

**PORT OF OLYMPIA COMMISSION  
RESOLUTION 2017-08**

**A Resolution, of the Port of Olympia Commission Establishing a  
small city economic development program**

WHEREAS, in 2011, the Port of Olympia Economic Development Corporation ("Port EDC") established an initial Small City Development Fund Program ("2011 Program"); and

WHEREAS, in 2017, the Port EDC terminated the 2011 Program, effective December 31, 2017; and

WHEREAS, small cities in Thurston County have derived economic benefit from the funding provided by the 2011 Program; and

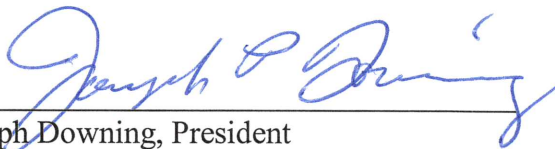
WHEREAS, the Port of Olympia ("Port") desires to replace the 2011 Program and establish a new Small City Economic Development Program by resolution.

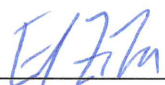
NOW, THEREFORE, BE IT RESOLVED that the Port of Olympia Commission hereby establishes a Small City Economic Development Program (the "Program");

BE IT FURTHER RESOLVED that the Small City Economic Development Program shall start on January 1, 2018, and be administered by the Port of Olympia Economic Development Corporation and Port of Olympia staff in accordance with the program guidelines attached as Exhibit "A" to this Resolution.

**ADOPTED** by a majority of the members of the Port Commission of the Port of Olympia, a majority being present and voting on this Resolution at a regular Commission meeting on August 28, 2017, as attested to by the signatures below of the Commissioners physically present this 28<sup>th</sup> day of August, 2017.

**PORT OF OLYMPIA COMMISSION**

By:   
Joseph Downing, President

By:   
E.J. Zita, Vice-President

By:   
Bill McGregor, Secretary

## **EXHIBIT A**

### **SMALL CITY ECONOMIC DEVELOPMENT PROGRAM GUIDELINES**

## Port of Olympia Small City Economic Development Program Summary

The Port of Olympia Port Commission (“Commission”) has created a Small City Economic Development Program (the “Program”). This Program, for cities in Thurston County with a population of less than 15,000, offers funds for use in local economic development projects. The Port of Olympia Port Commission (“Commission”) determines the total funds for the program available in any calendar year during the Port’s annual budget process. Eligible cities may submit one or more proposals during January and February of each calendar year to the Port Executive Director (“Executive Director”), or his or her designee, for screening. Following the January through February solicitation period, the Executive Director, or his or her designee, forwards all screened proposals to the Port of Olympia Economic Development Corporation (“Port EDC”), prior to May 1, for consideration and prioritization. The Port Commission then awards funds to the most worthy proposals no later than May 15. The number and value of individual awards may vary from year to year depending on the desires of the Port Commission, available Program funds, and the proposals submitted.

## Port of Olympia

### Small City Economic Development Program Guidelines

1. **Purpose:** The Port of Olympia (the “Port”), in an amount approved annually during the budget process by the Port Commission (“Commission”), may make funds available to the Small City Economic Development Program (the “Program”). Cities may request funds via proposals (“Proposals”) submitted to the Port of Olympia Executive Director (“Executive Director”), or his or her designee, who will then screen the Proposals for submission to the Port of Olympia Economic Development Corporation (“the Port EDC”). The Port EDC shall prioritize the proposals, and prepare an “Umbrella Proposal” for submission to the Port Commission (“Commission”). The Commission shall consider and may modify, approve, or deny the Umbrella Proposal.
2. **Applicants:** Any city within Thurston County may submit a Proposal so long as their population does not exceed 15,000 citizens in the annual population estimate published by the Washington State Office of Financial Management pursuant to RCW 43.62.030. Any participant city whose population exceeds 15,000 citizens in the annual population estimate published by the Washington State Office of Financial Management pursuant to RCW 43.62.030 shall be withdrawn from the Program by operation of law as provided for in paragraph 5.1 herein.
3. **Administration of Program:** The Commission, Port EDC, and the Executive Director all participate in the overall administration of the Program. Specifically:
  - The Commission determines the extent to which funds shall be provided to the Program;
  - The Executive Director, or his or her designee, is responsible for processing and initial screening of Proposals;
  - The Port EDC considers the Proposals submitted by the Executive Director, prioritizes Proposals, and proposes a scheme for disbursing Program funds;
  - The Port EDC shall have the right to examine, upon reasonable prior notice, the books and records of each city pertaining to any project receiving monies from the Program;
  - The Commission approves, modifies, or denies the proposed disbursement of Program funds.
4. **Funding, Application, Prioritization, and Disbursal:** The Commission shall establish the funds available for the Program annually as part of the general Port budget process. All monies disbursed from the Port shall come directly from the general Port budget and comply with the procedures established herein. Monies from the Program shall be available only to cities who make application pursuant to this Program.
  - 4.1 Funds awarded from the Program may be used for economic development projects undertaken by the cities. A preference shall be given for Proposals that are used for matching funds. Proposals for projects shall:
    - (i) Be adjudged as economic development projects, and/or



- (ii) Be funded in part by the proposing city and/or through other public funds.

Cities may apply for Program funding for multiple projects each year, but each such project shall be the subject of a separate Proposal. Additionally, each Proposal has an award limit not exceeding the total amount allocated to the Program for that particular calendar year.

- 4.2 Projects undertaken by cities using awarded Program monies shall conform to all applicable laws and regulations, including without limitation Chapter 39.80 RCW, Chapter 39.04 RCW, and Chapter 39.12 RCW, as may be applicable.
- 4.3 The operating year ("Operating Year") for the Program shall begin on January 1 of each year and shall end on December 31. Proposals shall be made in writing by cities to the Executive Director, or his or her designee, no later than March 1 by completing the Project Application Form. The Executive Director, or his or her designee, shall screen the Proposals prior to presentation to the Port EDC, and may reject Proposals that fail to meet award criteria specified in these guidelines. The Port EDC shall evaluate and prioritize the Proposals for funding and shall prepare an Umbrella Proposal no later than May 1 of each year, pursuant to Section 4.4, below. The Commission may modify, and shall issue final approval or rejection of all or portions of the Umbrella Proposal no later than May 15 of each year. Any awarded Program monies allocated to a particular city for a project not applied for and allocated by March 31 of the year following the award shall no longer be available to that city under that project Proposal. In such an event, if the city desires additional award monies from the Program for that project, it must reapply through submission of a new Proposal.
- 4.4 The Port EDC shall evaluate and prioritize the Proposals during an open public meeting. Cities with Proposals under consideration are expected to attend this meeting of the Port EDC to present details of the Proposal and answer Port EDC questions, if any.

The Commission shall consider the Umbrella Proposal during a regular or special Commission meeting. Cities with Proposals under consideration are expected to attend this Commission meeting to present details of the Proposal and answer Commission questions, if any.

- 4.5 The Port EDC shall evaluate Proposals and shall prioritize them as to which cities and Proposals shall receive monies ahead of other cities and Proposals. In prioritizing Proposals, the Port EDC may consider such factors as the amount requested for that Proposal, the amount requested and received by that city for all Proposals that year, the percentage of the overall total project cost requested in the Proposal, and the nature of the project that is the subject of the Proposal. The Port EDC, with the assistance of Port staff, shall prepare an Umbrella Proposal for final approval that includes:

- 4.5.1 The screened Proposals and;
- 4.5.2 The Port EDC's prioritization of the Proposals and,
- 4.5.3 Suggested terms of funding the Proposals, including suggested amount of Program monies to be allocated to each Proposal and disbursement terms, and
- 4.5.4 Such other information as may be useful for the Commission in final consideration of the Umbrella Proposal.

In proposing disbursement terms, the Port EDC shall consider such factors as the overall project budget, the amount of the project to be funded out of the Program, and if Program money will serve as "seed money" (that is, money for preliminary expenses such as architectural or engineering services).

Disbursement of awarded funds is expressly contingent on the city signing and entering into a Program Agreement with the Port. Under no circumstances may the Port disburse awarded Program monies to any party who has not signed and entered into a Program Agreement with the Port.

- 4.6 In the event that a city elects not to undertake or complete a project awarded Program monies based on the prioritization of its Proposal (or otherwise will not use all of the awarded Program monies allocated for its use by the Board), then the city shall promptly notify the Port EDC. The Port EDC shall promptly notify the Commission which may, but is not required to, make such funds available to the highest prioritized city Proposal not previously able to be funded under the Umbrella Proposal as approved by the Commission.
  - 4.7 The Port EDC in preparing the Umbrella Proposal may recommend awarding Program monies to a city's project in an amount less than requested by the city.
  - 4.8 Under no circumstances may the Port disburse awarded Program monies to any party in a manner inconsistent with the Umbrella Proposal as approved by the Commission.
5. **Terms of Agreement and Withdrawal:** This Program shall commence on January 1, 2018 and shall continue indefinitely unless and until such time as the Port elects to discontinue and/or to withdraw from the Program. In the event the Port elects to discontinue and/or withdraw from the Program, the Program shall automatically terminate at the end of the then-current Operating Year.
- 5.1 Any city with a population of greater than 15,000 citizens as published by the Washington State Office of Financial Management pursuant to RCW 43.62.030 shall be ineligible for participation in the Program by operation of law as of December 31 of the year in which the 15,000 population threshold is exceeded.

**5.2** Upon termination of this Program, the Port shall pay any outstanding liabilities of the Program within thirty (30) days hereof.

## **EXHIBIT B**

### **SMALL CITY ECONOMIC DEVELOPMENT PROGRAM PROJECT APPLICATION TEMPLATE**



## SMALL CITY ECONOMIC DEVELOPMENT PROGRAM PROJECT APPLICATION

### 1. Applicant Information

City:		
Address:		
Phone:	Contact:	
Date:	Amount Requested:	\$

### 2. Project Information

Title:
Description:
Use of Funds: (e.g. professional services, site readiness, feasibility)

### 3. Benefits / Needs of Project

1) Is project related to job expansion/retention, recruitment or feasibility? 2) Describe job creation: direct or potential impacts? 3) Is it consistent with local or area plans? 4) Is status "ready-to-go," "last-dollars-in," or will help secure other sources, 5) will it help meet developer/business need timeline?
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### 4. Budget

Total cost:	\$	Dollars committed from own/other sources (attach evidence):	\$
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### 5. Schedule

Attach a timeline for the project.
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### 6. Small City Economic Development Program Agreement

Project Application approval is contingent on execution of the Small City Economic Development Program Agreement.
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## **EXHIBIT C**

### **Port of Olympia Small City Economic Development Program Agreement Template**

## Port of Olympia Small City Economic Development Program Agreement

THIS AGREEMENT ("Agreement") is entered into on this \_\_\_\_ day of \_\_\_\_, 2017, by the Port of Olympia ("Port"), and the City of \_\_\_\_ ("\_\_\_\_") (collectively, the "Parties").

### **I. RECITALS**

- A. On \_\_\_\_, [City] submitted a Small City Economic Development Program Project Application (the "Application"), a copy of which is attached hereto as **Exhibit A**.
- B. On \_\_\_\_, the Port approved [City]'s Application, and granted the proposal funds totaling \_\_\_\_.
- C. In order to clarify each Party's legal obligation under the Small City Economic Development Program, and to identify the specifics of the reimbursement process, the Parties seek to enter into the following agreement.

### **II. AGREEMENT**

In consideration of the promises and obligations set forth below, the Parties agree as follows:

- A. **Incorporation:** The Parties hereby incorporate by reference the above Recitals, as though fully set forth herein.
- B. **Requirement to Conform with Applicable Laws:** Projects undertaken by [City] using awarded Small City Economic Development Program (the "Program") monies shall conform to all applicable laws and regulations, including without limitation Chapter 39.80 RCW, Chapter 39.04 RCW, and Chapter 39.12 RCW, as may be applicable.
- C. **Reimbursement Process:** [City] shall be solely responsible for timely payment of all invoices submitted by vendors, professionals, contractors, and any other parties providing goods and/or services for the project. [City] shall submit to the Port of Olympia Executive Director ("Executive Director"), or his or her designee, paid project invoices for reimbursement. Such invoices shall be provided to the Executive Director, or his or her designee, the earlier of (i) ninety (90) days after the provision of the goods and/or services being billed for therein, and by no later than March 31 following the then-current Operating Year. The Executive Director, or his or her designee, shall determine the reimbursement based on the invoice amount, the funding ratio, and the balance of the Program monies allocated to that city for that project. The Port of Olympia (the "Port") shall in turn make payment directly to the city, based on the information received from the Executive Director, or his or her designee. [City] shall receive the reimbursement payment within thirty (30) days of the Port's receipt of the invoice. Neither the Port nor the Program shall be obligated in any way to reimburse [City] for invoiced goods and/or services if [City] fails to submit the invoice in a timely fashion.

- D. Liability:** [City] shall be solely responsible for all costs, expenses, damages, claims and obligations arising out of any or all projects undertaken thereby. Nothing herein shall be construed as creating any obligation on the part of the Port of Olympia, the Port of Olympia Economic Development Corporation ("Port EDC"), the Executive Director, or the Program as a guaranty of payment of any obligation incurred by [City] arising out of any projects undertaken thereby. Nothing contained herein shall be construed as an obligation benefiting any person or entity that is not a Party hereto, or shall be deemed as inuring to the benefit of any third party.
- E. Survivability:** All covenants, promises, and performance not fully performed as of the date of termination of the Program shall survive termination as binding obligations.
- F. Notices:** All notices, demands, requests, consents and approvals which are or may be required to be given by any Party to any other Party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by certified or registered mail, posted prepaid, return receipt requested to the address provided below for each Party.

Port of Olympia  
Economic Development Corporation  
626 Columbia St. NW #300  
Olympia, WA 98501

City of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Executive Director, or his or her designee, shall receive all mail relating to the Program for the Port.

- G. Amendment:** Modification, termination or amendment of this Agreement requires written agreement, duly authorized and executed by all Parties, except as provided for herein.
- H. Waiver:** No failure by any of the foregoing Parties to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any Party hereto, by notice and only by notice as provided herein, may but shall not be obligated to waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other Party hereto. No waiver shall affect or alter this Agreement, and each covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.
- I. Severability:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- J. Captions:** The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope of intent of this Agreement.
- K. Neutral Authorship:** All Parties to this Agreement have reviewed and negotiated each provision, and the agreement represents the combined work product of all Parties hereto



No presumption or other rules of construction that would interpret the provisions of this Agreement in favor of or against the Party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

- L. Governing Law:** The laws of the State of Washington shall govern this agreement and the rights of the Parties hereto. The Parties agree that any such action venue shall lie exclusively in Thurston County, Washington.
- M. Attorney's Fees and Costs:** Should any Party bring suit to enforce any provision of this Agreement or to redress any breach thereof, the prevailing Party in such litigation shall be entitled to recover its costs and reasonable attorney's fees.
- N. Entire Agreement:** The entire agreement between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of the Parties' previous understandings and agreements, written and oral, with respect to this matter.
- O. No Separate Legal Entity Created:** This Agreement creates no separate legal entity.

**IN WITNESS WHEREOF,** the Parties have executed this Agreement as of the date and year above, and certify that this Agreement was approved in an open public meeting by their respective legislative bodies.

**BY:** \_\_\_\_\_  
[Name]  
[Title]  
Port of Olympia

**BY:** \_\_\_\_\_  
[Name]  
[Title]  
City of \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**APPROVED AS TO FORM :**

**APPROVED AS TO FORM :**

**BY:** \_\_\_\_\_  
[Name]  
[Organization]  
Port Legal Counsel

**BY:** \_\_\_\_\_  
[Name]  
City Attorney  
City of \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_