



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, April 10, 2018

7:00 PM

Council Chambers

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL RECOGNITION

2.A [18-0346](#) Special Recognition - American Legion Officer of the Year 2016 and 2017

2.B [18-0343](#) Special Recognition - Proclamation Recognizing Equal Pay Day

Attachments: [Proclamation](#)

2.C [18-0349](#) Special Recognition - Olympia March for Our Lives Organizers and the Approval of a Resolution for Common Sense Gun Safety

Attachments: [Resolution](#)

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 City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) 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, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.

Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment 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** [18-0366](#) Approval of March 27, 2018 City Council Meeting Minutes
Attachments: [Minutes](#)
- 4.B** [18-0364](#) Approval of an Appointment to the Planning Commission to Fill a Vacancy
Attachments: [Baxter Application and Resume](#)
- 4.C** [18-0326](#) Approval of an Appointment to the Heritage Commission to Fill a Vacancy
Attachments: [Henley Application](#)
- 4.D** [18-0264](#) Approval to Restore the Percival West Public Restroom to Seasonal Operating Hours and Close the Olympia/Franklin Portable Restroom
Attachments: [Public Restroom Map](#)
 [Best Practices Chart](#)
- 4.E** [18-0341](#) Approval of a Resolution to Accept a Funding Board Project Agreement with the Washington State Recreation and Conservation Office for the Woodruff Sprayground Project
Attachments: [Resolution](#)
 [Agreement](#)
- 4.F** [18-0344](#) Approval of a Resolution Authorizing an Inter-fund Loan for Fire Vehicle Funding
Attachments: [Resolution](#)
- 4.G** [18-0355](#) Approval of a Resolution Approving the Terms and Conditions of an Attorney Engagement and Contingency Fee Agreement to Pursue the City's Claims for Opioid Misuse, Abuse and Over-Prescription
Attachments: [Resolution](#)
 [Agreement](#)

4. SECOND READINGS (Ordinances)

- 4.H** [18-0288](#) Approval of an Ordinance Authorizing Acceptance of Drebeck Investments, LLC's Right-of-Way Dedication Donation
Attachments: [Ordinance](#)
 [Deed](#)
 [Map](#)

4. FIRST READINGS (Ordinances)

- 4.J** [18-0325](#) Approval of an Ordinance Creating a Fund for the Home Fund
Attachments: [Ordinance](#)
- 4.K** [18-0327](#) Approval of Ordinance Amending Ordinance 7118 (Operating Budget)

Attachments: [Ordinance](#)

- 4.L** [18-0329](#) Approval of Ordinance Amending Ordinance 7119 (Capital Budget)

Attachments: [Ordinance](#)

- 4.M** [18-0328](#) Approval of Ordinance Amending Ordinance 7120 (Special Funds)

Attachments: [Ordinance](#)

5. PUBLIC HEARING

- 5.A** [18-0272](#) Public Hearing on the Draft 2017 Storm and Surface Water Plan

Attachments: [UAC Letter of Support](#)

[Link to Draft 2017 Plan and Appendices](#)

[2017 Draft Storm and Surface Water Plan Summary Booklet](#)

- 5.B** [18-0254](#) Public Hearing on a Utility Easement Located Under a Building on the Southeast Portion of Block 7, Lots 3,4,5 and 6, Swan's Addition, Vol. 1 of Plats, Page 37

Attachments: [Resolution](#)

[Release of Easement](#)

6. OTHER BUSINESS - None

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 Executive Assistant 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 - American Legion Officer of the Year 2016 and 2017

Agenda Date: 4/10/2018
Agenda Item Number: 2.A
File Number: 18-0346

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

Title

Special Recognition - American Legion Officer of the Year 2016 and 2017

Recommended Action

Committee Recommendation:

Not referred to a committee

City Manager Recommendation:

Recognize Officers Jacob Theis and Jason Winner as the American Legion Officer of the Year for 2016 and 2017.

Report

Issue:

Whether to recognize Officers Jacob Theis and Jason Winner as the American Legion Officer of the Year for 2016 and 2017.

Staff Contact:

Aaron Jelcick, Deputy Chief of Police, Olympia Police Department, 360.753.8255

Presenter(s):

Aaron Jelcick, Deputy Chief of Police

Background and Analysis:

The American Legion will be honoring Officers Jacob Theis and Jason Winner for being selected the Officer of the Year for 2016 and 2017. Each May, the Officer of the Year for the prior year is selected by the Olympia Police Department and recognized with an award by the American Legion.

Attachments:

None



City Council

Special Recognition - Proclamation Recognizing Equal Pay Day

Agenda Date: 4/10/2018
Agenda Item Number: 2.B
File Number: 18-0343

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

Title

Special Recognition - Proclamation Recognizing Equal Pay Day

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Proclaim April 10th as Equal Pay Day in Olympia.

Report

Issue:

Recognize Equal Pay Day and the full value of women's skills and significant contributions to the labor force and encourage businesses to conduct an internal pay evaluation to ensure women are being paid fairly.

Presenter(s):

Cherie Reeves Sperr, Community Engagement & Development Director, YWCA

Background and Analysis:

The Equal Pay Act was signed by President John F. Kennedy on June 10, 1963. In writing, the Equal Pay Act of 1963 "prohibits discrimination on account of sex in the payment of wages by employers."

When the Equal Pay Act was signed, women made 59 cents for every dollar men made. Today, women make on average 79 cents per dollar men make for the same work. While there has been some advancement over the past half century, recent research shows progress has stalled during the past decade.

Equal Pay Day was originated by the National Committee on Pay Equity (NCPE) in 1996 as a public awareness event to illustrate the gap between men's and women's wages.

Equal Pay Day is in April every year to illustrate how far into the current year women need to work to earn the same amount of money men earned during the previous year.

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

Attachments:

Proclamation

PROCLAMATION

WHEREAS, more than 50 years after the passage of the Equal Pay Act, women, especially minority women, continue to suffer the consequences of unequal pay; and

WHEREAS, according to statistics released in 2017 by the U.S. Bureau of Labor Statistics, year-round, full-time working women in 2016 earned only 82% of the earnings of year-round, full-time working men, indicating little change or progress in pay equity; and

WHEREAS, according to the U.S. Census Bureau, the median income of women in Olympia was \$32,285, 79% of the median income of men in Olympia which was \$40,611; and

WHEREAS, wage gaps by gender, race, and ethnicity persist, with White women making 82% of White male earnings nationally, Black women making 68%, Hispanic and Latina women making 62%, and Native American women making 65%;and

WHEREAS, according to the American Association of University Women (AAUW), the gender pay gap is evident one year after college graduation, even after controlling for factors known to affect earnings, such as occupation, hours worked, and college major; and

WHEREAS, it is estimated that, college-educated women working full time earn more than a half million dollars less than their male peers do over the course of a lifetime; and

WHEREAS, nearly four in 10 mothers are primary breadwinners in their households, and nearly two-thirds are primary or significant earners, making pay equity critical to families' economic security; and

WHEREAS, a lifetime of lower pay means women have less income to save for retirement and less income counted in a Social Security or pension benefit formula; and

WHEREAS, in 2009 the Lilly Ledbetter Fair Pay Act was signed into law, which gives back to employees their day in court to challenge a pay gap, and now we must pass the Paycheck Fairness Act, which would amend the Equal Pay Act by closing loopholes and improving the law's effectiveness; and

WHEREAS, Tuesday, April 10th, symbolizes the time in 2018 when the wages paid to American women catch up to the wages paid to men from the previous year; and

NOW THEREFORE, BE IT RESOLVED, that the Olympia City Council does hereby proclaim Tuesday, April 10th, 2018 as

EQUAL PAY DAY

and urge the citizens of Olympia to recognize the full value of women's skills and significant contributions to the labor force and encourage businesses to conduct an internal pay evaluation to ensure women are being paid fairly.

SIGNED IN THE CITY OF OLYMPIA, WASHINGTON THIS 10^h DAY of APRIL, 2017.

OLYMPIA CITY COUNCIL

***Cheryl Selby
Mayor***



City Council

Special Recognition - Olympia March for Our Lives Organizers and the Approval of a Resolution for Common Sense Gun Safety

Agenda Date: 4/10/2018
Agenda Item Number: 2.C
File Number: 18-0349

Type: resolution **Version:** 1 **Status:** Recognition

Title

Special Recognition - Olympia March for Our Lives Organizers and Approval of a Resolution for Common Sense Gun Safety

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Recognize the student organizers for the Olympia March for Our Lives, and move to approve the resolution for Commons Sense Gun Safety and

Report

Issue:

Whether recognize the student organizers for the Olympia March for Our Lives, and approve a resolution for Commons Sense Gun Safety.

Staff Contact:

Steve Hall, City Manager, (360) 753-8244

Presenter(s):

Mayor Pro Tem Nathaniel Jones

Background and Analysis:

On Saturday March 24, approximately 4,500 people gathered on the State Capitol steps and marched down Capitol Way, ending at Sylvester Park, in a demonstration against gun violence and school shootings. The event, organized locally by students Caroline Arnis and Aurora Strauss-Reeves, was one of many taking place across the Country to coincide with a similar student led event in Washington D.C.

The Resolution for Common Sense Gun Safety discusses the Olympia City Council's support of sensible gun safety legislation to protect students and all local people. It also requests that the City Manager send a letter and an email to each member of our State legislative delegation with a copy of

the Resolution; ensures the request is included in the City's Legislative agenda for 2019 and direct staff to do all that is necessary to ensure this Resolution is accurately conveyed to our state legislators with adequate time to submit and consider appropriate legislation.

Neighborhood/Community Interests (if known):

N/A

Options:

- Recognize the student organizers of the March for Our Lives and pass the Resolution for Common Sense Gun Safety
- Do not recognize the student organizers of the March for Our Lives or pass the Resolution for Common Sense Gun Safety

Financial Impact:

N/A

Attachments:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
FOR COMMON SENSE GUN SAFETY**

WHEREAS, recent deadly attacks at schools and in other public places in our nation have brought numerous calls to better ensure our community's safety, particularly that of our young people; and

WHEREAS, recent threats made against the lives of students in Thurston County schools have resulted in school lockdowns, police searches of schools, early releases of students, students fearing for their lives at school, and students staying home from school; and

WHEREAS, since 2013, there have been 291 shootings on elementary, middle, and high school and college campuses in the United States which averages to about one per week, and 168 of those shootings were at K-12 schools; and

WHEREAS, in the past five years, eight school shootings have occurred in Washington State, four of which resulted in injury or death,³ and school districts around Washington State have far too often been the scenes of gun violence and threats of gun violence; and

WHEREAS, in Washington, an 18-year-old can buy a military style assault weapon with no background check or waiting period; and

WHEREAS, gun violence, and threats of gun violence, in schools undermine the sense of security that all students should have in their learning environments; and

WHEREAS, students have seized the conscience of the nation, our state, and our community with their demand for strong action to reduce preventable gun violence, delivering an unmistakable message that now is the time to pass common sense gun safety laws; and

WHEREAS, RCW 9.41.290 severely limits municipalities from making laws regarding the possession and regulation of any firearms within their jurisdiction; and

WHEREAS, sensible gun safety legislation will strengthen protections for our schools and students by preventing dangerous individuals from attaining firearms; and

WHEREAS, there is an urgent need to increase available mental health resources in our community, as well as a need to expand restorative justice practices, and deepen our commitment to social and emotional learning;

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

Section 1. The Olympia City Council supports sensible gun safety legislation to protect students and all local people by:

- banning the purchase and sale of semi- automatic rifles;
- raising the age to purchase guns to 21 years;

- implementing enhanced universal background checks for fire arms;
- establishing safety programs in schools that do not include arming educators or staff;
- providing funding for thorough gun violence research, including removing the prohibition on research and data collection by the U.S. Center for Disease Control;
- supporting prevention, intervention and community re-entry programs that reduce community and gun violence;
- the mandatory reporting of any lost or stolen firearms;
- increasing discretionary power for local governments to grant or deny firearm permits;
- strategies that help local and state law enforcement track illegal guns;
- increased funding for school programs, training, and staffing, including but not limited to counselors, behavioral technicians, nurses, psychologists, and social workers, that support student and educator mental health, social and emotional learning, restorative justice, and that combats bullying; and

Section 2. The City Manager shall send a letter and an email to each member of our state legislative delegation with a copy of this Resolution as ultimately approved by the City Council of the City of Olympia.

Section 3. The City Manager shall ensure that this request is included in the City's legislative requests for the 2019 Legislative Session.

Section 4. The City Manager shall direct staff to do all that is necessary to ensure this Resolution is accurately conveyed to our state legislators with adequate time to submit and consider appropriate legislation.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Approval of March 27, 2018 City Council Meeting Minutes

Agenda Date: 4/10/2018
Agenda Item Number: 4.A
File Number: 18-0366

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

Title

Approval of March 27, 2018 City Council Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, March 27, 2018

7:00 PM

Council Chambers

1. ROLL CALL

Present: 6 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones,
Councilmember Jessica Bateman, Councilmember Clark Gilman,
Councilmember Lisa Parshley and Councilmember Renata Rollins

Excused: 1 - Councilmember Jim Cooper

1.A ANNOUNCEMENTS

Mayor Selby announced Councilmember Cooper is excused from tonight's meeting.

Mayor Pro Tem Jones discussed events related to Arbor Day on March 24 and announced Olympia was named Tree City USA for the 25th year in a row.

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL RECOGNITION

2.A [18-0243](#) Special Recognition - Larry Dibble and Shelley Flaherty

Councilmembers read proclamations in recognition of the distinguished service of Fire Chief Larry Dibble and Line of Business Director Shelley Flaherty.

Chief Dibble and Ms. Flaherty shared their thanks and reflections on their tenure at the Olympia Fire Department.

Councilmembers and City Manager Steve Hall thanked them for their service.

The recognition was received.

3. PUBLIC COMMUNICATION

The following people spoke: Boudicca Walsh, Jim Reeves, and Christine Rayburn.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

Mayor Selby noted a tentative meeting date of May 8 for the Council's Homelessness Study Session Summit, pending facilitator availability.

Councilmembers commented on the Strawless Olympia movement and the homelessness crisis.

4. CONSENT CALENDAR

- 4.A** [18-0282](#) Approval of March 6, 2018 Study Session Meeting Minutes

The minutes were approved.

- 4.B** [18-0256](#) Approval of March 6, 2018 City Council Meeting Minutes

The minutes were approved.

- 4.C** [18-0316](#) Bills and Payroll Certification

Payroll check numbers 91185 through 91239 and Direct Deposit transmissions: Total: \$4,405,134.61; Claim check numbers 3697820 through 3698936: Total: \$6,967,978.27.

The decision was approved.

- 4.D** [18-0226](#) Approval of a Resolution Authorizing an Interlocal Agreement Between Thurston County, the City of Lacey, City of Olympia, City of Tumwater, and Thurston Regional Planning Council for Regional Climate Mitigation Planning

The resolution was approved.

- 4.E** [18-0300](#) Approval of a Resolution Authorizing an Interlocal Agreement for Consulting Services for a Cable Franchise Renewal

The resolution was approved.

- 4.F** [18-0299](#) Approval of a Bid Award for Isthmus Interim Park Improvements

The contract was approved.

- 4.G** [18-0305](#) Approval of Appointments to the Arts Commission

The decision was approved.

- 4.H** [18-0317](#) Approval of Appointments to the Bicycle and Pedestrian Advisory Committee

The decision was approved.

- 4.I** [18-0308](#) Approval of an Appointment to the Heritage Commission

The decision was approved.

- 4.J [18-0312](#) Approval of Appointments to the Parks and Recreation Advisory Committee

The decision was approved.

- 4.N [18-0313](#) Approval of Appointments to the Utility Advisory Committee

The decision was approved.

- 4.L [18-0314](#) Approval of Reappointments to the Design Review Board

The decision was approved.

- 4.M [18-0309](#) Approval of Reappointments to the Lodging Tax Advisory Committee

The decision was approved.

4. SECOND READINGS (Ordinances)

- 4.O [18-0139](#) Approval of an Ordinance Amending Wastewater Regulations related to Septic Tank Effluent Pumping (S.T.E.P.) Systems

The ordinance was approved on second reading.

- 4.P [18-0167](#) Approval of an Ordinance Relating to Civil Infractions and Amending Olympia Municipal Code Section 4.50.020

The ordinance was approved on second reading.

- 4.Q [18-0168](#) Approval of an Ordinance Relating to Domestic Violence Crimes Against Persons and Amending Olympia Municipal Code Chapter 9.20

The ordinance was approved on second reading.

- 4.R [18-0169](#) Approval of an Ordinance Relating to Domestic Violence and Protective Orders, Repealing Olympia Municipal Code (OMC) Chapters 9.56 and 9.60 and Adopting a New Chapter OMC 9.62

The ordinance was approved on second reading.

- 4.S [18-0186](#) Approval of an Ordinance Relating to Crimes Against Property and Amending Olympia Municipal Code Chapter 9.40

The ordinance was approved on second reading.

4. FIRST READINGS (Ordinances)

- 4.T [18-0288](#) Approval of an Ordinance Authorizing Acceptance of Drebeck Investments, LLC's Right-of-Way Dedication Donation

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

Approval of the Consent Agenda

Councilmember Bateman, as General Government Committee Chair, and Mayor Pro Tem Jones thanked community members for volunteering to serve on the City's various advisory committees.

Councilmember Bateman moved, seconded by Councilmember Parshley, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 6 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Gilman, Councilmember Parshley and Councilmember Rollins

Excused: 1 - Councilmember Cooper

ITEM(S) PULLED FROM CONSENT

4.K [18-0311](#) Approval of Appointments to the Planning Commission

Councilmember Bateman moved, seconded by Councilmember Parshley, to approve the appointment of Jessica Blose, with a term ending March 31, 2019; Kento Azegami, with a term ending March 31, 2020; and Candis Millar with a term ending March 31, 2020, to the Planning Commission to fill a vacancy, and move to approve the reappointments of Paula Ehlers and Mike Auderer, each with terms ending March 31, 2021. The motion carried by the following vote:

Aye: 6 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Gilman, Councilmember Parshley and Councilmember Rollins

Excused: 1 - Councilmember Cooper

5. PUBLIC HEARING - None

6. OTHER BUSINESS

6.A [18-0287](#) Approval of Designs for 10 New Olympia Public Art Traffic Boxes

Arts Program Specialist Angel Nava and Arts Commission Chair Stacy Hicks presented the 2018 Traffic Wrap Public Art Project recommendations.

Ms. Nava thanked Arts Volunteer Ricky Santiago for his service and commitment to the Traffic Wrap Public Art Project.

Councilmembers thanked the Arts Commission for their work on the project.

Councilmember Rollins moved, seconded by Councilmember Gilman, to approve the 10 designs for the Traffic Box Public Art Project, as determined by public vote. The motion carried by the following vote:

Aye: 6 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Gilman, Councilmember Parshley and Councilmember Rollins

Excused: 1 - Councilmember Cooper

6.B [18-0262](#) Review of 2017 Year-End Fund Balance

Administrative Services Director Debbie Sullivan presented the 2017 year end fund balance and the Finance Committee Recommendations on how to allocate the savings.

Councilmembers asked clarifying questions.

Councilmember Bateman moved, seconded by Councilmember Parshley, to approve the allocations of the remaining 2017 year-end funds of \$34,831 to biohazard remediation, and direct staff to prepare an ordinance appropriating specific items to be funded from 2017 year-end funds. The motion carried by the following vote:

Aye: 6 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Gilman, Councilmember Parshley and Councilmember Rollins

Excused: 1 - Councilmember Cooper

7. CONTINUED PUBLIC COMMUNICATION - None

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmembers discussed meetings and events attended.

Mayor Selby noted she attended the March for Our Lives event this past Saturday and the student organizers will be recognized at an upcoming Council meeting.

8.B CITY MANAGER'S REPORT AND REFERRALS

City Manager Steve Hall noted Councilmember Cooper will be adding an item to an upcoming agenda related to a short-term loan to the Washington Center for stage rigging.

He discussed a Study Session on Homelessness that is being planned; date and location

are being confirmed.

Mr. Hall acknowledged Debbie Sullivan's participation in Fire Ops training last week.

9. ADJOURNMENT

The meeting adjourned at 8:11 p.m.



City Council

Approval of an Appointment to the Planning Commission to Fill a Vacancy

Agenda Date: 4/10/2018
Agenda Item Number: 4.B
File Number: 18-0364

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

Title

Approval of an Appointment to the Planning Commission to Fill a Vacancy

Recommended Action

Committee Recommendation:

The General Government Committee recommends approval of the appointment listed below.

City Manager Recommendation:

Move to approve appointment of Joel Baxter, with a term ending March 31, 2021, to the Planning Commission to fill a vacancy.

Report

Issue:

Whether to make the recommended appointment to the Planning Commission.

Staff Contact:

Kellie Purce Braseth, Strategic Communications Director, 360.753.8361

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The General Government Committee interviewed Joel Baxter at its April 3, 2018, special meeting, and recommends his appointment to fill a vacancy on the Planning Commission with a term ending March 31, 2021.

Mr. Baxter's application and resume are attached.

Neighborhood/Community Interests (if known):

N/A

Options;

1. Approve the appointment as recommended.
2. Do not approve the appointment and send the issue back to the General Government

Committee. This would delay the appointment schedule and leave the Planning Commission not operating at full strength.

Financial Impact:

N/A

Attachments:

Baxter Application and Resume

Profile

<u>Joel</u> First Name	<u>D</u> Middle Initial	<u>Baxter</u> Last Name
<u>joeldotybaxter@gmail.com</u> Email Address		
<u>1601 Sylvester St SW</u> Home Address	<u> </u> Suite or Apt	
<u>Olympia</u> City	<u>WA</u> State	<u>98501</u> Postal Code
<u>Mobile: (425) 923-8086</u> Primary Phone	<u>Home: </u> Alternate Phone	
<u>Policy Analyst</u> Occupation		

Which Boards would you like to apply for?

Planning Commission: Submitted

If you applied for multiple boards or commissions, please rank them in order of interest below.

Select Your Neighborhood (you must live within Olympia City limits to serve on a board or commission) *

☒ South Capitol

If you choose "other" please write in your neighborhood here:

Interests & Experiences

Question applies to multiple boards

Please keep answers concise and informative. You are introducing yourself to the Olympia City Council and sharing with them why you are interested in being considered for appointment. Olympia residency is not required; however, it is a primary consideration. You may attach a resume.

Question applies to multiple boards

1. Briefly describe why you wish to serve on this advisory committee.

I wish so serve as a member of the Olympia Planning Commission because I have a passion for and knowledge of land use and housing issues, and want to participate in making my community a safer, more inclusive, prosperous place for current and future residents. My previous job allowed me to work with members on the community on a regular basis on issues of direct importance to its citizens. My new position has removed me from that direct community involvement, and see service on the planning commission as a way to remain involved in my community.

Question applies to multiple boards

2. Describe your qualifications and/or skills which would benefit this advisory committee.

My most relevant qualifications to serve on the advisory commission include recently serving as the Government Affairs Director for the Olympia Master Builders, and currently as a Policy Analyst, in the Washington State House of Representatives, staffing the local government committee. These position have given me a strong understanding of land use, housing, economic development and city planning, from both the private business/citizen and local government perspective. My involvement on similar issues in neighboring counties will allow me to also bring a beneficial perspective to Olympia's role in the regional community.

Question applies to multiple boards

3. Describe your involvement in the Olympia community.

My involvement in the Olympia community includes past involvement on the Thurston County Chamber of Commerce Business and Economic Development Board, serving as a representative of the local homebuilding industry, personally supporting campaigns and causes, and work on policy issues with a diverse number of stakeholders in Olympia and throughout Thurston County.

Question applies to multiple boards

4. List your educational and professional background and area of study.

Bachelor of Arts in Political Science from Washington State University (2006 - 2010) Legislative Assistant to State Representative Drew Stokesbary, WA State House of Reps (2015 -2016) Government Affairs Director, Olympia Master Builders (2016 - 2017) Policy Analyst, Local Government Cmte. and Business and Financial Services Cmte., WA State House of Reps (2018-)

Question applies to multiple boards

5. Appointment to this committee will require your attendance at evening meetings. How many hours per month are you willing to commit as a volunteer?

10+

Question applies to multiple boards

6. If you are not appointed to this committee at this time:

Question applies to multiple boards

6a. Do you wish to be considered for appointment to another advisory committee?

☐ Yes ☒ No

Question applies to multiple boards

6c. Would you be willing to volunteer for other City activities?

☒ Yes ☐ No

Question applies to multiple boards

If you answered yes to 6a, please identify what other Advisory Committees you would be interested in being considered for in order of interest.

Question applies to multiple boards

6b. Do you wish to be considered for future appointment to this committee?

☐ Yes ☒ No

Question applies to multiple boards

7. Some appointments require that applicants reside within Olympia city limits. Even though your mailing address may be Olympia, you may reside in the County or another jurisdiction. Are you a resident of the City of Olympia?

☒ Yes ☐ No

Question applies to multiple boards

8. Citizens appointed to advisory committees are assigned and required to use a City email address for all advisory committee business.

Do you agree to comply with this expectation?

☒ I Agree *

Question applies to multiple boards

9. How did you learn about this advisory committee recruitment?

The Hon. Jessica Bateman

Question applies to multiple boards

Applications are accepted for the calendar year only. The Olympia City Council's General Government Committee recommends appointments to the full Council. Recommendations are made following review of applications and an interview of qualified candidates.

For further information, contact Susan Grisham, Executive Assistant, 360.753.8244, sgrisham@ci.olympia.wa.us

When filed with the City, your application and attachment documents are public records and may be subject to public release.

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources.

Question applies to Planning Commission

10. In your own words, what is the role of an Olympia Planning Commissioner?

The role of a planning commissioner is to vet long range planning proposals before they are heard by the city council. A planning commissioner should review information provided by city staff and anticipate questions or issues which may arise upon that issue being sent to the council. Upon receiving any desired clarification, a commissioner should recommend to the council how best to proceed, paying particular attention to how policies line up with guiding documents, such as the city's comprehensive plan.

Question applies to Planning Commission

11. What interests you most about community planning?

With community planning, there are a limitless number of paths to take to achieving a municipalities stated objective. The outcome of community planning is tangible and can have incredibly beneficial or detrimental effects on the well being of residents. The need to think creatively and far down the road in anticipation of a projected future is complicated, and I find that to be the most fascinating aspect of community planning.

Question applies to Planning Commission

12. What skills would you bring to the work of the Planning Commission and what do you hope to learn?

I am a strong communicator and I work well with groups of people, including those who do not always share my point of view. I hope to learn more about the intricacies of land use and city planning and better understand how implementation of various policies impact residents and the city on a local level.

Question applies to Planning Commission

13. Have you ever taken a Short Course in Local Planning, read an OPC packet or attended a meeting?

I have never taken a course on local planning, but I have read countless OPC packets and attended numerous planning commission meetings.

Question applies to Planning Commission

14. What is your knowledge of the City's Comprehensive Plan and how it relates to planning?

I am generally familiar with the city's comprehensive plan, which serves as the city's guiding document to planning. When developing a recommendation for the city council, the planning commission should be comparing the policy to how it aligns with and balances the direction and objectives enumerated by the city in the comp plan.

Joel Doty Baxter

Olympia, WA

425-923-8086

joeldotybxter@gmail.com

WORK EXPERIENCE

Legislative/Policy Experience

WASHINGTON STATE HOUSE OF REPRESENTATIVES, Olympia, WA

Policy Analyst for the House Republican Caucus

January 2018 – Present

- Tracking, researching and analyzing legislation for the caucus and its members, relating to the Local Government Committee and Business and Financial Services Committee.
- Assisting members in drafting amendments and legislation that will best help them achieve their policy goals.
- Serving as a liaison between stakeholders and members during policy discussions in order to reach consensus on complicated pieces of legislation relating to a wide spectrum of issues.

THE OLYMPIA MASTER BUILDERS, Olympia, WA

Director of Government Affairs

August 2016 – January 2018

- Tracking, researching and analyzing policy proposals related to the building industry across 5 counties and 25 municipalities
- Briefing association members and the executive director on proposals and advising them on potential legislative strategies and effects to the industry
- Developing member opinions into coherent policy arguments and lobbying elected officials and stakeholders on behalf of the association

WASHINGTON STATE HOUSE OF REPRESENTATIVES, Olympia, WA

Legislative Assistant to State Rep. Drew Stokesbary

January 2015 – August 2016

- Serving as office liaison; building relationships with hundreds of constituents, members, staff and lobbyists
- Conducting policy research, seeking legislative solutions to constituent casework and helping to coordinate capital budget proposals for cities in the 31st LD
- Responsible for all scheduling and front of office relations, taking constituent meetings, responding to emails, and interacting with people visiting the Capitol

Campaign Experience

AB HAYS, Tacoma, WA

Project Manager/Campaign Manager

August 2014 – December 2014

FRIENDS OF DAVE REICHERT, Issaquah, WA

Campaign Manager

February 2014 – July 2014

WORKING FAMILIES, Gig Harbor, WA

Technical Field Specialist

June 2013 – August 2013

VOTERS FOR DICK MURI, Lakewood, WA

Campaign Manager

August 2012 – November 2012

- Responsible for managing daily campaign operations, staff and interns
- Created and executed campaign and communications plans of multiple campaigns
- Responsible for creating and implementing \$1 million+ campaign budgets
- Oversaw development of a new campaign website
- Responsible for recruiting and coordinating hundreds of volunteers
- Writing and managing completion of dozens of voters pamphlet statements, and endorsement questionnaires for major organizations, PACs and Newspapers
- Developed and oversaw various successful GOTV strategies
- Coordinating execution of Mail, Phone, Online and TV voter outreach efforts for multiple, high-profile state legislature campaigns
- Analyzing voter data and past election results, establishing persuasion and GOTV voter universes for clients

Other Experience

THE VELVET UNDERGROUND DINING EXPERIENCE, Seattle, WA

Event Coordinator

January 2013 – June 2013; August 2013 – February 2014

- Responsible for planning and managing logistics for high-end dining events and private event rentals, featuring many of the best chefs in Seattle
- Developed detailed planning processes to track the progress of multiple events at a time and successfully meet tight deadlines with precision and extreme attention to detail
- Creating and executing marketing campaigns, for “pop-up” dinners and for recruiting patrons, through the use of our website, email, and numerous social media tools
- Responsible for the recruiting and hiring staff to work events, as well as recruiting and marketing the event space to caterers, chefs, event planners and other potential clients

SKILLS

- | | |
|--|--|
| • Microsoft Word, Excel, Powerpoint, Publisher | • GOP Datacenter, Voter Vault, Ground Game |
| • Constant Contact, Mailchimp, Word Press | • Facebook, Twitter, Instagram, YouTube and LinkedIn |
| • Piryx and Paypal online fundraising | |

EDUCATION

WASHINGTON STATE UNIVERSITY, Pullman, WA

Bachelor of Arts in Political Science

OTHER RELEVANT INFORMATION AND ACHIEVEMENTS

- Graduate of RNC Campaign Management School, Washington D.C., March 2014
- Board member of the Mainstream Republicans of Washington, 2012 - 2017
- Member of the Discovery Institute, 2013 Center for Civic Leadership Roundtable
- Graduate of the Action for Washington Leadership Development Program – Fall 2011



City Council

Approval of an Appointment to the Heritage Commission to Fill a Vacancy

Agenda Date: 4/10/2018
Agenda Item Number: 4.C
File Number: 18-0326

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

Title

Approval of an Appointment to the Heritage Commission to Fill a Vacancy

Recommended Action

Committee Recommendation:

The General Government Committee recommends approval of the appointment listed below.

City Manager Recommendation:

Move to approve the appointment of Audrey Henley to the Heritage Commission to fill a vacancy, with a term ending March 31, 2021.

Report

Issue:

Whether to make the recommended appointment to the Heritage Commission.

Staff Contact:

Kellie Purce Braseth, Strategic Communications Director, 360.753.8361

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The General Government Committee interviewed Audrey Henley at its March 20, 2018, special meeting and recommends her appointment to fill a vacancy on the Heritage Commission with a term ending March 31, 2021. The Heritage Commission chair, Kat Kelly, joined the General Government Committee for the interview.

Ms. Henley's application is attached.

Neighborhood/Community Interests (if known):

N/A

Options;

1. Approve the appointment as recommended.

2. Do not approve the appointment and send the issue back to the General Government Committee. This would delay the appointment schedule and leave the Heritage Commission not operating at full strength.

Financial Impact:

N/A

Attachments:

Henley Application

Profile

Audrey

First Name

Henley

Last Name

audrey@olympiafilmsociety.org

Email Address

2638 24th Avenue NE

Home Address

Suite or Apt

Olympia

City

WA

State

98506

Postal Code

Home: (360) 888-3255

Primary Phone

Business: (360) 754-6670

Alternate Phone

Executive Director

Occupation

Which Boards would you like to apply for?

Heritage Commission: Submitted

If you applied for multiple boards or commissions, please rank them in order of interest below.

n/a

Select Your Neighborhood (you must live within Olympia City limits to serve on a board or commission) *

☒ Northeast

If you choose "other" please write in your neighborhood here:

Interests & Experiences

Question applies to multiple boards

Please keep answers concise and informative. You are introducing yourself to the Olympia City Council and sharing with them why you are interested in being considered for appointment. Olympia residency is not required; however, it is a primary consideration. You may attach a resume.

Question applies to multiple boards

1. Briefly describe why you wish to serve on this advisory committee.

I am encouraged to see how much Olympia is growing, the future of Olympia is so promising! I would like to make sure that we maintain our historic charm and unique cityscape that still honors the past while we improve our future.

Question applies to multiple boards

2. Describe your qualifications and/or skills which would benefit this advisory committee.

Skills – Community Leader, Organized, Energetic, Proactive, Inclusive, Trusted, Respected, Professional, Resourceful.

Question applies to multiple boards

3. Describe your involvement in the Olympia community.

I work for the Olympia Film Society at the historic Capitol Theater. I work with many local and regional nonprofits who host fundraising and outreach events at the theater. I help them plan, execute, and market these events. I served on the PBIA board (2016 - 2018). I am a massive supporter of live music and do everything in my power to support local venues, bands, and promoters to bring live music and art to Olympia. I am co-owner of Craftsman Copper, a small local artisan shop that specializes in hand hammered copper Arts and Crafts style lighting.

Question applies to multiple boards

4. List your educational and professional background and area of study.

I have worked for the Olympia Film Society since 2005. I began as a program director and theater manager. I was promoted to the leadership role as executive director in 2013 leading the organizations to sustainability and focus on preservation of the historic Capitol Theater. I manage a staff of eight, a board of 10, and an operations budget of over \$500k. I have over 20 years of experience in contract negotiating, graphic design, marketing, and communications. More than half of my professional life has been in facility management as well as many successful and memorable concert and event promotions/productions. I've designed sponsorship and cross-promotional opportunities and partnerships; I am a trusted steward of the Capitol Theater's historical values and have built strong ties with business, civic, and media within the Olympia, Seattle, and Tacoma communities. Awards & Acknowledgements 2005 – The Olympian Newspaper, Recognized as one of Olympia's 21st Century Leaders 2009 – Historic Preservation Award, Recognized a community leader, OFS Marquee Project, presented by Mayor Doug Ma 2011 – Weekly Volcano Best Issue, Awarded for "MVP" music promoter, "Best Event" Night of the Living Tribute Bands, and "Best thing to happen" OFS buys the Capitol Theater 2012 – Weekly Volcano Best Issue, "Best Music Bookings", "Best Reason to Have a Party" Repeal Prohibition Day, and "Best Music Venue"

Question applies to multiple boards

5. Appointment to this committee will require your attendance at evening meetings. How many hours per month are you willing to commit as a volunteer?

10 hours a month

Question applies to multiple boards

6. If you are not appointed to this committee at this time:

Question applies to multiple boards

6a. Do you wish to be considered for appointment to another advisory committee?

☒ Yes ☐ No

Question applies to multiple boards

6c. Would you be willing to volunteer for other City activities?

☒ Yes ☐ No

Question applies to multiple boards

If you answered yes to 6a, please identify what other Advisory Committees you would be interested in being considered for in order of interest.

Question applies to multiple boards

6b. Do you wish to be considered for future appointment to this committee?

☒ Yes ☐ No

Question applies to multiple boards

7. Some appointments require that applicants reside within Olympia city limits. Even though your mailing address may be Olympia, you may reside in the County or another jurisdiction. Are you a resident of the City of Olympia?

☒ Yes ☐ No

Question applies to multiple boards

8. Citizens appointed to advisory committees are assigned and required to use a City email address for all advisory committee business.

Do you agree to comply with this expectation?

☒ I Agree *

Question applies to multiple boards

9. How did you learn about this advisory committee recruitment?

Michelle Sadlier

Upload a Resume

Question applies to multiple boards

Applications are accepted for the calendar year only. The Olympia City Council's General Government Committee recommends appointments to the full Council. Recommendations are made following review of applications and an interview of qualified candidates.

For further information, contact Susan Grisham, Executive Assistant, 360.753.8244, sgrisham@ci.olympia.wa.us

When filed with the City, your application and attachment documents are public records and may be subject to public release.

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources.

Question applies to Heritage Commission

10. Why do you think Olympia's historic places are important?

The preservation of art, history, and architecture is important to me, you cannot understand the future unless you understand the past. I would like to learn more about the preservation needs of Olympia and would love to lend a hand in promoting, funding, and saving these important places and artifacts that represent our city. If the day comes that I no longer work for the Olympia Film Society, I hope to work in preservation.

11. What is your experience working with the history or preservation of built/cultural heritage?

My strong suit is working with groups to help create, envision, and bring to life their ideas within budget in an organized and professional manner to reach success! I'm a great collaborator and communicator. I have grant writing skills and have had several programming and historic preservation grants and projects successfully funded. Developed a comprehensive feasibility study of the Capitol Theater, including environmental and public safety needs, financial options, and capitol costs as part of the purchase of the Capitol Theater. I am the lead staff chair for the committee at the Olympia Film Society's plans to restore and preserve the Capitol Theater. I meet with architects, designers, contractors, city planners to discuss project plans.



City Council

Approval to Restore the Percival West Public Restroom to Seasonal Operating Hours and Close the Olympia/Franklin Portable Restroom

Agenda Date: 4/10/2018
Agenda Item Number: 4.D
File Number: 18-0264

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

Title

Approval to Restore the Percival West Public Restroom to Seasonal Operating Hours and Close the Olympia/Franklin Portable Restroom

Recommended Action

Committee Recommendation:

The Land Use and Environment Committee recommends the restoration of seasonal operating hours of the Percival West public restroom and the closure of Olympia/Franklin portable restroom located at the corner of Olympia Ave and Franklin Street

City Manager Recommendation:

Move to approve the restoration of seasonal operating hours of the Percival West public restroom and the closure of Olympia/Franklin portable restroom located at the corner of Olympia Ave and Franklin Street

Report

Issue:

Whether to authorize staff to proceed with the reinstatement of seasonal operating hours at the Percival West public restroom and the removal of the Olympia/Franklin portable restroom located at the corner of Olympia St and Franklin Avenue

Staff Contact:

Mark Rentfrow, Downtown Liaison, CP&D, 360.570.3798

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

In 2016, the City Council embarked on a public restroom pilot program to address the impacts of human waste on city streets. The pilot intended to study the potential for reduction of human waste and consider restrooms for all, specifically for people who are street dependent as well as visitors. The pilot project was to test the viability of 24-hour public restrooms in five locations **(See attached**

map). The 24-hour restroom conversion at Percival West, as well as the portable restroom located in the Olympia/Franklin lot near the corner of Olympia St and Franklin Ave, are part of the City's Downtown Restrooms pilot program.

On February 15, 2018, City staff updated the Land Use and Environment Committee on the results of the restroom pilots and status of a Sanitation Master Plan that will make recommendations for the future siting of permanent restrooms. The plan is still being drafted with help from a consultant, and Council will receive a briefing on the final recommendations later this year. One of the elements of the plan is a list of best practices for siting, operating and designing restrooms, which are derived from other cities and Olympia's experience **(See attached chart)**

Public restrooms are commonly susceptible to abuse, and these best practices intend to curb or mitigate negative behaviors so that clean, safe restrooms can be maintained for all. The attachment highlights where best practices were employed in each of the five pilot projects. Similar to the Fertile Grounds portable, which was removed last year due to extensive abuse, the portable at the Olympia/Franklin location employs few best practice characteristics and is experiencing similar levels of misuse.

Conditions at Percival West and the Olympia/Franklin Lot

The Land Use and Environment Committee was briefed on the conditions at Percival West and the Olympia/Franklin Lot. When compared to the best practices, these two restrooms are located in less active places, and are not sufficiently designed for 24-hour permanent use. Regularly recorded misuse of these restrooms presents unsafe conditions for our community, including:

- Drug dealing and drug using
- Prostitution
- Graffiti
- Vandalism
- Unsanitary conditions occurring on an almost daily/nightly basis despite a cleaning schedule (trash, biohazard deposits - vomit, feces, spit, blood)

For this reason, the Percival West restroom was closed in January until further notice. The Olympia/Franklin portable restroom continues to attract negative behaviors that affect customers who pay to park at the Olympia/Franklin lot. It also generates a significant amount of trash and debris inside and outside the space.

The Land Use and Environment Committee has recommended that the City Council move to return the Percival West restroom to its normal operating schedule (completely closed in the winter, open the rest of the year from dawn to dusk) and remove the portable restroom located in the Olympia/Franklin lot.

Staff will return to the City Council later this year with a recommended Sanitation Master Plan for public restrooms that incorporate what we have learned about best practices for location, operation and design of these facilities.

Neighborhood/Community Interests (if known):

1. Move to approve the restoration of seasonal operating hours of the Percival West public restroom and the closure of Olympia/Franklin portable restroom located at the corner of Olympia Ave and Franklin Street
2. Do not approve the Committee recommendation at this time and maintain current status quo

Financial Impact:

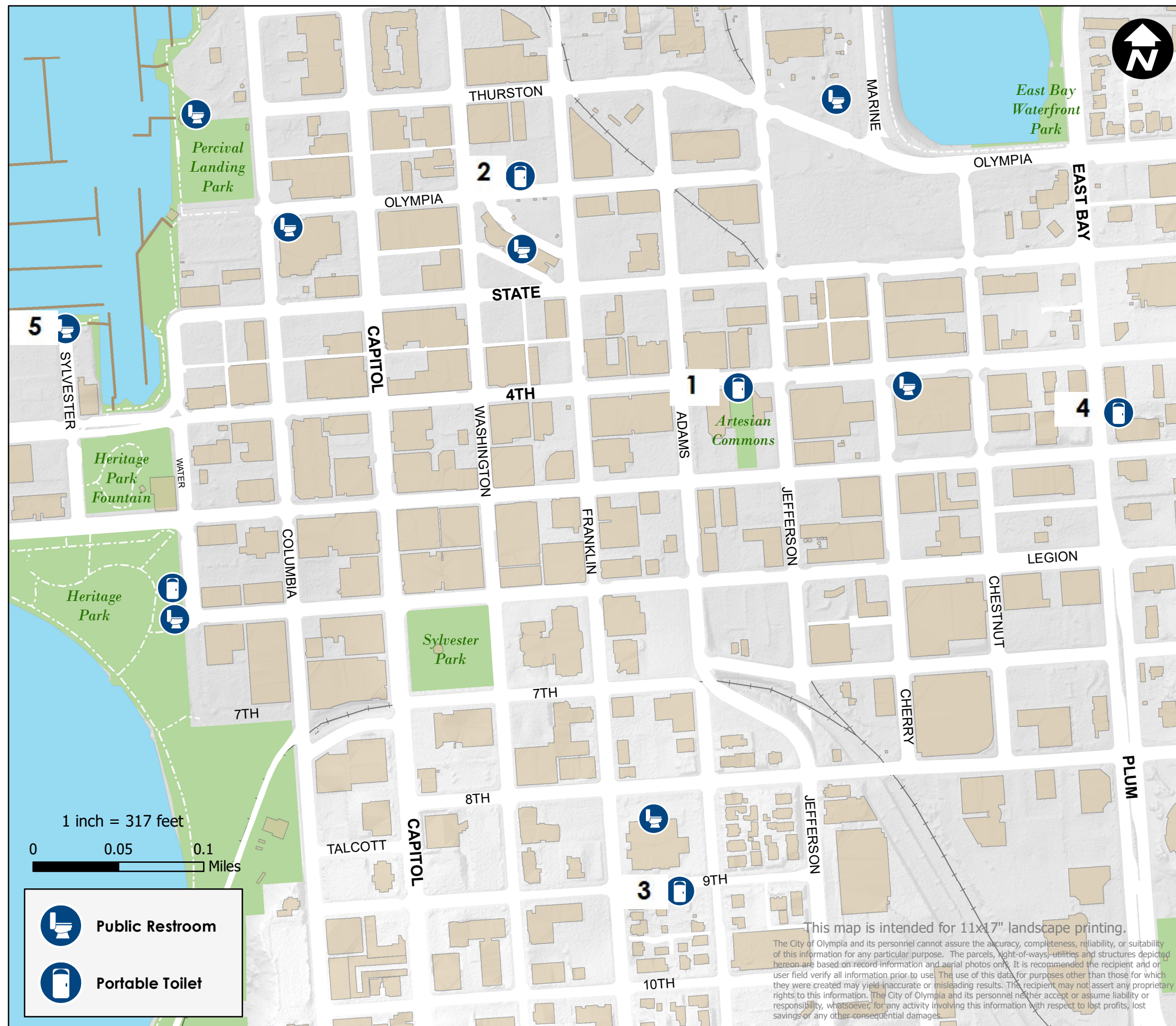
Under current conditions, the annual cost of continuing to operate and maintain the:

- Percival West restroom is \$80,600
- Olympia/Franklin portable restroom is \$29,100

Attachments:

Restroom map

Best Practices Chart



DOWNTOWN PUBLIC RESTROOMS

- **Percival Landing Harbor House**
217 Thurston Ave NW
M-Sa 8am-9pm & Su 9am-5pm
- **Olympia Center**
222 Columbia St NW
M-F 8am-10pm & Sa 8am-5pm
- 5 - **Percival Landing West**
126 Sylvester St NW
M-Su All Hours
- **Heritage Park | State Facility**
Water Street & Legion Way
M-Su 9pm-7am (Apr 1 - Jun 30)
- **Heritage Park | State Facility**
Water Street & Legion Way
M-Su 7am-9pm (Apr 1-Oct 31)
& *M-Su 7am-7pm (Nov 1-Mar 31)*
- **Intercity Transit**
222 State Ave NE
M-F 6:30am-7pm & Sa-Su 9am-7pm
- 2 - **Olympia Ave**
200 Olympia Ave NE
M-Su All Hours
- 1 - **Artesian Commons**
415 4th Ave E
M-Su All Hours
- **LOTT Eastbay Plaza**
325 Marine Dr NE
M-Su 10am-6pm (Starting Apr 1)
- **City Hall**
601 4th Ave E
M-F 8am-5pm
- 4 - **Salvation Army**
808 5th Ave SE
M-Su All Hours
- **Olympia Timberland Library**
313 8th Ave SE
M-T 11am-8pm, W-Th 11am-7pm,
F 10am-6pm, Sa 10am-5pm
- 3 - **Fertile Ground**
385 9th Ave SE
M-Su All Hours



Siting Public Restrooms Downtown

Draft. v Feb 1 2018

Legend		Pilots					Future Locations of Interest				
		Fertile Grounds (closed Fall '17)	Olympia Franklin	Salvation Army	Percival West	Artesian Commons	Welcome Center	Heritage Park Fountain	Pedestrian Corridors (Capitol Way / 4th Ave)	Salvation Army	Sylvester Park
Best Practices		✓ Best Practice									
		-- Satisfactory									
		(empty) Poor or not present									
Location:											
1	Vicinity is highly activated (pedestrians, café, storefront shops)			--		✓					
2	Specific location is visible (eyes on the street, see and be seen)		✓	--		✓					
3	Adjacent to Pedestrian, bike, transit, vehicle corridors			✓		✓					
4	Access to utilities	✓	✓	✓	✓	✓					
5	Neighboring establishment as potential partner	--		✓		✓					
Operations:											
6	Attendant is present (or staff onsite)					--					
7	Frequent cleaning	--	--	--	--	✓					
8	Maintenance plan (contract)					✓					
9	Security (contract)										
10	Consistent hours	✓	✓	✓		✓					
Facility Design:											
11	Clear and direct path to the facility		✓	--	✓	✓					
12	Good lighting		--		✓	✓					
13	Security cameras				✓	✓					
14	Lower legs of occupants are visible, you can hear their voices					✓					
15	Sized for single occupant only	✓	✓	✓	✓	✓					
16	Surfaces allow easy cleaning and graffiti removal					✓					
17	Effective Needle disposal system				--	✓					
18	Locks (allow for authorized/ emergency access)				✓	✓					
19	Handwashing stations (sinks outside, sanitizer inside)					✓					
20	All gender	✓	✓	✓	✓	✓					
21	Accessible	✓	✓	✓	✓	✓					
22	Directional signage & wayfinding										

Other Important Considerations:

- **How might the project impact Downtown Strategy priorities?** (Foster a clean, safe & welcoming downtown for all; Enhance downtown's unique character & qualities; Set the stage for a mixed income neighborhood; Create multi-modal transportation choices; Support a vibrant business environment; Encourage private investment)
- **What is the level of stakeholder support?** (potential partners; neighboring establishments; downtown businesses and agencies; general public)
- **Do we have capacity to properly operate and maintain this restroomover the long-term?**
- **Are City departments involved in siting, operating and responding to potential incidents at this location well coordinated?** (Community Planning & Development, Parks, Public Works, Police, Fire)



City Council

Approval of a Resolution to Accept a Funding Board Project Agreement with the Washington State Recreation and Conservation Office for the Woodruff Sprayground Project

Agenda Date: 4/10/2018
Agenda Item Number: 4.E
File Number: 18-0341

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

Title

Approval of a Resolution to Accept a Funding Board Project Agreement with the Washington State Recreation and Conservation Office for the Woodruff Sprayground Project

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the resolution for the grant agreement with Washington State Recreation and Conservation Office (RCO) for the Woodruff Sprayground, in the amount of \$446,380, and authorize the City Manager to execute the agreement.

Report

Issue:

Whether to accept the grant agreement terms and conditions for the Woodruff Park Sprayground project with RCO.

Staff Contact:

Paul Simmons, Director - Parks, Arts and Recreation, 360.753.8462

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The 2014 Parks Plan identified the need for new spraygrounds. In 2016, the City Council authorized staff to apply for a RCO matching grant to help fund a new sprayground at Woodruff Park. The City received the grant award with the passage of the capital budget by the State Legislature, in March of this year.

The grant requires a minimum of 50% matching funds. The Long Term Obligation of the agreement

requires the funded facilities to be available to the public in perpetuity.

The project includes a new sprayground, water treatment for the sprayground, new shelter, remodeling of the existing restrooms to meet ADA and other miscellaneous site improvements. Sprayground water will be stored in a 4,000 gallon underground storage tank and all water will be directed back to the storage tank. The water will be run through a treatment system that includes rapid sand filtration, Ultraviolet disinfection, chlorination and pH adjustment. The water will be replaced on a weekly basis. .

Neighborhood/Community Interests (if known):

During the grant application process in 2016, staff held a public meeting to discuss the project. The Northwest Neighborhood Association, as well as other groups, provided letters of support for the sprayground. In addition, the Parks and Recreation Advisory Committee supported the grant application and wrote a letter to RCO in support of the project.

Options:

1. Approve the resolution approving the Funding Board Agreement for the Woodruff Sprayground, in the amount of \$446,380, and authorize the City Manager to execute the agreement. The project proceeds as planned.
2. Do not approve the resolution and grant agreement and direct staff to either cancel the project or secure other funding to complete the project.

Financial Impact:

The Woodruff Sprayground is funded as follows:

Neighborhood Park Impact Fees (sprayground #2)	\$ 608,120
RCO Grant Agreement	\$ 446,380
RCO Acquisition Reimbursement Grant (BAN Proceeds)	\$ 110,000
ADA Transition Funds	\$ 51,000
Total Estimated Project Cost:	\$ 1,215,500

Attachments:

Resolution
Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
APPROVING A FUNDING BOARD PROJECT AGREEMENT BETWEEN THE CITY OF
OLYMPIA AND WASHINGTON STATE RECREATION AND CONSERVATION OFFICE FOR
WOODRUFF PARK SPRAYGROUND & PICNIC SHELTER.**

WHEREAS, The City of Olympia applied for and been awarded Washington State Recreation and Conservation grant funds for the Woodruff Park Sprayground & Picnic Shelter; and

WHEREAS, the City must sign and submit to the Washington State Recreation and Conservation Office Funding Board Project Agreement to receive grant funds in a total amount not to exceed \$446,380.00; and

WHEREAS, per Olympia Municipal Code Section 3.16.020(C), it is necessary for the City Council to approve the Funding Board Project Agreement and authorize the signature of all documents necessary to obligate funds for the Project;

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

1. The Olympia City Council hereby approves the attached form of Funding Board Project Agreement between the City of Olympia and Washington State Recreation and Conservation Office for the Woodruff Park Sprayground & Picnic Shelter and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the attached Funding Board Project Agreement, and any other documents necessary to obligate funds for the Woodruff Park Sprayground & Picnic Shelter, and to make any minor modifications as may be required and are consistent with the intent of the attached Funding Board Project Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

Funding Board Project Agreement

Project Sponsor: Olympia Parks, Arts & Recreation

Project Number: 16-1382D

Project Title: Woodruff Park Sprayground & Picnic Shelter

Approval Date: 2/1/2018

A. PARTIES OF THE AGREEMENT

This Funding Board Project Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and City of Olympia by and through the Olympia Parks, Arts & Recreation (Sponsor, and primary Sponsor), PO Box 1967, Olympia, WA 98507, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign an application to the funding board for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) (including indemnification and waiver of sovereign immunity as provided therein), (3) enter any amendments thereto on behalf of the Sponsors, and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative of all sponsors.

If a Sponsor wishes to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization, the Sponsor has the obligation to provide to RCO in writing a new Applicant Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, RCO will be entitled to rely upon the fact that the current Authorized Representative/Agent has the authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (see Section 11. PROJECT REIMBURSEMENTS).

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the Outdoor Recreation Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the Sponsor for the project named above per the director's authority granted in RCW 79A.25.020.

C. DESCRIPTION OF PROJECT

The City of Olympia will use this grant to construct a sprayground at Woodruff Park, located at 1500 Harrison Ave. NW in Olympia. Development will include the construction of the sprayground facility along with the remodel of an existing park restroom/utility building to support the sprayground. The project will also include construction of a covered picnic shelter, accessible walkways and accessible parking. Other elements include perimeter seating, utility relocation, irrigation and landscaping modifications and park furnishings. The primary recreation opportunity provided by the project will be active aquatic and local park outdoor recreation.

D. PERIOD OF PERFORMANCE

The period of performance begins on March 10, 2018 (project start date) and ends on October 31, 2020 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by WAC Titles 286, 420; or RCFB and/or SRFB policies published in RCO manuals as of the effective date of this agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

The Sponsor has obligations beyond this period of performance as described in Section F: Long-Term Obligations.

E. STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Project Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS

For this development and renovation project, the sponsor's on-going obligations shall be in perpetuity and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board. It is the intent of the funding board's conversion policy (see Section 25: Long-Term Obligations Of The Project Sponsors) that all lands acquired and/or facilities and areas developed, renovated, or restored with funding assistance remain in the public domain in perpetuity.

G. PROJECT FUNDING

The total grant award provided by the funding board for this project shall not exceed \$446,380.00. The funding board shall not pay any amount beyond that approved for grant funding of the project and within the funding board's percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
RCFB - WWRP - Local Parks	50.00%	\$446,380.00	State
Project Sponsor	50.00%	\$446,380.00	
Total Project Cost	100.00%	\$892,760.00	

H. FEDERAL FUND INFORMATION

This Agreement is not a federal subaward. This Agreement is funded with a grant from the State of Washington.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

J. AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and funding board policies applicable and active and published in RCO manuals or on the RCO Website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES

This agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including any applicable RCFB and/or SRFB policies published in RCO manuals or on the RCO Website as exist on the effective date of this Agreement and any amendments to this Agreement. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

L. SPECIAL CONDITIONS

1. Cultural Resources Survey Required.

Section 8 of this agreement requires compliance with Executive Order 05-05 and/or Section 106 of the National Historic Preservation Act. RCO has completed the initial consultation for this project and a cultural resources survey is required. The Sponsor must submit to RCO the survey and receive from RCO a Notice to Proceed before any ground disturbing activities can begin. Construction started without a Notice to Proceed will be considered a breach of contract. In the event that archaeological or historic materials are discovered while conducting ground disturbing activities, work in the immediate vicinity must stop and the Sponsor must ensure compliance with the provisions found in Section 8 of this agreement.

M. AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Project Contact

Name: David Okerlund
Title: Project Manager
Address: 601 4th Ave E
Olympia, WA 98501
Email: ksummers@ci.olympia.wa.us

RCO - RCFB

Dan Haws
Natural Resources Building
PO Box 40917
Olympia, Washington 98504-0917
dan.haws@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE

This Agreement, for project 16-1382D, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the RCO, whichever is later (effective date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in Section D: PERIOD OF PERFORMANCE are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE PROJECT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Olympia Parks, Arts & Recreation

By: _____

Date: _____

Name: (printed) _____

Title: _____

State of Washington, Recreation Conservation Office

On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)

By: _____

Date: _____

Kaleen Cottingham
Director
Recreation and Conservation Office

Pre-approved as to form:

By:  _____

Date: October 6, 2017

Assistant Attorney General

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Standard Terms and Conditions of the Project Agreement

Project Sponsor: Olympia Parks, Arts & Recreation
Project Title: Woodruff Park Sprayground & Picnic Shelter

Project Number: 16-1382D
Approval Date: 2/1/2018

SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

Agreement or project agreement – The document entitled “Funding Board Project Agreement” accepted by all parties to the present transaction, including without limitation these Standard Terms and Conditions of the Project Agreement, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Funding Board Project Agreement subject to any limitations on their effect.

applicant – Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the funding board.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

Boating Infrastructure Grant (BIG) – A program administered through the United States Fish and Wildlife Service.

C.F.R. – Code of Federal Regulations

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

education project – A project that provides information, education, and outreach programs for the benefit of outdoor recreationists.

education and enforcement project – A project that provides information, education, and outreach programs; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – 1) A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site, or 2) a project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The board that authorized the funds in this Agreement, either the Recreation and Conservation Funding Board (RCFB) created under RCW 79A.25.110, or the Salmon Recovery Funding Board (SRFB) created under RCW 77.85.110.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

maintenance – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation or salmon recovery.

maintenance and operation – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded in the county or counties where the project property is located that describes the grant funded project located on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning (RCFB projects only) – A project that results in one or more of the following: a study, a plan, construction plans and specifications, and permits to increase the availability of outdoor recreational resources.

planning (SRFB projects only) – A project that results in a study, assessment, project design, or inventory.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO on behalf of the funding board.

project area, RCFB – A geographic area that delineates a grant assisted site which is subject to project agreement requirements (WAC 286.04.010).

project area, SRFB – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (2 C.F.R. § 200.83 (2013)).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

RCO – Recreation and Conservation Office – The state office that provides administrative support to the Recreation and Conservation Funding Board and Salmon Recovery Funding Board. RCO includes the director and staff, created by RCW 79A.25.110 and 79A.25.150 and charged with administering this Agreement by RCW 77.85.110 and 79A.25.240.

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

restoration project – A project that brings a site back to its historic function as part of a natural ecosystem or improving the ecological functionality of a site.

restoration and enhancement project – A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting fish stocks.

RCFB – Recreation and Conservation Funding Board

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in Section G: Project Funding.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

useful service life – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

WAC – Washington Administrative Code.

SECTION 2. PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the funding board. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

SECTION 3. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

SECTION 4. RESPONSIBILITY FOR PROJECT

While the funding board undertakes to assist the Sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the Sponsor. The funding board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

SECTION 5. INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

This provision shall be included in any agreement between Sponsor and any contractors, subcontractor and vendor, of any tier.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the funding board or RCO. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of RCO, a funding board or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or Section 30B.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

SECTION 7. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

SECTION 8. COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the funding board. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law.
- B. Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.

- 1. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

- D. Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.

- E. Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- F. Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

SECTION 9. RECORDS

- A. Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in Section 11: PROJECT REIMBURSEMENTS. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. Public Records.** Sponsor acknowledges that the funding board is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04. Additionally, in compliance with RCW 77.85.130(8), Sponsor agrees to disclose any information in regards to expenditure of any funding received from the SRFB. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

SECTION 10. PROJECT FUNDING

- A. Authority.** This Agreement is funded through a grant award from the recreation and conservation funding board per WAC 286 and/or the salmon recovery funding board per WAC 420. The director of RCO enters into this Agreement per delegated authority in RCW 79A.25.020 and 77.85.120.
- B. Additional Amounts.** The funding board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the funding board or director and incorporated by written amendment into this Agreement.
- C. Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by funding board policy, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. Requirements for Federal Subawards.** Pre-Agreement costs before the federal award date in Section H: FEDERAL FUND INFORMATION are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- E. After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the funding board may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

SECTION 11. PROJECT REIMBURSEMENTS

- A. Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in Section G: PROJECT FUNDING. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recently published/adopted RCO policies and procedures regarding reimbursement requirements.
- C. Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
 - 1. All approved or required activities outlined in the Agreement are done;
 - 2. On-site signs are in place (if applicable);
 - 3. A final project report is submitted to and accepted by RCO;
 - 4. Any other required documents and media are complete and submitted to RCO;

5. A final reimbursement request is submitted to RCO;
6. The completed project has been accepted by RCO;
7. Final amendments have been processed;
8. Fiscal transactions are complete, and
9. RCO has accepted a final boundary map, if requested by RCO, for which the Agreement terms will apply in the future.
10. Notice of Grant (if applicable) filed with the county lands records office and a stamped copy received by RCO

E. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:

1. Are verifiable from the non-Federal entity's (Sponsor's) records;
2. Are not included as contributions for any other Federal award;
3. Are necessary and reasonable for accomplishment of project or program objectives;
4. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION of this Agreement; and
7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.

F. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:

1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.

4. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

SECTION 12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements. See WAC 420-12.

SECTION 13. RECOVERY OF PAYMENTS

- A. Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.
- C. Requirements for Federal Subawards.** RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

SECTION 14. COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

SECTION 15. INCOME (AND FEES) AND USE OF INCOME

RCFB Projects. See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

- A. Income.**
 1. **Farm and Forest Account (Farmland and Forestland Preservation Grants).** Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
 2. **Firearms and Archery Range Recreation Projects.** Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).
 3. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any policies adopted by the RCFB or SRFB.

- B. Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
1. The Sponsor's matching resources;
 2. The project's total cost;
 3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant;
 4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 5. Capital expenses for similar acquisition and/or development and renovation; and/or
 6. Other purposes explicitly approved by RCO
- C. Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored with funding board grants if the fees are consistent with the:
1. Grant program laws, rules, policies, and funding board policies;
 2. Value of any service(s) furnished;
 3. Value of any opportunities furnished; and
 4. Prevailing range of public fees in the state for the activity involved.
- D. Requirements for Federal Subawards.** Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

SECTION 16. PROCUREMENT REQUIREMENTS

- A. Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
1. Publish a notice to the public requesting bids/proposals for the project;
 2. Specify in the notice the date for submittal of bids/proposals;
 3. Specify in the notice the general procedure and criteria for selection; and
 4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

B. Requirements for Federal Subawards.

1. For all Federal subawards except RTP projects, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
2. For RTP subawards, Sponsors follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)). State procurement policies are in subsection A of this section.

SECTION 17. TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in published funding board policies, or approved by RCO in writing.

A. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.

B. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.

C. Requirements for Federal Subawards. Except in the RTP, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
4. Adequate maintenance procedures must be developed to keep the property in good condition.
5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

D. Requirements for RTP Subawards.

1. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

2. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

SECTION 18. RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 23.C: Control and Tenure has been executed, it will further stipulate and define the funding board and RCO's right to inspect and access lands acquired or developed with funding board assistance.

SECTION 19. STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in funding board policy, this Agreement, or as otherwise directed by RCO consistent with existing policies. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the funding board.

SECTION 20. PREFERENCES FOR RESIDENTS

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

SECTION 21. ACKNOWLEDGMENT AND SIGNS

A. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.

B. Signs.

1. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless exempted in funding board policy or waived by the director; and
2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.

C. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.

D. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:

1. The fund source;
2. The percentage of the total costs of the project that is financed with federal money;

3. The dollar amount of federal funds for the project; and
4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

SECTION 22. PROVISIONS FOR BOATING PROJECT GRANTS

If requested by RCO, or required per state or federal law or rule with respect to any project or project element that supports recreational boating, Sponsor shall manage the project or project element per federal rules to include 2 C.F.R. Part 200, and place a United States Coast Guard (or other federal agency) logo and funding program information at the project site.

SECTION 23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is for construction of land or facilities in a development, maintenance, renovation or restoration project:

- A. Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted by the board and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration (WAC 286.13.130). It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
 1. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the funding board or RCO must receive prior written approval of the board or RCO.
- C. Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise approved by the board.
- D. Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:

"During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- E. Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009; “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.

SECTION 24. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition project (including projects with any acquisition component):

- A. Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to funding board policy.
- B. Evidence of Title.** The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
- D. Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document conveying certain rights and responsibilities to RCO, on behalf of the State of Washington. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the funding board project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- 1. Deed of Right.** The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. See WAC 286 or 420. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - 2. Assignment of Rights.** The Assignment of Rights document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - 3. Easements and Leases.** The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.

E. Real Property Acquisition and Relocation Assistance.

- 1. Federal Acquisition Policies.** When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended, and applicable regulations and procedures of the federal agency implementing that Act.
- 2. State Acquisition Policies.** When state funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
- 3. Housing and Relocation.** In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the Sponsor agrees to provide any housing and relocation assistance required.

F. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with Section 8.D Archeological and Cultural Resources.

G. Hazardous Substances.

- 1. Certification.** The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - a.** No hazardous substances were found on the site, or
 - b.** Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
- 2. Responsibility.** Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
- 3. Hold Harmless.** The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

H. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).

SECTION 25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. Long-Term Obligations of RCFB Projects.** Sponsor shall comply with WAC 286-13-160, 170, and 180.
- B. Long-Term Obligations of SRFB Projects.** Sponsor shall comply with WAC 420.
- C. Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by policy, program rules, or this Agreement, or approved in writing by RCO or the funding board, RCO requires that the project area continue to function as intended after the period of performance in perpetuity.
- D. Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. Also see WAC Title 286 or 420 and applicable policies. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the funding board through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon this Agreement, applicable law and RCFB/SRFB policies.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided in this Agreement, by funding board policy, other RCO approved written documents, or required by applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per established funding board policies, and the board or RCO may pursue such remedies as are allowed by law and board policies, and/or this Agreement.

SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition, development, maintenance, renovation, or restoration project:

- A. Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with funding board funds, including undeveloped sites, are built, operated, used, and maintained:
 - 1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - 2. In a reasonably safe condition for the project's intended use;
 - 3. Throughout its estimated useful service life so as to prevent undue deterioration;
 - 4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. Open to the public.** Unless otherwise specifically provided for in the Agreement of funding board policies, and in compliance with applicable statutes, rules, and funding board policies, facilities must be open and accessible to the general public, and must:

1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the board, or by RCO in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

SECTION 27. RECORDED NOTICE OF GRANT

At the request of RCO, Sponsor shall record a notice of grant on the property and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to ensure that the present and future use of the facility is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

SECTION 28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate Sponsor, including any nonprofit Sponsor, shall:

- A. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
- B. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
- C. Maintain sites or facilities open to the public and may not limit access to members.

SECTION 29. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section H: FEDERAL FUND Information:

- A. **Sub-Recipient** (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- B. **Binding Official.** Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

C. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- 1. Federally Assisted Construction Contract.** The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- 2. Construction Work.** The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

D. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in Section H: Federal Fund Information.

The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: Federal Fund Information.

- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- F. Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).
- H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

- I. Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- J. Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- K. Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- L. Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

SECTION 30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS

- A. Use of Sport Fish Restoration Logo.** Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

SECTION 31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Firearms and Archery Range Recreation Account.

- A. Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- B. Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.

- C. Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement in Section F. LONG-TERM OBLIGATIONS.
- D. Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- E. Government Agencies.** The requirement of Subsection A through D above shall not apply if the Sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the funding board.
- F. Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

SECTION 32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS ONLY

If the project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), the "Project Agreement General Provisions" of the LWCF are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

SECTION 33. PROVISIONS FOR FARM AND FOREST ACCOUNT PROJECTS (FARMLAND AND FORESTLAND PRESERVATION PROJECTS ONLY)

The following sections will not apply to Farmland and Forestland Preservation Projects if covered separately in a recorded RCO approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- A.** Section 15 - Income and Income Use;
- B.** Section 19 - Stewardship and Monitoring;
- C.** Section 21 - Acknowledgement and Signs;
- D.** Section 24 -- Provisions Applying To Acquisition Projects, Sub-sections D, F, and G;
- E.** Section 25C -Perpetuity; and
- F.** Section 26 -- Construction, Operation, Use and Maintenance of Assisted Projects.

SECTION 34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS ONLY

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

SECTION 35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded in part or wholly from the Puget Sound Acquisition and Restoration program.

The Sponsor agrees to the following terms and conditions:

- A. Cost Principles/Indirect Costs For State Agencies.** GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- B. Credit and Acknowledgement.** In addition to Section 21: Acknowledgement and Signs, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- C. Hotel Motel Fire Safety Act.** Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.
- D. Drug Free Workplace Certification.** Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- E. Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- F. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA).** This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement.

"You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award."

The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term.

The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.

- G. Lobbying.** The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities.

The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure.

All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- H. Reimbursement Limitation.** If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- I. Disadvantaged Business Enterprise Requirements.** The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- J. Minority and Women's Business Participation.** Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows:

Purchased Goods 8% MBE 4% WBE

Purchased Services 10% MBE 4% WBE

Professional Services 10% MBE 4% WBE

Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.

3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

K. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

1. There are any funds budgeted in the contractual/services, equipment or construction lines of the award;
2. \$3,000 or more is included for supplies; or
3. There are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as
4. Described in items (a) and (b).

When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form.

MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions.

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

L. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.
6. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.

M. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:

1. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
2. Disclosure of Lobbying Activities, SF LLL: http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
3. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

N. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices).

Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information.

As of January 1, 2014, the limit is \$602.24 per day \$75.28 per hour.

- O. Peer Review.** Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- P. International Travel (Including Canada).** All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.
- Q. Unliquidated Obligations (ULO).** Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

SECTION 36. ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

1. Federal law and binding executive orders;
2. Code of federal regulations;
3. Terms and conditions of a grant award to the state from the federal government;
4. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
5. State law (constitution, statute);
6. Washington Administrative Code;
7. Funding board or RCO policies.

SECTION 37. LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

SECTION 38. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

SECTION 39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The funding board and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SECTION 40. SPECIFIC PERFORMANCE

The funding board and RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement and/or enforcement of long-term obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the funding board or RCO shall be deemed exclusive. The funding board or RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

SECTION 41. TERMINATION AND SUSPENSION

The funding board and RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and all funding board and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by the funding board. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause.

1. The funding board or the director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the funding board or director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
2. Prior to termination, the RCO or the funding board shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director or board approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights of Remedies of the RCO.

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
2. In the event this Agreement is terminated by the funding board or director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the funding board or director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. Non Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

SECTION 42. DISPUTE HEARING

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the funding board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board's chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

SECTION 43. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

SECTION 44. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington . In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington .

SECTION 45. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR

In the cases where this Agreement is between the funding board (which includes the State of Washington for purposes of this Agreement) and a federally recognized Indian Tribe, the following terms and conditions apply, but only between those parties:

- A.** Notwithstanding the above venue provision, if the State of Washington intends to initiate legal action against a federally recognized Indian tribe relating to the performance, breach, or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such an action in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such action in federal court, otherwise the State may sue the Tribe in the Thurston County Superior Court, or such other superior court where venue is proper, if not proper in Thurston County. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the State may bring suit in Thurston County Superior Court or such other superior court where venue is proper, if not proper in Thurston County.
- B.** Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such actions under subsection A above, shall be binding and enforceable on the parties. Any money judgment or award against a Tribe, tribal officers, or employees, or the State of Washington, its agencies, or its officers and employees may exceed the amount of funding awarded under this Agreement.
- C.** As requested by RCO, the Tribe shall provide to RCO its governing requirements and procedures for entering into Agreement with RCO and waiving its sovereign immunity. In addition, the tribe shall provide to RCO all authorizations the Tribe requires to authorize the person(s) signing the Agreement on the Tribe's behalf to bind the Tribe and waive the Tribe's sovereign immunity as provided herein .

- D. The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purposes of allowing the State to bring and prosecute to completion such actions relating to the performance, breach, or enforcement of this Agreement as provided in subsection A above, and to bring actions to enforce any judgment arising from such actions. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the funding board, the RCO, and any other state agencies as the term "agency" is broadly understood to include, but not be limited to, departments, commissions, boards, divisions, bureaus, committees, offices, councils, societies, etc.

SECTION 46. SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

Eligible Scope Activities

Project Sponsor: Olympia Parks, Arts & Recreation
Project Title: Woodruff Park Sprayground & Picnic Shelter
Program: WWRP - Local Parks

Project Number: 16-1382
Project Type: Development
Approval: 2/1/2018

Project Metrics

Sites Improved

Project acres developed:

0.23

Woodruff Park is 2.46 acres in size. The area encompassed by the new sprayground, picnic shelter extension and sidewalks is approximately .23 acre.

Project acres renovated:

0.00

Development Metrics

Worksite #1, Woodruff Park Sprayground & Picnic Shelter

Buildings and Structures

Construct / install restroom

Number of restrooms:

0 new, 1 renovated

The existing restroom/storage building has 4 individual non-ADA accessible restrooms. This project will combine two of the existing restrooms to create one fully ADA-compliant unisex restroom.
Restroom

Select the restroom type :

Construct pool mechanical building

Number of mechanical buildings:

0 new, 1 renovated

General Site Improvements

Construct picnic shelter

Number of group picnic shelters:

1 new, 0 renovated

The 540 FS picnic shelter will be an addition onto the south side of the existing restroom/storage building that is being renovated.

Develop circulation paths or access routes

Select the surface of the path/walkway:

Asphalt, Concrete

Linear feet of path/walkway:

350

Lighting provided (yes/no):

No

Number of walkway bridges:

0 new, 0 renovated

Install site furnishings

Landscaping improvements

Acres of landscaped area :

0.00

Select the landscape features:

Grass/turf, Irrigation

Site Preparation

General site preparation

Swimming Facilities

Spray park development

Number of sprayparks/water play areas:

1 new, 0 renovated

Eligible Scope Activities

Utilities

Install sewage system

Number of dump stations:

0 new, 0 renovated

Select the sewer utilities:

Sewer connection

Install stormwater system

Select the stormwater utilities:

Stormwater line

An 8" PVC stormwater line and a Type 2 Drywell will be installed.

Install water system

Select the water utilities:

Water line

Cultural Resources

Cultural resources

Permits

Obtain permits

Architectural & Engineering

Architectural & Engineering (A&E)

Milestone Report By Project

Project Number: 16-1382 D
Project Name: Woodruff Park Sprayground & Picnic Shelter
Sponsor: Olympia Parks, Arts & Rec
Project Manager: Dan Haws

X	!	Milestone	Target Date	Comments/Description
		Project Start	03/10/2018	
		Design Initiated	03/31/2018	
	!	Progress Report Due	07/31/2018	
	!	Annual Project Billing Due	07/31/2018	
		60% Plans to RCO	11/30/2018	
	!	Progress Report Due	12/31/2018	
	!	Cultural Resources Complete	02/28/2019	Survey required, see special condition #1.
		Applied for Permits	02/28/2019	
		SEPA/NEPA Completed	02/28/2019	
		All Bid Docs/Plans to RCO	03/31/2019	
		Bid Awarded/Contractor Hired	04/30/2019	
	!	Construction Started	05/31/2019	
	!	Progress Report Due	06/30/2019	
	!	Annual Project Billing Due	07/31/2019	
		50% Construction Complete	12/31/2019	
	!	Progress Report Due	12/31/2019	
		RCO Interim Inspection	01/01/2020	
	!	Progress Report Due	06/30/2020	
		Funding Acknowl Sign Posted	08/31/2020	
		RCO Final Inspection	08/31/2020	
		Construction Complete	08/31/2020	
		Final Billing Due	09/30/2020	
		Final Report Due	10/31/2020	
	!	Agreement End Date	10/31/2020	

X = Milestone Complete

! = Critical Milestone



City Council

Approval of a Resolution Authorizing an Inter-fund Loan for Fire Vehicle Funding

Agenda Date: 4/10/2018
Agenda Item Number: 4.F
File Number: 18-0344

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

Title

Approval of a Resolution Authorizing an Inter-fund Loan for Fire Vehicle Funding

Recommended Action

Committee Recommendation:

Not referred to a Committee.

City Manager Recommendation:

Move to approve the resolution authorizing an Inter-fund loan of up to \$300,000, from the General Fund to the Fire Equipment Reserve Fund.

Report

Issue:

Whether to approve a resolution authorizing an inter-fund loan from the General Fund to the Fire Equipment Reserve Fund for fire vehicle funding.

Staff Contact:

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

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The 2018 Fire Equipment Reserve Fund budget is \$590,016. The budget anticipated short-term borrowing finance in part of the budget appropriation. Staff is requesting authorization for an inter-fund loan up to \$300,000 from the General Fund to the Fire Equipment Reserve Fund. The loan will be repaid from future contributions to the Fire Equipment Reserve Fund from the General Fund. Currently, the General Fund is contributing \$200,000 a year to the Fire Equipment Reserve Fund. The loan would include an interest rate of 1.5%, which is about what the City is currently receiving from investment with the State of Washington, Local Government Investment Program.

Neighborhood/Community Interests (if known):

None noted.

Options:

- 1) Move to approve the resolution.
- 2) Direct staff to make changes to the resolution.
- 3) Do not approve the resolution.

Financial Impact:

Provides up to \$300,000 for the purchase of fire vehicles. The loan will be repaid from future funding of the Fire Equipment Reserve Fund.

Attachments:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
AUTHORIZING AN INTER-FUND LOAN FROM THE GENERAL FUND TO THE FIRE EQUIPMENT
RESERVE FUND FOR THE PURCHASE OF VEHICLES.**

WHEREAS, the 2018 budget for fire vehicle purchases included short-term debt funding of up to three hundred thousand dollars (\$300,000); and

WHEREAS, the General Fund annually provides for transfers to the Fire Equipment Reserve Fund which can be used to pay the short-term debt;

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

1. The Administrative Services Director is authorized to make an inter-fund, interest bearing loan from the General Fund in the amount not to exceed three hundred thousand dollars (\$300,000) to the Fire Equipment Reserve Fund. Interest due at the time of payment of the loan. Interest shall be at an annual rate of one and one half percent (1.5%).
2. Draws on the loan may be made on any business day. The loan shall be paid in full no later than three (3) years from the date of the first draw. The loan may be pre-paid in full or partially without penalty at any time.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____, 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



City Council

Approval of a Resolution Approving the Terms and Conditions of an Attorney Engagement and Contingency Fee Agreement to Pursue the City's Claims for Opioid Misuse, Abuse and Over-Prescription

Agenda Date: 4/10/2018
Agenda Item Number: 4.G
File Number: 18-0355

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

Title

Approval of a Resolution Approving the Terms and Conditions of an Attorney Engagement and Contingency Fee Agreement to Pursue the City's Claims for Opioid Misuse, Abuse and Over-Prescription

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution Approving the Terms and Conditions of an Attorney Engagement and Contingency Fee Agreement and proceed with opioid litigation.

Report

Issue:

Whether to enter into an Attorney Engagement and Contingency Fee Agreement and pursue the City's claims for opioid misuse, abuse and over-prescription.

Staff Contact:

Mark Barber, City Attorney, 360.753.8338

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The United States and the City of Olympia are currently experiencing an epidemic and public health crisis unlike any seen before due to the misuse, abuse and over-prescription of opioids. As a result of the flood of opioids into this country, cities like Olympia have had to deal with the crippling effects of widespread opioid addiction. The Centers for Disease Control and Prevention ("CDC") recently estimated that the total economic burden of prescription opioid abuse costs the United States \$78.5

billion per year, which includes significantly increased costs for health care and addiction treatment, dramatic increases in strains on human services and the criminal justice systems, as well as substantial losses in work force productivity.

Drug manufacturers of opioids represented to physicians and the public that opioids were safe and effectively treated pain, with a low risk of addiction. However, for many of those prescribed opioids, the consequences have been severe. More than 1,000 people are admitted every day to emergency rooms across the country because of opioid-related abuse. Naloxone, a costly medication used to block and reverse the effects of an opioid overdose, is now routinely carried by law enforcement and EMTs. Further, individuals addicted to opioids, but without a prescription or the resources to obtain them, have turned to heroin, sparking another crisis directly related to the widespread abuse of opioids.

Pharmaceutical manufacturers and others made and continue to make false and misleading statements about the benefits and risks of opioids through a well-funded marketing and advertising scheme to doctors, patients, and the public-including doctors and patients in the City of Olympia-despite knowing there was little to no evidence to support their claims. As a result of these false and misleading statements, Olympia has suffered significant economic damages, including but not limited to costs related to responding to and dealing with opioid-related crimes and emergencies-most notably borne by the Olympia Police and Olympia Fire Departments-and other significant public safety costs.

The law firm of Keller Rohrback, L.L.P. is representing several jurisdictions in Washington State, including Thurston County, in ongoing litigation with respect to potential claims against the manufacturers and wholesalers of prescription opioid painkillers and other related defendants. The attached Attorney Engagement and Contingency Fee Agreement outlines the terms and conditions of Keller Rohrback, L.L.P.'s potential representation of the City of Olympia and pursuing the City's claims for opioid misuse, abuse and over-prescription.

Neighborhood/Community Interests (if known):

As a result of the conduct of the pharmaceutical manufacturers, the City and the public have been injured in their business and/or property in multiple ways, including but not limited to increased health care costs, increased human services costs, costs related to dealing with opioid-related crimes and emergencies, and other public safety costs. The City and the public are entitled to bring an action for damages, as well as injunctive/equitable relief, costs, and reasonable attorney's fees.

Options:

1. Approve the resolution approving the terms and conditions of an Attorney Engagement and Contingency Fee Agreement to proceed with opioid litigation.
2. Direct staff to modify the resolution.
3. Do not approve the resolution.

Financial Impact:

To be determined.

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

Attachments:

Resolution

Attorney Engagement and Contingency Fee Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE TERMS AND CONDITIONS OF AN ATTORNEY ENGAGEMENT AND CONTINGENCY FEE AGREEMENT WITH THE LAW FIRM KELLER ROHRBACK, L.L.P., AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID FEE AGREEMENT TO PURSUE THE CITY'S CLAIMS FOR OPIOID MISUSE, ABUSE AND OVER-PRESCRIPTION.

WHEREAS, the United States and the City of Olympia are currently experiencing an epidemic and public health crisis unlike any seen before due to the misuse, abuse and over-prescription of opioids; and

WHEREAS, since the mid-1990s, sales of opioids have increased almost ten-fold, revenues for the pharmaceutical companies that manufacture these drugs have skyrocketed, opioids have become the most prescribed class of drugs in America, and in 2016 alone, health care providers wrote more than 289 million prescriptions for opioid pain medication, enough for every adult in the United States to have more than one bottle of pills; and

WHEREAS, as a result of the flood of opioids into this country, cities like Olympia have had to deal with the crippling effects of widespread opioid addiction, and the Centers for Disease Control and Prevention ("CDC") recently estimated that the total economic burden of prescription opioid abuse costs the United States \$78.5 billion per year, which includes significantly increased costs for health care and addiction treatment, dramatic increases in strains on human services and the criminal justice systems, as well as substantial losses in work force productivity; and

WHEREAS, the cost in human lives is even more staggering, as opioids are the leading cause of accidental deaths in the country, surpassing deaths caused by car accidents, and exposure to these dangerous drugs comes through purportedly legitimate prescriptions written by doctors and dentists, making this an epidemic like no other; and

WHEREAS, drug manufacturers of opioids represented to physicians and the public that opioids were safe and effectively treated pain, with a low risk of addiction but for many of those prescribed opioids, the consequences have been severe, and every day more than 1,000 people are admitted to emergency rooms across the country because of opioid-related abuse. Naloxone, a costly medication used to block and reverse the effects of an opioid overdose is now routinely carried by law enforcement and EMTs; further, individuals addicted to opioids, but without a prescription or the resources to obtain them, have turned to heroin, sparking another crisis directly related to the widespread abuse of opioids; and

WHEREAS, the epidemic is not a coincidence, but is the direct result of a sophisticated and well-developed marketing scheme by pharmaceutical companies and others to sell drugs that have little or no demonstrated efficacy for the pain they are purported to treat in the majority of persons who receive prescriptions for them. Despite minimal or arguably no scientific evidence indicating that opioids offer any long-term benefit in treating chronic pain, manufacturers have misleadingly advertised their opioids as a panacea and pushed hundreds of millions of pills into the marketplace for consumption, fueling a crisis of unprecedented levels; and

WHEREAS, this crisis arose because pharmaceutical manufacturers and others told physicians and the public, through a well-orchestrated marketing campaign, that the risk of addiction to prescription opioids was low when opioids were prescribed to treat chronic pain, and pharmaceutical companies misrepresented research and manipulated data to make opioids appear safe, by among other things, widely invoking a one-paragraph letter to the editor published in the New England Journal of Medicine ("NEJM") in 1980 that declared the incidence of addiction was "rare" for patients treated with opioids; and

WHEREAS, pharmaceutical manufacturers and others made and continue to make false and misleading statements about the benefits and risks of opioids, and do so through a well-funded marketing and advertising scheme to doctors, patients, and the public—including doctors and patients in the City of Olympia—despite knowing that there was little to no evidence to support their claims. As a result of these false and misleading statements, Olympia has suffered significant economic damages, including but not limited to costs related to responding to and dealing with opioid-related crimes and emergencies—most notably borne by the Olympia Police and Olympia Fire Departments—and other significant public safety costs;

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

1. The Olympia City Council hereby agrees to and approves the terms and conditions of the proposed Attorney Engagement and Contingency Fee Agreement with the law firm, Keller Rohrbach, L.L.P.
2. The City Manager is directed and authorized to execute the Attorney Engagement and Contingency Fee Agreement with the law firm, Keller Rohrbach, L.L.P., on behalf of the City of Olympia. The City Manager is also authorized to modify any terms consistent with the intent expressed by the Olympia City Council in this Resolution, and to correct any scrivener's errors in said Attorney Engagement and Contingency Fee Agreement, as may be required.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of April, 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



ATTORNEY ENGAGEMENT & CONTINGENCY FEE AGREEMENT

It is HEREBY ACKNOWLEDGED AND AGREED by and between the **City of Olympia** ("Client") and **Keller Rohrbach L.L.P.** ("Attorneys") as follows:

1. **Employment.** Client hereby retains Attorneys to represent Client with respect to potential claims against the **manufacturers and wholesalers of prescription opioid painkillers and other related defendants as agreed between Client and Attorneys.** Attorneys will assist Client in gathering information and data relevant to Client's potential claims. Attorneys will also advise Client with respect to those potential claims. At Client's request, Attorneys will institute proceedings to seek remedies on Client's behalf as Client and Attorneys conclude is appropriate and advisable ("the Lawsuit").
2. **Responsibility of Attorneys.** Although the individual attorneys listed below will be primarily responsible to represent Client in this matter, other members of Keller Rohrbach may work on Client matters in accordance with their areas of practice. The primary attorneys representing Client are Derek Loeser, David Ko, and Daniel Mensher. Attorneys will consult with Client in connection with any settlement proposal before accepting same.
3. **Responsibility of Client.** Client will maintain control of the litigation. Client agrees to timely comply with Attorneys' request. Client agrees to advise Attorneys of all facts, knowledge, or information relevant to Attorneys' representation of Client, including facts, knowledge, or information which come to Client's attention after execution of this Agreement.
4. **Client Representative.** Client designates Mark Barber, City Attorney for the City of Olympia, to be the Client's Representative. The Client's Representative is responsible for receiving all communications from Attorneys and transmitting all communications from Client to Attorneys. Client agrees that Attorneys may rely on Client's Representative's statements as an accurate reflection of Client's position and desires. Attorneys agree to keep the Client's Representatives informed of all significant developments regarding the representation.
5. **Attorneys' Fees.** Other than as set forth in Paragraph 8, below, the fees that Client agrees to pay Attorneys ("Attorneys' Fee" or "Attorneys' Fees") will depend on the outcome of the Lawsuit, as set forth here:
 - a. "Sums Recovered" means all monies (and the value of any other property) actually paid in settlement of or judgment on the Lawsuit's claims (including the settlement of any demand made by Attorneys on Client's behalf before initiation of the Lawsuit), including any monies paid in settlement or judgment as an award of attorneys' fees, costs, or interest.
 - b. If the Sums Recovered is an amount less than or equal to \$10 million, the Attorneys' Fee shall be 20% of the recovery;

- c. If the Sums Recovered is an amount greater than \$10 million but less than or equal to \$20 million, the Attorneys' Fee shall equal the amount specified in Section 5(b) above, plus 18% of any Sums Recovered in the \$10 million to \$20 million range.
- d. If the Sums Recovered is an amount greater than \$20 million but less than or equal to \$25 million, the Attorneys' Fee shall equal the amount specified in Sections 5(b) and 5(c) above, plus 15% of any Sums Recovered in the \$20 million to \$25 million range.
- e. If the Sums Recovered is an amount in excess of \$25 million, the Attorneys' Fee shall equal the amount specified in Sections 5(b), 5(c), and 5(d) above, plus 10% of any Sums Recovered in excess of \$25 million.
- f. Notwithstanding anything herein to the contrary, Attorneys agree to cap the Attorneys' Fee at five times the total lodestar (number of hours times hourly rate), to be calculated at the conclusion of the Lawsuit.
- g. If the Lawsuit proceeds to trial and the court awards Client a monetary judgment and an attorneys' fee, and the attorneys' fee is greater than the percentage Attorneys would be entitled to under Section 5(a)-(e), then Attorneys will be entitled to the full attorneys' fee awarded by the Court.

NO ATTORNEYS' FEES SHALL BE PAID IF NO RECOVERY IS MADE.

- 6. **Advice Concerning Attorneys' Fee.** Client has been informed of the alternative of employing Attorneys on an hourly fee basis. This alternative would require the payment of a \$25,000 retainer at commencement of the representation, payment of costs as incurred, and payment of legal fees each month for legal services. In deciding to engage Attorneys on a contingency fee basis, Client has considered the risks involved in this case, the experience and reputation of Attorneys, and the uncertainty regarding the number of hours required to prosecute the case.
- 7. **Costs.** Attorneys will advance all "out-of-pocket" costs, fees, and expenses incurred by Attorneys in pursuing the Lawsuit ("Costs"). Notwithstanding the foregoing, Attorneys agree to notify and obtain Client's consent before incurring Costs aggregating more than \$10,000 in any single month.

Client understands that Attorneys shall seek reimbursement from defendants for all Costs actually expended, but that there is no guarantee that Costs will be reimbursed by the defendants to Attorneys. Attorneys will be reimbursed for all Costs out of any settlement or recovery in addition to any Attorneys' Fees they receive under Paragraphs 5 or 8, as the case may be. Attorneys shall be reimbursed for Costs first, from any monies paid by a defendant on account of Cost reimbursement and, if such monies are insufficient, from any monies paid as part of the Sums Recovered.

Attorneys may, with Client's prior consent, which shall not unreasonably be withheld, hire any expert or consultant whose services Attorneys advises Client is necessary for the evaluation or prosecution of any of the claims within the scope of the Lawsuit.

8. **Withdrawal or Discharge.** Subject to Court rules and other applicable laws, Attorneys shall have the right to withdraw from representation of Client upon giving reasonable notice of the intention to withdraw. In the event of withdrawal of Attorneys or discharge of Attorneys by Client, Attorneys may seek reasonable fees for services rendered according to the terms of Paragraph 5, above. Client shall have the right to discharge Attorneys at any time. If Client discharges Attorneys, Attorneys retain the right to seek reasonable fees for services rendered according to the terms of Paragraph 5, above.
9. **Venue and Attorneys' Fees.** The Parties agree that in the event any dispute should arise with respect to this Agreement, venue shall lie in Seattle, Washington. Further, the prevailing party in such an action shall be awarded reasonable costs and attorneys' fees.
10. **Outcome.** Attorneys do not guarantee or represent a particular result in this Lawsuit. Client understands the risks associated with pursuing this Lawsuit.
11. **No Other Agreements.** Client has read this contract, has received a copy of it, and agrees to its terms and conditions. There are no oral or other agreements between Client and Attorneys. This Agreement when signed below by Client replaces any prior understandings or oral agreement between Client and Attorneys.
12. **Governing Law.** This Agreement and all aspects of the Parties' relationship shall be construed under the laws of the State of Washington, without regard to choice of law principles.
13. **Other Provisions.** This Agreement may be executed in one or more counterparts and transmitted by mail, overnight delivery service, and/or email, each one of which shall constitute an original and all of which shall constitute one and the same document.

DATED: _____

CITY OF OLYMPIA

Steven R. Hall, City Manager

APPROVED AS TO FORM



Mark Barber, City Attorney

CLIENT NAME PRINTED

ACCEPTED: Keller Rohrback L.L.P.

By: _____

DATED: _____



City Council

Approval of an Ordinance Authorizing Acceptance of Drebeck Investments, LLC's Right-of-Way Dedication Donation

Agenda Date: 4/10/2018
Agenda Item Number: 4.H
File Number: 18-0288

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

Title

Approval of an Ordinance Authorizing Acceptance of Drebeck Investments, LLC's Right-of-Way Dedication Donation

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve on second reading an ordinance accepting Drebeck Investment, LLC's right-of-way dedication property donation.

Report

Issue:

Whether to accept a real property donation from Drebeck Investments, LLC consisting of a right-of-way dedication.

Staff Contact:

Rich Hoey, Public Works Director, 360.753.8495

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

Background and analysis has not changed from first to second reading.

The Public Works Department (PW) received an offer from Drebeck Investments, LLC to donate a twenty (20) foot right-of-way along Legion Way that had previously been vacated by Ordinance No. 138. This donation of an interest in real property, consisting of public right-of-way and associated uses, will serve a public purpose and is in the public interest. The area of the right-of-way currently features a sidewalk for pedestrians.

There are no terms or conditions attached to this donation by the donor.

Neighborhood/Community Interests (if known):

None known

Options:

1. Approve on second reading the ordinance accepting the Drebeck Investments, LLC property donation of dedicated public right-of-way.
2. Do not approve the ordinance accepting the Drebeck Investments, LLC property donation of dedicated public right-of-way.

Financial Impact:

Although the property interest will be donated, there may be future costs associated with maintenance of the public right-of-way and improvements thereon (e.g., sidewalk), including City responsibility for legal liabilities. If the offer of donation is approved by Council, the City of Olympia would receive the donation by right-of-way dedication quit claim deed, transferring right-of-way to the City without warranties by the grantor. The City will be responsible for recording costs to accept this donation.

Attachments:

Ordinance

Deed

Map

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ACCEPTING A GIFT AND DONATION OF AN INTEREST IN REAL PROPERTY FOR PUBLIC RIGHT-OF-WAY WITHOUT TERMS OR CONDITIONS.

WHEREAS, Drebeck Investments, LLC, donor and title owner of certain real property located in the City of Olympia, has offered to donate, gift and convey a right-of-way dedication of a portion of its real property to the City of Olympia without any terms or conditions; and

WHEREAS, the donor agrees to grant and convey a deed dedicating a portion of its real property to the City of Olympia for a public highway right-of-way easement, to be used for all lawful right-of-way purposes, surface and subsurface, including but not limited to right-of-way uses as well as sidewalks, plantings, right-of-way beautification improvements where deemed appropriate by the City of Olympia, including but not limited to installation, operation and maintenance of utilities, storm water and such other uses that municipalities may make of rights-of-way from time to time, now or in the future, for the use and benefit of the public, over, under, upon and across said right-of-way dedication; and

WHEREAS, the real property of Drebeck Investments, LLC, is situated in the City of Olympia, Thurston County, State of Washington, and the donor's right-of-way dedication is legally described as follows:

A twenty (20) foot right-of-way dedication previously vacated by Ordinance No. 138, being the north twenty feet of Lots 1-4, Block 7, Swan's Addition, as recorded in Thurston County Records, Volume 1 of Plats at Page 37.

WHEREAS, the Olympia City Council has considered the recommendation of the Public Works Department (PW), to accept the donation from Drebeck Investments, LLC, of a portion of its real property for a public highway right-of-way easement to be used for all lawful right-of-way purposes; and

WHEREAS, the Olympia City Council finds this gift and donation of an interest in real property owned by Drebeck Investments, LLC, for a public right-of-way easement for all lawful right-of-way purposes is in the public interest and serves the public welfare;

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

Section 1. Acceptance of Donation. As recommended by the Public Works Department (PW), the Olympia City Council, pursuant to RCW 35.21.100, hereby accepts the gift and donation of an interest in real property from Drebeck Investments, LLC, for a public right-of-way easement, as hereinabove legally described.

Section 2. Terms and Conditions. The gift and donation is without terms or conditions attached to it, and the City of Olympia may expend or use said gift and donation for any municipal purpose as stated in RCW 35.21.100.

Section 3. Conveyance. The donor, Drebeck Investments, LLC, shall convey said gift and donation of an interest in real property for a public right-of-way easement to the City of Olympia by a quit claim right-of-way dedication deed without any statutory warranties. Said gift and donation shall not be deemed complete until the deed is recorded with the Thurston County Auditor.

Section 4. Authorization. The City Manager is authorized and directed to execute on behalf of the City of Olympia all necessary documents consistent with acceptance of the donation of the interest in real property for a public right-of-way easement described herein, and to make any minor modifications as may be required and are consistent with the intent of the donation, or to correct any scrivener's errors.

Section 5. Effective Date. The effective date of this Ordinance shall be thirty (30) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mark Barber", is written over a horizontal line.

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

After recording return document to:
City of Olympia
Attention: Legal Department
P.O. Box 1967
Olympia, WA 98507-1967

Document Title: RIGHT-OF-WAY DEDICATION QUIT CLAIM DEED
Grantor(s): Drebick Investments, LLC
Grantee(s): City of Olympia
Legal Description: Blk 7 Swans Addition
Assessor's Tax Parcel Number: 78200700700

RIGHT-OF-WAY DEDICATION QUIT CLAIM DEED

The Grantor(s), **DREBICK INVESTMENTS, LLC**, hereby donates, gifts, releases, conveys, grants and quit claims unto the Grantee, **CITY OF OLYMPIA**, a municipal corporation, and its assigns, without any terms or conditions attached to said donation and gift, a public highway right-of-way easement, to be used for all lawful right-of-way purposes, surface and subsurface, including but not limited to right-of-way uses as well as sidewalks, plantings, right-of-way beautification improvements where deemed appropriate by the City of Olympia, installation, operation and maintenance of utilities, storm water and such other uses that municipalities may make of rights-of-way from time to time, now or in the future, for the use and benefit of the public, over, under, upon and across the hereinafter described lands and all such uses are unrestricted in location within the right-of-way and shall not be limited in any way whatsoever by the state of being, condition, or location of the street.

The City of Olympia shall have the right to utilize such additional width as may be necessary temporarily for the placing of excavated materials thereon and for initial construction and maintenance operations. The City of Olympia agrees that it will, at its own expense and to the extent reasonably practicable, restore the surface of land to the same conditions that existed prior thereto.

Said lands being situated in the City of Olympia, County of Thurston, State of Washington, legally described as follows:

See attached Exhibit "A" by reference made a part hereof and incorporated herein.

Also, the undersigned hereby requests the Assessor and Treasurer of said County to set-over to the remainder the lien of all unpaid taxes, if any, affecting the property hereby conveyed, as provided by RCW 84.60.070.

It is understood and agreed that delivery of this Deed is hereby tendered and that the terms and obligations hereof shall not become binding upon the City of Olympia unless and until accepted and approved hereon in writing for the City of Olympia, by the City Manager.

GRANTOR:

Granted this _____ day of _____, 2018.

Drebick Investments, LLC Authorized Agent

Print Name and Title

STATE OF WASHINGTON)

County of _____) ss

On this _____ day of _____ 2018, before me personally appeared _____ to me known to be the _____ of Drebick Investments, LLC, a Washington Limited Liability Company, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that that _____ (he/she is) (they are) _____ authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Signature

Print Name:

Notary Public in and for the State of

Washington, residing at: _____

My commission expires: _____

RIGHT-OF-WAY DEDICATION QUIT CLAIM DEED –DREBICK INVESTMENTS

Page 2 of 3

GRANTEE:

Accepted and Approved:
CITY OF OLYMPIA

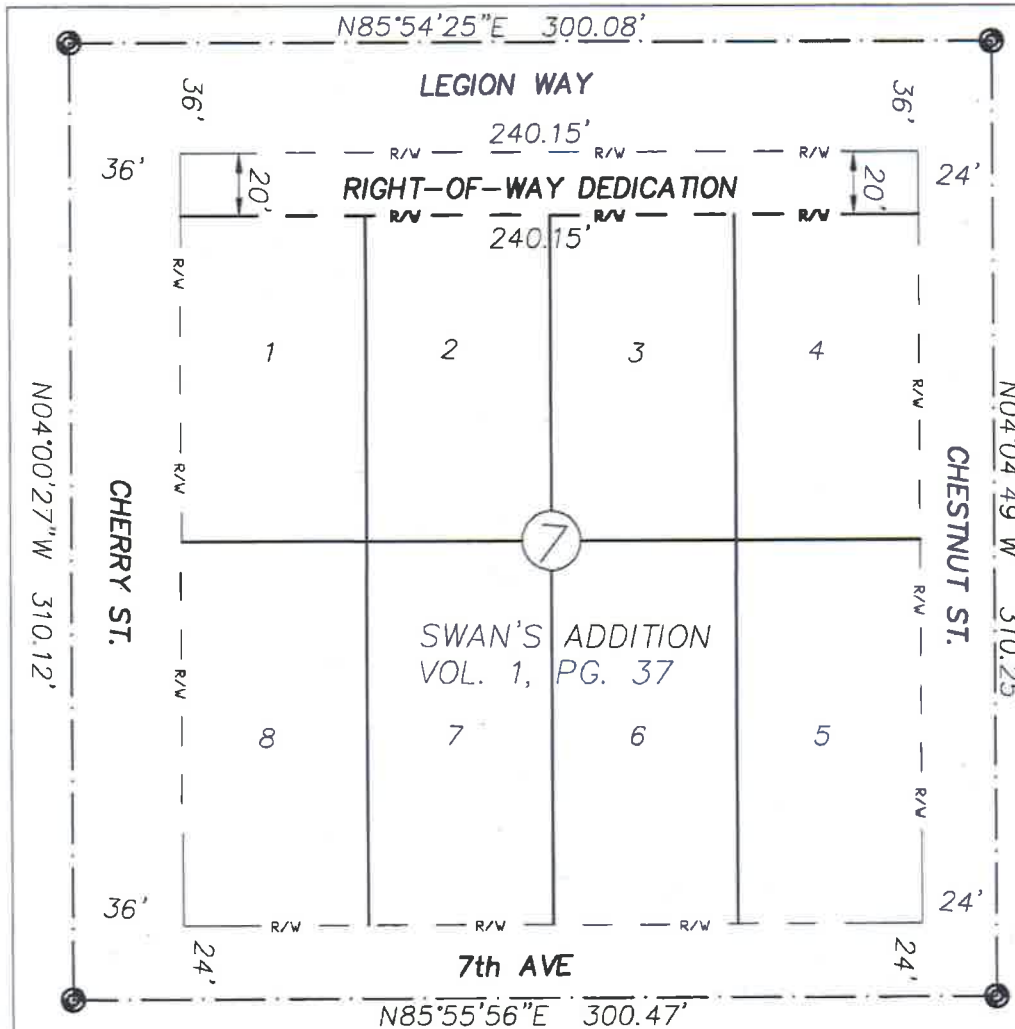
Approved as to form:

By: _____
Steven R. Hall, City Manager



Mark Barber, City Attorney

Date: _____



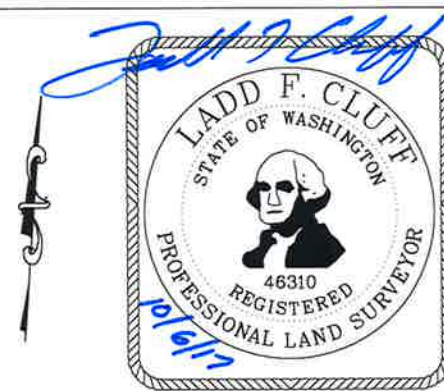
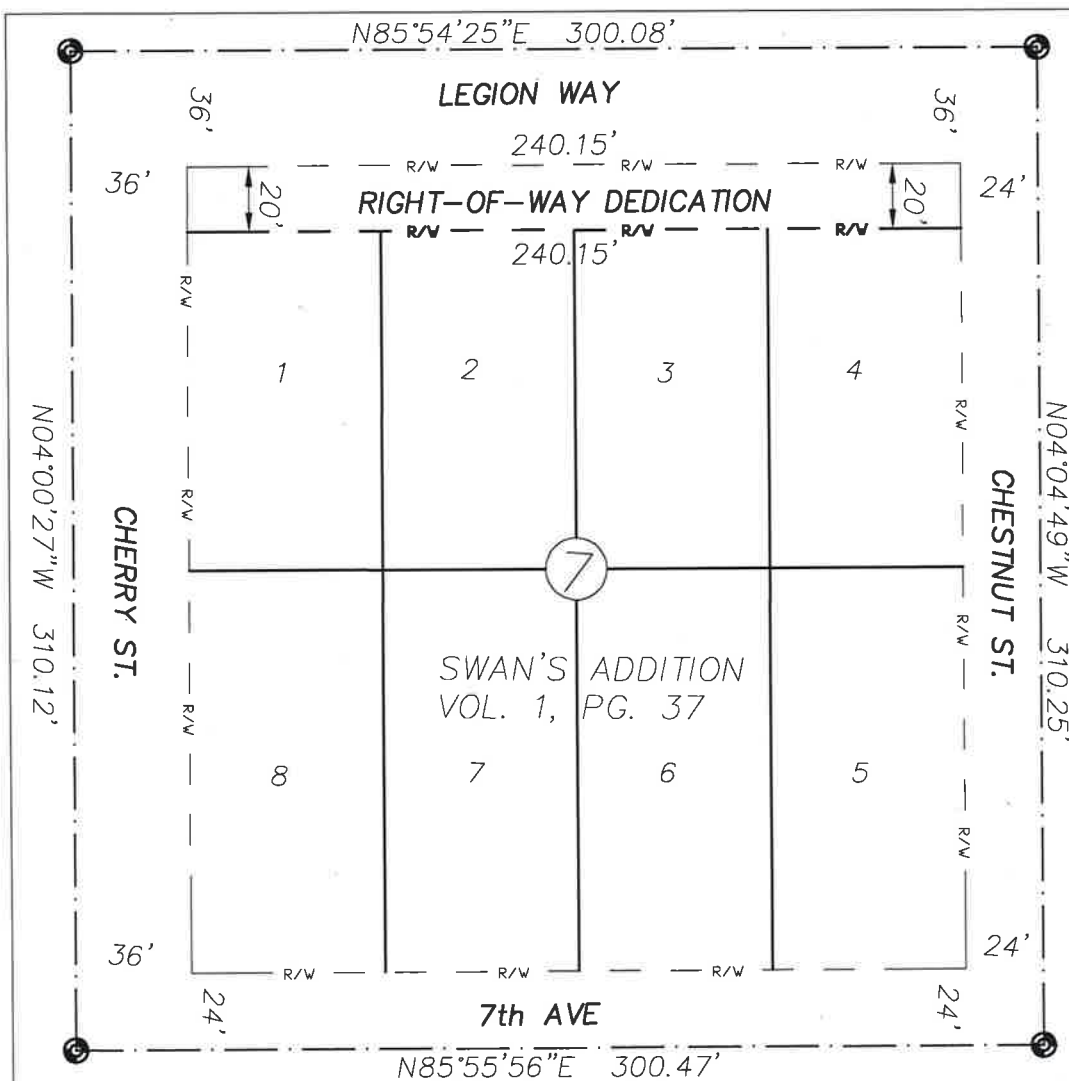
RIGHT-OF-WAY DEDICATION LEGAL DESCRIPTION

A TWENTY (20) FOOT RIGHT-OF-WAY DEDICATION PREVIOUSLY VACATED BY ORDINANCE No. 138, BEING THE NORTH TWENTY FEET OF LOTS 1-4, BLOCK 7, SWAN'S ADDITION, AS RECORDED IN THURSTON COUNTY RECORDS, VOLUME 1 OF PLATS AT PAGE 37.

LEGEND

	PARCEL LINE
	MONUMENT LINE
	EX. RIGHT-OF-WAY
	NEW RIGHT-OF-WAY MONUMENT

DRAWN LFC		PROJECT NO.	CITY OF OLYMPIA EXHIBIT "A" BLOCK 7, SWAN'S ADDITION TO OLYMPIA RIGHT-OF-WAY DEDICATION	DRAWING NAME
QC REVIEW LFC		LEGION WAY		DREBICK EXHIBIT
SCALE 1"=60'		DATE		SHEET 1 OF 1
		OCTOBER 2017		



RIGHT-OF-WAY DEDICATION LEGAL DESCRIPTION

A TWENTY (20) FOOT RIGHT-OF-WAY DEDICATION PREVIOUSLY VACATED BY ORDINANCE No. 138, BEING THE NORTH TWENTY FEET OF LOTS 1-4, BLOCK 7, SWAN'S ADDITION, AS RECORDED IN THURSTON COUNTY RECORDS, VOLUME 1 OF PLATS AT PAGE 37.

LEGEND

	PARCEL LINE
	MONUMENT LINE
	EX. RIGHT-OF-WAY
	NEW RIGHT-OF-WAY MONUMENT

		PROJECT NO.	CITY OF OLYMPIA EXHIBIT "A" BLOCK 7, SWAN'S ADDITION TO OLYMPIA RIGHT-OF-WAY DEDICATION	DRAWING NAME
DRAWN	LFC	LEGION WAY		DREBICK EXHIBIT
QC REVIEW	LFC	DATE		SHEET 1 OF 1
SCALE	1"=60'	OCTOBER 2017		



City Council

Approval of an Ordinance Creating a Fund for the Home Fund

Agenda Date: 4/10/2018
Agenda Item Number: 4.J
File Number: 18-0325

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

Title

Approval of an Ordinance Creating a Fund for the Home Fund

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the ordinance creating a fund for the Home Fund on first reading and forward to second reading.

Report

Issue:

Whether to approve an ordinance to create a Fund for the Home Fund.

Staff Contact:

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

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

In February, Olympia voters approved a 1/10th of 1% increase in sales tax to be used to construct affordable and supportive housing and for housing-related purposes, including mental and behavioral health-related facilities, costs of operations, maintenance, delivery and evaluation of mental health programs and services, or housing-related services (RCW 82.14.530). To provide transparency and accountability, staff recommends creating a separate Fund to track revenue and expenses.

On an annual basis, the increase in sales and use tax is estimated to generate \$2.3 million. In accordance with RCW 82.14.055, the sales and use tax takes effect 75 days after the State Department of Revenue receives notification and can only start on the first day of January, April or July. Therefore, the City's new sales tax will take effect on July 1, 2018. The City will begin receiving the new tax distributions in September. The City estimates receiving approximately \$517,000 in 2018.

Neighborhood/Community Interests (if known):

Voters of the City approved a sales tax to support the Home Fund.

Options:

- 1) Move to approve the ordinance creating a fund for the Home Fund on first reading and forward to second reading.
- 2) Direct staff to make changes to the ordinance.
- 3) Do not approve the ordinance.

Financial Impact:

Estimated annual funds \$2,300,000.

Estimated amount available for use in 2018 is \$517,000.

Attachments:

Ordinance

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, CREATING A NEW FUND TO BE KNOWN AS THE HOME FUND; ADDING A NEW SECTION TO CHAPTER 3.04 OF THE OLYMPIA MUNICIPAL CODE; AND AMENDING SECTION 3.04.000 OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, RCW 82.14.530 authorizes cities to submit to voters a proposition to increase sales and use tax by not more than one-tenth of one percent, to be used to construct affordable and supportive housing and for housing-related purposes, including mental and behavioral health-related facilities, and for costs of operations, maintenance, delivery and evaluation of mental health programs and services, or housing-related services as permitted by state law; and

WHEREAS, on February 13, 2018, voters of the City of Olympia approved Proposition No. 1 to increase the sales tax by one-tenth of one percent as authorized by RCW 82.14.530; and

WHEREAS, the Olympia City Council desires that funds authorized by RCW 82.14.530 be accounted in a separate fund;

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

Section 1. Amendment of OMC 3.04. A NEW SECTION 3.04.142 is hereby added to the Olympia Municipal Code to read as follows:

3.04.142 Home Fund

A. Created. There is hereby created a fund to be known as the Home Fund.

B. Sources. There shall be deposited in the Home Fund, sales and use tax authorized by RCW 82.14.530 and interest thereon, and other funds as determined by the City Council to support the purposes of the Home Fund.

C. Uses. Funds within the Home Fund shall be used for housing and housing-related services, including mental and behavioral health programs and facilities as required by RCW 82.14.530. A minimum of sixty (60) percent of the monies collected under RCW 82.14.530 shall be used for housing and housing-related purposes as defined in RCW 82.14.530(2)(a)(i), (ii) and (iii), and the remainder of the monies collected shall be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services as required by RCW 82.14.850(2)(c). Other funds deposited in the Home Fund shall be used for purposes similar in nature to the above, as determined by the City Council.

Section 2. Amendment of OMC 3.04. Olympia Municipal Code Section 3.04.000 is hereby amended to read as follows:

Chapter 3.04 FUNDS

3.04.000 Chapter Contents

Sections:

- 3.04.001 General Fund – Current Operations.
- 3.04.003 Special Account Control Fund.
- 3.04.006 Development Fee Revenue Fund.
- 3.04.007 Parking Fund.
- 3.04.014 LEOFF 1 OPEB Trust Fund.
- 3.04.021 The Washington Center for the Performing Arts Endowment Fund.
- 3.04.025 The Washington Center for the Performing Arts Operations and Maintenance Fund.
- 3.04.026 Arts Fund.
- 3.04.029 Facilities Major Repairs Fund.
- 3.04.107 HUD Fund.
- 3.04.127 Impact Fee Fund.
- 3.04.130 SEPA Mitigation Fund.
- 3.04.132 Lodging Tax Fund.
- 3.04.134 Parks and Recreational Sidewalks Utility Tax Fund.
- 3.04.135 Parking Business Improvement Area Fund.
- 3.04.136 Farmers Market Major Repair and Replacement Fund.
- 3.04.137 Hands On Children's Museum Fund.
- 3.04.138 Transportation Benefit District Fund.
- 3.04.139 Grants Control Fund.
- 3.04.140 Real Estate Excise Tax Fund.
- 3.04.141 Olympia Metropolitan Park District Fund.
- 3.04.142 Home Fund.
- 3.04.200 Debt Service Funds.
- 3.04.317 Capital Improvement Fund.
- 3.04.325 City Hall Construction Fund.
- 3.04.331 Fire Equipment Fund.
- 3.04.400 Waterworks Utility Funds.
- 3.04.403 Solid Waste (Garbage) Utility Fund.
- 3.04.404 Storm Drainage Utility Fund.
- 3.04.500 Equipment Rental Fund.
- 3.04.503 Unemployment Compensation Fund.
- 3.04.504 Insurance Trust Fund.
- 3.04.505 Workers Compensation Fund.
- 3.04.600 Fiduciary and Custodial Funds.

Section 3. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. 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 5. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mark Baker", is written over a horizontal line.

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of Ordinance Amending Ordinance 7118 (Operating Budget)

Agenda Date: 4/10/2018
Agenda Item Number: 4.K
File Number: 18-0327

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

Title

Approval of an Ordinance Amending Ordinance 7118 (Operating Budget)

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the ordinance amending Ordinance 7118 on first reading and forward to second reading.

Report

Issue:

Whether to amend Ordinance 7118.

Staff Contact:

Bill Sampson, Accounting Services Manager, Administrative Services Department, 360.753.8473

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

City Council may revise the City's operating and capital budgets by approving an ordinance. Generally, budget amendments are presented quarterly to Council for their review and approval but may be made at any time during the year. The amended ordinances appropriate funds and provide authorization to expend the funds.

Budget Items being presented to the Council:

- 1) Reclassify Washington Center Endowment Fund to Operating Fund (General Fund Sub-Fund) and move budget of \$11,500 from Special Funds. This is required by Generally Accepted Accounting Principles (GAAP).
- 2) Appropriation of \$91,932 for additional recreation fees and camps. Funding provided by user

fees and donation from the PARC Foundation of Thurston County.

- 3) Appropriation of \$70,000 for extra help in Fire and increase of fleet revenue for services for outside agencies, including parts.
- 4) Appropriation of unallocated Levy Lid Lift funds for the new Westside station.
- 5) Appropriation of \$3,290 PSE energy rebate.
- 6) Appropriation of \$43,900 for clean team expenses to match original budget. Funding from HUD Fund and PBIA
- 7) Appropriation of \$60,651 for Utility GIS position approved in the budget process but not entered into the budget.
- 8) Appropriation of Homeless Response Coordinator. Funded up to \$100,000 by Evergreen Christian Center.
- 9) Appropriation of \$35,016 for re-class of two positions in CP&D and one interim assignment. Funding from Development Fee Fund, Parking Fund, Utilities overhead and moving budget from professional services.

Neighborhood/Community Interests (if known):

None noted.

Options:

- 1) Approve ordinance amending ordinance 7118.
- 2) Do not approve the amending ordinance. The budget items presented to the council would not be authorized, projects would not be completed and the City could not hire for the positions proposed. The Washington Center Endowment Fund would be classified in a manner that conflicts with GAAP.

Financial Impact:

Total increase appropriations by \$416,289. Funding for these appropriations noted above.

Attachments:

Ordinance

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO
BUDGETS, FINANCE, AND SALARIES, AND AMENDING ORDINANCE NO. 7118**

WHEREAS, the Olympia City Council passed Ordinance No. 7118 on December 19, 2017; and

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

WHEREAS, the following changes need to be made to Ordinance No. 7118;

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

Section 1. 2018 Budget. The budget for the calendar year 2018 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.

FUND	APPROP. FUND BALANCE	ESTIMATED REVENUE	APPROP.	ADDITIONS TO FUND BALANCE
General, Regular Operations	\$212,571	\$78,184,682 \$78,508,315	\$78,397,253 \$78,720,886	\$-
General, Special Sub-Funds				
Special Accounts	75,860	908,813	984,673	-
Development Fee Revenue	- 9,591	3,756,900	3,756,900 3,766,491	-
Parking	- 7,624	1,560,200 1,560,200	1,296,691 1,304,315	263,509
Post Employment Benefits	399,000	1,133,000	1,532,000	-
Washington Center Endowment	-	11,500	11,500	-
Washington Center Ops	5,000	455,976	460,976	-
Municipal Arts	-	55,800	55,800	-
Equip & Facilities Reserve	-	1,511,873 1,515,163	1,149,775 1,153,065	362,098
Total General Fund	692,431 709,646	87,567,244 87,905,667	87,634,068 87,989,706	625,607
4 th /5 th Avenue Corridor Bridge Loan	3	548,035	548,038	-
UTGO Bond Fund – 2009 Fire	-	1,195,930	1,191,156	4,774
City Hall Debt Fund – 2009	2,272	2,416,446	2,418,718	-
2010 LTGO Bond – Street Projects	-	435,617	435,613	4
L.O.C.A.L. Debt Fund – 2010	-	178,282	178,281	1
2010B LTGO Bonds - HOCM	10,290	425,098	435,388	-
2013 LTGO Bond Fund	-	675,275	675,275	-
2016 LTGO Parks BAN	-	125,000	125,000	-
Water Utility O&M	100,760 110,129	13,983,920	14,084,680 14,094,049	-
Sewer Utility O&M	3,661 13,114	20,254,540	20,258,201 20,267,654	-

Solid Waste Utility	-	12,159,668	12,108,571	51,097
Stormwater Utility	10,870 52,699	5,396,612	5,407,482 5,449,311	-
Water/Sewer Bonds	-	2,041,982	2,032,448	9,534
Stormwater Debt Fund	1	123,648	123,649	-
Equipment Rental	-	2,371,022	2,359,540	11,482
TOTALS	\$820,288 \$898,154	\$149,898,319 \$150,236,742	\$150,016,108 \$150,432,397	\$702,499

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 2018 shall be as set forth in the "Supplementary Information" section of the 2018 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:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of Ordinance Amending Ordinance 7119 (Capital Budget)

Agenda Date: 4/10/2018
Agenda Item Number: 4.L
File Number: 18-0329

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

Title

Approval of an Ordinance Amending Ordinance 7119 (Capital Budget)

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the ordinance that amends Ordinance 7119 on first reading and forward to second reading.

Report

Issue:

Whether to amend Ordinance 7119.

Staff Contact:

Bill Sampson, Accounting Services Manager, Administrative Services Department, 360.753.8473

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

City Council may revise the City's operating and capital budgets by approving an ordinance. Generally, budget amendments are presented quarterly to Council for their review and approval but may be made at any time during the year. The amended ordinances appropriate funds and provide authorization to expend the funds.

The attached ordinance reflects ordinances that have been adopted relating to the budget since the last quarterly update, and other proposed changes to the budget.

A separate ordinance was passed since the adoption of ordinance 7119 relating to the Capital Budget and was previously presented to the Council.

- 1) Ordinance 7125 passed on February 27, 2018 appropriating a total of \$783,400 for two

Transportation projects.

- a. \$420,000 for the State Avenue and Phoenix Sidewalk project funded by money from the Pedestrian and Bicycle Safety Program Grant
- b. \$363,480 for the Traffic Signal Controller Upgrade to Support TSP and Enhanced Signal Coordination

Budget Items not previously presented to the Council:

- 1) Appropriation of \$95,000 in additional revenue from the Transportation Benefit District.
- 2) Appropriation of \$134,251 from Percival Landing Insurance Settlement for Contaminated Soil.
- 3) Appropriation of \$1,700,000 from PSE Settlement for contaminated soil at City Hall.
- 4) Appropriation of \$250,000 for Bike Corridor Permanent Improvements. Funded from Transportation Improvement Board Complete Streets Award Project Grant.
- 5) Appropriation of \$1,237,010 for debt funding for Stormwater Capital Facilities Plan correcting from use of fund balance in original budget.
- 6) Appropriation of \$50,000 for GIS Program Specialist Position Funded by Department Of Ecology grant.
- 7) Appropriation of \$526,026 for conduct hydrologic performance effectiveness study funded by DOE agreement.
- 8) Correction to original Stormwater Mitigation Fee Fund budget, reducing the budget by \$533,941. This was a result of a duplication of the 2017 budget carryover that was included in the 2018 budget in error.
- 9) Correction to original Transportation Capital Budget in the Capital Improvement Fund, reducing the budget by \$2,646,153. Removing budget that was previously appropriated for the Morse-Merryman Roundabout project and included in the 2018 budget in error.

Neighborhood/Community Interests (if known):

None noted.

Options:

- 1) Approve ordinance amending ordinance 7119. This allows staff to complete the projects listed above.
- 2) Do not approve the amending ordinance. This would prevent critical capital projects from being completed.

Financial Impact:

Total increase in appropriations is \$358,663. The sources of funding for the total appropriation are available.

Attachments:

Ordinance

Ordinance No.

**AN ORDINANCE ADOPTING THE CITY OF OLYMPIA'S CAPITAL FACILITIES
PLAN FOR THE YEARS 2018-2023 AND AMENDING ORDINANCE NO. 7119.**

WHEREAS, the Olympia City Council adopted the Capital Facilities Plan for years 2018 through 2023 by passing Ordinance No. 7119 on December 19, 2017; and

WHEREAS, the CFP meets the requirements of the Washington State Growth Management Act, including RCW 36.70A.070(3); and

WHEREAS, the following amendments need to be made to Ordinance No. 7119;

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

Section 1. That certain document entitled the "Capital Facilities Plan," covering the years 2018 through 2023, 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 2017 all appropriations and allocations not otherwise closed, completed, or deleted from prior fiscal years' capital budgets.

Section 5. The following appropriations are hereby made:

FUND	APPROP. FUND BALANCE	ESTIMATED REVENUE	APPROP.	ADDITIONS TO FUND BALANCE
Impact Fee Fund	\$4,045,966	-	\$4,045,966	\$-
SEPA Mitigation Fee Fund	23,800	-	23,800	-
Parks & Recreational Sidewalk, Utility Tax Fund	-	2,900,000	2,900,000	-
Real Estate Excise Tax Fund	-	1,200,000	1,200,000	-
Capital Improvement Fund	-	13,757,153 16,769,884	13,757,153 14,123,731	- 2,646,153
Water CIP Fund	485,000	5,066,000	5,551,000	-
Sewer CIP Fund	1,215,699	741,301	1,957,000	-
Storm Water CIP Fund	1,237,010	687,690 2,450,726	1,924,700 2,450,726	-

FUND	APPROP. FUND BALANCE	ESTIMATED REVENUE	APPROP.	ADDITIONS TO FUND BALANCE
Storm Drainage Mitigation Fund	533,941		533,941	
	-	-	-	-
TOTALS	\$7,541,416 \$5,770,465	\$24,352,144 \$29,127,911	\$31,893,560 \$32,252,223	\$0 \$2,646,153

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:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of Ordinance Amending Ordinance 7120 (Special Funds)

Agenda Date: 4/10/2018
Agenda Item Number: 4.M
File Number: 18-0328

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

Title

Approval of an Ordinance Amending Ordinance 7120 (Special Funds)

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the ordinance amending Ordinance 7120 on first reading and forward to second reading.

Report

Issue:

Whether to amend Ordinance 7120.

Staff Contact:

Bill Sampson, Accounting Services Manager, Administrative Services Department, 360.753.8473

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

City Council may revise the City's operating and capital budgets by approving an ordinance. Generally, budget amendments are presented quarterly to Council for their review and approval but may be made at any time during the year. The amended ordinances appropriate funds and provide authorization to expend the funds.

Budget Items being presented to the Council:

1. Reclassify Washington Center Endowment Fund to Operating Fund (General Fund Sub-Fund) and move budget of \$11,500 from Special Funds. This is required by Generally Accepted Accounting Principles.
2. Appropriation of \$40,900 for clean team salaries and downtown ambassadors Funding from

HUD Fund balance.

Neighborhood/Community Interests (if known):

None noted.

Options:

- 1) Approve ordinance that amends ordinance 7120.
- 2) Do not approve the proposed ordinance. This will create a violation of generally accepted accounting principles regarding the classification of funds and clean team and downtown ambassadors will be underfunded.

Financial Impact:

Total increase appropriations by \$40,900. Appropriations of \$11,500 will move to a General Fund Sub-Fund.

Attachments:

Ordinance

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON,
APPROPRIATING FUNDS WITHIN VARIOUS SPECIAL FUNDS AND
AMENDING ORDINANCE NO. 7120**

WHEREAS, the Olympia City Council passed Ordinance No. 7120 on December 19, 2017, appropriating funds within various special funds; and

WHEREAS, the following amendments need to be made to Ordinance No. 7120;

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

Section 1. The following appropriations are hereby made:

FUND	APPROP. FUND BALANCE	ESTIMATED REVENUE	APPROP.	ADDITIONS TO FUND BALANCE
HUD Fund	\$- \$40,900	\$484,441	\$274,040 \$314,940	\$210,401
Lodging Tax Fund	-	800,000	773,527	26,473
Parking Business Improvement Area Fund	-	115,000	110,000	5,000
Hands On Children's Museum	-	500,000	439,998	60,002
Fire Equipment Replacement Fund	60,016	530,000	590,016	-
Equipment Rental Replacement Reserve Fund	-	1,768,077	1,302,000	466,077
Unemployment Compensation Fund	-	93,900	68,200	25,700
Insurance Trust Fund	-	1,841,070	1,837,066	4,004
Workers Compensation Fund	59,000	1,546,000	1,605,000	-
Washington Center Endowment Fund	-	11,500 -	11,500 -	-
TOTALS	\$119,016 \$159,916	\$7,689,988 \$7,678,488	\$7,011,347 \$7,040,747	\$797,657

Section 2. 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 3. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 4. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mark Barber", is written over a horizontal line.

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Public Hearing on the Draft 2017 Storm and Surface Water Plan

Agenda Date: 4/10/2018
Agenda Item Number: 5.A
File Number: 18-0272

Type: public hearing **Version:** 1 **Status:** Public Hearing

Title

Public Hearing on the Draft 2017 Storm and Surface Water Plan

Recommended Action

Committee Recommendation:

The Utility Advisory Committee and the Land Use and Environment Committee recommend forwarding the Draft 2017 Storm and Surface Water Plan to Council for a briefing, public hearing and approval.

City Manager Recommendation:

Hold a public hearing. Upon closing the hearing, move to approve the Draft 2017 Storm and Surface Water Plan.

Report

Issue:

Whether to hold a public hearing and then approve the Draft 2017 Storm and Surface Water Plan.

Staff Contact:

Susan Clark, Senior Planner, Public Works Water Resources, 360.753.8321

Presenter(s):

Susan Clark, Senior Planner

Background and Analysis:

Unlike the City of Olympia's other water-related utilities (drinking water and wastewater), the Storm and Surface Water Utility is not required by State regulation to have a master plan. With no mandate, the Utility has the flexibility to develop and format a City-initiated plan as an internally-focused tool for guiding its work in meeting community expectations. A team of City staff from throughout the Utility worked collaboratively on this effort.

The Utility's mission is to prevent flooding, improve surface water quality, and protect and enhance aquatic habitat. How we address our mission is complex and relies on partnerships forged with others, including our customers. A large percentage of our work is directed toward meeting the requirements of our National Pollutant Discharge Elimination System (NPDES) permit.

The Draft 2017 Plan contains the policy and financial direction necessary to guide the Utility in operating, maintaining, and improving its built infrastructure and city-wide natural elements for the next ten years. It also explains the challenges the Utility faces and the Utility's current responsibilities, core services and programs.

The Draft 2017 Plan includes an implementation strategy. A key component of the strategy is an annual review of priorities, staff workloads, budget requirements and funding limitations.

Neighborhood/Community Interests (if known):

The Utility Advisory Committee reviewed the Draft 2017 Plan and recommended approval (see attached letter). The Utility conducted a survey, held an open house, hosted an aquatic habitat stakeholder group and held a public comment period on the plan. Survey results and comments received through the open house, aquatic habitat stakeholder group and public review period are included in Appendix 6 of the plan.

Options:

- Option 1. Hold a public hearing and approve the Draft 2017 Storm and Surface Water Plan. Implementation of the Plan will ensure the needs of our community are addressed.
- Option 2. Recommend revisions to the Draft 2017 Storm and Surface Water Plan. This option will delay Plan implementation.

Financial Impact:

The Storm and Surface Water Utility funds the Storm and Surface Water Plan. The Draft 2017 Plan has utility rate and general facilities charge (GFC) implications. However, the implementation of future rates and GFCs is addressed during Council's annual budget decisions.

Chapter 12 and Appendix 5 contains the financial analysis conducted for the Draft 2017 Plan by the Utility's financial consultant, including the rate increases necessary to fully fund all recommended strategies as presented.

Attachments:

UAC Letter of Support
Link to Draft 2017 Plan and Appendices
Draft 2017 Storm and Surface Water Plan Summary Booklet



February 2, 2018

Olympia City Council
PO Box 1967
Olympia, WA 98507

Dear Mayor Selby and Council members:

SUBJECT: Draft Storm and Surface Water Plan

While there is no regulation requiring the Storm and Surface Water Utility to develop and maintain a master plan, the Utility recognizes the value of the road map outlined in its current version. The draft plan contains policy and financial direction to guide the operation, maintenance and improvement of its core services and programs.

The Utility has outlined both the core and enhanced services it proposes to deliver during the ten-year life of the master plan.

The Storm and Surface Water Utility is responsible to:

- Reduce the frequency and severity of flooding so hazards are eliminated.
- Improve surface water quality.
- Protect, enhance, and restore aquatic habitat functions provided by wetlands, streams, lakes, marine shorelines, and riparian areas.
- Ensure reliable functioning of the built and natural storm water infrastructure.
- Manage Utility finances responsibly and recover costs equitably.

Members of the public have had several opportunities to consider and shape the draft plan through an online survey, habitat focus group, community open house, and ongoing review on the City's Website.

The Utility Advisory Committee [UAC] performs a key role by evaluating the major planning efforts that guide the City's water-related utilities. The members of the UAC have carefully considered the draft Storm and Surface Water Plan.

The UAC agrees with public comments recognizing the impediment associated with depending on the public to help rain stay where it falls. The UAC acknowledges that steps have been taken and are proposed--the implementation of low impact design requirements and the inclusion of a set of strategic service public outreach and education enhancements - to undertake this considerable challenge.

This plan outlines carefully considered core and enhanced service delivery actions the Utility will take to achieve its goals. The UAC recommends the Storm and Surface Water Plan to the City Council for approval.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger Wilson", with a stylized flourish at the end.

Roger Wilson

Chair, Utility Advisory Committee



What are the Draft 2017 Plan Strategies?

The Utility’s success at resolving flooding problems during the last 30 years has created an opportunity to focus increasingly on water quality improvement, habitat protection, and scheduled replacement of aging pipe systems. Community expectations and regulations for managing stormwater have improved considerably, resulting in a more holistic look at stormwater management and aquatic systems.

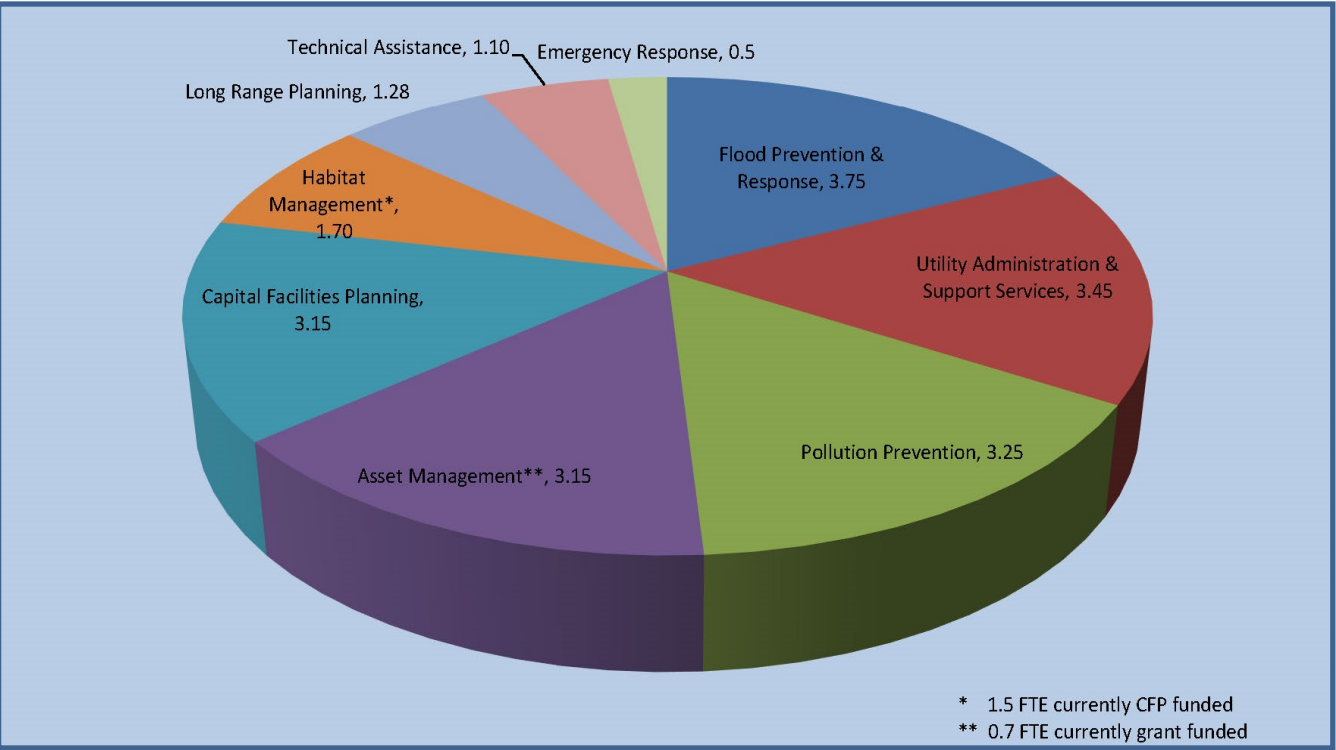
The Utility proposes two types of strategies: those that continue the Utility’s core services and those that enhance the Utility’s core services.

Key recommendations include:

- Permanently funding the pilot habitat program
- Expanding education and outreach efforts
- Integrating low impact development into inspection and maintenance programs
- Formalizing operating and planning procedures
- Responding to requirements resulting from the Deschutes Total Maximum Daily Load (TMDL) process
- Planning for anticipated impacts of sea level rise
- Improving the asset management program
- Modifying the street sweeping program to have a water quality focus

What are the Utility’s Core Services?

The Utility has a total of 21.3 Full Time Equivalent staff organized into the following nine core services.



How is the 2017 Draft Storm and Surface Water Plan Organized?

The Draft 2017 Plan is organized in three parts, describing the What, Why, and How of the Plan.

What

The first four chapters describe the Plan, the natural and historical context for planning, the Utility’s responsibilities, and the natural and built infrastructure for managing storm and surface water.

- **Chapter 1 Introduction** gives a brief introduction to the Utility’s purpose, service area, infrastructure, core services and customers; and Plan purpose, planning process, and organization.
- **Chapter 2 Context & Trends** provides the context for the Plan by describing the physical setting of the service area, and its population and land use; and tracing the history of stormwater management in Olympia and the Utility’s evolving priorities.
- **Chapter 3 Surface Water Management** outlines the Utility’s responsibilities, internal organization, and relationships with other agencies and jurisdictions.
- **Chapter 4 Built and Natural Infrastructure** is an overview of the built and natural infrastructure that, in combination, form the Utility’s stormwater system.

Why

Chapters 5 through 8 describe the reasons motivating the need for this Plan and its direction, including the regulatory environment and the challenges of flood mitigation, improving water quality, and protecting aquatic habitat.

- **Chapter 5 Legal and Planning Framework** outlines the complex set of laws and regulations which increasingly define the Utility’s operations.
- **Chapter 6 Flooding** reports on the considerable reductions in the severity and frequency of flooding, impacts of flooding, the role of the Utility in enforcing requirements of the *Drainage Design and Erosion Control Manual*, and remaining challenges the Utility faces in mitigating flooding impacts.
- **Chapter 7 Water Quality** describes activities that impact water quality, the current quality of Olympia’s water bodies, the Utility’s role in implementing Clean Water Act regulations, and remaining challenges the Utility faces in improving surface water quality.
- **Chapter 8 Aquatic Habitat** details existing conditions of Olympia’s aquatic environment and habitat, the Utility’s role in implementing and supporting habitat stewardship efforts, and remaining challenges the Utility faces in protecting and enhancing aquatic habitat.

How

The last four chapters describe the Utility’s recommended approach, including its funding strategy, to address a changing regulatory environment and the challenges of flood mitigation, improving water quality, and protecting aquatic habitat.

- **Chapter 9 Core Services** explains in detail how the Utility is addressing challenges of flood mitigation, pollution prevention, and habitat protection through its nine Core Services.
- **Chapter 10 Strategies** details the strategies proposed, in response to current challenges, to effectively address Utility goals and objectives during the next 10 years.
- **Chapter 11 Capital Improvement Program** presents the Utility’s capital projects planned for implementation between 2017 and 2036.
- **Chapter 12 Financial Program** describes the Utility’s multi-year strategy for ensuring the revenue required to meet total operating and capital costs of providing storm and surface water management services to its customers.

What are the Draft 2017 Plan Goals?

The following goals are proposed to drive the activities of the Utility for the next 10 years.

- Reduce the frequency and severity of flooding so hazards are eliminated.
- Improve surface water quality.
- Protect, enhance, and restore aquatic habitat functions provided by wetlands, streams, lakes, marine shorelines, and riparian areas.
- Ensure reliable functioning of the built and natural stormwater infrastructure.
- Manage Utility finances responsibly and recover costs equitably.

What are the Utility's Key Challenges?

The Utility has made considerable progress in its first 30 years. As it embarks on its next phase, the Utility will face the following challenges.

General Challenges

- **Equitable and Predictable Rates and Fees.** Creating predictability for customers and developers is difficult in a complex and changing regulatory environment, with fluctuations in the amount of grant money available to fund Utility programs.
- **Legacy Development.** Most of Olympia's stormwater infrastructure was constructed prior to current rigorous storm drainage design regulations. In older developed areas, subdivisions and infrastructure were constructed without stormwater treatment or wetland and stream protection and often lack the capacity to handle the increased runoff resulting from growth. Retrofits of older neighborhoods with modern stormwater control and treatment systems are a logistical and financial challenge, but are often necessary to improve flooding, water quality, and aquatic habitat conditions. The worst remaining legacy flooding problems are on Black Lake Boulevard, the Lakemoor subdivision and along Division Street.
- **Reliance on Choices by Individuals.** The Utility's work is highly influenced by the cumulative impact of individual behaviors. Decisions about the extent of impervious surfaces on a property and care in keeping storm drains clear of debris can impact flooding. Decisions about yard care practices, onsite sewage system maintenance, car care, and driving habits all can impact water quality. Decisions about landscaping, tree planting or removal, and weed control can impact aquatic habitat. This dynamic adds to the complexity of the Utility's work.
- **Land Development Pressure.** To protect agriculture and natural resources, including habitat, Washington's Growth Management Act (GMA) requires population growth to be focused in urban growth areas like Olympia. Urban development continues to increase impervious surfaces, threatening further loss of forests and wetlands, curtailing the functioning of natural systems and impacting surface water quality. Increasing population densities will both create challenges for water quality and provide opportunities to retrofit and concentrate treatment.
- **Climate Change and Sea Level Rise.** Changing climate in the Pacific Northwest likely will influence aquatic habitats due to warmer temperatures, reduced precipitation in the summer, increased precipitation in other seasons, and a rising sea level. Older stormwater infrastructure will be the most vulnerable to overflows associated with more frequent and intense storm events, which could result in more localized flooding. Current science indicates that sea levels in Puget Sound may rise between 20 and 55 inches by 2100. The need for community awareness, education, and response regarding sea level rise will increase in the years to come. In order to make timely long-term decisions, City government and the public need to understand the dynamics of climate change and sea level rise. The Utility has a key role in undertaking the necessary research and strategic planning.

Flooding Challenges

- **Asset Management.** Properly functioning stormwater treatment and conveyance systems help to mitigate the negative impacts of stormwater by moderating flows and removing sediments and pollutants before the stormwater enters water bodies. As facilities age, their functioning can be impacted. Understanding the condition of the Utility's stormwater infrastructure (both built and natural) informs replacement and maintenance decisions and is referred to as "asset management." Although significant staff effort has been dedicated to improving the Utility's understanding of the stormwater infrastructure, additional work is required to fully implement a robust asset management program.
- **Limitations of Low Impact Development (LID).** LID is a land planning and engineering design strategy that uses on-site natural features like bioswales and rain gardens to lessen the impact of development on stormwater quality and quantity, thereby mimicking pre-development conditions. LID practices may benefit water quality, but these are secondary to controlling the flow of stormwater. LID facilities are designed to be smaller and more numerous than centralized stormwater ponds to increase infiltration of rainwater over a larger area. The City's 2016 Drainage Manual requires LID in all new development. The sheer number of such facilities and the intensive maintenance required will likely make LID facilities more complex to manage than past stormwater facility designs.

Water Quality Challenges

- **Increasing Permit Requirements.** Many aspects of the Utility's work are mandated by the federal Clean Water Act. To discharge stormwater into "waters of the United States," the City must maintain compliance with current a National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Discharge Permit. Permit requirements are continually being revised and expanded. Because more and more of the Utility's resources are needed to implement the Permit, significantly less discretionary staff time and budget is available for other aspects of the Utility's work.
- **Reliance on Public for Nonpoint Pollution Prevention.** The Utility is challenged in helping people understand their contribution to nonpoint sources of pollutants and the impact individuals have on water quality. The actions of the individual citizen through daily living activities like vehicle maintenance, lawn care, chemical management and pet care can contribute to either improving or degrading water quality.

Aquatic Habitat Challenges

- **Multiple Public/Private Ownership.** Habitat is located within a complex landscape of many large and small parcels, public and private ownership, and developed and redeveloping neighborhoods, commercial districts, and industrial areas. The Utility has limited authority on private property and must rely on voluntary programs, education and outreach, and incentives to encourage stewardship on private properties.
- **Habitat Fragmentation.** Large intact habitat areas are important for both wildlife and protection of aquatic resources. These core areas provide nesting/breeding, foraging, and resting habitat for wildlife, and protect water quality and hydrologic functions. Large habitat areas in Olympia are primarily located on public lands. Maintaining and improving the habitat quality of these areas requires tools and strategies that work across the landscape.
- **Habitat Impacts of Legacy Urban Development.** The changes brought by development of Olympia over the last 100 plus years have had a large impact on aquatic habitat. Budd Inlet was filled and dredged, shoreline armored, sections of streams placed in pipes, wetlands drained, and forests and natural vegetation converted to homes, businesses, roads and other infrastructure. These changes have vastly altered the landscape and hydrology of Olympia. Development is encouraged in cities and urban growth areas rather than rural areas of the State by the Growth Management Act. Working to maintain functional habitat in an urban landscape is challenging and requires creativity and flexibility to protect remaining habitat areas and maintain their health, while working to enhance and restore key habitats where possible.



City Council

Public Hearing on a Utility Easement Located Under a Building on the Southeast Portion of Block 7, Lots 3,4,5 and 6, Swan's Addition, Vol. 1 of Plats, Page 37

Agenda Date: 4/10/2018
Agenda Item Number: 5.B
File Number: 18-0254

Type: public hearing **Version:** 1 **Status:** Public Hearing

Title

Public Hearing on a Utility Easement Located Under a Building on the Southeast Portion of Block 7, Lots 3,4,5 and 6, Swan's Addition, Vol. 1 of Plats, Page 37

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Conduct the Public Hearing. After the hearing is closed, if Council finds sufficient information to take action, move to approve the release of the abandoned City Utility Easement and adopt a Resolution authorizing the City Manager to execute all necessary documents to effect such release.

Report

Issue:

Whether the City Council should release the abandoned City Utility Easement that encumbers the title to Lots 3-6 of Block 7, Swan's Addition, Vol. 1 of Plats, page 37, and adopt a Resolution to that effect.

Staff Contact:

Rich Hoey, Director, Public Works Department, 360.753.8495.
Fran Eide, City Engineer, Public Works Department, 360.753.8422.

Presenter(s):

Rich Hoey, Director, Public Works Department, 360.753.8495.
Fran Eide, City Engineer, Public Works Department, 360.753.8422.

Background and Analysis:

The property owner, Drebeck Investments, L.L.C., requested that the City release its rights to the abandoned utility easement that is located beneath its commercial building located between Legion Way and 7th Avenue, on Lots 3-6, as shown on Exhibit "A".

Typically, the City will consider release of its easement rights to abandoned easements when it is apparent that no use shall be made of such easement area now or in the future. In this instance, the City permitted a building to be constructed on Block 7 over the abandoned easement area in 1942. The City's easement now serves only to cloud the owner's title.

Staff recommends approval of the release of the abandoned utility easement upon payment by the owner of consideration in the sum of \$1,000.00 to the City. The City's requested payment is not for easement rights, but is for reimbursement of staff time to process the release request.

Neighborhood/Community Interests (if known):

The public hearing will provide an opportunity for Council to hear from the community on the requested release of the abandoned City Utility easement located upon property owned by Drebeck Investments, L.L.C.

Options:

- Option 1: Conduct the Public Hearing. If, after closing the Hearing, Council finds sufficient information to take action, move to approve the release of the abandoned City Utility Easement and adopt a Resolution authorizing the City Manager to execute all necessary documents consistent with said release upon payment by owner to the City of \$1,000 for reimbursement of staff time.
- Option 2: Hold the Public Hearing, and continue to receive written testimony to a date certain. This option would delay the decision until Council has enough information to make its decision.
- Option 3: Hold the Public Hearing, reject the easement release. This option would leave the abandoned easement as is. The City may continue to have liabilities for the abandoned easement.

Financial Impact:

None

Attachments:

Resolution

Easement Release with Exhibit "A"

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING
THE RELEASE OF RIGHTS TO AN ABANDONED UTILITY EASEMENT.**

WHEREAS, Drebeck Investments, LLC, is owner of Lots 3,4,5 and 6, of Block 7, Swan's Addition, as recorded in Thurston County Records, Volume 1 of Plats at Page 37, and said owner has requested the City release its rights to the City's abandoned utility easement running east-west between Lots 3,4,5, and 6 under its commercial building, as shown on Exhibit A attached hereto; and

WHEREAS, historical review of the City's records reveals that a building was constructed in 1942 upon Block 7, Swan's Addition, Vol. 1 of Plats at Page 37, and the City's utility easement under said building was abandoned at that time and has never been used, nor will it ever be used in the future; and

WHEREAS, the City's unused and abandoned easement only serves to be an encumbrance in the owner's chain of title to the aforesaid real property; and

WHEREAS, the City's rights to the abandoned easement were not released at the time the building on Block 7, Swan's Addition, was constructed in 1942 which is the typical practice; and

WHEREAS, the City's release of the abandoned utility easement will clear the owner's land title; and

WHEREAS, staff recommends releasing the abandoned utility easement upon payment of \$1,000 by the owner for staff time in processing the release request;

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

1. The Olympia City Council hereby approves release of the City's rights to the abandoned City Utility Easement crossing Lots 3,4,5 and 6 of Block 7, Swan's Addition, Vol. 1, of Plats at Page 37, records of Thurston County, Washington, as shown on Exhibit A attached hereto.
2. The City Manager or his designee is authorized and directed to execute on behalf of the City of Olympia all necessary documents consistent with the release of the City's abandoned utility easement, and to make any minor modifications as may be required and are consistent with the intent of the release, or to correct any scrivener's errors following payment by Drebeck Investments, L.L.C. of \$1,000 to the City of Olympia for staff time incurred in processing the owner's release request.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

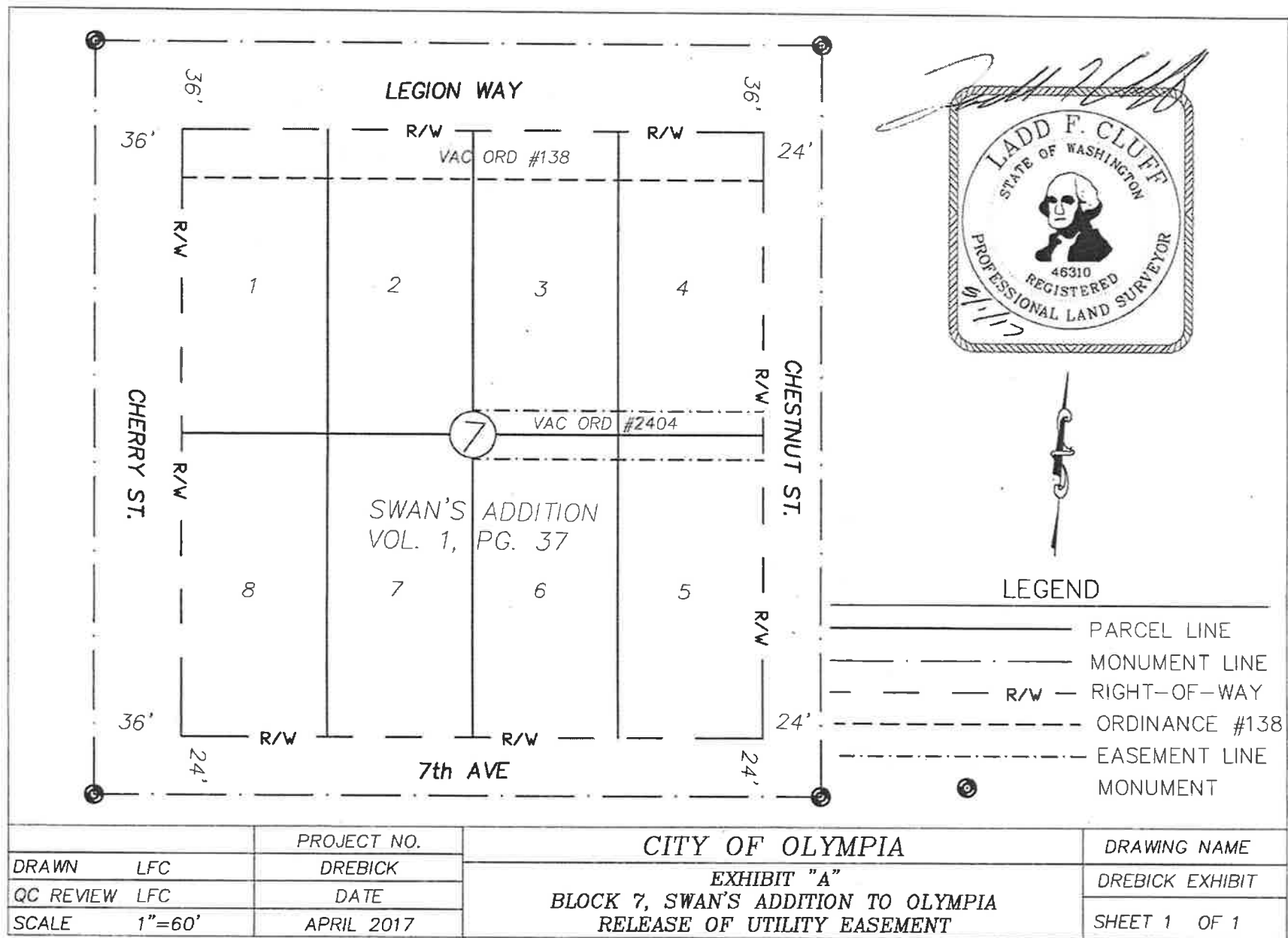
ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



After recording return document to:
City of Olympia
Attention: Legal Department
P.O. Box 1967
Olympia, WA 98507-1967

Document Title:	RELEASE OF UTILITY EASEMENT
Grantor(s):	City of Olympia
Grantee(s):	Drebick Investments, LLC
Legal Description:	A twenty (20) foot right-of-way dedication previously vacated by Ordinance No. 2404, being the twenty foot east-west alley lying between Lots 3,4,5 and 6, Block 7, Swan's Addition, as recorded in Thurston County records, Volume 1 of plats at page 37.
Assessor's Tax	
Parcel Number:	78200700700

RELEASE OF UTILITY EASEMENT

THIS RELEASE OF UTILITY EASEMENT is executed as of the date set forth below by the City of Olympia, a municipal corporation, organized and existing under the laws of the State of Washington (hereafter "the City");

WHEREAS, it is the purpose and intent of the City to release any and all utility easement rights within the Easement Area as described and shown on Exhibit "A" which is attached hereto and made a part hereof;

NOW THEREFORE, the City of Olympia hereby releases, terminates and quitclaims any and all right, title and interest in and to the hereinabove described Easement Area and the Utility Easement to Grantee, Drebick Investments, LLC.

IN WITNESS WHEREOF, the City has caused these presents to be executed the day and year set forth below.

CITY OF OLYMPIA

By: _____
Steven R. Hall, City Manager

Dated: _____

Approved as to legal form:


Mark Barber, City Attorney

STATE OF WASHINGTON)
County of Thurston) ss

On this _____ day of _____, 2018, before me personally appeared Steven R. Hall, to me known to be the City Manager of the City of Olympia, Washington, a municipality organized under the laws of the State of Washington, and that he executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipality, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

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

DREBICK INVESTMENTS, LLC

Signature _____
 Print Name _____
 Title _____

STATE OF WASHINGTON)
County of _____) ss

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

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

