



# Meeting Agenda

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

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**Tuesday, April 7, 2015**

**7:00 PM**

**Council Chambers**

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**1. ROLL CALL**

**1.A ANNOUNCEMENTS**

**1.B APPROVAL OF AGENDA**

**2. SPECIAL RECOGNITION**

- 2.A** [15-0340](#) Special Recognition - Action Plan "Launch Party" April 18

**3. PUBLIC COMMUNICATION**

*(Estimated Time: 0-30 Minutes) (Sign Up Sheets are Provided in the Foyer)*  
*During this portion of the meeting, citizens may address the Council regarding only items related to City business, including items on the Agenda, except on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days. Individual testimony is limited to three minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the Council will refrain from commenting on individual testimony until all public comment has been taken. The City Council will allow for additional testimony to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.*

**COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)**

**4. CONSENT CALENDAR**

*(Items of a Routine Nature)*

- 4.A** [15-0357](#) Approval of March 31, 2015 Special Study Session Minutes

**Attachments:** [Minutes](#)

- 4.B** [15-0356](#) Approval of March 31, 2015 City Council Meeting Minutes

**Attachments:** [Minutes](#)

- 4.C** [15-0038](#) Approval of Interlocal Agreement with Department of Enterprise Services for Street Sweeping Services

**Attachments:** [Interlocal Agreement](#)

- 4.D** [15-0231](#) Approval of Resolution Setting Public Hearing Date for Right-of-Way Vacation of a Portion of the Alley at 600 Franklin Street SE

**Attachments:** [Map](#)

Resolution

- 4.E [15-0232](#) Approval of Memorandum of Understanding Regarding Interim Reallocation of Reclaimed Water Supply From City of Olympia to City of Tumwater  
**Attachments:** [Memorandum of Understanding](#)
- 4.F [15-0302](#) Approval of Agreement with Port of Olympia to Access City Stormwater System  
**Attachments:** [Port of Olympia Access Agreement](#)
- 4.G [15-0328](#) Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 123 4th Avenue East  
**Attachments:** [Tax Exemption Agreement](#)

**4. SECOND READINGS**

- 4.H [15-0318](#) Approval of an Ordinance Amending Advisory Committee and Commission Membership  
**Attachments:** [Ordinance](#)

**4. FIRST READINGS**

- 4.I [15-0310](#) Approval of Amendment to Ordinance 6947 (Operating Budget)  
**Attachments:** [Ordinance](#)
- 4.J [15-0311](#) Approval of Amendment to Ordinance 6946 (Capital Budget)  
**Attachments:** [Ordinance](#)

**5. PUBLIC HEARING**

- 5.A [15-0320](#) Approval of Ordinance Extending for an Additional Six Months the Moratorium on Medical Marijuana Collective Gardens and Other Cannabis Related Uses Not Addressed by I-502  
**Attachments:** [Moratorium Extension Ordinance](#)

**6. OTHER BUSINESS**

- 6.A [15-0234](#) Briefing on US 101 / West Olympia Access Project  
**Attachments:** [Map](#)

**7. CONTINUED PUBLIC COMMUNICATION**

*(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)*

**8. REPORTS AND REFERRALS**

**8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS****8.B CITY MANAGER'S REPORT AND REFERRALS****9. ADJOURNMENT**

*The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Secretary at 360.753-8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.*



## City Council

### Special Recognition - Action Plan "Launch Party" April 18

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 2.A  
**File Number:** 15-0340

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**Type:** recognition **Version:** 1 **Status:** Recognition

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#### **Title**

Special Recognition - Action Plan "Launch Party" April 18

#### **Recommended Action**

##### **City Manager Recommendation:**

Receive information.

#### **Report**

##### **Issue:**

Staff will highlight for Council the Action Plan community outreach campaign and invite Council members to attend the Action Plan Launch Party on Saturday, April 18, from 10:00 AM to 1:00 PM at the Olympia Center.

##### **Staff Contact:**

Stacey Ray, Senior Planner, Community Planning and Development, 360.753.8046

##### **Presenter(s):**

Stacey Ray, Senior Planner

##### **Background and Analysis:**

Olympia has a new Comprehensive Plan with a clear vision for our community's future. The Action Plan will lay out specifically what we, as a community, will do over the next six years to accomplish our newly adopted goals. The Plan will also include community indicators to help us track our progress and share stories of success.

A draft Action Plan has been developed over the past year by City staff with guidance from LUEC. An extensive public involvement process is currently underway to receive community member and potential partner input on the draft. The draft is slated to be delivered to City Council for consideration in August 2015.

##### **Neighborhood/Community Interests (if known):**

An adopted Action Plan could impact community members city-wide, and so is anticipated to draw interest from a wide variety of neighborhoods and community interests.

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**Type:** recognition **Version:** 1 **Status:** Recognition

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**Options:**  
None.

**Financial Impact:**

Completion of an Action Plan is already included in the Community Planning and Development 2015 work plan.



City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8447

## City Council

### Approval of March 31, 2015 Special Study Session Minutes

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.A  
**File Number:** 15-0357

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**Type:** minutes   **Version:** 1   **Status:** Consent Calendar

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**Title**

Approval of March 31, 2015 Special Study Session Minutes



# Meeting Minutes - Draft

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

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**Tuesday, March 31, 2015**

**5:30 PM**

**Room 207**

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### Special Study Session

#### 1. ROLL CALL

**Present:** 7 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer, Councilmember Jeannine Roe and Councilmember Cheryl Selby

#### OTHERS PRESENT

City Manager Steve Hall  
CP&D Director Keith Stahley  
CP&D Director Leonard Bauer  
Line of Business Director Debbie Sullivan  
Public Works Director Rich Hoey  
City Attorney Mark Barber  
Coalition of Neighborhoods Chairman Phil Schulty  
Coalition of Neighborhoods Representative Sal Muniez  
Neighborhood Association Representative Claudia  
Neighborhood Association Representative Carl  
Neighborhood Association Representative Bob  
Citizen Brian Goenner

#### CALL TO ORDER

**Mayor Buxbaum called the meeting to order at 5:31 P.M.**

#### 2. DISCUSSION ITEMS

- 2.A** [15-0317](#) Meeting with Coalition of Neighborhood Associations Regarding Memorandum of Understanding

The status of the MOU was presented by Steve Hall and community representatives.

**The work session was completed.**

#### 3. ADJOURNMENT

**The meeting was adjourned at 6:31 P.M.**



City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8447

## City Council

### Approval of March 31, 2015 City Council Meeting Minutes

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.B  
**File Number:** 15-0356

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**Type:** minutes   **Version:** 1   **Status:** Consent Calendar

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**Title**

Approval of March 31, 2015 City Council Meeting Minutes





# Meeting Minutes - Draft

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

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**Tuesday, March 31, 2015**

**7:00 PM**

**Council Chambers**

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**1. ROLL CALL**

**Present:** 7 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer, Councilmember Jeannine Roe and Councilmember Cheryl Selby

**1.A ANNOUNCEMENTS - None**

**1.B APPROVAL OF AGENDA**

Mayor Buxbaum noted that staff has requested an Executive Session at the end of the meeting regarding a real estate matter. Council agreed.

**The agenda was approved as amended.**

**2. SPECIAL RECOGNITION**

**2.A [15-0215](#) Approval of Proclamation in Support of National Mayors' Challenge for Water Conservation**

Mayor Buxbaum read the proclamation. Water Conservation Coordinator Erin Conine accepted the proclamation and provided additional information about the pledge to conserve water.

**The recognition was received.**

**3. PUBLIC COMMUNICATION**

Mr. Michael Rivas and Mr. Jim Reeves spoke.

**COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)**

**4. CONSENT CALENDAR**

**4.A [15-0304](#) Approval of March 3, 2015 Special Study Session Meeting Minutes**

**The minutes were adopted.**

**4.B [15-0303](#) Approval of March 17, 2015 Special Study Session Minutes**

**The minutes were adopted.**

- 4.C [15-0296](#) Approval of March 17, 2015 City Council Meeting Minutes

**The minutes were adopted.**

- 4.D [15-0309](#) Approval of March 19, 2015 Special Council Meeting Minutes - Joint Meeting with the Olympia Downtown Association

Councilmember Hankins made a correction and said the Olympia commons was not discussed at that meeting.

**The minutes were adopted as amended.**

- 4.E [15-0305](#) Certification of Bills and Payroll

Payroll check numbers 87665 through 87710 and Direct Deposit transmissions:  
Total: \$3,748,469.85; Claim check numbers 3657220 through 3658584: Total:  
\$7,471,830.38.

**The certification was adopted.**

- 4.F [15-0266](#) Approval of Memorandum of Understanding with Thurston County Regarding the Use of Neonicotinoid Pesticides

**The contract was adopted.**

- 4.G [15-0301](#) Approval of Interlocal Agreement for Mutual Aid for Firefighting and Emergency Medical Services

**The contract was adopted.**

- 4.H [15-0306](#) Approval to Apply for 2015 Federal Transportation Alternatives Program Grant Opportunity

**The decision was adopted.**

- 4.I [15-0314](#) Approval of Appointments to the Olympia Arts Commission

**The decision was adopted.**

- 4.J [15-0315](#) Approval of Re-appointments to Advisory Committees and Commissions

**The decision was adopted.**

- 4.K [15-0313](#) Approval of Advisory Committee and Commission 2015 Work Plans

**The decision was adopted.**

- 4.L [15-0321](#) Approval of Hearings Examiner Contract Extension

**The contract was adopted.**

#### 4. SECOND READINGS

- 4.M [15-0251](#) Adoption of an Ordinance on 2nd Reading to Appropriate 2014 Year-End Fund Balance

**The ordinance was adopted on second reading.**

- 4.N [15-0257](#) Approval of an Ordinance Creating a Trust Fund to Pay LEOFF 1 (Law Enforcement Officers and Fire Fighters) Medical Benefits

**The ordinance was adopted on second reading.**

#### 4. FIRST READINGS

- 4.O [15-0318](#) Approval of an Ordinance Amending Advisory Committee and Commission Membership

**The ordinance was approved on first reading and moved to second reading.**

#### Approval of the Consent Agenda

**Mayor Pro Tem Jones moved, seconded by Councilmember Langer, to adopt the Consent Calendar as amended. The motion carried by the following vote:**

**Aye:** 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

#### 5. PUBLIC HEARING - None

#### 6. OTHER BUSINESS

- 6.A [15-0259](#) Authorization to Advance the "Hub" Junction Project at Woodland Trail as Conceptually Designed

Associate Director David Hanna reviewed the background, design considerations, and the final design submitted by the architect. He said the construction should be complete by the end of July and a dedication date will be set at that time.

Questions and comments included the following:

- Look for a way to honor Mr. and Mrs. Rainwood who were instrumental in developing the Woodland Trail.
- Consider installing bike racks.
- Who will maintain this area? All jurisdictions have agreed to help maintain this area.
- The solar lights will burn through the night.

**Council agreed to advance the HUB Junction Project.**

**7. CONTINUED PUBLIC COMMUNICATION**

**8. REPORTS AND REFERRALS**

**8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS**

Councilmembers shared highlights of committees and events they attended.

**8.B CITY MANAGER'S REPORT AND REFERRALS**

City Manager Steve Hall shared the following:

1. Contract work will begin next week to demolish the old Housing Authority building.
2. Police Chief Ronnie Roberts is a finalist for the Dispute Resolution Center's Peacemaker Award.
3. Mr. Hall will attend the ReCon real estate conference in Las Vegas in mid-May.

Mr. Hall asked for the following referrals:

1. Refer to the General Government Committee the review of the Memorandum of Understanding with the Coalition of Neighborhood Associations. Council agreed
2. Request the General Government Committee prepare a draft agenda for the Council's mid-year retreat in June. Also consider the location and whether a facilitator is needed. Council agreed.

**9. RECESS TO EXECUTIVE SESSION AND ADJOURNMENT**

The meeting was recessed at 8:03 p.m. Mayor Buxbaum announced the Council will reconvene in 5 minutes to Executive Session for no more than 45 minutes to discuss a real estate matter. The City Attorney will be present and no decisions will be made. Council will adjourn directly from Executive Session.



## City Council

### Approval of Interlocal Agreement with Department of Enterprise Services for Street Sweeping Services

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.C  
**File Number:** 15-0038

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**Type:** contract   **Version:** 1   **Status:** Consent Calendar

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#### **Title**

Approval of Interlocal Agreement with Department of Enterprise Services for Street Sweeping Services

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve and authorize the Mayor to sign the Interlocal Agreement with Department of Enterprise Services (DES) for Street Sweeping Services.

#### **Report**

##### **Issue:**

Whether to enter into an Interlocal Agreement with DES for Street Sweeping Services.

##### **Staff Contact:**

Mark Russell, P.E., Director of Transportation, Public Works, 360.753.8762

##### **Presenter(s):**

None

#### **Background and Analysis:**

DES asked the City to provide street sweeping services at the Capitol Campus because they do not have the equipment to clean their streets and parking areas. The City can provide this service by working overtime on weekends. This allows the City to maintain our current sweeping schedule. DES agreed to the schedule and costs in the attached proposed agreement.

Later this year, DES will reevaluate their street sweeping program and may resume some or all of their work. This agreement allows the City to help DES as needed.

#### **Neighborhood/Community Interests (if known):**

By performing this service, the City helps DES to maintain the Capitol Campus and to protect local

stormwater systems.

**Options:**

1. Approve and authorize the Mayor to sign the Interlocal Agreement with Department of Enterprise Services (DES) for Street Sweeping Services. City staff will be able to sweep the streets and parking areas at the Capitol Campus as needed.
  
2. Do not approve the Interlocal Agreement with DES for Street Sweeping Services. DES will need to find another option to sweep the Capitol Campus.

**Financial Impact:**

DES will reimburse the City on a monthly basis to cover our costs. The hourly rate includes overtime labor, benefits, equipment, and administrative costs. The amount of work will vary based on the need.

**Attachment:**

Interlocal Agreement with DES for Street Sweeping Services

When recorded return to:  
City of Olympia  
P.O. Box 1967  
Olympia, WA 98507-1967

**INTERLOCAL AGREEMENT  
BETWEEN  
THE CITY OF OLYMPIA AND THE STATE OF WASHINGTON,  
DEPARTMENT OF ENTERPRISE SERVICES  
FOR  
STREET SWEEPING SERVICES**

**Whereas**, RCW 39.34.010 permits local governmental units to make the most efficient use of their power by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**Whereas**, pursuant to RCW 39.34.080, each party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: provided, that such contract shall be authorized by the governing body of each party to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the City of Olympia and the State of Washington agree as follows:

I. **Purpose/Objectives**

The purpose of this Agreement is to allow the City of Olympia (CITY) to provide street and parking area sweeping services (Services) to the State of Washington Department of Enterprise Services (DES). DES does not currently have sufficient resources or equipment to perform the Services and desires to have them performed by the CITY. The CITY currently maintains appropriate equipment and sufficient personnel to perform the Services, and agrees to do so under the terms and conditions outlined in this Agreement.

## II. Scope of Agreement/Work

### A. Responsibilities of CITY shall be as follows:

1. **Sweeping Services.** The CITY agrees to sweep those streets and parking areas at the Capitol Campus shown in **Exhibit "A,"** at the request of DES.
2. **Schedule.** DES shall request Services in writing to the CITY on an as needed basis. DES shall provide at least six (6) business days advance notice to the CITY of the need for Services. The CITY will typically perform the Services on Saturday's beginning at 6:00 a.m. DES understands that CITY work has priority over Services to DES. The CITY will make every effort to adhere to the requested dates of Services by DES, however, the CITY reserves the right to adjust any Services date due to the unavailability of CITY resources.
3. **Charges for CITY Work.** The CITY will charge DES for Services performed by the CITY at the hourly rate established in **Exhibit "B"** plus any other charges authorized in this Agreement. The CITY will invoice DES monthly for Services performed during the prior month.

### B. Responsibilities of DES shall be as follows:

1. **Sweeper Spoils Disposal.** DES agrees to provide a location for disposal of sweeper spoils. DES assumes all responsibility and liability for the content of the spoils, their storage location, and their ultimate disposal in accordance with applicable laws.
2. **Payment.** DES shall pay the CITY for Services performed within thirty (30) days of receipt of a CITY invoice.
3. **DES Contact.** DES shall provide the CITY with advance notice of the person or person(s) authorized by DES to request Services of the CITY.

## III. Rates for Service

Rates shall be as established in **Exhibit "B"**. These rates may be amended on a yearly basis. The process for amendment shall be by written annual letter of notification from the CITY to DES no later than October 1st of each year and signed by each party, in accordance with the terms of this Agreement.



**IV. Amendments/Term Extensions.**

Each party hereby delegates authority to those staff members who hold the positions designated in this section to authorize amendments to **Exhibits "A" and "B"** as necessary for the proper administration of the program, so long as each amendment is in written form, signed by the authorized party for each entity, dated, and properly recorded or otherwise posted in compliance with RCW 39.34.040. With the exception of the authority listed Sections IV. and V., all other amendments to this Agreement shall be in writing and authorized by each party's respective governing authority prior to implementation.

<b>CITY:</b>	<b>DES:</b>
Director of Transportation	Maintenance and Operations Superintendent
<i>Mark Russell</i>	<i>Jeff Whitehead</i>
<i>(360) 753-8762</i>	<i>(360) 725-0014</i>
<i>mrussell@ci.olympia.wa.us</i>	<i>Jeff.whitehead@des.wa.gov</i>

**V. Duration of Agreement**

This Agreement shall be effective from the date of the last authorizing signature affixed hereto, after proper recording as indicated in Section X., until December 31, 2016 unless otherwise terminated or extended in the manner described in this Agreement. This Agreement may be extended for additional terms upon the mutual written agreement of the CITY's Director of Transportation and DES.

**VI. Termination of Agreement**

Should either party choose to terminate this Agreement prior to its expiration, the party desiring to terminate must provide ninety (90) days advance written notice to the other party.

**VII. Non-Appropriation of Funds**

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the CITY will not be obligated to continue the Agreement after the end of the current fiscal period, and this Agreement will automatically terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the CITY in the event this provision applies.

**VIII. Joint Board/No Separate Legal Entity Created/Property**

No joint board and no separate legal entity is created under this Agreement. Each party shall maintain ownership of its own property.

**IX. Entire Agreement**

This Agreement, along with the Exhibits "A" and "B," which are incorporated by reference, sets forth all terms and conditions agreed upon by the CITY and DES, and supersedes any and all agreements oral or otherwise specific to the subject matter addressed herein.

**X. Recording**

Prior to its entry into force, this Agreement shall be filed with the Thurston County Auditor's Office or posted upon the websites or other electronically retrievable public source as required by RCW 39.34.040.

**XI. Notices**

All notices required under this Agreement shall be to the party at the addresses listed below and shall become effective three days following the date of deposit in the United States Postal Service.

<b>CITY:</b> City of Olympia	<b>DES:</b> Department of Enterprise Services
Attn: Director of Transportation	Attn: Maintenance and Operations Superintendent
Re: Interlocal Agreement with DES	Re: Interlocal Agreement with City of Olympia
PO Box 1967	P.O. Box 41004
Olympia, WA 98507-1967	Olympia, WA 98504-1019

**XII. Interpretation and Venue**

This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The parties hereby agree the venue for enforcement of this Agreement is Thurston County.

**XIII. Dispute Resolution**

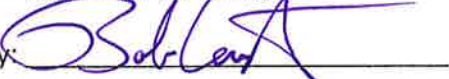
In the event of a dispute between the parties arising by reason of this Agreement, or any obligation hereunder, the dispute shall first be referred to a representative designated by parties to have oversight over the administration of this Agreement. Said representatives shall meet within fourteen (14) calendar days of either party's request for a meeting, and the parties shall make a good faith effort to attempt to achieve a resolution of the dispute. In the event that the parties are unable to resolve the dispute, the parties agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator. Each party shall bear its own costs, with the exception of the cost of the actual mediation, which shall be split equally between the parties. Should mediation fail, the parties may avail themselves of other legal avenues to resolve the dispute.

**XIV. Ratification**

Any work performed prior to the effective date that falls within the scope of this Agreement and is consistent with its terms is hereby ratified and confirmed.

DEPARTMENT OF ENTERPRISE SERVICES

CITY OF OLYMPIA

By:   
Bob Covington  
Deputy Director, Department of Enterprise Services

\_\_\_\_\_  
Stephen H. Buxbaum, Mayor

Date: 4 March 2015

Date: \_\_\_\_\_

OFFICE OF THE ATTORNEY GENERAL  
Approved As To Form:

Approved As To Form:

\_\_\_\_\_  
Deputy Attorney General

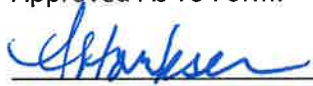
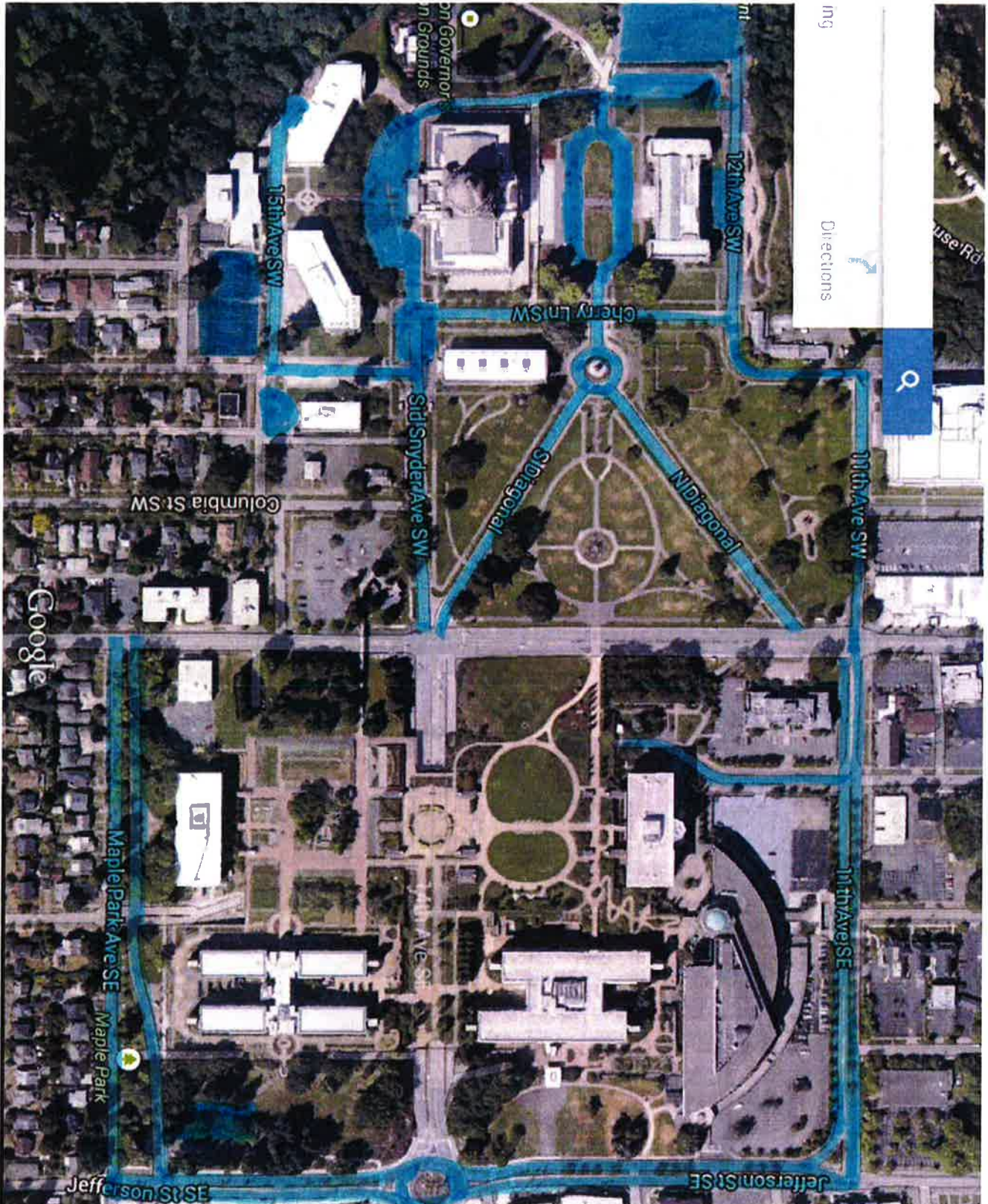
  
\_\_\_\_\_  
Assistant City Attorney

EXHIBIT A  
CAPITOL CAMPUS SWEEPING AREAS  
(Sweeping Areas Highlighted in Blue)



**EXHIBIT "B"**

**SWEEPING RATES FOR THE YEAR: 2015**

Compensation for services rendered during the initial and extension terms of this Agreement shall be based on rates approved annually and provided to DES no later than October 1st of each calendar year as follows:

Sweeping Rate Includes overtime labor rate, benefits, equipment rate, and administrative overhead.	\$105.00/Hr.
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Each sweeping is *expected* to take 6-8 hours, depending upon the level of debris and associated trips for disposal. The CITY will bill actual time.



## City Council

### Approval of Resolution Setting Public Hearing Date for Right-of-Way Vacation of a Portion of the Alley at 600 Franklin Street SE

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.D  
**File Number:** 15-0231

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**Type:** resolution   **Version:** 1   **Status:** Consent Calendar

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#### **Title**

Approval of Resolution Setting Public Hearing Date for Right-of-Way Vacation of a Portion of the Alley at 600 Franklin Street SE

#### **Recommended Action**

##### **Committee Recommendation:**

Not applicable.

##### **City Manager Recommendation:**

Move to pass a Resolution to schedule a Public Hearing on May 19, 2015 to hear public testimony regarding the vacation petition of the alley area adjacent to 600 Franklin Street SE.

#### **Report**

##### **Issue:**

A public hearing is required prior to acting on a right-of-way vacation petition.

##### **Staff Contact:**

Ladd F. Cluff, City Surveyor, Public Works, 360.753.8389

##### **Presenter(s):**

Not applicable.

#### **Background and Analysis:**

Under state law RCW 35.79.010, the Council is required to adopt a resolution to set the public hearing date prior to acting on a right-of-way vacation petition. The statute states in part:

*RCW 35.79.010*

*Petition by owners -- Fixing time for hearing.*

*The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the*

part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution.

The property owner requested that the City initiate the process to abandon the east 9 feet of the north-south alley adjacent to 600 Franklin Street SE.

**Neighborhood/Community Interests (if known):**

The public hearing will provide an opportunity for community input on the requested vacation.

**Options:**

Option 1. Pass the resolution setting May 19, 2015 as the date for the Public Hearing.

**Financial Impact:**

None

**Attachment(s):**

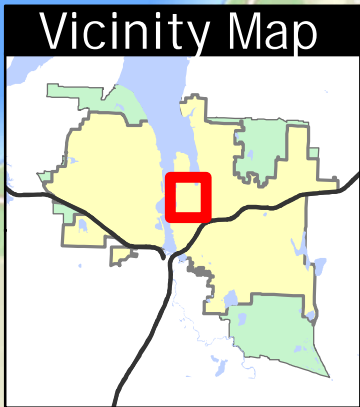
Map

Resolution



# 600 Franklin

## Proposed Alley Vacation



0 300 600 Feet 1 inch = 600 feet

Map printed 3/20/2015  
 For more information, please contact:  
 Ladd Cluff, City Surveyor  
 (360) 753-8389

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF OLYMPIA, WASHINGTON, FIXING MAY 19, 2015, AS THE DATE FOR PUBLIC HEARING ON A PROPOSAL TO VACATE AS A PUBLIC THOROUGHFARE A PORTION OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED AT 600 FRANKLIN STREET SE.**

**WHEREAS**, under state statute RCW 35.79.010, the City Council is required to adopt a resolution which sets a public hearing date for the consideration of a right-of-way vacation request; and

**WHEREAS**, the City Council of the City of Olympia has determined that a public hearing should be held regarding the proposal to vacate a portion of alley at 600 Franklin Street SE; and

**WHEREAS**, one of the purposes of this Resolution is to provide notice to residents and neighbors of the proposed road vacation;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** The City Council, pursuant to RCW 35.79.010, hereby initiates procedures to vacate as a public thoroughfare the following described property:

The West 9 feet of Lot 6, Block 36, of Sylvester's Plat, as recorded in Volume 1, at Page 14, Records of Thurston County, Washington;  
TOGETHER WITH the West 9 feet of a 10-foot East-West Alley lying between Lots 3 and 6, Block 36, of said Plat.  
Situate in the Southwest Quarter of the Southwest Quarter of Section 14, Township 18 North, Range 2 West, W.M., City of Olympia, Thurston County, Washington.

**Section 2.** May 19, 2015, at the hour of 7:00 p.m. or thereafter, at the Olympia City Hall Council Chambers, 601 4<sup>th</sup> Avenue E, Olympia, Washington, is fixed as the time and place for the hearing on said proposed alley vacation, such time shall not be more than sixty days nor less than twenty days after the passage of this Resolution.

**PASSED BY THE OLYMPIA CITY COUNCIL** this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

*Darren Nienaber*

\_\_\_\_\_  
DEPUTY CITY ATTORNEY



## City Council

### Approval of Memorandum of Understanding Regarding Interim Reallocation of Reclaimed Water Supply From City of Olympia to City of Tumwater

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.E  
**File Number:** 15-0232

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**Type:** contract   **Version:** 1   **Status:** Consent Calendar

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#### **Title**

Approval of Memorandum of Understanding Regarding Interim Reallocation of Reclaimed Water Supply From City of Olympia to City of Tumwater

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee

##### **City Manager Recommendation:**

Move to approve and authorize the Mayor to sign the Memorandum of Understanding (MOU).

#### **Report**

##### **Issue:**

Whether to approve a Memorandum of Understanding allocating some of Olympia's reclaimed water to the City of Tumwater

##### **Staff Contact:**

Donna Buxton, Reclaimed Water Senior Program Specialist, Public Works/Water Resources, 360.753.8793  
Andy Haub, Water Resources Director, 360.570.3795

##### **Presenter(s):**

None

#### **Background and Analysis:**

Under current agreements, LOTT Clean Water Alliance (LOTT) provides 100% of its available reclaimed water from the Budd Inlet Wastewater Treatment/Reclaimed Water Plant to the City of Olympia. The reason Olympia was given 100% of the water was because the reclaimed water line ended in Olympia at the time the agreements were established. Since then, LOTT has increased the amount of reclaimed water generated at the Plant. LOTT also recently extended the pipeline and service to Tumwater and built a storage tank there. However, Tumwater does not yet have an

agreement with LOTT to receive reclaimed water from the Budd Inlet Plant.

LOTT and the City of Tumwater are actively working on an agreement that will allocate some of the Plant's increased capacity to Tumwater. The agreement is anticipated to be in place by the time LOTT completes a new supply and demand study and Tumwater adopts a reclaimed water ordinance. In the meantime, Olympia is not using its full allocation of reclaimed water and can help Tumwater, through the MOU, to use some of Olympia's reclaimed water on a temporary basis.

Olympia currently has four customers that use about 10 million gallons of reclaimed water per year primarily for irrigation between the spring and fall months. One of these customers also uses it year-round to flush toilets. The City has agreements with its customers that ensure a specific amount of reclaimed water will be provided by the City from the Budd Inlet Plant.

The MOU specifies the amount of reclaimed water reserved by Olympia for Olympia's customers and the amount of reclaimed water available to Tumwater. The MOU ensures Olympia will have enough reclaimed water for their current customers, and allows Olympia to retain more in case current customers need more or if new customers come on line.

The MOU is a short-term solution until LOTT and the partner jurisdictions (of Lacey, Olympia, Tumwater and Thurston County) can update the umbrella General Interlocal and Supply Agreements. In the meantime, through the MOU, Tumwater will be able to provide reclaimed water to the Tumwater Valley Golf Course during the 2015 summer season. This significantly increases the beneficial use of this valuable resource and it reduces the amount of treated wastewater being released into Budd Inlet.

**Neighborhood/Community Interests (if known):**

N/A

**Options:**

- Approve the MOU, thereby providing reclaimed water to the City of Tumwater.
- Decline or modify the MOU to better meet City of Olympia needs.

**Financial Impact:**

None. City revenue from reclaimed water sales will not be affected.

**Attachment:**

MOU regarding interim reallocation of reclaimed water supply from City of Olympia to City of Tumwater

MEMORANDUM OF UNDERSTANDING  
REGARDING INTERIM REALLOCATION OF RECLAIMED WATER SUPPLY  
FROM CITY OF OLYMPIA TO CITY OF TUMWATER

I. RECITALS

This Memorandum of Understanding (“MOU”) is made and entered into as of the last date affixed below between and among the City of Olympia (“Olympia”), City of Tumwater (“Tumwater”), and LOTT Clean Water Alliance (“LOTT”), referred to collectively as “Parties.”

WHEREAS, the Parties, along with the City of Lacey and Thurston County, entered into a General Interlocal Agreement (“General Agreement”) in 2004 to provide a regional framework for the distribution and use of reclaimed water produced by LOTT, which General Agreement is hereby incorporated into this MOU by reference; and

WHEREAS, subsequent to approval of the General Agreement, a Reclaimed Water Supply Agreement (“Supply Agreement”) regarding the Budd Inlet Reclaimed Water Facility was entered into between LOTT and Olympia, which Supply Agreement is hereby incorporated into this MOU by reference; and

WHEREAS, said Supply Agreement included Distribution Agreement No. 1 (“Distribution Agreement”) appended and labelled Exhibit A to the Supply Agreement; and

WHEREAS, said Distribution Agreement provided for Olympia to receive 100% of the reclaimed water volume available for distribution from the first capacity Increment at the LOTT Budd Inlet Reclaimed Water Facility, an amount equal to 460,000 gallons per day (gpd) (“Allocation”); and

WHEREAS, Olympia currently is not using its full Allocation and does not anticipate expanding reclaimed water use in the near future; and

WHEREAS, subsequent to the Agreements, LOTT has extended reclaimed water pipelines and built a storage tank, which will expand LOTT’s capacity to provide reclaimed water to both Olympia and Tumwater from the Budd Inlet Reclaimed Water Facility; and

WHEREAS, Olympia and Tumwater desire to temporarily redistribute Olympia’s uncommitted and unused portions of Olympia’s Allocation of Reclaimed Water pending planned construction of additional reclaimed water treatment capacity by LOTT, or renegotiation or amendment of the General Agreement and subsidiary agreements described therein under the terms and conditions as set forth below.

## II. MEMORANDUM OF UNDERSTANDING TERMS AND CONDITIONS

- A. Olympia's Reclaimed Water Allocation under the current Supply Agreement will be available for use by Tumwater upon the effective date of this MOU to the extent such Allocation is not needed by Olympia.
- B. Olympia maintains Reclaimed Water Service Agreements which commit approximately 260,000 gpd (of its 460,000 gpd Allocation) to its current customers' needs.
  - i. Olympia agrees to reallocate to Tumwater 200,000 gpd of Olympia's original Allocation, representing the amount of reclaimed water currently uncommitted under Olympia's customer Reclaimed Water Service Agreements, until such time Olympia has need to use this, or a portion of this, uncommitted Allocation.
  - ii. Olympia further authorizes Tumwater to access an additional 200,000 gpd of its committed Allocation that is currently not used by Olympia's customers, until such time Olympia has need to use this, or a portion of this, committed but unused Allocation.
  - iii. Olympia reserves the remaining 60,000 gpd of its committed Allocation to account for historical demand, seasonal variability and potential increased need for reclaimed water by its existing customers.
- C. Should Olympia indicate need for all or a portion of the 200,000 gpd of committed but currently unused Allocation, temporarily authorized for use by Tumwater as provided in paragraph B (ii) above, Olympia agrees to give Tumwater a minimum of 10 business days' written notice to support smooth operational transition from reclaimed water to other water source(s).
- D. Should Olympia indicate need for all or a portion of the 200,000 gpd of its uncommitted Allocation as provided in paragraph B (i) above, Olympia will give written notice to LOTT and Tumwater as far in advance as possible, but not less than one year, to assist with regional reclaimed water supply planning.
- E. The Parties intend for the reallocation of Reclaimed Water as described herein to be temporary and to remain in effect until renegotiation of the General Agreement and subsidiary agreements, or until construction of additional reclaimed water treatment capacity by LOTT is completed, and subject to Olympia's needs as described above.
- F. In the event any terms or conditions of this MOU are inconsistent with the General Agreement, and its subsidiary agreements, said agreements will control.
- G. Any disagreements under this MOU, and any allocation of liability, will be addressed as provided by the General Agreement and subsidiary agreements, which are incorporated by reference.

H. Tumwater and Olympia agree to reconsider the reclaimed water quantities specified if and when additional amounts become available, and will subsequently amend this agreement in writing.

**SIGNATURES**

**CITY OF OLYMPIA**

By: \_\_\_\_\_

MAYOR

Date: \_\_\_\_\_

Approved as to form:

By: Mark Barker

City Attorney

**CITY OF TUMWATER**

By: \_\_\_\_\_

MAYOR

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

City Attorney

**LOTT CLEAN WATER ALLIANCE**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

General Counsel



## City Council

### Approval of Agreement with Port of Olympia to Access City Stormwater System

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.F  
**File Number:** 15-0302

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**Type:** contract   **Version:** 1   **Status:** Consent Calendar

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#### **Title**

Approval of Agreement with Port of Olympia to Access City Stormwater System

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve and authorize the Mayor to sign the Access Agreement.

#### **Report**

##### **Issue:**

Whether to sign the Access Agreement so the Port of Olympia can install equipment in City manholes and/or catch basins. The equipment will allow the Port to collect and test location specific sediment samples.

##### **Staff Contact:**

Sue Barclift, Water Resources Senior Program Specialist, 360.570.3805  
Andy Haub, Water Resources Director, 360.570.3795

##### **Presenter(s):**

None - Consent Item

#### **Background and Analysis:**

In 2007, the Port of Olympia found high levels of dioxins in the sediments at its shipping berths and near stormwater discharge pipes. As a result, the Washington State Department of Ecology is requiring the Port to investigate the source of contaminated sediment entering Budd Inlet from the stormwater pipes. Because the City's stormwater directly discharges into Budd Inlet, the Port wants to evaluate whether the contamination is coming from the City or the Port. Therefore, the Port requests the right to install up to five sediment traps in City manholes or catch basins that are further upstream from the outfall.

The Port of Olympia is paying to install the sediment traps. This work is schedule to start in May and will be completed by June. They will start testing immediately with results compiled by December,

2015. The City is not funding the installation of the equipment but is providing field support during the testing.

The specific work is identified in Exhibit "A" attached to the Access Agreement.

**Neighborhood/Community Interests (if known):**

None

**Options:**

1. Authorize the Mayor to sign the Access Agreement with the Port of Olympia. The Port will be able to start installing equipment in May. The City and Port's collaborative approach helps gain insight into the source of contamination.
  
2. Direct staff to reject or modify the Agreement consistent with Council feedback. The Port may face fines from Ecology because they will have to delay testing until an agreement is finalized.

**Financial Impact:**

None at this time.

**Attachment:**

Port-City Access Agreement, Exhibit A - Scope of Work



## ACCESS AGREEMENT

This **ACCESS AGREEMENT** ("Agreement") is made and entered into by and between CITY OF OLYMPIA (hereinafter "The City"), and the PORT OF OLYMPIA (hereinafter "The Port"), both of whom shall be referred to individually as a "Party" to this Agreement and collectively as the "Parties" to this Agreement.

### RECITALS

The Port previously requested access to the City stormwater system and to areas of real property connected to or adjacent to the City stormwater system (collectively, the "System") to perform environmental sampling and analysis. The Port requested access to the System on behalf of its retained environmental consultant, Anchor QEA LLC ("Anchor").

The Port has requested additional access to the System on behalf of Anchor to perform additional environmental sampling and analysis, including the installation of sediment traps in three locations: (1) Moxlie Creek outfall; (2) Fiddlehead Marina outfall; and (3) East Bay Redevelopment Site outfall. The scope of the additional work that the Port has requested to be performed within the System is set forth in **Exhibit A** to this Agreement.

The City has agreed to grant such access to the System for the performance of the work set forth in Exhibit A, subject to certain terms and conditions as set forth in this Agreement.

NOW, THEREFORE, the Parties desire to enter into this Agreement to allow the Port access to the System to perform the Work:

### TERMS AND CONDITIONS

1. **Incorporation of Recitals.** The foregoing recitals are incorporated herein as terms and conditions of this Agreement.

2. **Right of Access.** The City grants the Port and its employees, agents, consultants, and contractors (including but not limited to Anchor and any subcontractors hired by Anchor) a temporary, non-exclusive license to enter the System on one or more occasions to perform the Work set forth in Exhibit A. The City is not granting a possessory right, easement, or other property interest. All Work as described in Exhibit A shall be conducted and paid for by the Port. Any Work performed by the Port or its consultants or contractors outside of the investigation activities described in Exhibit A may be permitted only pursuant to a signed written Addendum to this Agreement.

3. **Duration of Consent to Access.** This Agreement shall terminate upon the completion of the Work on the System, unless the Parties mutually agree to extend the Agreement otherwise and memorialize such agreement in writing. In the event an extension of the Agreement is required, the City and the Port agree that such extension shall not be unreasonably withheld, conditioned or delayed.

4. **Damage/Restoration.** The Port (through Anchor and its subcontractors) shall take all reasonable precautions to avoid damage to the System. If any damage is caused to the System in the course of performance of the Work, including without limitation, damage to any utilities, pipelines, catch basins, equipment, or any other real property, improvements or structures, then the Port shall, at its sole cost and expense, immediately take all action reasonably necessary to repair the damage and restore the areas of the System damaged by the Work to the condition that existed immediately prior to commencement of the Work.

5. **Work Standards; Compliance with Laws.** The Work will be performed on the Port's behalf by Anchor. The Port shall direct Anchor: (a) to perform the Work in a manner and on a schedule that will minimize interference with the City's use of the System; (b) to obtain any and all permits and governmental approvals necessary for performance of the Work; and (c) to perform the Work in compliance with all applicable laws and regulations. The Port shall ensure that Anchor, and all contractors and subcontractors who will perform the Work, have all required licenses and certifications. The Port (through Anchor and its subcontractors) shall ensure that all Work is performed in a workmanlike manner. Anchor shall be solely responsible for the health and safety of its employees, agents, consultants, and contractors while on the System, except in the event of gross negligence or intentional acts by the City or the Port. The Parties, along with their consultants, will work cooperatively to develop and approve specific dates and times for the timely and safe performance of the Work.

6. **Notice of Intent to Perform; Information Sharing.** By executing this agreement, the City and the Port acknowledge their receipt, review and approval of the Scope of Work attached as Exhibit A. The Port (through its consultants) shall schedule the Work in cooperation with the City. Anchor shall have the ability to communicate and coordinate directly with the City and/or the City's agents, representatives and consultants regarding the scheduling and performance of the Work. The City may have its own agents, representatives and consultants present during the course of the Work, at its sole cost and expense.

The Port shall deliver to the City copies of all analytical results, quality assurance/quality control data, chain-of-custody records, and any other data or records relating to subsurface soil and groundwater samples from the Work (collectively "Work Data"), prepared by Anchor or by entities under the direction of Anchor. Attorney-client privileged documents and attorney work product documents shall not be subject to the information sharing provisions of this Paragraph.

7. **Indemnification.** The Port shall defend, indemnify, and hold harmless the City and the City's successors, and assigns (each a "City Indemnitee," and collectively, the "City Indemnitees"), from and against any liabilities, claims, damages, demands, losses, actions, judgments, causes of action, assessments, penalties, costs, and expenses, including but not limited to reasonable attorneys' fees and costs (collectively, "Losses"), arising out of or relating to personal injury, death, personal property damage, or real property damage caused by the performance of the Work; except to the extent the Losses arise out of or result from the gross negligence or willful misconduct

of the City, the City Indemnitees, or the City's respective agents, contractors, consultants, and/or representatives. To the extent any Losses arise out of or result from the concurrent negligence of the City and the Port, then the Port's duty to defend, indemnify and hold harmless is valid and enforceable only to the extent of the negligence of the Port and their employees, agents, consultants, and contractors.

8. **Insurance.** The Port shall ensure that Anchor and all other contractors and subcontractors that will perform the Work on the System procure and/or maintain commercial general liability and automobile liability, and shall ensure that Anchor and its specific contractors and subcontractors procure and/or maintain pollution liability policies. The Port shall ensure that Anchor carries at least the following coverages:

- a. Worker's Compensation Insurance to the minimum limits as required by law and Employer's Liability Insurance with limits of at least \$1,000,000 per occurrence;
- b. Commercial General Liability with limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate combined single limits for bodily or property damage;
- c. Automobile Liability Insurance covering owned, non-owned and hired vehicles with a limit of not less than \$1,000,000 combined single limit and annual aggregate;
- d. Contractor's Pollution Liability Insurance with limits of \$2,000,000 per claim and \$2,000,000 aggregate.

The Port shall ensure that the City is named as an additional insured on all insurance policies (except for the Worker's Compensation Insurance policy) listed in the above Paragraph. All insurance shall be placed with insurance companies licensed to do business in the state of Washington. Before commencing any of the Work on the System, the Port shall ensure that the City has received certificates of insurance evidencing the insurance coverage required by the preceding Paragraph.

9. **Liens.** The Port shall discharge at once or bond or otherwise secure against all liens that are filed against the System in connection with the Work. The Port shall defend, indemnify, and hold harmless the City Indemnitees from and against any and all Losses arising out of or relating to any liens filed against the System arising from the Work. The obligations of this Paragraph shall survive termination of this Agreement.

10. **Resolution of Disputes.** Any dispute that arises under this Agreement shall be resolved according to this Paragraph. Except as otherwise provided in this Agreement, any Party may initiate the dispute resolution process by providing a written notice of dispute to all other Parties. Within five (5) business days after delivery of such notice, the Parties' designated representatives shall schedule a meeting in person or by telephone to attempt to resolve the dispute through good faith negotiations. If the Parties to the dispute cannot resolve the dispute within fifteen (15) business days after the concluding date of such meeting, then the Parties to the dispute agree to submit the dispute to mediation. Any



Hazardous Substances present in or emanating from the System, or for any claims relating to the presence of Hazardous Substances in or beneath Budd Inlet, or for any structural damage or other alleged damage to the System. The Parties do not waive, and expressly reserve, all claims they may have against all third parties relating to Hazardous Substances present in or emanating from the System, or for any claims relating to the presence of Hazardous Substances in or beneath Budd Inlet, or for any structural damage or other alleged damage to the System, including without limitation, all claims for recovery of costs incurred by the Parties pursuant to this Agreement.

As used herein, the term "Hazardous Substances" means any waste, pollutant, contaminant, chemical, petroleum product, pesticide, fertilizer, substance, or material that: (a) after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities; or (b) is defined, classified, or designated as hazardous, toxic, radioactive, dangerous, or other comparable term or category under any Environmental Laws. As used herein, the term "Environmental Laws" means all federal, state, and local laws, statutes, rules, regulations, ordinances, and codes, and any judicial or administrative interpretation thereof or requirement thereunder, relating to the regulation or protection of human health, safety, the environment and natural resources, including, without limitation, the Washington State Model Toxics Control Act, Chapter 70.105D RCW. This Agreement is not, and shall not be construed as, a settlement, waiver, release, compromise, or satisfaction of any claim, demand, or action relating to Hazardous Substances present in or emanating from the System, and does not waive any legal rights of the Parties.

5. **Entire Agreement.** This Agreement contains the entire understanding of the Parties and supersedes all prior agreements and understandings among the Parties relating to the subject matter of this Agreement. This Agreement shall be modified or amended only by written agreement of all Parties hereto.

6. **Successors; Assignment.** The provisions of this Agreement shall extend to, bind and inure to the benefit of the Parties and their respective personal representatives, heirs, successors, and assigns. No Party may assign its rights or obligations under this Agreement without the written consent of the other Parties, which consent will not be unreasonably withheld.

7. **Severability.** If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted, rather than voided, if possible, to achieve the intent of the Parties, and the balance of the Agreement shall remain in full force and effect.

8. **Authority.** Each person executing this Agreement represents and warrants that they have the authority and power enter to into this Agreement, and the Parties may rely upon such representation and warranty.

9. **Counterparts.** This Agreement may be executed in counterparts, and all such counterparts once so executed shall together be deemed to constitute one final agreement, as if one document had been signed by all Parties, and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding on the parties. A

faxed or email copy of an original signature shall be deemed to have the same force and effect as the original signature.

10. **Admissibility.** Pursuant to federal and state rules of evidence, this Agreement shall not be admissible in any court or administrative proceeding as evidence of responsibility or liability of either Party with regard to any Hazardous Substances present in or emanating from the System. This Agreement is admissible, however, in any action to enforce the terms and conditions of this Agreement.

11. **Amendments.** Amendments to this Agreement shall become effective upon execution of a written amendment.

12. **Captions.** The headings used in this Agreement have been inserted for convenience only and shall not affect the construction of this Agreement.

13. **Governing Law and Venue.** This Agreement shall be interpreted and enforced pursuant to the laws of the state of Washington. Venue for any lawsuit arising out of this Agreement shall be in Thurston County, Washington.

14. **Voluntary Execution.** In executing this Agreement, the Parties acknowledge that they have consulted with their respective attorneys and that they have voluntarily executed this Agreement after independent investigation, without fraud, duress, or undue influence.

15. **Effective Date.** This Agreement shall become effective as of the latest date of execution below.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date set forth below.

**PORT OF OLYMPIA**  
**A Washington municipal corporation**

\_\_\_\_\_  
E.B. Galligan

Its: Executive Director

\_\_\_\_\_  
(Date)

**CITY OF OLYMPIA**  
**A Washington municipal corporation**

\_\_\_\_\_  
(Signature)

Its: \_\_\_\_\_

\_\_\_\_\_  
(Date)

**APPROVED AS TO FORM:**

  
Deputy City Attorney

## Exhibit A Scope of Work

The following Scope of Work describes the tasks the Port of Olympia (Port) proposes to conduct in the City of Olympia (City) stormwater system to investigate potential ongoing releases of contaminated sediment to Budd Inlet. These tasks would be conducted by Anchor QEA and a subconsultant with expertise in sediment trap design and installation.

### TASK 1: SITE RECONNAISSANCE

Site reconnaissance will include investigations of manholes/catch basins in three areas: Moxlie Creek Outfall #22771, Fiddlehead Marina Outfall #2399, and East Bay Outfall #130. The anticipated work to be performed for this task includes:

- Obtain street/rim elevations from the City; specifically, to identify the manholes and catch basins in Task 2. If the City doesn't provide street elevations, Anchor QEA will use publically available light detection and ranging (LiDAR) data from The Puget Sound LiDAR Consortium to determine the street elevations at proposed locations.
- Hire a subcontractor with expertise in trap design and installation.
- Measure the invert elevations along the main pipe (downstream to upstream) to find locations that are not tidally influenced.
- Determine if the manhole/catch basin configuration(s) are suitable for sediment trap installation.

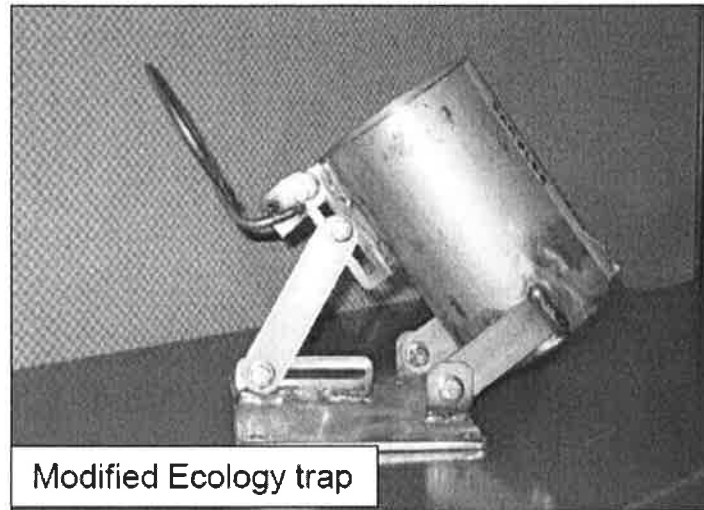
### TASK 2: SEDIMENT TRAP INSTALLATION

The Port will install up to five sediment traps in manholes or catch basins that are not tidally influenced. The City has indicated that the Fiddlehead outfall has tide gates and is therefore not affected by tides. In the other two outfalls (Moxlie and East Bay), the tides can come up to 9.58 feet National Geodetic Vertical Datum of 1929 (NGVD29) so catch basins/manholes with invert elevations  $\geq 9.58$  feet NGVD29 will be selected. The anticipated work to be performed for this task includes:

- Attach custom fabricated sediment traps to pipe or catch basin. Exact details of the sediment trap model and installation procedures cannot be provided until the site reconnaissance is performed. In general, a sediment trap is attached to the pipe or catch basin edge (near outlet) with screws. Figure 1 shows a commonly used Modified Ecology trap.



Figure 1



- Installation will likely require confined space entry depending on the elevation of the sump. The subcontractor selected will be adequately trained in confined space entry protocols.
- Figures 2 through 4 provide potential locations for each of the three drainage areas.
  - Figure 2 shows Moxlie Creek Outfall #22771. The main storm pipe is 72" corrugated metal at the outfall with a 42" connecting reinforced concrete pipe.
  - Figure 3 shows Fiddlehead Outfall # 2399. The main storm pipe is 48" reinforced concrete.
  - Figure 4 shows East Bay Outfall #130. The main storm pipe is 24" corrugated metal.

### TASK 3: SEDIMENT TRAP MONITORING

Sediment traps will be periodically checked for sediment accumulation. The anticipated work to be performed for this task includes:

- Check traps one to three months after installation (time frame will be based on selected locations and subcontractor recommendations).
- Leave trap in place if minimal sediment accumulation is present. The trap will be checked again after an agreed upon time frame.
- If sufficient volume of sediment is present, sediment will be removed from the trap and analyzed per Task 4.
- The traps will be left in place until all parties have reviewed the analytical data, at which time the traps will either be removed or additional sample collection will occur.

#### TASK 4: CHEMICAL ANALYSIS

Chemical analysis will be conducted on the sediment obtained from the sediment traps. The anticipated work to be performed for this task includes:

- Analysis of dioxin and furans (1-10 grams).
- Analysis of semi-volatile organic compounds including polycyclic aromatic hydrocarbons (5-30 grams).
- Analysis of total organic carbon (5 grams).
- Archive remaining volume in frozen storage for potential future analysis.

#### TASK 5: DOCUMENTATION

The following deliverables will be prepared for the chemical analysis work:

- A sampling and Analysis Plan (SAP) that describes the sampling and data quality procedures. The SAP will include maps of the sampling locations, manhole and/or catch basin configurations, selected trap configurations, and sampling protocols and frequency.
- A summary of information collected as part of this investigation (i.e., field notes, pictures, and analytical data).

#### SCHEDULE

The specific project schedule can be refined once the City finalizes the access agreement. In general, it is anticipated that the site reconnaissance will begin in May. A draft of the SAP should be completed by June followed by trap installation in late June. If an adequate volume of sediment accumulates in three months or less, field and analytical data would be delivered to the City as early as December.

## **Budd Inlet Dioxin**

### **3/10/15 SB**

#### Dioxin

- Combustion of wood, gasoline and other materials containing chlorine is the most common source of dioxins. They are transported by air, erosion, and storm runoff and therefore, they are ubiquitous in the environment.
- Dioxins slowly breakdown and strongly adhere to soils and sediments.
- 90 to 95% of dioxin exposure comes from food through the food chain.
- Dioxins and furans are carcinogenic, may cause cancer, disrupt the endocrine system, and cause reproductive and developmental effects.

#### Regulatory Soil Thresholds and Budd Inlet

- Federal regulatory dioxin limit is 50 parts per trillion (ppt). The State limit is 11 ppt.
- Dioxin levels in Budd Inlet are as high as 4212.5 and 230.6 ppt at the port's shipping berths.
- The highest levels of dioxins were found in sediments near stormwater discharge pipes and the Port's shipping berths.
- The specific source of dioxins in Budd Inlet is unknown but they most likely came from the historical industrial use of shore areas or runoff.
  - Shoreline industries included lumber mills, sawmills, a veneer plant, wood treatment, boatyards, steel fabrication, and petroleum storage.

#### Port, Ecology, and Olympia

- In April 2007, the Department of Ecology launched a sediment investigation of Budd Inlet after the Port of Olympia found elevated levels of dioxins in an area scheduled for maintenance dredging.
- Follow-up work mandated by Ecology requires the Port to investigate dioxin levels in Olympia stormwater pipes.

#### Current Status

- Sampling of City catch basins in the spring of 2014 found dioxin in each sample at levels ranging between 12.5 TEQ (toxic equivalency) and 885 TEQ. TEQ is a composite measure. In this case the TEQ number is the same in ppt.
- The City has retained technical and legal services to assist in the investigations.
- Our technical consultants are reviewing all documents provided by the Port pertaining to dioxin sampling in Budd Inlet.

#### Next Steps

- Sign a new Access Agreement with the Port allowing Port consultants to investigate potential ongoing releases of contaminated sediment to Budd Inlet.
- The City's technical consultants and the Port's technical consultants will determine the best locations for sediment traps.
- The consultants will be available to help address emerging issues.



## City Council

### Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 123 4th Avenue East

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.G  
**File Number:** 15-0328

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**Type:** contract   **Version:** 1   **Status:** Consent Calendar

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#### **Title**

Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 123 4<sup>th</sup> Avenue East

#### **Recommended Action**

Not referred to a committee.

#### **City Manager Recommendation:**

Move to approve the Multi-family Housing Limited Property Tax Exemption Agreement and authorize the City Manager to execute the agreement with Columbia Heights Partners, LLC (represented by Mr. Shuo Lou).

#### **Body**

##### **Issue:**

Whether to enter a Multi-family Housing Limited Property Tax Exemption Agreement for the 138 new residential apartments located at 123 4<sup>th</sup> Avenue East.

#### **Staff Contact:**

Leonard Bauer, Deputy Director Community Planning & Development, 360.753.8206

**Presenter(s):** None. Consent Calendar

#### **Background and Analysis:**

##### ***Mixed Use Project.***

Mr. Lou is constructing a 7-story mixed use project on the former Columbia Street surface parking lot located between 4<sup>th</sup> and 5<sup>th</sup> Avenues. The project consists of 138 market rate residential apartments, approximately 7,500 sq. ft. of street-level frontage retail space and associated two floors of structured parking. The Land Use, Design Review and Environmental Checklist applications were submitted on February 18, 2014. The Site Plan Review Committee issued the approval and Mitigated Determination of Non-significance on April 9, 2014. The first two floors are nearly complete and Mr. Lou seeks the eight-year tax exemption for the "market rate units."

#### ***Tax Exemption Code.***

The Multi-Family Tax Exemption provisions contained in Olympia Municipal Code Chapter 5.86 were first passed in August 1997 (Ordinance 5713) with a 10-year property tax exemption for downtown multi-family projects. The ordinance was amended in December 1997 (Ordinance 5734) to add new residential target areas. The State Legislature revised the 10-year exemption into an 8-year market rate or 12-year affordable housing tax exemption. On January 26, 2009, the City Council adopted the 8- and 12-year provisions along with refinements to the residential target areas (Ordinance 6618).

The primary purpose for the law is to provide added incentives to promote construction of housing in key target areas defined within the ordinance. The property tax exemption applies to only the increased value of building housing (new construction). The exemption does not apply to the land or costs associated with any non-housing improvements. The 138 apartments meet all the requirements to be eligible for a tax exemption, including:

- The housing is located in the downtown which is one of three designated residential target areas;
- 50 percent of the space must be for permanent residential occupancy;
- More than 4 new housing units are created;
- The construction/rehabilitation will be completed within three years of approval of the application;
- The property was vacant at least 12 months prior to application; and
- No tenant displacement occurred.

**Neighborhood/Community Interests (if known):**

There was both general support and opposition to the project throughout the Environmental, Land Use, Design Review and Building permit process. No appeals were filed.

**Options:**

1. Move to approve the Multi-family Housing Limited Property Tax Exemption Agreement and authorize the City Manager to execute the agreement with Columbia Heights Partners, LLC (represented by Mr. Shuo Lou).
2. Remove this item from the Consent Calendar and provide further direction to staff.

**Financial Impact:**

Property taxes will continue to be paid on the existing land, the newly constructed commercial space, and related proportionate share of parking improvements. The property tax exemption applies to only the value of the residential and a proportionate share of parking portion of the project for eight-years.

**MULTI-FAMILY HOUSING  
LIMITED PROPERTY TAX EXEMPTION AGREEMENT**

**THIS AGREEMENT** is entered into this 16<sup>th</sup> day of MARCH, 2015 by and between Columbia Heights Partners LLC, a Washington limited liability corporation, hereinafter referred to as the “Applicant” and the City of Olympia, Washington, a municipal corporation hereinafter referred to as the “City”.

**WITNESSETH:**

**WHEREAS**, the City has an interest in encouraging new construction or rehabilitation of multi-family housing in Residential Target Areas in order to reduce development pressure on single-family residential neighborhoods, to increase and improve housing opportunities, and to encourage development densities supportive of transit use; and

**WHEREAS**, the City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various Residential Target Areas for the provision of a limited property tax exemption for new multi-family residential housing; and

**WHEREAS**, the City has, through Olympia Municipal Code Chapter 5.86, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Thurston County Assessor-Treasurer that the owner is eligible to receive a limited property tax exemption; and

**WHEREAS**, the Applicant is interested in receiving a limited property tax exemption for constructing one hundred and thirty-eight (138) units of new multi-family residential housing in the Downtown Residential Target Area; and

**WHEREAS**, the Applicant has submitted to the City preliminary site plans and floor plans for new multi-family residential housing to be constructed on property situated approximately at 123 – 4<sup>th</sup> Avenue West, Olympia, WA 98507 and described more specifically as follows:

**County Assessor’s Parcel Numbers:** 78500500100; 78500500400; and 78500500500.

**Legal Description:** Those portions of Block 5 Sylvester Plat of Olympia. As recorded in volume 1 of plats, page 14, described as follows: Lot 1, Blocks 5 of said plat, excepting therefrom the east 20 feet, Also Lot 4, Block 5 of said plat, excepting therefrom the easterly 2 feet thereof, together with the north half of alley abutting thereon vacated by ordinance 6561 as recorded June 26, 2008 under auditors file 4019892: also lots 5 and 8, blocks 5 of said plat, excepting therefrom the easterly 5 feet of alley; together with the south half of the alley abutting thereon vacated by Ordinance no. 6561 as recorded June 26, 2008 under auditors file No. 4019832 in Thurston County Washington.

**Street Address:** 123 – 4<sup>th</sup> Ave. West, Olympia Washington

Herein referred to as the “Site;” and

**WHEREAS**, the Director of the Department of Community Planning and Development has determined that the improvements will, if completed and operated as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; and

**WHEREAS**, the Olympia Municipal Code requires an applicant for a limited property tax exemption to enter into a contract with the City, in which the applicant agrees to implement the proposed project on terms satisfactory to the Olympia City Council so as to maintain the improvements’ eligibility for the limited property tax exemption;

**NOW, THEREFORE**, in exchange for the City’s consideration of the applicant’s request for a Final Certificate of Tax Exemption, the Applicant and the City mutually agree as follows:

1. Each of the recitals set forth above are by this reference incorporated into this Agreement as though fully set forth herein.
2. The City agrees to issue the Applicant a Conditional Certificate of Acceptance of Tax Exemption.
3. The Applicant shall construct on the site multi-family residential housing substantially as described in the most recent site plans, floor plans, and elevations on file with the City as of the date of City approval of this Agreement. In no event shall such construction provide fewer than four new multi-family permanent residential units nor shall it provide fewer than half of its total residential units as permanent housing.
4. The Applicant shall complete construction of the agreed upon improvements within three (3) years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension thereof granted by the City.
5. The Applicant shall, upon completion of the improvements and upon issuance by the City of a temporary or permanent Certificate of Occupancy, file with the City’s Community Planning and Development Department the following:
  - A. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
  - B. A description of the completed work and a statement of qualification for the exemption; and
  - C. A statement that the work was completed within the required three-year period or any authorized extension.

6. Upon the Applicant's successful completion of the improvements in accordance with the terms of this Agreement and on the applicant's filing of the materials described in Paragraph 4 above, and upon the City's approval of a Final Certificate of Tax Exemption, the City shall file the Final Certificate with the Thurston County Assessor-Treasurer.
7. The Applicant shall, within thirty days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of eight (8) years, file a notarized declaration with the City's Community Planning and Development Department indicating the following:
  - A. A statement of occupancy and vacancy of the multi-family units during the previous year;
  - B. A certification that the property continues to be in compliance with this Agreement; and
  - C. A description of any subsequent improvements or changes to the property.
8. If, during the term of any Final Certificate of Tax Exemption, the Applicant converts to another use any of the new multi-family residential housing units constructed under this Agreement, the Applicant shall notify the Thurston County Assessor-Treasurer and the City's Department of Community Planning and Development within sixty (60) days of such change in use. The City may, in its sole discretion, revoke and cancel the Final Certificate of Tax Exemption effective on the date of the Applicant's conversion of any of the multi-family residential housing units to another use.
9. The applicant shall notify the City promptly of any transfer of the Applicant's ownership interest in the Site or in the improvements made to the Site under this Agreement.
10. In addition to any other powers reserved to the City by law the City may, in its sole discretion, cancel the Final Certificate of Tax Exemption should the Applicant, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement.
11. No modifications of the Agreement shall be made unless mutually agreed upon by the parties in writing.
12. The venue for any dispute related to this Agreement shall be Thurston County, Washington.









## City Council

### Approval of an Ordinance Amending Advisory Committee and Commission Membership

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.H  
**File Number:** 15-0318

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**Type:** ordinance **Version:** 2 **Status:** 2d Reading-Consent

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#### Title

Approval of an Ordinance Amending Advisory Committee and Commission Membership

#### Recommended Action

##### Committee Recommendation:

General Government Committee unanimously recommends amending Municipal Code regarding the number of members on certain advisory committees and commissions and their appointment by the City Council.

##### City Manager Recommendation:

Move to approve on second reading the attached ordinance recommended by General Government Committee.

#### Report

##### Issue:

Shall the number of members be changed as recommended by General Government Committee?

##### Staff Contact:

Cathie Butler, Communications Manager, 360.753.8361

##### Presenter(s):

None. Consent Calendar Item.

#### Background and Analysis:

*The background and analysis have not changed from first to second reading of the ordinance.*

#### Number of Committee Members:

In 2012, General Government Committee recommended and Council approved changing the number of members on the Planning Commission from 11 to 9. When developing the recommendation, General Government Committee, with assistance from Councilmember Langer, discussed qualities of high performing committees, including optimum number of members. Staff also researched committee size in other Washington State communities and determined that most advisory committees and commissions have between 7 and 9 members, unless additional members are needed for certain tasks or a specific number is required by State law.

General Government also discussed this topic with advisory committee chairs in 2013 and 2014, and again at its March 18, 2015 meeting. Other than the Heritage Commission which has some task-oriented subcommittees due to the regulatory nature of its work, committee chairs concurred with the 9 member proposal.

***Cross-Committee Appointments and Liaisons:***

In addition, the chairs of Planning Commission and the Parks and Recreation Advisory Committee asked that General Government discuss changing the long standing ordinance requirement for some committees to appoint members to other committees. They noted:

- The high work load of some committees, particularly the Planning Commission;
- The challenge and volunteer burden of fully serving and participating on two committees; and
- Quorum issues that occasionally arise when a designated member from one committee is not able to attend all meetings of the other group.

They suggested that all members be appointed directly by the Council. They also noted that consistent with past practice, individual committees may informally designate liaisons to other committees for communication purposes.

Here is the current list of ordinance-required appointments from within existing members:

- Parks and Recreation Advisory Committee appoints one member to the Bicycle and Pedestrian Advisory Committee;
- Planning Commission appoints one member each to Design Review Board, Parks and Recreation Advisory Committee, and Utility Advisory Committee.

***General Government Committee Recommendations:***

- Change the number of members from 11 to 9 for the Arts Commission, Bicycle and Pedestrian Advisory Committee, Parks and Recreation Advisory Committee, and Utility Advisory Committee.
- Keep the membership as currently stated for the Heritage Commission (“up to 11 members”); Design Review Board (7 members, of which 2 are architects); Lodging Tax Advisory Committee (5 members required by State law); and Planning Commission (9 members).
- Remove the cross-committee appointment requirements, with all appointments made directly by the City Council.

The attached ordinance:

- Repeals the specific BPAC, PRAC, and UAC membership sections since membership requirements apply uniformly in OMC 2.100.040.A unless otherwise stipulated;
- Amends the Heritage Commission membership to remove the residency requirement to be consistent with all other city committees. Residency is addressed uniformly in OMC 2.100.040.B; and
- Removes the cross-committee appointment requirements.

**Neighborhood/Community Interests (if known):**

N/A

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**Type:** ordinance **Version:** 2 **Status:** 2d Reading-Consent

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**Options:**

Approve, amend, or do not approve the recommended ordinance.

**Financial Impact:**

None.

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATED TO CITIZEN-MEMBER BOARDS, COMMISSIONS AND ADVISORY COMMITTEES APPOINTED BY THE OLYMPIA CITY COUNCIL; AMENDING SECTIONS 2.100.000, 2.100.040, 18.12.040, AND 18.76.020 OF THE OLYMPIA MUNICIPAL CODE; AND REPEALING SECTIONS 2.100.260, 2.100.330, AND 2.100.430 OF THE OLYMPIA MUNICIPAL CODE.**

WHEREAS, on March 18, 2015, the General Government Committee voted unanimously to recommend to the City Council that the Olympia Municipal Code be amended regarding the number of members on various advisory committees and commissions appointed by the City Council; and

WHEREAS, based on the work conducted by the General Government Committee and its recommendation, the City Council has decided to amend the Olympia Municipal Code pertaining to advisory committee and commission membership;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 2.100.000. Olympia Municipal Code Section 2.100.000 is hereby amended to read as follows:**

Chapter 2.100  
CITIZEN-MEMBER BOARDS, COMMISSIONS AND ADVISORY  
COMMITTEES

2.100.000 Chapter Contents

Sections:

Article I. CITIZEN-MEMBER BOARDS, COMMISSIONS AND ADVISORY COMMITTEES APPOINTED BY THE  
OLYMPIA CITY COUNCIL

- 2.100.010 Purpose.
- 2.100.020 Committees Established.
- 2.100.030 List - Citizen –Member Committees Appointed by the Olympia City Council.
- 2.100.040 Members.
- 2.100.050 Term of Office.
- 2.100.060 Vacancies.
- 2.100.070 Rules of Procedure and Bylaws.
- 2.100.080 Annual Work Plan.
- 2.100.090 Staff Liaison Support.

## Article II. ARTS COMMISSION

- 2.100.100 Established - Purpose.
- 2.100.110 Duties of Commission.
- 2.100.120 Budget.
- 2.100.130 Public Art –Purpose.
- 2.100.140 Public Art--Duties of Commission.
- 2.100.150 Public Art--Allocation of Municipal Funds.
- 2.100.160 Public Art--Definitions.
- 2.100.170 Public Art--Funds for Works of Art.
- 2.100.180 Public Art--Municipal Arts Fund.
- 2.100.190 Public Art--Administrative Guidelines –Public Art, Art Programs and Services.
- 2.100.200 Public Art--Maintenance and Conservation of Public Art.
- 2.100.210 Donations for Community Art Programs and Services; City Manager Authorized to Accept.
- 2.100.220 Donations for Community Art Programs and Services; Application of Ordinance.
- 2.100.230 Donations for Community Art Programs and Services; Community Arts Account Established.
- 2.100.240 Appropriation of Donations for Art Programs and Services.

## Article III. BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE

- 2.100.250 Established -- Purpose.
- ~~2.100.260 Membership.~~
- 2.100.270 Duties.

## Article IV. LODGING TAX ADVISORY COMMITTEE

- 2.100.280 Established--Purpose.
- 2.100.290 Membership--Appointment.
- 2.100.300 Duties.
- 2.100.310 Relationship between the Lodging Tax Advisory Committee and City Council.

## Article V. PARKS AND RECREATION ADVISORY COMMITTEE

- 2.100.320 Established--Purpose.
- ~~2.100.330 Membership.~~
- 2.100.340 Duties.

## Article VI. PLANNING COMMISSION

- 2.100.350 Established – Membership – Purpose.
- 2.100.360 Duties.
- 2.100.370 Powers of City Council.

- 2.100.380 Use Districts –Development Plan.
- 2.100.390 Comprehensive Plan –Purpose and Preparation.
- 2.100.400 Comprehensive Plan –Public Hearing--Copy Filing.
- 2.100.410 Comprehensive Plan –Modification Procedure.

Article VII. UTILITY ADVISORY COMMITTEE

- 2.100.420 Established –Purpose.
- ~~2.100.430 Membership.~~
- 2.100.440 Powers and Duties.

NOTE: See OMC Chapter 18.76 for Design Review Board and OMC Chapter 18.84 for Heritage Commission-Historic Preservation.

**Section 2. Amendment of OMC 2.100.040. Olympia Municipal Code Section 2.100.040 is hereby amended to read as follows:**

**2.100.040 Members**

A. Number of Members. Except as may be otherwise be provided by ordinance, each committee shall consist of eleven ~~(11)~~ nine (9) members appointed by the City Council.

B. Residency. Except as may be otherwise provided in the Olympia Municipal Code regarding a specific committee, the majority of members on each committee shall reside within the corporate limits of the City of Olympia or the City of Olympia Urban Growth Area.

1. This provision shall not apply to a committee member when there is a member vacancy during a term of office resulting in less than a majority of the remaining members residing within the corporate limits of the City of Olympia or the Urban Growth Area. In this case, the residency requirement may be suspended for the remainder of the term that was vacated.

C. Compensation. All committee members shall serve without compensation.

D. Appointment.

1. Members are appointed by majority vote of the Olympia City Council in an open public meeting.

2. Members serve at the discretion of the City Council, and may be removed from office for any reason by majority vote of the City Council in a public meeting.

3. City employees are not eligible for appointment to a committee during the term of their employment with the City.



E. Recruitment. The City Council's General Government Committee shall develop and implement a public process to recruit potential committee members.

F. Diversity. Given the applicant pool and qualifications at the time of member recruitment, the City Council shall strive, to the best of its ability, to achieve diversity in geographic residence within the City, gender, age, profession, and ethnicity on each committee. Except as may otherwise be provided by ordinance, no geographic, gender, age, profession, nor ethnicity restrictions shall be placed on applicant eligibility.

G. Non-Partisan. All positions are non-partisan.

**Section 3. Repeal of OMC 2.100.260. Olympia Municipal Code Section 2.100.260 is hereby repealed:**

**~~2.100.260 Membership~~**

~~The Bicycle and Pedestrian Advisory Committee shall consist of eleven (11) members, as follows: ten (10) shall be appointed by the City Council and one (1) shall be a currently appointed member of the Parks and Recreation Advisory Committee.~~

**Section 4. Repeal of OMC 2.100.330. Olympia Municipal Code Section 2.100.330 is hereby repealed:**

**~~2.100.330 Membership~~**

~~The Parks and Recreation Advisory Committee shall consist of eleven (11) members, as follows: ten (10) shall be appointed by the City Council and one (1) shall be a currently appointed member of the Planning Commission.~~

**Section 5. Repeal of OMC 2.100.430. Olympia Municipal Code Section 2.100.430 is hereby repealed:**

**~~2.100.430 Membership~~**

~~The Utility Advisory Commission shall consist of eleven (11) members, as follows: ten (10) shall be appointed by the City Council and one (1) shall be a currently appointed member of the Planning Commission.~~

**Section 6. Amendment of OMC 18.12.040. Olympia Municipal Code 18.12.040 is hereby amended to read as follows:**

**18.12.040 Heritage Commission Creation and Size**

The Olympia Heritage Commission, consists of up to eleven (11) members. Members of the Heritage Commission shall be appointed by the City Council, and shall be residents of the City unless otherwise provided.

**Section 7. Amendment of OMC 18.76.020. Olympia Municipal Code Section 18.76.020 is hereby amended to read as follows:**

**18.76.020 Membership and Appointment**

Design Review Board Created - Composition. The Board shall consist of nine (9) members, as follows: two (2) should be architects, ~~six (6)~~ seven (7) shall be citizens-at-large, ~~and one (1)~~ shall be a currently appointed member of the Olympia Planning Commission.

**Section 8. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 9. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 10. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**



## City Council

### Approval of Amendment to Ordinance 6947 (Operating Budget)

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.1  
**File Number:** 15-0310

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**Type:** ordinance **Version:** 1 **Status:** 1st Reading-Consent

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**Title**

Approval of Amendment to Ordinance 6947 (Operating Budget)

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Move to approve amending ordinance on first reading and forward to second reading.

**Report**

**Issue:**

Amendment to Ordinance 6947

**Staff Contact:**

Dean Walz, Fiscal Services Director, Administrative Services Department, 360.753.8465

**Presenter(s):**

Dean Walz, Fiscal Services Director

**Background and Analysis:**

To change the budget the Council must approve a new ordinance amending the budget. Generally, budgetary amendments are made quarterly. On occasion, a budget change needs to be made between the quarterly updates and a separate ordinance will come before the council. These ordinances do not officially amend the budget ordinance, but does provide authorization to expend funds. The attached ordinance reflects ordinances which may have been adopted relating to the budget since the last quarterly update, and other proposed changes to the budget.

One ordinance was passed since the adoption of ordinance 6947 relating to the Operating Budget. The ordinance passed on March 31, 2015, which appropriated General Fund, fund balance for the following purposes:

\$450,000	Fire Equipment Reserve
\$360,000	CFP Contingency
\$350,000	Percival Landing

\$250,000	Downtown Strategy
\$200,000	Information Technology
\$108,680	LEOFF 1 Retiree post-employment benefits
\$ 90,410	Parking Management (special account)
\$ 70,000	Pedestrian Crossing
\$ 50,000	\$1 per Capita for Arts
\$ 50,000	Holly Landing
\$ 40,000	Sidewalk Repair
\$ 17,000	Interfaith Works Shelter
<u>\$ 8,979</u>	Council Goals
\$2,045,069	

The above fund balance resources were generated from 2014 budget savings and revenues excess of anticipated revenues.

The ordinance also appropriated funds identified above which will be transferred to various General Fund sub-funds:

\$290,410	Special Account Control Fund (Information Technology & Parking Management)
\$ 50,000	Municipal Arts Fund

Budget Items Not Previously Presented to the Council:

- 1) Appropriation of \$333,452 within the General Fund for additional cost of living increases (1%). 2015 costs of living increases were based on the percent of increase in sales tax in 2014 over 2013. The 2015 budget included a 2% cost of living increase. Labor contract required a cost of living increase of 3% if sales tax increased between 4% and 5% in 2014 over 2013. The sales tax increase in 2014 was 4.88%. The appropriation is funded from additional sales tax projected to be received in 2015.
- 2) Appropriation of \$68,732 for an additional 0.50 FTE in engineering to provide inspection back-up services to the Community Development & Planning Department (CP&D). The appropriation includes funding for the FTE and fund for CP&D to pay for the engineering services. The net increase of new revenue (\$33,000) will be provided by anticipated additional permit fees.
- 3) Appropriation of \$20,000 within the Information Technology account in the Special Accounts Control Fund, for software to support the Fire Department fleet management operations. Funding is provided by the Fire Department.
- 4) Appropriation of \$8,000 for Police Department management and supervision training. Funding is provided by a contribution from the Nisqually Tribe.
- 5) Appropriation and additional \$3,500 for the Ambassador Program. The original 2015 budget anticipated \$30,000 for funding to be provided by the Parking and Business Improvement Area (PTBA). The final PTBA budget provided \$33,500 for the Ambassador Program.
- 6) Appropriation of \$1,750 for crime prevention program supplies. Funding is provided by a donation from the Washington Auto Theft Prevention Agency.
- 7) Appropriation of \$250,000 for City Hall data center and generator upgrade project. Funding is provided by funds remaining in the City Hall Construction Fund.
- 8) Appropriation of \$95,000 for the Fire Department vehicle and equipment repair inventory. Funding will be from charges to other agencies for vehicle and equipment repair services. The City provides vehicle and equipment repair and maintenance services to five agencies.

Previously, each agency purchased and provided its own inventory. The maintenance of multiple inventories is inefficient. This will allow for a single inventory.

**Neighborhood/Community Interests (if known):**

None noted.

**Options:**

- 1) Approve ordinance amending ordinance 6947.
- 2) Do not approve the amending ordinance. The budget items not previously presented to the Council would not be authorized.

**Financial Impact:**

Total increase appropriations by \$3,165,913. Funding for these appropriations is noted above.

**Ordinance No.**

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO BUDGETS, FINANCE, AND SALARIES, AND AMENDING ORDINANCE NO. 6947.**

**WHEREAS**, the City of Olympia, having held a public hearing on the preliminary budget on November 18, 2014, as required by law, and having considered the public testimony presented; and

**WHEREAS**, the City Council of the City of Olympia passed Ordinance No. 6947 on December 16, 2014; and

**WHEREAS**, throughout the year, updates are required to recognize changes relating to budgets, finance and salaries; and

**WHEREAS**, the following amendments need to be made to Ordinance No. 6947:

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. 2015 Budget.** The budget for the calendar year 2015 is hereby adopted in the amounts and for the purposes as shown below; and the following sums, or so much thereof as shall severally be found necessary, are hereby appropriated out of any of the monies in the several funds in the City Treasury hereinafter named.

<b>FUND</b>	<b>APPROP. FUND BALANCE</b>	<b>ESTIMATED REVENUE</b>	<b>APPROP.</b>	<b>ADDITIONS TO FUND BALANCE</b>
General, Regular Operations	\$43,267 <u>2,088,336</u>	\$65,069,728 <u>65,580,162</u>	\$65,112,995 <u>67,668,498</u>	
General, Special Sub-Funds				
Special Accounts	322,408 <u>342,408</u>	1,083,092 <u>1,373,502</u>	1,405,500 <u>1,715,910</u>	
Washington Center	5,000	258,988	263,988	
Municipal Arts	21,100	- <u>50,000</u>	21,100 <u>71,100</u>	
Equip & Facilities Reserve	967,880	1,260,105 <u>1,510,105</u>	2,227,985 <u>2,477,985</u>	
Total General Fund	<u>1,359,655</u> <u>3,424,724</u>	<u>67,671,913</u> <u>68,772,757</u>	<u>69,031,568</u> <u>72,197,481</u>	-
4 <sup>th</sup> /5 <sup>th</sup> Avenue Corridor Bridge Loan		561,450	561,450	
LTGO Bond Fund - 2006 Parks		1,196,000	1,196,000	
UTGO Bond Fund – 2009 Fire	3,621	1,191,510	1,195,131	-
City Hall Debt Fund – 2009	-	2,422,622	2,421,718	904
2010 LTGO Bond – Street Projects	4	436,009	436,013	
L.O.C.A.L. Debt Fund – 2010	-	178,283	178,282	1
2010B LTGO Bonds - HOCM		413,688	413,688	
2013 LTGO Bond Fund		674,725	674,725	
Water Utility O&M	61,558	11,630,610	11,692,168	
Sewer Utility O&M	-	18,047,323	18,047,323	

Solid Waste Utility	186,112	10,008,528	10,194,640	
Storm Water Utility	78,821	4,741,910	4,820,731	
Water/Sewer Bonds		2,125,894	2,102,519	23,375
		<u>2,042,632</u>	<u>2,019,257</u>	
<u>Stormwater Debt Service</u>		83,262	83,262	
Equipment Rental	-	1,686,365	1,672,188	14,177
<b>TOTALS</b>	<b>\$1,689,771</b>	<b>\$122,986,830</b>	<b>\$124,638,144</b>	<b>\$38,457</b>
	<b>\$3,754,840</b>	<b>\$124,087,674</b>	<b>\$127,804,057</b>	

**Section 2. Administration.** The City Manager shall administer the budget, and in doing so may authorize adjustments within the funds set forth in Section 1 above, to the extent that such adjustments are consistent with the budget approved in Section 1.

**Section 3. Salaries and Compensation.** The salaries and compensation for the City of Olympia employees for the calendar year 2015 shall be as set forth in the "Supplementary Information" section of the 2015 Adopted Operating Budget document, or as the same may be amended by the City Manager as part of his administration of the budget pursuant to Section 2 above.

**Section 4. Benefit Cost Sharing.** The City Manager is authorized to modify and establish benefit cost sharing for City employees; and such programs may be based, in part, on an employee's start date with the City.

**Section 5. Severability.** The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances shall be unaffected.

**Section 6. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 7. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ASSISTANT CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



## City Council

### Approval of Amendment to Ordinance 6946 (Capital Budget)

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 4.J  
**File Number:** 15-0311

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**Type:** ordinance **Version:** 1 **Status:** 1st Reading-Consent

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**Title**

Approval of Amendment to Ordinance 6946 (Capital Budget)

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Move to approve amending ordinance on first reading and forward to second reading.

**Report**

**Issue:**

Amendment to Ordinance 6946

**Staff Contact:**

Dean Walz, Fiscal Services Director, Administrative Services Department, 360.753.8465

**Presenter(s):**

Dean Walz, Fiscal Services Director

**Background and Analysis:**

To change the budget the Council must approve a new ordinance amending the budget. Generally, budgetary amendments are made quarterly. On occasion, a budget change needs to be made between the quarterly updates and a separate ordinance will come before the Council. These ordinances do not officially amend the budget ordinance, but does provide authorization to expend funds. The attached ordinance reflects ordinances which may have been adopted relating to the budget since the last quarterly update, and other proposed changes to the budget.

One ordinance was passed since the adoption of ordinance 6946 relating to the Capital Budget. The ordinance passed on March 31, 2015, which appropriated to the following Funds:

\$450,000	Fire Equipment Reserve
\$780,000	Capital Improvement Fund

These are monies budgeted by the same ordinance to be transferred from the General Fund to these



Funds.

Budget Items Not Previously Presented to the Council:

- 1) Appropriation of \$327,405 for the Pacific Avenue Pedestrian Crossing improvement project. Funding is provided by a grant from the Federal Highway Safety Improvement Program.
- 2) Appropriation of \$200,000 for the 529 building demolition portion of the Isthmus Project. Funding is provided by Community Development Block Grant (CDBG) funds. These funds were previously identified with in the CDBG program but not previously budgeted to the Isthmus Project.
- 3) Appropriation of \$13,000 for Americans with Disabilities program for improvements at the Olympia Center. Funding is provided by resources budgeted to the Parks, Arts and Recreation Department.
- 4) Appropriation of \$211,300 towards the purchase of a Fire Truck. There are previously unappropriated funds within the Fire Equipment Reserve Fund.
- 5) Appropriation of \$230,000 of Real Estate Excise Tax to the Street Repair & Reconstruction Program and return funds previously re-allocated to the Street Repair & Reconstruction Program from the Grass Lake Program as part of the 2015 budget. After adoption of the 2015 budget it was discovered that the Grass Lake re-allocated budget was funded from proceeds from the sale of land which was dedicated to Open Space (Grass Lake) rather than from general capital facilities funding sources.
- 6) Appropriation of \$50,000 to the 22<sup>nd</sup> Avenue Sidewalk Project. Funding is provided by a grant from the Federal Transportation Alternatives Program.
- 7) Appropriation of \$250,000 for remaining resources in the City Hall Construction Fund to be transferred to the Equipment and Facilities Reserve Fund for the data center and generator upgrade project.

**Neighborhood/Community Interests (if known):**

None noted.

**Options:**

- 1) Approve ordinance amending ordinance 6946.
- 2) Do not approve the amending ordinance or re-allocation of budget. The budget items would not be authorized.

**Financial Impact:**

Total increase in appropriations is \$2,511,705. The sources of funding of these appropriations are noted above.

**Ordinance No.**

**AN ORDINANCE OF THE CITY OF OLYMPIA, RELATING TO THE CAPITAL FACILITIES PLAN FOR THE YEARS 2015-2020, AND AMENDING ORDINANCE NO. 6946.**

**WHEREAS**, the Olympia City Council adopted the "Capital Facilities Plan," herein referred to as "CFP," for the fiscal years 2015 through 2020 by passing Ordinance No. 6946 on December 16, 2014; and

**WHEREAS**, the CFP is periodically amended to recognize additional revenue and/or appropriations, as provided for in RCW 36.70A.130(2)(a)(iv); and

**WHEREAS**, the following amendments need to be made to Ordinance No. 6946:

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1.** That certain document entitled the "Capital Facilities Plan," covering the years 2015 through 2020, a copy of which will be on file with the Office of the Director of Administrative Services and available on the City's web site, is hereby adopted as the Capital Facilities Plan for the City of Olympia and is incorporated herein as though fully set forth.

**Section 2.** Upon appropriation by the City Council of funds therefor, the City Manager shall be authorized to prepare plans and specifications, to take bids, and to make expenditures for the projects set forth in the CFP during the year for which said projects are scheduled; provided, however, that any award of bids and execution of contracts for construction shall be approved as provided in OMC Chapter 3.16.

**Section 3.** It is anticipated that the funding source and the construction schedule for projects identified in the CFP may be changed over the next year. Such changes shall not constitute an amendment to the Comprehensive Plan for purposes of RCW 36.70A.130.

**Section 4.** The Director of Administrative Services is hereby authorized to bring forward into fiscal year 2015 all appropriations and allocations not otherwise closed, completed, or deleted from prior fiscal years' capital budgets.

**Section 5.** The following appropriations are hereby made:

<b>FUND</b>	<b>APPROP. FUND BALANCE</b>	<b>ESTIMATED REVENUE</b>	<b>APPROP.</b>	<b>ADDITIONS TO FUND BALANCE</b>
Impact Fee Fund	\$1,507,513	-	\$1,507,513	
SEPA Mitigation Fee Fund	447,438	-	447,438	
Parks & Recreational Sidewalk, Utility Tax Fund	211,124	\$2,553,276	2,764,400	
Real Estate Excise Tax Fund		1,125,000	1,125,000	
Capital Improvement Fund	224,300	6,510,438 8,097,843	6,510,438 8,322,143	

FUND	APPROP. FUND BALANCE	ESTIMATED REVENUE	APPROP.	ADDITIONS TO FUND BALANCE
City Hall Construction Fund	250,000		250,000	
Fire Equipment Reserve Fund		450,000	450,000	
Water CIP Fund	1,100,000	2,505,500	3,605,500	
Sewer CIP Fund	602,400	741,300	1,343,700	
Storm Water CIP Fund		1,129,200	1,129,200	
<b>TOTALS</b>	<b>\$3,868,475</b> <b>4,342,775</b>	<b>\$14,564,714</b> <b>16,602,119</b>	<b>\$18,433,189</b> <b>20,944,894</b>	<b>\$0</b>

**Section 6. Severability.** The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances, shall be unaffected.

**Section 7. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 8. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ASSISTANT CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



## City Council

### Approval of Ordinance Extending for an Additional Six Months the Moratorium on Medical Marijuana Collective Gardens and Other Cannabis Related Uses Not Addressed by I-502

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 5.A  
**File Number:** 15-0320

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**Type:** public hearing **Version:** 1 **Status:** 1st Reading-Not Consent

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#### Title

Approval of Ordinance Extending for an Additional Six Months the Moratorium on Medical Marijuana Collective Gardens and Other Cannabis Related Uses Not Addressed by I-502

#### Recommended Action

##### Committee Recommendation:

Not referred to a committee.

##### City Manager Recommendation:

- Hold the public hearing.
- After closing the Public Hearing, if Council determines it has enough information, move to approve the Ordinance on first reading and forward to second reading.

#### Report

##### Issue:

Should the City Council extend the City's existing moratorium on new Medical Marijuana Collective Gardens and other cannabis related land uses not addressed by Initiative 502?

##### Staff Contact:

Chris Grabowski, Code Enforcement Officer, 360.753.8168  
Darren Nienaber, Deputy City Attorney, 360.753.8044

##### Presenter(s):

Chris Grabowski, Code Enforcement Officer, 360.753.8168

#### Background and Analysis:

City staff requests that the Council extend the City's moratorium on marijuana establishments that are not State-licensed. This is necessary because the State Legislature has not yet taken action during its current legislative session but is expected to take action before the end of this legislative session. The following provides more information on the events leading to where we are now.

In November of 2012, Washington State voters passed Initiative Measure No. 502 (I-502) legalizing the sale of recreational cannabis in the State of Washington. Subsequently, on May 7, 2013, the Olympia City Council established a moratorium on all new cannabis related land uses. The moratorium was for one year. On October 15, 2013, Council approved interim zoning regulations for I-502 recreational marijuana and lifted that portion of the moratorium which applied to those uses. The moratorium on new medical marijuana collective gardens and other cannabis land uses not addressed by I-502 remained in place. At its April 15, 2014 meeting, the City Council extended the moratorium for an additional six months after holding the requisite public hearing. No member of the public testified at that hearing. At its October 28, 2014 meeting, the City Council again extended the moratorium for an additional six months after holding a public hearing. Again, no member of the public testified at the hearing.

Since the adoption of the moratorium, there have been no new non-I-502 cannabis related land uses in the City. Complaints to the City's Code Enforcement Division about the existing collective gardens have been mostly regarding nuisance smells, which have been dealt with under the City's existing nuisance laws. One collective garden attempted to open during the summer of 2014 and was prevented from doing so by Code Enforcement staff. The City has not made a determination as to whether any of the existing shops that hold themselves out as collective gardens are in compliance with State law. Rather, the City has no significant evidence at this time that those shops violate the State legal requirements for collective gardens.

At its October 28, 2014 meeting, the City Council approved making the interim regulations on I-502 recreational cannabis uses permanent. Again, no member of the public testified at the public hearing, which was conducted by the Olympia Planning Commission.

The Olympia Hearing Examiner has approved Conditional Use Permits (CUPs) for two State-licensed recreational cannabis retailers: Green Lady, Inc., and A Bud & Leaf. The State has only allotted the City of Olympia two recreational cannabis outlets. It is unclear what effect, if any, these two recreational outlets in the City have had on the medical collective gardens.

### **State Statutes**

The 2014 Legislature did not pass any amendments to the current medical cannabis statutes, and I-502 did not contain any amendments to the medical cannabis statutes. The result is that there are two separate systems in the State: one dealing with medical cannabis and the other more regulated system dealing with adult recreational use of cannabis. The 2015 Legislature has again taken up the challenge of merging the existing medical cannabis collective garden laws with the new I-502 recreational laws. However, at the time of the writing of this staff report, final action had not been taken by the legislature on the regulation of medical marijuana.

In its August 29, 2013 memorandum to all United States Attorneys, the Department of Justice outlined its expectation that those jurisdictions which allow the use of recreational cannabis do so with the "expectation that states and local governments...will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests." The medical marijuana market, acting through collective gardens, is at this point largely unregulated and thus may be a higher priority target for federal law enforcement. The State legislative attempts to regulate medical marijuana were partly in response to the Department of Justice memorandum.

In April 2014, the Washington State Court of Appeals upheld the City of Kent's ban on medical marijuana collective gardens. Thus, cities are authorized to prohibit collective gardens outright.

**Neighborhood/Community Interests (if known):**

There are a number of shops currently serving the medical marijuana community that hold themselves out as existing collective gardens and came into existence prior to the City's moratorium.

**Options:**

1. Conduct public hearing. Move to approve the ordinance on first reading and forward to second reading.
2. Conduct public hearing, do not extend moratorium, and let the moratorium expire on May 6, 2015.

**Financial Impact:**

None

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, EXTENDING FOR SIX MONTHS THE MORATORIUM UPON MEDICAL MARIJUANA COLLECTIVE GARDENS AS ESTABLISHED BY ORDINANCE NO. 6851 AND AS AMENDED BY ORDINANCE NO. 6873, ORDINANCE NO. 6900 AND ORDINANCE NO. 6929.**

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug; and

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998, and now codified as chapter 69.51A RCW, created an affirmative defense for "qualifying patients" to the charge of possession of marijuana (cannabis); and

WHEREAS, the intent of Initiative 692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law" (RCW 69.51A.005), but that nothing in the law "shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of marijuana for non-medical purposes" (RCW 69.51A.020); and

WHEREAS, the Washington State Legislature passed E2SSB 5073 in 2011; and

WHEREAS, on April 29, 2011, former Governor Christine Gregoire vetoed all of the provisions of E2SSB 5073 relevant to medical marijuana dispensaries but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually and in collective gardens; and

WHEREAS, RCW 69.51A.085 authorizes qualifying patients "to create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use," provided no more than ten qualifying patients participate in a collective garden, a collective garden does not contain more than 15 plants per patient up to a total of 45 plants per collective garden, and the collective garden does not contain more than 24 ounces of useable cannabis per patient, up to a total of 72 ounces of useable cannabis; and

WHEREAS, under RCW 69.51A.060(1), it is a class 3 civil infraction to display medical cannabis in a manner or place which is open to view of the general public, which would include growing plants; and

WHEREAS, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction and that nothing in chapter 181, Laws of 2011 is intended to limit the authority of cities to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction; and

WHEREAS, Initiative Measure No. 502, approved by the voters of Washington State on November 6, 2012, calls for the establishment of a regulatory system licensing producers, processors, and retailers of recreational marijuana for adults 21 years of age and older, legalizes the possession and private recreational use of marijuana, and requires the Washington State Liquor Control Board to adopt procedures and criteria for issuing licenses to produce, process, and sell marijuana; and

WHEREAS, the City of Olympia adopted Ordinance No. 6851 on May 7, 2013, imposing a moratorium (the Moratorium) on the establishment of medical cannabis collective gardens and other establishments

involved in the sale, manufacturing, distribution, or use of marijuana because of the potential impact on the public health, safety, and welfare; and

WHEREAS, the City Council conducted a public hearing on June 25, 2013, as required by Ordinance No. 6851, to take public testimony regarding the establishment of the Moratorium; and

WHEREAS, the City Council conducted a public hearing on October 15, 2013, to take public testimony regarding interim regulations pertaining to state-licensed producers, processors, and retailers of state-licensed recreational marijuana; and

WHEREAS, on November 4, 2013, the City Council adopted Ordinance No. 6873 establishing interim regulations to avoid unanticipated negative impacts on the community and the public health, safety, and welfare associated with state-licensed marijuana producers, processors, and retailers; and

WHEREAS, Ordinance No. 6873 repealed the Moratorium insofar as it applied to state-licensed retailers, producers, or processors of recreational marijuana. All other new marijuana uses, including medical marijuana establishments, continue to be prohibited by the Moratorium; and

WHEREAS, the City has received no evidence that there is insufficient access to medical marijuana; and

WHEREAS, the Washington State Attorney General issued an advisory opinion in January 2014, that states municipalities can prohibit state-licensed marijuana businesses within a city's boundaries or impose zoning and other land use regulations pertaining to such businesses; and

WHEREAS, legislation was introduced in the Washington State Legislature's 2014 session concerning recreational, commercial, and medical marijuana, which would have merged medical marijuana into the state-licensed recreational market; and

WHEREAS, the Legislature failed to act on the bills, leaving the laws regarding medical marijuana regulations unchanged; and

WHEREAS, the Federal Bureau of Investigation has indicated that it will not conduct criminal background checks on recreational marijuana applicants; and

WHEREAS, there remains uncertainty as to the federal government's position on the legality of and potential enforcement against medical marijuana collective gardens and dispensaries; and

WHEREAS, the United States Department of Justice issued a memorandum on August 29, 2013, which suggested that Washington's medical marijuana system is untenable and inconsistent with federal law enforcement priorities; and

WHEREAS, the legislation proposed in the Washington State legislature concerning medical marijuana was intended, in part, to respond to direction from the federal government about the need to regulate recreational and medical marijuana and such legislation appears likely to be reintroduced next year; and

WHEREAS, the Court of Appeals affirmed a city's right to prohibit collective gardens in *Cannabis Action Coalition v. City of Kent*; and

WHEREAS, jurisdictions are experiencing an increase in violence involving medical marijuana businesses; and



WHEREAS, the City is authorized pursuant to RCW 35A.63.220 and RCW 36.70A.390 to renew an existing moratorium for up to six months as long as the City adopts findings of fact and holds a public hearing prior to renewing the moratorium; and

WHEREAS, after conducting a public hearing on April 15, 2014, the City Council found it necessary to extend the duration of the Moratorium and adopted Ordinance No. 6900, extending the Moratorium for an additional six months; and

WHEREAS, after conducting a public hearing on October 28, 2014, to receive and consider public testimony regarding an additional extension of the Moratorium, the City Council found it necessary to extend the Moratorium and adopted Ordinance No. 6929, extending the Moratorium for an additional six months; and

WHEREAS, a public hearing was held on April 7, 2015, to consider public testimony regarding an additional six-month extension of the Moratorium; and

WHEREAS, the City Council finds it necessary to extend the duration of the Moratorium as established by Ordinance No. 6851 and as amended by Ordinance No. 6873, Ordinance No. 6900 and Ordinance No. 6929 for an additional six months in order to complete the work plan outlined in Ordinance No. 6851 as it pertains to medical marijuana collective gardens; and

WHEREAS, the City has completed certain portions of its work plan regarding permanent regulations of marijuana, including assessing the approaches of other jurisdictions; and

WHEREAS, bills are pending in the Washington State Legislature that would change how medical marijuana is operated and where medical sales can be located; and

WHEREAS, additional time is needed for the City to complete its work plan related to medical marijuana collective gardens and other marijuana related establishments; and

WHEREAS, it is expected that the Washington State legislature will regulate medical marijuana in the current legislative session; and

WHEREAS, this Ordinance is also adopted pursuant to Article 11, Section 11, of the Washington State Constitution; and

WHEREAS, this Ordinance is supported by the staff report and attachments and documents on file with the City of Olympia and also by the professional judgment and experience of City staff;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Extension of Moratorium Duration.** Section 3 of Ordinance No. 6851, as amended by Ordinance No. 6873, Ordinance No. 6900 and Ordinance No. 6929, is hereby amended as follows:

**Section 3. Duration.** The interim zoning control set forth in this Ordinance shall be in effect ~~seven hundred twenty-nine (729)~~ nine hundred eleven (911) days, unless subsequently extended by the City Council pursuant to state law.

**Section 2. Ordinance No. 6930.** This Moratorium does not apply to state-licensed recreational marijuana uses regulated by Ordinance No. 6930, as may be subsequently amended.

**Section 3. Findings.** The City Council hereby adopts the above recitals as findings of fact in support of this Ordinance.

**Section 4. Ordinance No. 6851.** All remaining provisions of Ordinance No. 6851, as amended by Ordinance No. 6873, Ordinance No. 6900 and Ordinance No. 6929, not herein amended or supplemented shall remain in full force and effect.

**Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 6. Severability.** The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances shall be unaffected.

**Section 7. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

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MAYOR

**ATTEST:**

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CITY CLERK

**APPROVED AS TO FORM:**

*Darren Member DCA*

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CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**



## City Council

### Briefing on US 101 / West Olympia Access Project

**Agenda Date:** 4/7/2015  
**Agenda Item Number:** 6.A  
**File Number:** 15-0234

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**Type:** report   **Version:** 1   **Status:** Other Business

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#### **Title**

Briefing on US 101 / West Olympia Access Project

#### **Recommended Action**

##### **Committee Recommendation:**

The Land Use and Environment Committee received a briefing on the status of the US 101/West Olympia Access Project and were supportive of the project moving forward.

##### **City Manager Recommendation:**

Receive a briefing on the status of the US 101/West Olympia Access Project, and provide comments.

#### **Report**

##### **Issue:**

Status of the US 101/West Olympia Access Project.

##### **Staff Contact:**

Mark Russell, P.E., Director of Transportation, Public Works, 360.753.8762

##### **Presenter(s):**

Mark Russell, P.E., Director of Transportation, Public Works

Randy Wesselman, Transportation Engineering and Planning Manager, Public Works

Perry Shea, SCJ Alliance

#### **Background and Analysis:**

In 2010, the City and the Washington State Department of Transportation (WSDOT) completed an evaluation of transportation needs on Olympia's Westside. One of the outcomes of this West Olympia Access Study was a decision to build new freeway ramps to US 101 because the Black Lake Boulevard and Cooper Point Road intersection is projected to fail within the next six years due to increased regional traffic and from development. This means a person driving a car could wait through three or more cycles of a traffic signal.

Two freeway access ramps are being proposed to reduce the growth of traffic at Black Lake Boulevard and Cooper Point Roads. The ramps will improve access to medical facilities and businesses, and provide route options in this area.

The new ramps are proposed at:

- Kaiser Road. Construction of an eastbound on-ramp and westbound off-ramp. Construction is anticipated 10-15 years from now.
- Yauger Way. Construction of a westbound off-ramp extension at Black Lake Boulevard to connect to Yauger Way will be built following the Kaiser Road ramps, beyond the 20-year planning horizon.

City Council had extensive involvement in developing this Westside transportation solution and has made this project a priority, including legislative funding requests. Before the ramps can be designed and built, an Interchange Justification Report (IJR) and environmental documents must be approved by WSDOT. The IJR process includes the following eight policy topics to be evaluated:

1. Need for access point revision
2. Reasonable alternatives
3. Operation and collision analysis
4. Access connections and design
5. Land use and transportation plans
6. Future interchanges
7. Coordination of transportation improvements
8. Environmental processes

In June 2014, Council approved a consultant, the team of Parametrix and SCL Alliance, to complete the IJR. Over the last eight months, the consultant team worked with the technical staff from the following agencies to develop and define the scope of the project: City of Olympia, WSDOT (Olympic Region and Headquarters), Thurston County, Federal Highways Administration, Thurston Regional Planning Council, Intercity Transit, and the City of Tumwater.

The scoping work is focused on identifying environmental issues which will be evaluated, traffic analysis requirements, concept variations of the new US 101 freeway ramps identified in the West Olympia Access Study, and a public outreach plan.

The technical team identified a variation in the design of the new US 101 freeway ramps. Preliminary analysis shows that this new concept variation will potentially provide access at a lower construction cost and facilitate construction sooner than originally thought. Staff will share this concept with Council.

Completion of the IJR is expected by the end of the first quarter of 2016. This work will result in the following:

1. Approval of the IJR by WSDOT which justifies the need for new access to US 101;
2. Receipt of Engineering and Operational Acceptability from WSDOT in order to move forward with the design, right-of-way, and construction phases;
3. Completing approximately 10-15% design which will include drawings showing the ramps and a more comprehensive cost estimate; and
4. Approval of environmental documents from WSDOT.

The purpose of this meeting is to provide a briefing on the status of the US 101/West Olympia

Access Project, review concept variations of the new US 101 ramps, and outline next steps in the Environmental and Interchange Justification Report process.

**Neighborhood/Community Interests (if known):**

The West Olympia Business Association has expressed great interest in and support for this project. Capital Medical Center is also supportive of this project to improve emergency response services and access to the Westside. Westside neighborhoods have expressed interest in the outcome of this project.

**Financial Impact:**

The City Council approved the scope of work and Consultant Agreement on June 10, 2014, with a not-to-exceed contract amount of \$1,500,000. The total project budget to complete the IJR and environmental documents is \$1,600,000.

**Attachment:**

Map



### US 101 on Olympia's Westside

Proposed new ramps shown in green.

- On-ramp and off-ramps at Kaiser Road
- An off-ramp extension westbound from Black Lake Boulevard to Yaeger Way