

Ordinance No. 6972

AN ORDINANCE RELATING TO AN INTERLOCAL AGREEMENT WITH THE OLYMPIA METROPOLITAN PARK DISTRICT, IF FORMATION OF THE DISTRICT IS APPROVED BY THE VOTERS WITHIN THE CITY OF OLYMPIA; APPROVING THE FORM OF AN INTERLOCAL AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, the Olympia City Council has enacted Ordinance No. 6971, previously finding that there is a need to create a stable funding source for parks including the maintenance, improvement, construction and acquisition of parks and recreation facilities and programs; and

WHEREAS, pursuant to RCW 35.61.040, if a majority of the voters voting on the ballot proposition approve of the formation of the Olympia Metropolitan Park District, the District will be created as a municipal corporation effective immediately upon certification of the election results; and

WHEREAS, state law (including Chapters 35.61, 67.20 and 84.52 RCW) authorizes metropolitan park districts to levy and impose various taxes and fees to provide ongoing funding to acquire, construct, maintain, operate and improve parks and recreation facilities; and

WHEREAS, the Olympia City Council by Ordinance No. 6971 has found that it is in the best interests of the residents of Olympia to submit to the voters a ballot proposition to create the Olympia Metropolitan Park District to provide a stable funding source for the maintenance, acquisition, construction and improvement of parks and recreation facilities and programs;

WHEREAS, in 2004, the voters of Olympia approved a new utility tax of 2% for parks. The City represented to the voters that such tax revenues would be prioritized for the acquisition of park lands to meet future population demand before available lands are lost to other uses. The City projected that this tax revenue, along with the existing 1% non-voted utility tax enacted by the City in 1994, would be able to acquire approximately 500 acres of park lands over the next twenty (20) years. The City has acquired sixty-three (63) acres of park lands in the first decade, during a time of economic recession and recovery.

WHEREAS, in order to clearly describe the cooperative relationship between the Olympia Metropolitan Park District and the City of Olympia, the City Council finds that it is in the best interests of the City to enter into an interlocal agreement with the Olympia Metropolitan Park District as further described in this Ordinance and that the Mayor is authorized to sign an interlocal agreement with the newly formed District, a copy of which is attached hereto as Attachment 1;

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

Section 1. Statement of Intent. It is the intent of the City of Olympia that, if the voters approve formation of the Olympia Metropolitan Park District ("Olympia Metropolitan Park District" or "District") within the boundaries of the City of Olympia, the City will work in cooperation with the District, the Olympia Parks, Arts and Recreation Committee ("PRAC"), and a new citizens' advisory committee consisting of five (5) persons to advise the City and the District. The new advisory committee shall be referred to as the OMPD Advisory Committee and will provide an annual report to the City and District regarding the City's compliance with the funding levels contained within the interlocal agreement.

Further, it is the intent of the City if the voters approve formation of the Olympia Metropolitan Park District that District funding will supplement and protect existing City of Olympia parks funding and not replace such City funding, as more specifically set forth in the interlocal agreement. The City would also commit to use of revenues from the 2% Voted Utility Tax (VUT) and the revenues from one-half of the 1% Non-Voted Utility Tax (NVUT) for the priorities of park land acquisition, together with maintenance and development of lands so acquired, to comply with park standards, and to keep pace with population growth before available lands are lost to development. The City would, as may be feasible, apply the remaining one-half of the 1% Non-Voted Utility Tax (NVUT) to such purposes, and in any budget year when this is not done, the City would apply the first \$500,000 of available year end savings to this purpose.

Finally, the City intends that the City and its Parks, Arts and Recreation Department will work cooperatively under an interlocal agreement with the Olympia Metropolitan Park District, as further authorized herein and as set forth in the interlocal agreement (Attachment 1).


Section 2. Contingent Bond Issue Authorized. If the voters approve formation of the Olympia Metropolitan Park District, the City is authorized and directed to issue general obligation bonds as soon as reasonably practicable after July 1, 2016, in such full amount as the City can reasonably and prudently issue based upon the projected revenue from the 2% Voted Utility Tax (VUT) approved in 2004 and the projected revenue of one-half of the 1% Non-Voted Utility Tax (NVUT) and within the City of Olympia's councilmanic debt capacity. The funds received from the issuance of such bonds shall be used for the sole purpose of acquiring park lands.

Section 3. Interlocal Agreement Authorized. If the voters of the proposed Olympia Metropolitan Park District approve its formation, the Mayor is authorized and directed to enter into an interlocal agreement with the Olympia Metropolitan Park District substantially in the form attached as Attachment 1, with such changes as the City Council deems necessary to ensure that the intent of the City as expressed herein is carried out.


Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held legally invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected. Further, if any provision of this Ordinance is held invalid, the City intends insofar as legally possible to replace the invalidated portion with another provision to accomplish the intent of the invalidated provision.

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 its approval by the City Council and publication, as provided by law.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

PASSED: 7/21/2015

APPROVED: 7/21/2015

PUBLISHED: 7/23/2015

Attachment 1: Form of Interlocal Agreement between the City of Olympia and the Olympia Metropolitan Park District

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA
AND THE OLYMPIA METROPOLITAN PARK DISTRICT**

THIS AGREEMENT (this "**Agreement**") between the City of Olympia, Washington (the "**City**"), a noncharter code city organized under Title 35A RCW, and the Olympia Metropolitan Park District, a municipal corporation organized under Chapter 35.61 RCW (the "**OMPD**") (together, the "**Parties**") is effective as of the date of full execution and posting and is for the purposes described herein.

RECITALS

A. The City passed Ordinance Nos. 6971 and 6972 proposing formation of a metropolitan park district under Chapter 35.61 RCW and expressing its intent to cooperate with such a district to acquire, maintain, operate and improve parks and recreational facilities and programs for the future.

B. A majority of the voters voting at an election held on November 3, 2015, approved the formation of the Park District and the Park District was formed upon certification of the election results on November 24, 2015, pursuant to RCW 35.61.040, possessing all powers available to a metropolitan park district under state law.

C. The City and the OMPD are each, acting independently or jointly, authorized by RCW 67.20.010 and other state law, *inter alia*, to acquire, construct, improve, control, operate and maintain parks, and other recreational facilities or services.

D. Chapter 39.34 RCW (Interlocal Cooperation Act) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage.

E. By Ordinance No. 6972 of the City, the Mayor is authorized to execute this Agreement on behalf of the City.

F. By Resolution No. MPD-3 of the Olympia Metropolitan Park District Board (the "OMPD Board"), the President of the OMPD Board is authorized to execute this Agreement on behalf of the OMPD.

G. The City and the OMPD desire to enter into this Agreement pursuant to Chapters 39.34 and 67.20 RCW in order to establish the framework for cooperation to acquire, maintain, operate and improve parks and recreational facilities and programs for the future.

AGREEMENT

The Parties enter into this Agreement in order to coordinate their efforts as authorized by Chapter 67.20 RCW and the Interlocal Cooperation Act:

1. **Purpose and Interpretation.** The City and the OMPD are each, acting independently or jointly, authorized by Chapters 67.20 and 39.34 RCW, *inter alia*, to acquire, construct, improve, control, operate and maintain parks, and other recreational facilities. The purpose of this Agreement is to make the most efficient use of public funds and to avoid duplication of efforts.

2. **OMPD Staffing.** Pursuant to this Agreement and as part of the consideration provided hereunder, the City may provide for staffing to implement the projects, programs and services identified in the adopted OMPD budget and may provide necessary related support to the OMPD, including without limitation, administrative staffing, treasury management services, legal services and similar support. These support services may be provided either in-house or through contracts with private contractors, firms or nonprofit organizations.

3. **Park District Records.** Official Records of the OMPD shall be kept and maintained by the City of Olympia in accordance with the law. Public Records Requests shall be handled by the City Clerk's office.

4. **Finances and Budgeting.** The Parties agree to participate in the budgeting process described in this Agreement. The OMPD intends to pay all property taxes collected by it to the City that are not needed to cover expenses of the OMPD, to be paid directly by the OMPD in furtherance of the purposes set forth herein. The City agrees to apply any funds received by it from the OMPD in accordance with this Agreement.

4.1. **Budget Process.** The Parties agree to the following process for limiting and controlling the OMPD's annual budget and property tax levy:

4.1.1 Finance.

(i.) The City shall include in its annual General Fund Operating Budget revenues to support the Olympia Parks, Arts and Recreation Department (hereafter "OPARD") projects, programs and services in amounts necessary to meet or exceed the minimum funding described in this paragraph. The 2015 adopted net budget for OPARD is \$4.4 million which is 11% of the General Fund revenues calculated using the methodology in **Addendum 1**. This percentage so calculated will be the baseline for allocating General Fund revenues to OPARD in subsequent years, unless the City Council by resolution with a majority plus one ("super majority") vote of its members after public hearing, determines that an exigent financial circumstance or natural disaster prevents the Council from maintaining this level of General Fund support. The Council will approve OPARD's budget and provide oversight in accordance

with the City's normal budget processes. In accordance with state guidelines, the City shall account for the OMPD and treat it as a Blended Component Unit and shall keep the necessary records to ensure the proper expenditure of all funds received by it for parks and recreation purposes, in accordance with this Agreement, state law and City ordinances.

(ii.) The City commits to use the 2% Voted Utility Tax (VUT) revenues to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable.

(iii.) The City commits to use one-half of the 1% Non-Voted Utility Tax (NVUT) revenues to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable.

(iv.) The City intends to allocate in its budget the remaining one-half of the Non-Voted Utility Tax (NVUT) to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable. If such budget allocation does not occur, to the extent a year end fund balance exists, then the City intends, absent an exigent financial circumstance, to allocate the first \$500,000 of that balance to such purposes.

(v.) The City intends to maintain the funding levels in (i.) and (ii.) without a time limit, and the funding levels in (iii.) until January 1, 2030, and the funding levels in (iv.) until January 1, 2026.

4.1.2 City to Prepare Budget Request. In conjunction with development of its own budget request, the City administration shall identify the amount of funding required from the OMPD and shall prepare an OMPD budget request to be presented to the OMPD Board. The budget request shall describe the proposed expenditures of OMPD revenues and shall be accompanied by an annual report documenting the status of the park and recreation projects, programs and services undertaken pursuant to this Agreement.

4.1.3 Advisory Committee Review. The OMPD Board shall create an advisory committee of at least five (5) persons, who shall be Olympia residents, to advise the City and the OMPD Board. The persons chosen for service on the advisory committee shall be knowledgeable about parks budgeting and finance, park acquisitions, development, maintenance, park standards, and funding levels. Service on the committee shall be for a four (4) year term. The advisory committee shall be referred to as the OMPD Advisory Committee and provide an annual report to the City Council and OMPD Board regarding the City's compliance with the funding levels in (i.) and (iv.) in Section 4.1.1. The draft of such report shall be posted on the City's website and the public shall be afforded a reasonable opportunity of at least twenty (20) days to comment on such report prior to the report being finalized.

4.1.4 Adoption of Budget and Levy by Park District. The OMPD Board shall review the budget proposal and approve a final OMPD budget in accordance with state law. The OMPD agrees to levy property taxes annually under RCW 35.61.210, within applicable statutory and constitutional rate and amount limitations, in amounts sufficient to fund its adopted budget.

4.2. City Administrative Services Director to serve as Treasurer. The OMPD agrees to take such actions as are necessary under RCW 35.61.180, including obtaining the approval of the Thurston County Treasurer, to appoint the City Administrative Services Director to serve as Treasurer for the OMPD. If so appointed, the City Administrative Services Director shall perform the functions of Treasurer under state law and maintain financial records on behalf of the OMPD, kept in accordance with applicable generally accepted accounting principles and other applicable governmental accounting requirements. The OMPD shall pay for the Treasurer's surety bond, insurance for the OMPD Board and all audit costs.

5. Condemnation and other Exercise of Governmental Powers. The OMPD shall not exercise condemnation powers within the City of Olympia. If condemnation of property is required for OMPD purposes, the City may exercise condemnation powers on the OMPD's behalf. The OMPD shall form no local improvement district within the City of Olympia. If formation of a local improvement district is required for OMPD purposes, the City may carry out the formation and may levy and collect assessments on the OMPD's behalf.

6. Interlocal Cooperation Act Provisions.

6.1. Ownership of Property. All park and recreation land, facilities and equipment that are maintained, acquired, improved or otherwise used in connection with this Agreement are and shall remain the property of the City. No joint property ownership is contemplated under the terms of this Agreement. In accordance with state law and City policy, the City retains the right to acquire or to sell or divest itself of city owned park land or facilities. Any proceeds from a sale or divestment of park land or facilities shall be dedicated to park purposes, including repaying bonds issued for park purposes.

6.2 No Joint Board. No provision is made for a joint board.

6.3 Amendment. Upon agreement of both parties reduced to writing and signed by each party's governing body, this Agreement may be amended as circumstances require. Provided, that any amendment would occur only after a report regarding such amendment is issued by the OMPD Advisory Committee, and Council holds a public hearing, after which each party must approve such amendment by a super majority of its' members.

7. Termination. This Agreement may be terminated by either Party upon the provision of 180 calendar days' notice to the other party. Provided, the City intends that any action it may take to terminate will be done after Council holds a public hearing and, if such

termination would have the effect of reducing the amount or duration of any of the (i.) – (iv.) funding levels in Section 4.1.1., votes to approve termination by a super majority of City Councilmembers. Additionally, this Agreement expires upon the future dissolution of the OMPD. Upon dissolution of the OMPD, it is the intent of the Parties that all assets are turned over to the City. However, if the OMPD has any outstanding debt or if the City has issued debt on behalf of the OMPD, this Agreement shall not be terminated or the OMPD dissolved until the debt is paid or defeased.

8. Compliance with Other Laws. The Parties shall comply with all applicable state and federal laws, including without limitation those regarding contracting, labor relations, minimum and prevailing wage, open public meetings, public records, and nondiscrimination.

9. Severability. In the event that any provision of this Agreement is held to be in conflict with an existing state statute or any future amendment thereof, such provisions shall be severable, and the remaining provisions of this Agreement shall remain in full force and effect. If any provision of this Ordinance is held invalid, the City intends, insofar as legally possible, to replace the invalidated portion with another provision to accomplish the intent of the invalidated provision.

10. Indemnification. The OMPD shall indemnify, defend, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of services provided by a City officer, official, employee, or volunteer acting in the course and scope of their duties for the OMPD pursuant to this Agreement, except for injuries, losses, and damages caused by the sole negligence of the City.

11. Effective Date. This Agreement will be effective after filing or posting, as provided by law.

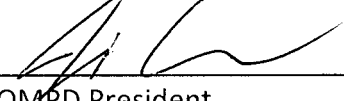
***** SIGNATURES /APPEAR ON THE FOLLOWING PAGE *****

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date of the last authorizing signature affixed hereto.


CITY OF OLYMPIA:


Mayor _____ Date _____

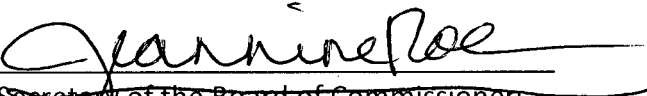
OLYMPIA METROPOLITAN PARK DISTRICT:

 3-1-16
OMPD President _____ Date _____

ATTEST:


City Clerk _____

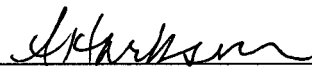
ATTEST:


Secretary of the Board of Commissioners
Vice President

APPROVED AS TO FORM:


City Attorney _____

APPROVED AS TO FORM:


OMPD Board Attorney _____

ADDENDUM 1

Olympia General Fund Appropriation for Parks Revenues Relevant For Parks % of Revenues

	2015 Budget	General Use Portion	Source	Notes
Sales Tax	\$ 18,683,610	\$ 16,398,600	P. 43 Budget	excluding currently dedicated portions
B&O Tax	\$ 5,240,000	\$ 5,240,000	P. 36 Budget	excluding currently dedicated portions
Property Tax	\$ 13,710,639	\$ 10,269,888	P. 36 Budget	excluding currently dedicated portions
Private Utility Tax	\$ 4,946,860	\$ 4,946,860	P. 36 Budget	excluding currently dedicated portions
Public Utility Tax	\$ 4,217,430	\$ 4,217,430	P. 36 Budget	excluding currently dedicated portions
Total:	\$ 46,798,539	\$ 41,072,778		

Parks General Fund Appropriation Requirement				
From Budget	\$ 5,335,445		P. 110 Budget	
Less program revenues	\$ (929,713)		P. 110 Budget	Generated by Parks activities
Net Demand on General Fund	\$ 4,405,732			

Designated Tax Revenue:	\$ 41,072,778
Parks General Fund Requirement	\$ 4,405,732
Parks Portion	10.7%