

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
APPROVING A RIGHT-OF-WAY USE AGREEMENT BETWEEN THE CITY OF OLYMPIA AND
BOARDWALK ASSOCIATES.**

WHEREAS, there exists within the City of Olympia a platted right-of-way known as Columbia Street, southerly of Corky Avenue and northerly of Olympia Avenue; and

WHEREAS, in or around 1987, Olympia and Boardwalk Associates, Inc. entered into a Right-of-Way Use Agreement that allowed Boardwalk Associates to place a structure and related appurtenances within a certain portion of the Columbia Street right-of-way. Pursuant to that agreement, the structure and appurtenances remains in the Columbia Street right-of-way; and

WHEREAS, Boardwalk Associates is interested in a new Right-Of-Way Use Agreement that would allow continued placement of its existing structure and related appurtenances within the Columbia Street right-of-way; and

WHEREAS, Olympia has determined the right-of-way use area for the existing structure and attached appurtenances is approximately 20 feet by 140 feet, or a total of 2,820 square feet; and

WHEREAS, Olympia has determined that Boardwalk Associates continued use of the structure and related appurtenances within the Columbia Street right-of-way is acceptable subject to the conditions within the proposed new Right-of-Way Use Agreement; and

WHEREAS, Boardwalk Associates holds a sublease for certain Department of Natural Resources (DNR) aquatic lands; Wedell A. Berg, Jr. is the lessee of those DNR aquatic lands and subleases them to Boardwalk Associates. In August 1987, Boardwalk Associates granted the City of Olympia an easement over part of their subleased aquatic lands for a pedestrian boardwalk adjacent to its building. This boardwalk is part of the broader Percival Landing. The term of the easement was for 30 years and expired in 2017; and

WHEREAS, Rather than continuing with an easement from Boardwalk Associates for the Percival Landing boardwalk, Olympia is entering into a sublease directly with Berg for use of that portion of Berg's leased aquatic lands utilized by the City for the Percival Landing Boardwalk; and

WHEREAS, Olympia and Boardwalk Associates have a mutual interest in Percival Landing being maintained for public access and use;

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

1. The Olympia City Council hereby approves the form of Right-of-Way Use Agreement between the City of Olympia and Boardwalk Associates. and the terms and conditions contained therein.
2. The City Manager is authorized and directed to execute on behalf of the City of Olympia the Right-of-Way Use Agreement with Boardwalk Associates and any other documents necessary to execute

said Agreement, and to make any minor modifications as may be required and are consistent with the intent of the Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this ____ day of _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Michael M. Young

DEPUTY CITY ATTORNEY