



City Hall  
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## City Council

### Approval of a Resolution Authorizing a Right-of-Way Use Agreement with Boardwalk Associates

**Agenda Date:** 10/6/2020  
**Agenda Item Number:** 4.G  
**File Number:** 20-0761

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**Type:** resolution **Version:** 1 **Status:** Passed

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**Title**

Approval of a Resolution Authorizing a Right-of-Way Use Agreement with Boardwalk Associates

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Move to approve the resolution authorizing the City Manager to sign a Right-of-Way Use Agreement with Boardwalk Associates.

**Report**

**Issue:**

Whether to approve a Right-of-Way Use Agreement with Boardwalk Associates, a Washington General Partnership.

**Staff Contact:**

Rich Hoey, P.E., Public Works Director, 360.753.8495

**Presenter(s):**

None - Consent Calendar Item.

**Background and Analysis:**

In June 1987, the City and Boardwalk Associates entered into a Right-of-Way (ROW) Use Agreement that allowed Boardwalk Associates to place a structure and appurtenances within a certain portion of the Columbia Street right-of-way. The structure remains in place today and houses the Budd Bay Café restaurant. The term of that agreement was for 30 years and expired on February 28, 2017.

Boardwalk Associates is interested in a new ROW Use Agreement that would allow continued placement of its existing structure and related appurtenances within the Columbia Street ROW. The total ROW use is approximately 2,820 square feet. Staff has determined that allowing continued use of the ROW area is acceptable subject to the conditions outlined in the attached agreement. This

agreement is very similar to other ROW use agreements within the City and has another 30-year term given the type of structure. The agreement also includes new language that addresses sea level rise and associated flooding risk.

Under the terms of the agreement, Boardwalk Associates (and any successor entities) will pay the City \$4,887.06 annually plus any Washington State leasehold excise taxes. The payment is based on equivalent land values in the area, and will be inflated 4 percent per year during the term of the agreement.

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

In a separate action before Council, staff is recommending a new sublease for the Percival Landing area directly with Mr. Berg.

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

The ROW Use Agreement provides value back to the citizens of Olympia for use of public right-of-way.

**Options:**

1. Approve a resolution authorizing the City Manager to sign a Right-of-Way Use Agreement with Boardwalk Associates. The agreement will allow the Boardwalk Associates building to remain in its current location, with appropriate compensation to the City.
2. Modify agreement to address Council concerns.
3. Do not approve the agreement. Boardwalk Associates would no longer be able to occupy City ROW.

**Financial Impact:**

The City will receive \$4,887.06 annually for the use of City ROW, with a 4 percent annual inflation factor.

**Attachments:**

Resolution  
Right-of-Way Use Agreement