

Commission Special Meeting Monday, Jan. 29, 2024 3:30 PM

Percival Plaza - Olympics Room 626 Columbia Street NW Olympia, WA 98501

The meeting agenda is available on the Port's website as of Jan. 24, 2024. https://www.portolympia.com/commission

The public may join the meeting from their computer, tablet or smartphone at:

https://us02web.zoom.us/j/82228577847

or Telephone: 1 253 215 8782 Webinar ID: 822 2857 7847

NOTE: No public comment will be taken.

AGENDA

- A. Call to Order
- B. Approval of Agenda
- C. Advisory Calendar
 - 1. Deschutes Estuary Briefing: Ann Larson, Department of Enterprise Services
- D. Executive Session per RCW 42.30.110(1)(g) to evaluate the qualifications of an applicant for public employment
- E. Action Calendar
 - 1. Executive Director Recruitment: Cliff Moore, Prothman Recruiting
- F. Adjourn



COVER MEMO

Briefing Date/Time: Jan. 29, 2024

Staff Contact/Title: Camille St. Onge, Director of Strategic Initiatives &

Commission Affairs, 564-669-3100

Subject: Deschutes Estuary Restoration Project

Purpose: \square Information Only \square Decision Needed

Background/Overview:

The Port of Olympia has entered into a Capitol Lake-Deschutes Estuary Memorandum of Understanding with the Department of Enterprises Services (DES) and other stakeholders.

The Deschutes Estuary Restoration Project team will share information about the restoration project so the Port of Olympia Commission is informed about the status of the projects and where the Port and others have shared interests.

About the project

The Deschutes Estuary Restoration Project will restore 260 acres of estuarine and salt marsh habitat at the mouth of the Deschutes River. The Washington State Department of Enterprise Services (DES) will remove the 5th Avenue Dam and tide gate built in 1951, which transformed the Deschutes Estuary into a freshwater reflecting pool for the Capitol Building on the Washington State Capitol Campus.

The 5th Avenue Dam and Bridge will be removed to restore tidal exchange. Tidal flats will be the predominant habitat type across the project area, with approximately 85 acres of new marsh habitat established along the shoreline. Restoration of the Deschutes Estuary will improve ecological conditions, achieve state water quality standards, improve climate resilience, and restore recreational boating and fishing in the waterbody. A new 5th Avenue Bridge will be constructed with vehicle, bicycle, and pedestrian lanes.

Documents Attached:

- Memorandum of Understanding
- Interlocal Agreement
- Port of Olympia Resolution 2023-04

CAPITOL LAKE - DESCHUTES ESTUARY

MEMORANDUM OF UNDERSTANDING FOR GOVERNANCE AND FUNDING OF A RESTORED ESTUARY

Introduction

In 2018, the Washington State Department of Enterprise Services (DES) began a process to prepare an Environmental Impact Statement (EIS) to evaluate the potential impacts and benefits of long-term management alternatives for the Capitol Lake – Deschutes Estuary. This process included an effort to evaluate conceptual options for shared funding and governance of a future management plan, in accordance with Engrossed Substitute House Bill 2380. In 2022, DES identified the Estuary Alternative as the long-term management plan that would best meet project goals. This decision was made following careful consideration of a broad range of technical analyses conducted for the EIS, by soliciting feedback from key stakeholders, and after reviewing public comments.

Estuary restoration will complement other efforts among state, tribal, and local governments, public entities, and private organizations to restore the Deschutes River watershed and improve the health of Budd Inlet.

To explore and develop long-term management options for the Capitol Lake – Deschutes Estuary, a Funding and Governance Work Group (FGWG) was created with the following members (FGWG Members), each of which appointed a representative:

State of Washington, Department of Enterprise Services
State of Washington, Department of Natural Resources
Squaxin Island Tribe
Thurston County
City of Olympia
City of Tumwater
LOTT Clean Water Alliance
Port of Olympia

The FGWG Members have reached preliminary consensus on a range of topics as outlined in this Memorandum of Understanding (MOU). This MOU is not a binding agreement among the FGWG Members. Instead, it is a description of the progress made to date toward a potential binding agreement, documenting areas of broad conceptual agreement, describing remaining issues, and indicating the shared commitment to good faith discussion to reach agreement on the remaining issues.

The FGWG Members intend to work to develop an Interlocal Agreement (ILA) that will govern long-term management of the restored estuary. Any ILA will require the approval of each FGWG Member's governing body or administrative head and no ILA will be binding on a FGWG Member until approval is obtained and the ILA is duly executed. Any reference in this MOU to an ILA, an "agreement," or similar words or phrases refers only to a conceptual, tentative agreement regarding a potential ILA by the FGWG Member representatives, who are not authorized to bind their respective entities. Similarly, any reference in this MOU to specific terms or provisions in a future ILA refers only to terms or provisions that will be discussed for possible inclusion in a potential ILA, and does not

indicate any FGWG Member's agreement to the specific provisions or agreement to an overall ILA.

Background¹

What is now known as Capitol Lake was originally the southern portion of the Deschutes Estuary, where freshwater from the Deschutes River mixed with saltwater from Budd Inlet over extensive tidal flats. Between 1949 and 1951, the State of Washington constructed a dam at 5th Avenue in Olympia. The 5th Avenue Dam blocked saltwater from Budd Inlet and transformed the area upstream of the dam into Capitol Lake, a 260-acre freshwater lake fed by the Deschutes River. Capitol campus planners intended Capitol Lake to be part of the Washington State Capitol Campus, and it was designated a resource of the Capitol Campus under RCW 43.34.090 and RCW 79.24.710. The waterbody, together with the parks and trails that surround it, remains an important visual and recreational resource for the community. Enterprise Services (to include predecessor agencies) has had the responsibility to manage Capitol Lake throughout the lake's existence.

The Deschutes River and Percival Creek deposit an estimated 35,000 cubic yards of sediment into the Capitol Lake basin each year. Before construction of the 5th Avenue Dam, much of this sediment was deposited in Budd Inlet; after construction of the dam, the vast majority of this sediment settled out in Capitol Lake. Over time, the sediment captured upstream of the 5th Avenue Dam has accumulated up to 13 feet deep in some places – shallowing the lake, visibly altering conditions, and impacting ecological functions.

Capitol Lake historically has violated water quality standards and is a focus of state and federal water quality improvement planning. Water quality monitoring began in the 1970s, and by 1985, the Thurston County Health Department permanently closed the historic swimming beach in Capitol Lake due to water quality impairments.

The presence and persistence of invasive species in Capitol Lake has also complicated its management. Since the 1980s, the State of Washington (State) has employed a variety of strategies to address invasive species, but today more than a dozen different plant and animal invasive species are present. In response to finding the New Zealand mudsnail in Capitol Lake in 2009, the State officially closed Capitol Lake to all active public use.

For more than 50 years, public and private entities have attempted to address environmental concerns regarding the Capitol Lake – Deschutes Estuary. For a wide variety of reasons, these efforts have been unsuccessful or stalled. All FGWG Members agree that action must be taken to better manage this resource.

DES released the Draft EIS in mid-2021 and identified the Estuary Alternative as the likely preferred alternative in early 2022. Shortly afterwards, FGWG Members began exploring

¹ This background is only intended to be a summary. A more complete discussion of project background, project elements, and the technical analyses that describe impacts and benefits of a long-term management plan can be found in the Final EIS and supporting materials, which can be accessed through the following links: Capitol Lake - Deschutes Estuary EIS - Home (capitollakedeschutesestuaryeis.org); https://des.wa.gov/about/projects-initiatives/capitol-lake/long-term-planning-capitol-lake-deschutes-estuary

ways to fund and govern the likely preferred alternative consistent with guiding principles established by the FGWG Members.

The areas of agreement outlined within this MOU are based on the guiding principles the FGWG Members identified in 2016 to support this process, which are as follows:

- 1. Dedicated and secure funding sources
- 2. Those who contribute to the problem should participate in funding or paying for the solution
- 3. Those who benefit from the solution should participate in funding or paying for the solution
- 4. Shared distribution of costs
- 5. State participation
- 6. Watershed-wide in scale
- 7. Manageable governance
- 8. Commitment to a long-term collaborative process
- 9. Adequately resourced administration
- 10. Support the goals and objectives of the long-term management plan and the future of the overall watershed

From these guiding principles, the FGWG Members tentatively agreed upon a two-part structure for implementing and funding the preferred alternative:²

- The State should be primarily responsible for funding the capital costs of design, permitting, and construction of a preferred alternative. This responsibility reflects the State's role in creating the current conditions.
- After construction is complete, FGWG Members will share in administering, funding, and maintaining the Estuary Alternative for the term of the potential ILA. This shared responsibility reflects FGWG Members' desire for a long-term solution and recognition that the preferred alternative appears to provide significant benefits to FGWG Members and the broader community.

FGWG Members recognize that after construction of the Estuary Alternative, continued governance of the project and funding of sediment management in West Bay, will contribute to the health of Budd Inlet and the Deschutes River watershed and will help maintain a working waterfront and recreational boating. Maintaining a working waterfront and supporting infrastructure of recreational boating contributes to a dynamic, vibrant community and will produce and sustain public revenue, support employment opportunities, and create public amenities that benefit all community members.

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² The Managed Lake and Hybrid Alternatives identified in the Draft EIS lacked sufficient support among FGWG Members to warrant further development of governance and funding models. As a result, if either of these alternatives were selected, long-term administration, funding, and maintenance would be expected to remain State responsibilities.

Conceptual Agreement

The FGWG Members conceptually agree on the following issues:

1. Conceptual Overview

Construction and management of the Estuary Alternative will include the following elements and assumptions, which are described in more detail in sections that follow:

- The FGWG Members intend to execute an ILA (or ILAs) governing implementation and long-term funding and governance of the Estuary Alternative.
- DES intends to submit a capital request to fund design and permitting of the Estuary Alternative to the State Legislature for the 2023 legislative session.
- The State will administer and fund initial estuary restoration. DES intends to pursue funding from the State Legislature and other sources and intends to construct the Estuary Alternative.
- DES will transfer specific physical assets and/or long-term management responsibilities of those assets to individual FGWG Members after construction.
- As a separate project, known sediment contamination in lower Budd Inlet will be remediated. The Port of Olympia is expected to lead this remediation, which is expected to occur prior to removal of the 5th Avenue Dam.

2. Project Elements

a) Pre-Project Conditions

Prior to and separate from construction of the Estuary Alternative, known sediment contamination in lower Budd Inlet will be remediated to conditions satisfactory to the Washington State Department of Ecology and the US Army Corps of Engineers. The Port of Olympia is expected to lead and manage this effort, with the State of Washington providing funding, in part. The Port of Olympia is currently targeting the late 2020s for remedial action throughout lower Budd Inlet. The 5th Avenue Dam will not be removed until this work is complete to help ensure that the Port of Olympia-led remediation and DES-led estuary construction do not interfere with each other and, to the extent feasible, complement each other.

b) Appropriations for Design, Permitting, and Construction

DES intends to submit a capital request to the State Legislature to fund the design and permitting of the Estuary Alternative in the 2023 biennial budget. If funding is secured, the estimated 3- to 5-year design and permitting process could begin in mid-2023. The State, acting through DES or a designee, will manage and have authority over design and permitting. During the design and permitting process, DES (or designee) will coordinate with the City of Olympia and City of Tumwater on design of the 5th Avenue Bridge and South Basin boardwalks, respectively, to ensure that these physical assets comply with applicable design standards and are acceptable to the receiving FGWG Member, and that the process used to approve design of the asset is acceptable to the receiving FGWG Member

DES is currently developing a strategy for construction funding, which is likely to rely on funds from a variety of sources, including federal, state, and potentially philanthropic. If funding is secured without delay, construction of the Estuary Alternative could begin in the late 2020s. The State, acting through DES, the Washington State Department of Natural Resources (DNR), or a designee, will manage and have authority over construction, which is estimated to occur over a 7- to 8-year period.

c) Transfer of Assets

DES will convey or transfer certain physical assets to individual FGWG Members after construction is complete. Each transfer will be governed by a separate agreement between DES (or designee) and the receiving Member. Upon transfer of a physical asset, the receiving FGWG Member will have full ownership in perpetuity, to include all maintenance responsibility and risk of loss.

d) Governance Responsibility

A state agency will act as Project Manager to convene and facilitate the FGWG as set forth in a future ILA. DES may transfer governance responsibilities to other state agencies for services required in the course of long-term management for the Estuary Alternative. No other FGWG Members are assuming governance responsibilities.

Table 1. Transfer of Physical Assets and Governance Responsibilities

Receiving Entity	Asset/Governance Responsibility	Time of Transfer		
State of Washington	Maintenance of constructed infrastructure to support boating, fishing, recreation in estuary, as needed. Staffing of decontamination stations.	Upon construction completion		
	Maintenance of Middle Basin boardwalks.			
	Bathymetric surveys, design, permitting, contract management for maintenance dredging outside of federal navigation channel and turning basin and port vessel berths.			
Squaxin Island Tribe	Participate in implementation of Habitat Enhancement Plan for constructed habitat in the 260-acre basin, formerly Capitol Lake	Upon construction completion		
Thurston County	None identified	N/A		
City of Olympia	New 5 th Avenue Bridge	Upon construction completion		

Receiving Entity	Asset/Governance Responsibility	Time of Transfer	
City of Tumwater	South Basin boardwalks	Upon construction completion	
LOTT	None identified	N/A	
Port of Olympia	Bathymetric surveys, design, permitting, contract management for maintenance dredging in port vessel berths.	Upon construction completion	
	Lead coordination with USACE on maintenance dredging in federal navigation channel and turning basin.		

e) Sediment Management

After the State constructs the estuary and transfers physical assets and specific management responsibilities to individual FGWG members, shared long-term responsibilities will focus on sediment management in the West Bay of Budd Inlet. Sediment management is part of the overall project for the benefit of all, as described above.

Sediment management is intended to remove additional sediment that deposits in West Bay under the Estuary Alternative at rates greater than the No Action Alternative (also referred to as "baseline"). Sediment management includes annual bathymetric surveys (at a minimum) in the marinas and marina access areas to evaluate sediment accumulation, contract management (which includes design and permitting), and maintenance dredging (which includes disposal of dredged material). The FGWG Members will collectively fund maintenance dredging. Numerical modeling conducted for the EIS suggests that maintenance dredging to avoid significant impacts³ to navigation from sediment accumulation could be needed in areas of West Bay on an average and approximated frequency of 6 years. The actual rate of sediment accumulation is highly dependent on river flow conditions.

3. ILA Term/Withdrawal

FGWG Members intend to include the following provisions related to the term of a potential ILA and conditions warranting withdrawal:

- The ILA will become effective on the date of the last FGWG Member's signature.
- The ILA will expire on December 31, 2050, unless some or all FGWG Members agree to renew for an additional term.

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³ Significant adverse impacts are defined as: Large vessels accessing the Federal Navigation Channel and Port of Olympia having to wait more than four (4) hours for channel access due to water depth and low tide conditions caused by sediment deposition on more than one consecutive occasion, or more than 10% of anticipated small craft vessels at any single marina unable to access leased moorage due to shallowed water depth caused by sediment deposition.

- Prior to the end of 2045, the Project Manager will convene FGWG Members to determine whether to extend the ILA, and if so, on what terms and with which FGWG Members.
- An FGWG Member may withdraw from the ILA at any time, provided that before withdrawing, (1) the withdrawing FGWG Member provides funds sufficient to satisfy all financial obligations of the withdrawing FGWG Member for the current term of the ILA, and (2) the withdrawing FGWG Member has satisfied all specific performance obligations under the ILA.

4. ILA Renegotiation

If one or more of the following specific events occur, each FGWG Member will have the right to withdraw from or require renegotiation of the terms of the future ILA:

- Washington State Legislature fails to appropriate full funding for construction of the Estuary Alternative.
- Remediation of contaminated sediment in lower Budd Inlet is postponed indefinitely or cannot occur before the removal of the 5th Avenue Dam.
- Projected sediment management costs during the term of the ILA increase above agreed-upon allocation amounts. If sediment management costs increase to a degree that funds will be exhausted prior to the expiration of the initial term of the ILA (expected to be 2050), the Project Manager will reconvene the FGWG to determine an approach that will avoid impacts to navigation through the initial term of the ILA.
 - Note: total planning-level cost estimates and the resulting individual allocations provided in Attachment 1 are stated in 2022 dollars and will be adjusted to include an annual inflationary rate).
- The private marinas fail to provide funding sufficient to meet their obligations under a formal dredging program under the No Action Alternative (i.e., funding sufficient to accomplish baseline dredging).

5. Financing for Sediment Management in West Bay

The FGWG Members have reached conceptual agreement regarding several aspects of funding and finance management for sediment management, as described below:

a) Finance Management

The FGWG Members recognize the need for financial management of funds used for sediment management, including an entity acting to manage such funds and an investment plan that will both protect deposited funds from use by other entities or for other purposes, and provide for a favorable return on investment (to the extent permissible). The FGWG Members will develop a financial plan at the time of ILA formation and seek any necessary authorization from the State Legislature as may be needed.

b) Total Estimated Sediment Management Costs and Payment Allocation

FGWG Members agree that costs for sediment management above those costs associated with dredging of the No Action Alternative (baseline) will be allocated among FGWG Members on a percentage basis, as estimated and set forth in Attachment 1. Acceptance of the allocations set forth in Attachment 1 shall be subject to each Member's approval of a final ILA through its respective legislative and budgetary processes as may be legally required.

c) FGWG Member Deposits and Annual Payments

The Project Manager will notify the FGWG Members when the State has formally appropriated construction funding for estuary construction, and within 90 of each entity receiving such notice, but no earlier than January 1, 2025, each FGWG Member will make an initial deposit with State of Washington. Each FGWG Member's initial deposit will be equal to the FGWG Member's annual payment, which is determined by dividing the FGWG Member's total allocated sediment management costs for the initial term of the ILA by the number of years (partial years count as a full year) remaining in the initial agreement term of the ILA at the time of the deposit. Following the initial deposit, each FGWG Member agrees to make annual payments (determined as above) on or before December 31 of each year, through the end of the agreement term.

d) Annual Payment Adjustments

Calculations of total estimated sediment management costs conservatively assume that removal of the 5th Avenue Dam begins in 2033, which is the earliest that this could occur given the design and permitting process, and other construction activities that are required before dam removal; and this assumes that all funding is secured without delay. The total estimated sediment management costs also assume three dredging events, given the 18-year duration between 2033 and 2050 and the estimated 6-year frequency of maintenance dredging that is based on hydrodynamic and sediment transport numerical modeling conducted for the EIS. If removal of the 5th Avenue Dam is delayed such that there is certainty that fewer than three dredging events are anticipated to occur within the term of the ILA, FGWG Members may adjust total estimated sediment management costs and annual payments.

After each maintenance dredging event, the Project Manager will convene the FGWG to provide FGWG Members with final costs and summary report for the dredging event and for the FGWG Members to consider alterations to the sediment management program and/or to implement other adaptive management practices. Adjustments to total sediment management costs and/or annual payments will trigger the renegotiation rights described in Section 4 only if adjustments cause projected costs to increase above agreed-upon allocations.

If excess funds remain upon the expiration or termination of the ILA and unless otherwise agreed to, each FGWG Member will be entitled to receive a refund of such excess funds based on a pro-rata calculation of the amounts paid.

e) Planning-Level Cost Estimates

FGWG Members have negotiated this MOU using planning-level cost estimates. Civil, environmental, and coastal engineers developed planning-level cost estimates using

costs for similar work on recent projects, hydrodynamic and sediment transport numerical modeling in the EIS that predicts sediment accumulation under the Estuary Alternative, and triggers to initiate dredging events (see footnote 3). Planning-level cost estimates also assume in-water disposal of the dredged sediment, based on current sediment data and a projection that invasive species will not persist in the material to be dredged.

Planning-level cost estimates are in 2022 dollars, are based on conceptual design, and have an accuracy variation of minus 25% to plus 35%, consistent with Class 4 estimates prepared using standards established by the Association for the Advancement of Cost Engineering. The cost estimates are to support planning efforts and include a 15-percent contingency. The higher end of the range (+ 35%) has been used.

The accuracy of planning-level cost estimates will increase as design is further developed. If updated cost estimates are available before FGWG Members begin annual payments, FGWG Members may agree to update the total sediment management costs set forth in Attachment 1.

6. Enforcement

The FGWG Members agree and recognize that this multi-party MOU and the multi-party ILA intended to follow are the result of complex negotiations among individual entities each with individual interests and constituencies, and that the provisions of the MOU and ILA are interdependent and represent a balancing of those individual interests and constituencies. The FGWG Members further agree that the restoration of the Deschutes Estuary and maintenance of a working waterfront and recreational boating will provide each entity with public benefits, but to secure those public benefits, each obligation the FGWG Members will make to each other must be fulfilled. Accordingly, the FGWG Members intend that each FGWG Member will have authority to enforce the obligations under a future ILA of each other FGWG Member, to include requiring specific enforcement of such obligations.

7. Additional Issues Under Discussion

The FGWG Members continue to discuss the following issues:

- FGWG Members have preliminarily agreed to apply an annual inflation increase to each FGWG Member's allocated payment (options are 3% or CPI), subject to further adjustments. Attachment 1 reflects 2022 dollars and does not include this assumption.
- Allocation, documentation, and parties involved in addressing maintenance dredging costs equivalent to the No Action Alternative (baseline dredging).
- The specific FGWG Member or entity to serve as financial manager.

8. Administrative Issues and Commitment

This MOU may be executed in counterpart and/or by electronically-transmitted signature (pdf or similar).

This MOU, and the ILA proposed to follow, shall be amended or modified only by written agreement of all FGWG Members.

By signing below, the FGWG Members are not entering into a binding agreement, but are indicating areas of general or conceptual agreement.

The FGWG Members execute this MOU in good faith and commit themselves to continuing discussions for timely execution of the ILA.

Dava C. Amith	10/18/2022
Tara C. Smith, Director	Date
Department of Enterprise Services	
Hilary Franz, Commissioner of Public Lands	Date
Department of Natural Resources	
Kris Peters, Chairman	Date
Squaxin Island Tribe	
Stavon I Burnov City Manager	Data
Steven J. Burney, City Manager	Date
City of Olympia	
Mark Barber, City Attorney	Date
City of Olympia	
Debbie Sullivan, Mayor	Date
City of Tumwater	
Karen Kirkpatrick, City Attorney	Date
City of Tumwater	

Tara Smith, Director Department of Enterprise Services	Date	
Tilay Soan	10/25/2022	
Hilary Franz, Commissioner of Public Lands Department of Natural Resources	Date	
Kris Peters, Chairman Squaxin Island Tribe	Date	
Steven J. Burney, City Manager City of Olympia	Date	
Mark Barber, City Attorney City of Olympia	Date	
Debbie Sullivan, Mayor City of Tumwater	Date	
Karen Kirkpatrick, City Attorney City of Tumwater	Date	

Tara Smith, Director	Date
Department of Enterprise Services	
Hilary Franz, Commissioner of Public Lands	Date
Department of Natural Resources	
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Kristopher M Peters (Oct 14, 2022 08:58 PDT)	Oct 14, 2022
Kris Peters, Chairman	Date
Squaxin Island Tribe	
Steven J. Burney, City Manager	Date
City of Olympia	
Mark Barber, City Attorney	Date
City of Olympia	
Debbie Sullivan, Mayor	Date
City of Tumwater	
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Karen Kirkpatrick, City Attorney	Date
City of Tumwater	

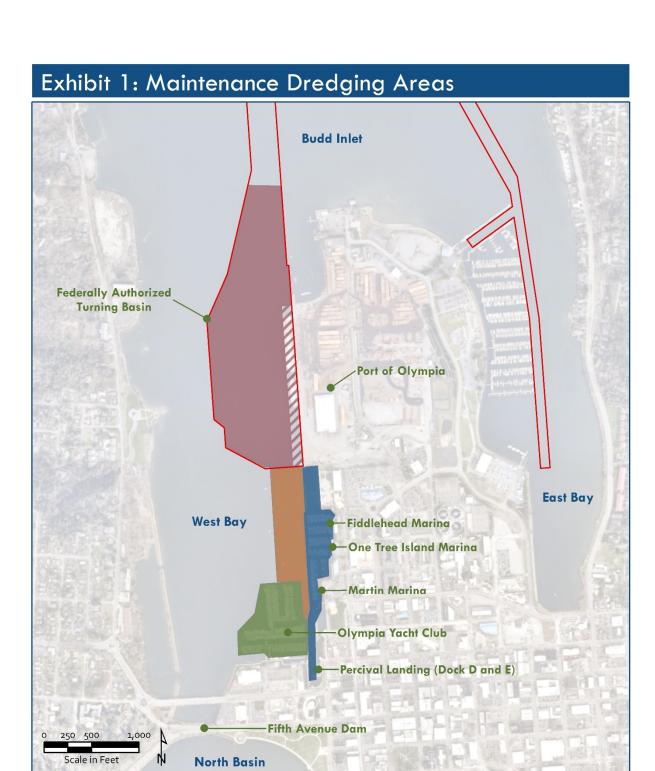
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Department of Enterprise Services		
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Department of Natural Resources		
Kris Peters, Chairman	Date	
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Steven J. Burney, City Manager	Date	
City of Olympia		
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Mark Barber	10/13/2022	
Mark Barber, City Attorney	Date	
City of Olympia		
Debbie Sullivan, Mayor	Date	
City of Tumwater		
Karen Kirkpatrick, City Attorney	Date	
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Tara Smith, Director	Date
Department of Enterprise Services	
Hilary Franz, Commissioner of Public Lands	Date
Department of Natural Resources	
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City of Olympia	
Mark Barber, City Attorney	Date
City of Olympia	
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Debbie Sullivan	10/18/2022
Debbie Sullivan, Mayor	Date
City of Tumwater	
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tearen teintpatrick	10/12/2022
Karen Kirkpatrick, City Attorney	Date
City of Tumwater - Approved as to Form	

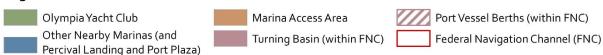
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Michael D. Strub	10/14/2022
Mike Strub, Executive Director	Date
LOTT	
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lisa Parshley	10/17/2022
Lisa Parshley, Board President	Date
LOTT	
Sam Gibboney, Executive Director Port of Olympia	Date
Ramiro Chavez, Thurston County Manager	Date

Mike Strub, Executive Director LOTT	Date
Lisa Parshley, Board President LOTT	Date
Sam Gibboney, Executive Director Port of Olympia	10.(9. Z.Z. Date
Ramiro Chavez, Thurston County Manager Thurston County	Date

Mike Strub, Executive Director	Date
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Lisa Parshley, Board President	Date
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Sam Gibboney, Executive Director	Date
Port of Olympia	Date
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Clizabeth Petrich	October 20, 2022
Elizabeth Petrich, Chief Civil Deputy Prosecuting Attorney	Date
Thurston County	
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Ramiro Chavez, Thurston County Manager	Date
Thurston County	







Note:

Percival Landing and the Port Plaza have been included in the planning-level cost estimates for maintenance dredging included in Attachment 1. It is assumed that these facilities would be dredged at the same frequency as the "other marinas" shown in blue, and the need would be confirmed by the FGWG. There is no other dredging trigger defined for dredging at the Percival Landing and Port Plaza, and they are not included in the EIS analysis or EIS cost-estimates. They were added to this MOU at the request of the FGWG.

Attachment 1

The values in this table are based on planning-level cost estimates and are provided in 2022 dollars.

The allocations and associated cost estimates are provided for the term of the FGWG agreement only — through 2050.

This table of recommended allocations provides and equalizes the recommended allocations for sediment management across the FGWG. It recognizes that: (1) all parties benefit from estuary restoration and/or implementation of the Dredging Program; and (2) that differences in the magnitude of benefits cannot be mathematically derived but that the project would be beneficial to each entity. Importantly, the City of Olympia is shown in an increased capacity from the remaining FGWG members given that the working waterfront and recreational boating infrastructure exists within the city limits and is adjacent to downtown Olympia; and arguably, the City of Olympia may derive the most direct benefits.

Recommended Sediment Management Allocations

Entity ^(i, ii)	Allocation % for Maintenance Dredging of Increased Sediment from Estuary Alternative (above No Action Alternative)	Cost Estimate for Maintenance Dredging Equivalent to No Action Alternative (iii)	Cost Estimate for Maintenance Dredging of Increased Sediment from Estuary Alternative (above No Action Alternative)	Total Cost Estimate for Sediment Management (No Action Alternative + Increased Maintenance Dredging from Estuary Alternative)	Estuary Construction + Total Sediment Management	Allocation % Total (Estuary Construction + Sediment Management)
Olympia	~23.1%	\$0	\$4,297,000	\$4,297,000	\$4,297,000	2%
LOTT	~15.4%	\$0	\$2,865,000	\$2,865,000	\$2,865,000	1%
Port	~15.4%	\$362,000	\$2,865,000	\$3,227,000	\$3,227,000	1%
Tumwater	~15.4%	\$0	\$2,865,000	\$2,865,000	\$2,865,000	1%
Marinas	0.0%	\$5,800,000	\$0	\$5,800,000	\$5,800,000	2%
Thurston County	~15.4%	\$0	\$2,865,000	\$2,865,000	\$2,865,000	1%
State	~15.4%	\$0	\$2,865,000	\$2,865,000	\$249,545,000	92%
Squaxin Island Tribe	0.0%	\$0	\$0	\$0	\$0	0%
	~100.0%	\$6,162,000	\$18,622,000	\$24,784,000	\$271,464,000	100%

Notes:

- i All values included in this table are represented in 2022 dollars and may exhibit rounded values. In the future, an annual inflationary rate (3% or Consumer Price Index equivalent) is to be included by the FGWG in each entities' annual payment of allocated maintenance dredging funding; those inflation costs are not reflected in this table. All values reflect planning-level cost estimates based on conceptual design (see Section 5.e).
- ii The total cost to manage sediment represented in this table assumes removal of the 5th Avenue Dam occurs in 2033, which is the soonest that phased dam removal could begin through 2050, which is the end date of the existing agreement. Based on hydrodynamic and sediment transport numerical modeling conducted for the EIS, maintenance dredging is assumed to occur at an approximately 6 year frequency, resulting in an estimated three dredge events in the 18-year duration between 2033 and 2050. These planning level costs reflect these assumed dredging events.

Delays in 5th Avenue Dam removal would reduce the duration within this agreement where sediment conditions in West Bay have changed from existing conditions. If removal of the 5th Avenue Dam is delayed (particularly if the delay is long enough to eliminate an assumed dredge event), the total cost estimates for sediment management provided herein could be adjusted. Potential future adjustments in the total cost of sediment management will be reflected in the total cost of sediment management.

Each FGWG member's annual payment is determined by dividing the member's total allocated sediment management costs for the initial term of the ILA by the number of years (partial years count as a full year) remaining in the initial agreement term of the ILA at the time of the payment's deposit. The number of years used to determine the annual payment is dependent upon the State's formal appropriation of construction funding for the Estuary Alternative construction. Each FGWG member is responsible for its annual allocated costs; however, they may divide over the initial term of the ILA, as is described in Section 5.b, Total Estimated Costs and Payment Allocation, of the ILA. These costs assume that the Port of Olympia has already dredged existing contaminated sediment and has reestablished authorized depths in West Bay. That dredging of contaminated accumulated sediment is not associated with this project, and those costs are not included in the costs represented here. The planned Port of Olympia dredging of contaminated sediments is also expected to allow the future dredged material under the No Action Alternative (and Estuary Alternative) to be disposed of in-water.

The planning-level costs presented herein assume in-water disposal of dredged material. The maintenance dredging costs would significantly increase if dredged material was determined not suitable for in-water disposal.

Bathymetric surveys would be conducted to adjust dredging events to actual environmental conditions (surveys would occur annually, at a minimum). These tables do not include costs for the annual bathymetric surveys. Costs associated with design and permitting (and associated efforts) are not included in these tables either, and they are currently assumed to be an in-kind contribution from the FGWG as outlined in Section 2.d.

2050 is the last year of existing leases with private marinas in West Bay; these estimates align with that timeline and do not speculate about continued maintenance dredging past that time, potential new funding sources or different shared agreements, or potential marina decisions to relocate.

- This represents the estimated non-project costs associated with dredging impacted areas of West Bay based on sedimentation rates and patterns modeled for the No Action Alternative, assuming a formal dredging program with the same dredging triggers as defined for the Estuary Alternative. Numerical modeling shows that approximately 65% of the sediment would be dredged from the Federal Navigation Channel and turning basin; funding for that dredging is the responsibility of the U.S. Army Corps of Engineers (USACE). USACE-provided funding (for dredging equivalent to the No Action Alternative, or for increased sediment management under the Estuary Alternative, as described below) has not been included in this table at the request of the FGWG. USACE funding for dredging is a critical component of maintaining navigation in West Bay.
- iv These costs reflect the increased maintenance dredging costs beyond those that would be incurred by others under the No Action Alternative to avoid significant impacts to navigation in West Bay. Dredging in the FNC and turning basin, including additional dredging requirements resulting from the project, is the responsibility of the USACE and those costs are not included herein. Maintenance dredging needs equivalent to the No Action Alternative in impacted areas of West Bay would continue to be the responsibility of the Port of Olympia, private marinas, and the USACE; additional dredging requirements shown in this estimate, resulting from the project, would be the shared responsibility of members of the FGWG.

PORT OF OLYMPIA COMMISSION RESOLUTION 2023-05

A RESOLUTION OF THE PORT OF OLYMPIA COMMISSION SUPPORTING THE DEVELOPMENT OF AN INTERLOCAL AGREEMENT TO COORDINATE THE RESTORATION OF THE DESCHUTES RIVER ESTUARY.

WHEREAS the Port of Olympia Commission passed Resolution 2023-04 "A Resolution of the Port of Olympia Commission Supporting a Watershed-Wide Coordinated Approach to Restoring the Deschutes River, Deschutes River Estuary, and Budd Inlet";

WHEREAS the Department of Enterprise Services completed a Final Environmental Impact Statement (EIS) for the Capitol Lake – Deschutes Estuary Long Term Management Project evaluating alternatives for the long-term management of the water body and determined that the preferred alternative is to restore the Deschutes River Estuary;

WHEREAS the Port of Olympia recognizes that its partners are deeply invested in the health of the Deschutes watershed and Budd Inlet and that many have participated in the stakeholder process for the EIS and development of the Capitol Lake – Deschutes Estuary Long-Term Management Project (CL-DE LTMP);

WHEREAS the Port of Olympia and other partners participated in the Funding and Governance Work Group CL-DE LTMP, which developed a Memorandum of Understanding for long-term governance of the constructed assets within the Deschutes Estuary, and for shared funding of the maintenance dredging of increased sediment from restoration of the Deschutes River Estuary Alternative through 2050;

WHEREAS the purpose of the Memorandum of Understanding was to set forth a series of shared principles to inform the development of an Interlocal Agreement addressing the governance of assets within the Deschutes Estuary;

WHEREAS implementing the Estuary Alternative will improve the health of the Deschutes watershed and restore the ecological connection between the Deschutes River and Budd Inlet, including natural sediment flows from Capitol Lake to Budd Inlet, which will likely impact downstream assets including the federal navigation channel;

WHEREAS the success of both the Budd Inlet sediment cleanup and Estuary Alternative projects depend on coordinating the timing, design, and governance of each project as the projects affect shared resources.

NOW, THEREFORE, BE IT RESOLVED that the Port of Olympia Commission hereby expresses its desire to be involved in the development of an Interlocal Agreement with the State of Washington Department of Enterprise Services, State of Washington Department of Natural Resources, Squaxin Island Tribe, Thurston County, City of Olympia, City of Tumwater, and

LOTT Clean Water Alliance pertaining to the funding, governance, and long-term management of the Deschutes River Estuary.

The Port of Olympia further believes the Interlocal Agreement must specifically include state funding to implement a sediment mitigation structure of the scale and scope necessary to replace the catchment function served by the north basin of Capitol Lake. The Port of Olympia looks forward to collaborating with its partners to develop an Interlocal Agreement and implement a successful watershed-wide restoration of Budd Inlet, the Deschutes River, and the Deschutes Estuary.

ADOPTED by the Port Commission of the Port of Olympia this 11th day of September, 2023.

PORT OF OLYMPIA COMMISSION

Amy Harding Amy Harding (Sep 14, 2023 09:35 PDT)
Amy Harding, President
J Downing J Downing (Sep 13, 2023 07:36 PDT)
Joe Downing, Vice President
Bob Iyall Bob Iyall (Sep 13, 2023 05:38 PDT)
Bob Iyall, Secretary

PORT OF OLYMPIA COMMISSION RESOLUTION 2023-04

A RESOLUTION OF THE PORT OF OLYMPIA COMMISSION SUPPORTING A WATERSHED-WIDE COORDINATED APPROACH TO RESTORING THE DESCHUTES RIVER, DESCHUTES RIVER ESTUARY, AND BUDD INLET.

WHEREAS the Port of Olympia's vision is, through continual improvement in practices and stewardship, to become an environmentally sustainable Port for current and future generations;

WHEREAS the Port of Olympia cargo operations, recreational boating marinas, and boat repair activities are an economic engine that contributes jobs to the local economy, generates local business revenue, and supports the local tax base;

WHEREAS the Port of Olympia recognizes the environmental sustainability of Budd Inlet relies on the stewardship of the broader Deschutes watershed, and the health of the broader Deschutes watershed similarly relies on the stewardship of Budd Inlet;

WHEREAS the Deschutes Watershed and Budd Inlet have long-standing cultural and spiritual significance to local tribes, particularly the Squaxin Island Tribe. The Squaxin Island Tribe also has usual and accustomed fishing, hunting, and gathering areas in this territory pursuant to the 1854 Treaty of Medicine Creek.

WHEREAS historically Budd Inlet and the Deschutes River were connected by the Deschutes Estuary, where freshwater from the Deschutes River mixed with saltwater from Budd Inlet over extensive tidal flats until the waterbodies were separated by the construction of the 5th Avenue Dam and the creation of Capitol Lake;

WHEREAS Capitol Lake and Budd Inlet are on the federal Clean Water Act (CWA) Section 303(d) list of impaired waters that do not meet Water Quality Standards, in part due to low dissolved oxygen (DO) levels caused by sediment accumulation and algae blooms in Capitol Lake;

WHEREAS the Department of Ecology has issued a draft CWA Maximum Daily Load (TMDL) rule for Budd Inlet and Capitol Lake to limit sources contributing to low DO;

WHEREAS the Department of Enterprise Services has completed a Final Environmental Impact Statement (EIS) for the Capitol Lake – Deschutes Estuary Long Term Management Project, which evaluated alternatives for the long-term management of the water body;

WHEREAS the Department of Enterprise Services EIS determined that the Estuary Alternative, which includes removal of the 5th Avenue dam and returning Capitol Lake to an estuary, is the Preferred Alternative for long-term management and to meet Water Quality Standards;

WHEREAS the Port of Olympia recognizes that its partners are deeply invested in the health of the Deschutes watershed and Budd Inlet and that many have participated in the stakeholder process for the Environmental Impact Statement and development of the Capitol Lake – Deschutes Estuary Long-Term Management Project (CL-DE LTMP);

WHEREAS the Port and other stakeholders participated in the Funding and Governance Work Group CL-DE LTMP, which developed a Memorandum of Understanding for long-term governance of the constructed assets within the Deschutes Estuary, and for shared funding of the maintenance dredging of increased sediment from the Estuary Alternative, through 2050;

WHEREAS the navigation channel(s) and turning basin in Budd Inlet are federal assets managed by the U.S. Army Corps of Engineers and are facing sediment accumulation that impairs vessel traffic;

WHEREAS marine sediments in Budd Inlet contain elevated levels of contaminants of concern such as dioxin and cPAH (carcinogenic polycyclic aromatic hydrocarbons) from historic industrial operators, which the Port is investigating under the terms of a Department of Ecology Agreed Order under the Model Toxics Control Act (MTCA);

WHEREAS the U.S. Army Corps of Engineers has stated that authority is lacking to expend the federal funds designated for maintenance dredging in a federal navigation channel when that area has been identified as a contaminated site under MTCA;

WHEREAS implementing the Estuary Alternative will improve the health of the Deschutes watershed and restore the ecological connection between the Deschutes River and Budd Inlet, including natural sediment flows from Capitol Lake to Budd Inlet, which will likely impact downstream assets including the federal navigation channel;

WHEREAS the success of both the Estuary Alternative and the Budd Inlet sediments cleanup project depends on coordinating the timing, design, and governance of each project as the projects affect shared resources;

NOW, THEREFORE, BE IT RESOLVED that the Port of Olympia Commission hereby expresses its support for a watershed-wide approach to the restoration of Budd Inlet, the Deschutes River, and the Deschutes Estuary. The Port of Olympia believes the Capitol Lake-Deschutes Estuary Long-Term Management Plan Estuary Alternative and Budd Inlet sediment remediation can be implemented with mutual support among the parties involved and with costs and benefits equitably distributed. As such, the Port of Olympia Commission supports opportunities to coordinate and ensure that the Port of Olympia and its partners address contaminated sediment in Budd Inlet to clear the way for the Long-Term Management Plan Estuary Alternative in order to restore the health of Budd Inlet and maintain a thriving and accessible working waterfront.

ADOPTED by the Port Commission of the Port of Olympia this 11th day of September 2023.

PORT OF OLYMPIA COMMISSION

Amy Harding Amy Harding (Sep 14, 2023 09:36 PDT)
Amy Harding, President
J Downing (Sep 13, 2023 07:36 PDT)
Joe Downing, Vice President
Bob Iyall Bob Iyall (Sep 13, 2023 05:39 PDT)
Bob Iyall, Secretary