

TO: City Council  
FROM: Brad Medrud, Planning Manager  
DATE: February 20, 2024  
SUBJECT: Interlocal Agreement with the Port of Olympia for the Bush Prairie Habitat Conservation Plan (HCP) Amendment No. 3

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1) Recommended Action:

Authorize the Mayor to sign the amended Interlocal Agreement between the City of Tumwater and the Port of Olympia for the Bush Prairie Habitat Conservation Plan (HCP) Amendment No. 3.

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2) Background:

The streaked horned lark, the Olympia pocket gopher, and the Oregon spotted frog were listed for protection under the federal Endangered Species Act (ESA) in 2013, 2014, and 2016, respectively. The Oregon vesper sparrow is not federally listed under the ESA yet, but it is anticipated to be listed in the future. All four species occur within the City.

Under the ESA, the U.S. Fish and Wildlife Service (USFWS) may issue an incidental take permit to private and public landowners to allow for limited “take” of these species. One of the requirements for an incidental take permit to be issued is that USFWS approve a habitat conservation plan.

Working together with the Port of Olympia, a large group of stakeholders, and consultants, the City is preparing the Bush Prairie HCP to identify appropriate mitigation for impacts to the three endangered prairie species, as well as the Oregon spotted frog. The HCP will allow City and Port operations and maintenance, as well as public and private development to occur in some areas frequented by endangered species, in exchange for the development of contiguous mitigation sites that offset any impacts.

The goal of the HCP is to allow responsible growth to occur in the City, as required under the state Growth Management Act, while providing superior species protection over what the ad-hoc, case-by-case federal permitting approach currently provides. It is the intent of the HCP to cover all development actions by private and public landowners that require municipal approvals.

The City and Port approved an Interlocal Agreement in 2016 to prepare the Bush Prairie HCP.

The General Government Committee was briefed on the original proposed Interlocal Agreement between the City of Tumwater and the Port of Olympia for the Bush Prairie Habitat Conservation Plan (HCP) Amendment No. 3 on November 3, 2023, and the Council approved the original version of the amendment on November 21, 2023.

Following the Council approval of the amendment, the Port of Olympia staff proposed additional modifications to the amendment. City staff reviewed the proposed modifications and agreed to take the modified amendment back through the Council approval process.

The amendment includes additional language to address the Phase 3 and 4 and future

grants and extends the agreement to 90 days after USFWS approval of the HCP and City Council acceptance of the incidental take permit or December 31, 2028, whichever comes first.

All other terms and conditions of the Interlocal Agreement modified by Amendment No. 3 would remain in full force and effect.

The Port of Olympia Commission approved the amendment at their January 22, 2024, meeting.

On February 14, 2024, the General Government Committee placed the amendment on the consent calendar for the City Council's February 20, 2024, meeting.

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3) Policy Support:

Comprehensive Plan Conservation Element Goal C-1: Recognize the significant role played by natural features and systems in determining the overall environmental quality and livability of Tumwater.

Comprehensive Plan Conservation Element Policy C-2.16: Protect and preserve habitats for species, which have been identified as endangered, threatened, or sensitive by the state or federal government, giving "special consideration: to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

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4) Alternatives:

☐ None.

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5) Fiscal Notes:

Work on this project is funded by federal grants and City general government funds.

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6) Attachments:

A. Interlocal Agreement between the City of Tumwater and the Port of Olympia for the Bush Prairie Habitat Conservation Plan (HCP) Amendment No. 3