



Tuesday, October 13, 2026

4:00 p.m.

Percival Plaza – Olympics Room
626 Columbia Street NW, Suite 1-B
Olympia, WA 98501

The meeting agenda is available on the Port's website as of October 8, 2026.

<https://www.portolympia.com/commission>

AGENDA

A. Call to Order

B. Pledge

C. Approval of Agenda

D. Executive Director Report

E. Public Comment

NOTE: Guidelines for public comment can be found in the Commission Rules in Resolution 2026-02 Article VI.

- Comments should be directed to Commission: Comments should be directed to the Commission as a whole and should not include comments about individual Port staff or members of the public.
- Courtesy: All speakers (members of the public, Port staff, and Commissioners) shall be courteous in language and demeanor and shall confine remarks to those facts that are germane and relevant to the question or issue under discussion.

F. Commission Response to Public Comment / Follow-Up to Public Comment

G. Partner Spotlights:

1. Harbor Days: Megan Diment, Event Organizer
2. Deschutes Estuary Partners Project: Bobbak Talebi, Washington State Department of Ecology

H. Consent Calendar

1. Port of Olympia Community Advisory Committee (POCAC) Resolution Updates
2. Bills and Vouchers for September 2026
 - a. Warrants over \$200,000:
 - (1) Warrant for \$259,664.19 to Dalton, Olmsted & Fuglevand for Budd Inlet Project
 - (2) Warrant for \$291,694.68 to Good News Group for Admin Building – Construction
 - (3) Warrant for \$241,693.34 to Alliant Insurance Services for Annual Insurance Renewal
3. Minutes: June 22, 2026 Commission Meeting; June 23, 2026 Executive Session; June 24, 2026 Executive Session; July 13, 2026 Commission Meeting; July 20, 2026 Work Session; July 27, 2026 Commission Meeting; August 3, 2026 Special Work Session; August 4, 2026 Executive Session; and August 10, 2026 Commission Meeting

Port of Olympia Mission

Creating economic opportunities and building community for all of Thurston County through responsible resource use.

I. Action Calendar

1. Deschutes Estuary Joint Resolution of Support: Alex Smith, Executive Director

J. Action/Other Calendar

1. None

K. Advisory Calendar

1. SEPA Policy Updates: Alex Smith, Executive Director

L. Commissioner Reports

M. Additional Public Comment

This time is devoted to individuals who could not arrive at or register for the meeting earlier. Public comment at this time is for those members of the public who did not submit public comment previously during the current meeting.

N. Other Business

1. None

O. Meeting Announcements

P. Adjourn

Attendance and Public Comment Hybrid Meeting Information

Attend Remote or In-Person

The public are welcome to attend the meeting in person, or may view or listen to the meeting using one of the following platforms:

- In-Person: Percival Plaza – Olympics Room
626 Columbia Street NW, Suite 1-B
Olympia, WA 98501
- Zoom: Go to <http://www.zoom.us/join> and enter Webinar ID 837 7148 4515 and Passcode 732395.
Instructions and access details (a link to the meeting) will be emailed to you once a short registration form is complete. (Check Spam or Junk folder and move Zoom link email to your Inbox to view/access link.)
- YouTube: www.youtube.com/@portofolympia1922
- Phone: Call (253) 215-8782, listen for the prompts and enter Webinar ID 837 7148 4515 and Passcode 732395.

Verbal Public Comment

Those wishing to provide verbal public comment may do so in-person or by Zoom:

- In-Person: Use the sign-up sheet located at the meeting location.
- Virtual / via Zoom: **Must pre-register** using the following Zoom link no later than five (5) minutes after the meeting has commenced:
https://us06web.zoom.us/webinar/register/WN_SqXlg09zTKKUbjplw-Udqq
Instructions and access details (a link to the meeting) will be emailed to you once registration is complete. (Check Spam or Junk folder and move Zoom link email to your Inbox to view/access link.) Registration for remote/virtual verbal public comment closes six (6) minutes after the meeting has commenced.

Written Public Comment

Written public comment may be submitted to commissioncoordinator@portofolympia.com by 12:00 p.m. on the date of the meeting. All written comments will be compiled and sent to the Commissioners prior to the meeting.

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COVER MEMO

Briefing Date/Time: October 13, 2026
Staff Contact/Title: Alex Smith, Executive Director, 360-528-8001
alexs@portolympia.com
Subject: POCAC Resolution Updates
Purpose: ☐ Information Only ☒ Decision Needed

Type of Agenda Item:

- Consent

Background:

At the September 28th Meeting, the Commission adopted amendments to Resolution 2026-05, and a copy of the Resolution that incorporates the Commission's revisions is attached.

Also at the September 28th Meeting, staff reported that two additional people, Jihan Grettenberger and Paul McMurtry, had applied to serve on the POCAC. The two applicants are in addition to the 15 POCAC members and one alternate the Commission appointed at the September 14th Meeting.

For the two new applicants to serve as alternates to the POCAC, the Commission needs to formally appoint them. Staff request the Commission appoint Jihan Grettenberger and Paul McMurtry as alternates via the Consent Calendar during this evening's Meeting.

Summary and Financial Impact:

N/A.

Alignment with Vision 2050:

Supports the Vision 2050 Goal to build community partnerships and expand communication and public participation.

Environmental Considerations and Review:

N/A

Staff Recommendation:

Staff recommends the Commission appoint Jihan Grettenberger and Paul McMurtry as alternates via the Consent Calendar at this evening's Meeting.

Document(s) Attached:

- Resolution 2026-05
- Redlined version of Resolution 2026-05 with the Subcommittee's proposed changes
- Clean version of Resolution 2026-05 with the Subcommittee's proposed changes incorporated

**PORT OF OLYMPIA COMMISSION
RESOLUTION 2026-05**

A RESOLUTION OF THE PORT OF OLYMPIA COMMISSION regarding the community advisory committee known as the Port of Olympia Community Advisory Committee (POCAC) and superseding Resolutions 2025-02, 2024-08, 2023-09, 2022-15, 2021-06, 2019-10, and 2019-03.

WHEREAS, the Port of Olympia desires to have a community advisory committee to advise the Port of Olympia Commission (Port Commission) on matters it may wish to assign from time-to-time; and

WHEREAS, this Resolution supersedes Port Commission Resolutions 2025-02, 2024-08, 2023-09, 2022-15, 2021-06, 2019-10 and 2019-03.

NOW, THEREFORE, BE IT RESOLVED, after due consideration, the Port Commission establishes the following:

1. The Port of Olympia Community Advisory Committee (POCAC):

The POCAC is a committee of community members selected through an application process as determined by the Port Commission.

2. Purpose:

The purpose of the POCAC is to provide input to the Port Commission on tasks assigned by the Port Commission. The purpose is for the POCAC to provide feedback representing a community perspective on Port operations and projects. This feedback is important to fully understand community sentiment related to Port affairs and the areas for which improved communication and transparency may be needed.

3. Composition:

POCAC membership shall consist of fifteen (15) members with membership not to fall under nine (9) members. All members shall be residents of Thurston County. The 15 members shall comprise, if possible, of three (3) members from each of the five (5) Port of Olympia election districts. In the event that each election district is unable to field 3 members the remaining membership shall be recruited from Thurston County community at large. A Port Commissioner and the Executive Director or their designee shall serve as ex officio members of POCAC and attend monthly POCAC meetings. In this case ex officio shall mean non-voting members and will attend to better understand POCAC projects and to provide direct feedback to POCAC on these projects and other Port business.

In making appointments, the Port Commission shall strive to maintain balanced representation from across the Port Commissioner districts and from diverse community perspectives within Thurston County.

The Commission may consider geographic distribution, community involvement, professional background, and other factors necessary to ensure that the committee reflects a broad range of community viewpoints.

4. Duties:

The POCAC shall advise the Port Commission on matters assigned by the Port Commission. The POCAC may forward public input received by POCAC members to the Port Commission, who will determine how such unsolicited input shall be handled.

The Port shall supply a commission coordinator to publish the notice for scheduled meetings, assist the POCAC by scheduling meetings, and other duties as authorized by the Port Commission or Executive Director.

The Port Commission or Executive Director will provide guidance when requested by the POCAC. The Executive Director will assign Port staff for expertise, if required and as capacity allows.

5. Assignments:

The Port Commission shall initiate POCAC tasks in writing. The written request shall include a description of the proposed task, staff involvement, schedule and deliverables, if necessary. The POCAC shall review and either accept the task or propose changes to the task for Port Commission review and approval. If a task is proposed to the Port Commission by the POCAC, it shall include a description of the proposed task, staff involvement, schedule and deliverables. The Port Commission may approve, deny or request amendments to the proposed POCAC task. All written task requests shall be in the form set out as an attachment to Exhibit "A" attached to and made a part hereof.

The Port Commission will identify the type of work products to be delivered by the POCAC. More than one product type may be requested:

- a. **Report:** This product will help to create an awareness of policy issues among the Port Commission, staff, and the public and to encourage an exchange of information and analysis. It can also serve as an educational tool. The Port Commission may or may not take action or give further direction to the Executive Director upon receipt of this product. The Port Commission shall provide written feedback to the POCAC on the product submitted no later than sixty (60) days from when the product is received. Feedback shall provide reasonable detail on the product from the Port Commission.
- b. **Policy recommendation:** This product will recommend a new policy or modification or amendment to an existing policy. If the Port Commission decides to take action on such a recommendation, the Port Commission will give direction to the Executive Director and/or legal counsel for further analysis and preparation of proposed policy language for Port Commission consideration. The Port Commission shall provide written feedback to the POCAC on the product submitted no later than sixty (60) days from when the product is received. Feedback shall provide reasonable detail on the product from the Port Commission.
- c. **Project recommendation:** This product will present a recommendation for implementation by the Port. Should the Port Commission choose to take action, the Port Commission will direct the Executive Director to include the implemented recommendation in the Port's annual budget

process. The Port Commission shall provide written feedback to the POCAC on the product submitted no later than sixty (60) days from when the product is received. Feedback shall provide reasonable detail on the product from the Port Commission.

6. Scheduled Meetings:

POCAC shall establish a monthly meeting schedule in the format generally described in Exhibit "A", attached hereto. Monthly meetings shall normally not be held in August or December. Special meetings may be called by a majority of the existing membership or by the Chair of POCAC.

7. Community Involvement:

The POCAC, with Port Commission approval, may solicit public opinion in a manner consistent with assignments and Port Commission priorities.

All the POCAC's scheduled meetings will be open to the public.

8. Sub-Committees:

POCAC is comprised of three (3) standing subcommittees, Public Access Environmental Stewardship, and Economic Opportunities. Assignments shall generally be evaluated by the full POCAC to determine how best to accomplish them. The POCAC may accomplish the assignment as a full body or assign to the appropriate subcommittee. In the event an Assignment does not fall within the coverage of any of the three subcommittees, an ad hoc subcommittee may be formed to address the Assignment. Once an Assignment is completed by the ad hoc subcommittee, the ad hoc subcommittee shall end its operations with a written notice to the Port Commission.

Each Sub-Committee will select a member to serve as Chair. The Sub-Committee chair shall be elected by a majority vote of subcommittee members. The Sub-Committee chair shall serve no more than two (2) consecutive one-year terms. The Sub-Committee Chair shall submit updates to the POCAC at regularly scheduled POCAC meetings and present the final report or presentation to the Port Commission.

Any matter referred to a POCAC Sub-Committee must ultimately be presented to the full POCAC for the POCAC's consideration and approval prior to forwarding any recommendation to the Port Commission.

9. Officers:

The officers of the POCAC shall include a Chair and Vice Chair to preside and facilitate POCAC meetings and present special reports. The POCAC members in these positions shall serve no more than two (2) one-year terms.

The POCAC Chair and Vice Chair shall be selected annually by the Commission. In November of each year, the Executive Director will solicit names of POCAC members interested in serving as Chair or Vice Chair for the following year. The Executive Director will forward the names of all POCAC members interested in serving as Chair and Vice Chair to the Commission for their consideration. The Commission will select a Chair and Vice Chair in an open public meeting each December.

The Chairperson of the POCAC, or a designated representative of the POCAC, shall report to the Port Commission no less than once each year on POCAC activities. This report will be provided in writing or at a regular Commission meeting or work session. The POCAC shall determine the appropriate format for the report.

10. Terms:

On adoption of this Resolution, the Commission will open all POCAC positions for recruitment and appointment. Current POCAC members are encouraged to submit their names for reappointment.

A full term for POCAC members is three years. These terms will be staggered to the extent possible to allow for continuity of membership. The POCAC members shall each serve no more than four (4) three-year terms for a total of twelve (12) years. Each year the Port Commission shall appoint or reappoint persons to fill the expiring terms. When POCAC membership falls below 9 members new POCAC members shall be selected in accordance with Section 11 below. The Port Commission also has discretion to appoint, reappoint, or extend the term of POCAC members to address extenuating circumstances.

The Commission may remove a member before the end of a term for failure to attend meetings, failure to participate in committee work, violation of committee rules, or other conduct that materially interferes with the effective functioning of the committee.

A member may resign at any time by submitting a written notice to the Commission or the Executive Director. The resignation shall take effect on the date specified in the notice or, if no date is specified, upon receipt.

Vacancies occurring before the expiration of a term shall be filled for the remainder of that term using the appointment process described in Section 11.

11. Selection of New Members:

When a vacancy occurs, the Port shall initiate the public recruitment process as soon as practicable.

Recruitment of new POCAC members will include an open and transparent advertisement and application process including applicants encouraged to apply by Commissioners or POCAC members.

The Port will publicly advertise all vacancies on the Port website and through other appropriate communication channels. Recruitment announcements shall describe the purpose of the committee, duties of members, qualifications for service, and the application deadline. The application period shall remain open for no fewer than thirty (30) days.

Each potential member will submit an application to be sent to all Port Commissioners for their consideration..

Applicants shall be asked to provide information on the following:

- Demonstrated interest in the work of the Port and community engagement
- Ability to consider issues from a community-wide perspective
- Relevant knowledge, experience, or professional expertise

- Ability to participate constructively in collaborative deliberations
- Commitment to regular attendance and participation

Each Commissioner shall nominate three candidates for POCAC membership: one from within his or her district, and two “at-large” candidates from within Thurston County. The Commission as a whole shall vote on the full slate of nominations at a public meeting.

For the first selection period following adoption of this Resolution, each Commissioner shall use one of their at-large nominations to nominate a current member of the POCAC who has chosen to submit his or her name for consideration.

12. Approval of Travel and Other Expenses:

The Port Commission will budget annually for expenses. The POCAC Chair shall request approval of travel and other expenses for POCAC members to the Executive Director. All expenses shall be consistent with Port travel and reimbursement policies. Any amount over the annual budget will come back to the Port Commission for approval.

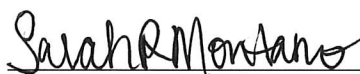
13. Roles, Expectations and Operating Rules:

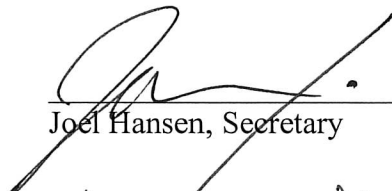
Members of the POCAC and subcommittees shall adhere to the roles, expectations and operating rules as outlined in “Exhibit A” of this Resolution.

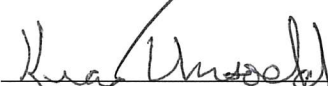
ADOPTED by a majority of the members of the Port Commission for the Port of Olympia, a majority voting on this Resolution at a regular Port Commission meeting on June 8, 2026, as attested to by the signatures below of the Port Commissioners on this 8th day of June 2026.

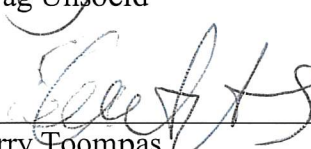
PORT OF OLYMPIA COMMISSION


Jasmine Vasavada, President


Sarah Montano, Vice President


Joel Hansen, Secretary


Krag Unsoeld


Jerry Toompas

PORT OF OLYMPIA COMMISSION
RESOLUTION 2026-~~05~~XX

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6. Scheduled Meetings:

POCAC shall establish a monthly meeting schedule in the format generally described in Exhibit "A", attached hereto. Monthly meetings shall normally not be held in August or December. Special meetings may be called by a majority of the existing membership or by the Chair of POCAC.

The rotation schedule for Commissioner participation in POCAC meetings is set forth below and shall take effect upon adoption of this Resolution and continue on a rolling basis. Any Commissioner who cannot attend their scheduled meeting is responsible for identify a replacement/swap if possible.

[OPTIONAL: If a third Commissioner wishes to participate in a POCAC meeting, that Commissioner must notify the commission coordinator at least one week prior to the meeting. All Commissioners will comply with Open Public Meetings Act requirements, as applicable.]

□

<u>OCT</u>	<u>District 1</u>	<u>District 5</u>
<u>Nov</u>	<u>District 1</u>	<u>District 4</u>
<u>Dec</u>	<u>District 1</u>	<u>District 3</u>
<u>2027: Jan</u>	<u>District 1</u>	<u>District 2</u>
<u>Feb</u>	<u>District 5</u>	<u>District 4</u>
<u>Mar</u>	<u>District 5</u>	<u>District 3</u>
<u>Apr</u>	<u>District 5</u>	<u>District 2</u>
<u>May</u>	<u>District 5</u>	<u>District 1</u>
<u>June</u>	<u>District 4</u>	<u>District 3</u>
<u>July</u>	<u>District 4</u>	<u>District 2</u>
<u>Aug</u>	<u>District 4</u>	<u>District 1</u>
<u>Sept</u>	<u>District 4</u>	<u>District 5</u>
<u>Oct</u>	<u>District 2</u>	<u>District 4</u>
<u>Nov</u>	<u>District 2</u>	<u>District 3</u>
<u>Dec</u>	<u>District 2</u>	<u>District 2</u>
<u>Mar</u>	<u>District 2</u>	<u>District 1</u>
<u>Apr</u>	<u>District 3</u>	<u>District 5</u>
<u>May</u>	<u>District 3</u>	<u>District 4</u>
<u>Jun</u>	<u>District 3</u>	<u>District 2</u>
<u>Jul</u>	<u>District 3</u>	<u>District 1</u>

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7. Community Involvement:

The POCAC, with Port Commission approval, may solicit public opinion in a manner consistent with assignments and Port Commission priorities.

All the POCAC's scheduled meetings will be open to the public.

8. Sub-Committees:

POCAC is comprised of three (3) standing subcommittees, Public Access, Environmental

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Stewardship, and Economic Opportunities. Assignments shall generally be evaluated by the full POCAC to determine how best to accomplish them. The POCAC may accomplish the assignment as a full body or assign to the appropriate subcommittee. In the event an Assignment does not fall within the coverage of any of the three subcommittees, an ad hoc subcommittee may be formed to address the Assignment. Once an Assignment is completed by the ad hoc subcommittee, the ad hoc subcommittee shall end its operations with a written notice to the Port Commission.

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Each Sub-Committee will select a member to serve as Chair. The Sub-Committee chair shall be elected by a majority vote of subcommittee members. The Sub-Committee chair shall serve no more than two (2) consecutive one-year terms. The Sub-Committee Chair shall submit updates to the POCAC at regularly scheduled POCAC meetings and present the final report or presentation to the Port Commission.

Any matter referred to a POCAC Sub-Committee must ultimately be presented to the full POCAC for the POCAC's consideration and approval prior to forwarding any recommendation to the Port Commission.

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9. Officers:

The officers of the POCAC shall include a Chair and Vice Chair to preside and facilitate POCAC meetings and present special reports. The POCAC members in these positions shall serve no more than two (2) one-year terms.

The POCAC Chair and Vice Chair shall be selected annually by the Commission. In November of each year, the Executive Director will solicit names of POCAC members interested in serving as Chair or Vice Chair for the following year. The Executive Director will forward the names of all POCAC members interested in serving as Chair and Vice Chair to the Commission for their consideration. The Commission will select a Chair and Vice Chair in an open public meeting each December.

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The Chairperson of the POCAC, or a designated representative of the POCAC, shall report to the Port Commission no less than once each year on POCAC activities. This report will be provided in writing or at a regular Commission meeting or work session. The POCAC shall determine the appropriate format for the report.

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10. Terms:

~~On adoption of this Resolution, the Commission will open all POCAC positions for recruitment and appointment. Current POCAC members are encouraged to submit their names for reappointment.~~

A full term for POCAC members is three years. ~~These terms will be~~ staggered ~~to the extent possible by seat~~ to allow for continuity of membership. The POCAC members shall each serve no more than four (4) three-year terms for a total of twelve (12) years. Each year the Port Commission shall appoint or reappoint persons to fill the expiring terms. When POCAC membership falls below 9 members new POCAC members shall be selected in accordance with Section ~~44~~12 below. The Port Commission also has discretion to appoint, reappoint, or extend the term of POCAC members to address extenuating circumstances.

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POCAC membership shall be organized into fifteen (15) numbered seats:

- District 1: Seats 1-3
- District 2: Seats 4-6
- District 3: Seats 7-9
- District 4: Seats 10-12

• District 5: Seats 13- 15

Terms shall be assigned to seats, not to individuals. To establish staggered terms, seats shall carry the following initial terms. [OPTIONAL: The initial terms shall count toward the four-term maximum in Section 10.]

- Seats 1, 4, 7, 10, 13: Terms expire at the end of 2027 (1-year initial terms)
- Seats 2, 5, 8, 11, 14: Terms expire at the end of 2028 (2-year initial terms)
- Seats 3, 6, 9, 12, 15: Terms expire at the end of 2029 (3-year initial terms)

Upon adoption of this amendment, the Executive Director shall assign current members to numbered seats by district. Future appointments shall be made to specific seats for the term remaining.

The Commission may remove a member before the end of a term for failure to attend meetings, failure to participate in committee work, violation of committee rules, or other conduct that materially interferes with the effective functioning of the committee.

A member may resign at any time by submitting a written notice to the Commission or the Executive Director. The resignation shall take effect on the date specified in the notice or, if no date is specified, upon receipt.

Vacancies occurring before the expiration of a term shall be filled for the remainder of that term using the appointment process described in Section ~~11~~12.

11. Alternates

The Port Commission may appoint up to three (3) alternate members to the POCAC (“Alternates”). Alternates shall be selected from applicants who meet the qualifications for POCAC membership set forth in Section 12 but for whom no regular membership seat is available at the time of appointment.

[OPTIONAL: Alternates shall be placed on a list maintained by the Executive Director and shall automatically fill regular seats as they become vacant, for the remainder of the vacated seat’s term. When a vacancy arises, an Alternate residing in the same election district as the departing member shall be given preference; if no district match is available, the next Alternate on the list shall fill the seat.]

Once appointed, alternates are subject to the same attendance and conduct expectations as regular members. Alternates may be assigned by the POCAC Chair to one or more of the three (3) standing subcommittees — Public Access, Environmental Stewardship, and Economic Opportunities — as full participants. Alternates assigned to a standing subcommittee may participate in subcommittee discussions, contribute to subcommittee work products, and attend subcommittee meetings. Alternates shall not hold a vote at regular meetings of the full POCAC.

~~11~~12. Selection of New Members:

When a vacancy occurs, the Port shall may initiate the public recruitment process as soon as practicable.

Recruitment of new POCAC members will include an open and transparent advertisement and application process including applicants encouraged to apply by Commissioners or POCAC members.

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Joel Hansen, Secretary

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Krag Unsoeld

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Jerry Toompas

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**PORT OF OLYMPIA COMMISSION
RESOLUTION 2026-XX**

A RESOLUTION OF THE PORT OF OLYMPIA COMMISSION regarding the community advisory committee known as the Port of Olympia Community Advisory Committee (POCAC) and superseding Resolutions 2025-02, 2024-08, 2023-09, 2022-15, 2021-06, 2019-10, 2019-03, and 2026-05.

WHEREAS, the Port of Olympia desires to have a community advisory committee to advise the Port of Olympia Commission (Port Commission) on matters it may wish to assign from time-to-time; and

WHEREAS, this Resolution supersedes Port Commission Resolutions 2025-02, 2024-08, 2023-09, 2022-15, 2021-06, 2019-10, 2019-03, and 2026-05.

NOW, THEREFORE, BE IT RESOLVED, after due consideration, the Port Commission establishes the following:

1. The Port of Olympia Community Advisory Committee (POCAC):

The POCAC is a committee of community members selected through an application process as determined by the Port Commission.

2. Purpose:

The purpose of the POCAC is to provide input to the Port Commission on tasks assigned by the Port Commission. The purpose is for the POCAC to provide feedback representing a community perspective on Port operations and projects. This feedback is important to fully understand community sentiment related to Port affairs and the areas for which improved communication and transparency may be needed.

3. Composition:

POCAC membership shall consist of fifteen (15) members with membership not to fall under nine (9) members. All members shall be residents of Thurston County. The 15 members shall comprise, if possible, of three (3) members from each of the five (5) Port of Olympia election districts. In the event that each election district is unable to field 3 members the remaining membership shall be recruited from Thurston County community at large. Two Port Commissioner (on a rotating schedule set forth in Section 6) and the Executive Director or their designee shall serve as ex officio members of POCAC and attend monthly POCAC meetings. In this case ex officio shall mean non-voting members and attendance will be to better understand POCAC projects and to provide direct feedback to POCAC on these projects and other Port business.

In making appointments, the Port Commission shall strive to maintain balanced representation from across the Port Commissioner districts and from diverse community perspectives within Thurston County.

The Commission may consider geographic distribution, community involvement, professional background, and other factors necessary to ensure that the committee reflects a broad range of community viewpoints.

4. Duties:

The POCAC shall advise the Port Commission on matters assigned by the Port Commission. The POCAC may forward public input received by POCAC members to the Port Commission, who will determine how such unsolicited input shall be handled.

The Port shall supply a commission coordinator to publish the notice for scheduled meetings, assist the POCAC by scheduling meetings, and other duties as authorized by the Port Commission or Executive Director.

The Port Commission or Executive Director will provide guidance when requested by the POCAC. The Executive Director will assign Port staff for expertise, if required and as capacity allows.

5. Assignments:

The Port Commission shall initiate POCAC tasks in writing. The written request shall include a description of the proposed task, staff involvement, schedule and deliverables, if necessary. The POCAC shall review and either accept the task or propose changes to the task for Port Commission review and approval. If a task is proposed to the Port Commission by the POCAC, it shall include a description of the proposed task, staff involvement, schedule and deliverables. The Port Commission may approve, deny or request amendments to the proposed POCAC task.

The Port Commission will identify the type of work products to be delivered by the POCAC. More than one product type may be requested:

- a. **Report:** This product will help to create an awareness of policy issues among the Port Commission, staff, and the public and to encourage an exchange of information and analysis. It can also serve as an educational tool. The Port Commission may or may not take action or give further direction to the Executive Director upon receipt of this product. The Port Commission shall provide written feedback to the POCAC on the product submitted no later than sixty (60) days from when the product is received. Feedback shall provide reasonable detail on the product from the Port Commission.
- b. **Policy recommendation:** This product will recommend a new policy or modification or amendment to an existing policy. If the Port Commission decides to take action on such a recommendation, the Port Commission will give direction to the Executive Director and/or legal counsel for further analysis and preparation of proposed policy language for Port Commission consideration. The Port Commission shall provide written feedback to the POCAC on the product submitted no later than sixty (60) days from when the product is received. Feedback shall provide reasonable detail on the product from the Port Commission.
- c. **Project recommendation:** This product will present a recommendation for implementation by the Port. Should the Port Commission choose to take action, the Port Commission will direct the Executive Director to include the implemented recommendation in the Port's annual budget process. The Port Commission shall provide written feedback to the POCAC on the product submitted no later than sixty (60) days from when the product is received. Feedback shall provide reasonable detail on the product from the Port Commission.

6. Scheduled Meetings:

POCAC shall establish a monthly meeting schedule. Monthly meetings shall normally not be held in August or December. Special meetings may be called by a majority of the existing membership or by the Chair of POCAC.

The rotation schedule for Commissioner participation in POCAC meetings is set forth below and shall take effect upon adoption of this Resolution and continue on a rolling basis. Any Commissioner who cannot attend their scheduled meeting is responsible for identify a replacement/swap if possible.

[**OPTIONAL:** If a third Commissioner wishes to participate in a POCAC meeting, that Commissioner must notify the commission coordinator at least one week prior to the meeting. All Commissioners will comply with Open Public Meetings Act requirements, as applicable.]

□

OCT	District 1	District 5
Nov	District 1	District 4
Dec	District 1	District 3
2027: Jan	District 1	District 2
Feb	District 5	District 4
Mar	District 5	District 3
Apr	District 5	District 2
May	District 5	District 1
June	District 4	District 3
July	District 4	District 2
Aug	District 4	District 1
Sept	District 4	District 5
Oct	District 2	District 4
Nov	District 2	District 3
Dec	District 2	District 2
Mar	District 2	District 1
Apr	District 3	District 5
May	District 3	District 4
Jun	District 3	District 2
Jul	District 3	District 1

7. Community Involvement:

The POCAC, with Port Commission approval, may solicit public opinion in a manner consistent with assignments and Port Commission priorities.

All the POCAC's scheduled meetings will be open to the public.

8. Sub-Committees:

POCAC is comprised of three (3) standing subcommittees, Public Access, Environmental Stewardship, and Economic Opportunities. Assignments shall generally be evaluated by the full POCAC to determine how best to accomplish them. The POCAC may accomplish the assignment as a full body or assign to the appropriate subcommittee. In the event an Assignment does not fall within the coverage of any of the three subcommittees, an ad hoc subcommittee may be formed to address the Assignment. Once an Assignment is completed by the ad hoc subcommittee, the ad hoc subcommittee shall end its operations with a written notice to the Port Commission.

Each Sub-Committee will select a member to serve as Chair. The Sub-Committee chair shall be elected by a majority vote of subcommittee members. The Sub-Committee chair shall serve no more than two (2) consecutive one-year terms. The Sub-Committee Chair shall submit updates to the POCAC at regularly scheduled POCAC meetings and present the final report or presentation to the Port Commission.

Any matter referred to a POCAC Sub-Committee must ultimately be presented to the full POCAC for the POCAC's consideration and approval prior to forwarding any recommendation to the Port Commission.

9. Officers:

The officers of the POCAC shall include a Chair and Vice Chair to preside and facilitate POCAC meetings and present special reports. The POCAC members in these positions shall serve no more than two (2) one-year terms.

The POCAC Chair and Vice Chair shall be selected annually by the Commission. In November of each year, the Executive Director will solicit names of POCAC members interested in serving as Chair or Vice Chair for the following year. The Executive Director will forward the names of all POCAC members interested in serving as Chair and Vice Chair to the Commission for their consideration. The Commission will select a Chair and Vice Chair in an open public meeting each December.

The Chairperson of the POCAC, or a designated representative of the POCAC, shall report to the Port Commission no less than once each year on POCAC activities. This report will be provided in writing or at a regular Commission meeting or work session. The POCAC shall determine the appropriate format for the report.

10. Terms:

A full term for POCAC members is three years, staggered by seat to allow for continuity of membership. The POCAC members shall each serve no more than four (4) three-year terms for a total of twelve (12) years. Each year the Port Commission shall appoint or reappoint persons to fill the expiring terms. When POCAC membership falls below 9 members new POCAC members shall be selected in accordance with Section 12 below. The Port Commission also has discretion to appoint, reappoint, or extend the term of POCAC members to address extenuating circumstances.

POCAC membership shall be organized into fifteen (15) numbered seats:

- District 1: Seats 1-3
- District 2: Seats 4-6
- District 3: Seats 7-9
- District 4: Seats 10-12
- District 5: Seats 13- 15

Terms shall be assigned to seats, not to individuals. To establish staggered terms, seats shall carry the following initial terms. [**OPTIONAL:** The initial terms shall count toward the four-term maximum in Section 10.]

- **Seats 1, 4, 7, 10, 13:** Terms expire at the end of 2027 (1-year initial terms)
- **Seats 2, 5, 8, 11, 14:** Terms expire at the end of 2028 (2-year initial terms)

- **Seats 3, 6, 9, 12, 15:** Terms expire at the end of 2029 (3-year initial terms)

Upon adoption of this amendment, the Executive Director shall assign current members to numbered seats by district. Future appointments shall be made to specific seats for the term remaining.

The Commission may remove a member before the end of a term for failure to attend meetings, failure to participate in committee work, violation of committee rules, or other conduct that materially interferes with the effective functioning of the committee.

A member may resign at any time by submitting a written notice to the Commission or the Executive Director. The resignation shall take effect on the date specified in the notice or, if no date is specified, upon receipt.

Vacancies occurring before the expiration of a term shall be filled for the remainder of that term using the appointment process described in Section 12.

11. Alternates

The Port Commission may appoint up to three (3) alternate members to the POCAC (“Alternates”). Alternates shall be selected from applicants who meet the qualifications for POCAC membership set forth in Section 12 but for whom no regular membership seat is available at the time of appointment.

[**OPTIONAL:** Alternates shall be placed on a list maintained by the Executive Director and shall automatically fill regular seats as they become vacant, for the remainder of the vacated seat’s term. When a vacancy arises, an Alternate residing in the same election district as the departing member shall be given preference; if no district match is available, the next Alternate on the list shall fill the seat.]

Once appointed, alternates are subject to the same attendance and conduct expectations as regular members. Alternates may be assigned by the POCAC Chair to one or more of the three (3) standing subcommittees — Public Access, Environmental Stewardship, and Economic Opportunities — as full participants. Alternates assigned to a standing subcommittee may participate in subcommittee discussions, contribute to subcommittee work products, and attend subcommittee meetings. Alternates shall not hold a vote at regular meetings of the full POCAC.

12. Selection of New Members:

When a vacancy occurs, the Port may initiate the public recruitment process as soon as practicable.

Recruitment of new POCAC members will include an open and transparent advertisement and application process including applicants encouraged to apply by Commissioners or POCAC members.

The Port may publicly advertise all vacancies on the Port website and through other appropriate communication channels. Recruitment announcements shall describe the purpose of the committee, duties of members, qualifications for service, and the application deadline. The application period shall remain open for no fewer than thirty (30) days.

Each potential member will submit an application to be sent to all Port Commissioners for their consideration.

Applicants shall be asked to provide information on the following:

- Demonstrated interest in the work of the Port and community engagement

- Ability to consider issues from a community-wide perspective
- Relevant knowledge, experience, or professional expertise
- Ability to participate constructively in collaborative deliberations
- Commitment to regular attendance and participation

[**OPTIONAL**: Each Commissioner shall nominate up to three (3) candidates for POCAC membership, of which no more than two (2) may be at-large candidates from outside the Commissioner's district.

13. Approval of Travel and Other Expenses:

The Port Commission will budget annually for expenses. The POCAC Chair shall request approval of travel and other expenses for POCAC members to the Executive Director. All expenses shall be consistent with Port travel and reimbursement policies. Any amount over the annual budget will come back to the Port Commission for approval.

ADOPTED by a majority of the members of the Port Commission for the Port of Olympia, a majority voting on this Resolution at a regular Port Commission meeting on [September 28, 2026], as attested to by the signatures below of the Port Commissioners on this [28th day of September 2026].

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Sarah Montano, Vice President

Joel Hansen, Secretary

Krag Unsoeld

Jerry Toompas

PORT OF OLYMPIA

Bills & Vouchers

September 2026 Summary of Payments

GENERAL

PREPRINTED WARRANTS	\$ 1,024,557.40
ELECTRONIC PAYMENTS	\$ 1,197,258.07
BOND DEBT PAYMENTS	NONE
VOIDED WARRANT(S)- 1-lost and reissued check	\$ (34,340.54)
- 2 Electronic Pymts voided, check issued	
TOTAL PAYMENTS:	<u>\$ 2,187,474.93</u>

General Fund Warrants Issued:	CK# 094892-095091
Electronic Payments Issued:	EP# 001811-001830
Bond Debt Payments Issued:	NONE
Voided Warrant(s):	CK#094933
Voided Electronic Payment(s):	EP#001764 and 001777

Payments over \$200,000:

<u>Warrant #</u>	<u>Amount</u>	<u>Pay To</u>	
001816	\$259,664.19	Dalton, Omlsted, & Fuglevand	Budd Inlet Project
001817	\$291,694.68	Good News Group	Admin Buiding- Construction
094994	\$241,693.34	Alliant Insurance Services	Annual Insurance Renewal

We the undersigned Board of Commissioners of the Port of Olympia, Olympia Washington,
do hereby authorize the issuance of the warrants described above.

Jasmine Vasavada, Commission President

Sarah Montano, Commission Vice-President

Joel Hansen, Commission Secretary

Jerry Toompas, Commissioner

Krag Unsoeld, Commissioner

Alexandra K. Smith, Executive Director

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
Sep-26
Issued 9/3/2025

WARRANTS ISSUED:

COMPUTER PREPARED

Voided Warrant(s)

WARRANT NUMBERS:

094892 to 094935

176,453.45

0.00

ELECTRONIC PAYMENTS:

COMPUTER PREPARED

ACH NUMBERS:

PAYROLL DIRECT DEPOSIT DATE:

Voided Electronic Payment(s)

TOTAL WARRANTS

\$ 176,453.45

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".

Trisha Miller

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
Sep-26
Issued 9/11-2026

WARRANTS ISSUED:

COMPUTER PREPARED

Voided Warrant(s)

WARRANT NUMBERS:

094936 to 094984

63,615.50

ACH NUMBERS:

ELECTRONIC PAYMENTS:

COMPUTER PREPARED

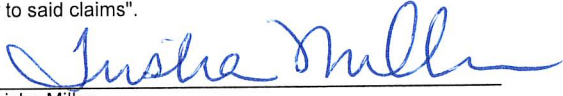
PAYROLL DIRECT DEPOSIT DATE

Voided Warrant(s)

TOTAL WARRANTS

\$ 63,615.50

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Trisha Miller

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PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
Sep-26
Issued 9-14-2026

WARRANTS ISSUED:

COMPUTER PREPARED

Voided Warrant(s)

WARRANT NUMBERS:

094985 to 094985

18,000.00

0.00

ELECTRONIC PAYMENTS:

COMPUTER PREPARED

ACH NUMBERS:

PAYROLL DIRECT DEPOSIT DATE:

Voided Electronic Payment(s)

TOTAL WARRANTS

\$ 18,000.00

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Trisha Miller



PORT OF OLYMPIA
~~VOUCHER APPROVAL LISTING~~
Sep-26
Issued 9-17-2026

WARRANTS ISSUED:

COMPUTER PREPARED

Zero Checks

WARRANT NUMBERS:

094986 to 095035

095004 & 095018

423,186.22

0.00

ELECTRONIC PAYMENTS:

COMPUTER PREPARED

ACH NUMBERS:

PAYROLL DIRECT DEPOSIT DATE:

Voided Electronic Payment(s)

TOTAL WARRANTS

\$ 423,186.22

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Trisha Miller



PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
Sep-26
Issued 9-24-2026

WARRANTS ISSUED:

COMPUTER PREPARED

Voided Warrant(s)
Voided ACH(s)

WARRANT NUMBERS:

095036 to 095068

094933 to 094933
001764 & 001777

\$ 178,980.83

\$ (496.29)
\$ (33,844.25)

ELECTRONIC PAYMENTS:

COMPUTER PREPARED

ACH NUMBERS:

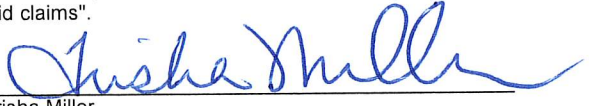
PAYROLL DIRECT DEPOSIT DATE:

Voided Electronic Payment(s)

TOTAL WARRANTS

\$ 144,640.29

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Trisha Miller



PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
Sep-26
Issued 9-30-2026

WARRANTS ISSUED:

COMPUTER PREPARED

Voided Warrant(s) stub only

WARRANT NUMBERS:

095069 to 095091

095076 to 095076

\$ 164,321.40

ELECTRONIC PAYMENTS:

COMPUTER PREPARED

ACH NUMBERS:

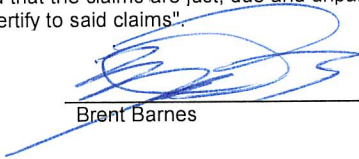
PAYROLL DIRECT DEPOSIT DATE:

Voided Electronic Payment(s)

TOTAL WARRANTS

\$ 164,321.40

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims."


Brent Barnes





Commission Meeting Minutes Monday, June 22, 2026

Call to Order

Commission President Jasmine Vasavada called a regular meeting of the Port of Olympia Board of Commissioners to order and open to the public at 4:00 p.m., Monday, June 22, 2026, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Jasmine Vasavada – President, Sarah Montano – Vice President, Joel Hansen – Secretary, Jerry Toompas and Krag Unsoeld.

Staff: Alex Smith, Executive Director, Chris Pierce-Wright, General Counsel; Warren Hendrickson, Director of Operations; Shawn Gilbertson, Director of Environmental Planning and Programs; Mike Reid, Director of Community and Economic Development; Chris Paolini, Airport Senior Manager; James Sommer, Public Works Program Manager; Taber Lee, Marketing and Outreach Senior Manager; Britt Hoglund, Lease Administrator; and Missy Goodell, Commission Coordinator.

Guest: Matt Ishler, Executive Director, New Market Vocational Skills Center.

Approval of Agenda

Commissioner Hansen moved to approve the agenda, Commissioner Unsoeld seconded the motion. Motion passed unanimously.

Executive Director Report

Alex Smith, Executive Director, reported on recent Port activities. She congratulated Swantown Marina Senior Manager, Damien Egan, as he recently graduated from the Leadership Thurston County program. A tour of the Marine Terminal was given to our downtown neighbors from Harbor Heights, a 55+ community. Two members of our environmental team, Barb Tope and Megan Folkers, were invited to speak to the Department of Ecology's regulatory team about how the Port of Olympia achieves compliance with the Industrial Stormwater Permit on the Marine Terminal.

The Olympia-Lacey FanZone kicked off on Juneteenth at the Port Plaza. The Shoestring Circus, located next to Swantown Marina, kicked off their three-week stay on the Port Peninsula. The annual Olympic Air Show, held Father's Day weekend at the Port's Olympia Regional Airport, was once again a great success. Port of Olympia Community Advisory Committee (POCAC) member recruitment is now open with information available on the Port's website with the recruitment period closing on July 31. From July 20 to 22, 2026, the WPPA will be hosting the 2026 Commissioner Seminar in Wenatchee, Washington; several Port of Olympia Commissioners will be attending this seminar.

In addition, Alex reminded everyone of the ways they can communicate with the Commission. She stated there is a great deal of information available on the Port's website and encouraged everyone to check it out.

Public Comment

Two individuals provided public comments regarding use of Port funds and the Marine Terminal warehouse.

Commission Response to Public Comment / Follow-Up to Public Comment

Commissioners provided input to public comments.

Partner Spotlight

New Market Vocational Skills Center. Matt Ishler, Executive Director of the New Market Vocational Skills Center, presented information on the New Market Vocational Skills Center, which opened in 1986 as an educational venture between local school districts and is a public school offering technical training for high school students. New Market is a consortium of 12 school districts including Adna, Centralia, Napavine, North Thurston, Oakville, Olympia, Rainier, Rochester, Shelton, Tenino, Tumwater, and Yelm. Their vision is to prepare students for post-secondary education, apprenticeships, or entrance into the workforce by offering the opportunity to be trained in technical career areas too expensive for a single district to fund. Students are transported to New Market from their home high schools. They spend half their day at the sending school and half at the Skills Center.

Information shared included the programs and credentialled classes that are offered at New Market Vocational Skills Center, their enrollment numbers, and the new aviation program that will start in the fall of 2026.

Consent Calendar

Commissioner Hansen moved to approve the consent agenda as presented; Commissioner Montano seconded the motion. Motion passed unanimously.

Action Calendar

None.

Action/Other Calendar

None.

Advisory Calendar

Contract Award: Building Tenant Improvements (Port HQ). James Sommer, Public Works Program Manager, briefed the Commission on a contract prepared to cover the costs of tenant improvement designs to the recently purchased building which will house the Port's administrative and maintenance staff and maintenance shop. The project history, scope, how it aligns with the Port's Vision 2050 plan, and the contract timeline was shared.

Next steps are to obtain Commission approval to award the building tenant improvements of the Port HQ contract to the lowest, responsive, responsible bidder at the July 13, 2026, Commission meeting.

Electric Aircraft Charging Station Grant Application. Chris Paolini, Airport Senior Manager, shared that at the direction of the Port Commission, staff prioritized exploring infrastructure projects that would support the aviation industry's transition to electric aircraft as a renewable energy alternative.

In 2026, the most feasible charging station site was identified and the Port partnered with an aviation tenant for a full-service solution. In mid-May 2026, WSDOT announced a Notice of Funding Opportunity under the Sustainable Aviation Grant program to fund projects during the 2027-2029 biennium. Following that announcement, Port airport staff, consultants, and the Director of WSDOT Aviation met with representatives from Beta Technologies during an airport site visit to discuss feasibility.

This project would consist of the following: 1) Increasing Puget Sound Energy (PSE) electrical power at the edge of airport property from 208-volt 3-phase power to 480-volt 3-phase power; 2) Installation of approximately 750 feet of electrical conduit from the PSE equipment to the new electric aircraft charging station site; and 3) Installation of a fully operational electric aircraft charging station.

The benefits of this project, along with funding and cost information, and the project timeline was shared. This project is in alignment with Vision 2050 goals. Environmental considerations were also discussed: The NEPA process for this project is in process and will be complete prior to the start of any construction activity. It is anticipated this project will be exempt under Federal Aviation Administration (FAA) Order 1050-1G; B-2.4 (f) (n) and (o). The SEPA process for this project was complete shortly after the agenda packets for this meeting were completed. This project will be SEPA exempt under Washington Administrative Code (WAC) 197-11-800 (23) (c). It was also shared that this project aligns with the Port's desire to reduce greenhouse gas emissions as presented in the Port's Draft Sustainability Action Plan and Strategy.

Commission action will be requested at the July 13, 2026 meeting to adopt the proposed resolution and authorize the Executive Director to submit a WSDOT grant application due by July 17, 2026.

New Market Vocational Skills Center. Chris Paolini, Airport Senior Manager, briefed the Commission on a lease with New Market Vocational Skills Center (NMSC) which would create new airport revenue by occupying a portion of the airport's vacant terminal building. The proposed lease to NMSC would include exclusive use of approximately 1,610 square feet of office and classroom space and access to, and shared use of, approximately 1,396 square feet of common area. The airport administration office would occupy the remaining 1,564 square feet of office space on the north side of the building. As mentioned, this arrangement would also allow the airport to vacate its current office building, making it available for lease.

In addition to direct revenue benefits, this lease provides an important partnership opportunity for the Port to support NMSC, and the community, in offering a new high school aviation program that introduces students to various career paths available within the aviation industry.

Lease terms were shared; a lease agreement will be brought before the Commission at the July 13, 2026, Commission meeting.

This project aligns with the Port's Vision 2050 focus areas, goals and action items.

Commissioner Reports/Discussion

Commissioner Unsoeld attended a POCAC meeting and a Tumwater Chamber of Commerce meeting. He also attended the first Olympia-Lacey FIFA watch party held at the Port Plaza.

Commissioner Toompas reported that he attended a Port intranet training and found it informative.

Commissioner Montano attended the Thurston County Chamber Forum, who hosted the Leadership Tomorrow graduation. She reported that Experience Olympia and Beyond has a new CEO.

Commissioner Hansen reported that he attended a meeting with Port staff and representatives from Capitol Little League where they discussed how to move forward with utilizing the property at the Olympia Regional Airport and exploring the possibility of a state grant opportunity. Commissioner Hansen attended the June POCAC meeting, and an agricultural infrastructure summit at the Tenino Ag Park, where updates were provided on projects in the region. He attended the Olympia-Lacey FIFA FanZone viewing and the Olympic Air Show. He intends to attend the Industrial Symbiosis conference that will occur next week.

Commissioner Vasavada shared that she also attended the meeting with Capitol Little League, and she volunteered at the Port's water station set up at the Olympia-Lacey FIFA FanZone area.

Additional Public Comment

None.

Other Business

Commissioner Vasavada reminded her fellow Commissioners about the Executive Session to be held tomorrow, June 23 at 5:00 p.m., regarding the performance of a public employee.

Commissioner Hansen requested that staff provide a brief presentation regarding taxes collected and exactly what those funds can be spent on, as subsidizing port tenants is not an allowable resource.

Meeting Announcements

A list of upcoming events was displayed on the screen for viewers to see upcoming Commission and POCAC meetings. Executive Director Smith stated the next Commission meeting will be held on Monday, July 13, at 4:00 p.m.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, June 22, 2026, regular meeting was adjourned at 5:39 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary

DRAFT



**Commission Special Meeting/Executive Session Minutes
Tuesday, June 23, 2026**

Call to Order – Special Meeting

Commission President Jasmine Vasavasa called the Commission Executive Session of June 23, 2026, to order and open to the public at 5:00 p.m., at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Jasmine Vasavada – President, Sarah Montano – Vice President, Joel Hansen – Secretary, Jerry Toompas and Krag Unsoeld.

Staff: Alex Smith, Executive Director.

Executive Session

At 5:00 p.m. Commission President Jasmine Vasavada, announced that the Commission would recess into a closed Executive Session until 6:00 p.m. to review the performance of a public employee, RCW 42.30.110(1)(g).

At 6:00 p.m., Commissioner Vasavada announced that the Port of Olympia Commission was extending the executive session for a period of 30 minutes, until 6:30 p.m.

Commissioner Vasavada returned the meeting to order and stated that the Commission was in Executive Session until 6:30 p.m. No decisions were made, and no action was taken.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Tuesday, June 23, 2026, Commission Special Meeting/Executive Session was adjourned at 6:30 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary



**Commission Executive Session Minutes
Tuesday, June 24, 2026**

Call to Order – Special Meeting

Commission President Jasmine Vasavasa called the Commission Executive Session of June 24, 2026, to order and open to the public at 5:00 p.m., at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Jasmine Vasavada – President, Sarah Montano – Vice President, Joel Hansen – Secretary, Jerry Toompas and Krag Unsoeld.

Staff: Alex Smith, Executive Director and Chris Pierce-Wright, General Counsel.

Executive Session

At 5:00 p.m. Commission President Jasmine Vasavada, announced that the Commission would recess into a closed Executive Session until 6:00 p.m. to review the performance of a public employee, RCW 42.30.110(1)(g).

At 6:00 p.m. Commissioner Vasavada returned the meeting to order and extended the Executive Session 30 minutes, to 6:30 p.m.

Commissioner Vasavada returned the meeting to order and stated that the Commission was in Executive Session until 6:30 p.m. No decisions were made, and no action was taken.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Tuesday, June 24, 2026, Commission Special Meeting/Executive Session was adjourned at 6:30 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary



Commission Meeting Minutes Monday, July 13, 2026

Call to Order

Commission President Jasmine Vasavada called a regular meeting of the Port of Olympia Board of Commissioners to order and open to the public at 4:02 p.m., Monday, July 13, 2026, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Sarah Montano – Vice President, Joel Hansen – Secretary, Jerry Toompas and Krag Unsoeld.

Staff: Alex Smith, Executive Director, Chris Pierce-Wright, General Counsel; Warren Hendrickson, Director of Operations; Mike Reid, Director of Community and Economic Development; Chris Paolini, Airport Senior Manager; James Sommer, Public Works Program Manager; Taber Lee, Marketing and Outreach Senior Manager; Tina Champion, Executive Coordinator; and Missy Goodell, Commission Coordinator.

Attended Virtually: Jasmine Vasavada – Commission President.

Approval of Agenda

Commissioner Toompas moved to approve the agenda, Commissioner Hansen seconded the motion. Motion passed unanimously.

Executive Director Report

Alex Smith, Executive Director, reported on recent Port activities. She thanked the Thurston Chamber for leading the charge to create a memorable experience for our region through the Olympia–Lacey Fan Zone hosted at the Port Plaza. The Shoestring Circus was back for another successful year of entertaining the Thurston County community along the waterfront; they once again sold out every show and even added an extra performance.

A couple weeks ago the Port hosted the Capital City Pride event on the Port Plaza. Shout out to Commissioner Vasavada for providing opening remarks on behalf of the Port. The Port also participated in this year's Capitol City Pride Parade the following day on Sunday.

This past weekend, the Port hosted the Olympia Dragon Boat Festival on Port property. It was another highly successful event, with registration fully booked and 44 teams participating. The Port also recently hosted a group of local high school students from the Leadership Thurston County Youth program for an airport tour. The visit supported LTC Youth's efforts to gain a deeper understanding of airport operations while also offering insights into workforce development and the wide range of career opportunities available at our regional airport.

Last Wednesday, Commissioner Toompas, Mike Reid, Afsin Yilmaz, Warren Hendrickson and Executive Director Alex Smith met with Greta Buccallato, the new Chief of Staff at JBLM. She has worked at JBLM before and is familiar with the Port of Olympia and the last time JBLM shipped military cargo through our Port. She also said she will be in her position for the next twelve years and is happy to be a point of contact for us for anything related to JBLM. She was given a tour of the Marine Terminal and opportunities for collaboration on a number of different levels were discussed. We will continue regular meetings with her to continue to build our relationship with JBLM.

Last week, we hosted yet another free public Marine Terminal Tour, and it was great to see so many community members join us on the working waterfront. A new public kayak and human-powered boat launch at the Swantown Marina public dock was recently installed. This new community asset supports our Vision 2050 plan and expands public access to the waterfront.

This week, Alex Smith will be attending along with port staff, the Launch of the Tribal Guide to Maritime Washington, cohosted by the Maritime Washington and the Squaxin Island Tribe, at the Evergreen State College. The event will be a great opportunity to learn more about the Squaxin Island Tribes' enduring connection to the southern Salish Sea through a new digital resource exploring Indigenous maritime heritage and honoring the relationships between people, water and place.

Friendly reminder was given that POCAC recruitment is still open for a few more weeks. All details on where, when, and how to apply are available on the Port's website with the recruitment period closing on July 31.

In addition, Alex reminded everyone of the ways they can communicate with the Commission. She stated there is a great deal of information available on the Port's website and encouraged everyone to check it out.

Public Comment

No public comments were shared.

Commission Response to Public Comment / Follow-Up to Public Comment

None.

Consent Calendar

Commissioner Vasavada moved to approve the consent agenda as presented; Commissioner Toompas seconded the motion. Motion passed unanimously.

Action Calendar

Contract Award: Building Tenant Improvements (Port HQ). James Sommer, Public Works Program Manager, provided background information, and the timeline for this project. He reported that there was a total of 9 bids submitted for this contract. The bids, including sales tax, ranged from \$5,251,734 to \$7,506,112.46 with Good News Group coming in as the lowest responsive, responsible bidder at \$5,251,734.00.

This project expense is included in the approved 2026 capital budget, with the expectation that a portion of construction expenses will be incurred in 2027 as part of the 2027 capital budget.

Motion: Commissioner Toompas moved to authorize the Executive Director to award the Port of Olympia Headquarters Tenant Improvement Project, Contract 2026-1020, to the lowest responsive and responsible bidder, Good News Group, in the amount of \$5,251,734.00, including sales tax. Commissioner Vasavada seconded the motion. Motion passed unanimously.

Electric Aircraft Charging Station Grant Application. Chris Paolini, Airport Senior Manager, shared background information, the financial impact, alignment with the Port's Vision 2050, and environmental considerations and review, on the Port's commitment to provide WSDOT grant matching funds for a WSDOT grant-funded Electric Aircraft Charging Station Project.

Motion: Commissioner Vasavada moved to adopt Resolution 2026-06 affirming the Port's commitment to provide grant matching funds for the Olympia Regional Airport's Electric Aircraft Charging Station project and authorize the Executive Director to submit an application for a WSDOT grant, matching 15% of project costs with airport capital funds, for the Airport's Electric Aircraft Charging Station project. Discussion followed. Commissioner Hansen amended the motion with a matching amount of 20%; Commissioner Unsoeld seconded the amended motion. Amended motion passed unanimously.

Action/Other Calendar

None.

Advisory Calendar

Delegation of Authority. Alex Smith, Executive Director, presented the updated, draft document from work produced by the Commission subcommittee comprised of Commissioners Vasavada and Unsoeld. The current Commission asked that the new Delegation of Authority be modeled on the Port of Seattle's, and the draft does that. The draft also incorporates language the majority of the subcommittee agreed to.

Commissioner Reports/Discussion

Commissioner Hansen reported that he attended a workshop put on by the Chehalis River Restoration Group with Commissioner Unsoeld. He also attended the Thurston County EDC Annual Economic Business award meeting, where one of our tenants, Cardinal Glass, was a recipient of one of those awards. He attended a Maritime Industrial Base Work Group meeting convened by WPPA. He attended the FIFA Fan Zone at the Port Plaza on June 25 and 26; he also attended the Shoestring Circus for the second year in a row.

Commissioner Hansen attended the Center for Sustainable Infrastructure Conference (not as a Port representative); but he wanted to report that it was the first conference on industrial symbiosis held in the Northwest, possibly the first ever held in the United States. He learned about the work being done in Europe around reuse of resources; and about matching industries for economic and environmental benefit. Our own Washington State Lieutenant Governor gave a presentation with the Danish Ambassador to the United States where they announced that they would be signing a bilateral agreement on industrial symbiosis between the State of Washington and the country of Denmark.

Commissioner Hansen also served on an elected official's panel for the Thurston Chamber's Youth Leadership Thurston County Government day.

Commissioner Unsoeld attended a TRPC meeting and the Pride Day Parade.

Commissioner Toompas reported that he attended a meeting with the JBLM Garrison Chief of Staff, he found the meeting very encouraging. He also attended the Pride Parade.

Commissioner Vasavada attended the Pride Parade and spoke at the day-before celebrations at Percival Landing.

Commissioner Montano shared that she attended the Shoestring Circus and the Leadership Thurston County Youth Day.

Additional Public Comment

None.

Other Business

Commissioner Vasavada thanked staff for launching the new Port Intranet method of tracking Commission requests. A recent request for help with her calendar was given in short order; a system to manage that is appreciated. She also mentioned her use of AI tools and encouraged the Port to consider use cases and products that are government-oriented and have the protections necessary to be safe.

The POCAC Recruitment process was shared.

Meeting Announcements

A list of events was displayed on the screen for viewers to see upcoming Commission and POCAC meetings. Executive Director Smith stated the next Commission meeting, a Work Session, will be held on Monday, July 20, at 4:00 p.m.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, July 13, 2026, regular meeting was adjourned at 4:59 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

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Commission Work Session Minutes Monday, July 20, 2026

Call to Order

Commission President Jasmine Vasavada called the Commission Work Session of July 20, 2026, to order and open to the public at 4:03 p.m., at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Jasmine Vasavada – President, Joel Hansen – Secretary, Jerry Toompas and Krag Unsoeld.

Attended Virtually: Commissioner Sarah Montano – Vice President.

Staff: Alex Smith, Executive Director; Warren Hendrickson, Director of Operations; Brent Barnes, Director of Enterprise Services; Shawn Gilbertson, Director of Environmental Planning and Programs; Damien Egan, Harbor Senior Manager; Afsin Yilmaz, Marine Terminal Senior Manager; James Sommer, Public Works Program Manager; Taber Lee, Communications and Marketing Senior Manager; and Missy Goodell, Commission Coordinator.

Approval of Agenda

Commissioner Toompas moved to approve the agenda. Commissioner Hansen seconded the motion. Motion passed unanimously.

6-Month Update on Operating Budgets

Real Estate. Warren Hendrickson, Director of Operations, provided an overview of the consolidated properties of the Port of Olympia. He listed the services provided by the 3-person department, discussed real estate agreements including ground leases and their terms; space leases and license agreements. He illustrated how Port Real Estate revenue and expenses were spread over multiple budgets; anticipated 2027 revenue was shared along with current (Q1 and Q2 of 2026) actuals vs budget numbers were displayed.

Marine Terminal. Afsin Yilmaz, Marine Terminal Senior Manager, presented 2026 Quarter 1 and 2 budget highlights for the Port's Marine Terminal. This information included a reduction in log vessels, and steady paper pulp vessels. Port calls, tonnage, financials and other factors (use of outside professional services and disciplines maintenance spend) were shared.

Swantown Marina and Boatworks. Damien Egan, Harbor Senior Manager, shared Q1 and Q2 budget information about Swantown Marina and Boatworks operations, revenue types, and occupancy, moorage and boat yard rates. Other contributing factors reviewed were storage, fuel sales, Travelift operations, derelict vessel removals, and future rates. Key performance indicators denoting success were communicated.

Due to time constraints, the meeting was adjourned at 6:00 p.m. The remaining agenda items, a 6-Month Update of the Olympia Regional Airport's Operating Budget and a 6-Month Update on Capital Projects, will be either added to an upcoming Commission meeting or a separate special meeting will be scheduled to conclude those presentations.

Presentations from this meeting will be posted on the Port's website.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, July 20, 2026, Commission Work Session was adjourned at 6:01 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary



Commission Meeting Minutes Monday, July 27, 2026

Call to Order

Commission Vice President Sarah Montano called a regular meeting of the Port of Olympia Board of Commissioners to order and open to the public at 4:00 p.m., Monday, July 27, 2026, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Sarah Montano – Vice President, Joel Hansen – Secretary, Jerry Toompas and Krag Unsoeld.

Attended Virtually: Commissioner Jasmine Vasavada – President.

Staff: Alex Smith, Executive Director; Chris Pierce-Wright, General Counsel; Warren Hendrickson, Director of Operations; Shawn Gilbertson, Director of Environmental Planning and Programs; Mike Reid, Director of Community and Economic Development; and Missy Goodell, Commission Coordinator.

Guests: Bob Wubbena, Port of Olympia Community Advisory Committee (POCAC) Member and POCAC Budd Inlet Subcommittee Chair; Elissa Gertler, Executive Director, Thurston Regional Planning Council (TRPC); and POCAC Members: Sue Patnude and Jim Thornton.

Approval of Agenda

Commissioner Hansen moved to approve the agenda; Commissioner Unsoeld seconded the motion. Executive Director Alex Smith called for a Point of Order, requesting to amend the agenda, removing agenda item H.4. BT-OH LLC (United Parcel Service) lease Amendment #3 from the Consent Calendar; it requires further discussion and will be moved to a future Commission meeting. Commissioner Unsoeld seconded the motion. Amended motion passed unanimously.

Executive Director Report

Alex Smith, Executive Director, reported on recent Port activities. She announced that the Thurston County Rescue Dive Team, a multi-agency unit specializing in underwater search, rescue, and recovery, recently used the Port's Marine Terminal as a training site. Last week, the Port hosted 16 students from Tumwater School District's Forest and Stream Ecology CTE summer course for an educational tour of the Port Peninsula.

The Port hosted the first of two Summer Nights at the Port concerts, and it was a success. Our own Marine Terminal maintenance team member, Fank Boss, kicked off the evening with his local bend, Going For Bronze. Over Lakefair weekend, Port Commissioners participated in the annual parade, where they were recognized for their service to the community. Commissioner Hansen was joined by his son, who rode alongside him, to see firsthand his father's role at the Port and his commitment to public service.

Last week, the City Heritage Commission approved the delisting of the tugboat Sand Man and endorsed the Port's plan to carefully dismantle and preserve it in partnership with the Historic Maritime Foundation. For organizations interested in participating, the criteria, artifact inventory, and application materials are available on the Port's website. The POCAC recruitment period closes this Friday, July 31. All details on where, when, and how to apply are available on the Port's website.

In addition, Alex reminded everyone of the ways they can communicate with the Commission. She stated there is a great deal of information available on the Port's website and encouraged everyone to check it out.

Public Comment

One individual provided public comment regarding environmental stewardship.

Commission Response to Public Comment / Follow-Up to Public Comment

None.

Partner Spotlight

Port of Olympia Community Advisory Committee (POCAC) Story Map. Bob Wubbena, POCAC Member and POCAC Budd Inlet Subcommittee Chair (recently renamed to Environmental Stewardship Subcommittee), presented five story maps that were created by Port staff and Subcommittee members, that tell the Port of Olympia story in a positive, constructive way and show the good work that has been completed over the years. The five maps include 1) History of the Port of Olympia and Budd Inlet; 2) Cascade Pole Site Remediation, 3) Stormwater on the Port Peninsula, 4) Sea Level Rise, and 5) Budd Inlet Cleanup.

Consent Calendar

Commissioner Hansen moved to approve the consent agenda as presented; Commissioner Montano seconded the motion. Motion passed unanimously.

Action Calendar

None.

Action/Other Calendar

None.

Advisory Calendar

Freight Planning Strategy Update. Elissa Gertler, Executive Director, Thurston Regional Planning Council (TRPC), gave a presentation on freight mobility, why it matters, how it underpins daily life and the regional economy; how its reliability affects businesses, emergency response and access; how freight movement shares space with communities and local streets; and how decisions involve tradeoffs across mobility, safety, and livability. TRPC's specialty is ensuring that a connected, regional system that crosses jurisdictional lines is studied.

It was shared that TRPC is the regional transportation planning organization. They coordinate transportation planning for all of Thurston County's transportation systems and they distribute federal transportation funds and perform analysis (transportation modeling, population and employment forecasting).

Their current project is to examine the freight system at a statewide level. The purpose of this project is to 1) develop a clear picture of freight movement in the region; 2) identify key system constraints and pressure points; 3) assess future freight conditions and trends; 4) define where regional coordination can improve outcomes; and 5) inform planning and investment that supports freights and economic vitality. This examination should result in informed decisions related to planning and investments.

It was stressed that this project is not primarily a project list or near-term capital program. Nor is it a replacement for work led by WSDOT or local jurisdictions; or an evaluation of specific facilities or their long-term role in the region. To date, work completed includes an initial review of freight flows and system conditions; a peer MPO research; initial stakeholder conversations; project introduction to Council; and drafting of project goals.

Their five goals are: 1) to understand current and future freight demand; 2) to ensure reliable and resilient regional freight movement; 3) to ensure a safe freight system for all users; 4) to be part of a connected and coordinated regional freight network; and 5) to create and maintain strategic and implementable freight investments. Next steps were also shared.

Commissioner Reports/Discussion

Commissioner Unsoeld reported that he attended the July POCAC meeting.

Commissioner Toompas reported that he attended and provided opening comments at the Port's Summer Nights at the Port event. He also attended the Yelm Chamber of Commerce Forum.

Commissioner Vasavada requested an update on the recently-attended WPPA Commissioner Seminar and she would like to revisit Commissioner assignments to ensure adequate coverage.

Commissioner Montano attended the WPPA 2026 Commissioner Seminar.

Commissioner Hansen reported that he attended the Tenino Chamber of Commerce Forum, the Lakefair Parade, and attended an event at the Evergreen State College Longhouse, hosted by Maritime Blue, showcasing the Squaxin Tribal Maritime History project.

Additional Public Comment

Two individuals provided comments regarding transportation and climate change issues.

Commission Response to Public Comment / Follow-Up to Public Comment

Commissioner Hansen provided information related to public comment.

Other Business

None.

Meeting Announcements

A list of events was displayed on the screen for viewers to see upcoming Commission and POCAC meetings. Executive Director Smith stated the next Commission meeting will be held on Monday, August 10, at 4:00 p.m. at Tenino City Hall in their Council Chambers.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, July 27, 2026, regular meeting was adjourned at 5:41 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary



Commission Special Meeting/Work Session Minutes Monday, August 3, 2026

Call to Order

Commission President Jasmine Vasavada called the Commission Special Meeting/Work Session of August 3, 2026, to order and open to the public at 4:00 p.m., at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Jasmine Vasavada – President, Joel Hansen – Secretary, and Krag Unsoeld.

Attended Virtually: Commissioner Sarah Montano – Vice President, and Commissioner Jerry Toompas.

Staff: Alex Smith, Executive Director; Warren Hendrickson, Director of Operations/Acting Airport Senior Manager; Brent Barnes, Director of Enterprise Services; Mike Reid, Director of Community and Economic Development; Damien Egan, Harbor Senior Manager; James Sommer, Public Works Program Manager; and Missy Goodell, Commission Coordinator.

Approval of Agenda

Commissioner Hansen moved to approve the agenda. Commissioner Unsoeld seconded the motion. Commissioner Hansen moved to amend the agenda, adding "Our Response to Washington Wildfires." Commissioner Unsoeld seconded the motion. Amended motion passed unanimously.

Response to Washington Wildfires

Warren Hendrickson, Director of Operations/Acting Airport Senior Manager, provided an update to the Commission on how the Port responds to situations such as poor air quality, and the processes in place and preparations made to keep staff safe and healthy. Smoke and unhealthy work conditions that are addressed in the ILWU contract was also shared.

6-Month Update on Operating Budget

This presentation is a continuation from the July 20, 2026, Work Session, which previously provided presentations on the operating budget business lines for the Marine Terminal, Real Estate division, and the Marina. The Airport and Capital Projects updates and Capital Investment Plan updates follow:

Airport Q1 and Q2 Financial Summary

Warren Hendrickson, Director of Operations/Acting Airport Senior Manager, shared how the Airport has performed for the first two quarters of 2026. He described the types of business lines that operate under the Airport and types of revenue received. He gave an overview of year-to-date net revenue before G&A and depreciation and after.

Airport revenue is expected to remain consistent through the remainder of 2026. Operating expenses are expected to be under budget for the year. Maintenance expenses are expected to be at or under

budget based on current projected needs, scope, and estimates. Challenges and seasonality issues were discussed.

Warren provided an update on the Swire lease termination notice that was recently received.

At 5:11 p.m. there was a 5-minute break. At 5:16 p.m., the meeting resumed.

6-Month Update on Capital Projects

James Sommer, Public Works Program Manager, reviewed the first six months of projects, including projects at the Marina and Boatworks, the Marine Terminal, the Airport, and non-operating projects (the new Port administration building renovation). Budget printouts were shared with Commissioners.

At 5:28 p.m. there was a 5-minute break. At 5:33 p.m., the meeting resumed.

5-Year CIP Overview

James Sommer, Public Works Program Manager, walked the Commission through the five-year Capital Investment Plan.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, August 3, 2026, Commission Special Meeting/Work Session was adjourned at 6:01 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary



**Commission Executive Session Minutes
Tuesday, August 4, 2026**

Call to Order – Special Meeting

Commission President Jasmine Vasavasa called the Commission Executive Session of August 4, 2026, to order and open to the public at 5:00 p.m., at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

Present

Commissioners: Jasmine Vasavada – President and Krag Unsoeld.

Attended Virtually: Commissioner Sarah Montano – Vice President, Joel Hansen – Secretary, Jerry Toompas, Chris Pierce-Wright, General Counsel, and Warren Hendrickson, Director of Operations.

Staff: Alex Smith, Executive Director; Brent Barnes, Director of Enterprise Services; and James Sommer, Public Works Program Manager.

Executive Session

At 5:00 p.m. Commission President Jasmine Vasavada, announced that the Commission would recess into a closed Executive Session until 6:00 p.m. to discuss potential litigation RCW 42.30.110(1)(i).

Commissioner Vasavada returned the meeting to order and stated that the Commission was in Executive Session until 6:00 p.m. No decisions were made, and no action was taken.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Tuesday, August 4, 2026, Commission Special Meeting/Executive Session was adjourned at 6:00 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary



Commission Meeting Minutes Monday, August 10, 2026

Call to Order

Commission President Jasmine Vasavada called a regular meeting of the Port of Olympia Board of Commissioners to order and open to the public at 4:00 p.m., Monday, August 10, 2026, at Tenino City Hall in their Council Chambers, 149 Hodgden Street South, Tenino, WA 98589.

Present

Commissioners: Jasmine Vasavada – President, Joel Hansen – Secretary, and Krag Unsoeld.

Attended Virtually: Commissioner Sarah Montano – Vice President, and Commissioner Jerry Toompas.

Staff: Mike Reid, Director of Community and Economic Development; Megan Lin, General Counsel; Warren Hendrickson, Director of Operations/Acting Airport Senior Manager; Shawn Gilbertson, Director of Environmental Planning and Programs; Spencer Battersby, IT Manager; and Tina Champion, Executive Coordinator.

Guest: Tenino Mayor David Watterson and Nancy Reddick, City of Tenino Clerk Treasurer.

Executive Director Report

Mike Reid, Director of Community and Economic Development, provided the Executive Director Report on recent Port activities. He announced that the Port held their last outdoor concert of the summer, Summer Nights at the Port, featuring a 90's cover band, *90's Remix*; with opening remarks provided by Commission President Vasavada. The South Sound Block Party, a two-day ticketed event, will be held August 29 and 30 at NorthPoint. The Olympia Downtown Alliance hosted Music in the Park at the Port Plaza last week; thanks to Commissioner Montano for providing opening remarks. The Port hosted a series of Marine Terminal tours this summer; the fourth tour was held last week.

It was also shared that an application process is currently open for folks to request artifacts from the recently delisted Sand Man, a historic tug. The City of Olympia Heritage Commission approved the delisting of the Sand Man historic tug and endorsed the Port's plan to carefully dismantle and preserve it in partnership with the Historic Maritime Foundation. Unfortunately, it was in condition beyond repair, and past preservation of it in its full form or attempting to get it back in the water is not an option. For organizations or individuals that are interested, they can apply by August 15 to obtain any of the artifacts that have been carefully removed from the Sand Man and have them for display. Applications will be reviewed, and decisions will be made on how artifacts are distributed.

This Friday the Port is excited to participate in the 2026 Festival of the Sṭə́čas, celebrating the cultural and ecological restoration of the Deschutes Estuary. It was reported that the Port's Environmental Planning and Program Director, Shawn Gilbertson, has taken a position with the City of Shelton; we wish him the best in his new adventure, he will be missed.

Public Comment

Two individuals provided public comments regarding the CRG lease option.

Commission Response to Public Comment / Follow-Up to Public Comment

Input to public comment was provided.

Partner Spotlight

City of Tenino. Tenino Mayor David Watterson provided an update on the happenings in Tenino. He provided an update on the Tenino Agriculture Innovation Park and the activities and offerings in their North and South buildings.

It was shared that the City of Tenino is preparing to start work to welcome a meat processing facility to their community with land clearing to occur first. This is the largest investment that has been made in Tenino and aims to break ground by the end of next year. The goal is for approximately 15 head of cattle to be processed daily. Wastewater treatment from the meat processing facility and how that is going to work, and use of water with limited water rights is now under discussion by the City of Tenino.

The Port's Small City Grant, awarded to the City of Tenino, was used to complete construction of a pickleball/basketball court which was an amenity their community has wanted and is currently using. Other equipment and supplies were also purchased for use at community events. Future planning for their city includes closing off one of their main streets to use as seating during Oregon Trail Days to accommodate the large car show featured at this event. The Oregon Trail Days event just occurred with the City of Tenino hosting a three-on-three basketball tournament, a car show, and vendors. The event was well-attended.

The Port was thanked for their Small City Grant, which allows small projects to happen, projects that don't usually offer grants.

It was also communicated that the City of Tenino owns a pool, which has been and is currently supported by other organizations, enabling the City of Tenino to open and operate the pool. They are working on issues with their baseball fields; and they received another grant which will allow them to address current water issues in the baseball fields to improve drainage.

A new daycare is opening, businesses are running, buildings are full and have clients, and Mayor Watterson is proud of what they have accomplished and is excited for the future. He thanked their Chamber which helps make their community thrive.

Mayor Watterson reported that they receive several million dollars in grants each year. They recently completed a paving project funded from a grant. Mayor Watterson thanked all of their many partners, who allow them to move ahead with these projects.

Approval of Agenda

Commissioner Hansen moved to approve the agenda; Commissioner Unsoeld seconded the motion. Motion passed unanimously.

Consent Calendar

Commissioner Hansen moved to approve the consent agenda as presented; Commissioner Unsoeld seconded the motion. Motion passed unanimously.

Action Calendar

None.

Action/Other Calendar

None.

Advisory Calendar

Port of Olympia Community Advisory Committee (POCAC) Nominations. Shawn Gilbertson, Director of Environmental Planning and Programs, explained what the POCAC is and what purpose it serves at the Port of Olympia. He shared updated POCAC Resolution changes, described the POCAC application process currently in process, and shared information on the applications that have been received to date.

The Port of Olympia Community Advisory Committee is comprised of community volunteers who provide input to the Port Commission on tasks assigned by the Port of Olympia Commission. The POCAC offers feedback that reflects a community perspective on Port operations and projects and they understand community sentiment related to Port affairs and the areas for which improved communication and transparency may be needed.

The new recently-approved POCAC Resolution states that the POCAC will not have more than 15 members, with the goal of having three members per district. Commissioners can appoint members from Thurston County at-large, and existing POCAC members can request to be reappointed.

Currently six current POCAC members are requesting reappointment. Six new applications have been received to date.

Staff will bring recommendations to the September 14th Commission Meeting for the Commission's consideration.

Commissioner Hansen moved to appoint Ed Humble and Rose Gunderson of the newly applied folks, and reappoint Deb Patton as his at-large POCAC appointee. President Vasavada asked for a no vote on this motion just temporarily delaying it so the group can discuss procedures for this process.

Mike Reid reminded the Commission that an Advisory item cannot have a motion made.

Discussion followed. Commission gave direction to Port staff to keep applications open to allow for more diversity from districts.

Grant Assistance Contract. Shawn Gilbertson, Director of Environmental Planning and Programs, presented information on grant assistance needs and objectives, the requests for proposals, a selected

company and next steps. Shawn explained that the Port is looking for assistance with grant writing and administration and to have that occur in a way that considers long-term funding strategies and opportunities particularly for capital improvements. RFPs were distributed nationwide with 15 responses. A team of four Port staff evaluated the RFPs and chose the winning proposal based on qualifications, experience, references, and cost of proposal.

The Beckett Group was selected. They are a Washington company, operated by Bruce and Jeannie Beckett, who have decades of Port experience in leadership and as a state lobbyist representing many ports in Washington state. They have helped ports secure millions of dollars in funding.

The next step is to bring this topic to the Commission for action at their September 14, 2026, Commission meeting.

Commissioner Reports/Discussion

Commissioner Hansen attended the Washington Economic Development Association conference in the Tri-Cities last week.

Commissioner Montano attended the Lacey Chamber of Commerce meeting. She also invited folks to attend an event hosted by Experience Olympia and Beyond this Friday, called *Fox 13 Zip Trip*. Fox 13 is bringing their popular television segment to Olympia from 10:00 to 11:00 a.m. August 14, at Percival Landing Park.

Commissioner Unsoeld attended an Olympia Food Bank fundraising dinner, and he attended a Solid Waste Advisory Committee meeting.

Commissioner Toompas thanked Mayor Watterson and the City of Tenino for allowing the Port to conduct their meeting in the Tenino Council chambers and appreciates the positive relationship the Port and the City of Tenino enjoy.

Commissioner Vasavada shared that she met with Alan Hartcastle, who serves on the Board of the South Sound YMCA, and Sarah Clinton, the South Sound YMCA's Director for Advancement. They discussed the South Sound YMCA's plans to expand into Lacey and possibly include a swimming pool as well as tournament-hosting-type facilities in that planning. They are also working to connect with local individuals regarding the recent regional pool conversations.

Commissioner Vasavada also met with Dan Stahl, who will be facilitating the upcoming Commission Retreat held later that week. Work to refine and discuss the 5-year plan will be done to ensure a common long-term vision.

Additional Public Comment

None.

Other Business

None.

Meeting Announcements

A list of upcoming events was displayed on the screen for viewers to see upcoming Commission and POCAC meetings. The next Commission meeting will be held in Rochester at the Rochester School District, on Monday, September 14, at 4:00 p.m.

Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, August 10, 2026, regular meeting was adjourned at 5:05 p.m.

PORT OF OLYMPIA COMMISSION

Jasmine Vasavada, President

Joel Hansen, Secretary

COVER MEMO

Briefing Date:	October 13, 2026
Staff Contact/Title:	Alex Smith, Executive Director (alexs@portolympia.com)
Subject:	Deschutes Estuary Joint Resolution of Support
Purpose:	☐ Information Only ☒ Decision Needed

Type of Agenda Item:

Action

Background:

In 2022, the State Department of Enterprise Services (DES) decided the best option for long-term management of Capitol Lake and to improve Budd Inlet water quality was to restore the area to a free-flowing estuary. In 2024 the Port Commission approved the Deschutes Estuary Restoration Project Interlocal Agreement (ILA), which commits the Port and other jurisdictions to supporting the estuary restoration, and to contributing funds towards maintaining water depths in West Bay following the removal of the Fifth Avenue Dam.

The Regional Funding Partners that signed the ILA (City of Olympia, City of Tumwater, Thurston County, Squaxin Island Tribe, LOTT Clean Water Alliance, and the Port of Olympia) have recently been asked by the Washington Department of Ecology to provide additional support for the project by adopting a resolution that supports state and federal funding to implement the Deschutes Estuary Restoration Project. This Resolution will confirm the Port's and Partners' support for:

- a. The project as a whole
- b. State funding for the project
- c. Federal funding for the project
- d. The local commitment to the success of the project
- e. Continued local support

The Resolution is intended to be a strong demonstration of support for the restoration project and any funding requests for the project. As the Resolution was being drafted and reviewed by the parties, the Port requested that language be added to the Resolution to support funding requests for the Budd Inlet cleanup, which the ILA recognizes is a prerequisite to the estuary restoration. Other Regional Funding Partners objected to that, indicating that including references to Budd Inlet takes away from the original intent of this being about the Estuary, along with a fear about mixing messages, and the Resolution therefore was put forward without language supporting funding for the cleanup.

The Resolution will be, or has been, presented to the governing bodies of the Regional Funding Partners for approval, as follows:

- City of Olympia: Approved by the City Council September 15
- LOTT: Approved by the LOTT Board September 9
- City of Tumwater: On a Committee agenda October 8, full Council consideration October 20
- Thurston County: On the Board's agenda October 20

Alternatives Presented:

Staff prepared two options for Commission consideration:

Option A:

Option A is to adopt the Resolution as agreed by the Regional Partners, and as already adopted by LOTT and the City of Olympia.

The benefits of this option include supporting the joint language and work of the Regional Partners and allowing for one identical Resolution to support funding efforts for the estuary project.

The potential downsides are that Port policy priorities will not be included in the Resolution the Port Commission adopts.

Option B:

Option B is to adopt the Resolution with two amendments:

1. The first proposed amendment reflects the ILA's recognition that the Budd Inlet cleanup must come before the restoration of the estuary. Without this language, there may be a lack of clarity among funders about this requirement.
2. The second proposed amendment reflects the legislative language that gave Ecology management authority over aspects of the estuary restoration project. This language more accurately reflects the legislative direction on Ecology's role with the project.

The primary benefit of this option is that Port policy priorities, already agreed to by the Regional Partners, are reflected in the Resolution the Commission adopts, ensuring this aspect is considered by outside entities.

The potential downside of this option is that it puts the Port slightly out of step with the rest of the Regional Partners in how our support for the project is articulated in this one Resolution.

Summary and Financial Impact:

Adopting this Resolution will not have direct financial impacts on the Port.

Alignment with Vision 2050:

1. Goal: Turn the Port Peninsula into a premier destination by adding attractions, increasing accessibility, and maintaining a clean and safe environment.
2. Goal: Emphasize sustainability in all planning and actions and provide updates to the community.

Environmental Considerations and Review:

Adopting this Resolution will not have direct environmental impacts on the Port, but supporting the estuary will result in improved environmental conditions for Budd Inlet and the residents of Thurston County that we serve.

Staff Recommendation:

The other Regional Partners have either signaled their intent to approve the Resolution or have already adopted it. Staff recommend the Port Commission likewise adopt the Joint Resolution, and consider doing so at the October 13, 2026, Commission meeting.

Document(s) Attached:

1. Joint Resolution of Support with edits
2. Joint Resolution of Support – clean copy
3. Port of Olympia Commission Resolution 2023-04
4. Deschutes Estuary ILA of 2024

RESOLUTION NO. [REDACTED]

**A RESOLUTION OF THE [GOVERNING BODY] OF [ENTITY NAME] SUPPORTING
STATE AND FEDERAL FUNDING TO IMPLEMENT THE DESCHUTES ESTUARY
RESTORATION PROJECT**

WHEREAS, following a Port of Olympia-led effort to remediate sediment contamination in portions of the West Bay (“Budd Inlet Remediation Project”), the Deschutes Estuary Restoration Project (“Project”) is a transformative, once-in-generations opportunity to restore the Deschutes Estuary, improve the health of Budd Inlet and the Deschutes River watershed, and address long-standing water quality, habitat, sediment, and public access challenges associated with the existing Capitol Lake Basin; and

WHEREAS, the Washington State Department of Enterprise Services, acting on behalf of the State of Washington, led the environmental review process for the Project, including completion of the Environmental Impact Statement process and selection of the Estuary Alternative as the preferred long-term management plan; and

WHEREAS, Senate Bill 5195, which sets forth the State of Washington’s biennial 2025-2027 capital budget, included a provision to “transfer management” of the Project to the Washington Department of Ecology;¹ and

WHEREAS, the Project will remove the 5th Avenue Dam, restore tidal exchange and estuarine habitat, improve ecological function, support recovery of salmon and other native species, improve water quality in Budd Inlet, and enhance the resilience of public infrastructure and natural systems in the face of sea level rise and other changing environmental conditions; and

WHEREAS, the State of Washington constructed the 5th Avenue Dam and has long held management responsibility for Capitol Lake, and the State, acting through Department of Ecology, is responsible for leading, funding, managing, and administering Project planning, design, permitting, estuary restoration, and construction of Project-related physical assets; and

WHEREAS, state construction funding is primary and essential to initiate and advance Project implementation, because the State was responsible for constructing the 5th Avenue Dam, which created the environmental and infrastructure challenges that exist today, and bears responsibility for managing the State Capitol Campus assets in compliance with all relevant state and federal laws and policies; and

WHEREAS, the scale and importance of the Project require a funding partnership that reflects the Project’s statewide, regional, tribal, local, environmental, cultural, economic, and infrastructure benefits; and

¹ Wash. State Legislature, Substitute Senate Bill 5195, 69th Legislature (2025 Regular Session), § 3031.

WHEREAS, federal funding is an appropriate and necessary supplement to state funding for construction because the Project advances federal interests in infrastructure resilience, water quality protection, endangered species recovery, and natural hazard resilience; and

WHEREAS, the City of Olympia, City of Tumwater, Thurston County, Squaxin Island Tribe, LOTT Clean Water Alliance, and the Port of Olympia (“Regional Partners”) have demonstrated substantial commitment to the Project, as called upon and acknowledged by the Washington State Legislature (HB 2926, 2015; ESSB 6095, 2018; ESSB 5187, 2023; and SSB 6003, 2026) by entering into the Deschutes Estuary Restoration Project Interlocal Agreement and related subsidiary agreements (“Interlocal Agreement”), which establish roles and responsibilities for long-term sediment management, governance, funding, coordination, asset transfer, and operations and maintenance; and

WHEREAS, under the Interlocal Agreement, Regional Partners will participate in long-term funding and governance for sediment management in navigational areas of West Bay through 2050 to support continued commercial and recreational navigation and allow the restored estuary and working waterfront to coexist; and

WHEREAS, Regional Partners have also committed to specified long-term ownership, operation, maintenance, and risk-of-loss responsibilities, provided for in the Interlocal Agreement; and

WHEREAS, these local commitments represent meaningful, durable, and ongoing support for the Project beyond construction and demonstrate that local partners are prepared to steward the Project’s long-term success; and

WHEREAS, continued coordination among the Regional Partners, in collaboration with the State, federal agencies, and community partners will be necessary to secure construction funding and successfully implement the Project; and

WHEREAS, timely state and federal investment in the Project is in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE [GOVERNING BODY] OF [ENTITY NAME] AS FOLLOWS:

Section 1. Support for the Project.

[ENTITY NAME] supports implementation of the Deschutes Estuary Restoration Project and recognizes ~~that Senate Bill 5195 included a provision to “transfer management of this aquatic ecosystem” to the~~ Washington State Department of Ecology, ~~as the “state agency with natural resources expertise.” acting on behalf of the State of Washington, as the lead public agency responsible for Project design, permitting, funding, construction, and overall implementation.~~

Section 2. Support for State Funding.

[ENTITY NAME] urges the Washington State Legislature, the Governor, and appropriate state agencies to continue providing support to secure the state funding necessary to initiate construction without delay and commit to full project implementation as quickly as reasonably

feasible, including efforts to expedite and coordinate with the Port-led Budd Inlet Remediation Project to maximize complementary efforts and minimize potential conflicts and redundancy.

Section 3. Support for Federal Funding.

[ENTITY NAME] supports and urges the pursuit and award of federal funding to supplement state funding for Project construction and implementation, including funding available for transportation infrastructure, natural hazard mitigation, Puget Sound recovery, endangered species recovery, water quality improvement, navigation, and utility infrastructure programs.

Section 4. Recognition of Local Commitment.

[ENTITY NAME] reaffirms its commitment to the Deschutes Estuary Restoration Project Interlocal Agreement, including participation in long-term sediment management funding and governance, coordination on dredging and navigation issues, and acceptance of long-term ownership, operation, maintenance, and asset-management responsibilities where applicable.

Section 5. Continued Local Support.

[ENTITY NAME] commits to continuing to work collaboratively with the State of Washington, Regional Partners, federal agencies, and other stakeholders to support funding, permitting, coordination, and implementation of the Project consistent with the Interlocal Agreement and any applicable subsidiary agreements.

Section 6. Transmittal.

The [Clerk/Secretary/Authorized Official] is directed to transmit this resolution to the Governor of the State of Washington, members of the Washington State Legislature representing the region, the State's Congressional delegation, appropriate federal agencies, and other Project partners.

Section 7. Ratification.

Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

Section 8. Severability.

The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 9. Effective Date.

This Resolution shall become effective immediately upon adoption and signature as provided by law.

PASSED AND ADOPTED by the [Governing Body] of [Entity Name] at a regular meeting thereof held this [/ day of /], [20].

[Signature Block]

ATTEST:

[Clerk/Secretary]

APPROVED AS TO FORM:

[Attorney/Legal Counsel, if applicable]

RESOLUTION NO. [REDACTED]

A RESOLUTION OF THE [GOVERNING BODY] OF [ENTITY NAME] SUPPORTING STATE AND FEDERAL FUNDING TO IMPLEMENT THE DESCHUTES ESTUARY RESTORATION PROJECT

WHEREAS, the Deschutes Estuary Restoration Project (“Project”) is a transformative, once-in-generations opportunity to restore the Deschutes Estuary, improve the health of Budd Inlet and the Deschutes River watershed, and address long-standing water quality, habitat, sediment, and public access challenges associated with the existing Capitol Lake Basin; and

WHEREAS, the Washington State Department of Enterprise Services, acting on behalf of the State of Washington, led the environmental review process for the Project, including completion of the Environmental Impact Statement process and selection of the Estuary Alternative as the preferred long-term management plan; and

WHEREAS, Senate Bill 5195, which sets forth the State of Washington’s biennial 2025-2027 capital budget, included a provision to “transfer management” of the Project to the Washington Department of Ecology “in consultation with the department of enterprise services and office of the governor”;¹ and

WHEREAS, the Project will remove the 5th Avenue Dam, restore tidal exchange and estuarine habitat, improve ecological function, support recovery of salmon and other native species, improve water quality in Budd Inlet, and enhance the resilience of public infrastructure and natural systems in the face of sea level rise and other changing environmental conditions; and

WHEREAS, the State of Washington constructed the 5th Avenue Dam and has long held management responsibility for Capitol Lake, and the State, acting through Department of Ecology, is responsible for leading, funding, managing, and administering Project planning, design, permitting, estuary restoration, and construction of Project-related physical assets; and

WHEREAS, state construction funding is primary and essential to initiate and advance Project implementation, because the State was responsible for constructing the 5th Avenue Dam, which created the environmental and infrastructure challenges that exist today, and bears responsibility for managing the State Capitol Campus assets in compliance with all relevant state and federal laws and policies; and

WHEREAS, the scale and importance of the Project require a funding partnership that reflects the Project’s statewide, regional, tribal, local, environmental, cultural, economic, and infrastructure benefits; and

¹ Wash. State Legislature, Substitute Senate Bill 5195, 69th Legislature (2025 Regular Session), § 3031.

WHEREAS, federal funding is an appropriate and necessary supplement to state funding for construction because the Project advances federal interests in infrastructure resilience, water quality protection, endangered species recovery, and natural hazard resilience; and

WHEREAS, the City of Olympia, City of Tumwater, Thurston County, Squaxin Island Tribe, LOTT Clean Water Alliance, and the Port of Olympia (“Regional Partners”) have demonstrated substantial commitment to the Project, as called upon and acknowledged by the Washington State Legislature (HB 2926, 2015; ESSB 6095, 2018; ESSB 5187, 2023; and SSB 6003, 2026) by entering into the Deschutes Estuary Restoration Project Interlocal Agreement and related subsidiary agreements (“Interlocal Agreement”), which establish roles and responsibilities for long-term sediment management, governance, funding, coordination, asset transfer, and operations and maintenance; and

WHEREAS, under the Interlocal Agreement, Regional Partners will participate in long-term funding and governance for sediment management in navigational areas of West Bay through 2050 to support continued commercial and recreational navigation and allow the restored estuary and working waterfront to coexist; and

WHEREAS, Regional Partners have also committed to specified long-term ownership, operation, maintenance, and risk-of-loss responsibilities, provided for in the Interlocal Agreement; and

WHEREAS, these local commitments represent meaningful, durable, and ongoing support for the Project beyond construction and demonstrate that local partners are prepared to steward the Project’s long-term success; and

WHEREAS, continued coordination among the Regional Partners, in collaboration with the State, federal agencies, and community partners will be necessary to secure construction funding and successfully implement the Project; and

WHEREAS, timely state and federal investment in the Project is in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE [GOVERNING BODY] OF [ENTITY NAME] AS FOLLOWS:

Section 1. Support for the Project.

[ENTITY NAME] supports implementation of the Deschutes Estuary Restoration Project and recognizes Washington State Department of Ecology, acting on behalf of the State of Washington, as the lead public agency responsible for Project design, permitting, funding, construction, and overall implementation.

Section 2. Support for State Funding.

[ENTITY NAME] urges the Washington State Legislature, the Governor, and appropriate state agencies to continue providing support to secure the state funding necessary to initiate construction without delay and commit to full project implementation as quickly as reasonably feasible.

Section 3. Support for Federal Funding.

[ENTITY NAME] supports and urges the pursuit and award of federal funding to supplement state funding for Project construction and implementation, including funding available for transportation infrastructure, natural hazard mitigation, Puget Sound recovery, endangered species recovery, water quality improvement, navigation, and utility infrastructure programs.

Section 4. Recognition of Local Commitment.

[ENTITY NAME] reaffirms its commitment to the Deschutes Estuary Restoration Project Interlocal Agreement, including participation in long-term sediment management funding and governance, coordination on dredging and navigation issues, and acceptance of long-term ownership, operation, maintenance, and asset-management responsibilities where applicable.

Section 5. Continued Local Support.

[ENTITY NAME] commits to continuing to work collaboratively with the State of Washington, Regional Partners, federal agencies, and other stakeholders to support funding, permitting, coordination, and implementation of the Project consistent with the Interlocal Agreement and any applicable subsidiary agreements.

Section 6. Transmittal.

The [Clerk/Secretary/Authorized Official] is directed to transmit this resolution to the Governor of the State of Washington, members of the Washington State Legislature representing the region, the State's Congressional delegation, appropriate federal agencies, and other Project partners.

Section 7. Ratification.

Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

Section 8. Severability.

The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 9. Effective Date.

This Resolution shall become effective immediately upon adoption and signature as provided by law.

PASSED AND ADOPTED by the [Governing Body] of [Entity Name] at a regular meeting thereof held this [/ day of /], [20].

[Signature Block]

ATTEST:

[Clerk/Secretary]

APPROVED AS TO FORM:

[Attorney/Legal Counsel, if applicable]

**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
~~<https://na4.documents.adobe.com/verifier?tx=CBJCHBCAABAA-0B3C>~~

Amy Harding, President

Joe Downing
~~<https://na4.documents.adobe.com/verifier?tx=CBJCHBCAABAA-0B3C>~~

Joe Downing, Vice President

Bob Iyall
~~<https://na4.documents.adobe.com/verifier?tx=CBJCHBCAABAA-0B3C>~~

Bob Iyall, Secretary

DESCHUTES ESTUARY RESTORATION PROJECT

INTERLOCAL AGREEMENT

THIS DESCHUTES ESTUARY RESTORATION PROJECT INTERLOCAL AGREEMENT ("Agreement") is entered into this **November 12, 2024** by and among the Department of Enterprise Services (DES) acting on behalf of the State of Washington (State), the Squaxin Island Tribe (Tribe), the County of Thurston (County), the City of Olympia (Olympia), the City of Tumwater (Tumwater), the Port of Olympia (Port), and the LOTT Clean Water Alliance (LOTT) to address shared responsibilities for long-term Sediment Management in a restored Deschutes Estuary. Each entity identified above is referred to individually as a "Party," collectively all Parties are referred to as the "Parties," and the Parties other than the State are referred to as the "Local Parties."

INTRODUCTION

Background

What is now Capitol Lake was originally the southern portion of the Deschutes Estuary, where freshwater from the Deschutes River and Percival Creek mixed with saltwater from Budd Inlet over extensive tidal flats. Between 1949 and 1951, the State constructed a dam at 5th Avenue in Olympia to impound the Deschutes River to create a reflecting pool for the Washington State Capitol Campus. 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. DES (to include predecessor agencies) has had the responsibility to manage Capitol Lake throughout the lake's existence under a long-term lease agreement with the Washington State Department of Natural Resources (DNR). The Deschutes River and Estuary and Budd Inlet, together with the parks and trails that surround them, are an important visual, economic, cultural, and recreational resource for the community.

Each year, the Deschutes River and Percival Creek transport an estimated 35,000 cubic yards of sediment downstream. Before construction of the 5th Avenue Dam, this sediment could move freely into Budd Inlet. With the dam in place, most of this sediment settles in Capitol Lake. The sediment captured upstream of the 5th Avenue Dam has accumulated up to 13 feet deep in some places—dramatically altering conditions.

The establishment of Capitol Lake created conditions that have resulted in chronic violations of water quality standards. 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. Capitol Lake is and has been a focus of state and federal water quality improvement planning since the 1970s. The presence of the 5th Avenue Dam is the single largest contributor to dissolved oxygen depletion in Budd Inlet.

The presence and persistence of invasive species in Capitol Lake has complicated its management. Since the 1980s, the State has employed a variety of strategies to address aquatic 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 these and other environmental concerns regarding Capitol Lake and the Deschutes Estuary. For a wide variety of reasons, these efforts did not result in meaningful resolution or enduring solutions.

Selection of the Estuary Alternative

In 2018, DES began a process to evaluate long-term management alternatives for the waterbody. To evaluate the alternatives, DES used the Environmental Impact Statement (EIS) process. Through this process, DES carefully considered comprehensive technical analyses, evaluated benefits and costs of project alternatives, solicited feedback from key stakeholders, and reviewed public comments. In 2022, DES issued a final EIS identifying the Estuary Alternative as the preferred long-term plan. The Estuary Alternative involves removal of the 5th Avenue Dam, restoration of tidal flats and marsh habitat in the 260-acre basin, construction of physical assets such as a new 5th Avenue Bridge, and long-term management of sediment naturally transported into navigational areas of Budd Inlet.

Removal of the 5th Avenue Dam will also restore natural sediment transport processes. This will result in increased sediment accumulation in navigational areas of West Bay compared to existing conditions, similar to sediment processes that existed prior to dam construction. Sediment accumulation, if unaddressed, will affect commercial and recreational uses in West Bay including the marinas¹ and, to a lesser extent, the Port vessel berths.

At the direction of the Washington State Legislature,² DES convened a Funding and Governance Work Group (FGWG) comprising the Parties to explore long-term funding and governance options. The Parties considered several funding and governance options for long-term management of the restored Deschutes Estuary and reached consensus as set forth in this Agreement.

Shared Goals and Benefits of the Project

The Parties recognize that the Project will contribute to the health of Budd Inlet and the Deschutes River watershed.

¹ The term “marinas” includes the following private businesses and entities: Olympia Yacht Club, Fiddlehead Marina, Martin Marina, and One Tree Island Marina, as well as their successor entities.

² Washington State Legislature. “Second Engrossed H.B. 1115 – 64th Legislature (2015 3rd Special Session): Concerning the capital budget.” June 30, 2015.
<https://app.leg.wa.gov/billsummary?BillNumber=1115&Year=2015&Initiative=false>.

Estuary restoration will produce a range of ecological and economic benefits. Removing the dam, restoring tidal flows, and reintroducing native habitats will benefit ESA-listed salmon populations and the species that depend on them, including the Southern Resident killer whales. Birds, shellfish, and other native species are likely to proliferate in the estuary and become part of a more diverse ecosystem. Restoring the estuary will also help Budd Inlet meet state water quality standards, which reduces the need for more stringent regulation on other contributors.

The Project will restore public access to the water and enhance adjacent open space through new boardwalks, fishing piers, and trails. A new 5th Avenue Bridge will provide safer pedestrian and bicycle connectivity along the trail between Heritage Park and Deschutes Parkway. These new and improved amenities will benefit residents' quality of life and the experience of visitors to the region.

The Squaxin Island Tribe supports the Project, noting that restoring native habitat for fish and other culturally important species and reopening access to the water will renew cultural use of traditional lands and resources that were lost when the State built the dam.

Estuary restoration will complement and enhance the value of other investments among state, tribal, and local governments, public entities, and private organizations to restore the Deschutes River watershed, improve the health of Budd Inlet, and help address flooding risk to adjacent urban infrastructure resulting from sea level rise.

The Parties agree that to be most successful, the Project must also help support a working, urban waterfront, with recreational and commercial boating. Maintaining a working waterfront and supporting boating infrastructure contributes to a dynamic, vibrant community and will produce and sustain public revenue streams from taxes and lease payments, support employment opportunities, and create public amenities that benefit all community members. The Sediment Management program set forth in this Agreement will enable the restored estuary and built environment downstream to coexist.

Shared Guiding Principles of the Project

The Parties, working through the FGWG, agreed on the following guiding principles to support the process of identifying issues and developing proposed solutions:

- The process should have dedicated and secure funding sources.
- Those who contribute to the problem should participate in funding or paying for the solution.
- Those who benefit from the solution should participate in funding or paying for the solution.
- The process should have a shared distribution of costs.
- The State should participate.
- Solutions should be watershed-wide in scale.

- The process should establish manageable long-term governance.
- The Parties should commit to a long-term collaborative process.
- Administration of the project should be adequately resourced.
- Solutions must support the goals and objectives of the long-term management plan and the future of the overall watershed.

From these guiding principles, the Parties agreed upon a three-part structure for governing and funding the Deschutes Estuary restoration:

1. The State will be responsible for funding the capital costs of design, permitting, and construction of the estuary restoration, which recognizes that the State constructed the 5th Avenue Dam and has had management responsibility for Capitol Lake since that time.
2. After construction is complete, the State will transfer ownership and management of specific physical assets to other Parties. This will be accomplished through separate agreements between the State and the individual receiving Parties, included in Attachments 1 through 4. This transfer helps to achieve the goal of minimizing the responsibilities for long-term joint governance; after the physical assets are conveyed, the only remaining item for joint governance is Sediment Management in West Bay.
3. The Parties will share in administering, funding, and implementing Sediment Management that will be needed in West Bay to maintain navigation and avoid significant adverse impacts³ to the marinas and Port, for the term of this Agreement. This shared responsibility for Sediment Management reflects the Parties' recognition that the restored estuary will provide significant benefits to the Parties and the broader community, and is the subject of this Agreement.

AGREEMENT

Based on the foregoing, which is incorporated into and considered part of this Agreement, the Parties agree to enter into an Interlocal Agreement pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, as follows:

1. Purpose and Conceptual Overview

The overall Deschutes Estuary Restoration is referred to as “the Project” and is generally described as the Estuary Alternative in Chapter 2 of the final EIS.⁴ The

³ Refer to Section 10.1.1 for a description of significant adverse impacts as it has been defined for this Interlocal Agreement.

⁴ Washington State Department of Enterprise Services (DES). 2022. Final Environmental Impact Statement: Supporting Chapter 2.0 Project Alternatives & Construction Approach. October. <<https://deschutesestuaryproject.org/wp-content/uploads/2023/11/Capitol-Lake-Deschutes-Estuary-Final-EIS-2-Chapter-2.pdf>>. Last accessed May 8, 2024.

design of the Project will be significantly advanced from the Estuary Alternative in the EIS, but the description contained in the EIS is a good representation of key components of the Project.

Construction and management of the Project will include the following elements:

- The State will fund and administer planning, design, permitting, estuary restoration, and construction of physical assets.
- The State will transfer specific physical assets and/or long-term management responsibilities of these physical assets to individual Parties after construction as described in Table 1 to this Agreement.
- All Parties will fund and govern long-term Sediment Management in navigational areas of West Bay in accordance with this Agreement. The term “Sediment Management” herein refers to maintenance dredging in navigational areas of West Bay to prevent adverse impacts to recreational and commercial navigation. Refer to Exhibit 1, which shows the dredging areas of West Bay subject to this Agreement.

The purpose of this Agreement is to describe and formalize the role of each Party in funding and governance for Sediment Management in navigational areas of West Bay. Exhibit 2a provides a flowchart that depicts the representative annual coordination process for all marina dredging. Exhibit 2b provides the representative coordination process for Port-lead dredging within the Port’s vessel berths. Both exhibits are for illustration purposes and the written terms of this Agreement control in case of conflict.

2. Deschutes Estuary Steering Committee (DESC)

2.1. Formation and Purpose of the DESC

Pursuant to RCW 39.34.030(3) and (4), the Parties establish the Deschutes Estuary Steering Committee (the “DESC”) as a joint board for the purpose of providing overall governance regarding Sediment Management and the use of funds collected pursuant to this Agreement. The DESC is not a separate legal entity. The DESC shall consist of one representative from each Party who shall represent the Party for all purposes on the DESC and one alternate from each Party to act in the absence of the primary Party representative.

2.2. Designation of Party Representatives

Each Party shall designate one person to represent the Party on the DESC and to receive notice of all actions related to Sediment Management and one alternate from each Party to act in the absence of the primary Party representative. If no representative is or has been designated by a Party, notices shall be delivered to any person or office authorized to receive service of process

on behalf of the Party. Each Party shall have one vote on the DESC, regardless of the number of representatives for the Party.

2.3. Authority and Duties of the DESC

The DESC shall have the following authority and duties, to the extent consistent with Chapter 39.34 RCW:

- 2.3.1.** To adopt its own bylaws, rules and procedures. Unless the DESC adopts specific rules or procedures that conflict with Robert's Rules of Order, the most current version of Robert's Rules of Order shall govern.
- 2.3.2.** To select a Chair and Vice-Chair.
- 2.3.3.** To review and either approve or reject written dredge event proposals submitted by the Project Manager.
- 2.3.4.** To review, and either approve or reject requests to expend funds from the State Account and from the Local Account for Sediment Management.
- 2.3.5.** To set general investment strategies for the Local Account, provided that only Local Parties are authorized to vote with respect to matters affecting the Local Account.
- 2.3.6.** To monitor and, if it determines appropriate, request audits of financial matters related to Sediment Management.
- 2.3.7.** To make decisions and implement matters related to and arising out of the subject of this Agreement and Sediment Management not otherwise specifically addressed in this Agreement.

2.4. Decision Making/Voting

The DESC shall decide matters brought before it by majority vote, defined as a clear majority of the Parties who are members of the DESC at the time of a vote and entitled to vote on the specific matter. By way of example, if the DESC consists of 7 Parties at the time of the vote, an affirmative vote of 4 Parties is required to pass a motion; if the DESC consists of 8 Parties at the time of a vote, an affirmative vote of 5 Parties is required to pass a motion. Each Party shall have one vote, regardless of the number of Party representatives.

2.5. Meetings

- 2.5.1.** The DESC shall meet annually, as scheduled by the Project Manager. At least fourteen (14) days prior to each annual meeting, the Project Manager shall provide each member with a written report consisting of

bathymetric surveys, a recommendation of whether or not a dredge event is needed, financial information to include current account balances, records of receipts and expenditures from all accounts, and any other information relevant to understanding costs.

- 2.5.2.** In addition to the annual meeting, meetings of the DESC may be called by the Project Manager, or by any Party by written request to the Project Manager, which meeting shall be held not later than 45 days from delivery of the written request, unless a later date is agreed to by a clear majority vote of the Parties, as defined below. The Project Manager shall be responsible for scheduling any such additional meeting and providing not less than fourteen (14) days' notice to each Party, which shall include the purpose of the meeting and materials relevant to such purpose; provided, however, that to address issues requiring an immediate response, notice shall be the best practicable under the circumstances.
- 2.5.3.** During dredging events, and beginning no later than 30 days prior to the start of in-water construction, the DESC and Project Manager shall meet weekly to keep the DESC apprised of progress, particularly related to budget and schedule. Such weekly meetings shall be convened and facilitated by either the Project Manager (for dredging at the marinas and marina access areas) or Port (for dredging at the Port vessel berths, if contracted separately from marina dredging). The weekly meetings can be cancelled at the discretion of the convening entity, in coordination with the DESC, based on construction workflow and progress.
- 2.5.4.** Attendance at a meeting of the DESC may be in person or by any virtual/videoconferencing means that allows all representatives to hear, be heard, review materials being presented, and fully participate in the proceedings. A meeting of the DESC may commence once a majority of the representatives of the Parties subject to the Agreement are in attendance (quorum).

2.6. DESC Chair and Vice-Chair

- 2.6.1.** The first order of business of the DESC at its initial meeting, at each annual meeting, and at any meeting where the DESC does not have a currently serving Chair and/or Vice-Chair, shall be to elect one Party representative to serve as DESC Chair and one Party representative to serve as DESC Vice-Chair, each with a term beginning upon election and lasting until the next annual meeting. A representative for DES shall act as the DESC Chair until the initial meeting. If an elected Chair is no longer able to serve the Vice-Chair shall assume the position of DESC Chair until the next annual DESC meeting.

- 2.6.2.** The DESC Chair shall convene and facilitate all DESC meetings and communicate decisions of the DESC to the Project Manager, the State Finance Manager, and the Local Party Treasurer.

3. Project Manager

DES shall appoint an individual to be the Project Manager for Sediment Management, with the following authority and duties:

- 3.1.** At least annually, and not later than 14 days prior to each annual meeting of the DESC, the Project Manager shall send to all Parties a report as described in Section 2.5.1.
- 3.2.** As described in and limited by Section 10.6, the Project Manager shall monitor and report to the DESC on bathymetric conditions at the marinas and access areas through annual bathymetric surveys, consult with marinas, negotiate adaptive management with the marinas as needed, recommend contract for and manage dredge events at the marinas, report on completed dredge events, and coordinate with the Port.
- 3.3.** Upon approval of a dredge event proposal by the DESC as described in Section 10.7, manage the advertising, bidding, contracting, and contract management processes in conformance with applicable law and this Agreement. The State (acting by and through DES) shall be the contracting party for such contracts for Sediment Management at the marinas.
- 3.4.** Respond to reasonable requests from a Party or Parties for information regarding the status of Sediment Management within 30 days of receipt. The Project Manager shall have responsibility for maintaining all records concerning Sediment Management and acting as the records custodian for the DESC.
- 3.5.** Negotiate, enter into, and manage separate contract(s) with the marinas regarding marina funding for Sediment Management.
- 3.6.** The Project Manager's office shall be the principal office for Sediment Management, and the Project Manager is designated and authorized to receive any notices required to be given regarding Sediment Management.

4. Port of Olympia

The Port shall maintain responsibility for Sediment Management within its vessel berths. This includes oversight and management of all bathymetric surveys, design, permitting and dredging. Upon approval of the dredge event proposal by the DESC as described in Section 10.7, this includes managing the advertising, bidding, contracting, and contract management processes in conformance with applicable law and this Agreement. The responsibilities of the Project Manager do not extend into the Port vessel berths.

5. Financial Management – Overview

Funding will be received from three sources: funding through State appropriations, funding from Local Parties through their individual funding mechanisms, and funding from the marinas. Funding from the marinas will be addressed by separate agreement among the marinas and the State, and is therefore not addressed in this Agreement except to the extent that availability of funding provided by the marinas is a necessary prerequisite to expending or obligating State and Local Party funds.

With respect to funding addressed by this Agreement, the Parties' goals are to ensure that all Parties participate in Sediment Management expenditures, that funds provided by Local Parties over time can be invested in secure instruments not amenable to re-appropriation or transfer (i.e., sweeping) by the State, and that funding provided by the State, which by necessity will occur at or near the time of a planned expenditure, is a necessary prerequisite to expending or obligating Local Party or marina-provided funds.

To accomplish these goals, two accounts will be created. The first account, referred to herein as the State Account, will hold funds appropriated by the State legislature generally at or near the time of a planned expenditure and will be under the control of the State, acting by and through DES.

The second account, referred to herein as the Local Account, will be established by the Local Parties and will hold funds deposited over time by the Local Parties that will be invested in instruments to ensure no loss of principal and that are consistent with all applicable laws, regulations, and polices. The Local Account will hold no State funds and is not subject to reappropriation or transfer (i.e., sweeping) by the State.

Expenditures by the DESC will be on a three-way "match" basis, with the authority to expend funds from any one of the three funding sources (State, Local Parties, marinas) contingent on funding being provided by all three funding sources; provided, however, that the State may fulfill its entire financial obligation of the Agreement by providing full funding (lump sum, as shown in Exhibit 3 adjusted for inflation) ahead of schedule and receiving authorization from the DESC to use a larger portion of State funds while those funds are available from the State so long as the total state contribution is consistent with the percent allocation provided in Exhibit 3.

Specific processes for receipt, investment, and expenditure of Sediment Management funds are set forth in Section 10.

5.1. State Finance Manager: DES shall function as the State Finance Manager for the State Account. At its earliest opportunity, the State shall establish an account to receive, hold, and invest funds appropriated by the legislature or obtained through grants or other sources that require State control of funds (collectively, State Funds). The State Finance Manager shall invest State Funds in

instruments that will ensure no loss of principal and are consistent with all applicable laws, regulations, and accounting standards, and in a manner so that State Funds are available when needed to pay Sediment Management costs.

- 5.2. Local Party Treasurer:** The Thurston County Treasurer shall act as Treasurer for the Local Parties unless changed by the Local Parties. The Local Party Treasurer shall establish an account to receive, hold, and invest funds from the Local Parties (Local Funds), which shall serve as the operating account of the Local Parties in accordance with RCW 39.34.030(4)(b). The Local Party Treasurer shall manage and invest Local Funds in accordance with general investment guidance from the DESC, in accordance with all applicable laws, regulations, and accounting standards, and in a manner so that funds are available when needed to pay Sediment Management costs.
- 5.3.** The State Finance Manager and Local Party Treasurer shall prepare such financial information as requested by the Project Manager to provide to the DESC in the annual report. At a minimum, such information shall include current balances in the State and Local accounts and amounts appropriated by the State legislature (but not yet in the State Account).
- 5.4.** The State Finance Manager and Local Party Treasurer shall respond to reasonable requests from a Party or Parties for information regarding the status of Sediment Management within 30 days of receipt of the request.

6. Term

6.1. Effective Date

This Agreement is effective when (i) all Parties have duly executed, (ii) the Agreement has been filed with the Thurston County Auditor pursuant to RCW 39.34.040, and (iii) the Agreement has been approved pursuant to RCW 39.34.050.

6.2. Expiration Date

This Agreement will expire on December 31, 2050, unless some or all Parties agree in writing to renew for an additional term, or unless terminated in accordance with its terms.

6.3. Extension

Prior to the end of 2045, the Project Manager will convene the DESC to determine whether to extend the Agreement, and if so, on what terms and with which Parties. In this meeting, the DESC must consider, among other things, the then-current state of navigation in West Bay, to include the following, at a minimum:

- Public and private navigational interests
- Condition of infrastructure
- Actual cost/operation of dredge activities over the previous period of agreement
- Available alternatives to more dredging
- Desire of Parties to continue supporting objectives of the agreement

7. Non-Project Conditions/Port Clean-Up

Prior to and separate from construction of the Project, it is anticipated the Port will implement a project to remediate sediment contamination in West Bay (as part of the larger remediation of Budd Inlet) to conditions satisfactory to the Washington State Department of Ecology and the U.S. Army Corps of Engineers (USACE). This Port-led remediation is separate from the Project and Sediment Management and is not part of the Agreement. However, it is anticipated that the 5th Avenue Dam will not be removed until the Port-led remediation in West Bay is complete.

If the Port remediation is not conducted before removal of the 5th Avenue Dam, it would significantly increase the cost of the maintenance dredging to be conducted under the Agreement by likely requiring dredged material to be disposed of upland, increasing the number of dredge events that would occur under the term of this agreement and significantly complicating legal responsibility for the first maintenance dredging event.

The Port is currently targeting the late 2020s for remedial action throughout lower Budd Inlet. Based on the current Project schedule, the earliest the 5th Avenue Dam could be removed is 2033. The Port and the State will partner on funding strategies to support the Budd Inlet Remediation Project with the intent to expedite funding for remediation in West Bay. The Port and the State will also (1) coordinate efforts to consider prioritization of remediation in West Bay, (2) minimize potential conflicts and redundant efforts, and (3) maximize the benefit to the Deschutes Estuary and Port area. This coordination will help ensure that the Port-led remediation and DES-led estuary construction do not interfere with each other and, to the extent feasible, complement each other.

8. Sediment Management Design, Permitting, and Construction

8.1. Planning and Design

The State, acting through DES, will fund, manage, and have authority over design and permitting of the Project. The Legislature appropriated initial funding for design and permitting during the 2023 legislative session and work is underway. Assuming additional funding is secured, this phase will conclude in approximately 3 to 5 years. During the design and permitting process, DES will coordinate with Olympia on the design of the 5th Avenue Bridge, with Tumwater on the South Basin boardwalks, and with LOTT and Olympia on existing utility assets surrounding Capitol Lake that will be affected by the Project, to ensure that these physical assets meet applicable design standards, satisfy applicable procedural and process requirements, and are acceptable to the receiving Party. The details of each design process and asset transfer will be governed by a separate agreement (Attachments 1 through 4) between the State and the receiving Party.

DES will coordinate with the Squaxin Island Tribe, which may oversee management of the constructed habitat to develop the estuary restoration design, incorporate tribal knowledge and lessons learned on other similar projects, and ensure that design of the Project is acceptable to the Squaxin Island Tribe.

8.2. Restoration and Construction

The State, acting through DES, will fund, manage, and have authority over estuary restoration and construction or replacement of existing physical assets (together “construction funding”). If construction funding is secured without delay, construction of the Project could begin in the late 2020s and is estimated to occur over a 6- to 8-year period.

8.3. Physical Assets

After the State completes construction of the physical assets, the State will transfer governance and/or ownership of specific physical assets to individual Parties in accordance with Table 1, below. Each transfer will be governed by a separate agreement between the State and the receiving Party (Attachments 1 through 4). Upon transfer of ownership of a physical asset, the receiving Party will have full ownership in perpetuity, to include all maintenance responsibility and risk of loss.

Table 1. Governance Responsibilities of Physical Assets

Receiving and/or Responsible Entity	Asset/Governance Responsibility	Time of Transfer
State of Washington	Infrastructure to support boating, fishing, recreation in estuary, as needed Staffing decontamination stations Maintain Middle Basin boardwalk. Bathymetric surveys, design, permitting, contract management for maintenance dredging outside of federal navigation channel and turning basin and port vessel berths	Upon construction completion
City of Olympia	New 5 th Avenue Bridge Refer to Attachment 1 for the City of Olympia Subsidiary Agreement	Upon construction completion
City of Tumwater	South Basin Boardwalks Refer to Attachment 2 for the City of Tumwater Subsidiary Agreement	Upon construction completion
Port of Olympia	Bathymetric surveys, design, permitting, and contract management for maintenance dredging in port vessel berths Lead coordination with USACE on maintenance dredging in federal navigation channel and turning basin. Refer to Attachment 3 for the Port Addendum	N/A; the Port currently serves in this role and nothing in this Agreement shall affect the Port's existing authority over its assets and responsibilities
Squaxin Island Tribe	Lead biological monitoring of the restored estuary to include fish monitoring at a minimum. If additional funding is obtained, participate in implementing Habitat Enhancement Plan for constructed habitat in the 260-acre basin, formerly Capitol Lake.	Upon construction completion
Thurston County	None identified	N/A

Receiving and/or Responsible Entity	Asset/Governance Responsibility	Time of Transfer
LOTT	Replaced LOTT Utilities Refer to Attachment 4 for LOTT's Subsidiary Agreement	N/A; LOTT owns existing utility lines within the Project Area. The LOTT-owned utilities replaced by DES during construction will remain under LOTT ownership.

9. Estuary Administration and Management

The State will be responsible for management of the restored estuary and for expenses related to such management except expenses related to Sediment Management in navigational areas as described in Section 10, below, or expenses related to assets governed by other entities.

10. Sediment Management

The Parties will collectively fund and govern Sediment Management in navigational areas of West Bay during the term of this Agreement. Sediment Management under this Agreement includes only sediment removal (dredging) and disposal of dredged material (dredging and disposal of dredged material are also referred to as a “dredge event”).

As part of its responsibilities, DES will, at its own cost, perform bathymetric surveys at least annually at the marinas and marina access areas to evaluate sediment accumulation and determine if dredging is required, will complete design and secure programmatic permits for dredging within the marinas and marina access areas, and will be responsible for contract management for marina dredging. Consistent with Table 1 above, the Port will, at its own cost, provide these governance responsibilities for the port vessel berths.

10.1. Maintenance Dredging and Cost Estimate Assumptions

- 10.1.1.** Maintenance dredging will occur when required to prevent significant adverse impacts from occurring in the navigational areas of West Bay. “Significant adverse impacts” are when any one of the following criteria (i.e., dredge triggers) are forecast to occur: (1) vessels accessing the Federal Navigation Channel and Port of Olympia have to wait more

than 4 hours for channel access due to water depth and low tide conditions caused by sediment deposition on more than one consecutive occasion; (2) more than 10% of anticipated small craft vessels at any single marina are unable to access leased moorage due to shallowed water depth caused by sediment deposition; or (3) any applicable law or regulation requires dredging to be performed.

- 10.1.2.** Numerical modeling conducted for the EIS suggests that maintenance dredging to avoid significant impacts to navigation from sediment accumulation will be needed in areas of the West Bay of Budd Inlet on an average and approximated frequency of every 6 years. The actual rate of sediment accumulation is highly dependent on river flow conditions, which vary.
- 10.1.3.** Estimates conservatively assume that the earliest the 5th Avenue Dam could be removed is 2033. The total estimated Sediment Management costs also assume three dredging events, based on 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 reasonable certainty that fewer than three dredging events will be necessary during the term of the Agreement, the Parties may adjust total estimated Sediment Management costs and annual payments.
- 10.1.4.** The Parties have negotiated this Agreement using planning-level cost estimates. Civil, environmental, and coastal engineers developed planning-level cost estimates using costs for other maintenance dredging projects in the Puget Sound region and marine environments, 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 and Section 10.1.1). Planning-level cost estimates also assume in-water disposal of the dredged sediment; this is based on the assumption that the Port will remediate sediment contamination in navigational areas of West Bay, and it is based on sediment data from Capitol Lake as provided in Attachment 15 of the EIS and a projection that invasive species will not persist in the material to be dredged as described in Attachment 8 of the EIS.
- 10.1.5.** The following measures have been implemented to increase certainty that funding will remain available for Sediment Management for the term of this Agreement:
- Cost estimates are based on planning-level costs developed for the EIS, escalated using the assumptions detailed in Section 10.1.6 below. They are consistent with Class 4 estimates

prepared using standards established by the Association for the Advancement of Cost Engineering and include a 15% contingency. The planning-level cost estimates have an accuracy variation of minus 25% to plus 35%. The higher end of the planning-level cost estimate range (+35%) has been used.

- Annual payments will begin once the State has secured enough construction funding to complete the Project through removal of the 5th Avenue Dam. This will likely be more than a decade before the first dredge event is triggered. Interest may accrue during this time.
- The Parties cannot adjust downward the total dredge cost estimate upon which annual payments are based during the initial term of this Agreement, even if actual Sediment Management costs are less than expected in the initial dredge event. Holding the total contributions consistent with Exhibit 3 will increase certainty that funds will be available while acknowledging that dredging frequency, environmental conditions, and costs could vary over the initial Agreement term.

10.1.6. Costs have been escalated from EIS planning-level costs. The following escalation assumptions were used.

- Cost estimates were originally prepared and presented in the Draft EIS in 2020 dollars and were escalated to 2022 dollars in the Final EIS using an annual escalation rate of 8%. This rate reflects the historically high levels of inflation in the economy during this period and is informed by specific trends in construction-related inflation.
- Costs were escalated forward from 2022 dollars through the period of the Agreement using an initial escalation factor of 4.5%. This escalation rate is based on a review of dredge-related cost trends over the last 30 years (including non-residential building construction costs, fuel costs, and CPI) and is at the high range of these sources, which reflects two factors present at the time of this ILA: 1) the relatively high level of economic uncertainty and 2) projections for continued strong demand for infrastructure-related construction services.

10.1.7. The State Finance Manager and Local Party Treasurer will invest funds in accordance with Sections 5.1 and 5.2, and the estimated annual payments are calculated assuming an annual investment growth at 2%.

10.2. Sediment Management Cost Allocation and Annual Payment Estimates

10.2.1. Percent Allocation

Costs for Sediment Management above those costs associated with dredging of the No Action Alternative (baseline; i.e., the increase in sediment accumulation in navigational areas of West Bay as a result of dam removal, atop the baseline amount of sediment accumulation that would already pass through the 5th Avenue Dam and settle in these areas if the dam remained in place) are allocated among the Parties on a percentage basis as set forth in Exhibit 3 below. This percentage will be used to allocate dredge event contract costs only (refer to Exhibit 4 for an estimated annual payment schedule incorporating cost assumptions detailed in Sections 10.1 and 10.2). Parties shall be responsible for their own overhead and “soft costs” associated with their obligations under this Agreement, including those governance responsibilities outlined in Table 1 and participation on the DESC. These additional costs are not estimated or included in any of the costs presented in this agreement.

10.2.2. Estimated Annual Payments

Exhibit 4 provides the estimated annual payment schedule for the term of the Agreement. The estimated annual payment is calculated by proportionally dividing the planning-level costs for dredge events, (escalated through the agreement at an initial rate of 4.5% as described in Section 10.1.6), by the number of payment years (X, partial years count as a full year) and the percent allocation share as shown in Exhibit 3. Each Party agrees to make annual payments (determined as above) on or before December 31 of each year, beginning the year the State secures sufficient construction funding for estuary construction and removal of the Fifth Avenue Dam, through the end of the Agreement term. Late payments shall accrue interest at the rate of 18% per annum, compounded daily.

10.2.3. Initiation of Annual Payments

The State Finance Manager shall notify all Parties when the State has formally secured construction funding for estuary construction and removal of the Fifth Avenue Dam. Each Local Party will begin making annual payments as set forth in Section 10.2.2 by December 31 of that year.

10.2.4. Cost Assumption and Annual Payment Review

No later than 5 years following the first annual payment, the Project Manager, the State Finance Manager, and the Local Party Treasurer

will review the escalation and investment assumptions used to calculate estimated payments (as shown in Exhibit 4) and recommend to the DESC revisions as appropriate to reflect new information and economic conditions.

Thereafter, following each dredge event (refer to Section 10.6), the Project Manager, the State Finance Manager, and the Local Party Treasurer shall prepare a report to the DESC regarding the costs of the dredge event with respect to the overall Sediment Management projections and shall recommend adjustments to the annual payments as appropriate, including a review of escalation and investment growth assumptions.

10.3. Notice of Failure to Pay

If a Party fails to make a payment required under this Agreement when due, to include the State failing to appropriate funds when required, the State Finance Manager or Local Party Treasurer shall notify the Party of the failure in writing, with copies to the Project Manager and to all other Parties. A Party's failure to make a payment required under this Agreement within 2 years of receiving notice of non-payment from the Project Manager shall be considered a withdrawal for non-appropriation of funds under Section 11.2.2.

10.4. Refund of Excess Funds

If funds remain in the Local Account upon either the expiration or termination of the Agreement, and unless otherwise agreed to, each Local Party that is a member in good standing at the time of either expiration or termination of the DESC will be entitled to receive a refund of such excess funds based on a pro-rata calculation of the amounts paid into the Local Account; provided, however, that the return of any amounts paid into the Local Account by an entity withdrawing from this Agreement for convenience or due to non-appropriation of funds shall be at the discretion of the remaining Local Party members of the DESC.

10.5. Audit Rights

Upon reasonable notice, but not more frequently than annually, any Party may call for an examination of the books and records of the State or Local Accounts solely as related to this Agreement. The DESC may appoint an auditor, accountant, or one or more of the Parties to perform such review. Any costs of hiring outside auditors or accountants shall be borne by the Party or Parties requesting the audit.

10.6. Sediment Monitoring and Adaptive Management

10.6.1. Monitoring/Reporting

The Project Manager will ensure that, at least annually, a bathymetric survey is completed in the marinas and marina access area of West Bay. Upon completion, the Project Manager shall review the bathymetric survey and analyze whether the dredge triggers defined in Section 10.1.1 have been met. The bathymetric data will be shared with each Party along with a summary describing how it relates to timing and scope of future dredge events as part of the annual report provided to DESC.

10.6.2. Consultation/Adaptive Management

Throughout the Project, and particularly in response to bathymetric surveys indicating a dredge event may or soon will be triggered, the Project Manager will evaluate whether adaptive management measures can be implemented that will reduce the scope and cost of Sediment Management, or disruption to navigation and marina operations of future dredge events. The Project Manager may coordinate directly with the marinas in this process. The Project Manager may implement adaptive management measures that result in a reduction in overall Sediment Management costs. The Project Manager will report on adaptive management measures considered and rejected or authorized for implementation in the annual report.

10.6.3. Coordination with Port

The Port is responsible for bathymetric surveys, design, permitting and contracting for Sediment Management in its vessel berths. The Port shall work in good faith with the DESC and its members, the Project Manager, the State Finance Manager, and the Local Party Treasurer to coordinate dredging efforts within Port vessel berths as set forth in Attachment 3 (Port Addendum). The Port shall report to the DESC and Project Manager results of Port bathymetric studies taken in the Port's vessel berths and the Federal Navigation Channel. When Port bathymetric surveys establish that dredging is necessary to prevent significant adverse impacts at Port vessel berths, the Port shall provide the DESC and the Project Manager written confirmation that dredge triggers have been met and with a Port dredging plan.

10.6.4. Dredge Event Proposals

When, after consideration or implementation of adaptive management measures, the Project Manager determines that the criteria for a dredge event at the marinas have been met and a dredge event is necessary to prevent significant adverse impacts at the marinas, the Project Manager shall provide DESC with a written dredge event proposal. This proposal may be part of the Project Manager's annual report. The dredging proposal must describe the scope, timing and order of magnitude cost of the dredge event with sufficient data and information to allow the DESC to evaluate the proposal. The dredging proposal must also confirm that State, Local, and marina funding is available to meet funding obligations under this Agreement.

The Project Manager, in developing the dredge event proposal, shall meet with the Port to determine whether dredging is also needed at the Port. If dredging at the Port is needed, the Project Manager shall include that information and a description of the coordination to the DESC as part of a dredge proposal. The goal of this coordination is reduce costs through efficient dredge implementation.

10.7. DESC Dredge Event Funding Approval

Within 30 days of receiving a written dredge event proposal, the DESC shall meet to approve or reject the dredge event proposal. The DESC may reject the Project Manager's written dredge event proposal only on the following grounds: (1) the data do not support a finding that the criteria for a dredge event have been met; (2) adaptive management measures have not been sufficiently considered or implemented; or (3) there are insufficient funds to pay for the proposed dredge event. Unwillingness to expend funds from the Local Account, by itself, is not a sufficient ground for objecting to a proposed dredge event. The DESC may not reject a dredge event proposal if the failure to implement the dredge event proposal would result in any Party being in violation of applicable law, regulation, or valid order of an entity with authority to issue such an order. A decision by the DESC shall be in writing and takes effect 11 business days after it is delivered to the Parties, unless objected to, in which case the decision takes effect upon resolution of the objection in accordance with Section 12. The Project Manager may revise and/or resubmit a rejected dredge event proposal to the DESC at any time.

10.8. Objection to DESC Dredge Event Decision

If a Party objects to either the approval or rejection of a dredge event proposal by the Project Manager, it must, within 10 days of the DESC's decision to either

accept or reject the dredge event as per Section 10.7, deliver a written objection to the Project Manager with a copy to all Parties providing data and information sufficient to allow the Project Manager and other Parties to evaluate the objection. Upon receipt of a written objection the Parties shall meet and confer and attempt to reach consensus regarding the objection. If the parties cannot reach consensus, the dispute resolution procedures in Section 12 (Disputes/Enforcement) shall apply. An objection to a rejected dredge event proposal made under this section does not preclude submission to the DESC of a revised dredge event proposal.

10.9. Dredge Event Contract Approval

When a DESC decision to approve a dredge event becomes effective, the Project Manager shall solicit, receive, and evaluate proposals for the dredge event and shall select a preferred contractor(s) and/or consultant(s) in accordance with applicable law. Each dredge event contract shall contain a ten percent (10%) contingency and be within the DESC-approved amount.

10.10. Dredge Event Expenditure Process

When a DESC decision approving the dredge contract(s) becomes effective, the State Finance Manager shall confirm to the Local Party Treasurer that State Funds and marina funds sufficient to meet State and marina obligations for the dredge event have been deposited in the State Account. Upon receipt of such confirmation, the Local Party Treasurer shall transfer sufficient funds from the Local Account to the State Account to meet the Local Parties' obligations for the dredge event.

When, and only when, the State Finance Manager has received into the State Account sufficient State, Local, and marina funds to meet their respective obligations, the Project Manager is authorized to execute the contract(s), and the State Finance Manager is authorized to pay invoices for the contract(s) from the amounts in the State Accounts allocated to the contract(s). All payments shall be in arrears based on periodic invoicing.

10.11. Dredge Event Project Management

The Project Manager shall be responsible for managing dredge events and the dredge event contracts for the marina and marina access area. The Project Manager shall endeavor to manage costs within the approved contract amount, but shall have authority to expend up to the 10 percent contingency after notification to the DESC but without further DESC formal action. DESC approval is required for expenditures exceeding the 10 percent contingency amount.

10.12. Dredge Event Reporting and Adjustments

After each dredge event, the Project Manager, the State Finance Manager, and the Local Party Treasurer shall provide the Parties with a summary report for the dredge event to include final costs with sufficient detail to enable the Parties to consider alterations to the Sediment Management program and/or to implement other adaptive management practices for future dredge events. This summary may be provided in the Project Manager's annual report to the DESC for the following year. Adjustments to total Sediment Management costs and/or annual payments will trigger the renegotiation rights described in Section 11 only if adjustments cause projected costs to increase above agreed-upon allocations.

11. Termination, Withdrawal, and/or Renegotiation

11.1. Termination and Withdrawal for Project Delay

If removal of the 5th Avenue Dam is not completed within a reasonable time frame, defined currently as prior to 2045, the DESC has the right to terminate the Agreement and any Party has the right to require renegotiation of the terms of the Agreement and the right to withdraw from the Agreement without further financial obligations.

11.2. Withdrawal for Convenience/Non-Appropriation of Funds

11.2.1. A Party may withdraw from the Agreement for convenience at any time upon written notice to the Project Manager and all Parties, provided that before withdrawing, the withdrawing Party provides funds sufficient to satisfy all financial obligations of the withdrawing Party for the term of the Agreement in effect at the time of withdrawal, and the withdrawing Party has satisfied all specific performance obligations under the Agreement.

11.2.2. A Party, to include the State, may withdraw from the Agreement if its governing body fails to appropriate and/or provide sufficient funds to make required payments under this Agreement. A Party withdraws due to non-appropriation of funds at the earlier of the Party providing written notice to the Project Manager and all Parties of withdrawal due to non-appropriation of funds, or two years after receiving notice from the State Finance Manager and/or Local Party Treasurer of the failure to make a payment required by this Agreement. A Party withdrawing due to non-appropriation, to include the State, must satisfy all specific performance obligations under the Agreement, to include subsidiary agreements. However, the withdrawing party is no longer obligated, indebted, or otherwise responsible to make an annual payment under

Section 10 of this Agreement for the year of non-appropriation and all remaining years under this Agreement.

11.2.3. Upon withdrawal for convenience or due to non-appropriation of funds, the withdrawing Party is no longer a member of the DESC.

11.2.4. A Party withdrawing for convenience or due to non-appropriation of funds shall not be entitled to a refund of any funds previously deposited in Local Account, or any interest thereon.

11.3. Renegotiation.

If one or more of the following specific events occur, the Project Manager will convene the DESC to consider modification of the Sediment Management program to avoid significant impacts to navigation in West Bay through the initial term of the Agreement:

11.3.1. Sediment Management costs increase to a degree that funds will be exhausted prior to the expiration of the initial term of the Agreement (2050).

11.3.2. The 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 dredge at the frequency needed to avoid significant adverse impacts⁵ and meet the terms of DNR leases if the 5th Avenue Dam were left in place).

11.3.3. A withdrawal by a Party for convenience or due to non-appropriation occurs.

11.3.4. Unforeseen environmental impacts (e.g., sea level rise, earthquake) necessitate additional mitigation and/or costs that have not been contemplated.

12. Disputes/Enforcement.

12.1. Each Party May Enforce

The Parties agree and recognize that this multi-party Agreement is the result of complex negotiations among individual entities each with individual interests and constituencies, and that the provisions of this Agreement are interdependent and represent a balancing of those individual interests and constituencies. Accordingly, the Parties agree that they each have authority to

⁵ Refer to Section 10.1.1 for a description of significant adverse impacts as it has been defined for this Interlocal Agreement.

enforce the obligations of each other Party under this Agreement, to include requiring specific enforcement of such obligations.

12.2. Disputes

Any disputes among Parties under this Agreement shall be resolved, if possible, by negotiation. If resolution cannot be reached, any Party may declare an impasse by delivering written notification of impasse to the Project Manager with a copy to each Party. Upon receipt of a notice of impasse, the Project Manager shall confer with the Parties involved in the impasse on an appropriate dispute resolution process, including, as a first preference, use of a mediator or other facilitated negotiation. If the Project Manager determines that the Parties cannot agree on a dispute resolution process, the dispute shall be decided by a panel of three arbitrators, one appointed by the Party(ies) initiating a notification of impasse, a second appointed by the Party(ies) responding to the notification, and the third by the two appointed arbitrators. A written decision by a majority of the arbitrators shall be the decision of the arbitration panel. Hourly payments for the arbitrators' time shall be in arrears and the arbitrators may, in the arbitrator's discretion, award costs and fees, to include reasonable attorneys' fees, to the prevailing Party/Parties. The decision of the arbitration panel shall be binding, subject to judicial review. Any dispute relating to the appointment of arbitrators shall be decided by petition to the Superior Court for Thurston County, Washington.

12.3. Choice of Law/Venue

This Agreement and any dispute arising under this Agreement shall be governed by the laws of the State of Washington. Venue for entrance of a decision of the dispute resolution panel and for any other reason shall lie exclusively in the Superior Court for Thurston County, Washington.

13. Administrative

13.1. Authority

This Agreement shall be executed on behalf of each Party by a duly authorized signatory, and pursuant to an appropriate motion, resolution, or ordinance of each Party. By executing below, each Party represents that it has authority to enter into and be subject to the terms of this Agreement.

13.2. Public Records

The Project Manager is responsible for maintaining Sediment Management records and responding to public records requests made to the DESC or related to Sediment Management. Each Party shall cooperate with the Project Manager and with other Parties in responding to any public records requests related to Sediment Management. Notwithstanding the above, each Party

shall be responsible for maintaining its own records and responding to public records requests for that Party's records.

13.3. Execution

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

13.4. Contact Information/Notice

Each Party shall provide updated contact information of its representative to the Project Manager and to all other Parties. Notice to the representative shall constitute notice to a Party.

13.5. Filing

Upon execution by all Parties, this Agreement shall be filed as required by RCW 39.04.040.

13.6. Entire Agreement/Amendments

This Agreement represents the entire and sole agreement of the Parties with respect to the subject matter herein and may be amended or modified only by written agreement of all affected Parties who are members of the DESC at the time of the Amendment.

13.7. Assignment

This Agreement shall be binding on each Party and its successors and may not be assigned in whole or in part without the written consent of all Parties.

13.8. No Third-Party Beneficiaries

This Agreement is not intended to create rights in, or to grant remedies to, any third party as a beneficiary to this Agreement or any of its provisions.

13.9. Waiver

The failure to require cure of a breach of any provision of the Agreement shall not be deemed a waiver of any subsequent breach, whether of the same or different provision.

13.10. Force Majeure

If a Party, the Project Manager, the State Finance Manager and/or the Local Party Treasurer, is or are rendered unable by Force Majeure to carry out, in whole or part, obligations under this Agreement and gives notice and full details of the event to the other Parties and Project Manager as soon as practicable after the occurrence, then during the pendency of such Force Majeure event

but for no longer period, the obligations affected by the event (other than the obligation to make payments due for performance prior to the event) shall be suspended to the extent required. Any entity claiming a Force Majeure event shall remedy the event as soon as possible.

13.11. Severability

If any portion of this Agreement is adjudged to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any remaining section, part or provision of this Agreement.

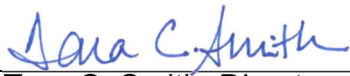
Exhibits

Exhibit 1	Sediment Management Dredging Areas
Exhibit 2a	Representative Annual Coordination Process & Marina Dredging Coordination
Exhibit 2b	Representative Annual Coordination Process for Port Vessel Berth Dredging Coordination
Exhibit 3	Recommended Sediment Management Allocations
Exhibit 4	Estimated Annual Payment Schedule

Attachments

Attachment 1	Fifth Avenue Bridge and Infrastructure Agreement
Attachment 2	South Basin Boardwalk and Related Infrastructure Agreement
Attachment 3	Port of Olympia Dredging Addendum to ILA
Attachment 4	LOTT Utility Agreement

Signatures



9/22/2024

Tara C. Smith, Director
Department of Enterprise Services

Date

Kris Peters, Chairman
Squaxin Island Tribe

Date

Mark Barber, City Attorney
City of Olympia

Date

Steven J. Burney, City Manager
City of Olympia

Date

Debbie Sullivan, Mayor
City of Tumwater

Date

Karen Kirkpatrick, City Attorney
City of Tumwater

Date

Matthew J. Kennelly, Executive Director
LOTT

Date

Signatures

Tara C. Smith, Director
Department of Enterprise Services

Date



Kris Peters, Chairman
Squaxin Island Tribe

9/12/24

Date

Mark Barber, City Attorney
City of Olympia

Date

Steven J. Burney, City Manager
City of Olympia

Date

Debbie Sullivan, Mayor
City of Tumwater

Date

Karen Kirkpatrick, City Attorney
City of Tumwater

Date

Matthew J. Kennelly, Executive Director
LOTT

Date

Signatures

Tara C. Smith, Director
Department of Enterprise Services

Date

Kris Peters, Chairman
Squaxin Island Tribe

Date

Mark Barber

10/03/2024

Mark Barber, City Attorney
City of Olympia

Date

Steven J Burney

10/09/2024

Steven J. Burney, City Manager
City of Olympia

Date

Debbie Sullivan, Mayor
City of Tumwater

Date

Karen Kirkpatrick, City Attorney
City of Tumwater

Date

Matthew J. Kennelly, Executive Director
LOTT

Date

Signatures

Tara C. Smith, Director Department of Enterprise Services	Date
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Kris Peters, Chairman Squaxin Island Tribe	Date
---	------

Mark Barber, City Attorney City of Olympia	Date
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Steven J. Burney, City Manager City of Olympia	Date
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Signed by:  Debbie Sullivan, Mayor City of Tumwater	11/12/2024 Date
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DocuSigned by:  Karen Kirkpatrick, City Attorney City of Tumwater	11/7/2024 Date
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Matthew J. Kennelly, Executive Director LOTT	Date
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Signatures

Tara C. Smith, Director Department of Enterprise Services	Date
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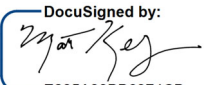
Kris Peters, Chairman Squaxin Island Tribe	Date
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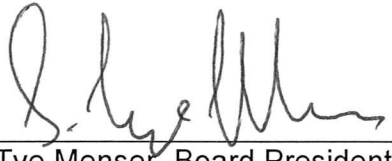
Mark Barber, City Attorney City of Olympia	Date
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Steven J. Burney, City Manager City of Olympia	Date
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Debbie Sullivan, Mayor City of Tumwater	Date
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Karen Kirkpatrick, City Attorney City of Tumwater	Date
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Matthew J. Kennelly, Executive Director LOTT	Date



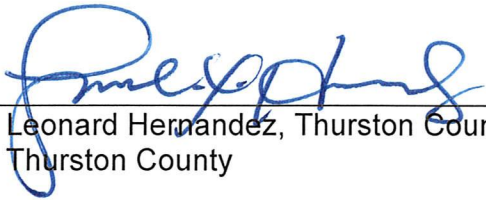
Tye Menser, Board President
LOTT

11-7-24

Date

Alex Smith, Executive Director
Port of Olympia

Date



Leonard Hernandez, Thurston County Manager
Thurston County

Nov 1, 2024

Date

Tye Menser, Board President
LOTT

Date

Alex Smith

Nov 5, 2024

Alex Smith, Executive Director
Port of Olympia

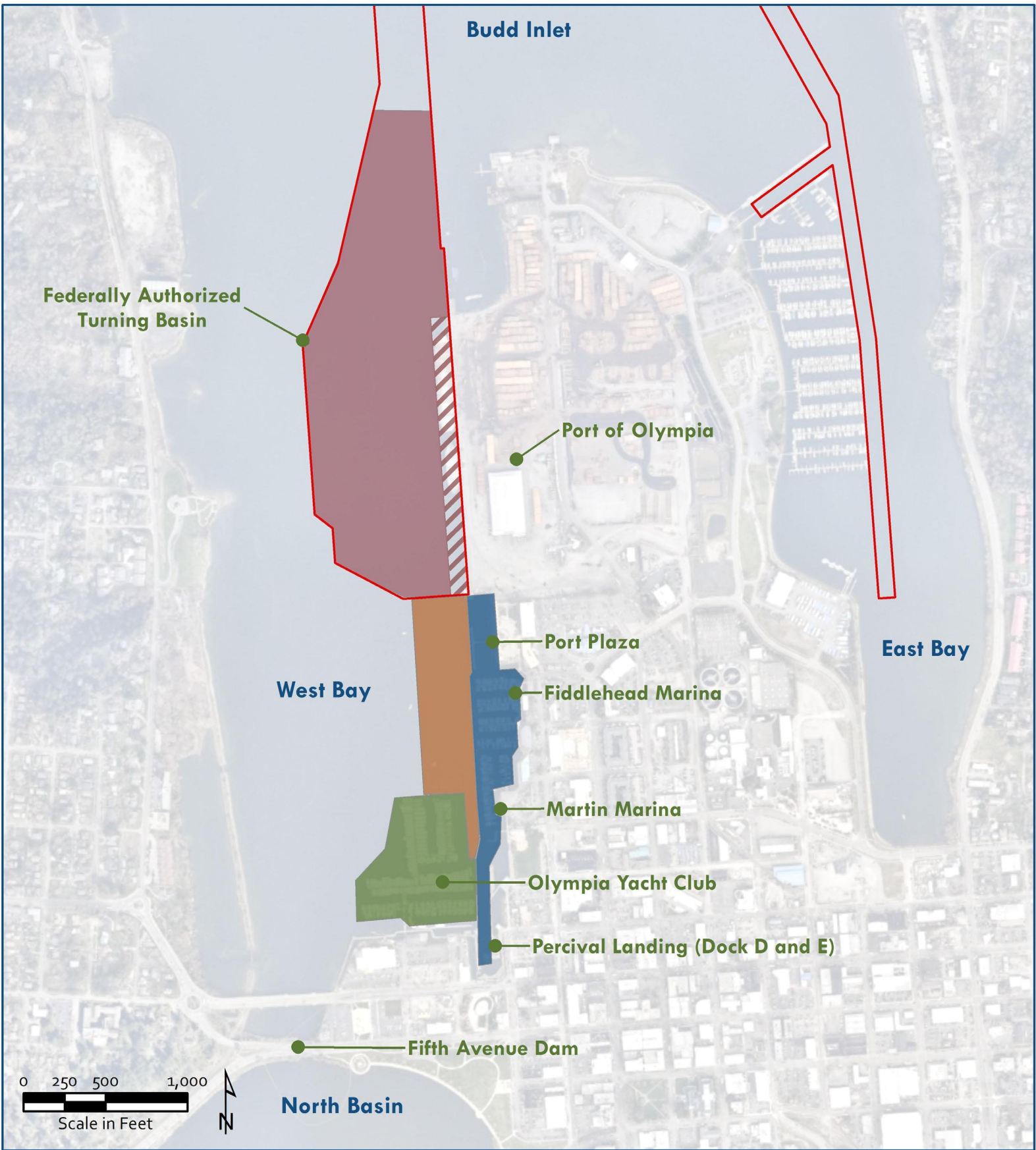
Date

Leonard Hernandez, Thurston County Manager
Thurston County

Date

Exhibits

Exhibit 1 Sediment Management Dredging Areas

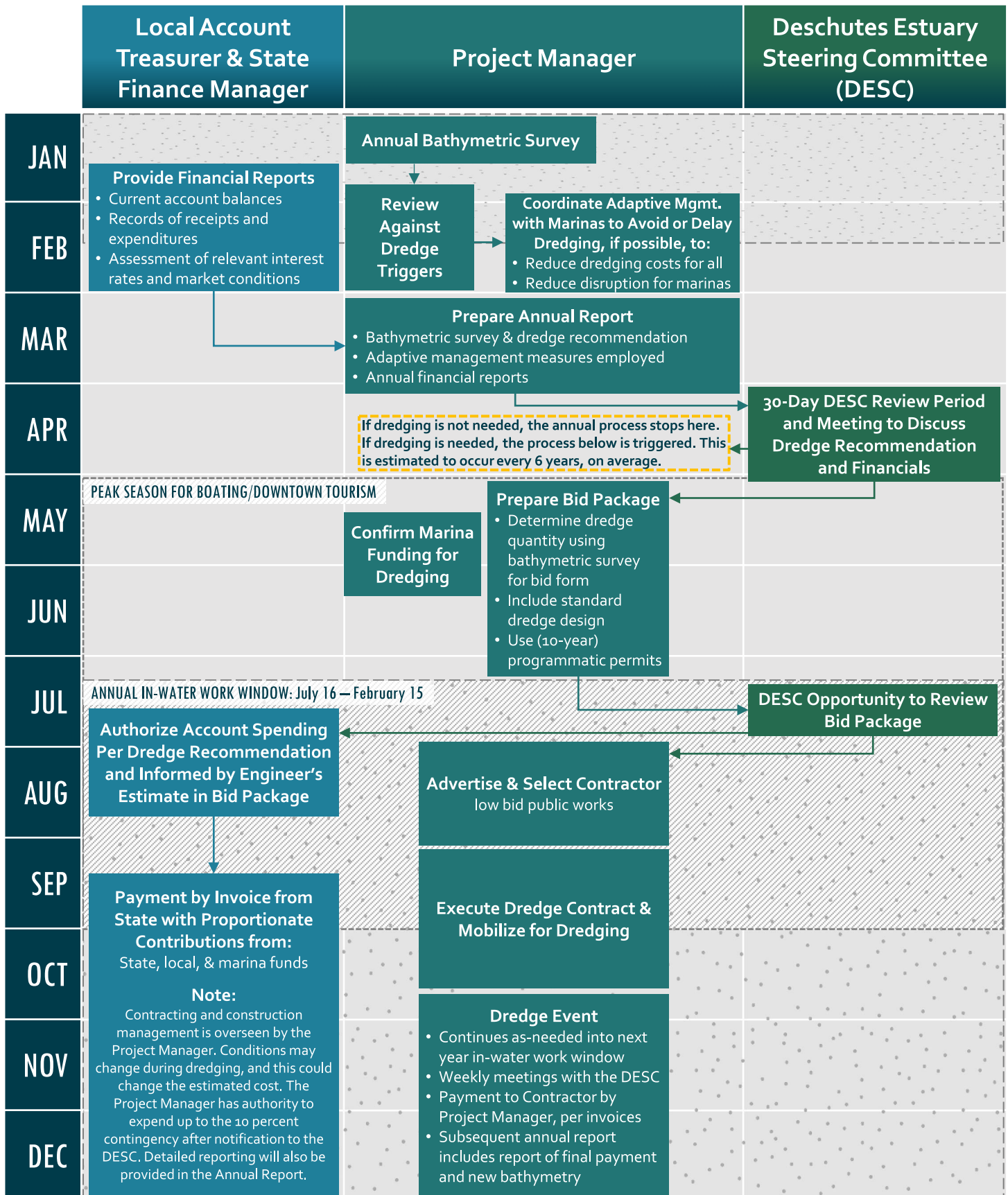


Legend

 Olympia Yacht Club	 Marina Access Area	 Port Vessel Berths (within FNC)
 Other Nearby Marinas	 Turning Basin (within FNC)	 Federal Navigation Channel



Representative Annual Coordination Process & Marina Dredging Coordination





Representative Coordination Process for Port Vessel Berth Dredging

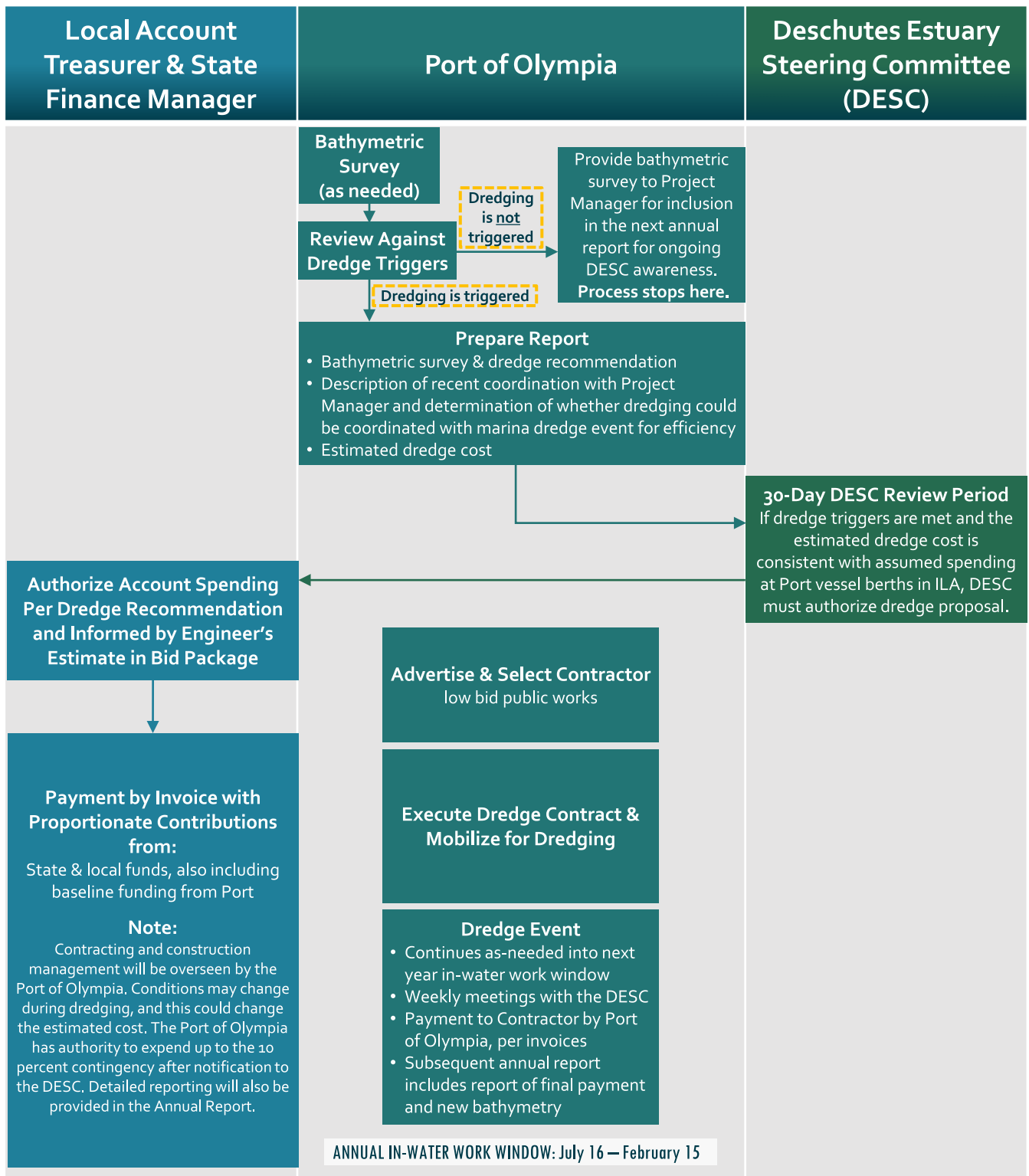


Exhibit 3. Recommended Sediment Management Allocations

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 Sediment Management 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.

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) ^(iv)	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 use rounded values. An annual inflationary rate is to be included in each Party's annual payment of allocated Sediment Management funding; those inflation costs are not reflected in this table (refer to Exhibit 4). All values reflect planning-level cost estimates based on conceptual design (see Section 10). Parties shall be responsible for their own overhead and "soft costs" associated with their obligations under this Agreement.
- ii The total cost for Sediment Management 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 approximate 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 assumed by this Agreement within which 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. In that scenario, adjustments in the total cost of Sediment Management will be reflected in the total costs allocated to each Party, but not the percentage allocation of each Party.

Each Party's annual payment is determined by dividing the member's total allocated Sediment Management costs (escalated) for the initial term of the Agreement by the number of years (partial years count as a full year) remaining in the initial agreement term of the Agreement at the time of the payment's deposit. The number of years used to determine the annual payment is dependent upon the State's receipt of construction funding to remove the 5th Avenue Dam. Each FGWG member is responsible for its annual allocated costs; however, they may divide over the initial term of the Agreement, as is described in Section 10.2, Sediment Management Cost Allocation and Annual Payment Estimates, of the Agreement. These costs assume that the Port of Olympia (Port) will have 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 dredging of contaminated sediments is also expected to allow the future dredged material 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 were 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 the marinas, 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 State as outlined in Table 1 of Section 8.3.

The last year of existing leases with the marinas in West Bay is 2050; 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.

- iii 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 Parties. USACE funding for dredging is a critical component of maintaining navigation in West Bay.
- iv These costs reflect the increased Sediment Management 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 USACE and those costs are not included. Maintenance dredging needs equivalent to the No Action Alternative in impacted areas of West Bay would continue to be the responsibility of the Port, the marinas, and USACE; additional dredging requirements shown in this estimate resulting from the Project would be the shared responsibility of members of the Parties.

Exhibit 4. Estimated Annual Payment Schedule

Dredge Cost (Escalated at 4.5%)	Year		Olympia	LOTT	Port	Tumwater	Marinas	Thurston County	State [°]	Squaxin
Allocation % (Increased Sediment) ^a			23.1%	15.4%	15.4%	15.4%	0.0%	15.4%	15.4%	0.0%
Allocation % (Baseline + Increased Sediment) ^b			17.3%	11.6%	13.0%	11.6%	23.4%	11.6%	11.6%	0.0%
	1	2022								
	2	2023								
	3	2024								
	4	2025								
	5	2026								
Payment begins	6	2027	\$ 276,000	\$184,000	\$207,000	\$184,000	TBD	\$184,000	\$184,000	\$0
	7	2028	\$ 288,000	\$192,000	\$217,000	\$192,000		\$192,000	\$192,000	
	8	2029	\$ 301,000	\$201,000	\$226,000	\$201,000		\$201,000	\$201,000	
	9	2030	\$ 315,000	\$210,000	\$237,000	\$210,000		\$210,000	\$210,000	
	10	2031	\$ 329,000	\$219,000	\$247,000	\$219,000		\$219,000	\$219,000	
	11	2032	\$ 344,000	\$229,000	\$258,000	\$229,000		\$229,000	\$229,000	
	12	2033	\$ 359,000	\$240,000	\$270,000	\$240,000		\$240,000	\$240,000	
	13	2034	\$ 376,000	\$250,000	\$282,000	\$250,000		\$250,000	\$250,000	
	14	2035	\$ 393,000	\$262,000	\$295,000	\$262,000		\$262,000	\$262,000	
	15	2036	\$ 410,000	\$274,000	\$308,000	\$274,000		\$274,000	\$274,000	
Dredge 1	16	2037	\$ 429,000	\$286,000	\$322,000	\$286,000		\$286,000	\$286,000	
\$12,099,000	17	2038	\$ 448,000	\$299,000	\$336,000	\$299,000		\$299,000	\$299,000	
	18	2039	\$ 468,000	\$312,000	\$352,000	\$312,000		\$312,000	\$312,000	
	19	2040	\$ 489,000	\$326,000	\$367,000	\$326,000		\$326,000	\$326,000	
	20	2041	\$ 511,000	\$341,000	\$384,000	\$341,000		\$341,000	\$341,000	
	21	2042	\$ 534,000	\$356,000	\$401,000	\$356,000	\$356,000	\$356,000		
Dredge 2	22	2043	\$ 558,000	\$372,000	\$419,000	\$372,000	\$372,000	\$372,000		
\$33,761,000	23	2044	\$ 583,000	\$389,000	\$438,000	\$389,000	\$389,000	\$389,000		
	24	2045	\$ 610,000	\$406,000	\$458,000	\$406,000	\$406,000	\$406,000		
	25	2046	\$ 637,000	\$425,000	\$478,000	\$425,000	\$425,000	\$425,000		
	26	2047	\$ 666,000	\$444,000	\$500,000	\$444,000	\$444,000	\$444,000		
	27	2048	\$ 696,000	\$464,000	\$522,000	\$464,000	\$464,000	\$464,000		
Dredge 3	28	2049	\$ 727,000	\$485,000	\$546,000	\$485,000	\$485,000	\$485,000		
\$20,518,000	29	2050	\$ 760,000	\$507,000	\$571,000	\$507,000	\$507,000	\$507,000		
Estimated Total Escalated Contribution Through the ILA Term ^d										
\$66,374,000			\$11,508,000	\$7,673,000	\$ 8,643,000	\$7,673,000	\$15,534,000	\$7,673,000	\$ 7,673,000	\$0

Notes:

- a/ This allocation percent reflects the distribution of maintenance dredging costs for increased sediment management above the No Action Alternative across ILA Parties, as shown in Attachment 1 to the MOU.
- b/ This allocation percent reflects the distribution of total costs for managing sediment including the cost estimate for maintenance dredging equivalent to No Action Alternative and the cost estimate for maintenance dredging costs for increased sediment management, above the No Action Alternative.
- c/ The state may provide its payment as a lump sum contribution in the year of the dredge events, consistent with and not to exceed its allocated percent of actual costs.
- d/ The estimated total escalated contribution is calculated in two steps. First the cost of each dredge event is escalated from 2022 dollars (as reported in the EIS) at 4.5% per year and then summed to arrive at the total cost of sediment management over the ILA term. Annual payments are then calculated by apportioning the total escalated costs to each party using the allocation percentages that reflect baseline and increased sediment management, as described in footnote b above.

Attachments

ATTACHMENT 1

Fifth Avenue Bridge and Infrastructure Agreement

State of Washington and City of Olympia

This Fifth Avenue Bridge and Infrastructure Agreement (“5th Avenue Bridge Agreement”) is by and between the State of Washington (State), acting by and through the Department of Enterprise Services, (DES) and the City of Olympia (“Olympia”), and is subsidiary to the Interlocal Agreement (ILA) entered into on **November 12, 2024**, by DES, Olympia, the Squaxin Island Tribe (Tribe), the County of Thurston (County), the City of Tumwater (Tumwater), the Port of Olympia (Port), and the LOTT Clean Water Alliance (LOTT). Collectively, the parties to the ILA shall be referred to as the “ILA Parties.” DES and Olympia shall be referred to herein using their defined names.

Capitalized terms in this 5th Avenue Bridge Agreement shall have the meanings given to them in the ILA.

RECITALS

- A. In 2022, after approximately four years of study, DES issued a final Environmental Impact Statement (EIS) identifying the Estuary Alternative as the preferred long-term plan for management of the area of Capitol Lake. The Estuary Alternative involves removing the existing 5th Avenue Dam, restoring tidal flats and marsh habitat in the Capitol Lake basin, constructing and transferring physical assets to local entities, and long-term Sediment Management of navigational areas in the West Bay of Budd Inlet. The work described in the Estuary Alternative and the ILA is referred to as “the Project.”
- B. The ILA Parties, acting pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, have entered into an ILA dated **November 12, 2024**, governing Sediment Management.
- C. As recognized in the ILA, the State, acting through DES, shall fund, design, and construct estuary restoration and specific physical assets, provided that DES will cooperate with each entity receiving a specific physical asset in accordance with auxiliary agreements between DES and each receiving entity.
- D. Among the physical assets to be constructed and transferred as part of the Project is a new 5th Avenue Bridge spanning the main channel of the Deschutes River immediately to the south of the existing 5th Avenue Bridge, which will be removed. The new 5th Avenue Bridge will connect to the existing 5th Avenue at Simmons Street NW on the east side of the Deschutes River; on the western side, Olympic Street W will be reconfigured between Deschutes Parkway SW and the existing roundabout at 4th Avenue. The reconfigured roadway is part of the asset transfer to Olympia. All references to the new 5th Avenue Bridge in this 5th Avenue Bridge Agreement includes the reconfigured roadway.

- E. This 5th Avenue Bridge Agreement is subsidiary to the ILA, and sets forth the agreement between DES and Olympia regarding general principles related to design of the new 5th Avenue Bridge, removal of the existing 5th Avenue Bridge and transfer of a new 5th Avenue Bridge after construction.
- F. DES and Olympia recognize that the new 5th Avenue Bridge is currently in preliminary design stage, and that this 5th Avenue Bridge Agreement will be supplemented or superseded by a subsequent conveyance agreement, consistent with the general principles set forth herein, providing further details regarding the design, construction, transfer and future operations of the new 5th Avenue Bridge.

AGREEMENT

In consideration of the mutual promises, covenants, and conditions in this 5th Avenue Bridge Agreement and in the ILA, DES and Olympia agree as follows:

1. **Intent.**

DES and Olympia shall work together in good faith, with specific areas of responsibility as outlined in this 5th Avenue Bridge Agreement, to design, build, and transfer the new 5th Avenue Bridge.

The new 5th Avenue Bridge shall be designed in accordance with the agreed design goals that have been identified by DES and Olympia as set forth below in Table 1.

Table 1—City of Olympia Design Goals

• Design for minimal maintenance ○ Focus on a single bridge structure (not two structures or a continuous separation, but a short separation for a small portion of bridge is acceptable) ○ Avoid designs with double-maintenance responsibilities (e.g., two continuous sets of railings, two sets of curbs.) • Prioritize pedestrian safety ○ Maintain natural sight lines between vehicles and pedestrians for improved safety and to avoid a pedestrian experience of feeling isolated ○ Create a meaningful buffer to separate pedestrians and vehicles. This can be through increased width of the pedestrian space, physical barriers (like landscape buffers), or raising/lowering elevations. The buffer reduces noise and proximity to traffic. • Create larger space for pedestrians/programming on south side of vehicular bridge ○ Bump-out locations for pause, seating, viewing – supportive of plaza idea, expansive space for programming ○ Supportive of a design that is considered transformational ○ Supportive of low-maintenance railing system that does not impede views • Provide some level of design consistency with the 4th Avenue Bridge. Also, 5th Avenue can be a “continuation on the design spectrum” but should have some similarities to 4th Avenue. • Consider bridge affordability, which will require a design that is inspiring enough to attract funding, but not so expensive that the full funding can never be obtained.	• Design to reflect the grandeur of the Project, Capitol Campus • Create opportunities to engage with the natural environment • Design elements to support natural resource function • Integrate Squaxin Island Tribal histories (through art, interpretive signage) and representation of other histories where possible • Create a cohesive experience with the area context (Downtown Olympia, Heritage Park, Marathon Park, Capitol Campus, etc.) – inform and be informed by this area context
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* Bold font indicates elements included in both Olympia’s and DES’s Community design goals.

2. DES-Led Bridge Design and Community Involvement

- DES shall be responsible for the design of the new 5th Avenue Bridge and shall consult with representatives of Olympia throughout the design process to ensure the new 5th Avenue Bridge meets the intent set forth above.
- DES shall advance the 5th Avenue Bridge design from the concept drawing provided to Olympia in July 2024 for review and comment.
- DES shall be responsible for community involvement regarding the new 5th Avenue Bridge design and construction processes. DES shall consult with Olympia in the development of the community engagement plan (the scope and

included elements of which are tied to available funding), and the process implemented by DES shall meet or exceed Olympia's requirements regarding community involvement for similar facilities and based on available funding. The intent of the community engagement plan is to incorporate input from the community into the bridge design, where appropriate, and to work toward a community-supported bridge design.

- d. After the community engagement activities regarding the 5th Avenue Bridge are complete, DES shall report to Olympia the primary themes and requests from the community and shall identify whether those requests meet the design goals as provided in Table 1 above, and whether the requests can or should be incorporated into the bridge design.

3. Olympia Coordination Responsibilities

Olympia shall remain integrated into the new 5th Avenue Bridge design process. At a minimum, Olympia shall:

- a. Participate in design meetings with DES, up to monthly throughout the design process so that feedback can be received in real time.
- b. Review the formal design deliverables concurrent with DES to ensure that bridge design remains consistent with Olympia design standards and long-term management and maintenance goals.
- c. Provide design feedback through other channels, as needed. There are several components of the bridge and roadway design that will benefit from a broad range of Olympia input. For example, the bridge height above water will be determined by design requirements for climate resiliency, clearance for recreational vessels on the restored estuary, grade restrictions to support bike and pedestrian movements in this corridor, etc. Olympia shall support coordination across city departments, as needed, on these interdisciplinary design topics, and provide timely input and responses back to DES.

4. Bridge Funding and Construction

- a. DES shall be responsible for securing construction funding and overseeing construction of the Project, including the new bridge and roadway. For this reason, during the design process, DES shall have authority over decisions that materially impact Project costs but will consider input from Olympia given that all design decisions have a cost component. DES will seek to balance Olympia interests in bridge type and aesthetics with likely funding outcomes.
- b. DES and Olympia acknowledge that construction funding is not yet secured and will require significant investment from the State and federal governments. DES and Olympia commit to jointly pursuing State and federal grant funding, where appropriate. Olympia shall also take all needed steps to support joint pursuit of grant funding, including listing of the Project in its Capital Improvement Plans and other long-range planning documents.

- c. DES and Olympia shall work together to determine the acceptable level of construction-related disruption and shall receive input from the community regarding these impacts. DES will implement reasonable avoidance or mitigation measures, as agreed to with Olympia, to minimize impacts to the transportation network as a result of construction.
5. DES shall be the contracting party for and shall manage all contracts related to removal of the existing 5th Avenue Bridge and the design and construction of the new 5th Avenue Bridge.
6. Bridge Turnover and Long-Term Maintenance and Operation

Upon completion, DES shall transfer ownership of the new 5th Avenue Bridge to Olympia and Olympia shall accept such transfer. After transfer, Olympia shall bear all operation and maintenance costs and responsibilities and shall be responsible for all risk of loss. The transfer will be accomplished by subsequent legal instrument consistent with this 5th Avenue Bridge Agreement.
7. Replaced Olympia Utilities
 - a. Olympia owns and maintains utilities in the area expected to be affected by construction of the Project. Any Olympia utilities affected by the Project, either existing or new, will be replaced with the same service or better.
 - b. DES will consult with representatives of Olympia to ensure design and replacement of Olympia's utilities meet Olympia design requirements.
 - c. DES shall work in good faith with Olympia to minimize interruptions in service in accordance with relevant Olympia guidance regarding timing and length of service outages, and other agreements regarding allowable disruptions during construction.
8. Funding
 - a. DES and the State shall provide all funding for design and construction of a new 5th Avenue Bridge.
 - b. After transfer of the new 5th Avenue Bridge to Olympia, Olympia shall provide all funding for operation and maintenance of the new 5th Avenue Bridge.
 - c. DES and Olympia shall each be responsible for their own overhead and internal costs related to carrying out their respective responsibilities under this 5th Avenue Bridge Agreement.
9. Termination

This 5th Avenue Bridge Agreement may not be terminated by either party.
10. Section 12 (Administrative) of the ILA shall apply to the extent feasible.

SIGNATURES

<u>Mark Barber</u>	11/01/2024
Mark Barber, City Attorney	Date
City of Olympia	

<u>Steven J. Burney</u>	11/01/2024
Steven J. Burney, City Manager	Date
City of Olympia	

South Basin Boardwalk and Related Infrastructure Agreement

State of Washington and City of Tumwater

This Boardwalk and Related Infrastructure Agreement (“Boardwalk Agreement”) is by and between the State of Washington (State) acting by and through the Department of Enterprise Services, (“DES”) and the City of Tumwater (“Tumwater”). DES and Tumwater shall be referred to herein using their defined names.

Capitalized terms not specifically defined in this Boardwalk Agreement shall have the meanings given to them in the ILA.

RECITALS

- A. In 2022, after approximately four years of study, DES issued a final Environmental Impact Statement (EIS) identifying the Estuary Alternative as the preferred long-term plan for management of the area of Capitol Lake. The Estuary Alternative involves removing the existing 5th Avenue Dam, restoring tidal flats and marsh habitat in the Capitol Lake basin, constructing and transferring physical assets to local entities, and long-term Sediment Management of navigational areas in the West Bay of Budd Inlet. The work described in the Estuary Alternative and the ILA is referred to as “the Project.”
- B. The ILA Parties, acting pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, have entered into an ILA dated **November 12, 2024** governing Sediment Management.
- C. As recognized in the ILA, the State, acting through DES, shall fund, design, and construct estuary restoration and specific physical assets provided that DES will cooperate with each entity receiving a specific physical asset in accordance with subsidiary agreements between DES and the receiving entity.
- D. Among the physical assets to be constructed and transferred as part of the Project are new boardwalks, pathways, and related infrastructure (collectively “South Basin Boardwalks”) that will connect to and extend the existing trail system in Tumwater Historical Park that is owned and maintained by Tumwater.
- E. This Boardwalk Agreement is subsidiary to the ILA and sets forth the agreement between DES and Tumwater as to general principles related to the design, construction, and transfer of the South Basin Boardwalks.
- F. Tumwater and DES recognize that Project construction plans for the South Basin Boardwalks are in a preliminary, conceptual design phase, and this Boardwalk Agreement will be supplemented and/or superseded by a subsequent conveyance instrument,

consistent with the general principles set forth herein, providing details regarding the design, construction, transfer, and future operations of the South Basin Boardwalks and underlying real property.

AGREEMENT

In consideration of the mutual promises, covenants, and conditions in this Boardwalk Agreement and in the ILA, DES and Tumwater agree as follows:

1. Intent.

DES and Tumwater shall work together in good faith, with specific areas of responsibility as outlined in this Boardwalk Agreement, to design new boardwalks within the South Basin of Capitol Lake, adjacent to the Tumwater Historical Park, in accordance with design goals set forth in the June 2024 Basis of Design, and consistent with the City of Tumwater policies and regulations governing the use of City parks and facilities. The design goals were developed through coordination and consultation between DES and Tumwater at the onset of the design process.

2. DES-Led Boardwalk Design and Community Involvement

- a. DES shall be responsible for the design of the South Basin Boardwalks.
- b. At minimum, design of the South Basin Boardwalks shall be consistent with the following:
 - i. Pedestrian facilities shall be enhanced from current conditions and shall include links to existing and planned boardwalks, pathways, and other infrastructure in Tumwater Historical Park.
 - ii. Recreational and viewing opportunities shall be enhanced and consistent with the overall Project goals.
 - iii. The location, design, materials, construction, and specifications for the South Basin Boardwalks shall meet or exceed all Tumwater requirements applicable to such facilities.
- c. DES shall be responsible for community involvement regarding the South Basin Boardwalk design and construction processes. The community engagement implemented by DES shall meet or exceed Tumwater's requirements regarding community involvement for similar facilities. The intent of community engagement is to incorporate input from the community into the South Basin Boardwalk design or layout, where appropriate. After community engagement activities regarding the South Basin Boardwalks are complete, DES shall report to Tumwater the primary themes and requests from the community and shall identify whether or not those requests meet the design goals as outlined in the June 2024 Basis of Design, and whether or not the requests can or should be incorporated into the boardwalk design.

3. Tumwater Coordination Responsibilities

Tumwater shall remain integrated into the South Basin Boardwalk design process in the following ways, at minimum:

- a. Participate in design meetings with DES, as needed and as may be requested by the City, throughout the design process so that feedback can be received in real time.
- b. Review the formal design deliverables concurrent to DES to ensure that the South Basin Boardwalk design is consistent with Tumwater design standards and long-term management and maintenance goals.

4. Boardwalk Funding and Construction

- a. DES shall be responsible for permitting and construction of the South Basin Boardwalks.
- b. DES shall be responsible for securing construction funding and overseeing design, permitting and construction of the Project, including the South Basin Boardwalks. For this reason, during the design process, DES shall have authority over decisions that materially impact Project costs but will incorporate input from the Tumwater given that all design decisions have a cost component that will impact not only construction but operation and maintenance costs and longevity.
- c. DES and Tumwater acknowledge that construction funding is not yet secured and will require significant investment from the State and federal governments. DES and Tumwater commit to jointly pursuing State and federal grant funding where appropriate.
- d. DES and Tumwater shall work together to determine the acceptable level of construction-related disruption in Tumwater Historical Park, and if needed, can receive input from the community regarding these impacts. DES shall take all reasonable actions to minimize impacts and disruption to Park operations and shall restore any Park facilities damaged by Project activities to a condition equal to or better than those existing prior to commencement of the Project.
- e. DES shall be the contracting party for and shall manage all contracts related to design and construction of the South Basin Boardwalks. Each DES contract for design and construction of the South Basin Boardwalks shall include a minimum of one-year warranty from the design professional or contractor that meets all DES and Tumwater contracting requirements and is consistent with similar Tumwater projects that can and will be transferred to Tumwater.

5. Boardwalk Turnover

Upon completion, DES shall transfer ownership of the South Basin Boardwalks to Tumwater, and Tumwater shall accept such transfer. Upon transfer, Tumwater shall have exclusive control of the South Basin Boardwalks, shall bear all maintenance costs and

responsibilities for the South Basin Boardwalks, and shall have all risk of loss related to the South Basin Boardwalks. The transfer will be accomplished by subsequent legal instrument acceptable to DES and to Tumwater consistent with this Boardwalk Agreement.

6. Funding

As noted above, the following funding provisions shall apply:

- a. DES, and the State, shall provide all funding for the design and construction of the South Basin Boardwalks.
- b. After transfer of the South Basin Boardwalks, Tumwater shall provide all funding for operation and maintenance of the South Basin Boardwalks.
- c. DES and Tumwater shall each be responsible for their own overhead and internal costs related to carrying out their respective responsibilities under this Boardwalk Agreement.

7. Termination

- a. This Boardwalk Agreement may be terminated by Tumwater at any time prior to the beginning of construction of the South Basin Boardwalks. After construction commences, Tumwater shall be obligated to accept transfer of the South Basin Boardwalks; provided, however, that upon transfer of the South Basin Boardwalks, Tumwater shall have exclusive control over the Boardwalks, up to and including the authority at its own expense to alter or remove the Boardwalks.
- b. Unless terminated earlier under subsection a, this agreement shall terminate upon completion of transfer to and acceptance by Tumwater of the South Basin Boardwalks and expiration of all warranties.

8. Dispute Resolution

If a dispute arises between the parties with regards to the performance of any provision of this Agreement or the interpretation thereof, representatives of the parties shall meet to see if the matter can be informally resolved. This meeting shall occur promptly after the nature of the dispute is known to the parties involved.

If the parties are unable to resolve their differences through informal discussions, the parties will endeavor to settle the dispute by mediation. Mediation shall commence, unless otherwise agreed, within 30 days of a party's written request for mediation of a dispute. Any resolution at mediation shall be reduced to writing, and signed by the parties.

9. Administration

- a. This Agreement represents the entire agreement of the Parties with respect to the subject matter herein and may be amended or modified only by written agreement of the Parties.
- b. This Agreement is not intended to create rights in, or to grant remedies to, any third party as a beneficiary to this Agreement or any of its provisions.
- c. The failure to require cure of a breach of any provision of the Agreement shall not be deemed a waiver of any subsequent breach, whether of the same or different provision.
- d. Severability. If any portion of this Agreement is adjudged to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any remaining section, part or provision of this Agreement.

SIGNATURES

Signed by:

945DD615DE7D4C0...

11/12/2024

Debbie Sullivan, Mayor

Date

City of Tumwater

Approved as to Form:

DocuSigned by:

5011BA3DE4C345C...

11/7/2024

Karen Kirkpatrick, City Attorney

Date



14/11/2024

Tara C. Smith, Director

Date

Department of Enterprise

ATTACHMENT 3

PORT OF OLYMPIA DREDGING ADDENDUM TO ILA

This Port of Olympia Dredging Addendum (“Port Addendum”) is incorporated into and part of the Interlocal Agreement (ILA) by and among the State of Washington (State) acting by and through the Department of Enterprise Services, (“DES”), the Squaxin Island Tribe (Tribe), the County of Thurston (County), the City of Olympia (Olympia), the City of Tumwater (Tumwater), the LOTT Clean Water Alliance (“LOTT”), and the Port of Olympia (Port). Collectively, the parties to the ILA shall be referred to as the “ILA Parties.” DES and the Port shall be referred to herein using their defined names.

Capitalized terms not specifically defined in this Port Addendum shall have the meanings given to them in the ILA.

BACKGROUND

- A. In 2022, after approximately four years of study, DES issued a final Environmental Impact Statement (EIS) identifying the Estuary Alternative as the preferred long-term plan for management of the area of Capitol Lake. The Estuary Alternative involves removing the existing 5th Avenue Dam and Bridge, restoring tidal flats and marsh habitat in the Capitol Lake basin, constructing and transferring physical assets to local entities, and long-term Sediment Management of navigational areas in the West Bay of Budd Inlet. The work described in the Estuary Alternative and the ILA is referred to as “the Project.”
- B. The ILA Parties, acting pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, have entered into an ILA dated **November 12, 2024** governing Sediment Management in the West Bay of Budd Inlet.
- C. As recognized in the ILA, the Port has independent authority and responsibility to conduct dredging to maintain authorized water depths in the Port’s vessel berths and under this ILA, is entitled to use funding from the ILA accounts (State and Local accounts, however denominated). The Port is also the local sponsor for coordination with the U.S. Army Corps of Engineers (USACE) for dredging in the Federal Navigation Channel (FNC) and Turning Basin; dredging in the FNC and Turning Basin would be funded by USACE.
- D. This Port Addendum to the ILA sets forth the responsibilities and processes related to the Port’s maintenance dredging within the Port vessel berths.

PORT VESSEL BERTH DREDGING

The review process for Port-led maintenance dredging in Port vessel berths using funding from the ILA Parties, described below, is based on the following assumptions and agreements regarding process:

1. Assumptions

- a. Maintenance dredging equivalent to the EIS' No Action Alternative in impacted areas of the Port's vessel berths will continue to be the responsibility of the Port; additional dredging requirements resulting from the Project (above the No Action Alternative), will be the shared responsibility of the ILA Parties (including the Port).
- b. Based on numerical modeling completed for the Project, maintenance dredging within the Port's vessel berths is estimated to occur at a frequency of once every 12 years, which is expected to result in one dredge event during the term of the ILA.

2. Process and Responsibilities

The Port shall work in good faith with the Deschutes Estuary Steering Committee (DESC), the Project Manager, the State Finance Manager, and the Local Party Treasurer to coordinate dredging efforts at the marinas, if mutually desirable and feasible, and within the Port's vessel berths. As a condition of accessing ILA funds for dredging in Port's vessel berths, the Port agrees that it shall:

- Serve as project manager for maintenance dredging within the Port's vessel berths.
- Be responsible for bathymetric survey, design, permitting, and contract management for maintenance dredging within the Port's vessel berths during the term(s) of the ILA and provide the bathymetric survey results to the Project Manager and the DESC.
- Continue to serve as the local sponsor for USACE-funded maintenance dredging in the federal navigation channel and turning basin.
- Report to the DESC when Port bathymetric survey(s) indicates significant adverse impacts (i.e., dredge triggers, as defined in the ILA) are likely to occur and dredging within the Port's vessel berths is needed to avoid such significant adverse impacts.
- Prepare a Dredging Plan for DESC review, which must include but is not limited to the following:
 - Bathymetric survey results
 - Dredge recommendations and summary descriptions indicating significant adverse impacts are likely to occur and dredging within the Port's vessel berths is recommended to avoid such significant adverse impacts (i.e., dredge triggers, as defined in the ILA)
 - Adaptive management measures employed (if applicable)

- Description of coordination with the DES Project Manager and determination of whether dredging could be coordinated with a marina dredge event for cost efficiency
- Estimated dredge cost to restore authorized dredge depths in the Port's vessel berths
- Organize and facilitate weekly meeting(s) with, or provide weekly updates to, the Project Manager and/or the DESC during maintenance dredging within the Port's vessel berths. If and as applicable, notify the DESC of changed conditions that impact cost or the maintenance dredging plan.
- Contract with and provide payment to the Contractor during maintenance dredging of the Port's vessel berths using authorized funding from the Local and State accounts (which includes Port contribution for baseline dredging as would occur under a No Action Alternative). Payment shall not exceed the base cost plus 10 percent contingency without prior coordination and approval from the DESC.
- Prepare and submit to the DESC a post-dredging report after each Port dredge event that includes a summary of final dredging cost to the Local Party Treasurer each year (records of receipts and expenditures).

3. Funding

- a. The estimated cost within the ILA to complete one maintenance dredging event within the Port's vessel berth (as assumed in the ILA) is \$1,345,896. This includes a contribution from the ILA Parties (including the Port) of \$983,540 for increased maintenance dredging that would occur as a result of DES implementing the Estuary Alternative, and an additional contribution from the Port of \$362,356 for dredging costs that would have been incurred under the No Action Alternative. The values provided herein are stated in 2022 dollars, consistent with Attachment 1 of the ILA, and have not been escalated.
- b. A not to exceed amount of \$1,345,896 (escalated as appropriate, consistent with escalation applied across the ILA) shall be authorized to the Port from the total funds available once the DESC authorizes the Dredging Plan for dredging in the Port's vessel berths (and as informed by the Engineer's Estimate).

SIGNATURE



Alex Smith, Executive Director
Port of Olympia

Nov 5, 2024

Date

ATTACHMENT 4

LOTT Utility Agreement

State of Washington and LOTT Clean Water Alliance

This LOTT Utility Agreement (“Utility Agreement”) is by and between the State of Washington acting by and through the Department of Enterprise Services, (DES) and the LOTT Clean Water Alliance (“LOTT”), and is subsidiary to the Interlocal Agreement (ILA) entered into on **November 12, 2024**, by DES, LOTT, the Squaxin Island Tribe (Tribe), the County of Thurston (County), the City of Olympia (Olympia), the City of Tumwater (Tumwater), and the Port of Olympia (Port). Collectively, the parties to the ILA shall be referred to as the “ILA Parties.” DES and LOTT shall be referred to herein using their defined names.

Capitalized terms not specifically defined in this Utility Agreement shall have the meanings given to them in the ILA.

RECITALS

- A. In 2022, after approximately four years of study, DES issued a final Environmental Impact Statement (EIS) identifying the Estuary Alternative as the preferred long-term plan for management of the area of Capitol Lake. The Estuary Alternative involves removing the existing 5th Avenue Dam and Bridge, restoring tidal flats and marsh habitat in the Capitol Lake basin, constructing and transferring physical assets to local entities, and long-term Sediment Management of navigational areas in the West Bay of Budd Inlet. The work described in the Estuary Alternative and the ILA is referred to as “the Project.”
- B. The ILA Parties, acting pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, have entered into an ILA dated **November 12, 2024** governing Sediment Management.
- C. As recognized in the ILA, the State, acting through DES, shall fund, design, and construct estuary restoration and specific physical assets; provided, that DES will cooperate with each entity receiving a specific physical asset in accordance with auxiliary agreements between DES and each receiving entity.
- D. Any LOTT utilities affected by the Project, either existing or new, shall be collectively referred to as “LOTT Utilities.” LOTT owns and maintains utilities in the area expected to be affected by construction of the Project, including but not limited to:
 - a. 5th Avenue Corridor: 20-inch ductile iron sewer force main
 - b. Deschutes Parkway: 20-inch high-density polyethylene (HDPE) reclaimed water line, 22-inch HDPE gravity sewer main, and 20-inch ductile iron sewer force main
 - c. Marathon Park Pedestrian Bridge: 12-inch ductile iron reclaimed water line, 24-inch ductile iron sewer force main, and three 4-inch polyvinyl chloride (PVC) communication conduits

- E. This LOTT Utility Agreement is subsidiary to the ILA and sets forth the agreement between DES and LOTT as to general principles related to LOTT Utility Construction and future operations and maintenance.
- F. LOTT and Olympia recognize that Project plans affecting LOTT Utilities are in a preliminary design phase, and this LOTT Utility Agreement will be supplemented by a subsequent agreement, consistent with the general principles set forth herein, providing details regarding impacts to and transfer and future operations of the LOTT Utilities.

AGREEMENT

In consideration of the mutual promises, covenants, and conditions in this LOTT Utility Agreement and in the ILA, DES and LOTT agree as follows:

1. Intent

DES and LOTT shall work together in good faith, with specific areas of responsibility as outlined in this LOTT Utility Agreement, to design and construct replacement utilities that will provide the same service or better. DES and LOTT shall work together to determine allowable disruptions during construction, while balancing reasonable construction means and methods with the need to minimize utility disruptions to service during that process. DES acknowledges these disruptions may be subject to factors outside of LOTT's control, including, but not limited to weather-related flows. The removal of existing LOTT Utilities and the design and construction of new LOTT utilities shall be collectively referred to as LOTT Utility Construction.

2. DES Contracting and Project Management

- a. DES shall be the contracting party for and shall manage all contracts related to LOTT Utility Construction.
- b. DES shall work in good faith with LOTT to minimize interruptions in service in accordance with relevant LOTT guidance regarding timing and length of service outages, and other agreements regarding allowable disruptions during construction as may be made through the coordination facilitated through this Utility Agreement.
- c. DES shall ensure LOTT's unrestricted access to the Capitol Lake Pump Station at all times.

3. LOTT Utility Design

DES shall consult with representatives of LOTT to ensure replacement LOTT utilities meet the intent set forth above and are consistent with the following standards:

- a. Service shall be equal to or better than current service.
- b. Replaced LOTT Utilities shall be designed to withstand river and tidal flows and have a minimum expected service life of 50 years.

LOTT shall remain integrated into the LOTT Utility design process in the following ways, at minimum:

- a. Participate in design meetings with DES, as needed, throughout the design process so that feedback can be received in real time.
- b. Review the formal design deliverables concurrent to DES to ensure that LOTT Utility design remains consistent with LOTT design standards and long-term maintenance and maintenance goals. Any changes to material, size, or other specification of existing LOTT Utilities must be submitted in advance to, and approved by, LOTT.

4. Damage to LOTT Utilities Prior to Removal and Replacement

LOTT and Olympia shall endeavor to ensure continuous service and to minimize interruptions to LOTT's existing customers. To that end, if LOTT Utilities are damaged to the extent that they are rendered inoperable or service is compromised or impaired by the Project work recognized by this LOTT Utility Agreement in any way prior to their scheduled removal and replacement, it shall be the sole responsibility of DES to repair or restore LOTT Utilities to prior levels of functionality pending their removal and replacement. DES shall not be responsible for repairing or restoring failures of LOTT Utilities that occur prior to their scheduled removal and replacement that are not caused by Project work recognized by this LOTT Utility Agreement.

5. Replaced LOTT Utilities Transfer, Long-Term Maintenance, and Operation

Upon completion of Project construction, DES shall transfer ownership of replacement LOTT Utilities to LOTT, and LOTT shall accept such transfer. Upon transfer, LOTT shall bear all maintenance costs and responsibilities for the replaced LOTT Utilities and shall be responsible for all risk of loss. The transfer will be accomplished by subsequent legal instrument consistent with this LOTT Utility Agreement.

6. Funding

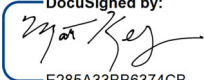
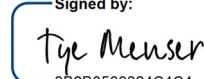
- a. DES, and the State of Washington, shall provide all funding for LOTT Utility Construction.
- b. DES and LOTT acknowledge that construction funding is not yet secured and will require significant investment from the State and federal governments, and will benefit all ILA Parties, including LOTT. DES and LOTT commit to jointly pursuing State and federal grant funding when appropriate.
- c. After transfer of the replaced LOTT utilities, LOTT shall provide all funding for operation and maintenance of the replaced LOTT utilities.
- d. DES and LOTT shall each be responsible for their own overhead and internal costs related to carrying out their respective responsibilities under this LOTT Utility Agreement.

7. Termination

This LOTT Utility Agreement may not be terminated by either party.

8. Section 12 (Administrative) of the ILA shall apply to the extent feasible.

SIGNATURES

DocuSigned by:  E285A33BB6374CB...	10/16/2024
Matthew J. Kennelly, Executive Director	Date
LOTT	
Signed by:  3B2B0580324C4C...	10/16/2024
Tye Menser, Board President	Date
LOTT	

COVER MEMO

Briefing Date: October 13, 2026
Staff Contact/Title: Alex Smith, Executive Director, 360.528.8001,
alex@portolympia.com
Subject: SEPA Policy Updates
Purpose: ☒ Information Only ☐ Decision Needed

Type of Agenda Item:

- Advisory

Background:

Changes to the SEPA Policy

The Port Commission last adopted a policy regarding how the Port will implement its obligations under the State Environmental Policy Act (SEPA) in 2015 (Resolution 2015-12). That Resolution has provisions that are not required under SEPA, like a self-imposed 10-day deadline to respond to comments and an administrative appeal process for anyone who wants to challenge a Port SEPA determination. These provisions have had unintended consequences that lengthen decision-making processes and cost all parties additional time and money.

In addition, when the SEPA Resolution was drafted, the Port explicitly incorporated the Department of Ecology's then-current (2011) guidance on climate change and greenhouse gas emissions into the SEPA Resolution in an appendix. That guidance has since become outdated. Meanwhile, climate remains an element of the environment that the state SEPA Rules require every SEPA review to consider, making the appendix unnecessary.

Given the above, Port staff and legal counsel went through the 2015 Resolution to identify areas where updates needed to be made. The revisions are intended to align the Port's SEPA practices with the SEPA statute and implementing rules, reduce legal risks, and bring our SEPA Policy into alignment with other Washington ports.

The update changes how the Port administers its SEPA procedures, not what environmental review is required. The Port continues to adopt the state SEPA Rules (WAC 197-11-010 through 197-11-990) in full, and every threshold determination, EIS, and climate-review requirement in state law continues to apply.

Proposed Changes:

- **Eliminate Administrative Appeals.** An administrative appeal is an extra layer of litigation before a SEPA appeal can be heard by Thurston County Superior Court. It

can add time and cost to an appeal process, but does not change the level of scrutiny—both a hearing examiner and a court must give the Responsible Official's decision the same "substantial weight". In addition, under the 2015 Resolution, a person can appeal a Port SEPA determination to a hearings examiner before the Port has made its actual decision on the project or plan. A court, however, can only review a SEPA determination together with the underlying Port decision. *See* RCW 43.21C.075. As a result, a hearings examiner decision can sit in limbo with no path to court until the Port acts. Eliminating the administrative appeal means any challenge is heard once, by the Superior Court, together with the Port's decision.

The Port reviewed five other ports' SEPA policies that were attainable through an online search. Five of the six (Kingston, Port Angeles, Tacoma, Longview, and Everett) do not allow administrative appeals; only Seattle has an administrative appeal/hearing examiner process. The governing rule (WAC 197-11-680(2)) allows for the elimination of administrative appeals by resolution, and staff recommends the Commission approve the removal of the administrative appeals process from the Port's SEPA Resolution.

- **Routes Appeals Directly to Court.** Without an administrative appeal process, appeals of SEPA determinations are routed for judicial review in Superior Court. Accordingly, the new policy directs appeals to Thurston County Superior Court (when that court has jurisdiction) and, where no other statute sets a challenge deadline, directs the Responsible Official to consider publishing a Notice of Action under RCW 43.21C.080 to establish a clear 21-day judicial challenge period. Challengers no longer pay a Port appeal fee (\$750) or need to complete a Port appeal process before going to court.
- **Adds an Informal Reconsideration Option.** This is not required by law and is not a formal appeal, but it gives anyone the chance to ask the Port, during the comment period, to correct errors or revisit a determination. It does not extend any appeal deadline. It reduces the risk that a minor oversight escalates to a formal appeal and litigation.
- **Keeps the 14-Day Public Comment Period Required Under the SEPA Rules.** The comment period on certain DNS/MDNS determinations remains 14 calendar days. *See* WAC 197-11-340(2); WAC 197-11-502(3)(b). The separate 21-day period in the 2015 Resolution was the deadline to file an administrative appeal after the comment period closed; that window is eliminated along with the administrative appeal.

- **Rebuilds the Public-Notice Section Around Determination Type.** The SEPA Rules require specific notifications for issuance of a Determination of Non-Significance (DNS) or a Mitigated Determination of Non-Significance (MDNS). See WAC 197-11-340(2)(b). The SEPA rules have separate requirements for distribution of a Determination of Significance (DS) and an Environmental Impact Statement (EIS). See WAC 197-11-360(3) and WAC 197-11-455/460. In the proposed revisions to the SEPA Policy, we have aligned the public notice requirements to these rules, in Sections 7.1 through 7.4. The revisions also provide a clear guide for staff to follow for each kind of SEPA determination, which reduces the risk of staff-level procedural errors.
- **Provides Flexibility to Tailor Legally Required Notice Methods.** WAC 197-11-510(1) requires agencies to use “reasonable methods” to inform the public of SEPA determinations and provides a list of examples of acceptable methods (newspaper, posting, email, etc.). The ports of Longview, Everett, and Tacoma give the Responsible Official discretion to select the notice method(s) that fit the circumstances. The proposed revisions to the SEPA Policy also provide this kind of discretion to better tailor notice requirements to a particular type of decision.
- **Relaxes the Response-to-Comments Obligation.** State rules only require that SEPA lead agencies (like the Port) “consider and may respond to comments as the agency deems appropriate.” See WAC 197-11-550(8). The 2015 SEPA Resolution had a self-imposed 10-day hard deadline that required the Port to respond to comments and required posting responses to the Port website. A missed deadline or failed posting raised unnecessary litigation risks. The suggested revisions preserve the Port’s discretion to respond to comments while removing the self-imposed deadline.
- **Adds a Full Categorical-Exemptions Section.** The revisions propose a new Section 10 that adopts by reference all exemptions provided in the governing rules in WAC 197-11-800. It also lists specific Port activities that are exempt from SEPA, including:
 - Budget adoption (WAC 197-11-800(14)(c))
 - Planning/research (WAC 197-11-800(17)),
 - Tariffs (WAC 197-11-800(14)(i)),
 - Qualifying leases (subject to WAC 197-11-305 and 197-11-070),
 - Borrowing/bond financing (WAC 197-11-800(14)(d)),
 - Preliminary planning documents that contain no standards controlling use of the environment (not nonproject actions under WAC 197-11-774), and
 - Administrative/fiscal/personnel actions (WAC 197-11-800(14)(a), (g), and (h)).

Listing these reduces case-by-case determinations, provides clear staff guidance, and documents why routine Port actions do not trigger threshold determinations. The list does not expand what is exempt; categorical exemptions are set by the state, and state limits (such as for critical areas) still apply.

- **Simplifies Service on the Port and Removes the Climate Appendix.** The dedicated sepa@portolympia.com inbox was not actively monitored, and the hard-coded street address is subject to change. If service were directed to an unmonitored inbox, the Port could miss a filing—creating legal exposure. Directing service to the Responsible Official at the email identified on the applicable determination ensures filings reach the right person. The standalone climate appendix is also removed because climate is already a required element of the environment under WAC 197-11-444(1)(b)(iii), which is adopted by reference in Section 1 of the Resolution.

Summary and Financial Impact:

The proposed revisions reduce litigation risks for the Port by clarifying and simplifying aspects of the Port's SEPA process. The revisions should not have a negative financial impact, and they may save money over the long term by reducing litigation risks.

Alignment with Vision 2050:

This aligns with the Vision 2050 goal to improve the Port's ability to make decisions, resolve issues and achieve its objective and mission.

Environmental Considerations and Review:

Environmental staff have been involved in the revisions to the SEPA Policy throughout. The goal is to ensure that when it is acting as SEPA lead agency, the Port is conducting the necessary thorough evaluation of environmental impacts in a well-defined and clear process.

Staff Recommendation:

Staff recommend the Commission approve the revisions to the SEPA Resolution when it comes before them for decision on October 26th. Consistent with WAC 197-11-904(3), the Port has provided public notice and an opportunity for public comment on the update. If adopted, the new Resolution will apply only to SEPA determinations issued after adoption.

Document(s) Attached:

- Redline of Resolution 2015-12 with the proposed revisions
- Clean version of Resolution 2015-12 with proposed revisions "accepted."

PORT OF OLYMPIA COMMISSION
Resolution ~~2015-12~~2026-XX

A Resolution of the ~~Port~~ Commission of the Port of Olympia, Thurston County, Washington, revising and adopting the ~~Port's~~**Port's** policies and procedures under the State Environmental Policy Act and implementing rules, Chapter 43.21C RCW and Chapter 197-11 WAC, and superseding the ~~Port's~~**Port's** current State Environmental Policy Act policies and procedures found in Resolution ~~2008-20~~**2015-12**.

WHEREAS, the State ~~Enviromental~~Environmental Policy Act (~~("SEPA")~~) sets forth an ~~envirommental~~environmental policy for Washington state and requires that the ~~envirommental~~environmental impacts of proposals be analyzed and, where appropriate, mitigated; and

WHEREAS, SEPA applies to state agencies, counties, and municipal and public corporations, including port districts; and

WHEREAS, ~~SEPA has been amended to require~~RCW 43.21C.110 directs the State Department of Ecology to issue new("Ecology") to adopt and amend uniform statewide rules for ~~carrying out implementing~~ SEPA, and Ecology has promulgated Chapter 197-11 Washington Administrative Code (WAC) ("SEPA; Rules"); and

WHEREAS, ~~the Port is required to adopt~~ RCW 43.21C.120 directs public and municipal corporations, including port districts, to adopt rules, ordinances, or resolutions integrating SEPA policies and procedures that are into programs under their jurisdiction, consistent with the new rules adopted by the Department of Ecology (WAC 197-11) and may adopt by reference any or all of these rules under RCW 43.21C.110; and

WHEREAS, the Port has provided public notice and opportunity for public comment on this Resolution;

NOW, THEREFORE, BE IT RESOLVED, that the Port Commission of the Port of Olympia, Washington hereby adopts the Port SEPA ~~Enviromental~~Environmental Administrative policies and procedures contained herein.

1. Adoption of SEPA Rules

The Port of Olympia hereby adopts by reference ~~the following sections or subsections of Chapter 197-11 of the Washington Administrative Code (SEPA Rules):~~ WAC 197-11-010 through 197-11-990, except as specifically provided ~~herein in this Resolution. This Resolution constitutes the Port's agency SEPA procedures under WAC 197-11-902, 197-11-904, and 197-11-906.~~ Where ~~conflict exists between~~ a permissive, optional, or guidance ~~WAC section~~provision adopted by reference ~~herein and the conflicts with a specific local agency SEPA procedures adopted~~Port procedure in this Resolution, the ~~language of~~Port procedure controls to the Resolution extent permitted by WAC 197-11-906. The Responsible Official will apply. The decision on determine whether to apply ~~an~~ optional state SEPA ~~provision rests with the Responsible Official~~provisions.

2. Authority

~~The following regulations concerning environmental policies and procedures are hereby established and adopted pursuant to Washington State law, Chapter 109, Laws of 1971, Extraordinary Session (Chapter 43.21C RCW) as amended, entitled the "State Environmental~~

~~Policy Act," and Washington State Administrative Code regulations, Chapter 197-11, entitled "SEPA Rules."~~

The Port adopts this Resolution pursuant to RCW 43.21C.120 and WAC 197-11-902, 197-11-904, and 197-11-906, and establishes these regulations to implement Chapter 43.21C RCW and Chapter 197-11 WAC.

3. Purpose, Applicability, and Intent

- 3.1 The purpose of this Resolution is to provide Port policies and regulations implementing Chapter 43.21C RCW, the State Environmental Policy Act ~~("SEPA"),~~ which are consistent with the SEPA Rules.
- 3.2 This Resolution is applicable to all Port of Olympia departments/divisions, committees, and the Port Commission.
- 3.3 The intent of this Resolution is to govern compliance by all Port departments/divisions, committees, and the Port ~~Commission~~Commission with the procedural and substantive requirements of Chapter 43.21C RCW, the State Environmental Policy Act.
- 3.4 This Resolution is not intended to govern compliance by the Port with respect to the National ~~Environmental~~Environmental Policy Act of 1969 ~~("NEPA"). In those~~. Situations in which the Port is required by federal law or regulations to ~~perform~~perform some element of compliance with NEPA, ~~such compliance~~ will be governed by the applicable federal statutes and regulations and not by this Resolution.

4. Substantive Environmental Policies

The substantive environmental policies of the Port of Olympia are the policies set forth in the following documents and statutes: the ~~Port's~~Port's Comprehensive Scheme of Harbor Improvements, as it is now identified and as it may be ~~re-named~~renamed or amended in the future, including all of its elements; Port of Olympia ~~Environmental~~Environmental Policies; and Chapter 43.21C RCW. Port of Olympia Environmental Policies is are available ~~in a package upon request~~ from the ~~Environmental Department and the~~ Port of Olympia and may also be posted on the Port's website.

S.5. Additional Definitions

In addition to those definitions contained within WAC 197-11-700, the following terms will have the following meanings, unless the context indicates otherwise:

"5.1 ~~"Department"~~ means any division, or organizational unit of the Port.

"5.2 ~~"SEPA Rules"~~ means WAC Chapter 197-11 adopted by the Department of Ecology, as it now exists and may be hereafter amended.

"

5.1—5.3 ~~"Responsible Official"~~ means the ~~Port's~~Port's Executive Director or

designee. The Responsible ~~Official's~~Official's duties may be delegated to appropriate staff ~~persons~~, but the Responsible Official will approve and is responsible for ~~the~~ Determination~~all Determinations~~ of ~~Non-Significance~~ ("Nonsignificance ("DNS");), Mitigated ~~Determination~~Determinations of ~~Non-Significance~~ ("Nonsignificance ("MDNS");

~~Determination~~”), Determinations of Significance (~~“(“DS”)”~~), and the adequacy of ~~an~~any Environmental Impact Statement (~~“(“EIS”)”~~).

”

5.4 “Port of Olympia ~~Enviromnental~~Environmental Policies” means those ~~enviromnental~~environmental policies approved by the Port Commission.

6. **Timing of the SEPA Process**

~~6.1~~ 6.1 The Port will integrate SEPA process will be integrated review with Port activities at the earliest ~~possible~~practicable time ~~to ensure that planning all decisions reflect enviromnental values, to avoid delays later in the process, and to seek to resolve potential enviromnental issues.~~

The timing and content of environmental review will follow WAC 197-11-055 and WAC 197-11-060, as adopted by reference in Section 1.

~~6.2~~ 6.2 The Responsible Official will prepare ~~the~~any required threshold determination and/or ~~Enviromnental~~Environmental Impact Statement (“EIS”), ~~if required, as soon as possible after the~~when the principal features of a proposal ~~all and~~and its ~~enviromnental~~environmental impacts ~~can be reasonably identified.~~

~~A proposal exists when the Responsible Official is presented with a project or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated. The fact that proposals may require future Port or other permitting approvals or enviromnental review will not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts can reasonably be identified, consistent with WAC 197-11-055.~~

~~6.2.1~~ The ~~enviromnental~~environmental process will commence upon receipt by the Responsible Official of ~~an~~an environmental document. The Responsible Official may also ~~orgallize~~organize ~~enviromnental~~environmental review in phases as specified in WAC 197-11-060(5).

~~6.2.2~~ Appropriate consideration of ~~enviromnental~~environmental information will be completed before the Port commits to a particular course of action, as provided in WAC 197-11-070.

7. **Public Notice**

Reasonable

7.1 Public Notice Methods. When public notice is required ~~pursuant to~~under this Resolution ~~, Chapter 197-11 WAC, and/or Chapter 43.21C RCW~~the SEPA Rules, the Responsible Official ~~must~~will use ~~reasonable~~one or more of the following methods to ~~inform~~inform the public ~~and other agencies that an~~an ~~enviromnental~~environmental document is being prepared or is available ~~and that public hearing(s), if any, will be held.~~

6.3 Notice Requirements.

(i) ~~Notice of the SEPA threshold enviromnental determination will be published~~Publishing notice in a newspaper of general circulation within the area in which the ~~project~~proposal is located ~~and will be sent.~~

(ii) Posting notice on the Port of Olympia website;

6.3.1 ~~—~~ Sending notice via email to the Port of ~~Olympia's~~ Olympia's SEPA mailing list

(iii) as well as to the Port's standing email notification list of citizens and to persons who have requested notification of Port activities. ~~The electronic notice will include a copy of the determination~~

The Responsible Official will select the method or methods reasonably calculated to inform the public under the circumstances, consistent with WAC 197-11-510.

7.2 Notice ~~and a copy of the SEPA~~ Distribution for DNS and MDNS Determinations.

7.2.1 When a DNS or MDNS is issued under WAC 197-11-340(2), the Responsible Official will provide public notice using one or more of the methods in Section 7.1.

7.2.2 In addition to public notice, when a DNS or MDNS is issued under WAC 197-11-340(2), the Responsible Official will send the determination and the environmental checklist, ~~or a link to the location on the Port website where the SEPA checklist can be found. The Port will post all technical appendices to the SEPA checklist on the Port's website. All forms of notice described herein will also inform recipients where the~~ directly to the Department of Ecology, agencies with jurisdiction, affected tribes, and each local agency ~~SEPA records are located and or~~ political subdivision whose public services would be changed as a result of implementation of the proposal, as required by WAC 197-11-340(2)(b).

7.2.3 The date of issuance for a DNS or MDNS is the date the determination is sent to the Department of Ecology and agencies with jurisdiction and is made publicly available, ~~as provided in WAC 197-11-340(2)(d).~~

7.3 Notice ~~of administrative appeals, hearings, and actions on appeals~~ Distribution for Determinations of Significance and Environmental Impact Statements.

7.3.1 When a determination of significance (DS) is issued, the Responsible Official will ~~be provided as set forth~~ provide public notice using one or more of the methods in Section ~~9 of this Resolution~~ 7.1 and will circulate the DS to the applicant, agencies with jurisdiction and expertise, affected tribes, and to the public, as required by WAC 197-11-360(3).

~~Notice of determinations of significance, scoping, and~~

7.3.2 The Responsible Official will circulate draft and final EISs to those agencies and persons required by WAC 197-11-455 and WAC 197-11-460. Public notice of the availability of draft and final EISs will be ~~published in a newspaper of general circulation within the area in which the project is located and sent to the Port of Olympia's SEPA email list as well as to the Port's standing email notification list of citizens who have requested notification of Port activities.~~ provided using one or more of the methods in Section 7.1.

7.3.3 Parties who ~~comment~~ submit comments on a specific project's project's environmental ~~determination~~ determination or draft EIS will receive notice of the availability of ~~the draft and Final Environmental Impact Statement ("FEIS").~~ any subsequent draft or final EIS for that project.

7.4 Notice of Judicial Review. Notice of judicial review will be provided as set forth in Section 9 of this Resolution.

8. Public Comments

8.1 Public comments on ~~SEPA threshold determinations~~a DNS or MDNS for which public notice and comment are required under WAC 197-11-340(2) must be submitted within fourteen (14) calendar days from the date the ~~SEPA threshold~~ determination is issued. Comments may be submitted via email to the email address identified on the applicable SEPA determination, decision, or notice, and may also be submitted to the Responsible Official by any ~~other~~ written method.

8.2 The Responsible Official will ~~respond in writing on behalf of the Port to consider all timely~~ written comments received on a ~~specific SEPA threshold determination~~. Responses will be provided within ten (10) calendar days after the close of the public comment period.DNS or MDNS issued under WAC 197-11-340(2) and will reconsider the determination in accordance with WAC 197-11-340(2)(f). The Responsible Official may respond to comments in writing, either individually ~~, or may address all or a portion of the comments~~ cumulatively. ~~All, within a reasonable time after the close of the public comment period.~~

~~6.4~~ 8.3 Public comments, the Port's and any written responses, and any resulting subsequent amendments or addenda to the SEPA threshold determination by the Responsible Official will be part of the Port'sPort's SEPA administrative record and will be posted on available for public inspection in accordance with Chapter 42.56 RCW. The Port website. Notwithstanding the foregoing, the Responsible Official will not respond to public comments that are submitted anonymously. For purposes of this provision, "anonymously" means submitting a comment without including the commenter's legal name.

~~The Port will~~may post public comments and the Responsible Official's responses on the Port'sPort's website, and will email a link to where the document can be found on the Port website to each person who submitted written comments to the Port for that specific SEPA threshold determination. When requested, the Port will mail a hard copymay notify commenters of the availability of ~~its~~the Port's response to comments via standard first-class U.S. mail.by email or other reasonable method. The Port'sPort's issuance of a response to comments will not restart the ~~administrative public~~ comment or ~~appeal~~judicial challenge period(s) pursuant to WAC 197-11-706.

8.4 If the Responsible Official ~~determines~~determines that an Environmental Impact Statement ("EIS") is required, then public comment, and responses to comment, on EIS scoping and Draft EIS ("DEIS") documents will be prepared and submitted pursuant to Chapter 197-11 WAC.

9. Appeals

- ~~6.5 — Decisions Appealable. For project actions, final threshold determinations, in the form of a Mitigated Determination of Nonsignificance ("MDNS") or a Determination of Nonsignificance ("DNS"), as well as the adequacy of a Final Environmental Impact Statement ("FEIS") will be administratively appealable. For non-project actions, final threshold determinations, in the form of an MDNS or DNS, as well as the adequacy of an FEIS, will also be administratively appealable. Any appeal will be initiated by filing a Notice of Appeal and paying the appropriate fee with the Port Environmental Department no later than close of business twenty-one (21) calendar days following the close of the public comment period for the SEPA threshold determination or issuance of the FEIS, as applicable.~~
- ~~6.6 — Hearing Examiner Appeal. If an appeal is filed, it will be forwarded to a Hearing Examiner, who is hereby authorized and empowered to hear and decide SEPA administrative appeals. The Hearing Examiner will conduct an open record public hearing for all proceedings authorized by this Resolution.~~

~~(i) — 9.1 No Administrative Appeal Procedures~~

~~6.6.1 — Administrative Appeal Procedure/Fee.~~

- ~~(i) Procedure. To initiate an appeal, an Appellant must timely file a Notice of Appeal and pay the required filing fee as set forth in the Port of Olympia Proprietary Type User Charges for Port Goods and Services Resolution with the Environmental Department. The Environmental Department will process the appeal in accordance with the procedures set forth in this Resolution.~~
- ~~(ii) Standing. Any person aggrieved by a threshold determination (DNS or MDNS) or by the issuance of an FEIS may appeal; provided, however, if there is a comment period required by WAC 197-11-340, only parties who submitted written comments during the comment period may file an administrative appeal.~~
- ~~9.3.2 Time Requirement. An administrative appeal will be filed no later than close of business twenty-one (21) calendar days following the close of the public comment period for the SEPA threshold determination or issuance of the FEIS, as applicable. If the last day for filing an appeal falls on a weekend day or holiday, the last day for filing will be the next business day.~~

~~9.3.3 — Content of the Notice of Appeal. The Notice of Appeal will contain:~~

- ~~(i) — The name and mailing address of the Appellant(s) and the name and address of his/her/their representative, if any;~~
- ~~(ii) — The Appellant(s)' legal residence or principal place of business;~~
- ~~(iii) — A copy of the SEPA determination that is being appealed (or a copy of the first page only if the SEPA determination being appealed exceeds 10 pages);~~
- ~~(iv) — The grounds upon which the Appellant(s) relies;~~
- ~~(v) — A concise statement of the factual and legal reasons for the appeal;~~
- ~~(vi) — A statement describing the Appellant(s)' standing to appeal pursuant to Section 9.3.1(ii);~~
- ~~(vii) — The specific nature and intent of the relief sought;~~
- ~~(viii) — A statement that the Appellant(s) has/have read the Notice of Appeal and believes the contents to be true followed by his/her/their signature and the signature of his/her/their representative, if any. If any Appealing party is unavailable to sign, it may be signed by his/her representative;~~
- ~~(ix) — The appropriate fee, *see* above Section 9.3.1(i); and~~
- ~~(x) — If parties intend to file a combined appeal, all parties to be included in the appeal will be specifically identified and all information related to the combined appeal will be filed at one time. In all other cases, a separate appeal fee will be required for each appeal filing.~~

~~9.3.4 — Effect of the Appeal. The filing of a valid appeal will stay the effect of the SEPA decision, and no major action in regard to a proposal may be taken during the pendency of an administrative appeal. A decision by the Hearing Examiner to reverse the threshold determination of the Responsible Official, or deeming an FEIS inadequate will further stay any decision, proceedings, or actions in regard to the project or proposal subject to the administrative appeal.~~

~~9.3.5 — Appeal Withdrawal. An appeal may be withdrawn only by the Appellant(s), by written statement filed with the Environmental Department. The Environmental Department will inform the Responsible Official and the Hearing Examiner of the withdrawal request. If the withdrawal is requested before any action by the Hearing Examiner on the appeal, the appeal will be dismissed with prejudice, and the filing fee will be refunded.~~

~~6.7 — Hearing Examiner Appeal Hearing.~~

~~6.7.1 — Scheduling and Procedural Rules. The public hearing on an appeal presided over by the Hearing Examiner will be expeditiously scheduled upon receipt of a valid appeal. The Hearing Examiner may prescribe general rules and procedures, as necessary, for the scheduling and conduct of all appeal hearings under this Resolution, and is further empowered to issue such orders as may be necessary to implement case schedules for the conduct of pre-hearing conferences, submittal of materials, exhibits, disclosure of witnesses, and presentation of evidence. If the Hearing Examiner elects to issue general procedural rules under this Resolution, then such rules will be reviewed and ratified by the Port Commission by Resolution and the ratified rules will also be made available to the public on the Port's website.~~

~~6.7.2 — Standard of Review – Hearing Examiner Appeals of Threshold Determinations. The Hearing Examiner may affirm the threshold determination of the Responsible Official; remand the case for further information; or may reverse the decision. Reversal of the decision will be based on a Hearing Examiner determination that the administrative findings, inferences, conclusions, or decisions of the Responsible Official are:~~

- ~~(i) — In violation of constitutional provisions as applied;~~
- ~~(ii) — Outside the statutory authority or jurisdiction of the Port;~~
- ~~(iii) — A result of the Responsible Official engaging in unlawful procedure or decision-making process, or failing to follow a prescribed procedure; or~~
- ~~(iv) — Clearly erroneous in view of the public Policy of the Act (SEPA).~~

~~6.7.3 — Standard of Review – Hearing Examiner Appeals of FEIS Adequacy. The Hearing Examiner will apply the same standard of review set forth in Section 9.4.2 herein for. There shall be no administrative appeals of Port SEPA determinations, including appeals of threshold determinations; except that for any conditions or denials by the Port under RCW 43.21C.060. The Port eliminates such appeals of the adequacy of an FEIS, the Hearing Examiner will apply the "rule of reason" standard in lieu of the "clearly erroneous" standard set forth in Section 9.4.2(iv).~~

~~6.7.4 — Evidence – Burden of Proof. On appeal, the Appellant(s) will have the burden of proof, and the determination of the Responsible Official will be presumed prima facie correct and will be afforded substantial weight.~~

~~6.7.5 — Continuation of Hearing.~~

(i) ~~Cause.~~ A hearing may be continued by the Hearing Examiner for the purpose of obtaining specific pertinent information relating to the project which was previously unavailable at the time of the original hearing.

(ii) ~~Notification.~~ The Hearing Examiner will announce the time and place of a continued hearing at the time of the initial hearing or by written notice to all parties of record.

6.7.6 ~~Conduct of proceedings.~~ All hearings will be conducted in an orderly manner. The Hearing Examiner will have the authority to rule on all procedural matters, objections and motions, and will have power of subpoena.

6.8 ~~Hearing Examiner Final Decision.~~

~~Final Decision.~~ Within ten (10) business days of the conclusion of the hearing, unless further extension is otherwise agreed to by the parties, the Hearing Examiner will issue a written Decision that includes (1) an analysis of why the Hearing Examiner rejected or accepted the threshold determination or deemed the FEIS adequate or inadequate; pursuant to WAC 197-11-680(2) a synopsis of the testimony and arguments presented; and (3) findings of fact and conclusions of law. The Hearing Examiner will email and mail a copy of the Final Decision to all parties of record on the date it is issued, and will include a list of the parties of record, together with their mail and email addresses. The Port will also post all Hearing Examiner decisions on its website within two (2) business days of issuance.).

6.8.1 ~~Request for Clarification and/or Reconsideration of Hearing Examiner Decision.~~ Any party may submit either a request for clarification and/or a motion for reconsideration on the Hearing Examiner's Final Decision.

(i) ~~Request for Clarification.~~

(a) Any party believing that the Final Decision of the Hearing Examiner is ambiguous, vague, or internally inconsistent may request clarification of the decision by the Hearing Examiner by submitting a request for clarification to the Port Environmental Department together with any required filing fee as set forth in the Port of Olympia Proprietary Type User Charges for Port Goods and Services Fee Resolution then in effect. The request will set forth the specific provision requiring additional clarity. The request must be filed within five (5) calendar days of issuance of the Hearing Examiner's Final Decision as provided for in Section 9.5.1 herein. The original of the request for clarification will be filed with the Port Environmental Department. At the same time, copies will be served via mail and email on all parties of record to the appeal.

~~(b) The Port Environmental Department will forward the request to the Hearing Examiner. Upon receipt of such a request, the Hearing Examiner may take action as the Hearing Examiner deems appropriate under the circumstances. The Hearing Examiner will notify the parties of any action or denial of the request within five (5) calendar days of the filing of the request for clarification. A Hearing Examiner decision on a request for clarification is a Final Decision and is not subject to a motion for reconsideration or further clarification.~~

~~(c) A request for clarification will be based on the existing record and will not provide an opportunity for reconsideration of a decision nor will it allow for introduction of new evidence.~~

~~(d) The Hearing Examiner's response to the motion for clarification will constitute a Final Decision for purposes of judicial review. The filing of a request for clarification is not a prerequisite for seeking judicial review.~~

~~(ii) Motion for Reconsideration.~~

~~(a) After issuance of a Final Decision any party may file a motion for reconsideration on an appeal to the Hearing Examiner in accordance with subsection (b) of this Section. Such motion must be filed within ten (10) calendar days of issuance of the Hearing Examiner's Final Decision as provided for in Section 9.5.1 herein. The original of the motion for reconsideration will be filed with the Port Environmental Department. At the same time, copies will be served on all parties of record to the appeal via mail and email. Within five (5) calendar days of filing of the motion for reconsideration, any party of record may file a response without direction or request from the Hearing Examiner. The party seeking reconsideration may file a reply to any response within five (5) calendar days, also without direction or request from the Hearing Examiner. All motions for reconsideration, responses and replies will be served on all parties of record via mail and email.~~

~~(b) A motion for reconsideration will be based on at least one of the following grounds:~~

- ~~1. Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;~~
- ~~2. Irregularity in the hearing before the Hearing Examiner by which such party was prevented from having a fair hearing;~~
- ~~3. Clerical mistakes in the Final Decision and order; or~~

~~4. Discovery of material factual evidence which could not have been reasonably discovered through due diligence and produced prior to the close of the record by the party seeking reconsideration. To be considered by the Hearing Examiner, a motion for reconsideration that includes a request on these grounds must include a supporting declaration or affidavit from the party seeking reconsideration that both includes and/or attaches a description of the evidence and sets forth facts establishing the party's reasonable exercise of due diligence to obtain such evidence prior to the close of the record.~~

- ~~(c) Except as provided for herein, a motion for reconsideration will be based on the existing record and will not allow for introduction of new evidence.~~
- ~~(d) In response to a motion for reconsideration, the Hearing Examiner may deny the motion, modify his or her decision, or reopen the hearing. The Hearing Examiner will take action within fourteen (14) calendar days of the filing of the motion for reconsideration. A Hearing Examiner order on a motion for reconsideration is a Final Decision and is not subject to a request for clarification or further reconsideration.~~
- ~~(e) The Hearing Examiner's response to the motion for reconsideration will constitute a Final Decision for purposes of judicial review. Copies of the Final Decision will be served on each party or the party's attorney or other authorized representative of record. The filing of a motion for reconsideration is not a prerequisite for seeking judicial review.~~

~~6.9 — Appeal of Final Decisions.~~

- ~~6.9.1 — Judicial Appeal of Hearing Examiner's Final Decision. The Hearing Examiner's Final Decision will be appealable to the Thurston County Superior Court pursuant to RCW 43.21C.075. Any court action to set aside, enjoin, review or otherwise challenge the Hearing Examiner's decision will be filed in Thurston County Superior Court within twenty-one (21) calendar days of the latter of either: (1) the Hearing Examiner's Final Decision; or (2) the Final Decision on the underlying governmental action.~~
- ~~6.9.2 — Standing for Judicial Appeal. Only the parties to the Port's administrative appeal may appeal the Hearing Examiner's decision to Superior Court.~~
- ~~6.9.3 — Costs of Copying Administrative Record on Judicial Appeal. The costs of copying the Administrative Record for any judicial appeal will be borne equally by the Port and Appellant(s). Appellant(s)' portion of the costs will be paid to the Port at or prior to the date set by the Court for filing the record, and will be a condition precedent to perfecting the appeal. At the conclusion of the judicial appeal, if the Superior Court determines that Appellant(s) substantially prevailed on appeal, the costs paid by Appellant(s) will be refunded to the Appellant(s).~~

~~6.10 Refund Where Appellant(s) Substantially Prevails. If Appellant(s) substantially prevails in any administrative appeal provided for pursuant to this Resolution, any appeal fee paid will be refunded.~~

~~6.11~~

~~9.2 No Exhaustion of Administrative Remedies. Because there are no administrative appeals, a person is not required to request reconsideration or exhaust an administrative remedy before filing a judicial appeal under SEPA.~~

~~6.12~~
~~9.3 Informal Reconsideration. Any person may request, either orally or in writing, the Responsible Official to reconsider a SEPA determination during the applicable comment period. The Responsible Official may reconsider the determination and provide a written response. A request for reconsideration is not a formal appeal under RCW 43.21C.075 or WAC 197-11-680 and does not toll any applicable appeal or other deadline.~~

~~9.4 Judicial Review. Judicial review shall be brought in Thurston County Superior Court when that court has jurisdiction. When a statute or ordinance establishes a time limit for challenging the underlying governmental action, judicial review of accompanying SEPA determinations must be commenced within that same time period. When no such time limit applies — as will often be the case for nonproject actions of the Port, including adoption or amendment of plans, policies, and programs — the Responsible Official should evaluate whether to file a Notice of Action under RCW 43.21C.080 to establish a twenty-one-day judicial challenge period. The Port may also use any other procedure allowed by RCW 43.21C.075 or WAC 197-11-680. A request for informal reconsideration under Section 9.3 does not toll any applicable deadline. A judicial challenge does not stay the Port's action unless a court orders a stay.~~

~~9.5 Computation of Time. In computing any period of time related to public comment or appeals prescribed or allowed by this Resolution, the date of the act or event from which the designated period begins to run shall not be included. The last day of the designated period will be included, and will terminate at 5:00 p.m., unless, if the last day is a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, in which case the designated period will run until 5:00 p.m. on the next business day.~~

~~9.6 Service on the Port Environmental Department. Where this Resolution provides for submittal to or service of documents or the payment of fees to the Port Environmental Department, the, service will be effective if made by one of the following procedures shall apply methods:~~

- ~~(i) Email service or submittal shall be effective if submitted by Email to or to the Responsible Official at the email address of the then-current Director of Environmental Programs by 5:00 p.m. identified on the~~

- a ble ~~deadline~~; SEPA determination, decision, or notice, by 5:00 p.m. on
- p the applicable deadline.
- p
- l(ii) Personal ~~service or submittal shall be effective if made to the~~
- i ~~receptionist~~ delivery at the Port of Olympia's Olympia's Administrative
- c Offices, ~~606 Columbia Street NW, Suite 300, Olympia, Washington,~~
- a ~~98501~~ by 5:00 p.m. on the applicable deadline.

~~10.~~

10. Categorical Exemptions

- 10.1 Adoption of Exemptions. The Port adopts by reference all categorical exemptions in WAC 197-11-800 through -890, subject to WAC 197-11-305 and all applicable exceptions and limitations. The Port will also apply all applicable statutory exemptions in Chapter 43.21C RCW.
- 10.2 Flexible Thresholds. The Port adopts and shall apply any flexible threshold for categorical exemptions that may be adopted by the city or county in which the proposal is located.
- 10.3 Exempt Activities of the Port. Examples of Olympia adopts activities of the respective Port that are categorically exempt levels for minor new construction as allowed from threshold-determination and EIS requirements include, but are not limited to, the following:
 - (i) Adoption of the Port budget. The Port's annual budget is a financial plan and does not authorize a capital project. Major project actions must be separately and specifically authorized by Commission action. Budget adoption is categorically exempt under WAC 197-11-800(14)(c).
 - (ii) Planning and research activities that do not commit the Port to proceed with a proposal are categorically exempt as information collection and research under WAC 197-11-800(17).
 - (iii) The ~~1~~ adoption, approval, and promulgation of Port tariffs are categorically exempt under WAC 197-11-800(14)(i).
 - (iv) Leases or contracts that do not authorize a change in use and do not otherwise commit the Port to a nonexempt action are categorically exempt, subject to WAC 197-11-305 and WAC 197-11-070.
 - (v) Borrowing of funds, issuance of bonds, and related financing agreements and approvals are categorically exempt under WAC 197-11-800(14)(d). Environmental review, if required, must be completed before approval of construction or another nonexempt action.
 - (vi) Planning documents, studies, and similar activities that do not contain standards controlling use or modification of the environment, do not govern the

development of a series of connected actions, and do not constitute the adoption or amendment of a comprehensive land use plan or zoning ordinance. Such documents do not qualify as nonproject actions under WAC 197-11-774.

(ii)(vii) Administrative established by the cities of Olympia and Tumwater or any, fiscal, and personnel activities of the Port, including hiring, termination, and other jurisdiction wherein the Port activity is located, personnel actions; revenue-raising actions such as rates, charges, and fees; and other internal administrative actions that do not directly alter the physical environment are categorically exempt under WAC 197-11-800(14)(a) and (b).

10.4 Documentation. A decision that a proposal is categorically exempt need not be documented under WAC 197-11-305(2). The Port may note the exemption in its files, including by noting the exemption in a register or SEPA exemption form.

11. Emergencies

Actions ~~which~~that must be undertaken immediately ~~(, or within a time too short to allow full compliance with this Resolution),~~to avoid an imminent threat to public health ~~and~~or safety, ~~to~~prevent an imminent danger to public or private property, or ~~to~~prevent an imminent threat of ~~serious environmental~~serious environmental degradation, ~~will be~~exempt from the procedural requirements of this Resolution under WAC 197-11-880. The Responsible Official or designee will determine on a case-by-case basis ~~emergency actions that satisfy the general requirements of this Section~~whether an action qualifies.

12. Port SEPA Public Information Responsibilities

~~11.1—~~12.1 The Port will ~~maintain a DNS register.~~

~~11.2—~~ The Port will maintain an EIS register including for each proposal the location, a brief description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained.

~~The~~retain all SEPA documents ~~will be maintained at the information center for seven (7) years, will be available for public inspection, and in accordance with applicable records retention schedules and Chapter 42.56 RCW.~~ Copies will be provided upon request, and the Port may charge ~~for copies in the manner provided~~fees as permitted by Chapter 42.56 RCW (Public Records Act) ~~and for the cost of mailing, consistent with adopted Port fees for such service. It will be the responsibility of the Responsible Official to respond to requests received from other local, regional, State, or Federal agencies that request consultation and consent from a specific Port department/division.~~

~~The Port~~

12.2 The Port will submit environmental documents to the Department of Ecology for the statewide SEPA register as required by WAC 197-11-508.

12.3 The Responsible Official will maintain a list of ~~recommended federal, state, regional, local, and private agencies/agencies and~~ organizations and their addresses for use by the Port's responsible officials in making scoping requests and circulating draft EISs and circulation of environmental documents.

13. Critical Areas

~~The Port adopts the exclusions of categorical exemptions for projects within one (1) or more~~
The Port will respect "critical areas as adopted" and modified categorical exemption criteria adopted and displayed by the local government(s), governments, pursuant to the Growth Management Act, Chapter 36.70A RCW, and WAC 197-11-908, within which the jurisdiction where the Port activity is located and as those exclusions now exist or are adopted or amended in the future.

14. Lead Agency — Responsibilities

~~The Port, when acting in the capacity of as the lead agency, will be the only perform the responsibilities assigned to the lead agency responsible for complying with the threshold determination procedures of and Responsible Official under WAC 197-11-300 through 197-11-390 as adopted by reference, and the Responsible Official of the Port will be responsible for the supervision or actual preparation of draft EISs pursuant to and WAC 197-11-400 through 197-11-455460, as adopted by reference, including the circulation of such statements and the in Section 1. The Responsible Official will supervise or prepare required draft and final EISs, coordinate their circulation, and conduct of any public hearings required by this Resolution. The Responsible Official will also prepare or supervise preparation of any required FEIS pursuant to WAC 197-11-360 through 197-11-640 as adopted by reference the SEPA Rules or this Resolution.~~

15. Severability

If any provision of this Resolution or its application to any person or circumstance is held invalid, the remainder of this Resolution or the application of the provision to other persons or circumstances will not be affected.

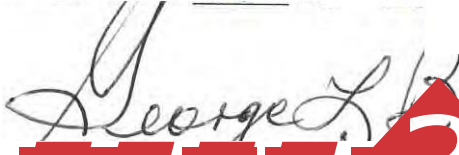
16. Repealer

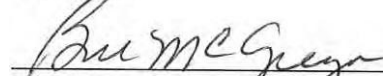
All prior Port Resolutions dealing with compliance to the State Environmental Policy Act and Chapter 197-11 WAC are hereby repealed by the adoption of this Resolution.

17. Effective Date

This Resolution will be effective for all SEPA ~~determinations~~determinations issued subsequent to Commission adoption of this Resolution.

ADOPTED by the ~~Port~~ of Olympia Commission on 2 ☐ on this _____ day of June, 2015, 2026.


George L.  



Bill McGregor, Vice-President

 ☐

Michelle Morrice, Secretary

~~Appendix A to Resolution 2015-12~~

~~SEPA and Climate Change~~

~~Climate is one element of the environment that SEPA requires agencies to evaluate prior to making a decision on a proposal. WAC 197-11-444(1)(b)(iii). In recognition of the evolving science addressing climate change and the identification of the Washington Department of Ecology as an agency with special expertise relating to that category of the environment under WAC 197-11-920(1)(a), the Port expressly adopts any then-current guidance, regulation, or other formally adopted policy by the Department of Ecology on greenhouse gases for its consideration of greenhouse gas emissions and the effect of climate change on proposed actions in SEPA environmental review, except that the Port will evaluate biogenic carbon dioxide emissions of proposed actions in the same manner as fossil carbon dioxide emissions of proposed actions are evaluated under the Department of Ecology guidance then in effect.~~

~~The Department of Ecology's current guidance (June 3, 2011), as of the date of adoption of this resolution, is attached, and is available at: (last visited October 16, 2014).~~

~~{Remainder of Page Intentionally Left Blank; Guidance Begins on Following Page}~~

~~Guidance for Ecology Including Greenhouse Gas Emissions in SEPA Reviews~~

~~The purpose of this document is to assist Ecology staff in determining which projects should be evaluated for greenhouse gas emissions and how to evaluate those emissions under SEPA when Ecology is the lead agency. This document does not attempt to provide a comprehensive overview of SEPA—see the [SEPA Handbook](#) and Ecology's [SEPA Intranet page](#) for more general information about SEPA. This internal guidance is intended to answer specific questions about including greenhouse gases in a SEPA analysis. It is not an adopted rule and SEPA decisions on whether a project has significant impacts must still be made on a case-by-case basis. It also is not intended to take the place of the procedure for considering greenhouse gas emissions already being used by the Nuclear Waste Program for projects at the Hanford site.~~

~~This document will be revised as agency staff recommend improvements and to reflect any relevant decisions by the Shorelines Hearing Board or other tribunals. Questions and suggested improvements should be sent to both Janice Adair at and Brenden McFarland at Gail Sandlin in the Air Quality Program is available to assist with the SEPA GHG reviews.~~

~~A. SEPA and climate change~~

~~SEPA requires state and local agencies to identify, disclose, and consider the probable environmental impacts that may result from their decisions. Greenhouse gas (GHG) emissions adversely affect the environment by contributing to global climate change. In turn, global climate change results in environmental impacts in Washington such as rising sea levels and changes in water supply. These changes can impact the built environment, and SEPA requires these types of impacts to be disclosed, too.~~

~~Thus, two different climate change impacts of a proposal should be considered.~~

- ~~1. New GHG emissions caused by the proposal~~
- ~~2. The effects of a changing climate on the proposal's new infrastructure as a result of:~~
 - ~~a. Increased sea levels~~
 - ~~b. Reduced snowpack~~
 - ~~c. Changes in water availability~~
 - ~~d. Changes in stream flow timing~~
 - ~~e. Increased forest fires~~
 - ~~f. More extreme precipitation events and flooding~~

~~8. Ecology's role in SEPA reviews~~

~~Ecology plays one of three roles in reviewing a SEPA analysis.~~

- ~~1. Lead agency~~
- ~~2. Agency with jurisdiction (where another governmental entity is the lead agency, but Ecology will be issuing permits for the project)~~

- ~~3. Other – no agency action on proposal (we are an agency with expertise, a commenting agency, or no review or comment)~~

~~This document is to be used when Ecology is either the lead agency or an agency with jurisdiction. It is not expected that Ecology will review SEPA analyses solely for GHG emissions.~~

~~C. Greenhouse gases in brief~~

~~Greenhouse gases include carbon dioxide (CO₂), methane (CH₄), Nitrous oxide (NO_x), nitrogen trifluoride (NF₃), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).~~

~~In a very simple sense, GHG emissions are air pollutants. However, there are distinctive features about these emissions that make them different from other air pollutants.~~

~~GHGs, and in particular carbon dioxide, are emitted by a vast number of sources, both natural and anthropogenic, in amounts ranging from trivial to massive. These emissions mix rapidly and uniformly in the atmosphere. They contribute equally to global concentrations no matter where they are emitted. A ton of CO₂ emitted from Seattle has the same effect on global concentrations as a ton emitted in Clarkston. Unlike many conventional air pollutants, local concentrations of GHGs are not greater near large sources than they are in areas far away.~~

~~Carbon dioxide equivalent (CO₂e) is the preferred measure for determining GHG emissions rates for any combination of these GHGs. Emissions of greenhouse gases are typically expressed in a common metric, so that their impacts can be directly compared, as some gases have a higher global warming potential (GWP) than others.~~

~~How will I know if a particular project will result in GHG emissions?~~

~~GHG emissions come from multiple sources in widely varying levels. The majority of GHG emissions are produced by the burning of fossil fuels. The most common sources are:~~

- ~~• Energy production and use, including transportation (e.g. vehicles)~~
- ~~• Industrial manufacturing processes, including¹:~~
 - ~~○ Cement~~
 - ~~○ Glass~~
 - ~~○ Steel~~
 - ~~○ Aluminum~~
 - ~~○ Lime~~
 - ~~○ Pulp and Paper~~
 - ~~○ Oil and gas refining~~
 - ~~○ Silicon production~~

¹ These industrial facilities are typically energy intensive and will include a number of boilers. The manufacturing process itself will also create greenhouse gas emissions.

- ~~Waste disposal and wastewater treatment~~
- ~~Electricity or natural gas distribution~~
- ~~Permanent deforestation~~
- ~~Cattle manure management~~

~~While nearly every project will have some level of GHG emissions, not every project will produce emissions to a level that warrants disclosure.~~

~~It is important to note that under current state law (RCW 70.235.020(3)), emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals are not considered a greenhouse gas.~~

~~D. Which emissions need to be disclosed?~~

~~"New" emissions that are expected to average 10,000 metric tons or more of carbon dioxide equivalent (CO₂e) per year and that are "proximately caused" by the proposal should be disclosed. We expect the majority of projects to be below this level of emissions.~~

~~10,000 metric tons is the equivalent of the emissions produced by 2,092 passenger cars in one year. Attachment 1 is a screening table that can be used by staff to determine if a proposal is likely to emit greater than 10,000 metric tons per year.~~

~~"New" emissions are any emissions that will result from the project that are additional ("above and beyond" current emission levels). For example, replacing an existing boiler with a more efficient boiler might result in no "new" emissions if the new boiler decreases emissions whereas an industrial development on land currently used for agriculture would likely result in some quantity of "new" emissions. A proposal that will improve or replace infrastructure but not add any new business or throughput would not be expected to result in "new" operational or transportation emissions. Relocating an operation could result in additional emissions, or might reduce emissions depending on the specifics of the relocation. Relocating a supply route from one location to another, such as between ports or distribution centers, may not result in new emissions.~~

~~"Proximate cause" means a "reasonably close causal relationship between the environmental effect and the alleged cause." It is the standard that the United States Supreme Court adopted under NEPA.² Although Washington courts have not ruled on this issue as it relates to SEPA, we have used the same standard in the state because it presents a reasonable approach to defining the scope of impacts that need to be considered. Proximate cause requires a showing that the proposal is the cause of the emissions in a direct sequence, unbroken by any superseding cause. The courts have further defined proximate cause as whether the action and the impacts (emissions) are "two links of [the same] chain." If the environmental impact is linked to the action, then it should be considered under SEPA.~~

² *Dept. of Transp. v. Public Citizen*, 541 U.S. 752, 754 (2004)

Generally, Ecology believes that only larger development projects such as new industrial facilities and electricity generation units will have emissions to a level that will necessitate their specific disclosure. For example, a proposal to redevelop a site into an industrial park would likely have emissions that would require disclosure. On the other hand, a building permit for a small business enterprise would not be expected to have emissions that necessitate disclosure even though the completed project will use energy and there may be traffic associated with the business.

~~E. How should GHG emissions be quantified?~~

When quantifying new emissions that are caused by the project, proponents should use accepted protocols and emissions factors such as those outlined in Attachment 2. We have also developed a simple tool that will be helpful in quickly estimating emissions from specific projects. It is available online: [SEPA GHG Calculation Tool](#).

~~F. What are the boundaries of the project for which emissions must be disclosed?~~

For all impacts, [WAC 197-11-060\(4\)\(b\)](#) states that "In assessing the significance of an impact, a lead agency shall not limit its consideration of a proposal's impacts only to those aspects within its jurisdiction, including local or state boundaries." If the emissions are proximately caused by the project, they should be disclosed regardless of their location.

The project proponent should carefully consider any transportation emissions associated with movement of products related to the operation of the project. At a minimum, the analysis should include the emissions that occur within Washington state, including the nautical three-mile boundary if transporting products by ship. For projects with ongoing operations that include transporting products from outside the state, such as a port, a more thorough and perhaps more defensible analysis would include the transportation emissions from the source location outside of Washington to the final destination *if either is known and the extent to which either is known*. Whether or not SEPA requires the transportation analysis to include these out-of-state transportation emissions is an unsettled question under SEPA case law.

Remember that this document does not supersede or otherwise replace the current SEPA handbook and provisions prohibiting piecemealing and other requirements on defining the scope of the project still apply.

~~G. What level of detail is needed for emissions disclosure?~~

For projects that are expected to annually produce an average estimate of at least 10,000 but less than 25,000 metric tons CO₂e, proponents should at least *qualitatively* disclose the GHG emissions caused by the project. A qualitative disclosure should include a general description of the project's expected source(s) of the emissions, as well as any proposed GHG mitigation measures incorporated or designed into the project.

Proponents of projects that are expected to produce an average of 25,000 or more metric tons CO₂e each year should include a *quantitative* disclosure of GHG emissions. The screening table included as Attachment 1 can be used by staff to estimate if a proposal is likely to require this quantitative analysis. The quantitative analysis should include GHG emissions from all phases of the project. Emissions from the operation of the completed

project should be disclosed separately from emissions associated with the project construction including site preparation and any demolition. This will allow the agency to better understand the difference between short term and long term emissions. In addition, the proponent should average the annual estimated operational emissions over the lifespan of the project. Remember that the SEPA rules require the official to consider mitigation measures which the proponent proposes to implement as part of the proposal, including any mitigation measures required by other existing environmental rules or laws.

The GHG analysis should include emissions in the following categories:^{3,4}

Scope 1 Emissions

- ~~Direct stationary combustion of fossil fuels once the project is complete.~~
- ~~Vehicle fleet emissions once the project is complete.~~
- ~~Loss of carbon storage from the permanent conversion of forested lands.~~
- ~~Methane emissions from new landfills, wastewater treatment plants, or manure management systems.~~

Scope 2 Emissions

- ~~Purchased electricity or steam consumed by the project.~~

Scope 3 Emissions

- ~~Heavy machinery emissions during site preparation, construction, or clean-up activities.~~
- ~~New on-going product transportation emissions that are caused by the project; as noted above in F, this will at a minimum include emissions that occur within Washington state and its three mile nautical boundary.~~
- ~~Vehicle trips generated by the project during construction and operation, including those of employees, customers, vendors, or residents.~~

~~H. How can the current SEPA checklist be used to disclose emissions and effects on the built environment?~~

~~The current SEPA environmental checklist (WAC 197-11-960) can be used to identify and disclose sources of GHG emissions as well as the impacts on the built environment expected as a result of global climate change.~~

~~Section B2 of the checklist requires the proponent to identify air emissions associated with the project during construction and when the project is completed, as well as any measures proposed to avoid, minimize, or mitigate those emissions. These questions can be used to help disclose GHG emissions.~~

~~The checklist includes other questions that may be useful in identifying other potential GHG emissions, such as the number of people residing or working in the completed project (under "Land and Shoreline Use"), vehicle~~

³25,000 metric tons is the greenhouse gas reporting threshold for the US Environmental Protection Agency. It is the equivalent of 4,545 average passenger cars or 60,749,347 kilowatt hours of electricity.

⁴GHG measurement tools group emissions into three categories. Scope 1 may also be referred to as direct emissions and Scopes 2 and 3 as indirect emissions. However, since "direct" and "indirect" are also used in SEPA and mean something different, we recommend refraining from using those terms to refer to emissions.

trips per day and other demands on transportation (under "Transportation"), and energy use (under "Energy and Natural Resources").

Projects with a long lifespan should consider their vulnerability to a changing climate. This is especially true for buildings and infrastructure along coastlines and in floodplains, as well as large water users. By 2050 sea level in Washington is projected to increase between 1 and 22 inches, depending on location and future emissions. Major storms and floods are also projected to increase in the future, increasing the flooding danger to projects located within existing flood plains. Climate change will also affect future water availability and should be considered for projects that will be large water users.

Section B.3 of the checklist concerning surface water could be used to disclose a project's vulnerability to climate change. Additional information of the effects of climate change can be found on Ecology's climate adaptation website.

J. When are emissions considered "significant"?

The SEPA rules include a process for determining when impacts are considered significant (WAC 197-11-330). Under this rule, the responsible official is tasked with taking into account whether or not the proposal conflicts with local, state or federal rules or laws. The official is also directed to consider mitigation measures which the proponent proposes to implement as part of the proposal, including any mitigation measures required by other existing environmental rules or laws.

The SEPA rules also state, in defining significance, that it involves context and intensity and does not lend itself to a formula or quantifiable test (WAC 197-11-794). However, we believe that we can identify what level of greenhouse gas emissions would not be significant, especially taking into account the state's greenhouse gas reduction targets and other legal requirements to reduce or mitigate emissions.

RCW 70.235.020 establishes greenhouse gas reduction targets for Washington. By 2020, we are to return to 1990 levels. While there are also reduction targets for 2035 and 2050, at this point we are concentrating on meeting the 2020 targets. Based on Ecology's most recent Comprehensive Plan to meet those targets, the state must reduce its emissions by 11%⁵ in order to return to 1990 levels by 2020⁶.

There are also some legal requirements to reduce or mitigate GHG emissions. These include:

- Facilities subject to Prevention of Significant Deterioration (PSD) requirements under the Clean Air Act that have been determined to meet "Best Available Control Technology" for GHGs.
- New fossil-fueled thermal electric generating facilities required to offset a portion of their CO₂ emissions under RCW 80.70.
- Baseload power generation facilities subject to the state Emissions Performance Standard (RCW 80.80).

⁵ The agency is required to update the emissions inventory every even-numbered year, and the percentage reduction needed to reach the statutory targets will be updated accordingly.

⁶ Ecology is still considering how and when to use the percentage reduction required to meet the 2035 statutory target.

A proposal will be presumed to be not significant for greenhouse gas emissions and thus no further mitigation for greenhouse gas emissions will be necessary if it is:

- ~~expected to result in fewer than 25,000 metric tons a year;~~
- ~~subject to a legal requirement to reduce or mitigate GHG emissions; or~~
- ~~expected to result in emissions of 25,000 metric tons or more a year and has incorporated mitigation measures to reduce its emissions by approximately 11% below what its emissions would have been without those mitigation measures.~~

~~These proposals should still disclose their emissions as outlined in Section D of this document and at the appropriate level of detail as outlined in Section G.~~

~~For projects that have incorporated mitigation measures to reduce emissions by 11%, the project proponent should use a reasonable amount of effort to demonstrate that those measures will get as close to the 11% reduction as possible, however it is not necessary to mitigate emissions by exactly 11%.~~

~~By identifying the level of emissions that would be presumed to be not significant, the agency is not taking the position that emissions exceeding those levels would be presumed to be significant. It is unlikely that a proposal would be considered significant based solely on its greenhouse gas emissions. We would expect a project with high GHG emissions to also have other environmental impacts.⁷~~

~~It is important to remember that a project may still be found to be significant because of other impacts even if the greenhouse gas emissions are not significant.~~

~~K. How can a project proponent mitigate emissions?~~

~~For proponents who wish to mitigate emissions, there are many options. A number of these are outlined in Attachment 2.~~

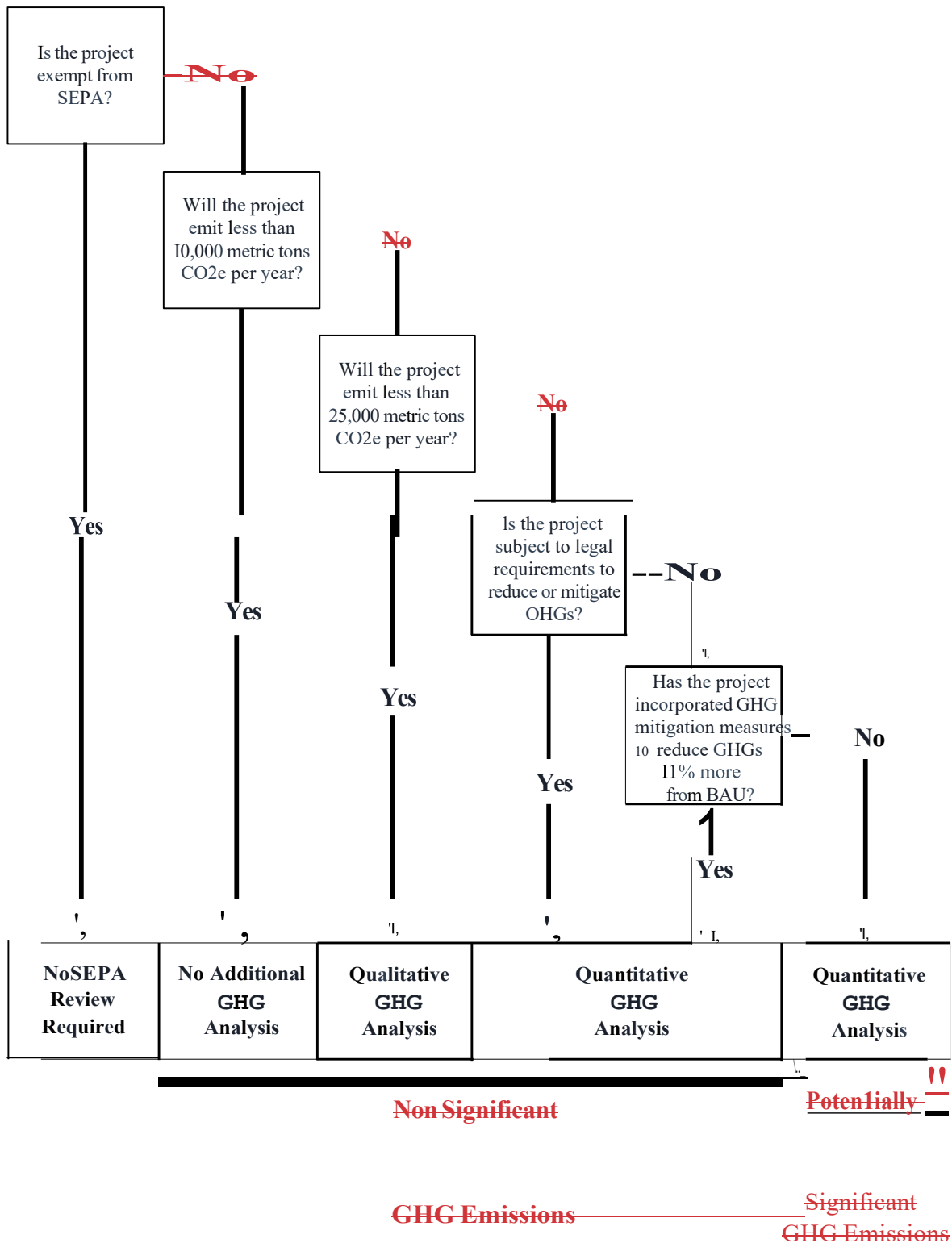
~~If a proponent chooses to mitigate GHG emissions by including energy efficiency or other design features that will reduce GHG emissions, the proponent should quantify and disclose the expected emissions from the project both with and without those design features.~~

~~Mitigation may occur at a different location or at a different source than the emissions associated with the project. Greenhouse gases mix rapidly in the atmosphere and persist for a number of years, therefore a reduction in any location will reduce the overall atmospheric burden. Some ideas for off-site mitigation that have been suggested include energy efficiency improvements in schools, low income housing, or other public or community buildings, as well as projects that will capture methane from landfills or manure management systems. These are just examples.~~

⁷~~Some electronic manufacturing, such as photovoltaic solar cell and film silicon modules, may use fluorinated gases with a very high global warming effect. These projects could have extremely high levels of GHG emissions without other environmental impacts.~~

~~If a project proponent proposes to mitigate emissions by purchasing a GHG offset project from a third party, you should contact Ecology's Climate Policy Group for assistance. These types of projects can be controversial and it is important to ascertain that the offset project meets the necessary criteria.~~

Ecology SEPA and Greenhouse Gas Emissions Significance Flow Chart



Attachment 1: GHG Screening Table

The following table can be used to screen projects in order to determine the level of additional greenhouse gas emissions analysis that should be done by the project proponent. For each category the table estimates the size of a project that would be expected to produce emissions at annual levels of 10,000 and 25,000 metric tons during operation. Projects that are near the threshold may require additional project-specific analysis to determine if emissions may trigger GHG analysis.

For development projects, emissions are included from direct combustion and induced transportation emissions. For development projects the table uses national and regional estimate of energy use compiled by the U.S. Energy Information Administration. Estimated emissions from development projects also include induced transportation emissions based on the Fehr and Peers VMT spreadsheet with default values for Puget Sound.

	10,000 MT CO ₂ e Per Year	25,000 MT CO ₂ e Per Year	Data Unit
Energy Usage			
Gasoline	1,136,708	2,841,769	Gallons
Diesel	983,367	2,458,418	Gallons
Natural Gas	1,881,255	4,703,138	Therms
Electricity Consumption	24,300	60,749	MWh
Commercial or Industrial Boilers			
Natural Gas Fired	22	54	Heat Input (MMBtu/hr)
Fuel Oil Fired	15	38	Heat Input (MMBtu/hr)
Coal Fired	12	30	Heat Input (MM Btu/hr)
Biomass Fired (carbon neutral CO ₂)	578	1,446	Heat Input (MM Btu/hr)
Residential Development (Includes Transportation and Operation)			
Single Family	409	1,023	Dwelling Units
Multi-Family	575	1,438	Dwelling Units
High-Rise Condo	854	2,135	Dwelling Units
Commercial Development (Includes Transportation and Operation)			
General Retail	185	463	Thousand Square Feet
Supermarket	75	187	Thousand Square Feet
Fast-Food Restaurant	18	45	Thousand Square Feet
Office Space	399	998	Thousand Square Feet
Medical Office	160	399	Thousand Square Feet
Hotel	565	1,411	Hotel Rooms
Movie Theatre	30	75	Movie Screens
Educational Facility Development			
Grade School	5,050	12,624	Number of Students
High School	3,662	9,154	Number of Students
College	2,644	6,610	Number of Students
Industrial Development			
Warehouse/Distribution Center	119	298	Thousand Square Feet
Conversion of Forested Lands			
Deforestation (Western WA)	83	207	Acres
Deforestation (Eastern WA)	213	532	Acres
Waste and Wastewater Treatment			
Landfill	74,830	187,075	Tons MSW Disposed per Year
Domestic Wastewater Treatment Plant	26	65	1000 People Served
Dairy Cattle Manure Management (Open Lagoon)	2,046	5,115	Head Cattle
Beef Cattle Manure Management (Open Lagoon)	6,063	15,158	Head Cattle

Attachment 2: Sources of GHG Emissions Mitigation Options

The following table lists various sources of GHG emissions as well as potential quantification methodologies and mitigation options for each source. These emissions sources can be evaluated quantitatively or qualitatively to address greenhouse gas reduction strategies. Not all categories must be quantified or mitigated.

GHG Emission Sources	Definition and Examples	Emissions Scope	Quantification Methodologies, Tools, and Emission Factors* (see last page for links to all of these tools)	Potential Mitigation Options†
On-Road Mobile Sources	Mobile sources owned by the project proponent operating both within the proponent's facility and off-site.	Scope 1	• TCR • WRI/WBCSD • Seattle Climate Partnership • Ecology • EIA • URBEMIS • Ca/EEMod	• Highly efficient vehicles • Alternative fuel vehicles • Site location • Video conferencing • Anti-idling technology
Non-Road Mobile Sources	Non-road mobile sources owned by the project proponent used for construction, maintenance, and facility operation (e.g. heavy machinery, maintenance equipment, trains, and boats)	Scope 1	• TCR • WRI/WBCSD • Seattle Climate Partnership • Ecology • URBEMIS • Ca/EEMod	• Highly efficient vehicles • Alternative fuel vehicles • Site location • Anti-idling technology
Stationary Combustion	On-site combustion of fossil fuels	Scope 1	• TCR • WRI/WBCSD • EPA Reporting Rule • EIA • URBEMIS	• Building design and operation • Energy efficiencies

GHG Emission Sources	Definition and Examples	Emissions Scope	Quantification Methodologies, Tools, and Emission Factors* (see last page for links to all of these tools)	Potential Mitigation Options†
Industrial Processes	Non-combustion emissions resulting from certain industrial processes such as oil refining, cement production, aluminum production, and steel manufacturing	Scope 1	• TCR • EPA Reporting Rule • WRI/WBCSD • IPCC	• Facility operation • Methane capture and use or destruction • High global warming potential gas destruction
Fugitive Emissions	Non-combustion emissions from owned resources (e.g. landfills, natural gas transmission, electricity transmission, and wastewater treatment plants)	Scope 1	• TCR • EPA Reporting Rule • WRI/WBCSD • IPCC • CCME	• Facility operation • Methane capture and use or destruction • High global warming potential gas destruction
Agricultural Emissions	Non-combustion emissions from agriculture (e.g. manure management, fertilizer application, enteric fermentation, and soil preparation)	Scope 1	• WRI/WBCSD • IPCC • DOE 1605b • CAR • CCME	• Methane capture and use or destruction • Waste reduction • Organic or low input agriculture
Land Use Change	Emissions from lost carbon storage from the permanent conversion of forested land to other uses	Scope 1	• DOE 1605b • U.S Forest Service • WRI/WBCSD • IPCC • CAR	• Site design and location • Low impact development

GHG Emission Sources	Definition and Examples	Emissions Scope	Quantification Methodologies, Tools, and Emission Factors* (see last page for links to all of these tools)	Potential Mitigation Options†
Purchased Electricity and Steam	Off-site emissions produced to generate purchased electricity or steam	Scope 2	• TCR • EPA eGRID • Seattle Climate Partnership • EIA • URBEMIS • Ca/EEMod	• Building design and operation • Energy efficiencies
Road and Non-Road Mobile Sources	Combustion emissions from leased or contractor on-road and non-road mobile sources used as part of construction, maintenance, and facility operation (e.g. heavy machinery, maintenance equipment, trains, and boats)	Scope 3	• TCR • WRI/WBCSD • Ecology • URBEMIS • Ca/EEMod	• Highly efficient vehicles • Alternative fuel vehicles • Site Location • Anti-idling technology
Generated Vehicle Trips	Combustion emissions from vehicle trips generated by the project during construction and operation including those of employees, customers, vendors, and residents.	Scope 3	• TCR • CTR • Seattle Climate Partnership • URBEMIS • Fehr & Peers • Ca/EEMod	• Highly energy efficient or alternative fueled vehicles and infrastructure • Site location • Public transit infrastructure and incentives • Bike/ped accessibility • Anti-idling technology

GHG Emission Sources	Definition and Examples	Emissions Scope	Quantification Methodologies, Tools, and Emission Factors* (see last page for links to all of these tools)	Potential Mitigation Options†
Water Use and Wastewater Disposal	Combustion and fugitive emissions created to provide water and dispose of wastewater (e.g. pumping energy and POTW fugitive methane)	Scope 3	• TCR • WRI/WBCSD • IPCC	• Low impact development • Site location • Methane capture and use or destruction • Water conservation/efficiencies (fixtures, appliances) • Water reuse
Supply Chain Transportation Emissions	Supply chain transportation emissions generated to transport feedstocks to the completed project, finished products away from the project, and any additional new shipping emissions that are caused by the project.	Scope 3	• TCR • WRI/WBCSD • <i>URBEM/5</i> • <i>Ca/EEMod</i>	• Highly efficient or alternative fueled vehicles and infrastructure • Site location • Anti-idling technology

*The following list is illustrative showing some good sources for quantification tools, protocols, and emissions factors that can be used to quantitatively assess emissions from each of these sources. It is not meant to be exhaustive. We are not advocating the use of these methodologies for determining acceptable error rates for assessing emissions. Tools in italics are simple models that can be used to estimate the magnitude of future emissions.

†These are general examples of mitigation options for various emissions sources. This list is not meant to be comprehensive.

Quantification Methodologies, Tools, and Emissions Factors

- ~~Athena Institute EcoCalculator (Athena)–~~
- ~~CalEEMod–~~
- ~~CCME–~~
- ~~Department of Commerce GHG Emissions Planning Tools (Commerce)–~~
- ~~Ecology Mobile Source Tool (Ecology)–~~
- ~~Energy Information Agency End Use Consumption Data (EIA)–~~
- ~~EPA Reporting Rule–~~
- ~~EPA WARM Model–~~
- ~~Fehr & Peers VMT spreadsheets–~~
- ~~IPCC Emissions Factor Database (IPCC)–~~
- ~~National Renewable Energy Laboratory (NREL) Life cycle Inventory Database–~~
- ~~Seattle Climate Partnership–~~
- ~~The Climate Action Reserve (CAR)–~~
- ~~The Climate Registry (TCR)–~~
- ~~U.S Department of Energy 1605b (DOE 1605b)–~~
- ~~U.S Forest Service Carbon Lookup Tables (U.S Forest Service)–~~
- ~~URBEMIS–~~
- ~~World Resources Institute/World Business Council for Sustainable Development (WRI/WBCSD)–~~
- ~~WSDOT Commute Trip Reduction Program (CTR)–~~

President

Vice-President/Commissioner

Secretary/Commissioner

Commissioner

Commissioner

PORT OF OLYMPIA COMMISSION
Resolution 2026-XX

A Resolution of the Commission of the Port of Olympia, Thurston County, Washington, revising and adopting the Port’s policies and procedures under the State Environmental Policy Act and implementing rules, Chapter 43.21C RCW and Chapter 197-11 WAC, and superseding the Port’s current State Environmental Policy Act policies and procedures found in Resolution 2015-12.

WHEREAS, the State Environmental Policy Act (“SEPA”) sets forth an environmental policy for Washington state and requires that the environmental impacts of proposals be analyzed and, where appropriate, mitigated; and

WHEREAS, SEPA applies to state agencies, counties, and municipal and public corporations, including port districts; and

WHEREAS, RCW 43.21C.110 directs the Department of Ecology (“Ecology”) to adopt and amend uniform statewide rules for implementing SEPA, and Ecology has promulgated Chapter 197-11 Washington Administrative Code (WAC) (“SEPA Rules”); and

WHEREAS, RCW 43.21C.120 directs public and municipal corporations, including port districts, to adopt rules, ordinances, or resolutions integrating SEPA policies and procedures into programs under their jurisdiction, consistent with rules adopted under RCW 43.21C.110; and

WHEREAS, the Port has provided public notice and opportunity for public comment on this Resolution;

NOW, THEREFORE, BE IT RESOLVED, that the Port Commission of the Port of Olympia, Washington hereby adopts the Port SEPA Environmental Administrative policies and procedures contained herein.

1. Adoption of SEPA Rules

The Port of Olympia hereby adopts by reference WAC 197-11-010 through 197-11-990, except as specifically provided in this Resolution. This Resolution constitutes the Port’s agency SEPA procedures under WAC 197-11-902, 197-11-904, and 197-11-906. Where a permissive, optional, or guidance provision adopted by reference conflicts with a specific Port procedure in this Resolution, the Port procedure controls to the extent permitted by WAC 197-11-906. The Responsible Official will determine whether to apply optional state SEPA provisions.

2. Authority

The Port adopts this Resolution pursuant to RCW 43.21C.120 and WAC 197-11-902, 197-11-904, and 197-11-906, and establishes these regulations to implement Chapter 43.21C RCW and Chapter 197-11 WAC.

3. Purpose, Applicability, and Intent

- 3.1 The purpose of this Resolution is to provide Port policies and regulations implementing Chapter 43.21C RCW, the State Environmental Policy Act, which are consistent with the SEPA Rules.
- 3.2 This Resolution is applicable to all Port of Olympia departments/divisions, committees, and the Port Commission.
- 3.3 The intent of this Resolution is to govern compliance by all Port departments/divisions, committees, and the Port Commission with the procedural and substantive requirements of Chapter 43.21C RCW, the State Environmental Policy Act.
- 3.4 This Resolution is not intended to govern compliance by the Port with respect to the National Environmental Policy Act of 1969 (“NEPA”). Situations in which the Port is required by federal law or regulations to perform some element of compliance with NEPA will be governed by the applicable federal statutes and regulations and not by this Resolution.

4. Substantive Environmental Policies

The substantive environmental policies of the Port of Olympia are the policies set forth in the following documents and statutes: the Port’s Comprehensive Scheme of Harbor Improvements, as it is now identified and as it may be renamed or amended in the future, including all of its elements; Port of Olympia Environmental Policies; and Chapter 43.21C RCW. Port of Olympia Environmental Policies are available upon request from the Port of Olympia and may also be posted on the Port’s website.

5. Additional Definitions

In addition to those definitions contained within WAC 197-11-700, the following terms will have the following meanings, unless the context indicates otherwise:

- 5.1 “Department” means any division or organizational unit of the Port.
- 5.2 “SEPA Rules” means WAC Chapter 197-11 adopted by the Department of Ecology, as it now exists and may be hereafter amended.
- 5.3 “Responsible Official” means the Port’s Executive Director or designee. The Responsible Official’s duties may be delegated to appropriate staff, but the Responsible Official will approve and is responsible for all Determinations of Nonsignificance (“DNS”), Mitigated Determinations of Nonsignificance (“MDNS”), Determinations of Significance (“DS”), and the adequacy of any Environmental Impact Statement (“EIS”).

- 5.4 “Port of Olympia Environmental Policies” means those environmental policies approved by the Port Commission.

6. Timing of the SEPA Process

- 6.1 The Port will integrate SEPA review with Port activities at the earliest practicable time. The timing and content of environmental review will follow WAC 197-11-055 and WAC 197-11-060, as adopted by reference in Section 1.
- 6.2 The Responsible Official will prepare any required threshold determination or Environmental Impact Statement when the principal features of a proposal and its probable environmental impacts can reasonably be identified, consistent with WAC 197-11-055.

7. Public Notice

- 7.1 Public Notice Methods. When public notice is required under this Resolution or the SEPA Rules, the Responsible Official will use one or more of the following methods to inform the public that an environmental document is being prepared or is available:

- (i) Publishing notice in a newspaper of general circulation within the area in which the proposal is located;
- (ii) Posting notice on the Port of Olympia website;
- (iii) Sending notice via email to the Port of Olympia’s SEPA mailing list and to persons who have requested notification of Port activities.

The Responsible Official will select the method or methods reasonably calculated to inform the public under the circumstances, consistent with WAC 197-11-510.

- 7.2 Notice and Distribution for DNS and MDNS Determinations.

- 7.2.1 When a DNS or MDNS is issued under WAC 197-11-340(2), the Responsible Official will provide public notice using one or more of the methods in Section 7.1.
- 7.2.2 In addition to public notice, when a DNS or MDNS is issued under WAC 197-11-340(2), the Responsible Official will send the determination and the environmental checklist directly to the Department of Ecology, agencies with jurisdiction, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, as required by WAC 197-11-340(2)(b).

- 7.2.3 The date of issuance for a DNS or MDNS is the date the determination is sent to the Department of Ecology and agencies with jurisdiction and is made publicly available, as provided in WAC 197-11-340(2)(d).
- 7.3 Notice and Distribution for Determinations of Significance and Environmental Impact Statements.
- 7.3.1 When a determination of significance (DS) is issued, the Responsible Official will provide public notice using one or more of the methods in Section 7.1 and will circulate the DS to the applicant, agencies with jurisdiction and expertise, affected tribes, and to the public, as required by WAC 197-11-360(3).
- 7.3.2 The Responsible Official will circulate draft and final EISs to those agencies and persons required by WAC 197-11-455 and WAC 197-11-460. Public notice of the availability of draft and final EISs will be provided using one or more of the methods in Section 7.1.
- 7.3.3 Parties who submit comments on a project's environmental determination or draft EIS will receive notice of the availability of any subsequent draft or final EIS for that project.
- 7.4 Notice of Judicial Review. Notice of judicial review will be provided as set forth in Section 9 of this Resolution.

8. Public Comments

- 8.1 Public comments on a DNS or MDNS for which public notice and comment are required under WAC 197-11-340(2) must be submitted within fourteen (14) calendar days from the date the determination is issued. Comments may be submitted via email to the email address identified on the applicable SEPA determination, decision, or notice, and may also be submitted to the Responsible Official by any written method.
- 8.2 The Responsible Official will consider all timely written comments received on a DNS or MDNS issued under WAC 197-11-340(2) and will reconsider the determination in accordance with WAC 197-11-340(2)(f). The Responsible Official may respond to comments in writing, either individually or cumulatively, within a reasonable time after the close of the public comment period.
- 8.3 Public comments and any written responses by the Responsible Official will be part of the Port's SEPA administrative record and will be available for public inspection in accordance with Chapter 42.56 RCW. The Port may post comments and responses on the Port's website and may notify commenters of the availability of the Port's response by email or other reasonable method. The Port's issuance of a response to comments will not restart the public comment or judicial challenge period pursuant to WAC 197-11-706.

- 8.4 If the Responsible Official determines that an EIS is required, public comment and responses to comment on EIS scoping and Draft EIS (“DEIS”) documents will be prepared and submitted pursuant to Chapter 197-11 WAC.

9. Appeals

- 9.1 No Administrative Appeals. There shall be no administrative appeals of Port SEPA determinations, including appeals of any conditions or denials by the Port under RCW 43.21C.060. The Port eliminates such appeals pursuant to WAC 197-11-680(2).
- 9.2 No Exhaustion of Administrative Remedies. Because there are no administrative appeals, a person is not required to request reconsideration or exhaust an administrative remedy before filing a judicial appeal under SEPA.
- 9.3 Informal Reconsideration. Any person may request, either orally or in writing, the Responsible Official to reconsider a SEPA determination during the applicable comment period. The Responsible Official may reconsider the determination and provide a written response. A request for reconsideration is not a formal appeal under RCW 43.21C.075 or WAC 197-11-680 and does not toll any applicable appeal or other deadline.
- 9.4 Judicial Review. Judicial review shall be brought in Thurston County Superior Court when that court has jurisdiction. When a statute or ordinance establishes a time limit for challenging the underlying governmental action, judicial review of accompanying SEPA determinations must be commenced within that same time period. When no such time limit applies — as will often be the case for nonproject actions of the Port, including adoption or amendment of plans, policies, and programs — the Responsible Official should evaluate whether to file a Notice of Action under RCW 43.21C.080 to establish a twenty-one-day judicial challenge period. The Port may also use any other procedure allowed by RCW 43.21C.075 or WAC 197-11-680. A request for informal reconsideration under Section 9.3 does not toll any applicable deadline. A judicial challenge does not stay the Port's action unless a court orders a stay.
- 9.5 Computation of Time. In computing any period of time related to public comment or allowed by this Resolution, the date of the act or event from which the designated period begins to run shall not be included. The last day of the designated period will be included and will terminate at 5:00 p.m.; if the last day is a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, the designated period will run until 5:00 p.m. on the next business day.
- 9.6 Service on the Port. Where this Resolution provides for submittal of documents or payment of fees to the Port, service will be effective if made by one of the following methods:

- (i) Email to the Responsible Official at the email address identified on the applicable SEPA determination, decision, or notice, by 5:00 p.m. on the applicable deadline.
- (ii) Personal delivery at the Port of Olympia's Administrative Offices, by 5:00 p.m. on the applicable deadline.

10. Categorical Exemptions

- 10.1 Adoption of Exemptions. The Port adopts by reference all categorical exemptions in WAC 197-11-800 through -890, subject to WAC 197-11-305 and all applicable exceptions and limitations. The Port will also apply all applicable statutory exemptions in Chapter 43.21C RCW.
- 10.2 Flexible Thresholds. The Port adopts and shall apply any flexible threshold for categorical exemptions that may be adopted by the city or county in which the proposal is located.
- 10.3 Exempt Activities of the Port. Examples of activities of the Port that are categorically exempt from threshold-determination and EIS requirements include, but are not limited to, the following:
 - (i) Adoption of the Port budget. The Port's annual budget is a financial plan and does not authorize a capital project. Major project actions must be separately and specifically authorized by Commission action. Budget adoption is categorically exempt under WAC 197-11-800(14)(c).
 - (ii) Planning and research activities that do not commit the Port to proceed with a proposal are categorically exempt as information collection and research under WAC 197-11-800(17).
 - (iii) The adoption, approval, and promulgation of Port tariffs are categorically exempt under WAC 197-11-800(14)(i).
 - (iv) Leases or contracts that do not authorize a change in use and do not otherwise commit the Port to a nonexempt action are categorically exempt, subject to WAC 197-11-305 and WAC 197-11-070.
 - (v) Borrowing of funds, issuance of bonds, and related financing agreements and approvals are categorically exempt under WAC 197-11-800(14)(d). Environmental review, if required, must be completed before approval of construction or another nonexempt action.
 - (vi) Planning documents, studies, and similar activities that do not contain standards controlling use or modification of the environment, do not govern the development of a series of connected actions, and do not constitute the adoption

or amendment of a comprehensive land use plan or zoning ordinance. Such documents do not qualify as nonproject actions under WAC 197-11-774.

- (vii) Administrative, fiscal, and personnel activities of the Port, including hiring, termination, and other personnel actions; revenue-raising actions such as rates, charges, and fees; and other internal administrative actions that do not directly alter the physical environment are categorically exempt under WAC 197-11-800(14)(a) and (b).

- 10.4 Documentation. A decision that a proposal is categorically exempt need not be documented under WAC 197-11-305(2). The Port may note the exemption in its files, including by noting the exemption in a register or SEPA exemption form.

11. Emergencies

Actions that must be undertaken immediately, or within a time too short to allow full compliance with this Resolution, to avoid an imminent threat to public health or safety, prevent an imminent danger to public or private property, or prevent an imminent threat of serious environmental degradation, are exempt under WAC 197-11-880. The Responsible Official or designee will determine on a case-by-case basis whether an action qualifies.

12. Port SEPA Public Information Responsibilities

- 12.1 The Port will retain all SEPA documents in accordance with applicable records retention schedules and Chapter 42.56 RCW. Copies will be provided upon request, and the Port may charge fees as permitted by Chapter 42.56 RCW.
- 12.2 The Port will submit environmental documents to the Department of Ecology for the statewide SEPA register as required by WAC 197-11-508.
- 12.3 The Responsible Official will maintain a list of agencies and organizations for use in scoping and circulation of environmental documents.

13. Critical Areas

The Port will respect “critical areas” and modified categorical exemption criteria adopted and displayed by local governments, pursuant to the Growth Management Act, Chapter 36.70A RCW, and WAC 197-11-908, within the jurisdiction where the Port activity is located.

14. Lead Agency – Responsibilities

The Port, when acting as the lead agency, will perform the responsibilities assigned to the lead agency and Responsible Official under WAC 197-11-300 through 197-11-390 and WAC 197-11-400 through 197-11-460, as adopted by reference in Section 1. The Responsible Official will supervise or prepare required draft and final EISs, coordinate their circulation, and conduct any public hearings required by the SEPA Rules or this Resolution.

15. Severability

If any provision of this Resolution or its application to any person or circumstance is held invalid, the remainder of this Resolution or the application of the provision to other persons or circumstances will not be affected.

16. Repealer

All prior Port Resolutions dealing with compliance to the State Environmental Policy Act and Chapter 197-11 WAC are hereby repealed by the adoption of this Resolution.

17. Effective Date

This Resolution will be effective for all SEPA determinations issued subsequent to Commission adoption of this Resolution.

ADOPTED by the Port of Olympia Commission on this _____ day of _____, 2026.

President

Vice-President/Commissioner

Secretary/Commissioner

Commissioner

Commissioner
