

PERMIT CENTER

UTILITIES
PAYBACK AGREEMENT
REQUIREMENTS

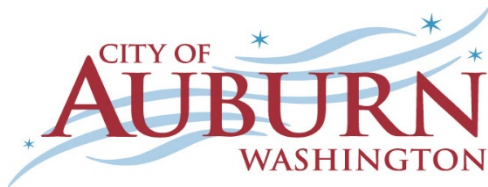
Informational Brochure

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CITY OF AUBURN UTILITIES PAYBACK AGREEMENT REQUIREMENTS

Introduction

The following summarizes the City's Utilities Payback Agreement process and requirements, in accordance with Auburn City Code (ACC 3.25) and Washington State Law (RCW 35.91.020).

Definitions

- "Developer" shall be defined as a person, including corporations, firms, companies, individuals, government agencies or officials, or any organization of any kind, who seeks to develop a property.
- "Applicant" is defined as the owner, developer, or building permit applicant who is required by any ordinance of the City to construct improvements as a prerequisite of property development, and who may be eligible to receive reimbursement for a portion of the cost of said improvements.
- "Utility System Extension" is defined as the extension of public water, sanitary sewer, and/or storm drainage facilities belonging to the City, including, but not limited to conveyance lines, mains, structures, pumping facilities, storage facilities, and treatment facilities.
- "Public Facility Extension Agreement ("FAC") is defined as an agreement between the City and the Developer for the Developer to design, construct, and convey to the City the public portions of the utility system extension.
- "Benefiting Property" is defined as a property that may connect to and/or receive service from a Facilities Extension or Transportation System Improvement, but did not contribute to the original cost of the facilities or system improvement.

What is a Payback Agreement?

A Payback Agreement is an agreement between the City and a developer for the sole purpose of providing a mechanism for reimbursing a developer for a portion of the Developer's original costs of installing a utility system extension as part of an FAC. Generally, Payback Agreements only include those utility facilities that extend beyond the limits of the Developer's property, allowing direct connection to or use of the facilities or streets by the benefiting properties adjacent to the facilities. The agreement requires owners of benefiting properties to pay for their pro-rata share of the costs of improvements when they are permitted a connection to the extended facility. The agreement allows the City to collect payments from benefiting properties and pass them on to the Developer. The City collects the money during the normal utility permitting process. Washington State Law allows a maximum term of 20 years for a Utility Payback Agreement (RCW 35.91.020). However, the City may, at its discretion, define a shorter term for the agreement.

The method of determining the reimbursement amounts from the benefiting properties depends on the kind of utilities extension that occurs. For utilities, the length of the extension along the frontage of the benefiting property is the most commonly-used methodology. For most non-linear improvements, like pump stations, the determination for payback is usually calculated based on the area served by the new facility and the development potential of those parcels based on zoning. This is known as an area methodology. In cases where both linear and non-linear facilities are installed, (i.e., pump stations and

pipes), the front footage and area methodologies may be combined. The City Engineer determines the methodology that is provided to the City Council for approval.

How do I know that I am eligible for a Payback Agreement?

The City will determine if there are properties other than the Developer's property that may benefit from the utility system extension once the Developer's engineering plans for the FAC have been approved, or are nearing approval, by the City for construction. The City will notify the Developer by a Letter of Eligibility what portions, if any, of the utility system extension is eligible for a Payback Agreement.

- **NOTE:** The Developer is required to complete the Payback Agreement Application/Acknowledgement form and return it to the City before construction of the FAC can begin.

What are the next steps if I am eligible for and want to apply for a Payback Agreement?

1. The Developer will have **10 business days** from the postmarked date of the City's Letter of Eligibility to submit a Payback Agreement Application or to waive the right to apply for one or more eligible extensions or improvements. Although the Developer will submit a single application, individual Payback Agreements and the non-refundable application fee (see current City of Auburn Fee Schedule) are required for each eligible utility system extension. Failure to submit a complete application and the required attachments listed below within the required time period will waive the developer's right to apply for a Payback Agreement.
2. The following attachments must be submitted electronically to permitcenter@auburnwa.gov for each Payback Agreement, with the FAC number and project name:
 - Estimate of project costs – eligible costs itemized in an Excel spreadsheet; costs may include design engineering, permitting, property acquisition, construction engineering, contract administration, surveying, and construction
 - Scaled map(s) in 8-1/2" x 11" .JPG format of proposed payback area showing both the development project's parcels and the benefited properties with tax parcel numbers, together with a depiction of the system improvements
 - Legal descriptions in Word format of the development project's parcel(s), by tax parcel number
 - Legal description in Word format of benefited properties, by tax parcel number benefited properties within the proposed reimbursement area
 - Preliminary reimbursement amounts for each benefited property, together with a proposed pro rata methodology in an Excel spreadsheet
 - Current and accurate names and mailing addresses for each property owner within the proposed reimbursement area, in Word format

What is the Payback Agreement approval process?

1. The City will review the submitted materials and provide any revisions. Near the start of construction, the City will notify by letter the benefiting properties of the proposed reimbursement so that any concerns or potential changes may be addressed as part of the Developer's construction.

2. Before the City will accept completion and ownership of the utility system improvements, submit the following for each Payback Agreement:
 - Developer's name, address, and telephone number to include in the agreement
 - Actual project cost information, together with itemized invoices of the project costs
 - Proposed final reimbursement amounts for each benefited property, together with the pro-rata methodology, in Excel spreadsheet
 - Revised, scaled map in .JPG format that clearly shows the parcels within the benefited area
 - Legal descriptions, and current names and mailing addresses of the owners, of the benefited properties submitted previously, if applicable – in Word format
3. The City will prepare and provide to the Developer the standard Payback Agreement(s) and exhibits.
4. The Developer will execute and notarize each Payback Agreement.
5. The City will set a date for a public hearing to receive comments on Payback Agreement.
6. The City will notify the property owners via certified letter of the proposed adoption of the Payback Agreement and provide them with 21 days to provide comments, and will publish the notice in the newspaper of record.
7. The City will conduct a public hearing and review the ordinance for adoption. The City Council has the discretionary power to approve the ordinance, request modifications, or reject the ordinance. The Developer is welcome to attend the public hearing but attendance is not required.
8. Once adopted and executed by the City, the City will record the Payback Agreement with the King or Pierce County Recorder's Office.

What happens once the Payback Agreement is approved?

All properties connecting to water, sanitary sewer or storm facilities for which a Payback Agreement is in force and have not paid their pro rata share will be charged the amount as provided in the agreement. The payback amounts will be based on the costs and methodology identified in the approved Payback Agreement. Payback amounts are required to be paid in full before the City allows service connections to a property. Monies collected by the City will then be reimbursed to the Developer, less the payment processing fee for each payment, of said payback within 60 days of the City's receipt of payment, for the duration of the agreement.

What are my ongoing responsibilities?

Every two years from the date of the signing of the agreement, the Developer is required to verify with the City the Developer's address, telephone number and any change in ownership name(s). If the Developer fails to comply with the notification requirements, the City may collect and retain any reimbursement funds owed to the Developer under the Agreement. The funds collected by the City will be deposited in the capital fund of the City.

What are my costs associated with the Payback Agreement Application?

The costs will be assessed for each Payback Agreement per the City of Auburn Fee Schedule. These fees will be due as noted below:

- **Application Fee** – due for each Payback Agreement at the time that the Developer submits an application for a Payback Agreement. Fee is used to cover City staff time to review the application, review the proposed reimbursement area and methodology, prepare the agreement, notify the

affected benefited properties, prepare the materials for review and approval by the City Council, and record the Payback Agreement with the assessor's office.

- **Outside Professional Services** – deposit due prior to the services being performed; services are performed on a time-and-materials basis. If outside professional services, including but not limited to property appraisals, legal, surveying, or engineering, are required to evaluate the proposed Payback Agreement or methodology, the Developer /Applicant will be required to reimburse the City for its actual costs associated with such services prior to the City submitting the Payback Agreement to the City Council for approval.
- **Payment Processing Fee** – deducted from each reimbursement amount received by the City from the benefiting properties for service connection; fee covers the City's costs to receive and disburse the remainder of the payment to the Developer.

Questions?

If you have any questions or require additional information about the Payback requirements, please contact the Public Works Department at 253-931-3010, located in the Auburn City Hall Annex, One East Main Street, Auburn, WA 98001.