultant will facilitate review by the City of Auburn and Segale.

4.8 The consultant will prepare a draft planned action ordinance identifying the geographic area of the planned action, threshold quantities, and other considerations through the horizon year of 2044 and facilitate review by the City of Auburn and Segale.

4.9 The consultant will facilitate (prepare for and attend) bi-weekly project management and coordination meetings with the core consultant team to coordinate on ongoing work efforts; facilitate information sharing through Sharepoint and other collaborative team work during this stage of work); assumes up to 8 meetings all remote (approximately 30 to 60 minutes each). The consultant will provide ongoing project management and coordination with subconsultants and with the team and will prepare monthly project status reports to accompany invoicing.

4.10 The consultant will facilitate (prepare for and attend) bi-weekly coordination sessions with the City of Auburn and Segale to discuss and check in on work in process and coordination across the team and discipline experts involved; assumes up to 8 meetings, with 4 remote and 4 in person. It is anticipated that these meetings will each be 30 to 60 minutes in duration with structured agendas. We may be able to drop back to monthly meetings later in the process, as the DEIS preparation begins.

Task 4.0 Deliverables to be Prepared and Provided by the Consultant Team:

- Full Planned Action DEIS document for review by City of Auburn and Segale
- Planned Action DEIS for public and agency review
- Public noticing and public meeting materials

- Facilitation of and materials for the third round of engagement workshops and activities; includes preparation of materials for briefings and presentations to City Council, boards, commissions, and others; assumes up to 5 meetings/activities and project website materials
- Full Draft Subarea Plan
- Draft Planned Action Ordinance
- Agendas, meeting notes, and action items tracking sheet for bi-weekly team meetings (up to 8)
- Agendas, meeting notes, and action items tracking sheet for bi-weekly meetings with City of Auburn and Segale (up to 8)

5.0 Final Environmental Impact Statement (FEIS), Final Subarea Plan, Final Planned Action Ordinance, and Adoption Process

This stage of work will involve finalizing EIS, subarea plan, and planned action ordinance and supporting formal adoption of the plan.

Timeline:

It is anticipated that this work will be completed by mid-2026 over a duration of approximately 3 months, wrapping up by June or July 2026.

Subtasks:

5.1 The consultant will prepare the Final EIS, including responses to comments received on the DEIS (see below for assumed quantity). The consultant also will prepare a memorandum indicating how the outcomes of the EIS process will shape the final subarea plan. The consultant will facilitate discussions with the City and Segale to determine the direction for the final subarea plan. The Planned Action FEIS document will document the preferred alternative and direction for the subarea plan and provide errata and/or updated content from that published in the DEIS.

It is assumed that one of the alternatives analyzed in the DEIS will be adopted as the preferred alternative in the FEIS with minimal changes. If additional changes are needed (within the scope analyzed in the DEIS) such as the creation of a hybrid alternative, this will require additional budget as part of a modification to this agreement. It is assumed that any additional transportation analysis would only entail minor modifications to existing data and not involve substantive new analysis or analysis of new alternatives.

Please note that this scope and budget assumes up to 50 substantive comments will be received that require individualized and substantive responses prepared by the consultant team. If additional substantive comments are submitted that need individualized and substantive responses, additional budget will be needed as part of a modification to this agreement.

5.2 The consultant will develop the final subarea plan for City staff and Segale review, reflecting outcomes of the Planned Action EIS analysis process, including the full plan (reflecting the preferred alternative) and phasing/ final incremental implementation strategy, and financing/funding strategy.

5.3 The consultant will finalize Planned Action Ordinance to support the plan and identification of the geographic area and thresholds of development expected within the planning horizon of 2044.

5.4 The consultant will prepare materials and support City with facilitation of formal public review of final Subarea Plan and Planned Action Ordinance, as well as and presentations to City Council, as well as involved City boards and commissions related to the formal adoption process for the subarea plan. Attendance at up to 5 meetings is anticipated in the scope.

5.5 The consultant will facilitate (prepare for and attend) bi-weekly project management and coordination meetings with the core consultant team to coordinate on ongoing work efforts; facilitate information sharing through Sharepoint and other collaborative teamwork during this stage of work); assumes up to 6 meetings all remote.

5.6 The consultant will facilitate (prepare for and attend) bi-weekly coordination sessions with the City of Auburn and Segale to discuss and check in on work in process and coordination across the team and discipline experts involved; assumes up to 6 meetings, with 3 remote and 3 in person. It is anticipated that these meetings will each be 30 to 60 minutes in duration with structured agendas. We may be able to drop back to monthly meetings later in the process, as the DEIS preparation begins.

Task 5.0 Deliverables to be Prepared and Provided by the Consultant Team:

- Planned Action FEIS document for review by City of Auburn and Segale with responses to comments and other content updates/additions to the DEIS document; documentation of the preferred alternative and direction for the subarea plan
- Planned Action FEIS for issuance
- Final Subarea Plan
- Final Planned Action Ordinance
- Facilitation of and materials for the final round of engagement meetings and activities related to the adoption process; includes preparation of materials for briefings and presentations to City Council, boards, commissions, and others; assumes up to 5 meetings/activities and project website materials
- Agendas, meeting notes, and action items tracking sheet for bi-weekly team meetings (up to 6)
- Agendas, meeting notes, and action items tracking sheet for bi-weekly meetings with City of Auburn and Segale (up to 6)

Attachment A

Project Schedule

The subarea planning process has launched in the fall of 2024 with full completion of the scope of work and deliverables described above by Mid-2026, extending for about 21 months. The preliminary schedule below illustrates the anticipated timeframes for each phase of work and key milestones. The consultant will coordinate with City staff and Segale on this schedule to refine timelines as needed. The consultant will provide updates to the schedule for reference by the team, City, and Segale on a monthly basis.

PROJECT BUDGET (Draft - December 11, 2024)

Stuck River Road/Mount Rainier Vista Subarea Plan & Planned Action Environmental

City of Auburn and Segale

		2024						2025												2026						
	TASKS AND SUBTASKS	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J

	Selection Process; Contract Authorization and NTP
	Discovery Phase (Early Start Tasks/Subtasks--See 1.0 Below)
	Enagement of Special Interests, Agencies, and the Public
1.0	**PROJECT DISCOVERY (EARLY START WORK ITEMS)**
1.1	Project Kick-Off; Initial Meetings with the City, Segale, Consultants, Analysts
1.2	File Sharing/Project Administration; Initial Review of Project Background
1.3	Site Tour with City and Segale Representatives
1.4	Initial Coordination Meetings with City and Segale
2.0	**INITIATE PLANNING PROCESS; REVIEW BACKGROUND AND EXISTING CONDITIONS; FACILITATE VISIONING; AND VALIDATE EXTENT OF TECHNICAL WORK NEEDED**
2.1	Finalize Work Plan; Internal Communications Plan; Formal Kick Off and Goal Setting
2.2	Develop Public Involvement and External Communications Plan
2.3	Assess Existing Conditions; Technical Work by All Team Members
2.4	Engage Key Interests, Property Owners, Tribal Interests, City Boards and Commissions and the Public (First Round of Engagement)
2.5	Conduct Environmental Scoping (Public and Agency Input/Meeting)
2.6	Outline Subarea Plan and Planned Action DEIS
2.7	Bi-Weekly Technical Team Coordination Sessions; Project Management and Coordination
2.8	Bi-Weekly Client Team Sessions (Initial Meeting Scheduled for 11/7/24)
2.9	Tax Increment Financing Feasibility Study; Project Funding/Financing Strategy (Part 1)
3.0	**LAYERED RESOURCE ANALYSIS; ALTERNATIVES DEVELOPMENT AND ANALYSIS; INFRASTRUCTURE PLANNING; AND PLANNED ACTION DEIS CONTENT DEVELOPMENT**
3.1	Develop Subarea Planning Scenarios and Alternatives and Related Infrastructure
3.2	Analyze Alternatives
3.3	Engage Key Interests, Property Owners, Tribal Interests, City Boards and Commissions and the Public (Second Round of Engagement)
3.4	Bi-Weekly Technical Team Coordination Sessions; Ongoing Project Management and Coordination
3.5	Bi-Weekly Client Team Sessions (Ongoing)
4.0	**DRAFT SUBAREA PLAN AND DRAFT ENVIRONMENTAL IMPACT STATEMENT; FACILITATE PUBLIC AND AGENCY REVIEW PROCESS**
4.1	Full Draft Environmental Impact Statement (DEIS) Compiled for City and Segale Review
4.2	One Round of Revisions; Prepare DEIS for Public and Agency Review
4.3	Facilitate Public and Agency Review
4.4	Engage Key Interests, Property Owners, Tribal Interests, City Boards and Commissions and the Public (Second Round of Engagement)
4.5	Assemble Full Draft Subarea Plan for City and Segale Review
4.6	Prepare Draft Planned Action Ordinance
4.7	Bi-Weekly Technical Team Coordination Sessions; Ongoing Project Management and Coordination
4.8	Bi-Weekly Client Team Sessions (Ongoing)
5.0	**FINAL ENVIRONMENTAL IMPACT STATEMENT; FINAL SUBAREA PLAN: FINAL PLANNED ACTION ORDINANCE; SUPPORT WITH FORMAL ADOPTION PROCESS**
5.1	Prepare Final Environmental Impact Statement (FEIS)
5.2	Prepare Final Subarea Plan for City and Segale Review
5.3	Finalize Planned Action Ordinance
5.4	Prepare Materials for and Support Formal Adoption Process
5.5	Bi-Weekly Technical Team Coordination Sessions; Ongoing Project Management and Coordination
5.6	Bi-Weekly Client Team Sessions (Ongoing)
	Expected Completion of Subarea Plan and Planned Action Process by Mid 2026

Otak

Attachment B

Project Budget

EXHIBIT B: PROJECT BUDGET (Otak Project Number 21968; FINAL January 2025)

Otak

Stuck River Road/Mount Rainier Vista Subarea Plan & Planned Action Environmental Impact Statement
City of Auburn and Segale

	TASKS AND SUBTASKS	Subtotals	Totals
1.0	**PROJECT DISCOVERY (EARLY START WORK ITEMS)**		
1.1	Project Kick-Off; Initial Meetings with the City, Segale, Consultants, Analysts	$15,460	
1.2	File Sharing/Project Administration; Initial Review of Project Background	$4,240	
1.3	Site Tour with City and Segale Representatives	$6,840	
1.4	Hold Initial Coordination Meetings with the City of Auburn and Segale	$3,380	
	Total for Task 1.0		**$29,920**
2.0	**INITIATE PLANNING PROCESS, REVIEW BACKGROUND AND EXISTING CONDITIONS, FACILITATE VISIONING, AND VALIDATE EXTENT OF TECHNICAL WORK NEEDED**		
2.1	Finalize Work Plan; Internal Communications Plan; Formal Kick Off and Goal Setting	$7,800	
2.2	Develop Public Involvement and External Communications Plan	$2,840	
2.3	Assess Existing Conditions; Technical Work by All Team Members	$170,600	
2.4	Engage Key Interests, Property Owners, Tribal Interests, City Boards and Commissions and the Public (First Round of Engagement)	$19,200	
2.5	Conduct Environmental Scoping (Public and Agency Input/Meeting)	$5,850	
2.6	Outline Subarea Plan and Planned Action DEIS	$2,840	
2.7	Bi-Weekly Technical Team Coordination Sessions (14); Provide Project Management and Coordination	$8,720	
2.8	Bi-Weekly Client Team Sessions (14)	$13,080	
2.9	Tax Increment Financing Feasibility Study; Project Funding/Financing Strategy (Part 1)	$25,000	
	Total for Task 2.0		**$255,930**
3.0	**LAYERED RESOURCE ANALYSIS AND SITE PLANNING; ALTERNATIVES DEVELOPMENT AND ANALYSIS; INFRASTRUCTURE PLANNING; AND PLANNED ACTION DEIS CONTENT DEVELOPMENT**		
3.1	Develop High Level/Conceptual Subarea Planning Scenarios and Alternatives and Related Infrastructure	$39,400	
3.2	Narrow to Three Action Alternatives; Analyze Alternatives and Mitigation Measures	$228,400	
3.3	Engage Key Interests, Property Owners, Tribal Interests, City Boards and Commissions and the Public (Second Round of Engagement)	$19,200	
3.4	Bi-Weekly Technical Team Coordination Sessions (14); Provide Ongoing Project Management and Coordination	$8,720	
3.5	Bi-Weekly Client Team Sessions (14 - Ongoing)	$13,080	
	Total for Task 3.0		**$308,800**

4.0	**DRAFT SUBAREA PLAN AND DRAFT ENVIRONMENTAL IMPACT STATEMENT; FACILITATE PUBLIC AND AGENCY REVIEW PROCESS**		
4.1	Full Draft Environmental Impact Statement (DEIS) Compiled for City and Segale Review	$39,540	
4.2	One Round of Revisions; Prepare DEIS for Public and Agency Review	$8,800	
4.3	Facilitate Public and Agency Review; Document and Organize/Categorize Comments Received	$7,600	
4.4	Engage Key Interests, Property Owners, Tribal Interests, City Boards and Commissions and the Public (Third Round of Engagement)	$12,200	
4.5	Assemble Full Draft Subarea Plan for City and Segale Review	$48,700	
4.6	Prepare Incremental Implementation Strategy and Part 2 of Funding/Financing Strategy and Recommendations	$20,200	
4.7	Facilitate Review by the City of Auburn and Segale (Revisions as Part of 5.2)	$2,400	
4.8	Prepare Draft Planned Action Ordinance	$5,940	
4.9	Bi-Weekly Technical Team Coordination Sessions (8); Provide Ongoing Project Management and Coordination	$5,232	
4.10	Bi-Weekly Client Team Sessions (8 - Ongoing)	$7,848	
	Total for Task 4.0		**$158,460**
5.0	**FINAL ENVIRONMENTAL IMPACT STATEMENT; FINAL SUBAREA PLAN: FINAL PLANNED ACTION ORDINANCE; SUPPORT WITH FORMAL ADOPTION PROCESS**		
5.1	Prepare Final Environmental Impact Statement (FEIS)	$32,500	
5.2	Prepare Final Subarea Plan for City and Segale Review; Finalize Incremental Implementation Strategy	$27,900	
5.3	Finalize Planned Action Ordinance	$3,140	
5.4	Prepare Materials for and Support Formal Adoption Process	$2,840	
5.5	Bi-Weekly Technical Team Coordination Sessions (6); Provide Ongoing Project Management and Coordination	$3,924	
5.6	Bi-Weekly Client Team Sessions (6 - Ongoing)	$5,886	
	Total for Task 5.0		**$76,190**
	Total Labor All Tasks		**$829,300**
	Estimated Direct Expenses All Tasks		**$25,000**
	TOTAL BASE PROJECT BUDGET		**$854,300**
	Management Reserve (10%)		**$85,430**
	OVERALL TOTAL PROJECT INCLUDING MANAGEMENT RESERVE		**$939,730**

Attachment C

Subconsultants and Areas of Expertise

Project Subconsultants:	
Leland Consulting Group	Market and economic analysis, housing needs/demand analysis, jobs forecasting, land capacity analysis, financial/funding strategy recommendations
Transpo Group	Multimodal transportation planning and traffic modelling and analysis in alignment with the regional travel demand model and City of Auburn modelling
EcoNorthwest	Tax increment financing feasibility study and project funding/financing strategy
Ramboll	Air quality analysis
Coffman	Sound/noise analysis
Consor Engineering	Water system and facilities analysis
Carollo	Wastewater/sewer system and facilities analysis

For the following areas of work, it is assumed that background reports are already in process of being prepared describing existing conditions and baseline information that will support the further development and refinement of alternatives. As such, these areas of service are not included in this contract, but we assume that the outcomes from their current work in process will be delivered to the consultant by early 2025 (before March 2025). There is the potential that there may be some additional needs for expertise from these firms depending on the location of the identified bridge crossing, or to further consult on specific matters. It is anticipated that these services would be of a level that contracting could occur through drawing from the management contingency fund established for the project.

- Perteet (cultural and archaeological resources)
- Raedeke (wetlands and wildlife)
- Goldsmith (existing stormwater conditions report)
- AESI (hydrology; earth sciences/hydrogeology)

For the following areas of work, the consultant will gather the firms' background work and analysis, taking it under consideration as the consultant team proceeds with planning and analysis efforts. Further contracting with these professionals is not anticipated.

- TenW (traffic/transportation analysis to date)
- Makers (site planning/concepts development)
- CPM (bridge and transportation analysis/costs/support to TenW)

Otak

Attachment D

City of Auburn Request for Proposals

CITY OF AUBURN
REQUEST FOR PROPOSALS (RFP)
Stuck River Road/Mt. Rainier Vista Master Plan and Planned Action EIS
Proposals Due: 4:30 pm, June 26, 2024

The City of Auburn is soliciting a second request for proposal from qualified consulting teams to provide professional services for the development of a Sub-Area Plan and Planned Action EIS (an RFP was previously released in October 2023). Development of these documents will include technical analysis needed to support development of a SEPA preferred alternative; preparation of a Comprehensive Plan Amendment for presentation to the community, Planning Commission, and City Council; development of a Planned Action EIS that enables more efficient future permitting; creation of development regulations that are designed to implement the Sub-Area Plan; and development of community engagement strategies that support the process.

One electronic copy (PDF) of the Proposal Package shall be emailed to planning@auburnwa.gov on or before 4:30 pm, June 26, 2024 with a subject line "Proposal – Stuck River Road/Mt. Rainier Vista". Questions regarding this solicitation should be directed to Jeff Tate, Director of Community Development, by email only at jtate@auburnwa.gov.

Information for the project is available on the City's website, http://www.auburnwa.gov/bids. Any new information that is made available as a result of response to questions will be posted on this website by June 12, 2024.

For specific instructions on information to include in the Proposal, refer to the section below entitled Proposal Elements. Evaluation of the Proposals and ultimate consultant selection is identified in the section entitled Selection Process and Evaluation Criteria below. Although the use of subconsultants is recognized as being necessary for a multidiscipline project, the City's preference is for the lead consultant to have the majority of the work performed in-house.

PROJECT DESCRIPTION

Development of a Sub-Area Plan that is consistent with the City's adopted Comprehensive Plan, the Washington State Growth Management Act, the Washington State Shoreline Management Act, and the Washington State Environmental Policy Act.

This area is already identified in the City's Comprehensive Plan as a "Designated Sub-Area". Designated Sub-Areas are mapped areas in the city that are deserving of a full Sub-Area Plan but do not currently have a plan in place. The Designated Sub-Areas that are subject to this planning effort are "Stuck River Road" and "Mt. Rainier Vista". The City's Comprehensive Plan already includes general language related to the future of both areas.

The Sub-Area Plan will include a Land Use Element, Housing Element, Parks and Recreation Element, Capital Facilities Element, Utilities Element, Transportation Element, and an Economic Development Element. Additionally, the Plan must consider and include recently enacted State Legislation that has an effective date within the window of Sub-Area Plan preparation (e.g. HB 1110 Middle Housing). The Sub-Area Plan will be developed and accompanied by a Planned Action EIS.

SCOPE OF WORK

The scope of services at a minimum should include the following:

- A public outreach strategy
- A Planned Action EIS
- An EIS that includes a no action alternative and at least two other alternatives
- Evaluation of existing conditions
- Evaluation of off-site impacts
- Technical evaluations of pertinent SEPA elements
- Mitigation measures associated with identified impacts
- A standalone Sub-Area Plan to include existing conditions maps and narratives, future land use maps and designations, overarching community wide goals policies, specific land use goals and policies

The consultant should assume that city staff will be the lead presenter and contact related to fielding public inquiries and providing presentations to the Planning Commission and City Council, however there will be occasional requests for consultant presence at some evening meetings.

PROPOSAL ELEMENTS

Each proposal is limited to five (5) double-sided pages (excluding cover and dividers) (minimum font size 10 Arial), and should address the following items relative to the Sub-Area Plan and Planned Action EIS:

1. The Project Team's, including sub-consultants, expertise and experience with similar sub-area planning and Planned Action EIS project within the last 5 years. Please include the following information:
   - Project name
   - Location and Project Costs
   - A brief description of the project
   - The firm's role in the project
   - Project Team Member roles in the project
   - A project reference and contact phone number
   - Team member and firm qualifications (this information can be provided as a supplement to the 5 page limit)

2. List and describe briefly what you think are important issues, including any unique design or project constraints, and attributes of your firm that may set it apart, or make it particularly well-suited for the work at hand. Describe lessons learned by the firm/team regarding similar projects with other agencies.
3. The Project Team's anticipated Project Schedule and fee estimate for identified scope of work.
4. Public engagement methods and strategies that both satisfy the minimum legal requirements as well as encourage and enable meaningful public input.
5. Your firm's process/procedures for providing quality assurance/quality control throughout the life of the project.

SELECTION PROCESS AND EVALUATION CRITERIA

A committee of City personnel will evaluate and rate the proposals on the following criteria, weighted as indicated:

1. Project Team Qualifications (20%)
2. Relevant Prior Experience (20%)
3. Important Issues and Lessons Learned (20%)

4. Anticipated Project Schedule (10%)
5. Overview of Public Engagement Strategies (20%)
6. Quality Assurance / Quality Control Plan (10%)

Following the evaluation of the Proposals, the City will interview up to three (3) of the prospective consultants. Those firms selected for interview will have the opportunity to present their past experience with similar projects and overall project approach.

All agencies performing work with the City of Auburn must have insurance that meets or exceeds the City's minimum requirements and a City of Auburn Business License. The agency will submit an approved certificate of insurance prior to signing a contract and provide evidence of a business license prior to submittal of a first invoice.

SELECTION SCHEDULE

The City's proposed schedule for Consultant selection, subject to change, is as follows:

Issue Request for Proposals	May 9, 2024
Deadline for Questions to be Submitted	June 5, 2024
Issue Response to Questions	June 12, 2024
Deadline for Submittal of Proposals	June 26, 2024
Preliminary Selection of Firms	July 10, 2024
Notify Firms Chosen for Interviews	July 12, 2024
Consultant Interviews	Week of July 22, 2024
Final Selection of Firm	July 31, 2024

TERMS AND CONDITIONS

The City of Auburn reserves the right to reject any and all Proposals and to waive irregularities and informalities in the submittal and evaluation process. This solicitation for Consultant Services does not obligate the City of Auburn to pay any costs incurred by respondents in the preparation and submission of a Proposal. This solicitation does not obligate the City of Auburn to accept or contract for any expressed or implied services. Furthermore, the City of Auburn reserves the right to award the contract to the next most qualified Consultant if the selected Consultant does not execute a contract within thirty 30 days after the award of the proposal.

Persons with disabilities may request this information be prepared and supplied in alternative forms by calling 253-931-3090.

The City of Auburn, in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The City of Auburn does not discriminate on the grounds of race, color, religion, national origin, sex, sexual orientation, age or disability in consideration for a project award.

EXHIBIT C

Disclosure of Prior Contracts or Services and Permitted Future Contracts or Services

Pursuant to Section 17, “Conflict of Interest,” of the City of Auburn and Segale Properties LLC Agreement for Consulting Services for the Preparation of Sub Area Plan and SEPA Document for the Stuck River Road and Rainier Vista Sub Area Plan (the “Agreement”), CONSULTANT and PROPONENT make the following representations:

1. CONSULTANT and its subconsultants do not and shall not have a personal or professional bias or financial interest in the Project other than fees due under this Agreement.

2. There have been no prior contracts between the CONSULTANT and PROPONENT.

3. There have been no prior services performed by the CONSULTANT for the PROPONENT.

4. Subsequent to the effective date of this Agreement, any consultant or subconsultant may perform services or contract to perform services described on Attachment A.

5. Before the expiration of one hundred eighty (180) days after completion of services under the Agreement, the CONSULTANT shall not perform services or contract to perform services for the PROPONENT.

Signed: ________________________	Signed: ________________________
Printed: ________________________	Printed: ________________________
Firm: ________________________	Firm: ________________________
Title: ________________________	Title: ________________________
Dated: ________________________	Dated: ________________________