



## City Council

### Approval of a Resolution Authorizing a Right-Of-Way Use Agreement between the City of Olympia and Oyster Boys, LLC, D.B.A. King Solomon's Reef

**Agenda Date:** 5/7/2024  
**Agenda Item Number:** 4.L  
**File Number:**24-0334

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**Type:** resolution **Version:** 2 **Status:** Passed

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#### **Title**

Approval of a Resolution Authorizing a Right-Of-Way Use Agreement between the City of Olympia and Oyster Boys, LLC, D.B.A. King Solomon's Reef

#### **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 Oyster Boys, LLC, D.B.A. King Solomon's Reef.

#### **Report**

##### **Issue:**

Whether to approve a Resolution authorizing a Right-of-Way Use Agreement with Oyster Boys, LLC, D.B.A. King Solomon's Reef.

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

Andrew Curtis, Engineering Program Specialist, CP&D, 360.753.8181

Mike Reid, Director of Economic Development, City Manager's Office, 360.753.8591

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

None - Consent Calendar Item

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

Oyster Boys is a Washington limited liability company doing business as King Solomon's Reef restaurant located at street address 212 4th Avenue East. Oyster Boys has requested the continued use of the northern portion of the adjacent north-south alley for commercial outdoor use and food/beverage service.

This north-south alley is not used for solid waste collection or deliveries and is not useable for other

vehicle traffic. The southern portion of this alley is used by the 4<sup>th</sup> Ave Tavern for similar purposes. City utilities are located behind these businesses in the east-west alley.

If approved, this would be the second 4-year agreement the City has entered into with the restaurant doing business as King Solomon’s Reef, but the first agreement with Oyster Boys as the new operating entity and legal owner of the King Solomon’s Reef restaurant. The first 4-year term was considered successful. Since executing the first agreement, additional guidelines and policy have been developed concerning the commercial use of public right-of-way and has led City staff to consider new strategies to achieve heightened economic vitality, cleanliness and public safety in the downtown core.

Given safety concerns and clean-up service costs associated with maintaining underutilized downtown alleys such as this one, the City seeks to incentivize this commercial use or “stewardship” of applicable alleys by providing businesses a credit against the right-of-way lease rent. This is being called a “Clean Alley Credit.”

Following review, staff believes that the proposed use by Oyster Boys is a viable recipient of this credit with certain conditions as outlined in the proposed Right-of-Way Use Agreement. 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.

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.

**Climate Analysis:**

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 fixtures in the alley occupy a portion of the public right-of-way but allow ample room for pedestrian mobility, both inside the agreement use area and out, exceeding ADA and accessibility guidelines to allow inclusivity and access for mobility challenged populations.

Also included in the agreement is a non-discrimination clause stipulating Oyster Boys 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):**

Commercial stewardship of underutilized downtown alleyways serves a compelling public safety interest. Underutilized downtown alleyways can become hotspots for disorderly conduct, vandalism, litter, and waste. Given that this particular alleyway is unsuitable for vehicle traffic and the east-west

alley within the block facilitates building and solid waste collection, allowing adjacent businesses to utilize this space for commercial purposes significantly benefits the surrounding neighborhood and community.

**Financial Impact:**

While this Right-of-Way Use Agreement does not directly generate General Fund revenue, the City expects to achieve net savings on public safety, code enforcement, and cleanup costs. By effectively managing and maintaining this underutilized downtown alley through this agreement, the City reduces the need for extensive patrolling and maintenance that would otherwise be necessary.

**Options:**

1. Move to approve a Resolution authorizing a Right-Of-Way Use Agreement with Oyster Boys, LLC.
2. Do not approve the Right-of-Way Use Agreement.
3. Take other action.

**Attachments:**

Resolution  
Agreement  
Site Plan