

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF OLYMPIA AND THE
HIDDEN CREEK COMMUNITY CHURCH FOR PUBLIC PARKING.**

WHEREAS, Hidden Creek Community Church is immediately adjacent to Decatur Woods Park; and

WHEREAS, Hidden Creek Community Church has designated 12 parking stalls as available to park patrons Monday thru Saturday; and

WHEREAS, Decatur Woods Park does not have a dedicated parking lot and has limited on-street parking along the park frontage; and

WHEREAS, The City will pay \$6,600.78 for license for the public to park in Hidden Creek Community Church parking stalls to access Decatur Woods Park;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the License Agreement between the City of Olympia and the Hidden Creek Community Church for Public Parking, attached hereto and incorporated herein as Exhibit A, under the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the attached License Agreement for Public Parking and to make any minor modifications as may be required and are consistent with the intent of the attached License Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

Exhibit A

LICENSE AGREEMENT FOR PUBLIC PARKING
BETWEEN
THE HIDDEN CREEK COMMUNITY CHURCH
AND
THE CITY OF OLYMPIA

This Agreement is entered into by and between the Hidden Creek Community Church 1807 9th Ave SW Olympia, Washington 98502, hereinafter referred to as the HCCC, and the City Of Olympia hereinafter referred to as CITY.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1. STATEMENT OF PRINCIPLE AND PURPOSE

The CITY has a need for additional public parking to access Decatur Woods Park. HCCC has additional parking spaces it has offered for public use by the CITY for such purpose under the terms and conditions of this Agreement.

2. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on the date of the last authorizing signature affixed hereto and shall terminate on July 1, 2027 unless terminated sooner or otherwise extended as provided herein.

3. CONSIDERATION

In consideration for HCCC providing for 12 overflow parking stalls on HCCC church property at 1807 9th Avenue SW in Olympia, Washington, the CITY, agrees to a one-time payment of \$6,600.78 for an unlimited parking license to reserve the stalls for public use of the park as provided in this Agreement. HCCC agrees to repave the stalls so that they are in good condition. Repaving shall be completed no later than December 31, 2017.

The designated stalls will be available Monday thru Saturday from dawn to dusk, unless an HCCC function (such as a wedding) requires HCCC use of the stalls. The CITY will provide and maintain proper signage for the purpose of public notification of the stalls available for public use. In addition, the CITY will maintain a pedestrian path connecting the Southwest portion of the referenced parking area with the existing path in Decatur Woods Park. CITY maintenance personnel will remove litter within the designated 12 parking spaces and its immediate vicinity on an as-needed basis, at the request of HCCC. All other regular maintenance of the stalls and parking lot shall be performed by HCCC.

4. RECORDS MAINTENANCE

The parties to this agreement shall each maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of parties, other personnel duly authorized by either party, the Office of the State Auditor, and other officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years or, as provided in the state retention schedule in the case of the CITY and any persons duly authorized by the parties shall have full access to and the right to examine any of these materials during this period.

5. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

7. TERMINATION

Either party may terminate this Agreement upon 90 days prior written notification to the other party, provided, however, that if HCCC chooses to terminate this agreement prior to 2027 without reasonable cause as determined by the CITY, HCCC will be required to reimburse the CITY it at a rate of \$660 for each year prior to 2027 the agreement is terminated. The \$660 reimbursement provision will apply if terminated without reasonable cause. Reasonable cause includes but is not limited to a third party's actions that result in severe, unanticipated impacts to church property that are due to public use of the spaces designated in this license, in which case the city may agree to a lesser or no reimbursement amount, depending on the circumstances causing the termination.

8. TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

9. DISPUTES

In the event that a dispute arises between the parties to this Agreement, it shall be determined by a dispute board in the following manner: Each party to this agreement shall appoint a member to the dispute board. The members so appointed shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the parties.

10. GOVERNANCE

This contract is entered into pursuant to and under the authority granted by the laws of the State of Washington and any applicable federal, state laws, or city ordinances. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal, state statutes, city ordinances and rules;
2. Principles and Purpose clause; and
3. Any other provisions of the agreement, including materials incorporated by reference.

11. ASSIGNMENT

The provisions to be provided under this agreement and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

12. WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

13. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

14. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

15. ANNUAL REVIEW

Both parties agree that an annual review of the conditions relating to park access would be beneficial to adjust for current conditions. An annual on site review will take place on site starting one year from the execution date of this agreement. If any modifications are necessary,

the CITY and HCCC will memorialize those amendments to this Agreement by written amendment to this Agreement.

16. INDEMNIFICATION/INSURANCE

A. **Indemnification.** In consideration for the City providing payment for a license for public parking, HCCC agrees to defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of HCCC in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

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

B. **Insurance.** HCCC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. HCCC shall name the City as an additional insured.

C. **No Limitation.** HCCC's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of HCCC to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

17. CONTRACT MANAGEMENT

The designated representative for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Representative for the City is : <i>Jonathon Turlove, Associate Director Olympia Parks, Arts and Recreation P.O. Box 1967 Olympia, WA 98507 Phone: 360-753-8068</i>	The Representative for HCCC is: <i>Tim Heffer, Lead Pastor Hidden Creek Community Church 1807 9th Ave SW Olympia, WA 98502 Phone: 360-481-3289</i>
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*****SIGNATURES APPEAR ON THE FOLLOWING PAGE*****

HIDDEN CREEK COMMUNITY CHURCH

By: _____
Print Name: _____
Its _____

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On the ____ day of _____ 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____, to me known to be the _____ of the Hidden Creek Community Church, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said Church for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

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


Signature
Print Name: _____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

CITY OF OLYMPIA

By: _____
Steven R. Hall, City Manager

Date: _____

APPROVED AS TO FORM:



Deputy City Attorney
City of Olympia

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On the ____ day of _____ 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn; personally appeared before me _____, to me known to be the _____ of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

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

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____