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## City Council

### Approval of a Resolution Authorizing a Right-Of-Way Use Agreement with Olympia Coffee Roasting Co.

**Agenda Date:** 10/30/2023  
**Agenda Item Number:** 4.F  
**File Number:** 23-0945

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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 Olympia Coffee Roasting Co.

..Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a Resolution authorizing a Right-Of-Way Use Agreement with Olympia Coffee Roasting Co.

..Report

Issue:

Whether to approve a Resolution authorizing a Right-Of-Way Use Agreement between with Olympia Coffee Roasting Co.

Staff Contact:

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Presenter(s):

None - Consent Calendar Item

Background and Analysis:

Olympia Coffee Roasting Co. is a Washington company doing business at Olympia street address 600 4th Ave East. Olympia Coffee Roasting Co. has requested the continued use of a portion of the adjacent 4th Avenue sidewalk and parklet they constructed in partnership with the PBIA on Cherry Street in 2013.

The City right-of-way is a public resource. Primarily used for transportation and mobility, if space allows, secondary uses may be considered. Though Olympia Coffee Roasting Co. maintains the parklet and sidewalk seating, it is publicly dedicated right-of-way and to use portions of the right-of-way for commercial purposes, Olympia Coffee Roasting Co. must receive approval from the City through a right-of-way use agreement.

This type of request is becoming more common as downtown development increases. Interest in outdoor dining was growing before the pandemic and during, provided a lifeline by allowing many businesses to remain safely operational. Given substantial space for pedestrian traffic on 4th Avenue and Cherry St, City staff sees no objections to this continued commercial use of the public right-of-way.

Since the pandemic, the Washington State Department of Revenue has reiterated its interest to Washington municipalities in collecting the Leasehold Excise Tax, a tax on the use of public property by a private party, under RCW 82.29A. It is the responsibility of Washington cities to collect this tax on behalf of the State and remit it to the Department

of Revenue. This use agreement will serve as a vehicle for compliance with this Washington State Department of Revenue requirement.

The proposed term of the agreement is 4 years, with the City retaining the right to cancel the agreement at the City's convenience. The City would retain access for public and private utility maintenance as needed, and Olympia Coffee Roasting Co. would pay the City \$613.25 each year under the agreement.

**Climate Analysis:**

Planters and inviting, pedestrian-friendly amenities in the public right-of-way, where space allows, make efficient use of limited urban space and has a tangible, positive effect on the climate. This use, strategically applied, adds vibrancy and economic vitality to the downtown core while reducing urban sprawl and offering alternatives to "car-centric" dining.

**Equity Analysis:**

The anchored bench and clustered sidewalk seating on 4th Avenue occupy a portion of the public right-of-way but allow ample room for pedestrian mobility, far exceeding ADA and accessibility guidelines to allow access for mobility challenged populations. Parklet designed to be level with the sidewalk - no gap over gutter - to make it ADA/wheelchair accessible and inclusive.

Also included in the agreement is a non-discrimination clause stipulating Olympia Coffee Roasting Co. not violate any terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, or any other applicable federal, state, or local law or regulation regarding non-discrimination.

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

The parklet was constructed to City standards and code in 2013 and is regarded as a "model parklet" by other municipal jurisdictions exploring outdoor right-of-way dining policy. Though it occupies what would be a parking space, it provides additional pedestrian public space, visual interest and greenery along Cherry Street.

**Financial Impact:**

The Right-of-Way Use Agreement generates \$613.25 in revenue for the General Fund.

**Options:**

1. Move to approve a Resolution authorizing a Right-Of-Way Use Agreement with Olympia Coffee Roasting Co., allowing continued use of the parklet and outdoor sidewalk seating.
2. Do not approve the Right-of-Way Use Agreement, which will reduce revenue to the General Fund and requires the owner of Olympia Coffee Roasting Co. to deconstruct and/or remove parklet and outdoor seating. Removal would allow for an additional parking spot on Cherry St. and revenue received thereof.
3. Take other action.

**Attachments:**

Resolution

Agreement

Site Plan