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City Council

Approval of Agreement for Joint Legal Representation of the City of Olympia and the Olympia Metropolitan Park District

Agenda Date: 3/15/2016

Agenda Item Number: 4.D

File Number: 16-0347

Type: contract **Version:** 1 **Status:** Passed

Title

Approval of Agreement for Joint Legal Representation of the City of Olympia and the Olympia Metropolitan Park District

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve and authorize the City Manager to sign an Agreement for Joint Legal Representation of the City of Olympia and the Olympia Metropolitan Park District.

Report

Issue:

Consideration of an Agreement for Joint Legal Representation of the City of Olympia and the Olympia Metropolitan Park District

Staff Contact:

Mark Barber, City Attorney, 360.753.8338

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The City Attorney's office will be providing legal representation to both the City of Olympia ("City") and the Olympia Metropolitan Park District ("OPMD"). Although the City Attorney's office does not anticipate a conflict, a situation could arise in which the OPMD's best interest is adverse to that of the City, or representation of the OPMD could be materially limited by the City Attorney's responsibilities to the City. Should such conflict arise, the City Attorney's office is confident that it will be able to provide competent and diligent representation to both the City and the OPMD, provided the representation is not prohibited by law and so long as such representation involves no claim by either client against the other.

Each client must determine for itself whether or not it wishes to give written informed consent for continued joint legal representation by the City Attorney's office. Either client may refuse or revoke its consent at any time and, in the case of such refusal or revocation, the OPMD would be required to obtain legal counsel outside the City Attorney's office. Each client must also authorize the City Attorney's office to make any disclosure about that client to the other whenever such disclosure is related to or necessary for joint representationⁱⁱ.

Each entity has the right to seek separate and independent legal counsel prior to signing the Agreement, which consents to the continuation of joint legal representation.

Neighborhood/Community Interests (if known):

N/A

Options:

1. Approve and authorize the City Manager to sign the agreement.
2. Do not approve the agreement and the Olympia Metropolitan Park District will hire its own legal counsel outside of the City Attorney's office.

Financial Impact:

N/A

RULES of PROFESSIONAL CONDUCT, RULE 1.7. CONFLICT OF INTEREST; CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. (b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if: (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and ⁱⁱ(4) each affected client gives informed consent, confirmed in writing (following authorization from the other client to make any required disclosures).