	<p><b>City Council Meeting</b>  <b>July 16, 2018 - 7:00 PM</b>  <b>City Hall Council Chambers</b>  <b>AGENDA</b>  <b>Watch the meeting LIVE!</b></p> <p><b>Watch the meeting video</b>  Meeting videos are not available until 72 hours after the meeting has concluded.</p>
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**I. CALL TO ORDER**

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

**II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS**

- A. Official Swearing-in of Chief of Police William Pierson

**III. APPOINTMENTS**

- A. Board and Commission Appointments  
Lodging Tax Advisory Board

City Council to confirm the appointment of Reggie Matto to the Auburn Lodging Tax Advisory Committee for a term to expire December 31, 2020.

*(RECOMMENDED ACTION: City Council confirm the appointment to the Lodging Tax Advisory Committee.)*

- B. Board and Commission Appointments  
Transportation Advisory Board

City Council to confirm the following appointments to serve on the Transportation Advisory Board for terms expiring December 31, 2020:

- Sarah Shaw
- Peter Di Turi

*(RECOMMENDED ACTION: City Council confirm the appointments to the Transportation Advisory Board.)*

**IV. AGENDA MODIFICATIONS**

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

- A. **Public Hearings**

- 1. Public Hearing for Johnston Sewer Payback Agreement  
(Gaub)

City Council to conduct a public hearing to receive public comments and suggestions with regard to the proposed Ordinance No. 6685 - Johnston Sewer Payback Agreement

*(RECOMMENDED ACTION: City Council conduct the public hearing. See Ordinance No. 6685 later on the agenda for further information and action.)*

**B. Audience Participation**

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

**C. Correspondence - (There is no correspondence for Council review.)**

**VI. COUNCIL AD HOC COMMITTEE REPORTS**

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

**VII. CONSENT AGENDA**

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

**A. Minutes of the June 18, 2018 Regular City Council Meeting**

**B. Minutes of the June 25, 2018 Special City Council Meeting**

**C. Minutes of the July 9, 2018 City Council Study Session**

**D. Claims Vouchers (Coleman)**

Claims vouchers 449294 through 449488 in the amount of \$945,432.00 and five wire transfers in the amount of \$697,222.35 and dated July 2, 2018; and

Claims vouchers 449489 through 449881 in the amount of \$4,849,682.07 and three wire transfers in the amount of \$542,704.80 and dated July 16, 2018.

**E. Payroll Vouchers (Coleman)**

Payroll check numbers 537969 through 537997 in the amount of \$509,598.87 and electronic deposit transmissions in the amount of \$1,953,412.93 for a grand total of \$2,463,011.80 for the period covering June 14, 2018 to June 27, 2018; and

Payroll check numbers 537998 through 538028 in the amount of \$241,286.17 and electronic deposit transmissions in the amount of \$2,383,449.87 for the period covering June 28, 2018 to July 11, 2018.

**F. Public Works Project No. CP1718**

City Council approve award of Contract No. 18-05, to Miles Resources, LLC on their low bid of \$1,172,110.00 for Project No. CP1718 - South 277th Street Preservation Project

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

## **VIII. UNFINISHED BUSINESS**

### **IX. NEW BUSINESS**

### **X. ORDINANCES**

#### **A. Ordinance No. 6685 (Gaub)**

An Ordinance of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a Payback Agreement between the City of Auburn and Jeff and Gwen Johnston for a utility extension

*(RECOMMENDED ACTION: City Council adopt Ordinance No. 6685.)*

#### **B. Ordinance No. 6686 (Tate)**

An Ordinance of the City Council of the City of Auburn, Washington, relating to a construction sales tax exemption, re-enacting the exemption, and amending Chapter 3.60 of the Auburn City Code

*(RECOMMENDED ACTION: City Council adopt Ordinance No. 6686.)*

### **XI. RESOLUTIONS**

#### **A. Resolution No. 5374 (Hinman)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute the Real Estate Easement Agreement between the City of Auburn and Puget Sound Energy for conveyance of a utility easement

*(RECOMMENDED ACTION: City Council adopt Resolution No. 5374.)*

### **XII. MAYOR AND COUNCILMEMBER REPORTS**

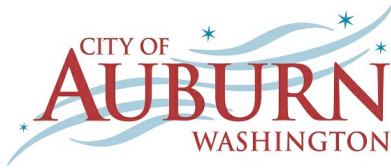
*At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.*

#### **A. From the Council**

#### **B. From the Mayor**

### **XIII. ADJOURNMENT**

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



## AGENDA BILL APPROVAL FORM

Agenda Subject:  
Public Hearing for Johnston Sewer Payback Agreement (Gaub)

Date:  
July 6, 2018

Department:  
CD & PW

**Attachments:**  
No Attachments Available

Budget Impact:  
Current Budget: \$0  
Proposed Revision: \$0  
Revised Budget: \$0

### Administrative Recommendation:

City Council to conduct a public hearing to be held July 16, 2018 to receive public comments and suggestions with regard to the proposed Ordinance No. 6685 - Johnston Sewer Payback Agreement.

### Background Summary:

This public hearing is in accordance with Auburn City Code 3.25.080 in order to “listen to testimony as it relates to the desirability and the sufficiency of the proposed assessment reimbursement area and methods of calculating reimbursement assessments and the amounts thereof,” regarding the approval of Ordinance No. 6685 – the Johnston Sewer Payback Agreement prior to consideration by City Council for approval.

### Reviewed by Council Committees:

Councilmember:

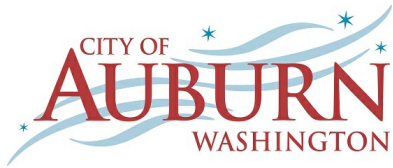
Staff:

Gaub

Meeting Date: July 16, 2018

Item Number:

PH.1



## AGENDA BILL APPROVAL FORM

Agenda Subject:  
Minutes of the June 18, 2018 Regular City Council Meeting

Department:  
Administration

**Attachments:**  
[06-18-2018 Minutes](#)

Date:  
July 9, 2018

Budget Impact:  
Current Budget: \$0  
Proposed Revision: \$0  
Revised Budget: \$0

Administrative Recommendation:

Background Summary:

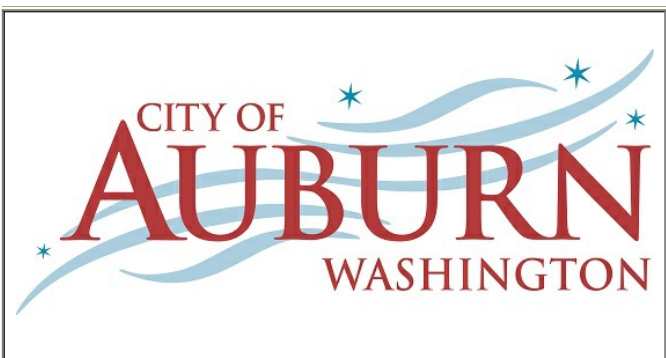
Reviewed by Council Committees:

Councilmember:

Meeting Date: July 16, 2018

Staff:

Item Number: CA.A

	<p style="text-align: center;"><b>City Council Meeting</b>  <b>June 18, 2018 - 7:00 PM</b>  <b>City Hall Council Chambers</b>  <b>MINUTES</b>  <b>Watch the meeting LIVE!</b></p> <p style="text-align: center;"><b>Watch the meeting video</b>  Meeting videos are not available until 72  hours after the meeting has concluded.</p>
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## **I. CALL TO ORDER**

### **A. Pledge of Allegiance**

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 in Auburn and led those in attendance in the Pledge of Allegiance.

### **B. Roll Call**

Councilmembers present: Acting Deputy Mayor Bill Pelloza, Larry Brown, Claude DaCorsi, John Holman, Yolanda Trout-Manuel, and Largo Wales. Councilmember Bob Baggett was excused.

Mayor Nancy Backus and the following department directors and staff members were present: City Attorney Daniel B. Heid, Innovation and Technology Director Paul Haugan, Police Chief Bob Lee, Assistant Police Chief Bill Pierson, Finance Director Shelley Coleman, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Assistant Director of Community Development Services Jeff Tate, Director of Administration Dana Hinman, Compensation and Employee Relations Manager Aaron Barber, Parks, Arts and Recreation Director Daryl Faber and Deputy City Clerk Shawn Campbell.

## **II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS**

### **A. Chief Lee Retirement Proclamation & Presentation**

Mayor Backus to proclaim June 22, 2018 as "Chief Bob Lee Retirement Day" in the city of Auburn.

Mayor Backus read and presented the proclamation declaring June 22, 2018 as "Chief Bob Lee Retirement Day" in the City of Auburn to Police Chief Bob Lee.

Chief Lee thanked the Mayor and Council for their support over his entire career. Chief Lee stated he is honored to work with such great directors and staff.

A video honoring Chief Lee and commemorating his career at the City was

played for the audience.

**B. City Attorney Dan Heid Proclamation & Presentation**

Mayor Backus to proclaim June 30, 2018 as "Dan Heid Retirement Day" in the city of Auburn.

Mayor Backus read and presented the proclamation declaring June 30, 2018 as "Dan Heid Retirement Day" in the City of Auburn to City Attorney Dan Heid.

City Attorney Heid stated he has been the City Attorney for many cities in Washington but he chose to stay at the City of Auburn the longest because Auburn has been the best City to work for. He commended the past and present Mayors and Councilmembers. City Attorney Heid said the City is fortunate to have excellent department directors and staff.

Mayor Backus played a video highlighting City Attorney Heid's sense of humor.

**III. APPOINTMENTS**

Mayor Backus announced the Assistant Police Chief Bill Pierson will be the new Chief of Police effective June 23, 2018

Assistant Chief Pierson thanked Chief Lee and the Mayor and Council for the honor.

**IV. AGENDA MODIFICATIONS**

There were no modifications to the agenda.

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

**A. Public Hearings**

**1. Public Hearing on the 2019-2024 Transportation Improvement Plan**

City Council conduct a public hearing to receive public comments and suggestions with regard to the proposed modifications to the 2019-2024 Transportation Improvement Plan (TIP).

Councilmember Peloza shared his concerns about the Transportation Improvement Program. He requested the departmental policies regarding how roads are chosen for preservation and replacement be reviewed.

Councilmember Wales stated she would like the policies reviewed also and believes the Roads Ad Hoc Committee is currently working toward this goal.

Councilmember DaCorsi stated the Roads Ad Hoc Committee is reviewing the Transportation Improvement Program project by project. When the Committee has completed their review, they will be considering adding or taking away projects based on available funds. The Committees' review will not be done in the near future.

Councilmember Peloza requested the ad hoc committee add the policies to their scope.

Mayor Backus opened the public hearing at 7:58 p.m.

Freda Bingham, 625 9th Street SE, Auburn  
Ms. Bingham lives in the area of the Senior Center she requested a four way stop be added at 9th Street SE and H Street SE.

With no further people requesting to speak, Mayor Backus closed the public hearing 8:02 p.m.

#### **B. Audience Participation**

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

Evan Sipple, 10833 295th Street, Auburn  
Mr. Sipple has lived in Auburn for seven years. He expressed his concern about the rapid growth on Lea Hill and requested the City look at the zoning for apartments to encourage proper growth management in the area.

Bob Zimmerman, 33029 46th 295th Street, Auburn  
Mr. Zimmerman expressed his concern regarding a propane tank near his home.

Liz Miller, 5121 Nathan Loop SE, Auburn  
Ms. Miller thanked Chief Lee and City Attorney Heid for their wonderful service to the City.

#### **C. Correspondence**

There was no correspondence for Council to review.

### **VI. COUNCIL AD HOC COMMITTEE REPORTS**

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

Councilmember Brown, chair of the Finance ad hoc committee, reported he and Councilmember Holman reviewed claims vouchers in the amount of \$5.6 million and payroll vouchers dated May 31, 2018 to June 13, 2018, in the approximate amount of \$2.25 million. Councilmember Brown reported

all items were in order, and the ad hoc committee recommends approval.

Councilmember DaCorsi, chair of the Roads Projects ad hoc committee, reported the ad hoc committee has not met since the last Council meeting, but is scheduled to meet July 3rd.

## **VII. CONSENT AGENDA**

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

- A. Minutes of the March 29, 2018, March 30, 2018, May 14, 2018 and June 5, 2018 Special City Council Meetings
- B. Minutes of the May 29, 2018 City Council Study Session
- C. Minutes of the June 4, 2018 City Council Meeting
- D. Claims Vouchers (Coleman)  
Claim voucher numbers 449077 through 449293 in the amount of \$5,111,076.17 and two wire transfers in the amount of \$549,489.97 and dated June 18th, 2018.
- E. Payroll Vouchers (Coleman)  
Payroll check numbers 537946 through 537968 in the amount of \$231,388.85, electronic deposit transmissions in the amount of \$2,020,913.69 for a grand total of \$2,252,302.54 for the period covering May 31, 2018 to June 13, 2018.
- F. Public Works Project No. CP1717  
City Council to award Contract No. 18-02, to Tucci & Sons, Inc. on their low bid of \$2,192,069.20 plus Washington State sales tax of \$61,307.08 for a total contract price of \$2,253,376.28 for Project No. CP1717, 2018 Local Street Pavement Reconstruction Project

Councilmember Pelozo moved and Councilmember Trout-Manuel seconded to approve the Consent Agenda.

MOTION CARRIED UNANIMOUSLY. 6-0

## **VIII. UNFINISHED BUSINESS**

There was no unfinished business.

## **IX. NEW BUSINESS**

There was no new business.

## **X. ORDINANCES**

- A. Ordinance No. 6659 (Heid)  
An Ordinance of the City Council of the City of Auburn, Washington, amending Section

1.24.010 of the Auburn City Code and creating a new Chapter 9.24 of the Auburn City Code relating to new gross misdemeanor violations concerning drug-related activities

Councilmember Brown moved and Councilmember Trout-Manuel seconded to adopt Ordinance No. 6659.

MOTION CARRIED UNANIMOUSLY. 6-0

B. Ordinance No. 6682 (Coleman)

An Ordinance of the City Council of the City of Auburn, Washington, creating a new Chapter 3.06 - repurposing of special capital funds - establishing a multi-year capital budgeting process, accommodating repurposing of certain monies within the same special funds and establishing guidelines for transferring monies between projects within the same capital funds

Councilmember Holman moved and Councilmember DaCorsi seconded to adopt Ordinance No. 6682.

MOTION CARRIED UNANIMOUSLY. 6-0

C. Ordinance No. 6684 (Coleman)

An Ordinance of the City Council of the City of Auburn, Washington, amending Ordinance No. 6621, the 2017-2018 Biennial Budget Ordinance, as amended by Ordinance No. 6646, Ordinance No. 6656, Ordinance No. 6665, Ordinance No. 6666, and Ordinance No. 6680, authorizing amendment to the City of Auburn 2017-2018 Budget as set forth in Schedule "A" and Schedule "B"

Councilmember Holman moved and Councilmember Brown seconded to adopt Ordinance no. 6684.

MOTION CARRIED UNANIMOUSLY. 6-0

## **XI. RESOLUTIONS**

A. Resolution No. 5355 (Gaub)

A Resolution of the City Council of the City of Auburn, Washington, approving the 2019-2024 Transportation Improvement Program of the City of Auburn pursuant to R.C.W. Chapter 35.77 of the laws of the State of Washington

Councilmember DaCorsi moved and Councilmember Holman seconded to approve Resolution No. 5355.

MOTION CARRIED 5-1; Councilmember Wales voted no.

B. Resolution No. 5356 (Gaub)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement with Sensus USA, Inc. for software as a service relating to remote water meter reading

Councilmember DaCorsi moved and Councilmember Holman seconded to approve Resolution No. 5356.

MOTION CARRIED UNANIMOUSLY. 6-0

## **XII. 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**

Councilmember Pelosa reported he attended the Metropolitan Solid Waste Management Advisory Committee and a celebration for Don Stevenson, aka the Pacing Parson.

Councilmember Trout-Manuel reported she participated in a phone conference with the National League of Cities Public Safety Committee and attended the Blue Ribbon Committee graduation.

Councilmember Wales stated she is concerned with her garbage bill from Republic Waste, the bill has been increased due to new recycle rates.

Councilmember Holman noted June 3rd was the City of Auburn's birthday. Councilmember Holman stated he had the honor of awarding the Juan Huseby School District Scholarships.

Councilmember DaCorsi reported he attended the South County City Officials meeting on affordable housing.

### **B. From the Mayor**

Mayor Backus reported she attended the meeting with the South End Mayors and City Administrators on Affordable Housing and the Vietnam War Memorial ribbon cutting. Mayor Backus reported that Tuesday, June 19th is the Community Picnic at Brennan Park and the Mayor's Taskforce on Homelessness is reconvening on Thursday, June 21st.

## **XIII. EXECUTIVE SESSION**

### **1. Executive Session**

At 8:12 p.m. and immediately following the Ad Hoc Committee Reports, Mayor Backus recessed the meeting to executive session pursuant to RCW42.30.110(1)(i) for approximately five minutes to discuss potential litigation.

Mayor Backus reconvened the meeting at 8:18 p.m.

## **XIV. ADJOURNMENT**

There being no further business to come before the Council, the meeting adjourned at 8:42 p.m.

APPROVED THE 16th DAY OF July, 2018.

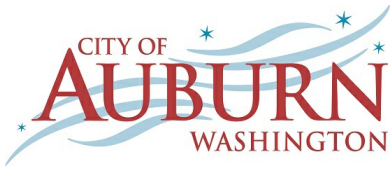
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NANCY BACKUS, MAYOR

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Shawn Campbell, Deputy City Clerk

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## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Minutes of the June 25, 2018 Special City Council Meeting

**Department:**

Administration

**Attachments:**

[06-25-2018 Minutes](#)

**Date:**

July 10, 2018

**Budget Impact:**

Current Budget: \$0

Proposed Revision: \$0

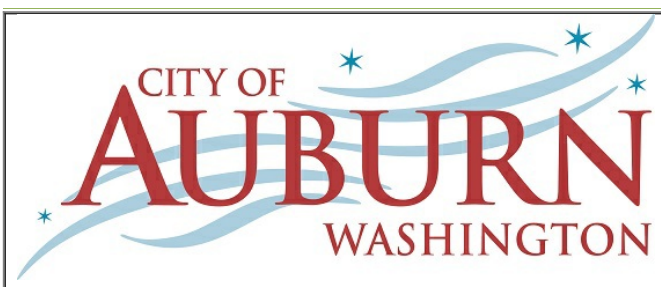
Revised Budget: \$0

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

**Meeting Date:** July 16, 2018

**Staff:**

**Item Number:** CA.B



**Special City Council Meeting  
June 25, 2018 - 5:30 PM  
City Hall Council Chambers  
AGENDA**

**I. CALL TO ORDER**

**A. Pledge of Allegiance**

Mayor Nancy Backus called the special meeting to order at 5:30 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn and led those in attendance in the Pledge of Allegiance.

**B. Roll Call**

Councilmembers present: Larry Brown, Claude DaCorsi, Yolanda Trout-Manuel and Largo Wales.

Deputy Mayor Bob Baggett, Councilmember John Holman and Councilmember Bill Peloza were excused.

Mayor Nancy Backus and the following department directors and staff members were present: City Attorney Steven Gross, Police Commander Dan O'Neil, Finance Director Shelley Coleman, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Assistant Director of Community Development Services Jeff Tate, Director of Human Resources and Risk Management Candis Martinson, Compensation and Employee Relations Manager Aaron Barber, Assistant Finance Director Kevin Fuhrer and Deputy City Clerk Shawn Campbell.

**II. 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. Public Works Project No. CP1725 (Gaub)**

City Council to award Contract No. 18-09, to Lakeside Industries Inc. on their low bid of \$2,370,331.52 for Project No. CP1725, 2018 Citywide Patch and Overlay Project

Councilmember DaCorsi moved and Councilmember Trout-Manuel seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 4-0

**III. RESOLUTIONS**

**A. Resolution No. 5375 (Coleman)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the acceptance and appropriation of grant funds in the amount of Twenty-five Thousand Two Hundred Forty-two Dollars (\$25,242.00), and authorizing the Mayor to execute an interlocal agreement between the Washington State Department of Ecology and the City of Auburn to accept said funds for implementation of the 2017-2019 Local Solid Waste Financial Assistance Grant program

Councilmember Brown moved and Councilmember DaCorsi seconded to approve Resolution No. 5375.

MOTION CARRIED UNANIMOUSLY. 4-0

B. Resolution No. 5376 (Barber)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to take steps to comply in accordance with Section 41.50.152 of the Revised Code of Washington regarding a city employee cashing-out unused annual leave in excess of two hundred forty hours

Councilmember DaCorsi moved and Councilmember Brown seconded to approve Resolution No. 5376.

Councilmember Wales asked how many employees this resolution will this affect. She wants to encourage employees to take their vacation time.

Manager Barber explained this only affects PERS 1 employees. Those who have retired in the past did not have the excess compensation.

Councilmember Trout-Manuel asked how this will affect the retirees retirement. Manager Barber explained the retiree will receive additional retirement funds based on their accrued vacation.

MOTION CARRIED UNANIMOUSLY. 4-0

#### IV. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 5:41 p.m.

APPROVED THE 16th DAY OF July, 2018.

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NANCY BACKUS, MAYOR

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Shawn Campbell, Deputy City Clerk

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## AGENDA BILL APPROVAL FORM

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**Agenda Subject:**

Minutes of the July 9, 2018 City Council Study Session

**Department:**

Administration

**Attachments:**

[07-09-2018](#)

**Date:**

July 10, 2018

**Budget Impact:**

Current Budget: \$0

Proposed Revision: \$0

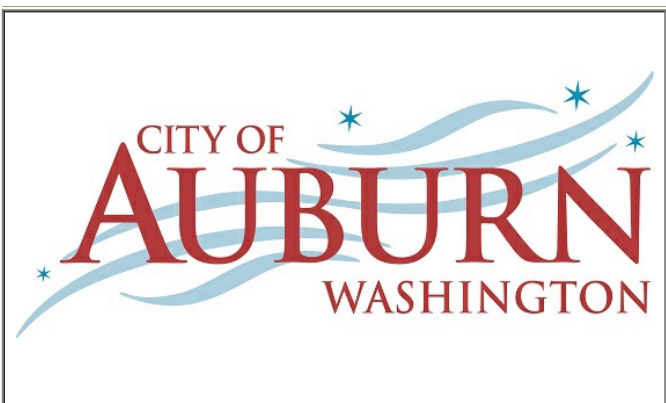
Revised Budget: \$0

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

**Meeting Date:** July 16, 2018

**Staff:**

**Item Number:** CA.C

	<p><b>City Council Study Session Muni Services SFA July 9, 2018 - 5:30 PM Council Chambers - City Hall AGENDA</b></p> <p><b>Watch the meeting video</b></p> <p>Meeting videos are not available until 72 hours after the meeting has concluded.</p>
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## I. CALL TO ORDER

Deputy Mayor Bob Baggett called the meeting to order at 5:33 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn.

### A. Roll Call

Councilmembers present: Deputy Mayor Bob Baggett, Larry Brown, Claude DaCorsi, John Holman, Bill Peloza, Yolanda Trout-Manuel and Largo Wales.

Mayor Nancy Backus and the following department directors and staff members were present: City Attorney Steve Gross, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Police Chief Bill Pierson, Innovation and Technology Customer Support Manager Reba Stowe, Sewer Utility Engineer Bob Elwell, Assistant Director of Community Development Services Jeff Tate, and Deputy City Clerk Shawn Campbell.

## II. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

There was no announcement, report or presentation.

## III. AGENDA ITEMS FOR COUNCIL DISCUSSION

### A. Johnston Sewer Payback Agreement (Gaub) (10 Minutes)

An Ordinance of the City Council of the City of Auburn, Washington, authorizing the Mayor and City Clerk to execute a Payback Agreement between the City of Auburn and Jeff and Gwen Johnston for a Utility Extension

Sewer Utility Engineer Elwell explained the purpose of a payback agreement, the benefits that are possible to the City and property owners and the process the applicant goes through to have a payback agreement put into place.

Councilmember Wales questioned the disbursement of costs for each resident and why they would want to go onto sewer. Sewer Utility Engineer Elwell explained if the property owner's septic failed or if they wanted to

subdivide their lot they would be required to connect to the City sewer if it was available.

Councilmember Pelosa asked if the City gets a fee for the administrative work done for this project. Sewer Utility Engineer Elwell said the City receives \$2,500.00 at the start of the application process.

Councilmember Trout-Manuel asked about the cost of hooking up to the City sewer. Sewer Utility Engineer Elwell explained the City fees incurred by a resident when hooking up to the City sewer system including the permit fee of approximately \$200.00 and the System Development Charge of \$2,400.00.

B. Ordinance No. 6686 (Tate)

Amendments to Auburn City Code Section 3.60.036 related to the renewal of the construction sales tax exemption program.

Assistant Director Tate introduced Ordinance No. 6686 regarding the construction sales tax exemption. He explained this is a rebate program, and developers that meet the criteria must apply for a reimbursement. The reimbursement is for the portion of sales tax that comes to the City.

Councilmember Wales stated the construction sales tax is designated to local streets. She asked Council to discuss the intent and purpose of the exemption.

Councilmember Holman stated this rebate provides the City with an additional tool to encourage development.

Councilmember DaCorsi stated there are limitations on a developer's ability to apply for the rebate.

Councilmember Brown asked why the department requested to eliminate the sunset date opposed to creating a future sunset date. Assistant Director Tate stated typically the sunset date is included to test the proposed incentive; once it is renewed, the City has typically eliminated the sunset date.

#### IV. MUNICIPAL SERVICES DISCUSSION ITEMS

A. Surrender Firearms Protocols (Pierson) (20 Minutes)

Presentation on the protocols for surrendering firearms.

Chief Pierson presented Council with the City's protocol for surrendering firearms for anyone convicted of a felony or various other types of crimes that prohibit a person from being allowed to possess a firearm. If the City is in possession of a firearm and a person requests the firearm returned, police staff will research if the person has the right to have that firearm. Firearms can also be brought to the police for surrender if the

person has been ordered to surrender all firearms in their possession.

Deputy Mayor Baggett asked how the police determine probable cause to attain a search warrant if the person does not surrender their firearms. Chief Pierson stated the police investigate through if there is a more than likely chance of guns still being in the home. They present their evidence to a judge who then issues a search warrant for the firearms.

Councilmember Wales asked what happens to the guns once they have been surrendered and not returned. Chief Pierson stated they are destroyed.

City Attorney Gross stated the City does not determine if a person can or cannot have the firearm. It is determined by Washington State Law. If a person has a firearm and is no longer allowed to have it, they can enter into a third party agreement to transfer the interest to a person who is allowed to have the firearm.

#### V. OTHER DISCUSSION ITEMS

There was no other discussion item.

#### VI. NEW BUSINESS

There was no new business.

#### VII. MATRIX

##### A. Matrix

Councilmembers reviewed the matrix. Mayor Backus stated she is going to the Redmond Community Court in August and will provide a presentation for Council in September. Park rules and fireworks will be for a future discussion.

City Attorney Gross noted that a majority of Councilmembers must be interested in a topic to add it to an upcoming agenda.

#### VIII. ADJOURNMENT

There being no further discussion, the meeting adjourned at 6:19 p.m.

APPROVED this 16th day of July, 2018.

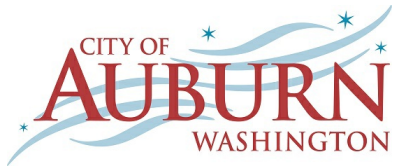
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BOB BAGGETT, DEPUTY MAYOR

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Shawn Campbell, Deputy City Clerk

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## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Claims Vouchers (Coleman)

**Date:**

June 27, 2018

**Department:**

Finance

**Attachments:**

No Attachments Available

**Budget Impact:****Administrative Recommendation:**

City Council approve claims vouchers.

**Background Summary:**

Claims vouchers 449294 through 449488 in the amount of \$945,432.00 and five wire transfers in the amount of \$697,222.35 and dated July 2, 2018; and

Claims vouchers 449489 through 449881 in the amount of \$4,849,682.07 and three wire transfers in the amount of \$542,704.80 and dated July 16, 2018.

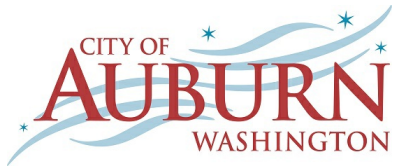
**Reviewed by Council Committees:****Councilmember:****Staff:**

Coleman

**Meeting Date:** July 16, 2018

**Item Number:**

CA.D



## AGENDA BILL APPROVAL FORM

Agenda Subject:  
Payroll Vouchers (Coleman)

Date:  
June 27, 2018

Department:  
Finance

**Attachments:**  
No Attachments Available

Budget Impact:

Administrative Recommendation:  
City Council approve payroll vouchers.

### Background Summary:

Payroll check numbers 537969 through 537997 in the amount of \$509,598.87 and electronic deposit transmissions in the amount of \$1,953,412.93 for a grand total of \$2,463,011.80 for the period covering June 14, 2018 to June 27, 2018; and

Payroll check numbers 537998 through 538028 in the amount of \$241,286.17 and electronic deposit transmissions in the amount of \$2,383,449.87 for the period covering June 28, 2018 to July 11, 2018.

### Reviewed by Council Committees:

Finance

Councilmember:

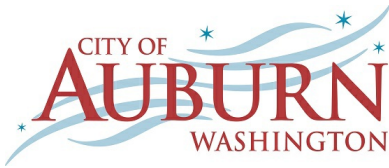
Staff:

Coleman

Meeting Date: July 16, 2018

Item Number:

CA.E



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Public Works Project No. CP1718

**Date:**

June 26, 2018

**Department:**

CD&PW

**Attachments:**

[Budget Status Sheet](#)

[Bid Tab Summary](#)

[CP1718 Vicinity Map](#)

**Budget Impact:**

Current Budget: \$0

Proposed Revision:

\$40,000.00

Revised Budget: \$0

**Administrative Recommendation:**

City Council approve award of Contract No. 18-05, to Miles Resources, LLC on their low bid of \$1,172,110.00 for Project No. CP1718 - South 277th Street Preservation Project.

**Background Summary:**

The City received 1 responsive bid which was approximately 21% above the engineer's estimate. Staff has performed reference checks and other verifications to determine that Miles Resources, LLC meets the responsible bidding criteria and recommends award.

The bid came in higher than anticipated due to recent increases in oil costs, a tightened supply of available paving contractors, and the requirement to pave 277th during nighttime hours to reduce traffic impacts. Re-advertising this project will not likely result in lower bids and will delay the project. Therefore, it is in the public's best interest to award the contract to Miles Resources, LLC.

The purpose of the project is to rehabilitate and preserve the existing pavement on South 277th Street between the SR167 North Bound Off Ramp and Auburn Way North and upgrade facilities to meet current Americans With Disabilities Act (ADA) standards.

Construction is expected to begin in August 2018 and be completed by November 2018. A project budget shortfall of \$40,000.00 exists in the 105 (Arterial Street) Fund. It is anticipated that the necessary funds will be transferred into the project via Budget Amendment #7.

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

**Meeting Date:** July 16, 2018

**Staff:**

Item Number:

Gaub

CA.F



# BUDGET STATUS SHEET

<b>Project No:</b> CP1718	<b>Project Title:</b> S 277th Street Preservation Project
<b>Project Manager:</b> Luis Barba	

Project Initiation (PMP) Date: 12/12/2017  
 Advertisement Date: 06/14/2018  
 Award Date: 07/16/2018

- ☐ Project Update

☐ Permission to Advertise

☒ Permission Award

☐ Change Order Approval

☐ Contract Final Acceptance

Updated: July 10, 2018

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

## Funds Budgeted (Funds Available)

Funding	2017 (Actual)	2018	2019	Future Years	Total
*105 Fund - Unrestricted	0	662,380	0	0	662,380
105 Fund - Federal NHS Grant	0	662,380	0	0	662,380
<b>Total</b>	<b>0</b>	<b>1,324,760</b>	<b>0</b>	<b>0</b>	<b>1,324,760</b>

## Estimated Cost (Funds Needed)

Activity	2017 (Actual)	2018	2019	Future Years	Total
Pre-Design Engineering - City Costs	2,885	4,908	0	0	7,794
Design Engineering - City Costs	0	60,000	0	0	60,000
Design Engineering - Permitting	0	2,500	0	0	2,500
Construction Contract Bid	0	1,172,110	0	0	1,172,110
Authorized Construction Contingency	0	62,356	0	0	62,356
Materials Testing	0	10,000	0	0	10,000
Construction Engineering- State Cost	0	5,000	0	0	5,000
Construction Engineering - City Costs	0	45,000	0	0	45,000
<b>Total</b>	<b>2,885</b>	<b>1,361,874</b>	<b>0</b>	<b>0</b>	<b>1,364,760</b>

## 105 Arterial Preservation Budget Status

	2017 (Actual)	2018	2019	Future Years	Total
*105 Funds Budgeted ( )	0	(1,324,760)	0	0	(1,324,760)
105 Funds Needed	2,885	1,361,874	0	0	1,364,760
<b>*105 Fund Project Contingency ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>105 Funds Required</b>	<b>2,885</b>	<b>37,114</b>	<b>0</b>	<b>0</b>	<b>40,000</b>

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

ENG-270, Revised 12/17

## Bid Tabulation - Bid Totals Summary

Project: CP1718, South 277th Street Preservation , 18-05

Prepared By: City of Auburn

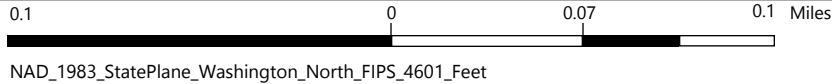
Bid Date: July 10, 2018

		W/O Tax	Inc. Tax		
<b>ENGINEER'S ESTIMATE:</b>		<b>\$966,070.00</b>	<b>\$966,070.00</b>	<b>(not including tax)</b>	
AVERAGE BID AMOUNT:		\$1,172,110.0	\$1,172,110.0		
		Basic BID Amount		Total BID Spread \$	Total BID Spread %
<b>LOW BIDDER:</b>	<b>Miles Resources, LLC</b>	<b>\$1,172,110.00</b>		<b>\$206,040.00</b>	<b>21.33%</b>
		Basic BID (Tax not included)	Total BID (Including tax)		
1.	Miles Resources, LLC	\$1,172,110.00	\$1,172,110.00		

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

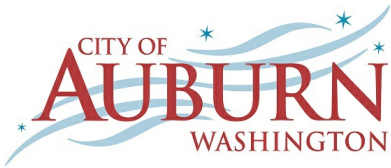
S 277th Street Preservation Project - Vicinity Map

Printed Date: 5/26/2017  
Map Created by City of Auburn eGIS  
Imagery Date: May 2015



1 in = 0.07 ft 1:4,514

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Ordinance No. 6685 (Gaub)

**Date:**

July 6, 2018

**Department:**

CD & PW

**Attachments:**

[Ordinance No. 6685](#)

[Johnston Payback Vicinity Map](#)

**Budget Impact:**

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

**Administrative Recommendation:**

City Council introduce and adopt Ordinance No. 6685.

**Background Summary:**

Jeff and Gwenn Johnston have constructed a public sanitary sewer line near 'I' Street NW to serve their home at 4040 'I' Street NE. The line consists of approximately 300 feet of 8" sewer main and two manholes installed from the existing sewer main in 'I' Street NE to the east end of a joint access driveway.

Mr. and Mrs. Johnston have requested a Payback Agreement from the City. The Payback agreement would allow the developer to recover partial costs related to the design and construction of the sanitary sewer improvements over time when other benefiting properties choose to connect to the system. The proposed agreement was reviewed by Council at the July 9, 2018 Council Study Session.

Ordinance No. 6685 authorizes the Mayor to enter into this agreement with Jeff and Gwen Johnston. The property owners within the "assessment reimbursement area" have been notified of the potential future charges and a public hearing on the ordinance that will be held during the July 16, 2018 City Council Meeting.

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

Gaub

**Meeting Date:** July 16, 2018

**Item Number:**

ORD.A

**ORDINANCE NO. 6 6 8 5**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A PAYBACK AGREEMENT BETWEEN THE CITY OF AUBURN AND JEFF AND GWEN JOHNSTON FOR A UTILITY EXTENSION**

WHEREAS, Chapter 3.25 of the Auburn City Code (ACC) authorizes the City Engineer to develop, implement and administer, and the City Council to approve, extension payback agreements for utility improvements; and

WHEREAS, Jeff and Gwen Johnston ("the Johnstons") have constructed the utility improvements described in the payback agreement that is attached as Exhibit D; and

WHEREAS, the Johnstons have provided the City with a map and legal descriptions identifying the boundaries of the assessment reimbursement area and each parcel that shall be subject to an assessment for the utility improvements; and

WHEREAS, the Johnstons have provided the City with the total cost of the improvements and a preliminary reimbursement roll showing the proposed assessment for each parcel of property within the assessment reimbursement area; and

WHEREAS, the City notified each owner of record of a lot, tract, or parcel within the reimbursement assessment area, through publication and certified mail, of a public hearing to consider this ordinance; and

WHEREAS, the City Council held a public hearing and took testimony on the desirability and sufficiency of the assessment reimbursement area, the

methods of calculating reimbursement assessments, and the assessment amounts; and

WHEREAS, the City Council finds that entry into the payback agreement is in the best interest of the City.

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

Section 1. The assessment reimbursement area that shall be subject to assessment by the City for the cost of the utility system improvement completed by the Johnstons is established as that area described in Exhibit A and shown in Exhibit B.

Section 2. The amount of the reimbursement assessment to be charged to each lot, tract or parcel within the assessment reimbursement area is established as those amounts listed in Exhibit C.

Section 3. The Mayor of the City of Auburn are hereby authorized to execute an Agreement between the City of Auburn and the Johnstons for the collection of assessments in the amounts and from the owners of the lots, tracts, and parcels established in this ordinance, which agreement shall be in substantial conformity with the agreement attached as Exhibit D.

Section 4. Implementation. The Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 5. 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 6. Effective date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

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

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


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

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven L. Gross, City Attorney

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

**Exhibit A**  
**Ordinance 6685**

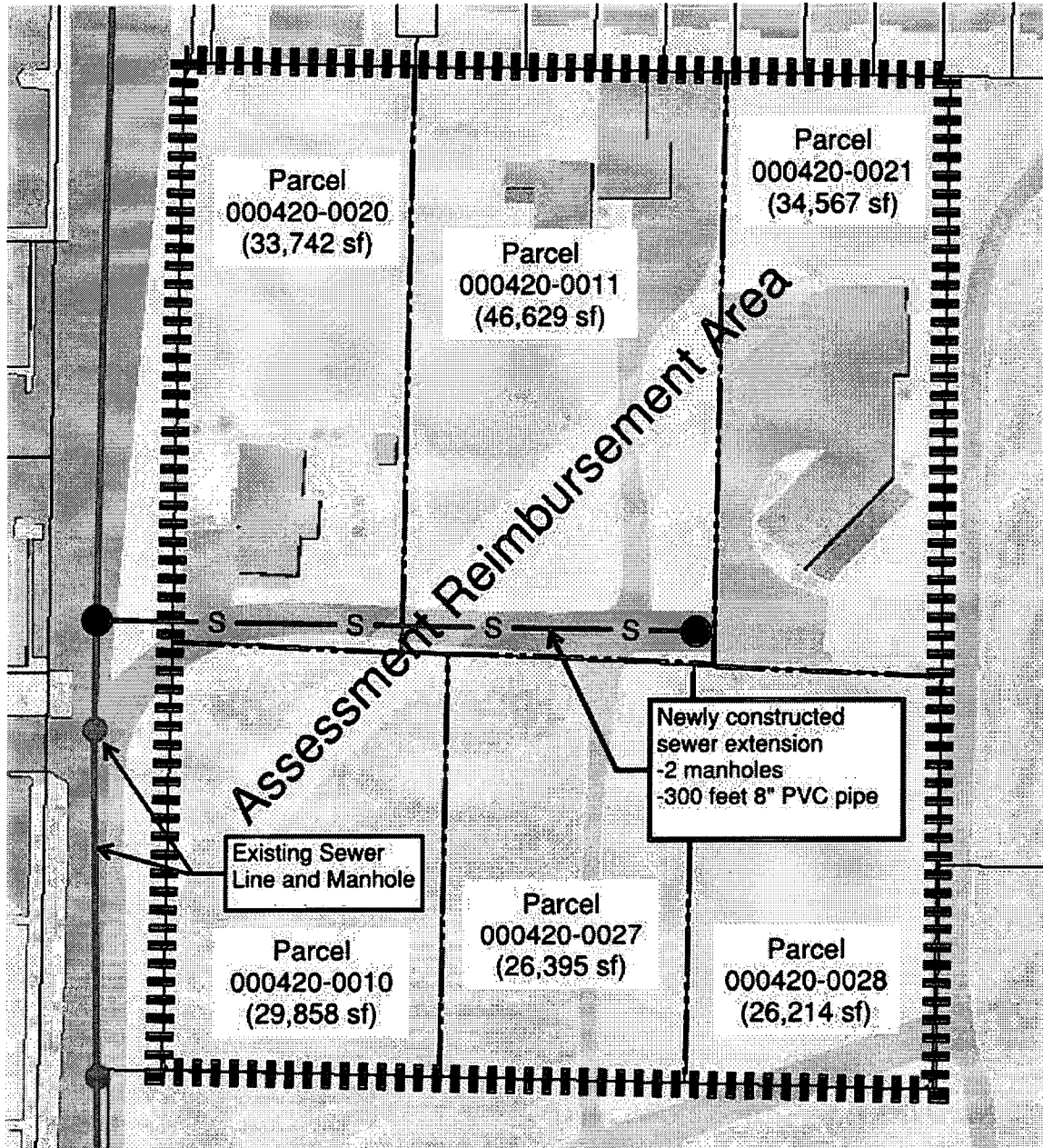
**Legal Description of Assessment Reimbursement Area**

Lots 1, 2, and 3 of Auburn Short Plat Number SP-10-81 as recorded under Recording Number 8106090801 in King County, Washington; along with

Parcels A, B, and C of Auburn Boundary Line Adjustment Number BLA17-0008 as recorded under Recording Number 20171013900003 in King County, Washington.

**Exhibit B**  
**Ordinance 6685**

**Assessment Reimbursement Area**



**Exhibit C**  
**Ordinance 6685**

**Johnston Sewer Extension Benefitting Properties Reimbursement Fees**

<b>Parcel Number</b>	<b>Address</b>	<b>Current Owner</b>	<b>Parcel Area (sf)<sup>1</sup></b>	<b>Project Cost Apportionment<sup>2</sup></b>	<b>Reimbursement Amount</b>
000420-0020	4036 I Street NE	Surinder Khangura	33,742	\$13,052.01	\$13,052.01
000420-0010		Labrador Ventures LLC	29,858	\$11,549.61	\$11,549.61
000420-0027		Labrador Ventures LLC	26,395	\$ 10,210.06	\$ 10,210.06
000420-0028		Labrador Ventures LLC	26,214	\$ 10,140.05	\$ 10,140.05
000420-0011	4040 I Street NE	Bernard and Sandra Johnston	46,629	\$18,063.93	\$ 0 <sup>3</sup>
000420-0021	4046 I Street NE	Patrick Kihuria and Anne Kiarie	34,567	\$13,371.14	\$ 0 <sup>4</sup>
<b>Total</b>					<b>\$44,951.73</b>

**Notes:**

- (1) Parcel area at the time of facility completion
- (2) Based on total project cost of \$76,359.80 divided by the total area of the six parcels
- (3) Developer contribution made at time of construction
- (4) Reimbursement was made directly to Developer during construction.

**Exhibit D**  
**Ordinance 6685**

**Payback Agreement 2018-01**  
**(16 pages)**

Return Address:  
City of Auburn  
City Clerk  
25 West Main  
Auburn, WA 98001

Above this line reserved for recording information.

**PAYBACK AGREEMENT 2018-01**  
**DEVELOPER'S EXTENSION**

Reference # (if applicable):	N/A (unless previous recording #)	Additional on page: _____
Grantor :	City of Auburn	
Grantee :	1) <u>Jeff Johnston</u>	2) _____
Legal Description / STR:	(Sec 31, Twp 22N, Rge 5E)	Additional on page: _____
Assessor's Tax Parcel ID#:	(parcel #)	

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the **City of Auburn**, a municipal corporation of King County, Washington, hereinafter called the CITY and **Jeff and Gwen Johnston**, whose address is 4040 I Street NE, Auburn, WA 98002, hereinafter referred to as DEVELOPER.

WHEREAS, pursuant to Chapter 35.91 RCW et seq., the CITY has by Ordinance No. 6685 adopted by the City Council of the CITY on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, approved the execution of this Payback Agreement with the DEVELOPER above and referring to facilities described herein; and

WHEREAS, the above-described DEVELOPER has offered and the CITY has agreed to accept the sanitary sewer facilities described in Exhibit 1, Bill of Sale, attached hereto, as part of the utility systems of the CITY;

NOW THEREFORE, IN CONSIDERATION OF THE CONDITIONS AND COVENANTS HEREIN, THE PARTIES AGREE AS FOLLOWS:

I. DEVELOPER

At the time of construction, the above-described DEVELOPER represented Bernard and Sandra Johnston, the record OWNERS of real property legally described as shown on Exhibit 2 submitted by the DEVELOPER and attached hereto. The real property described is also identified as:

Parcel number 0004200011, City of Auburn, (King/Pierce) County, Washington

“DEVELOPER” shall include successors, heirs, and assigns. The term shall include a bankruptcy estate and a receivership as long as the City receives notice of the bankruptcy or receivership as the law requires for notice to creditors, and the DEVELOPER provides the notice required by section X of this agreement.

II. FACILITIES

The facilities which have been constructed by the DEVELOPER herein are as shown in the attached Exhibit 3, incorporated herein by this reference, and processed as a Developer Public Facility Extension, herein referenced as FAC15-0010, the originals on file at the office of the City Engineer. The facilities have been constructed in accordance with the ordinances and requirements of the CITY governing the construction specifications for facilities of such type, and have been approved by the City Engineer.

III. AREA OF FACILITY SERVICE BENEFIT

The properties benefited by the facilities constructed by the DEVELOPER are shown on Exhibits 4 and 5, which are by this reference incorporated herein as if fully set forth herein. Any owner of real estate legally described within the benefit boundary as shown on the attached Exhibits 4 and 5, shall pay, as a condition for connecting to the facilities, the amount as identified in Section V. All property within the benefit boundary shall be subject to the connection fee as provided in this agreement as a condition of issuance of the connection permit by the CITY.

#### IV. TERMS

For a period of **20 years** from the date that the City formally accepts the developer's utility extension, any owner (latecomer) of real estate legally described in Section III, and which owner has not fully contributed their pro rata share to the original cost of the above-described facility, shall pay to the CITY the amounts specified in Section V of this agreement. The charge herein represents the fair pro rata share of the cost of construction of said facilities payable by properties benefited.

Payment of the latecomers pro rata share will be required by the CITY at the time the CITY issues a side sewer permit, as described in Auburn City Code (ACC) 13.20.190 and 13.20.200, to connect and use the system. Facility extension agreements are not considered connection permits and no payback payments will be required as a condition of the construction associated with such agreements. Additionally, no payback payments will be required as a condition of the construction of individual side sewer stubs not connected for service.

The CITY shall reimburse the DEVELOPER within sixty (60) days of the date the City receives payment from a person requesting connection to the facilities. Upon the expiration of the 20-year term, any moneys collected by the CITY will not be reimbursed to the DEVELOPER.

The CITY's obligation to reimburse the DEVELOPER under this section shall not apply to any real property purchased from DEVELOPER after construction of the facilities.

#### V. AMOUNT OF REIMBURSEMENT

Sanitary sewer collection facilities: The DEVELOPER, his successors, heirs and assigns, agrees that the amounts which the DEVELOPER is reimbursed from the property owners as specified in Section III of this Agreement, represents a fair pro rata share reimbursement for the DEVELOPER'S construction of the facilities described in Section II of this Agreement.

The amount of reimbursement per square foot of the benefitted property at the time of the acceptance of the facilities, as listed in Exhibit 6, shall be \$0.387.

The total amount of reimbursement to the DEVELOPER for sanitary sewer facilities from all applicable charges shall not exceed \$44,951.73.

In the event that a benefitting property or properties is/are subdivided prior to connecting to the facilities, the City may reallocate the reimbursement amount(s) in a manner consistent with the methodology described above. The City will notify both the DEVELOPER and the property owner of any revisions to the reimbursement amounts.

VI. NOTICE AND HEARING

Prior to passing the Ordinance authorizing this agreement, the CITY, shall conduct a public hearing in accordance with ACC 3.25.080, including meeting the notification requirements of that section.

VII. EFFECT OF AGREEMENT

The provisions of this Agreement shall not be effective as to any owner of real estate not a party hereto unless this Agreement has been recorded in the King County Recorder's Office prior to the time such owner receives a permit to connect to and use said facilities.

If for any reason, the CITY fails to secure a latecomer payment for Owner's fair pro rata share of the cost of the facilities, before connection to the extension, the CITY is not liable for payment to the DEVELOPER.

Following approval of the Ordinance authorizing this agreement, the City will record the document at the appropriate County's Office. The DEVELOPER shall be responsible for recording fees and for correcting any portion of the document determined to not be recordable.

This agreement is subject to the provisions of Auburn City Code ("ACC") Chapter 3.25 and shall be void if the DEVELOPER is in violation of any term or condition of that Chapter as it exists on the date of execution of this agreement.

VIII. OWNERSHIP OF FACILITY

The DEVELOPER warrants that it has constructed the facilities described in Section II of this Agreement to the CITY's specifications and in conformance with the CITY's development regulations and comprehensive plan, and that the facilities are fit for use as part of the City's sanitary sewer system.

Once the CITY has accepted the facilities, they shall become a part of the municipal system of the CITY. The DEVELOPER warrants that the facilities are free and clear of all encumbrances and there are no persons or entities that have a right to a lien against the facilities. Except for work covered under any warrantee described in the FAC agreement, all maintenance and operation costs of said facility shall be borne by the CITY. In consideration of the benefits derived from CITY utility service, DEVELOPER agrees to execute and deliver to the CITY such documents as may be necessary to transfer ownership of the facilities to the CITY upon acceptance.

Nothing contained herein shall be construed to affect or impair the right of the CITY to regulate the use of the facilities once accepted.

IX. UNAUTHORIZED CONNECTION

Whenever any connection is made into the facilities described in Exhibit A under this Agreement which is not authorized by the CITY, the CITY shall have the absolute authority to remove or cause to be removed such unauthorized connections and all connecting lines or pipes located in the facility's right-of-way. The CITY shall incur no liability for any damage to any person or property resulting from removal of the unauthorized connection.

X. CURRENT ADDRESS & TELEPHONE NUMBER

The DEVELOPER shall keep a current record of his/her address and telephone number on file with the City Engineer, and shall within 30 days of any change of said address and/or telephone number, notify the City Engineer in writing. If the DEVELOPER fails to do so, the parties agree that the CITY may authorize connections resulting therefrom and not incur any liability for the non-collection and/or non-reimbursement of charges to the DEVELOPER under this Agreement. Every two years from the effective date of this agreement, shown on page one, the DEVELOPER shall notify the City Engineer of its current name, address, and telephone number. If the DEVELOPER fails to provide such information within sixty (60) days of each anniversary, the CITY may collect and retain any connection charges owed to the DEVELOPER under this contract.

The initial Contact Information and Address for Receipt of Reimbursement Funds is as follows:

\_\_\_\_\_  
Jeff and Gwen Johnston  
(Printed Name of Developer's Representative)

\_\_\_\_\_  
Technique Construction, Inc.  
(Company Name)

\_\_\_\_\_  
4040 I Street NE  
(Mailing Address)

\_\_\_\_\_  
Auburn, WA 98002  
(City, State, Zip code)

\_\_\_\_\_  
(206) 200-7764  
(Telephone/FAX)

XI. ADMINISTRATION

Any inquiries regarding the administration of this agreement shall be directed to the City Engineer.

**XII. COVENANT RUNNING WITH THE LAND**

This Agreement shall be binding on the DEVELOPER, its successors, heirs and assigns and shall so be binding on the legal owners of all properties described within the benefit boundary of the area as shown in the attached Exhibits 4, 5, and 6, their successors, heirs and assigns.

**XIII HOLD HARMLESS**

- A. General Indemnification. The DEVELOPER will indemnify, defend, and hold the CITY and the CITY'S officials and agents harmless from all claims and costs of defense arising out of this agreement as a result of DEVELOPER actions, omissions, misconduct, or breach of contract, including but not limited to attorney's fees, expert witness fees, and the cost of the services of engineering and other personnel who's time is reasonably devoted to the preparation and attendance of depositions, hearings, arbitration proceedings, settlement conferences and trials growing out of the demands and/or actions of property owners incurred in the performance or completion of this Agreement. The DEVELOPER specifically holds the CITY and its officials and agents harmless and waives all claims related to the CITY's establishment and enforcement of the terms and conditions of this agreement, including the failure to locate a beneficiary, assigns, successor, trustee, or survivor of DEVELOPER.
- B. Indemnification Against Liens. The DEVELOPER further agrees to indemnify and defend the CITY from any loss on account of any lien against the facilities that arose on or prior to the date of CITY acceptance of the facilities. If the CITY incurs any expense in defense against any such lien or claim, or in taking any other action that is required of DEVELOPER under this Agreement, the CITY shall have a lien in the full amount thereof against any funds then or thereafter collected by the CITY pursuant to this Agreement.

**XIV. CONSTITUTIONALITY OR INVALIDITY**

If any section, subsection, clause or phrase of this Agreement is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Agreement, as it being hereby expressly declared that this Agreement and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

**CITY OF AUBURN**

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

ATTEST:

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

**DEVELOPER:**

\_\_\_\_\_  
Signature

TITLE: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven Gross, City Attorney

\_\_\_\_\_  
Signature

TITLE: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Nancy Backus and Danielle E. Daskam were the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the **MAYOR** and **CITY CLERK** of the CITY OF AUBURN to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

Residing at \_\_\_\_\_

Dated \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington  
My appointment expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
and \_\_\_\_\_ is/are the person(s) who appeared before me, and  
said individual(s) acknowledged that he/she/they signed this instrument and acknowledged  
it to be his/her/their free and voluntary act for the uses and purposes mentioned in this  
instrument.

Dated \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington  
Residing at \_\_\_\_\_

My appointment expires \_\_\_\_\_

Dated \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington  
My appointment expires \_\_\_\_\_

**Exhibit 1**  
**Payback Agreement 2018-01**

Return Address:  
City of Auburn  
City Clerk  
25 West Main  
Auburn, WA 98001



**20180418000437**

BILL OF SALE Rec: \$78.00  
4/18/2018 11:41 AM  
KING COUNTY, WA

(3)  
FIRST AMERICAN W106901

76

Above this line reserved for recording information.

**BILL OF SALE**  
**FAC15-0010**

Reference # (if applicable):	N/A
Grantor/Borrower:	BERNARD W. and SANDRA L. JOHNSTON
Grantee/Assignee/Beneficiary:	CITY OF AUBURN
Legal Description/STR:	SW31-22N-05E
Assessor's Tax Parcel ID #:	000420-0011

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of the sum of TEN DOLLARS (\$10.00), and for the consideration of incorporating the Extension into the City system, and other good and sufficient consideration, receipt whereof is hereby acknowledged, the undersigned Grantor(s) Bernard W. and Sandra L. Johnston do by these presents hereby convey, setover, assign, transfer and warrant to the City of Auburn, a Municipal Corporation of the State of Washington, 290 LF of 8 inch sanitary sewer and all appurtenances or any other associated public facility as shown on the public facility extension plans referred to as FAC15-0010, the Johnston Sewer Extension development. Situated within the following described real property, located in King County:

See EXHIBIT 'A' ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

and the said Grantor(s) hereby warrant(s) that they are the sole owner(s) of all the property above conveyed; that they have full power to convey the same and that they will defend the title of the said Grantee against any and all persons lawfully making claim thereto, and indemnify the City of Auburn for any costs, including Attorney fees in defending title.

Said documents were filed of record as an accommodation only. It has not been examined as to proper execution or as to its effect upon title.

IN WITNESS WHEREOF the Grantor(s) has/have executed these presents this

25 day of January, 2018.

Bernard W. Johnston  
BERNARD W. JOHNSTON

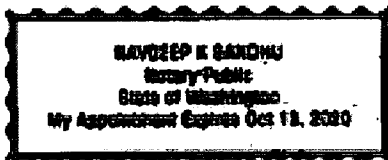
Sandra L. Johnston  
SANDRA L. JOHNSTON

STATE OF WASHINGTON )

COUNTY OF KING ) ss

I certify that I know or have satisfactory evidence that Bernard W. and Sandra L. Johnston are the individuals who appeared before me, and said persons acknowledged that they signed this instrument, and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in this instrument.

Dated 01/25/2018



Navdeep K. Sandhu

Notary Public in and for the State of Washington  
Residing at Chase, Renton  
My appointment expires October 13, 2020

MAB:lb  
File: FAC15-0010

Bill of Sale - FAC15-0010  
Page 2 of 3

## EXHIBIT A

### LEGAL DESCRIPTION

LOT 2, CITY OF AUBURN SHORT PLAT NUMBER SP-10-81, RECORDED UNDER RECORDING NUMBER 8106080801 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 157.00 FEET OF THE WEST 302.00 FEET OF THE FOLLOWING DESCRIBED PARCEL:

THAT PORTION OF THE GEORGE E. KING DONATION CLAIM #40, SECTION 8, TOWNSHIP 21 NORTH, RANGE 9 EAST, W.M., IN KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CONCRETE MONUMENT ON THE WEST LINE OF SAID GEORGE E. KING DONATION CLAIM #40 THAT IS 3289.84 FEET SOUTHERLY OF THE NORTHWEST CORNER THEREOF, AS DESCRIBED PER BOUNDARY LINE AGREEMENT DATED MARCH 2, 1979 AND RECORDED UNDER RECORDING NUMBER 7903021118, IN KING COUNTY, WASHINGTON; THENCE CONTINUING SOUTH 01°47'59" WEST ALONG THE WEST LINE OF SAID KING DONATION CLAIM #40 A DISTANCE OF 291.08 FEET; THENCE SOUTH 87°18'31" EAST A DISTANCE OF 2167.580 FEET; THENCE NORTH 01°47'59" EAST A DISTANCE OF 348.127 FEET, MORE OR LESS, TO A POINT ON THAT CERTAIN COMMON BOUNDARY LINE, AS DESCRIBED PER AFORESAID BOUNDARY LINE AGREEMENT; THENCE NORTH 86°46'00" WEST ALONG SAID COMMON BOUNDARY LINE A DISTANCE OF 2167.394 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

TOGETHER WITH INGRESS, EGRESS AND UTILITIES EASEMENT AS RECORDED UNDER RECORDING NUMBERS 8008260714 AND 8009110655.

AND TOGETHER WITH INGRESS, EGRESS AND UTILITY EASEMENT OVER THE SOUTH 30.00 FEET OF SAID 302.00 FEET; EXCEPT THAT PORTION LYING WITHIN THE ABOVE DESCRIBED TRACT.

### PARCEL No.

0004200011

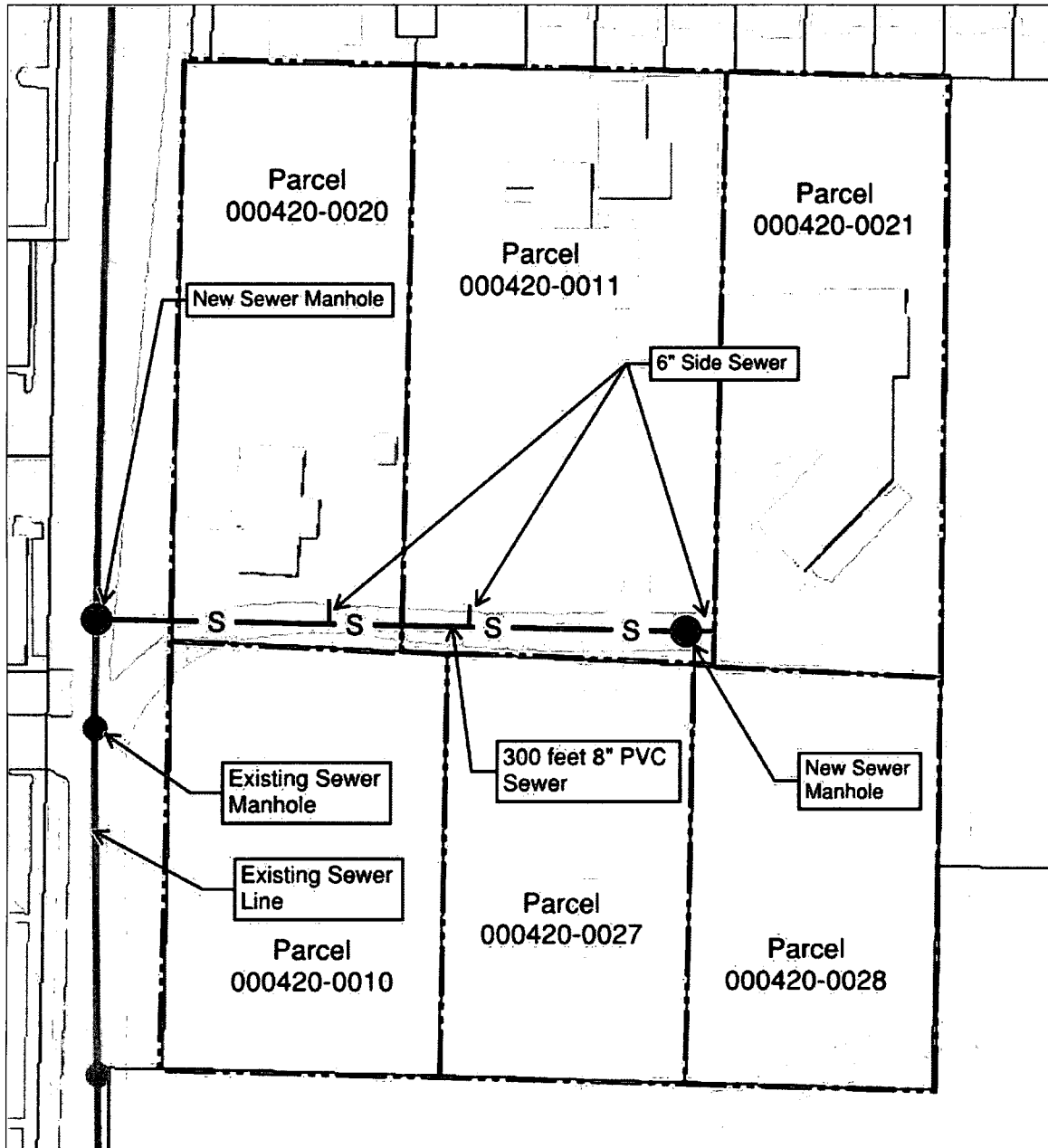
**Exhibit 2**  
**Payback Agreement 2018-01**

**Legal Description of Developer's Represented Property**

Lot 2 of Auburn Short Plat Number SP-10-81 as recorded under Recording Number 8106090801 in King County, Washington.

**Exhibit 3**  
**Payback Agreement 2018-01**

**Facilities Constructed**



**Exhibit 4**  
**Payback Agreement 2018-01**

**Legal Description of Assessment Reimbursement Area and Benefitting Properties**

**Assessment Reimbursement Area**

Lots 1, 2, and 3 of Auburn Short Plat Number SP-10-81 as recorded under Recording Number 8106090801 in King County, Washington; along with

Parcels A, B, and C of Auburn Boundary Line Adjustment Number BLA17-0008 as recorded under Recording Number 20171013900003 in King County, Washington.

**Benefitting Properties**

Tax Parcel # 000420-0020

Address: 4036 I Street NE

Legal Description:

Lot 1 of Auburn Short Plat Number SP-10-81 as recorded under Recording Number 8106090801 in King County, Washington.

Tax Parcel # 000420-0010

Address: N/A

Legal Description:

Parcel A of Auburn Boundary Line Adjustment Number BLA17-0008 as recorded under Recording Number 20171013900003 in King County, Washington.

Tax Parcel # 000420-0027

Address: N/A

Legal Description:

Parcel B of Auburn Boundary Line Adjustment Number BLA17-0008 as recorded under Recording Number 20171013900003 in King County, Washington.

Tax Parcel # 000420-0028

Address: N/A

Legal Description:

Parcel C of Auburn Boundary Line Adjustment Number BLA17-0008 as recorded under Recording Number 20171013900003 in King County, Washington.

Tax Parcel # 000420-0011

Address: 4040 I Street NE

Legal Description:

Lot 2 of Auburn Short Plat Number SP-10-81 as recorded under Recording Number 8106090801 in King County, Washington.

Tax Parcel # 000420-0021

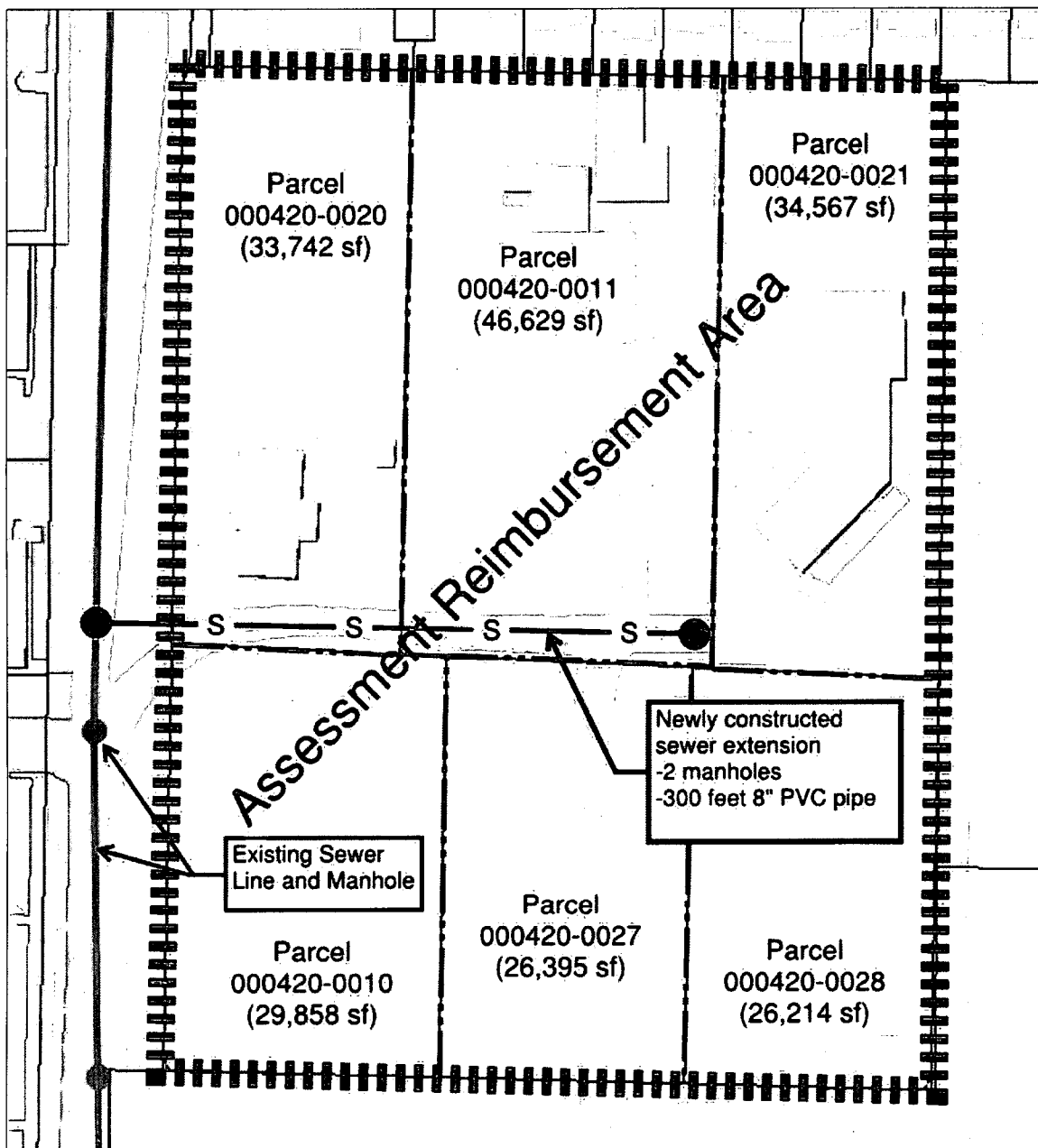
Address: 4046 I Street NE

Legal Description:

Lot 3 of Auburn Short Plat Number SP-10-81 as recorded under Recording Number 8106090801 in King County, Washington.

**Exhibit 5**  
**Payback Agreement 2018-01**

**Assessment Reimbursement Area**



**Exhibit 6**  
**Payback Agreement 2018-01**

**Benefitting Properties Reimbursement Fees**

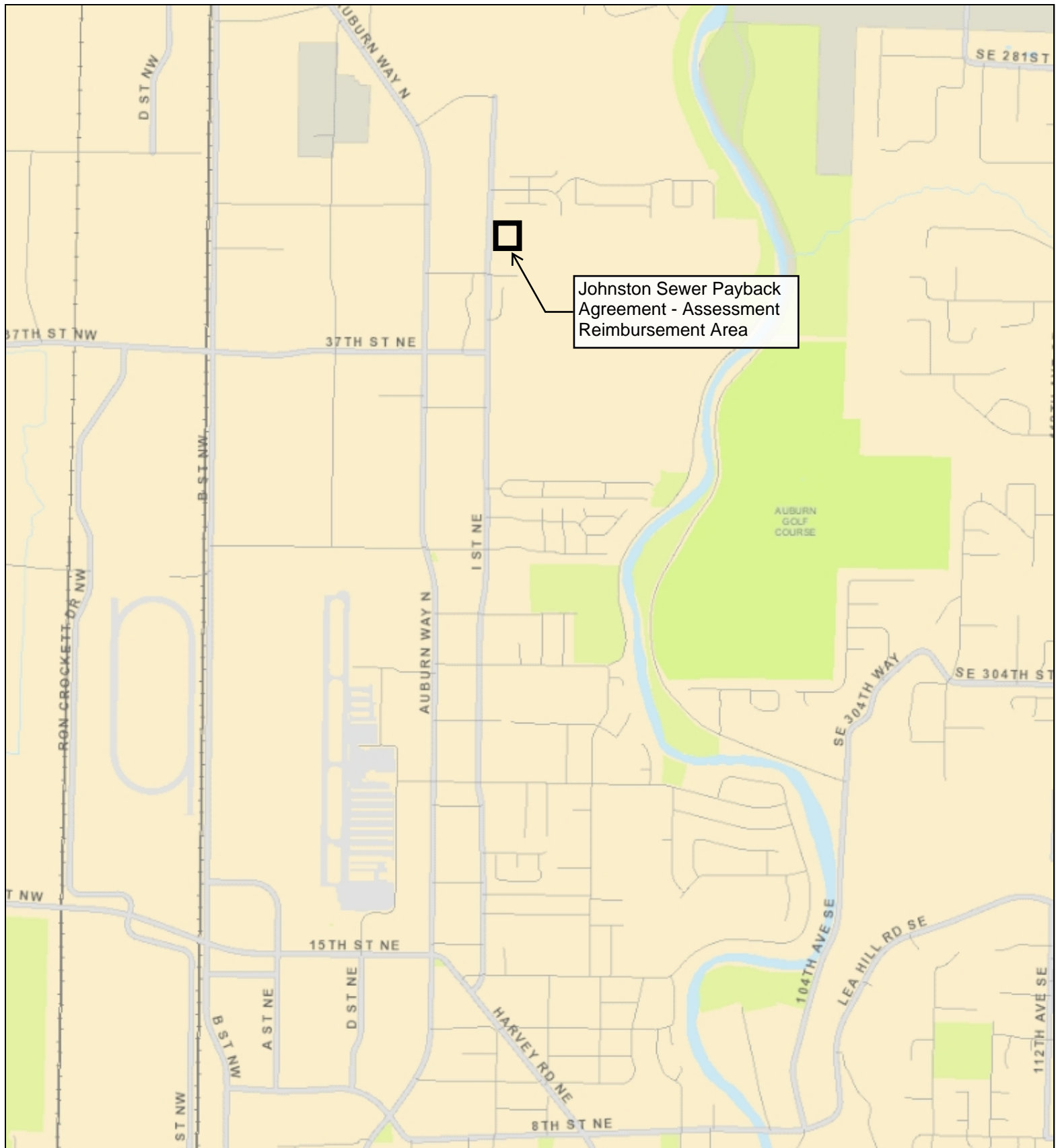
<b>Parcel Number</b>	<b>Address</b>	<b>Current Owner</b>	<b>Parcel Area (sf)<sup>1</sup></b>	<b>Project Cost Apportionment<sup>2</sup></b>	<b>Reimbursement Amount</b>
000420-0020	4036 I Street NE	Surinder Khangura	33,742	\$13,052.01	\$13,052.01
000420-0010		Labrador Ventures LLC	29,858	\$11,549.61	\$11,549.61
000420-0027		Labrador Ventures LLC	26,395	\$ 10,210.06	\$ 10,210.06
000420-0028		Labrador Ventures LLC	26,214	\$ 10,140.05	\$ 10,140.05
000420-0011	4040 I Street NE	Bernard and Sandra Johnston	46,629	\$18,063.93	\$ 0 <sup>3</sup>
000420-0021	4046 I Street NE	Patrick Kihuria and Anne Kiarie	34,567	\$13,371.14	\$ 0 <sup>4</sup>
Total					\$44,951.73

Notes:

- (1) Parcel area at the time of facility completion
- (2) Based on total project cost of \$76,359.80 divided by the total area of the six parcels
- (3) Developer contribution made at time of construction
- (4) Reimbursement was made directly to Developer during construction.

# Johnston Sewer Payback Agreement Vicinity Map

Printed Date: 6/15/2018  
Map Created by City of Auburn eGIS  
Imagery Date: May 2015



3,009.3 0 1,504.7 3,009.3 Feet

NAD\_1983\_StatePlane\_Washington\_North\_FIPS\_4601\_Feet

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.





## AGENDA BILL APPROVAL FORM

Agenda Subject:  
Ordinance No. 6686 (Tate)

Date:  
July 10, 2018

Department:  
Community Development &  
Public Works

**Attachments:**  
[Ordinance No. 6686](#)

Budget Impact:  
Current Budget: \$0  
Proposed Revision: \$0  
Revised Budget: \$0

Administrative Recommendation:  
City Council to adopt Ordinance No. 6686.

### Background Summary:

On September 19, 2011 the Auburn City Council adopted Ordinance No. 6376 which established a Construction Sales Tax Exemption program. This ordinance allowed for a sales tax rebate for sales taxes paid on construction materials, fixed equipment, machinery installation, and labor associated with the construction activity. Only projects located within the DUC, C3, C4, M1, or M2 zones were eligible, and only for new commercial buildings or redevelopment of existing vacant buildings 25,000 square feet or larger or for the expansion of existing commercial buildings that create new or expanded floor area that generates sales tax revenue. Additional eligibility provisions are established for projects in the DUC that are less than 25,000 square feet and within the M1 and M2 zones where existing building are converted from warehouse to manufacturing. Eligible projects qualified for an exemption from local sales and use tax up to 20% of the taxes imposed and paid to the City of Auburn, but not to exceed \$100,000. While formally called a sales tax exemption, the method for implementing the program is to issue a rebate after taxes have been paid. Ordinance No. 6376 also included a sunset provision which automatically caused the program to expire on September 19, 2015.

On October 7, 2013 the Auburn City Council adopted Ordinance No. 6482 which amended the program to expand project eligibility to include residential buildings in the DUC that include a minimum of 50 dwelling units.

Since the Construction Sales Tax Exemption provisions were added to Auburn's City Code, one developer has taken advantage of the program. FNW development company constructed the Trek apartment building. The City provided a rebate of 20% of its share of construction sales taxes paid by Trek for a total of \$24,333.00.

Because of the sunset provision contained in Ordinance No. 6376 the Construction Sales Tax Exemption program has expired. The purpose of Ordinance No. 6686, attached as Exhibit A, is to re-establish the program and to remove the sunset provision. Additionally, staff is suggesting removal of all references to the EP zoning designation because this zone no longer exists within the adopted Comprehensive Plan or the adopted zoning map.

Despite the fact that the program has only been used by one developer for one project, City staff believes that the mere existence of the program delivers a strong message to the development community that Auburn offers a friendly business climate for developers that would like to pursue certain mixed use and

commercial projects. Additionally, it is an important part of a larger package of incentives that developers are able to pick and choose from when determining where to cite future projects.

This matter was brought forward to City Council during the July 9, 2018 Study Session. City Council authorized Ordinance No. 6686 to move forward for Council action on July 16, 2018.

Reviewed by Council Committees:

Other: Planning

Councilmember:

Staff:

Jeff Tate

Meeting Date: July 16, 2018

Item Number:

ORD.B

**ORDINANCE NO. 6 6 8 6**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF AUBURN, WASHINGTON RELATING TO  
A CONSTRUCTION SALES TAX EXEMPTION, RE-  
ENACTING THE EXEMPTION, AND AMENDING  
CHAPTER 3.60 OF THE AUBURN CITY CODE**

WHEREAS, Auburn City Code Chapter 3.60 imposes a sales or use taxes authorized under RCW 82.14.030 (2), on every taxable event (as defined in RCW 82.14.020) occurring within the City. The tax is imposed on and collected from those persons from whom the state sales tax or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW; and

WHEREAS, the City of Auburn adopted Ordinance No. 6376 on September 19, 2011, to promote economic development through the development of new businesses or the expansion of existing businesses in certain zoned areas of the City that will contribute to increased sales tax revenue generation within the City through new or increased sales activities that create taxable event opportunities; and

WHEREAS, Ordinance 6376 included a provision that expires the Construction Sales Tax Exemption program on September 19, 2015, 4 years from the date of the adoption of the ordinance; and

WHEREAS, the City of Auburn adopted Ordinance No. 6482 on October 7, 2013 which further modified and clarified the Construction Sales Tax Exemption program outlined in ACC 3.60.036 and extended the expiration date of the program until 2017; and

WHEREAS, the City of Auburn wishes to continue to incentivize the construction of new or expanded businesses in additional zoned areas of the City, and to encourage the creation of manufacturing jobs by re-authorizing the sales tax exemption program and making it a permanent program.

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

**SECTION 1. AMENDMENT TO CITY CODE.** Chapter 3.60 of the Auburn City Code is amended by adding a new Section 3.60.060 of the to read as follows:

**3.60.036 Construction sales tax exemption**

A. 1. The following purchasers in the eligible target business class who have paid the tax imposed by this chapter on construction materials, fixed equipment, or machinery installation, or on sales of or charges made for labor and services rendered in respect to such construction or installation of such machinery or equipment, are eligible for an exemption as provided for in this section: for property zoned downtown urban center (DUC), C-3 (heavy commercial district), and C-4 (mixed-use commercial), purchases directly related to the construction of new commercial buildings or redevelopment of existing vacant buildings 25,000 square feet or greater or expansion of existing commercial buildings that creates new or expanded building floor area that generates sales tax revenue.

2. For property zoned downtown urban center (DUC), purchases directly related to the construction of new commercial buildings less than 25,000 square feet, or redevelopment of existing buildings less than 25,000 square feet, where the cost of the improvement is at least 25 percent of the current assessed value of the improvements on the property pursuant to the assessment records of King or Pierce County, as applicable.

3. For property zoned M-1 (light industrial district) and M-2 (heavy industrial district), purchases directly related to the construction of new commercial buildings, redevelopment of existing buildings that result in a change of occupancy from warehouse use to manufacturing use, or redevelopment of existing buildings where the cost of the improvement is at least 25 percent of the

current assessed value of the improvements on the property pursuant to the assessment records of King or Pierce County, as applicable.

B. A purchaser is eligible for an exemption specified under this section from the local sales and use tax paid under this chapter, as authorized under RCW 82.14.030(2), up to a maximum of 20 percent of taxes imposed and paid to the city of Auburn not to exceed \$100,000. The purchaser is eligible for an exemption under this section in the form of a refund.

C. For purposes of this section, the following definitions apply:

1. "Change of occupancy" means a change of the purpose for which a building is used or intended to be used. The term shall also include the building or portion thereof in which such change of occupancy is made. Change of occupancy is not intended to include change of tenants or proprietors.

2. "Commercial building" means a structure that has, as its primary purpose, a commercial use as that term is defined in ACC 18.04.240.

3. "Expansion" means to add to the floor area of a building.

4. "Purchaser" means a person or entity that is the recipient of a good or service.

D. Eligible Target Business Classes.

1. The construction sales tax exemption specified in subsection (A)(1) of this section shall only apply to those businesses engaged in normal business activities under the following classifications of businesses occurring within the specified zoning designations:

a. General Merchandise, Warehouse Club, SuperCenter – Sales Tax Classification Code 45291;

b. Building Materials and Garden Home Center – Sales Tax Classification Code 44411;

c. Electronics and Appliances – Sales Tax Classification Code 44311;

d. Full Service Restaurants – Sales Tax Classification Code 722110;

e. New and Used Automobile and Light Utility Truck Dealers – Sales Tax Classification Code 44110;

f. Bowling Centers – Sales Tax Classification Code 713950;

g. Motion Picture Theaters (excluding drive-in theaters) – Sales Tax Classification Code 512131;

h. Hotels – Sales Tax Classification Code 72110; and

i. Residential buildings and dwellings within the DUC only – North American Industry Classification System Code 531110.

2. The construction sales tax exemptions specified in subsections (A)(2) and (3) of this section shall apply to all businesses located in the DUC, EP, M-1, and M-2 zoning districts as set forth in those subsections.

E. Application for Refund.

1. A purchaser claiming an exemption and applying for a refund under this section must pay the tax imposed by ACC 3.60.020. The purchaser may then apply to the city for a refund in a form and manner prescribed by the city and

shall submit information that the city deems adequate to justify the exemption, including but not limited to:

- a. Identification of the vendor/contractor;
- b. North American Industry Classification System (NAICS) code under which the tax was reported;
- c. Name and Unified Business Identifier (UBI) number of the vendor/contractor on the Combined Excise Tax Return filed with the state of Washington; and
- d. Detailed information supporting the amounts reported under the State Use and Sales Tax section of the above report for Location Codes 1702 and 2724.

2. A purchaser may not apply for a refund under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain all records provided to the city in making its claim.

3. The city shall determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the city. If the city verifies eligibility, it shall remit eligible taxes paid to the purchaser.

F. Appeals. Any applicant aggrieved by an action of the city concerning eligibility or computation of remittance under this section may file a written appeal to the city's hearing examiner in accordance with Chapter 2.46 ACC within 14 calendar days of receipt of the city's decision. The hearing examiner is specifically authorized to hear and decide such appeals and the decision of the hearing examiner shall be the final action of the city.

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

**SECTION 3. SEVERABILITY.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

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

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

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


CITY OF AUBURN

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven L. Gross  
City Attorney

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



## AGENDA BILL APPROVAL FORM

Agenda Subject:  
Resolution No. 5374 (Hinman)

Department:  
Administration

**Attachments:**  
[Resolution No. 5374](#)

Date:  
June 25, 2018

Budget Impact:  
Current Budget: \$0  
Proposed Revision: \$0  
Revised Budget: \$0

Administrative Recommendation:  
City Council adopt Resolution No. 5374.

**Background Summary:**

Puget Sound Energy is looking to replace the natural gas facility connected to Auburn High School's west grand stand. A survey conducted in connection with the service revealed that a PSE gas line facility was located on a portion of Veterans Memorial Park and that there were no property rights easements granted by the City or predecessors recorded against the property.

Because a portion of the facility is currently located in part, on a portion of a City Park, the facility services the Auburn School District, and the utility has the potential to be hazardous if facilities are not adequately maintained, City staff believes that it is in the best interest of public health and safety to convey a utility easement for access, maintenance, repair and replacement of the existing gas facility to PSE.

The easement is legally described in Exhibit A of the Easement Agreement, Depicted in Exhibit B of the Easement Agreement, which encumbers City property described in Exhibit C of the Easement Agreement. The recorded easement will be in substantial form to that of Exhibit D of the Easement Agreement.

Reviewed by Council Committees:

Councilmember:  
Meeting Date: July 16, 2018

Staff:  
Item Number: RES.A

**RESOLUTION NO. 5374**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE THE REAL ESTATE EASEMENT AGREEMENT BETWEEN THE CITY OF AUBURN AND PUGET SOUND ENERGY FOR CONVEYANCE OF A UTILITY EASEMENT**

WHEREAS, Puget Sound Energy (PSE) owns and operates an existing gas line facility located under a portion of CITY owned Veterans Memorial Park; and

WHEREAS, the existing gas line facility actively supplies natural gas to the Auburn Senior High School's Football Stadium located adjacent to Veterans Memorial Park; and

WHEREAS, currently there is no easement granted to PSE for access, maintenance, repair, replacement or otherwise for the PSE facility; and

WHEREAS, it would be in the best interest of public health and safety for the CITY to convey an easement to PSE for the purposes of constructing, operating, maintaining, repairing, replacing, improving, removing, upgrading or extending of the PSE facility;

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

Section 1. The Mayor of the City of Auburn is hereby authorized to execute a Real Estate Easement Agreement between the City of Auburn and Puget Sound Energy for real property rights, which agreement shall be in substantial conformity with the Agreement attached hereto as Exhibit "Easement Agreement" and incorporated herein by this reference.

Section 2. The Mayor is hereby authorized to take such administrative and/or procedural action as may be necessary and/or appropriate to carry out the directives of this legislation and to accommodate the decision to convey a Utility easement to PSE

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

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF AUBURN

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven L. Gross, City Attorney

## **EASEMENT AGREEMENT CITY OF AUBURN**

This Agreement is made and entered into by **PUGET SOUND ENERGY, INC.**, (herein referenced as “PSE” or “GRANTEE”), a Washington state energy utility and the **CITY OF AUBURN** (herein referenced as “CITY” or “GRANTOR”), a municipal corporation of King and Pierce Counties, Washington, herein collectively referred to as “PARTIES”

### **WITNESSETH:**

Whereas, PSE owns an existing gas line facility located under a portion of CITY owned Veterans Memorial Park; and

Whereas, the existing gas line facility actively supplies natural gas to the Auburn Senior High School’s Football Stadium located adjacent to Veterans Memorial Park; and

Whereas, there is no easement granted to PSE for access, maintenance, repair, replacement or otherwise to the PSE facility; and

Whereas, it would be in the best interest of the public for the CITY to grant an easement to PSE for purposes of constructing, operating, maintaining, repairing, replacing, improving, removing, upgrading or extending of the PSE facility;

NOW, THEREFORE, in consideration of the public’s health, safety and well-being, IT IS AGREED by the PARTIES as follows:

1. **GRANT AND CONVEYING OF EASEMENTS.** The CITY agrees to grant and convey a perpetual Non-Exclusive Utility Easements to the PSE which is hereby legally described and attached hereto as **Exhibit A** and depicted in **Exhibit B** for the purposes of constructing, operating, maintaining, repairing, replacing, improving, removing, upgrading or extending one or more utility systems for the purposes of transmission, distribution and sale of gas. The Easement shall encumber real property located in King County, Washington hereby legally described and attached hereto as **Exhibit C** (“Encumbered Property”). Included in this conveyance shall be the use of such additional area immediately adjacent to the Easement as shall be required for the construction, reconstruction, maintenance and operation of GRANTEE’S utility, the use of such additional area shall be held to a reasonable minimum.

2. **ACCESS.** PSE shall have the absolute right at all times as necessary for immediate access (ingress and egress), to enter the Encumbered Property for the purpose of inspecting and maintaining the easement area as well as constructing, operating, maintaining, repairing, replacing, improving, removing, upgrading or extending GRANTEE’S facilities.

3. **CONSIDERATION**. For the consideration of the public's health, safety and well-being, The CITY agrees to convey to PSE the easements legally described in Exhibit A with no further monetary or other consideration due to the City from PSE.

4. **RECORDING & RECORDING FEES**. PSE shall be responsible for recording the easements, which shall be recorded in substantial conformity to that hereby referenced and attached as **Exhibit D** as well as any and all recording fees charged by the County. PSE shall furnish to the CITY a copy of the recorded easements showing the recording numbers. The document is to be sent to **City of Auburn, attn.: Josh Arndt – 25 W Main, Auburn, WA 98001**

5. **ENTIRE AGREEMENT/MODIFICATION**. This written Agreement constitutes the entire and complete Agreement between the PARTIES hereto and supersedes any prior oral or written agreements between the PARTIES with respect to the Easements and or Encumbered Property. It is expressly agreed that there are no verbal understandings or agreements, which in any way change the terms, covenants, and conditions herein set forth. No modifications of this agreement and waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the PARTIES hereto.

6. **SUCCESSORS & ASSIGNS**. PSE shall have the right to assign, apportion or otherwise transfer any or all of its rights, benefits, privileges and interests arising in and under this easement. Without limiting the generality of the foregoing, the rights and obligations of the parties shall be binding upon their respective successors and assigns.

7. **BINDING EFFECT**. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns.

8. **SIGNATURES**: Signatures on the following pages

Dated and Signed this      day of                     , 20    

**GRANTEE: PUGET SOUND ENERGY, INC.,**

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


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

Dated and Signed this      day of                     , 20    

**SELLER: CITY OF AUBURN**

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven L. Gross, City Attorney

## **EXHIBIT A**

### **Legal Description of Utility Easements**

#### **EASEMENT NO. 1**

**THE WEST 205 FEET OF THE EAST 220 FEET OF THE SOUTH 10 FEET; AND**

#### **EASEMENT NO. 2**

**THE SOUTH 110 FEET OF THE EAST 15 FEET OF THE FOLLOWING:**

All that certain real estate situate in the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of Section 18, Township 21 north of Range 5 east W M, particularly bounded as follows, to wit.

Beginning at a point on the south line of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, which point is 30 feet westerly from the southwest corner of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18; thence easterly along the south line of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, a distance of 992.395 feet to a point, thence northerly on a line parallel with the west boundary line of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18, a distance of 659.23 feet to the north boundary line of the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, thence westerly along said north boundary line of the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, a distance of 832.395 feet to a point, thence southerly on a line parallel with the west boundary line of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18 a distance of 359.61 feet to a point; thence westerly on a line parallel with the south line of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said Section 18, a distance of 160 feet to a point, thence southerly on a line parallel with the west boundary line of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18 a distance of 300 feet to the point of beginning.

Less the east 400.00 feet

Assessor's Tax Parcel ID# 182105-9327



## **EXHIBIT C**

### **Encumbered Property**

All that certain real estate situate in the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of Section 18, Township 21 north of Range 5 east W M, particularly bounded as follows, to wit.

Beginning at a point on the south line of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, which point is 30 feet westerly from the southwest corner of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18; thence easterly along the south line of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, a distance of 992.395 feet to a point, thence northerly on a line parallel with the west boundary line of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18, a distance of 659.23 feet to the north boundary line of the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, thence westerly along said north boundary line of the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said section 18, a distance of 832.395 feet to a point, thence southerly on a line parallel with the west boundary line of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18 a distance of 359.61 feet to a point; thence westerly on a line parallel with the south line of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of said Section 18, a distance of 160 feet to a point, thence southerly on a line parallel with the west boundary line of the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of said section 18 a distance of 300 feet to the point of beginning.

Less the east 400.00 feet

Assessor's Tax Parcel ID# 182105-9327

**RETURN ADDRESS:**

Puget Sound Energy, Inc.  
Attn: ROW Department  
PO BOX 97034, EST-06W  
Bellevue, WA 98009-9734



**PUGET SOUND ENERGY**

**EASEMENT**

**REFERENCE #:**

GRANTOR (Owner): CITY OF AUBURN, a municipal corporation  
GRANTEE (PSE): PUGET SOUND ENERGY, INC.  
SHORT LEGAL: NW 1/4, Sec. 18, Twp. 21N, Rng. 05E, W.M.  
ASSESSOR'S PROPERTY TAX PARCEL: 182105-9327

For and in consideration of good and valuable consideration, the receipt and sufficiency of which are acknowledged, CITY OF AUBURN, a municipal corporation of the State of Washington, ("Owner" herein), hereby grants and conveys to PUGET SOUND ENERGY, INC., a Washington corporation ("PSE" herein), for the purposes described below, a nonexclusive perpetual easement over, under, along across and through the following described real property (the "Property" herein) in KING County, Washington:

**SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.**

Except as may be otherwise set forth herein PSE's rights shall be exercised upon that portion of the Property ("Easement Area" herein) described as follows:

**EASEMENT NO. 1**

**THE WEST 205 FEET OF THE EAST 220 FEET OF THE SOUTH 10 FEET; AND**

**EASEMENT NO. 2**

**THE SOUTH 110 FEET OF THE EAST 15 FEET OF THE REAL PROPERTY AS DESCRIBED IN EXHIBIT "A".**

1. **Purpose.** PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for purposes of transmission, distribution and sale of gas. Such systems may include, but are not limited to:

**Underground facilities.** Pipes, pipelines, mains, laterals, conduits, regulators, gauges and rectifiers for gas;; fiber optic cable and other lines, cables and facilities for communications; semi-buried or ground-mounted facilities and pads, manholes, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing.

Following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional facilities as it may require for such systems. PSE shall have the right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

2. **Easement Area Clearing and Maintenance.** PSE shall have the right, but not the obligation to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right, but not the obligation, to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area.

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WO# 1091023301 /RW-101842 /N# 11328377  
Plat 232.080 (Veterans Memorial Park)  
ses

3. **Restoration.** Following initial installation, repair or extension of its facilities, PSE shall, to the extent reasonably practicable, restore landscaping and surfaces and portions of the Property affected by PSE's work to the condition existing immediately prior to such work. PSE shall use good faith efforts to perform its restoration obligations under this paragraph as soon as reasonably possible after the completion of PSE's work.

4. **Owner's Use of Easement Area.** Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not excavate within or otherwise change the grade of the Easement Area or construct or maintain any buildings or structures on the Easement Area and Owner shall do no blasting within 300 feet of PSE's facilities without PSE's prior written consent.

5. **Indemnity.** PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of the negligence of PSE or its contractors in the exercise of the rights herein granted to PSE, but nothing herein shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner or the negligence of others.

6. **Termination.** The rights herein granted shall continue until such time as PSE terminates such right by written instrument. If terminated any improvements remaining in the Easement Area shall become the property of Owner. No termination shall be deemed to have occurred by PSE's failure to install its systems on the Easement Area.

7. **Successors and Assigns.** PSE shall have the right to assign, apportion or otherwise transfer any or all of its rights, benefits, privileges and interests arising in and under this easement. Without limiting the generality of the foregoing, the rights and obligations of the parties shall be binding upon their respective successors and assigns.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

GRANTOR:  
The City of Auburn, a municipal corporation  
of the State of Washington.

BY: \_\_\_\_\_  
Its Mayor

Attest:

\_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_

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

## ACKNOWLEDGMENT

STATE OF WASHINGTON      §  
   §      ss.  
COUNTY OF KING      §

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me known to be the Mayor and \_\_\_\_\_ of the municipal corporation that executed the within and foregoing instrument, and acknowledged the same to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that \_\_\_\_\_ are authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Appointment Expires: \_\_\_\_\_

Notary seal, text and all notations must be inside 1" margins

## EXHIBIT 'A'

Attached hereto and made a part hereof Easement dated \_\_\_\_\_, 2018,  
By and between  
City of Auburn, a municipal corporation of the State of Washington, as Grantor (Owner)  
And  
Puget Sound Energy, Inc., a Washington corporation, as Grantee (PSE) .

All that certain real estate situate in the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of Section 18, Township 21 north of Range 5 east W M, particularly bounded as follows, to wit.  
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