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7 **CLALLAM COUNTY**
8 **OFFICE OF THE HEARING EXAMINER**

9 IN RE:
10 CONDITIONAL USE PERMIT HEARING
11 FOR OLYMPIC SYSTEMS PROPERTIES
12 FILE NO. CUP2021-00005

No. ECL2021-00019, CUP2021-00005

CITY OF PORT ANGELES'S
MOTION TO INTERVENE

13 **I. INTRODUCTION**

14 The City of Port Angeles (“City”) requests that the Hearing Examiner allow the City to
15 present argument and evidence (including through witness testimony), cross examine witnesses,
16 present rebuttal witnesses and evidence, and submit a post-hearing brief before the close of
17 evidence at the upcoming hearing on the Conditional Use Permit Application, File No. CUP2021-
18 00005 (“Application”), submitted by Olympic Systems Properties (“Applicant”). The transfer
19 station proposed in the Application would damage multiple interests of the City’s, and the City
20 should have the full opportunity to protect its rights and interests at the hearing.
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22 **II. FACTS**

23 The City has strong interests requiring protection in this matter, including rights protected
24 by adopted regional plans and contract rights. The City, County, and the City of Sequim are all
25 parties to the Interlocal Agreement Regarding Solid Waste Export and Transfer System
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1 Cooperation and Implementation (“ILA”). Exhibit 18. The County’s adopted Solid Waste
2 Management Plan and the ILA provide that the existing regional solid waste export and transfer
3 system, operated by the City, will be the only designated transfer and export system in the county
4 east of Lake Crescent. The proposed transfer station would violate the SWMP and ILA.

5 The City’s interests would also be injured by the damage this proposed transfer station would
6 cause to the use and enjoyment of the Olympic Discovery Trail. The Olympic Discovery Trail is a
7 significant recreational and multi-modal transportation asset enjoyed by community members
8 throughout Clallam County. The City maintains a portion of the trail within City limits and
9 approximately 5 miles outside City limits east toward Sequim, devotes significant capital costs to this
10 effort, and has a strong interest in retaining the trail’s status as a community asset.

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12 **III. ARGUMENT**

13 Under Clallam County Policy & Procedure 921, a “party of record” is defined to include
14 not only the applicant and the County, but also any person who testifies at the hearing or submits
15 written testimony about a matter pending before the hearing examiner. Every party of record has
16 the right to present evidence and testimony. Policy 921 § 6.1. The parties’ ability to “cross-
17 examine, object and submit motions and argument” is within the discretion of the hearing
18 examiner. *Id.*

19
20 The City intends to present evidence at the hearing and will therefore be considered a party
21 of record. The City respectfully requests that it be afforded time to present its own witnesses, cross
22 examine other witnesses, present rebuttal witnesses as necessary, present opening and closing
23 argument, and to file a post-hearing brief addressing evidence and legal arguments raised at the
24 hearing, before the record is closed. These measures will ensure the City has a full opportunity to
25 protect its interests at stake in this proceeding. The City also notes for scheduling purposes that
26

1 the witnesses it anticipates calling to testify are only available on July 21, 2022, and not available
2 on the second day set aside for hearing, August 4, 2022.

3 DATED this 12th day of July, 2022.

4 FOSTER PEPPER PLLC

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14 Attorneys for the City of Port Angeles

15 **CERTIFICATE OF FILING**

16 I, P. Stephen DiJulio, am a principal at Foster Garvey P.C. and hereby certified that I caused this Motion to
17 Intervene to be filed electronically on Anastasia White, Clerk for the Hearing Examiner (the Clallam County
18 Department of Community Development), awhite@co.clallam.wa.us, Donella Clark, dclark@co.clallam.wa.us, with
19 electronic copies to Chief Civil Deputy Prosecuting Attorney, Elizabeth Stanley, estanley@co.clallam.wa.us; the
20 Applicant's counsel, Alexander M. Wu, alex.wu@hcmp.com and Stephen H. Roos, steve.roos@hcmp.com; and
21 counsel for A-M Systems LLC and Arthur Green, Tom Ehrlichman <tom@dykesehrlichman.com>.

22 Signed, July 12, 2022:

23 

24 P. Stephen DiJulio, WSBA #7139
25 Attorneys for the City of Port Angeles