

TO: City Council
FROM: Karen Kirkpatrick, City Attorney
DATE: May 2, 2023
SUBJECT: Common Interest/Joint Defense Agreement with Olympia

1) Recommended Action:

Approve and authorize the City Attorney to sign the Common Interest/Joint Defense Agreement with Olympia.

2) Background:

The City of Tumwater and City of Olympia entered into an interlocal agreement (ILA) for the planning and potential formation of a Regional Fire Authority (RFA) on May 19, 2021. The ILA was amended on December 7, 2022, and remains in effect through October 1, 2023.

On December 6, 2022, the Cities adopted a resolution (Tumwater Resolution R2022-014; Olympia Resolution M-2400) to form a regional fire authority and to submit a plan for the same to the voters for approval on the April 25, 2023, ballot.

In March 2023, the Cities prepared an informational mailer concerning the proposal to form the RFA, which was mailed to all box holders within each city.

The Public Disclosure Commission (PDC) notified Olympia that it had received two citizen complaints alleging violations of RCW 42.17A.555 against Officials of the City of Olympia and the City of Tumwater concerning the mailer.

Both Cities wish to avoid duplicative defense efforts, minimize defense costs, and promote cooperation, and further wish to avoid any suggestion or claim that they have waived any privileges by doing so. The Cities have engaged the law firm of Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. to address the allegations in the PDC complaints. The Cities desire to have the law firm defend the allegations on behalf of both Olympia and Tumwater. Entering into a joint defense agreement will allow the Cities to share privileged or confidential information in defense of the PDC Complaints.

3) Policy Support:

Entering into this Common Interest/Joint Defense Agreement will allow us to continue to provide and sustain quality public safety services and allow us to complete the RFA planning work as outlined in the 2023/2024 Strategic Priorities and Goals.

4) Alternatives:

☐ Not authorize the signing of the Common Interest/Joint Defense Agreement.

5) Fiscal Notes:

Legal costs with Law, Lyman, Daniel, Kamerrer & Bogdanovich will be divided equally with the City of Olympia.

6) Attachments:

A. Common Interest/Joint Defense Agreement