South Whidbey Parks & Recreation District

September 16, 2026
Regular Board Meeting @ 6:00pm
NEW LOCATION- On South Whidbey School District South Campus
5476 Maxwelton Rd. Room F-1, Langley, WA
Online attendance is available. Visit swparks.org/about/meetingsminutes or email director@swparks.org for more information.

I. Call to Order

II. Public Comment

III. Convene to Executive Session

The South Whidbey Parks & Recreation District Board of Commissioners and Department Heads of the District will convene to an executive session to discuss potential legal matters and to consult with legal counsel. RCW 42.30.110

IV. Financial Report

A. **Financial Report**
B. **Review of Voucher List**

V. Consent Agenda

A. **Approval of Minutes (08/19/2026)**
B. **Voucher List**

VI. Staff Report

VII. Committee and Community Meeting Reports

Where applicable, committee reports may move to unfinished or new business.

VIII. Unfinished Business

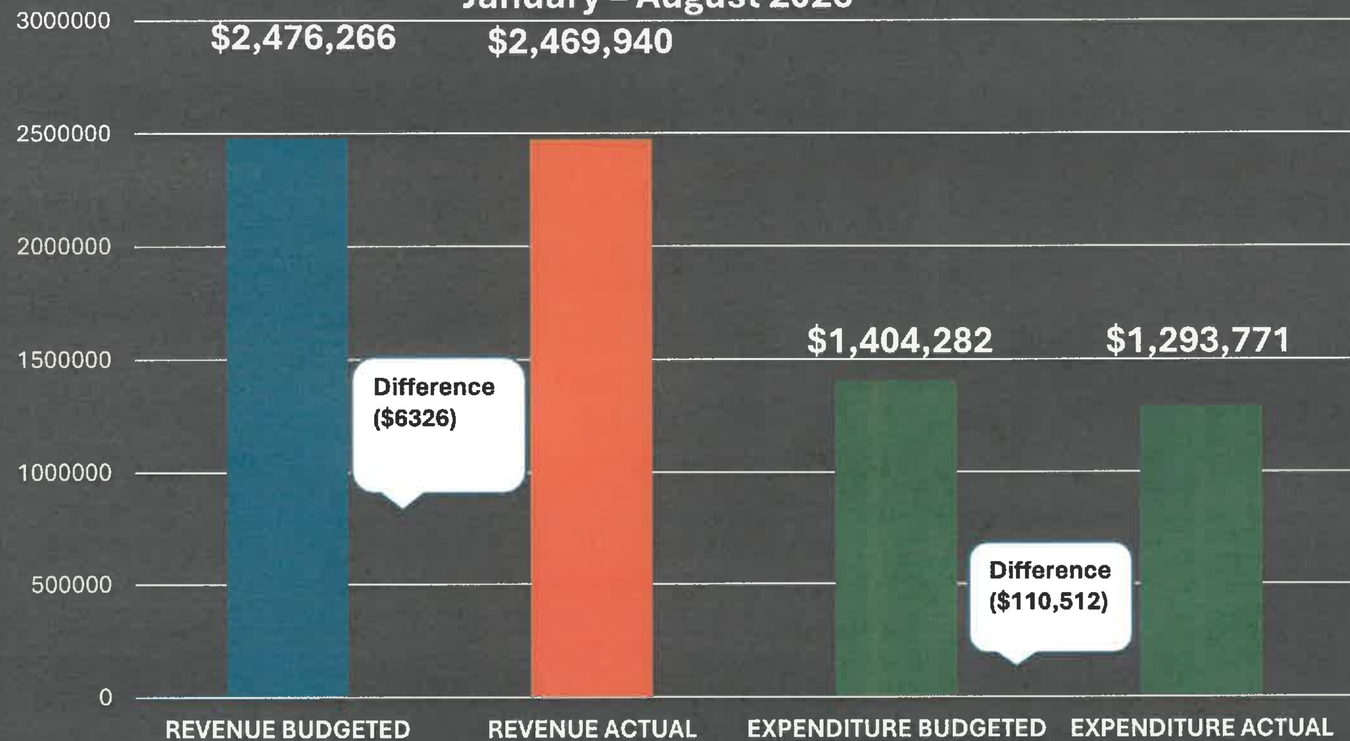
A. **Comprehensive Plan Programs**
B. **Policy regarding paying for staff ongoing certifications – Discussion and possible action.**
C. **Creation of new staff classification, Part Time with Benefits. - Discussion and possible action.**
D. **Updated District Logo- Discussion and possible action**

IX. New Business

A. **Update to Policy 4.6 Staff Registration Policy - Discussion and possible action.**
B. **Resolution 2026-02 Contracting with Rec Desk Payments for Credit Card Services - Discussion and action**

X. Adjournment

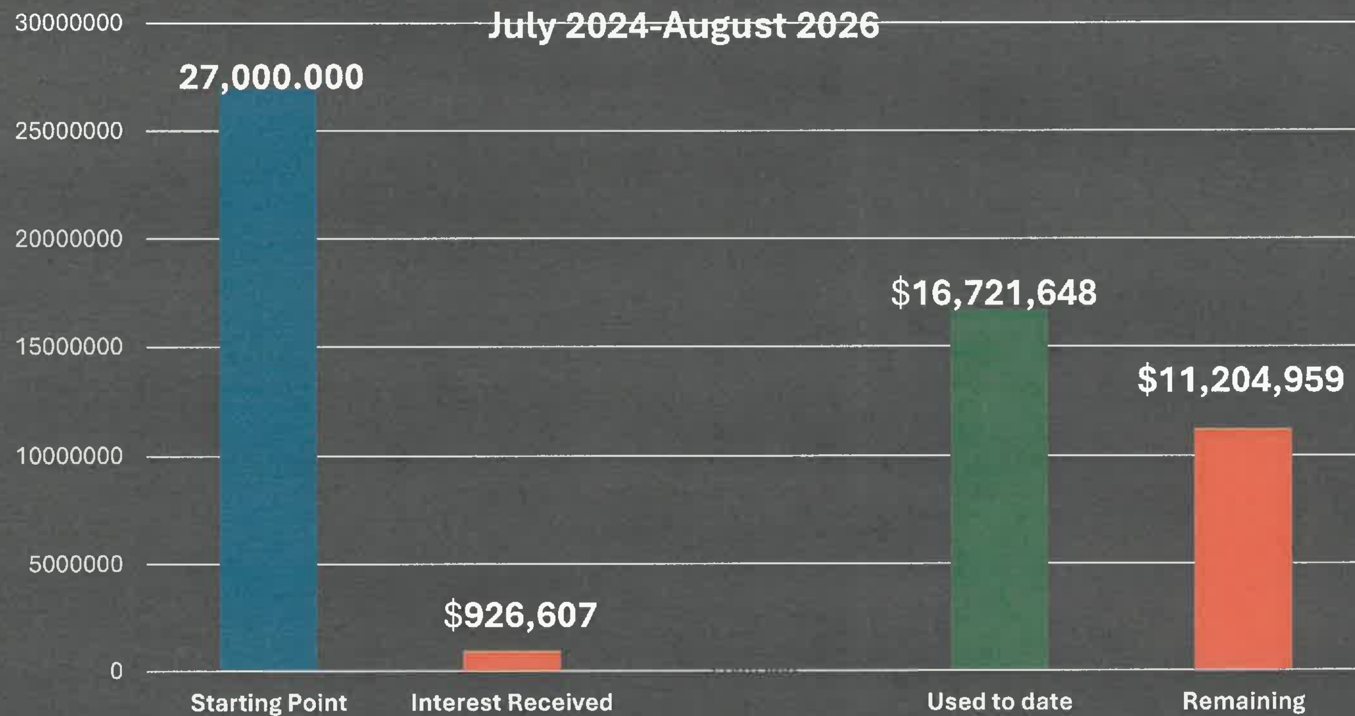
CUMULATIVE for GENERAL FUND
January – August 2026



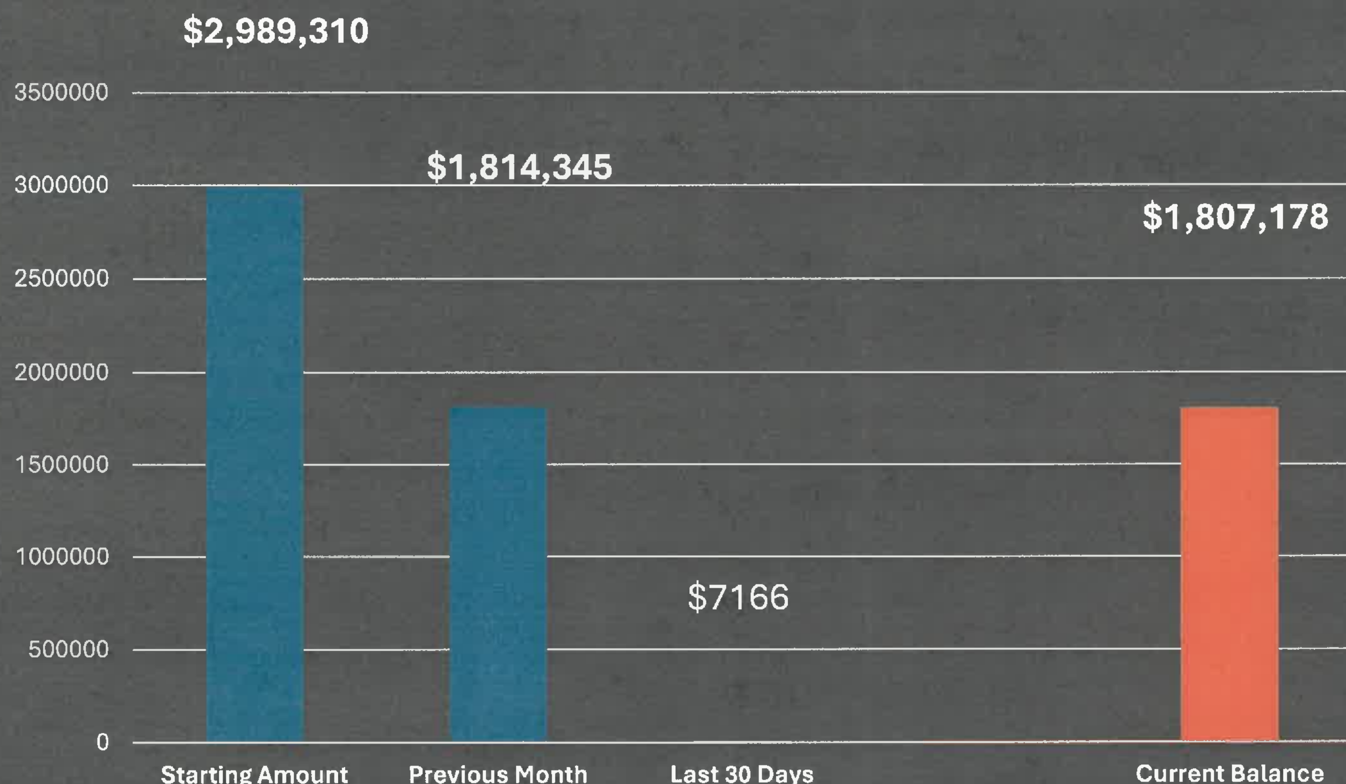
Notes:

South Whidbey Parks & Recreation District

SWARC Construction Fund
July 2024-August 2026



CONTINGENCY REPORT
Through August 2026



Last 30 Days Highlights:

- State sales tax increase effective 7/1/26 $14,577
- Price adjustment on steel supports ($6944)

South Whidbey Parks & Recreation Dist

M&O / Reserve
5495 Maxwelton Road
Langley, WA 98260

Profit & Loss [Budget Analysis]

January 2026-August 2026

9/11/2026
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Account	Description	Selected Period	Budgeted	$ Difference
4-0000	Income			
4-2000	Taxes			
4-2110	Property Taxes - M & O	$2,175,386	$2,227,884	($52,498)
4-2200	Timber Excise Taxes	$547	$375	$172
	Total Taxes	$2,175,933	$2,228,259	($52,326)
4-4100	Recreation Programs			
4-4113	Adult Basketball	$0	$580	($580)
4-4114	Adult Softball League	$3,750	$4,000	($250)
4-4117	Adult Volleyball	$230	$935	($705)
4-4118	Adult Sailing	$5,785	$7,000	($1,215)
4-4119	Adult Pickleball	$20,404	$18,035	$2,369
4-4120	Adult Soccer/Futsal	$930	$1,100	($170)
4-4129	Misc. Adult Sports	$0	$520	($520)
4-4131	Tennis Classes	$5,985	$6,000	($15)
4-4132	Youth Basketball	$2,465	$2,465	$0
4-4133	Contract Sports	$10,504	$8,064	$2,440
4-4134	Wrestling	$600	$500	$100
4-4135	Falcon Programs	$0	$600	($600)
4-4136	Youth Soccer/Futsal	$0	$300	($300)
4-4149	Youth Pickleball	$1,988	$0	$1,988
4-4199	Polar Bear Dive Revenue	$660	$660	$0
4-4216	Fitness	$0	$600	($600)
4-4219	Adult General Program	$0	$600	($600)
4-4252	Cheer	$2,178	$2,178	$0
4-4260	Other Youth Programs.	$10,988	$12,370	($1,382)
4-4264	Swim Lessons 2026	$39,320	$36,000	$3,320
4-4265	Skimboarding	$2,995	$2,000	$995
4-4266	Youth Sailing	$16,975	$17,000	($25)
4-4267	Paddle Sports	$2,047	$1,600	$447
4-4282	Cultural Youth Camps	$11,246	$10,000	$1,246
4-4291	Dog Classes	$600	$1,800	($1,200)
4-4296	New Program Directions	$1,640	$3,600	($1,960)
4-4298	Special Events	$0	$2,800	($2,800)
	Total Recreation Programs	$141,288	$141,307	($19)
4-5000	Aquatics Revenue			
4-8000	Other Revenue			
4-8003	Park Facility Rental	$7,835	$6,600	$1,235
4-8005	Other Revenue	$26,463	$250	$26,213
4-8006	Interest from M & O	$29,254	$17,350	$11,904
4-8008	Interest from Reserve Fund	$15,492	$11,900	$3,592
4-8011	Donations/Grants-Pickleball	$73,499	$70,500	$2,999
4-8100	Scholarship Donations	$175	$100	$75
	Total Other Revenue	$152,718	$106,700	$46,018
	Total Income	$2,469,940	$2,476,266	($6,326)
5-0000	Cost of Sales			
	Gross Profit	$2,469,940	$2,476,266	($6,326)
6-0000	Expenses			
6-1000	Administration			
6-1010	Wages - Director	$95,457	$95,457	$0
6-1011	Wages - Deputy Director	$8,762	$8,762	$0
6-1012	Wages - Business Manager	$55,756	$63,721	($7,965)
6-1014	Wages - Admin Assistant 2	$38,448	$38,635	($187)
6-1201	FICA District's Share	$8,836	$9,167	($331)
6-1202	WA State Unemployment Ins	$1,272	$2,533	($1,261)
6-1203	Labor & Industries Ins	$16,135	$17,625	($1,490)
6-1204	Health Ins	$107,737	$134,400	($26,663)
6-1205	Retirement-PERS	$25,578	$42,000	($16,422)
6-1206	LTD/AD&D/Life Ins	$3,454	$3,472	($18)
6-1207	Dental Insurance	$6,142	$6,632	($490)
6-1208	B&O Tax	$2,332	$2,708	($376)
6-1209	DCP Employer Expense	$28,526	$28,800	($274)
6-1210	Family & Medical Leave	$4,154	$6,060	($1,906)

South Whidbey Parks & Recreation Dist

Profit & Loss [Budget Analysis]

January 2026-August 2026

9/11/2026
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Account	Description	Selected Period	Budgeted	$ Difference
6-1301	Accounting Service	$13,758	$20,000	($6,242)
6-1302	Legal Service	$549	$4,165	($3,616)
6-1303	Professional Service	$1,963	$2,750	($787)
6-1426	Liability Insurance	$40,175	$45,000	($4,825)
6-1427	State Audit	$1,182	$0	$1,182
6-1428	Election Costs	$10,875	$0	$10,875
6-1429	Building Lease	$10,400	$10,400	$0
6-1530	Office Supplies	$2,874	$4,800	($1,926)
6-1531	Dues & Publications	$725	$850	($126)
6-1532	Print & Advertising	$550	$200	$350
6-1535	Contracted Services	$0	$1,760	($1,760)
6-1540	Postage	$254	$312	($58)
6-1541	Telephone	$3,638	$5,136	($1,498)
6-1550	Travel & Vehicle Allowance	$243	$400	($157)
6-1552	Conferences & Training	$360	$1,093	($733)
6-1660	Misc Fees & Charges	$4,854	$5,375	($521)
6-1690	Technology	$9,954	$8,550	$1,404
6-1691	Office Equipment	$599	$1,200	($601)
	Total Administration	$505,540	$571,963	($66,423)
6-2000	Maintenance			
6-2001	Maintenance Wages			
6-2010	Maintenance Supervisor	$73,870	$73,870	$0
6-2012	Maintenance Wages - Hourly	$144,017	$146,700	($2,683)
	Total Maintenance Wages	$217,887	$220,570	($2,683)
6-2200	Maintenance O & M			
6-2303	Professional Service	$4,259	$3,667	$592
6-2331	Dues & Publications	$0	$200	($200)
6-2434	Gas & Lube Products	$8,990	$8,100	$890
6-2436	Safety Gear	$0	$600	($600)
6-2550	Travel & Vehicle Allowance	$349	$450	($101)
6-2581	Garden Maint & Hort	$4,385	$2,050	$2,335
6-2582	Irrg & Plumb Supplies	$3,388	$5,800	($2,412)
6-2583	Sport Field Supplies	$8,071	$11,000	($2,929)
6-2584	Misc Bld Repair	$1,600	$4,800	($3,200)
6-2585	Bld Maint & Jan Supp	$6,685	$5,850	$835
6-2586	Fertilizer & Turf	$16,739	$15,550	$1,189
6-2610	Playground Maintenance	$2,348	$2,650	($302)
6-2647	Refuse Removal	$6,890	$6,135	$755
6-2649	Electrical Utilities	$10,129	$9,400	$729
6-2650	Alarm System Monitoring	$191	$360	($169)
6-2652	Conferences & Training	$0	$1,150	($1,150)
6-2670	Road & Trail Maintenance	$11,047	$8,000	$3,047
6-2680	Water System Maintenance	$10,739	$5,100	$5,639
6-2690	Septic	$2,616	$4,300	($1,684)
6-2760	Contract Services	$0	$500	($500)
6-2880	Veh & Mach Repair/Parts	$2,610	$8,700	($6,090)
6-2881	Veh/Mach In-shop Repair	$1,521	$8,000	($6,479)
6-2901	Misc Equip Rental	$0	$400	($400)
6-2902	Misc. Equipment/Tools	$1,570	$1,250	$320
6-2904	Vandalism Repair	$10	$550	($540)
6-2905	Sign/Art Work Maintenance	$858	$950	($92)
6-2907	Lakes	$0	$500	($500)
	Total Maintenance O & M	$104,994	$116,012	($11,017)
	Total Maintenance	$322,882	$336,582	($13,700)
6-2950	Interest Expense	$0	$60	($60)
6-3000	Capital Equipment/Projects			
6-3001	Projects/Equipment	$168,745	$180,000	($11,255)
6-3002	Pickleball Court Expense	$108,626	$110,500	($1,874)
	Total Capital Equipment/Projects	$277,371	$290,500	($13,129)
6-4000	Recreation Programs			
6-4009	Program Wages			
6-4010	Programs Wages - FT	$56,241	$56,241	$0
6-4012	Programs Wages - PT	$15,843	$18,600	($2,757)
	Total Program Wages	$72,084	$74,841	($2,757)
6-4100	Recreation Programs			
6-4113	Adult Basketball	$0	$120	($120)
6-4114	Adult Softball League	$2,330	$3,500	($1,170)
6-4117	Adult Volleyball	$0	$120	($120)

South Whidbey Parks & Recreation Dist

Profit & Loss [Budget Analysis]

January 2026-August 2026

9/11/2026
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		Selected Period	Budgeted	$ Difference
6-4119	Pickleball	$701	$3,600	($2,899)
6-4120	Adult Soccer/Futsal	$0	$600	($600)
6-4129	Miscellaneous Adult Sports	$0	$384	($384)
6-4131	Tennis Classes	$4,772	$4,800	($28)
6-4132	Youth Basketball	$4,748	$7,600	($2,852)
6-4133	Contract Sports	$8,388	$2,000	$6,388
6-4134	Wrestling	$480	$600	($120)
6-4135	Falcon Programs	$0	$450	($450)
6-4149	Youth Pickleball	$1,584	$0	$1,584
6-4199	Polar Bear Dive Expense	$1,267	$1,445	($179)
6-4216	Fitness	$0	$500	($500)
6-4219	Adult Programs	$0	$400	($400)
6-4252	Cheer	$1,822	$1,920	($98)
6-4260	Other Youth Programs	$8,780	$10,000	($1,220)
6-4264	Aquatics	$31,615	$29,000	$2,615
6-4265	Skimboarding	$2,384	$1,600	$784
6-4266	Youth Sailing	$13,660	$13,600	$60
6-4267	Paddle Sports	$1,656	$1,280	$376
6-4282	Cultural Youth Camps	$2,930	$8,000	($5,070)
6-4291	Dog Classes	$0	$1,332	($1,332)
6-4292	Concerts	$8,262	$7,000	$1,262
6-4296	New Program Directions	$1,140	$2,400	($1,260)
6-4298	Special Events	$600	$1,800	($1,200)
	Total Recreation Programs	$101,619	$109,651	($8,032)
6-4500	Misc. Rec. Program Expenses			
6-4532	Print & Advertising	$1,280	$2,336	($1,056)
6-4534	Program Equipment & Supplies	$74	$1,800	($1,726)
6-4535	Program Facility Rental	$13,389	$16,000	($2,611)
6-4570	Unfunded Scholarships	$50	$250	($200)
	Total Misc. Rec. Program Expenses	$14,793	$20,386	($5,593)
	Total Recreation Programs	$188,496	$204,878	($16,382)
6-8000	Miscellaneous Costs			
6-8006	Investment Fee Operations Fund	($267)	$150	($417)
6-8008	Investment Fees Reserve Fund	($251)	$150	($401)
	Total Miscellaneous Costs	($518)	$300	($818)
	Total Expenses	$1,293,771	$1,404,282	($110,512)
	Operating Profit	$1,176,169	$1,071,984	$104,185
9-0000	Other Expenses			
9-2000	Cost of Issuance	$24,200	$0	$24,200
	Net Profit / (Loss)	$1,151,969	$1,071,984	$79,985

South Whidbey Parks & Recreation Dist

Construction Fund 741
5495 Maxwelton Rd
Langley, WA 98260

Profit & Loss Statement [Cash]

January 2026-August 2026

9/12/2026
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Construction Fund.myo

Income			
Bond Proceeds		$11,770,000.00	
Total Income			$11,770,000.00
Cost of Sales			
Gross Profit			$11,770,000.00
Expenses			
SW Aquatic Recreation Center			
Legal Services	$772.30		
Postage	$38.70		
Architectural & Design Fees	$249,853.56		
Engineering Services	$1,075.00		
Accounting Services	$1,328.90		
Professional Services	$66,315.00		
Project Management	$345,165.75		
Permits	$2,105.28		
Office Equipment	$76.29		
Technology	$1,615.30		
Construction	$11,972,646.24		
Landscaping	$2,604.00		
Utility Connection Fees	$93,054.04		
Electrical Service	$3,740.37		
Total SW Aquatic Recreation Center		$12,740,390.73	
Occupancy Costs			
Electric	$80.57		
Total Occupancy Costs		$80.57	
Total Expenses			$12,740,471.30
Operating Profit			($970,471.30)
Other Income			
Interest Income (2024 Bond)		$155,394.41	
Interest Income (2026 Bond)		$144,819.33	
GO Bond Premium		$395,279.15	
Total Other Income			$695,492.89
Other Expenses			
Interest Expense		($2,780.85)	
Cost of Issuance		$84,581.65	
Issuance Discount on LTD		$80,697.50	
Total Other Expenses			$162,498.30
Net Profit / (Loss)			($437,476.71)

South Whidbey Parks & Recreation Dist

M&O / Reserve
5495 Maxwelton Road
Langley, WA 98260

Purchases [Vendor Detail]

9/1/2026 through 9/15/2026

9/8/2026
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ID#	Date	Description	Amount	
ATCO International				4001400 R1
00014858	9/1/2026	Cleaning Wipes	$192.00	
		ATCO International Total:	$192.00	
Bank Account Fees				*None
00014887	9/1/2026	Bank Account Fees for Direct De	$35.00	
		Bank Account Fees Total:	$35.00	
Bank Card Fees				*None
00014888	9/1/2026	Credit Card Transaction Fees for	$265.46	
		Bank Card Fees Total:	$265.46	
Carter, Austin L.				4001868
00014875	9/1/2026	Wages 8/16/26 - 8/31/26	$2,560.31	
		Carter, Austin L. Total:	$2,560.31	
Delta Dental of Washington				4000884 R1
00014860	9/1/2026	Dental Insurance - Employer Por	$767.76	
00014860	9/1/2026	Dental Insurance - Employee De	$59.84	
		Delta Dental of Washington Total:	$827.60	
Diamond Rentals				4000539
00014883	9/1/2026	Porta Potty Pumping at Trustlan	$81.83	
		Diamond Rentals Total:	$81.83	
Drewslist				4000927 R1
00014859	9/1/2026	Business Manager Hiring Ad	$150.00	
		Drewslist Total:	$150.00	
DRS - Deferred Compensation Program				4000537 R3
00014886	9/1/2026	DCP Employer Portion	$1,632.42	
00014886	9/1/2026	DCP Employee Portion	$1,818.98	
		DRS - Deferred Compensation Program Total:	$3,451.40	
Dunn, Skye P				4000982 R1
00014879	9/1/2026	Wages 9/1/26 - 9/15/26	$2,413.32	
		Dunn, Skye P Total:	$2,413.32	
EFTPS				*None
00014885	9/1/2026	FMed/FSoc Payable - Tax Liabilit	$3,812.57	
		EFTPS Total:	$3,812.57	
Fallon, Thomas R.				4001635
00014880	9/1/2026	Wages 9/1/26 - 9/15/26	$3,429.53	
		Fallon, Thomas R. Total:	$3,429.53	
Great America Financial Services				4000584
00014893	9/1/2026	Copier Lease & Copies	$183.84	
		Great America Financial Services Total:	$183.84	
Handran, Kathleen M				4001618
00014871	9/1/2026	Wages 8/16/26 - 8/31/26	$245.73	

South Whidbey Parks & Recreation Dist

Purchases [Vendor Detail]

9/1/2026 through 9/15/2026

ID#	Date	Description	Amount	
Handran, Kathleen M				4001618
		Handran, Kathleen M Total:	$245.73	
Hanson's Building Supply				4000593 R1
00014861	9/1/2026	Invoice #2608-269020 - Irrigati	$93.41	
00014861	9/1/2026	Invoice #2608-240495 - Buildin	$32.54	
		Hanson's Building Supply Total:	$125.95	
Henry, Tyson				4001615
00014876	9/1/2026	Wages 8/16/26 - 8/31/26	$1,960.40	
		Henry, Tyson Total:	$1,960.40	
Iglesias, Gabriela				4001748
00014890	9/1/2026	Line Dancing with GiGi	$192.00	
		Iglesias, Gabriela Total:	$192.00	
Island Disposal, Inc.				4000643
00014892	9/1/2026	Refuse Removal for Park	$766.57	
		Island Disposal, Inc. Total:	$766.57	
McGinnis, Michael				*None
00014872	9/1/2026	Wages 8/16/26 - 8/31/26	$16.05	
		McGinnis, Michael Total:	$16.05	
Monforte, Carrie E.				4000837
00014881	9/1/2026	Wages 9/1/26 - 9/15/26	$3,207.97	
		Monforte, Carrie E. Total:	$3,207.97	
Myres, Jacob				4001617 R2
00014877	9/1/2026	Wages 8/16/26 - 8/31/26	$1,804.36	
		Myres, Jacob Total:	$1,804.36	
Pacific Golf & Turf				4001074
00014884	9/1/2026	Aeriation Tines	$666.65	
		Pacific Golf & Turf Total:	$666.65	
Principal Life Insurance Company				4001425 R1
00014862	9/1/2026	LTD/AD&D/Life Insurance Premi	$433.77	
		Principal Life Insurance Company Total:	$433.77	
Raymond, Marcus				5010240
00014873	9/1/2026	Wages 8/16/26 - 8/31/26	$425.87	
		Raymond, Marcus Total:	$425.87	
Regence Blue Shield				4000712 R1
00014864	9/1/2026	Medical Insurance - Employee Po	$909.32	
00014864	9/1/2026	Medical Insurance - Employer Po	$13,467.09	
		Regence Blue Shield Total:	$14,376.41	
Rouse-Kay, Corinne				4001701
00014863	9/1/2026	Milage From Office to County to	$37.24	
00014878	9/1/2026	Wages 8/16/26 - 8/31/26	$1,920.87	
		Rouse-Kay, Corinne Total:	$1,958.11	
Sachs, Kathleen				4001619
00014874	9/1/2026	Wages 8/16/26 - 8/31/26	$337.70	

South Whidbey Parks & Recreation Dist

Purchases [Vendor Detail]

9/1/2026 through 9/15/2026

ID#	Date	Description	Amount	
Sachs, Kathleen				4001619
		Sachs, Kathleen Total:	$337.70	
Sebo's Do-It Center				4000731
00014866	9/1/2026	Invoice #B1455165 Paint Suppli	$18.30	
00014866	9/1/2026	Invoice #A1824582 Mics Repair	$76.22	
00014866	9/1/2026	Invoice # A1824437 Paint Suppli	$31.24	
		Sebo's Do-It Center Total:	$125.76	
Simplot Turf & Horticulture				4000902
00014891	9/1/2026	Turf Seed	$4,595.29	
		Simplot Turf & Horticulture Total:	$4,595.29	
South Whidbey School District #206				4000751 R1
00014865	9/1/2026	Fuel for July 2026	$1,249.03	
		South Whidbey School District #206 Total:	$1,249.03	
Tomisser, Brian				4001346 R2
00014882	9/1/2026	Wages 9/1/26 - 9/15/26	$4,349.95	
		Tomisser, Brian Total:	$4,349.95	
VISA - Heritage Bank				4000793 R4
00014867	9/1/2026	Whidbey Island Jobs - Business	$60.00	
00014867	9/1/2026	Amazon - Head Phones	$43.19	
00014867	9/1/2026	PSE - #200010294276	$72.84	
00014867	9/1/2026	PSE - #200020863003	$65.72	
00014867	9/1/2026	Microsoft - Onlline Services	$47.90	
00014867	9/1/2026	NRPA - Dues	$189.00	
00014867	9/1/2026	Whidbey SeaTac Shuttle - NRPA	$73.60	
		VISA - Heritage Bank Total:	$552.25	
WA State Dept of Retirement				4000531
00014889	9/1/2026	PERS Employer Portion	$1,629.67	
00014889	9/1/2026	PERS Employee Portion	$1,681.21	
		WA State Dept of Retirement Total:	$3,310.88	
Washington State Ferries				4000536 R4
00014868	9/1/2026	Round Trip - Maintenance	$32.60	
		Washington State Ferries Total:	$32.60	
Western Equipment Distributors Inc.				4000818 R2
00014870	9/1/2026	Vehicle Maintenance	$1,151.71	
		Western Equipment Distributors Inc. Total:	$1,151.71	
Whidbey Telecom				4000828
00014869	9/1/2026	Alarm Monitoring	$38.19	
00014869	9/1/2026	Telephone Web Hosting, Interne	$388.53	
		Whidbey Telecom Total:	$426.72	
		Grand Total:	$59,714.59	

South Whidbey Parks & Recreation Dist
Construction Fund 741
5495 Maxwelton Rd
Langley, WA 98260

Purchases [Vendor Detail]

9/1/2026 through 9/15/2026

ID#	Date	Item/Acct	Description	Amount
Engineering Economics, Inc.				**4001513**
00000143	9/1/2026	6-1040	Commissioning Agent for SWA	$225.00
			Engineering Economics, Inc. Total:	$225.00
Visa - Heritage				**4000793 R4**
00000145	9/1/2026	6-1700	PSE - #220039908748	$54.97
00000145	9/1/2026	6-1700	PSE - #220040366795	$165.19
00000145	9/1/2026	6-1150	Connections - Laptop for HR	$1,471.76
			Visa - Heritage Total:	$1,691.92
			Grand Total:	$1,916.92

South Whidbey Parks and Recreation District
August 19, 2026 – Regular Board Meeting Minutes

DRAFT

Regular Meeting Minutes

I. Call to Order

Commissioners Present: Jennifer Cox, Jake Grevé, Erik Jokinen, Krista Loercher and Matt Simms (online).
Staff Present: Carrie Monforte and Brian Tomisser

Jennifer called the Regular Meeting to order at 6:06 p.m. The attendance sheet is attached for permanent records only.

II. Public Comment

There was no public comment.

III. Financial Report

A. Financial Report

Brian reviewed the treasurer's report with the board. Brian noted an anticipated change order proposal for A/V, Public Address, Telecor, Clock System addition of approximately $100,000 coming for the SWARC contingency report.

B. Review of Voucher List

Brian reviewed the updated voucher list with the board.

IV. Consent Agenda

A. Minutes for 07/15/26

B. Voucher List Approval

Maintenance & Operations Vouchers #14761 - #14791 and #14810 - #14842 in the amount of $167,021.97, Direct Deposit payroll payments in the amount of $45,285.30, and Electronic payments in the amount of $22,404.41; and Construction Fund Vouchers #136 - #142 in the amount of $3,722,545.15.

Jake made a motion to approve the consent agenda, and the motion passed. Krista abstained.

V. Staff Report (To be attached for permanent records)

Brian reviewed the Staff Report with the commissioners.

VI. Committee & Community Meeting Reports

A. Lake Properties

Krista stated that there had been a DFW survey about usage of the Lakes. Fishing usage had declined and other recreational usage of the lakes had increased.

VII. Unfinished Business

A. Comprehensive Plan Programs

LAKES
Brian noted that he received an update from the WA DFW for the repair of the vault toilet at Lone Lake without a firm timeline for the completion of the repair.
PICKLEBALL COURTS
Brian and Tom met with a neighbor of the Sports Complex who had concerns about the noise from the Pickleball Courts. Staff tested and encouraged the use of noise dampening paddles and balls and signage was added to encourage use.
SWARC
Brian provided rough costs of around $150,000 to install 2 combination basketball and futsal courts to the east of the SWARC, to be installed after completion of the SWARC.
Brian notified the board of the intention to use a cooperative purchasing organization, Sourcewell, to secure furnishings for the SWARC. Brian consulted District's legal counsel who confirmed this action.

VIII. New Business

A. Staff Certifications

Staff and the board discussed what certifications (First Aid, CPR, AED, Lifeguarding, Swim Instruction), if any, would be paid for or provided by the District, or reimbursed to employees. Brian indicated that he would work on a clear policy to bring back to the board at a future meeting.

B. New Staff Classification – Part Time with Benefits

Brian presented a plan for creating a three-quarters time (30 hours/week average) staff classification with limited benefits, such as medical/dental insurance, vacation, sick time, holidays.

C. SWARC Budget & Staffing

Brian presented a plan modifying the original staffing plan for the SWARC, hiring custodial, recreation and HR admin, some at the three-quarters time level. It was indicated that these positions would be penciled into the budget, and an official policy brought to the board for approval.

D. SWARC Fee Categories

Staff and the board discussed proposed fee categories for using the SWARC Natatorium. Proof of residency required for resident rates. Proposed Natatorium Fee Categories:

- Drop-In Single-entry: Adult, Senior (62+), Youth (3-17), Under 3 free
- 10-Visit Punch Cards: Resident, Non-Resident. Expires in 90 days
- Annual Pass: Resident, Non-Resident, Adult, Senior (62+) and Youth (3-17)
- Family Annual Pass: Resident, Non-Resident, Limit of 5 per Household
- Pool Rental: Resident, Non-Resident, One pool or full natatorium. School Swim Team
- Party Rooms: Resident, Non-Resident Up to 25 guests, swim passes included. Different rate if rented for non-party purposes and would not come with swim passes. One room or both.
- Employee Usage of the Natatorium: Free for all employees including part-time. Brian noted that staff consulted legal and were told that the District can make access to the SWARC free

for staff as part of promoting wellness. This same consideration would not be available for family members or Board members.

Krista made a motion to approve the fee categories for the Aquatic Recreation Center as presented by staff, with the change of youth being ages 3-17, and it was unanimously approved.

E. Deputy Director Signing Authority (To be attached for permanent records)

Brian provided a proposed policy update for signing authority for the new Deputy Director position when the Director is absent, to include contracts, change orders, and other time sensitive issues.

Erik made a motion to add the provided verbiage to the Policy Manual section 2.04.1 authorizing the Deputy Director Signing Authority, and the motion was unanimously approved.

IX. Adjournment

There being no further business, the meeting was adjourned at 7:37 p.m.

South Whidbey
Parks & Recreation District

Memo

To: Board of Commissioners
From: Brian Tomisser
Re: Staff Report for September

Recreation/Programs

- Entering new programs in Rec Desk for October launch.
- Admirals Fall Basketball starts this Friday
- Last Concert in the park September 1st got around 300 attendees
- Offering more pickleball indoor as the weather changes.
- Looking at November/December youth basketball for 4th-6th graders
- Fields are packed out, fall is here

Facilities and Grounds

- 2nd broken main water line of the summer. This time in the corner of the upper field. Staff fixed it and it is good to go now.
- Staff responded to a request from a resident regarding doing a large sweep of the pinecones at Goss Lake.
- Park staff received a box of treats and the attached note from an appreciative resident.

Director's Items

- Our new HR Manager Bree Smith will be starting on September 21st. She will be attending the October Board meeting.
- Also on September 21st, we will be conducting 1st reviews of the Business Manager applications.
- Skye and I met with the owner of the Skallywagon food truck. We will be doing a trial test to allow her to vend Saturday morning at the Sports Complex this fall.
- Staff will be attending a CPR/First Aid class on October 13th.
- I will be out of the office attending the National Recreation and Parks Association conference September 25-October 1. I will have my computer with me to get work done during downtime.

10/21 Budget Workshop followed by Regular Board Meeting

To and for our "3" South Whidbey Park and Trustland, "CAREGIVERS".

These varied "sweets" are such an easy and simple, but most sincere expression, of my great gratitude for each of your daily work efforts. My usual daily visit to both our "wonderous" south end parks, nurtures my well being and always astounds me, with how much care and attention each of you put forth to maintain and safe guard these two natural resources. Yes, South Whidbey park has added "man made" usages, but both parks reflect your small and big tasks of respecting and maintaining "Mom Nature".

So, proudly declare yourselves as "guardians" and "caregivers". Mom Earth, with your assisting efforts, is today and for the future, being allowed to continually produce her beauty and joy. Sounds "dramatic" but so true - you and her are planting hope for our tomorrows.

And by the way - us Park users can certainly "complain" - much of silly, self serving nonsense - but I know, as like what just happened to me, that each of you will "care" for us when we experience a "serious or non serious burp in our daily activities". Austin - I indeed purchased that "jumper assembly" and because of your helpful deed to me on that day, with my "jumpers", I hope I can "pay forward" your Kindness.

Note: A certain "Tom" was not included in my "3" above, but I don't need to throw ANY MORE accolades his way - but then again, he joined the "3" of you - but also of note: several weeks ago, an 80 plus lovely lady told me of the tale of one of you, some time ago, helping her and her very small "Bailey" find her way out of "Trustland" as dark was approaching - apparently, one of you "caring" givers, saw a vehicle still in the parking lot when you went to close up the park - went looking thru Trustland for the driver, found the very grateful lady and she today lauded praise to you all. And just yesterday in a local retail store, the young south end cashier who assisted me in my purchase of the "jumpers", raved about Mr Tom and his "team".

So, EACH of you accept and know that myself, and soooooooo many others of your community, truly value your service and commitment. You have set and are maintaining great examples for your community. THANK YOU,

Connie and Eleanore

South Whidbey
Parks & Recreation District

Comprehensive Programs Update

Misc.

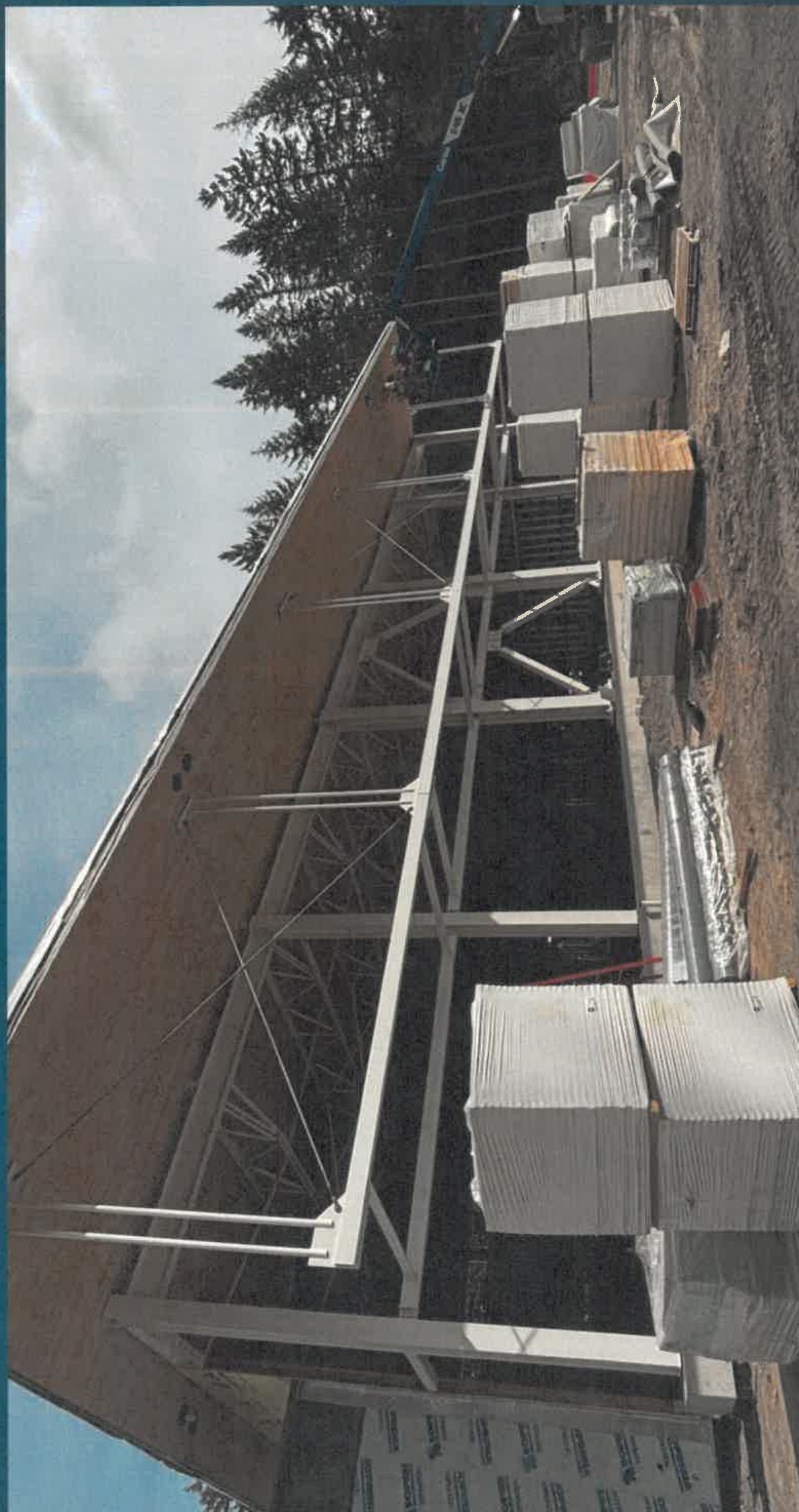
- I'm getting pricing on acoustic panels for the pickleball court.   We have a neighbor who is bothered by the noise. Once received I will bring to the Board to discuss.

- Annual Westling Invitational will be happening September 19th. Impact on the trails will be significant in areas, but minimal to the overall park.

SWARC

South Whidbey PARKS & RECREATION DISTRICT

- We have had multiple meetings with our furniture manager to discuss needs for the new building.
- The next few weeks interior walling will be going up and completing of the exterior windows over the next month or so.



Memo

South Whidbey
Parks & Recreation District

To: Board of Commissioners
From: Brian Tomisser
Date: 09/16/2026
Re: Unfinished Business

In addition to the monthly Comprehensive Plan Programs report, there are three items under 'Unfinished Business' on the agenda. Below is a summary of each and support documents are attached.

- Policy regarding paying for staff ongoing certifications. Based on last month's discussion, I am presenting (attached) a proposed policy for what trainings/certifications the District will or will not pay.

- Creation of new staff classification: Again, based on last month's discussion, attached is a policy to create a Three-Quarter time position under staff classifications in our Policy Manual.

- Creation of a new District logo: In June, staff presented many logo options for the Board to consider and comment on. Based on that feedback, staff are presenting a logo for consideration as the new official District logo. Some of the specific feedback received in June includes:

    - Include water in the logo
    - Keep in simple to allow for printing on various items
    - Identify a standardized font and color combination
    - Do not include the work "District", but spell out "Recreation"
    - Keep the circle logo (versus square or rectangle)

4.62 Staff Training and Certification

The District will provide basic training through our Human Resources Division that staff will attend throughout the year. In addition to these, some positions require additional certifications. The following is a list of identified certifications:

All Staff:

- **CPR, First Aid, AED.** Staff will need to obtain this at their cost at the time of hire. After this initial hiring, the District, at their discretion, will pay for or provide training for recertifications at no cost to the staff.

Aquatics:

- **Lifeguard Certification**. Staff will need to obtain this at the cost at the time of hire. For first time certifications, the District will reimburse staff the cost of the certification after three months of successful employment. After this initial hiring, the District, at their discretion, will pay for or provide training for recertifications at no cost to the staff.
- **Lifeguard Instructor Certifications**. The District will, at their discretion, pay for or provide training for this certification.
- **Water Safety Instructor (WSI):** The District will, at their discretion, pay for or provide training for this certification.
- **Aquatics Facility Operator (AFO) and Certified Pool/Spa Operator (CPO):** The District will, at their discretion, pay for or provide training for this certification.

Parks:

- **Certified Playground Safety Inspector**. The District will, at their discretion, pay for or provide training for this certification.
- **Pesticide/Fertilizer Applicator License**: The District will, at their discretion, pay for or provide training for this certification.

Administration:

- **Certified Parks and Recreation Professional (CPRP).** The District's Director will obtain this at their own expense upon hire. After this time, the District will pay for required classes to maintain the certification.

CURRENT POLICY WITH HIGHLIGHTED PROPOSED CHANGES

4.13 Employee Categories and Classifications

Understanding the definitions of the employment classifications at SWPRD is important because your classification is one of the factors that determine your employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time. Since employment with SWPRD is based on mutual consent, either you or SWPRD have the right to terminate the employment relationship at will at any time, with or without cause or advance notice.

Depending on your position, you are designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. NONEXEMPT employees are entitled to overtime pay under the specific provisions of federal and state laws. EXEMPT employees are excluded from specific provisions of federal and state wage and hour laws. Your EXEMPT or NONEXEMPT classification may be changed only with written notification by SWPRD management.

In addition to the Exempt and Nonexempt classifications, you also belong to one of the following employment categories:

REGULAR FULL-TIME employees are employees who are not in a temporary or introductory status AND who are regularly scheduled to work the full-time schedule at SWPRD. Generally, regular full-time employees are eligible for all SWPRD benefit programs, subject to the terms, conditions, and limitations of each benefit program.

THREE QUARTER TIME employees are regularly scheduled to work 30 hours per week. Three Quarter Time employees are eligible for all SWPRD benefits at a rate of 75%. Where there is an incurred cost, such as medical insurance, the employee will pay the remaining 25% cost. Spouses/Dependents are not eligible for benefits, however staff can choose to pay 100% of the cost for their medical/dental. Staff in these positions can also completely opt out of medical and dental coverage, so as not to incur the 25% cost.

PART-TIME employees are employees who are not in a temporary or introductory status AND who are regularly scheduled to work less than 30 hours per week. While part-time employees receive all legally mandated benefits (workers' compensation insurance), they are ineligible for the other SWPRD benefit programs.

TEMPORARY/SEASONAL employees are employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond the initially stated period does not in any way imply a change to employment category or classification. Temporary employees remain in this category. While temporary employees receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they are ineligible for all other SWPRD benefit programs.

~~CASUAL employees are employees who have established an employment relationship with SWPRD but who are assigned to work on an intermittent and/or unpredictable basis. While casual employees receive all legally mandated benefits (such as Workers' Compensation Insurance), they are ineligible for the other SWPRD benefit programs.~~

CALL OUTS happen when staff are contacted during their non-scheduled hours by a supervisor to deal with an issue at a park, facility or program. When this happens to a non-exempt employee, they will be compensated at a minimum of two hours, regardless if it takes less time to resolve the issue.

South Whidbey
PARKS & RECREATION

South Whidbey
PARKS & RECREATION

Tenorite Bold

Tenorite Regular

South Whidbey

PARKS & RECREATION

Memo

South Whidbey
Parks & Recreation District

To: Board of Commissioners
From: Brian Tomisser
Date: 09/16/2026
Re: Staff Registration Policy

Last month the District's legal counsel advised that family members of staff not be given a discount for facility use or program registration.

In reviewing our current policy, staff felt it important to update sections to make sure our policy is in line with this counsel.

Attached are proposed edits and verbiage to update this section of the Policy Manual.

CURRENT POLICY

4.60 Staff Registration Policy

Employee Recreation is here to encourage and improve the health, well-being and quality of life of SWPRD employees. We provide wellness activities, athletic leagues and discounted recreation programs for SWPRD regular full-time staff. Part-time and Casual or Temporary/Seasonal Staff are not eligible to enroll their children at the reduced price. Eligible staff can enroll themselves or their children in a district program that has not reached its registration capacity. A staff member or their child may be bumped from a program by a full fee customer, or they may choose to pay full price to retain their spot in the program.

The staff person will pay a $5.00 administration fee for each class they enroll in, or if the instructor is under contract, the staff person will pay the instructor's portion of the class enrollment fee. Additionally, staff will be required to pay for any direct expenses for their participation, like materials fees, equipment, or supplies (event shirts, entrance fees, etc.), that is purchased for each participant.

PROPOSED POLICY

4.60 Staff Registration Policy

Employee Recreation is here to encourage and improve the health, well-being and quality of life of SWPRD employees. We provide wellness activities, athletic leagues and discounted recreation programs for SWPRD regular full-time staff. ~~Part-time and Casual or Temporary/Seasonal Staff are not eligible to enroll their children at the reduced price.~~ Eligible staff can enroll themselves ~~or their children~~ in a district program that has not reached its registration capacity. A staff member ~~or their child~~ may be bumped from a program by a full fee customer, or they may choose to pay full price to retain their spot in the program.

~~The staff person will pay a $5.00 administration fee for each class they enroll in, or~~ If the instructor is under contract, the staff person will pay the instructor's portion of the class enrollment fee. Additionally, staff will be required to pay for any direct expenses for their participation, like materials fees, equipment, or supplies (event shirts, entrance fees, etc.), that is purchased for each participant.

Children of staff that are enrolled in a program of four or more hours that overlap the staff's work schedule are eligible for the staff rate, as this is considered childcare support. This applies only to contracted camps/programs, not programs ran directly by SWPRD.

All staff, as part of the District's Staff Wellness goals, can use the natatorium during open swim times at no cost.

Memo

South Whidbey
Parks & Recreation District

To: Board of Commissioners
From: Brian Tomisser
Date: 09/16/2026
Re: Resolution 2026-02 Credit Card Payment Agreement

As the Board was previously notified, we are switching our program registration system from Sportsman to Rec Desk starting in October. This requires us to go with a different company to process our credit card transactions. We looked at a few that were compatible and determined that Rec Desk Payments was the best option.

Island County requires a resolution by the Board for us to make this change. Attached is Resolution 2026-02 for your consideration and approval.

South Whidbey Parks & Recreation District
Resolution Number 2026-02

A Resolution of the Board of Commissioners of the South Whidbey Parks and Recreation District to Authorize Remote Deposit Services

WHEREAS, in accordance with the Revised Code of Washington, Chapter 36.69.120 (3) "The park and recreation district board of commissioners shall: Adopt policies governing transaction of board business, keeping of records, resolutions, transactions, findings and determinations, which shall be of public record"; and

WHEREAS, the Board has determined that it is in the best interest of the South Whidbey Parks & Recreation District to have an agreement for Credit Card processing for District business; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Board of Commissioners of South Whidbey Parks & Recreation District, of Island County, in the State of Washington, hereby authorize Brian Tomisser, Executive Director to sign necessary service agreement(s) with Rec Desk for Merchant Services to establish deposit for Credit Card payments to be accepted by Island County.

APPROVED and ADOPTED by the Board of Commissioners of South Whidbey Parks and Recreation District. Island County. Washington at the regular meeting thereof this 16 day of September 2026, the following commissioners being present and voting:

____
Jennifer Cox, Chair

____
Jake Greve, Commissioner

____
Erik Jokinen, Vice Chair

____
Matt Simms, Commissioner

____
Krista, Loercher, Secretary

ATTEST:

____
Dated this 16th day of September 2026

Secretary of the Board

xplor recdesk

RECDESK PAYMENTS SERVICES ADDENDUM

This RecDesk Payments Payment Services Addendum ("Addendum") between RecDesk, LLC ("RECDESK," "Licensor," "we," "our," "Provider", or "us") and **South Whidbey (WA) Parks and Recreation District** ("Customer", "Licensee," "You" or "Your") is intended to be included and made part of the Services Agreement, inclusive of all relevant attachments, schedules, exhibits and/or Addenda (collectively, "Agreement") previously or simultaneously executed between the Parties by adding to the Agreement the terms and conditions listed below.

1) **TERM.** The term of this Addendum will commence on the date executed by the Customer and will run coterminous with the primary RecDesk Serviced Agreement ________ date of related Agreement if applicable).

2) **PAYMENT SERVICES.** Customer is adding RECDESK RecDesk Payments Payment Services to the suite of products and services it is receiving from RECDESK (as reflected in the Order Schedule) at the rates described in the attached Schedule A. RECDESK will provide Customer with Payment Services pursuant to a separately executed Sub-Merchant Agreement, inclusive of **Customer's Sub-Merchant Application/Agreement ("SMAA")** and **RECDESK's Terms of Service** and **RecDesk Payments Payment Service Terms & Conditions**, each of which shall be incorporated by reference into the Agreement.

3) **SOFTWARE UPDATES.** To maintain the highest level of security for payment processing, the Customer agrees to operate on the most recent release of the software within 30 days of its general release. Extended delays to update the software may impact the ability to safely process transactions, and RECDESK reserves the right to disable processing until the software is updated.

4) **MISCELLANEOUS.** Except as expressly revised in this Addendum, the Agreement will remain in full force and effect. If there are any conflicts or inconsistencies between this Addendum and the Agreement, RECDESK current Terms of Service will control. RECDESK's acceptance may be evidenced by its fulfillment of the Agreement, which this Addendum revises.

IN WITNESS WHEREOF, the parties signing below have read and understand the terms and conditions of this Agreement, including any and all additional addenda or attachments. They represent and warrant that they are authorized to execute this Agreement on behalf of the applicable organization and that, upon execution, this Agreement is enforceable against that party in accordance with its terms. The parties hereto have caused this Agreement to be executed as of the **____day of____, 20____ ("Execution Date").**

Customer: South Whidbey (WA) Parks and Recreation District	**RecDesk, LLC**
Signature:______________________ By:_______________(Print Name) Its:________________ (Title) Date:_________	Signature:________________________ By: PatrickHayden___(Print Name) Its: President_______(Title) Date:_________

xplor recdesk

RECDESK PAYMENTS PAYMENT SERVICE TERMS AND CONDITIONS

1) **SUB-MERCHANT AGREEMENT.** These RecDesk Payments Payment Service Terms and Conditions govern the terms and conditions under which we, as a payment facilitator, will agree to provide you, as a sub-merchant, with certain payment-related services. For purposes of this Sub-Merchant Agreement, the sub-merchant identified in the Sub-Merchant Application and Agreement ("**SMAA**") will be identified as "**you**, "**your**," or "**Sub-Merchant**." These Payment Terms and Conditions, together with your completed and approved SMAA, will form a binding "Sub-Merchant Agreement" between you and the payment facilitator identified in the SMAA ("**we**," "**us**," "**our**," or "**Payment Facilitator**"). If you are receiving Payment Services (defined below) from us, then your Sub-Merchant Agreement will become part of your overall Agreement with us, which Agreement includes, in addition to the Sub-Merchant Agreement, our Terms of Service, Privacy Policy and other referenced exhibits, schedules or addenda. Terms not defined herein shall have the meanings as set forth in Section 1 of the Terms of Service.

2) **PAYMENT SERVICES.** Provided you satisfy the underwriting criteria for receipt of Payment Services and remain in compliance with the Agreement, we will agree to provide you with the payment services as described in the Agreement (collectively, "**Payment Services**"). In exchange for Payment Services, you agree to pay us the rates, fees and other charges described in the Agreement (collectively, "**Fees**"). Besides us, there are other third parties involved in the facilitation and processing of Payment Services; these third parties include banks (i.e., acquiring bank, sponsor bank), the major card networks/associations such as Visa, Mastercard, Discover and American Express (collectively, "**Card Brands**" unless referred to individually by name), and our designated payment processor ("**Processor**"). Each of these parties serve an important function in the facilitation, processing and settling of transactions associated with your business. By designating us as your agent for payment facilitation services, and remaining in compliance with the terms of the Agreement (including payment of all of our Fees), you will receive the right to accept payments from customers, clients and/or members (collectively, "**End Users**") through validly issued bankcards ("**cards**") associated with the Card Brands, and/or, if approved, through automated clearing house transactions ("**ACH**") regulated by the National Automated Clearing House Association ("**NACHA**"). We will only provide you with Payment Services for transactions run on active, non-defaulted End User agreements properly delivered to us through the appropriate system in accordance with the Agreement's terms and conditions including, without limitation, this Sub- Merchant Agreement.

3) **APPLICATION PROCESS; UNDERWRITING; APPROVAL FOR PAYMENT SERVICES.** Completion of the SMAA and submission through our standard underwriting process shall be a pre-requisite and pre-condition to your receipt of Payment Services. If you fail to meet our then-current underwriting requirements, or the then-current underwriting requirements of our Processor (as applicable), you shall not be allowed to receive Payment Services. Federal regulations such as the USA Patriot Act or FinCEN require financial institutions (i.e., banks) to verify the identity of persons seeking to open a depository account. Our Processor, in turn, requires that we submit certain information about each sub-merchant through underwriting prior to such sub-merchant's receipt of payment services. Information that we may request includes, but is not limited to, basic sub- merchant information such as entity name, business address, tax number, date of formation, years in business; transaction information, processing volumes, payment types accepted, address of business locations where payments may be accepted; and information about who owns and controls the sub-merchant. It shall be your sole responsibility to provide us with all required information, to ensure the accuracy and completeness of the information provided, to provide us with timely and accurate updates if your information changes, and to make the required acknowledgements and authorizations related to Payment Services as described in the Sub-Merchant Agreement. We (and our Processor, as applicable) will base underwriting decision on the information provided. If, after approval, we discover that certain information provided in the SMAA was false, incomplete, misleading or inaccurate, as determined by us or our Processor, we reserve the right to suspend or terminate Payment Services immediately at our discretion. If you pass underwriting and your

application is approved, then your SMAA will automatically convert to a Sub-Merchant Agreement which incorporates these Payment Terms & Conditions (and other documents forming the Agreement) by reference. Underwriting approval and conversion of your application to a Sub-Merchant Agreement may occur without notice to you. Your failure to notify us of changes to your business may be considered a material breach of the Sub-Merchant Agreement.

- **For Private Sector Entities Only:** You expressly authorize us to make business credit inquiries , if applicable, personal credit inquiries (including, without limitation, credit report inquiries into your Control Owner or Authorized Contact), identity-verification inquiries, transaction-verification inquiries and any other inquiry or background check that we consider reasonably necessary as related to our provision of the Payment Services. You further agree to provide us with any information or documentation requested by the Processor, the Card Brands and/or the bank(s).

4) **DESIGNATION AS LIMITED PAYMENTS AGENT.** By entering into this Sub-Merchant Agreement, you are appointing us as your limited payments agent for the sole purpose of receiving, holding and settling payments made to you for your goods and services as validly entered in and through our system or platform. We will settle payments that are actually received by us to you, less any amounts owed to us, including fees and other obligations, and subject to the terms and conditions of the Agreement, including this Sub-Merchant Agreement. You agree that a payment received by us on your behalf satisfies an End User's (i.e., a payor's) obligation to make payment to you, . If we do not settle the payment to you, you will only have recourse against us and not the End User, as payment is deemed made by an End User to you upon constructive or actual receipt of funds by us. We will process transactions in accordance with your written instructions, the agreement(s) in place with us or End Users, and applicable law, rules or regulations.

5) **DESIGNATED ACCOUNT.** You will be required to provide and maintain a business bank account with a U.S.-chartered bank (your "**Designated Account**," or, if you have more than one account, your "**Designated Accounts**"). Each sub-merchant entity must have its own Designated Account and the name on the Designated Account must match the sub-merchant's legal entity name or registered doing-business-as name. All remits or other deposits to you as associated with Payment Services will be made into your Designated Account(s).

6) **PROHIBITED ACTIVITIES PER MAJOR CARD BRANDS.** In receiving Payment Services, you shall not, through yourself or a third party: **(a)** submit any transaction to us that was previously charged back and subsequently returned to you, irrespective of cardholder approval; **(b)** knowingly submit any transaction that is illegal or that you should have known was illegal (you acknowledge that such transaction must be legal in both your and the cardholder's jurisdiction); **(c)** submit a transaction that you know, or should have known, is either fraudulent or not authorized by the cardholder; **(d)** require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed, nor request a Card Verification Value 2 ("**CVV2**") for a card-present transaction, nor retain or store any portion of the magnetic-stripe data subsequent to the authorization of a sales transaction, nor any other data prohibited by the Card Brands operating regulations or this Sub-Merchant Agreement, including CVV2; **(e)** add a surcharge to transactions except as expressly permitted by, and in full compliance with, the Card Brands operating regulations; **(f)** charge a minimum or maximum amount for a transaction unless expressly authorized by, and in full compliance with, the Card Brands operating regulations;**(g)** disburse funds in the form of cash unless you are participating in full compliance with a program supported by a Card Brand for such cash disbursements and in full compliance with the Card Brand's operating regulations; **(h)** submit a transaction that does not result from an act between you and a cardholder; **(i)** accept a card issued by a U.S. issuer to collect or refinance an existing debt, unless expressly authorized by, and in full compliance with, Card Brand operating regulations; **(j)** request or use a card account number for any purpose other than as payment for your goods or services; **(k)** add any tax to transactions, unless applicable law expressly requires that you are permitted to impose a tax (in such event, any tax amount, if allowed, must be included in the transaction amount and not collected separately); **(l)** process transactions for, receive

payments on behalf of, or redirect payments to a third party (unless required by law); **(m)** copy, modify, adapt, translate, reverse engineer, decompile, or disassemble, in any way, any portion of the Payment Services; **(n)** interfere with or violate any other of our services or End User's right to privacy or other rights, or harvest or collect personally identifiable information about End Users without their express consent, including using any robot, spider, site search or retrieval application, or other manual or automatic device or process to retrieve, index, or data-mine; **(o)** defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights of others; **(p)** transmit or otherwise make available in connection with the Payment Services any virus, worm, trojan horse, time bomb, web bug, spyware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component; **(q)** interfere with or disrupt the operation of the Payment Services, or the servers or networks that host the Payment Services or make them available, or violate any requirements, procedures, policies, or regulations of such servers or networks; **(r)** sell, license, or exploit for any commercial purposes any use of or access to the Payment Services other than as permitted by us; **(s)** forward any data generated from the Payment Services without our prior written consent; **(t)** sublicense any or all of the Payment Services to any third party; and/or **(u)** transfer or assign your account password or credentials, even temporarily, to a third party. We reserve the right to monitor you and your End User's use of the Payment Services to ensure compliance with the Agreement including, without limitation, this Sub-Merchant Agreement and applicable law. If we determine that you are not in compliance with the Sub-Merchant Agreement, we reserve the right to take appropriate remedial action including, without limitation, suspending or terminating Payment Services, or suspending or terminating your access to the system or platform. In receiving Payment Services, you further acknowledge, represent and warrant that you will not **KNOWINGLY** make Payment Services available to **(i)** any person who appears of the U.S. Department of Treasury Office of Foreign Assets Control Specially Designated Nationals list; **(ii)** any person who is less than 18 years of age; **(iii)** who is not domiciled in the U.S.

7) **SUB-MERCHANT REPRESENTATIONS.** You represent and warrant that **(a)** you are at least 18 years of age; **(b)** if an individual account, you are a sole proprietorship validly existing in the United States, Canada, or its territories, and if an entity, that the entity was validly formed, registered and is in good standing in at least one of the fifty United States, Canada, or its territories; **(c)** you have never been placed on the MasterCard MATCH system or the Combined Terminated Merchant File, and if so, you have disclosed this to us; and **(d)** all transactions are bona fide and no transaction involves the use of a Card for any purpose other than the purchase of goods or services from you.

8) **CLIENT RESPONSIBILITY.** To the fullest extent allowed by law, you shall be responsible for all liabilities arising out of your acts and omissions including any use of Vermont System's Software, products, or **Payment Services.**

9) **END USERS.** We are not a party to any contract or business relationship that you may have with End Users, and we shall have no obligations or liability under any such agreement or business relationship. You are solely responsible for your own products and services and for the content and legality of your own contracting documents with End Users. You will be required to obtain an End User's prior written consent for **RECURRING TRANSACTIONS**.

10) **REGULATORY STATUS.** In providing Payment Services to you, we are your designated agent for certain payment facilitation services, as integrated with our proprietary technologies, but always acting at your direction in accordance with the contracts that have been entered into including, without limitation, the Sub-Merchant Agreement. We are not a bank, money transmitter or other money services business. The Payment Services that we offer and the payment transactions that we help to facilitate involve the use of our own proprietary technologies and the efforts of third parties such as banks, the Card Brands, and our Processor.

11) **TERM; TERMINATION OF PAYMENT SERVICES.** The term of this Sub-Merchant Agreement will run concurrently with the Term as described in your Agreement. We shall have the right to terminate this Sub-

Merchant Agreement, with a written notice, at any time for cause, and shall have no liability to you for any such termination. Upon termination, you shall immediately cease using the Payment Services. We shall have the right to remove your Designated Account information upon termination of the Sub- Merchant Agreement, and we shall also have the right, at our choosing, to retain copies of such information for up to five (5) years at our cost. This Sub-Merchant Agreement shall terminate immediately if a bank, the Card Brands or our Processor require us to terminate the Sub-Merchant Agreement. Upon termination of Payment Services for any reason, you shall remain liable for any and all outstanding Fees owed.

12) **TAXES.** It is your sole responsibility to determine what, if any, taxes apply to the sale of your products and services, or the payments you receive in connection with your use of our Payment Services ("**Taxes**"). It is solely your responsibility to assess, collect, report, or remit the correct tax to the proper taxing authority. We are not obligated to, nor will we determine whether Taxes apply, or calculate, collect, report, or remit any Taxes to any tax authority arising from any transaction. You acknowledge that we will satisfy all IRS reporting requirements as required by law, including providing the IRS with an information return on your card transactions and third-party network transactions. We will also comply with any lawful orders, garnishments or tax levies associated with your account. This provision shall be read in conjunction with, and not in conflict of, any tax-related provision in the Terms of Service.

13) **CARD BRAND RULES.** If you accept cards issued by any of the major Card Brands, then in addition to these Payment Terms and Conditions, you will also be obligated to comply with Card Brand rules and regulations, the terms of which are incorporated by reference herein. The operating regulations for each of the major Card Brands can be accessed at the links below:
    - **VISA**: usa.visa.com/merchants/operations/op_regulations.html
    - **Mastercard**: https://www.mastercard.us/en-us/business/overview/support/rules.html
    - **American Express**: www.americanexpress.com\merchantopguide
    - **Discover**: https://www.discovernetwork.com/en-us/faq
    - For transactions involving **ACH**, a copy of the NACHA operating rules and guidelines are available at www.achrulesonline.org.

    Nothing in this Sub-Merchant Agreement shall be read or construed to interfere with or lessen the right of the Processor, the bank(s), or the Card Brands to terminate this Sub-Merchant Agreement; and, if this occurs, such termination shall not be considered a material breach of the Agreement by us. In the event of a conflict between this Sub-Merchant Agreement and the Card Brand's operating regulations, the Card Brand operating regulations will control. With respect to the Card Brand operating regulations, you acknowledge and agree that: **(a)** you will be responsible for the actions of your employees and agents; **(b)** you will comply with all applicable laws and regulations and all applicable parts of the operating regulations, including those parts regarding the ownership and use of Card Brand marks; **(c)** you will notify us, as your payment facilitator, of any third-party that will have access to Cardholder Data; **(d)** you will comply with, and will contractually require your suppliers and agents to comply with, the provisions of the Cardholder Information Security Program (CISP) and PCI DSS, or other security program as required by a Card Brand and demonstrate compliance with these security obligations; and **(e)** Card Brands may conduct, or direct another party to conduct, an audit of you at any time, and you must comply in all material respects with such audit until its completion.

14) **AMERICAN EXPRESS OPT-BLUE PROGRAM.** The following provision only applies if you are participating in the American Express Opt-Blue Program, as controlled by the American Express Opt-Blue Program operating regulations. As a participant in the American Express Opt-Blue Program: **(a)** you must comply with, and accept American Express cards in accordance with the terms of this Sub-Merchant Agreement and the American Express Merchant Operating Guide, as such terms may be amended from time to time; **(b)** you acknowledge that the American Express Merchant Operating Guide is incorporated by reference into this Sub-Merchant Agreement and is available online here: https://icm.aexp-static.com/content/dam/gms/en_us/optblue/us-mog.pdf **(c)** you expressly authorize us to submit transactions to, and receive settlement from, American Express on your behalf; **(d)** you expressly consent to our collection and disclosure of transaction data, Sub-Merchant Data, and other information about you

to American Express, and to American Express using such information to perform its responsibilities in connection with the American Express Program, promote the American Express network, perform analytics and create reports, and for any other lawful business purposes, including commercial marketing communication purposes within the parameters of the program agreement, and important transactional or relationship communications from American Express.

In addition, you acknowledge and agree that: **(i)** you may opt-out from receiving future commercial marketing communications from American Express; **(ii)** you may be converted from the American Express Program to a direct card acceptance relationship with American Express if and when you become a high CV merchant in accordance with Section 10.5, "High CV Merchant Conversions," and upon conversion, you will be bound by American Express' then-current Card Acceptance Agreement and American Express will set pricing and other fees payable by you for card acceptance; **(iii)** American Express may use information obtained in the SMAA at the time of setup to screen, communicate and/or monitor you in connection with card marketing and administrative purposes; **(iv)** you shall not assign to any third party any payments due to you under your respective End User Agreement, and further agree that all indebtedness arising from charges will be for bona fide sales of goods and services (or both) at your establishments and free of liens, claims, and encumbrances other than ordinary sales taxes, provided, however, that you may sell and assign future transaction receivables to us, our affiliated entities and/or any other cash advance funding sources who partner with us or our affiliated entities without consent of American Express; **(v)** American Express is a third-party beneficiary to this Sub-Agreement and retains all rights, but not obligations, in the Sub- Merchant Agreement that will fully provide American Express with the ability to enforce the terms of the Payment Facilitator's Sub-Merchant Agreement against you; **(vi)** you may opt out of accepting cards at any time without directly or indirectly affecting your rights to accept other payment products; **(vii)** we may terminate your right to accept cards if you breach any of the provisions in this Section or the American Express Merchant Operating Guide; **(viii)** we have the right to immediately terminate the Sub-Merchant Agreement for cause, for fraudulent or other activity, or upon American Express' request; **(ix)** your refund policies for purchases on a card must be at least as favorable as your refund policy for purchases on any other payment products, and you further agree that the refund policy be disclosed to cardmembers at the time of purchase and in compliance with applicable law; **(x)** you are prohibited against billing or collecting from any cardmember for any purchase or payment on the card unless chargeback has been exercised, you have fully paid for such charge, and you otherwise have the right to do so; **(xi)** you must comply with applicable laws, rules and regulations relating to the conduct of your business, including the DSR and PCI DSS, each as described in Chapter 15, "Data Security;" **(xii)** you will report all instances of a data Incident immediately to us after discovery of the incident; **(xiii)** you will cease all use of, and remove American Express' licensed marks from your website and wherever else they are displayed upon termination of this Sub-Merchant Agreement or your participation in the Program; **(xiv)** you will ensure data quality and agree that transaction data and customer information will be processed promptly, accurately and completely, and will comply with the American Express technical specifications; and **(xv)** you are solely responsible for being aware of and adhering to privacy and data protection laws and will provide specific and adequate disclosures to cardmembers on the collection, use, and processing of personal data.

15) **PCI DSS**. We have implemented certain technical and procedural safeguards to keep Cardholder Data safe and will continue to comply with Payment Card Industry Data Security Standards (" **PCI DSS**") as a Level 1 service provider to the extent we store, process or transmit Cardholder Data on your behalf. As a sub-merchant, you also have certain PCI DSS obligations to help keep Cardholder Data safe. Please visit this link https://www.pcisecuritystandards.org/pdfs/Small_Merchant_Guide_to_Safe_Payments.pdf) to learn more about what you can and should do to protect payment transactions at your place of business. We reserve the right to suspend Payment Services for as long as we deem reasonably necessary to investigate suspicious or unusual activity associated with your account, and we shall have no liability to you for any losses that may be attributable to the period of suspension. Similarly, if you know or have reason to believe there has been a security intrusion that has or may result in unauthorized access to Cardholder Data, you must notify us immediately.

16) **PROCESSING LIMITS.** We reserve the right, if needed, to assign a maximum dollar amount ("**Processing Limit**") per sales ticket and an aggregate maximum dollar amount of card and ACH transactions per calendar month to your account. If we assign a Processing Limit, we will provide a prior written notice. As a Sub-Merchant, You may also request in writing "Processing Limits" as described here.

17) **MERCHANT SERVICES AGREEMENT WITH PROCESSOR**. In the event you process more than $1,000,000 in Visa transactions and/or $1,000,000 in MasterCard transactions (or such other amount as provided by the Card Brand's operating regulations) in any twelve month period ("**Benchmark Amount**"), then in addition to this Sub-Merchant Agreement with us, you may also be required to enter into a "Merchant Services Agreement for Sub-Merchants" with our Processor, the terms of which will be independently enforceable by our Processor.

18) **NEGATIVE ACCRUALS.** We reserve the right to collect a "Per Fiscal Day Over Draft Fee" if your account goes negative during any given remit cycle. See Schedule A for details and Fee amounts.

19) **Negative Payout Protection Option**. Negative Payout Protection allows negative accrued fees to be recovered from future payouts instead of being debited from your account. If you elect this option, we will carry forward the negative balance until amounts otherwise payable to you are sufficient to offset it. We will then apply those amounts to the negative balance and pay you any remaining funds.

20) **ADVANCES.** An advance is any disbursement of funds prior to the regularly scheduled remit date. Any requests for an advance will be considered on a case-by-case basis although, as a general policy, we will not honor advance requests. Any advance request must be sent to us in writing. If an advance is granted, you agree to pay a "**Per Wired Funds Transfer**" for each advance provided.

21) **RECONCILIATIONS; ERROR REPORTING.** You are responsible for reconciling your transaction history or remit reports with your actual transactions and you agree to notify us of any errors or discrepancies (each an "**Error**"). We will investigate reported Errors and attempt to promptly rectify them. In the event you are owed money as a result of an Error, we will transfer funds to your Designated Account at the next scheduled remit or pay-out cycle. Errors not reported to us within 60 days from when they first appear on your transaction history or remit report will be deemed waived.

22) **SALES TRANSMITTALS.** You will retain a copy of the sales transmittal for the completed transaction for 25 months or such longer period as the Card Brand operation regulations may require. Within three business days of our request, you will produce copies of sales transmittals and other transaction evidence.

23) **ACH PROCESSING.** To enable you to make and accept ACH payments, you authorize us to originate credit or debit records for the purpose of a funds transfer into the ACH network ("**Entries**"). We will use reasonable efforts to originate Entries on your behalf in accordance with the Sub-Merchant Agreement. You must only submit Entries for bona fide transactions with your End Users made in the ordinary course of business. All disputes between you and any of your End Users relating to any ACH transaction must be resolved between you and them. If we receive any notice of an ACH dispute or NACHA inquiry, we will forward such notice directly to you. We bear no financial responsibility for any disputed transaction.

24) **REFUNDS; RETURNS.** You agree to process returns of and provide refunds and adjustments for products and/or services in accordance with your End User Agreements. In managing refunds and returns, you agree to: **(a)** maintain a fair return, cancellation or adjustment policy; **(b)** disclose your return or cancellation policy to End Users at the time of purchase; **(c)** not give cash refunds to an End User in connection with a card sale unless required by law; and **(d)** not accept cash or any other item of value for preparing a card sale refund. Your refund policies should be the same for all payment methods and should specifically include a requirement for prompt payment of refunds in order to mitigate chargeback risk.

25) **CHARGEBACK LIABILITY.** For any transaction that results in a chargeback, we may withhold the chargeback amount in a reserve account. You grant us authorization to recover the amount of any chargeback and any associated fees, fines, or penalties listed in the Agreement, your End User Agreements, or assessed by a Card Brand or Processor. If you have pending chargebacks, we may delay payouts as necessary. Further, if we reasonably believe that a chargeback is likely with respect to any transaction, we may withhold the amount of the potential chargeback from remits otherwise due to you until such time that **(a)** the chargeback is assessed due to an End User (cardholder) complaint, in which case we will retain the funds; **(b)** the period of time under applicable law or regulation by which the End User (cardholder) may dispute that the transaction has expired; or **(c)** we determine that a chargeback on the transaction will not occur. If we are unable to recover funds related to a chargeback for which you are liable, you agree to pay us the full amount of the chargeback immediately upon demand. You agree to pay all costs and expenses, including attorneys' fees and other legal expenses, incurred by us for the collection of all amounts unpaid by you.

26) **RESERVE; SECURITY INTEREST. (APPLICABLE TO PRIVATE ENTITIES)** Where deemed necessary or appropriate by us or our sponsor bank, upon written notice, we (or our sponsor bank) shall create a reserve account ("**Reserve**") in order to protect us or the sponsor bank from actual or potential liabilities under this Sub-Merchant Agreement. The Reserve will be in an amount determined by us in our sole and absolute discretion to cover anticipated chargebacks, returns, unshipped product and/or unfulfilled services or credit risk based on your processing history. The Reserve may be raised, reduced or removed at any time by us (or at the direction of our sponsor bank). Where the Reserve is not adequately funded, you shall pay all amounts requested by us for the Reserve within one business day of a request for such amounts and we may build the Reserve by offsets from Remits, transaction settlements or by debiting by ACH any of your Designated Accounts with available funds. You hereby grant us a security interest in and lien on any and all funds held in any Reserve, and also authorizes us to make any withdrawals or debits from the Reserve, without prior notice to you, to collect amounts that you owe us under this Sub-Merchant Agreement, including without limitation, for any reversals of deposits or transfers. You will execute any additional documentation required for us to perfect our security interest in any funds in the Reserve. This security interest survives for as long as we hold funds in Reserve; however, it does not apply to any funds for which the grant of a security interest would be prohibited by law. You irrevocably assign to us all rights and legal interests to any interest or other earnings that accrue or are attributable to the Reserve.

27) **RECOUPMENT OF FEES.** Where Fees are owing by you to us under the Agreement, we shall have the right to immediately, without prior consent or notice, offset or debit such amounts from funds: **(a)** deposited by you into your Designated Account(s); **(b)** due to you as remits; **(c)** held in the Reserve; or **(d)** available in your other payment instrument registered with our sponsor bank (if any). Your failure to pay all Fees owed to us on demand will be a breach of this Sub-Merchant Agreement. You will be liable for our costs associated with collection in addition to the amount owed, including without limitation attorneys' fees and expenses, collection agency fees, and interest at the lesser of one-and-one-half percent (1.5%) per month or the highest rate permitted by applicable law. In our discretion, we may make appropriate reports to credit reporting agencies and law enforcement authorities and cooperate with them in any resulting investigation or prosecution. You hereby expressly agree that all communication in relation to delinquent sub-merchant accounts may be made by us or by a third party acting on our behalf, including but not limited to a collections company.

28) **INTELLECTUAL PROPERTY.** We reserve all rights not expressly granted to you in the Agreement, including without limitation, this Sub-Merchant Agreement. We own the title, copyright and other worldwide intellectual property rights in the Payment Services and all technology, components, systems, and hardware associated therewith. This Sub-Merchant Agreement does not grant you any rights to our trademarks or service marks, nor may you remove, obscure, or alter any of our trademarks or service marks included in the Payment Services. All comments and suggestions of or concerning the Payment Services provided to you shall be our property and you shall not have any rights therein.

29) **HOLD HARMLESS** To the fullest extent allowed by law, you are responsible for, and will hold Provider and its affiliates, and each of their respective officers, directors, employees, agents, and third-party service providers involved in the Payment Services (including processors, acquiring banks, issuing banks, card networks, and payment rails) (collectively, the "**Protected Parties**") harmless from any third-party claims, demands, actions, audits, investigations, inquiries, or proceedings, and all related losses, liabilities, damages, penalties, fines, judgments, settlements, costs, and expenses (including reasonable attorneys' fees), to the extent arising out of or relating to: **(a)** any actual or alleged breach of your representations, warranties, or obligations under this Sub-Merchant Agreement; **(b)** your wrongful, improper, fraudulent, or unauthorized use of the Payment Services; **(c)** any transaction submitted by you through the Payment Services, including the accuracy of transaction data, product or service descriptions, pricing, fulfillment, refunds, chargebacks, reversals, or disputes relating to products or services offered or sold by you; **(d)** your violation of any applicable law, rule, regulation, card network rule, or payment network operating requirement; **(e)** your violation of any third-party right, including intellectual property, privacy, or publicity rights; or **(f)** any access to or use of the Payment Services using your credentials or account, **except to the extent caused by Provider's gross negligence or willful misconduct.**
28.1 Claim Management. Provider will provide prompt written notice of any matter covered by this Section and will reasonably cooperate, including by providing information reasonably available to Provider, in connection with the response or resolution. Customer will reimburse Provider for Provider's reasonable, documented out-of-pocket costs of such cooperation, if any. You will manage the response and any settlement of such matter; however, you may not resolve any matter in a manner that imposes any obligation on, or admits fault by, a Protected Party without Provider's prior written consent (not to be unreasonably withheld).
28.2 No Expansion of Remedies. This Section applies solely to third-party claims and does not create any first-party remedies or expand Customer's rights beyond those expressly stated elsewhere in this Agreement.

30) **LIMITED WARRANTIES.** Provider warrants that, during the applicable Subscription Term, and when used in accordance with this Agreement and the applicable Payment Services Descriptions, the Software and Payment Services will materially conform to such descriptions. (a) No Malicious Code. Provider warrants that it will use commercially reasonable efforts designed to ensure that the Software, as provided at the time of installation, does not contain malicious code intended to materially damage, disable, or disrupt Customer's systems or data; (b) Professional Services. Provider warrants that any Professional Services will be performed in a professional and workmanlike manner consistent with generally accepted industry standards; (c) Remedies. If Customer provides written notice within thirty (30) days after discovering an alleged breach, Provider will use commercially reasonable efforts to remediate. If remediation is not commercially reasonable or cannot be completed within a reasonable period, Customer may terminate the affected Subscription and receive a refund of prepaid, unused Subscription Fees for the affected portion; (d) Exclusions. This warranty does not apply to nonconformities caused by Customer misuse, unauthorized modifications, third-party systems or services, or Provider's compliance with Customer instructions; (e) Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, THE PAYMENT SOFTWARE AND PAYMENT SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND ALL OTHER WARRANTIES ARE DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

31) **LIMITATION ON LIABILITY**. The following provisions in this section apply to the fullest extent allowed by law. (a) Excluded Damages. EXCEPT FOR: (i) amounts payable by Provider under the Limited Warranties section (including required refunds of prepaid, unused Subscription Fees), and (ii) liability that cannot be excluded under applicable law. IN NO EVENT WILL PROVIDER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR ANY LOSS OF PROFITS, REVENUE, BUSINESS, OR GOODWILL; (b) Liability Cap. EXCEPT FOR (i) amounts payable by Provider under the Limited Warranties section (including required refunds of prepaid, unused Subscription Fees), and (ii) liability that cannot be limited under applicable law,

PROVIDER'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL NOT EXCEED THE FEES PAID BY CUSTOMER FOR THE PAYMENT SERVICES DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. For clarity, this Section 30 limits Provider's liability; it does not limit Customer's obligations under the HOLD HARMLESS section; (c) Allocation of Responsibility. Provider is not responsible for failures or losses caused by Customer acts or omissions, Customer systems or data, third-party payment networks or banks, actions taken to comply with law or card network rules, or Provider's compliance with Customer instructions; (d) Relationship to Warranties. Nothing in this Section limits Provider's obligation to remediate nonconformities or refund prepaid, unused Subscription Fees as expressly provided in the Limited Warranties section. Remedies for any breach of the No Malicious Code warranty are limited to those expressly stated in that section, except where liability cannot be limited under applicable law.

32) **TIME LIMIT TO INITIATE A DISPUTE.** Unless otherwise required by law, an action or proceeding by you relating to any dispute or claim by you under this Sub-Merchant Agreement must commence within one year after the cause of action accrues, failing which you forego any rights in respect thereof.

33) **CONFIDENTIALITY.** Unless otherwise required by law, you shall, and shall cause your affiliates to, hold in strict confidence at all times following the date hereof all of our, our bank's or our Processor's Confidential Information, and neither you nor any of your affiliates shall use such Confidential Information for any purpose other than for the performance of your duties and obligations hereunder. If you breach, or threaten to breach, any of the provisions of this section, in addition to any other rights we may have, including a claim for damages, we shall have the right to have the provisions of this section specifically enforced, and your breach or threatened breach enjoined, by any court of competent jurisdiction, without presentment of a bond (such requirement being expressly waived by you), it being agreed that any breach or threatened breach of this section would cause irreparable harm to us in that money damages would not provide an adequate remedy.

34) **PERSONAL GUARANTY (Private sector only).** If an individual executes this Sub-Merchant Agreement on your behalf as a guarantor, then such individual personally guarantees performance by you hereunder, shall be deemed to be a guarantor for all purposes, and shall be joint and severally liable with you for all of your liabilities under the Sub-Merchant Agreement.

35) **INDEPENDENT CONTRACTOR.** The relationships of the parties to this Sub-Merchant Agreement shall be solely that of independent contractors, and nothing contained herein shall be construed otherwise. Nothing in this Sub-Merchant Agreement or in the business or dealings between the parties shall be construed to make them joint ventures or partners with each other. Neither party shall do anything to suggest to third parties that the relationship between the parties is anything other than that of independent contractors.

36) **ASSIGNMENT.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, we may assign this Agreement in whole or in part , to an affiliate or to a successor in connection with a merger, acquisition, corporate reorganization, or sale of substantially all of our business or assets related to the Services, provided that **(a)** We remain responsible for performances of the Services and all obligations under this Agreement, and **(b)** such assignment does not materially reduce the level or quality of Services to the Customer. We will provide the Customer with written notice of any such assignment.

37) **OTHER AGREEMENT TERMS; CONFLICT**. Upon SMAA acceptance, this Sub-Merchant Agreement shall be considered incorporated by reference into your overall Agreement with us. To the extent any provision of this Sub-Merchant Agreement directly conflicts with any other provision of the Agreement, then the Sub-Merchant Agreement's terms shall be deemed to control.

38) **COST REVIEW & POTENTIAL ADJUSTMENT.** We will conduct a quarterly review of the overall card processing costs. The first review will begin six (6) months after the initial implementation. If there is a

material increase or *decrease* in card processing costs, we reserve the right to adjust fees accordingly, associated with Payment Services, with prior written notice and supporting documentation.

SCHEDULE A:

RECDESK PAYMENTS PAYMENT SERVICE RATES & FEES*

TRANSACTION PARTIES		FUNDING**
Customer / Sub-Merchant:	**South Whidbey (WA) Parks and Recreation District**	Funds received by 11:59 pm ET will be deposited in Customer's designated account within three (3) business days
Payment Facilitator:	RecDesk, LLC	
Payment Processor:	WorldPay, LLC	
Sponsor Bank:	Fifth Third Bank	

** Customer acknowledges and accepts that RECDESK will collect its fees and charges for Payment Service directly from the EFT/ACH draft associated with the business location.*

*** RECDESK is not responsible for funding delays due to weekends, federal holidays or Force Majeure events or incidents.*

**** Daily settlement cut-off times are Midnight local time.*

FLAT RATE MODEL

CREDIT CARD PROCESSING FEES				
Mastercard Visa Discover AMEX	Per electronic authorization	$	0.25	
	Per sale transaction	$	0.25	
	Credit card account updater fee If & when available and option selected/elected	$	1.00	
	Per chargeback request or return processed	$	25.00	
	Mastercard-Visa-Discover-AMEX acquired gross purchase		3.25	%

ACH PROCESSING FEES (if option selected/elected)			
ACH / e-Check Processing	ACH gross purchase sale percentage	%	1.00
	ACH fee per sale transaction	$	0.10
	ACH account updater fee	$	0.50
INSTANCE-BASED FEES			
Funding Fees	Per fiscal day overdraft fee	$	110.00
	Per wired funds transfer	$	15.00
	Per ACH credit / debit per funds transfer	$	0.10
OTHER FEES			
	PCI Non-compliance Fee (Monthly rate) per MID, to be assessed if the Customer is found to be PCI non-compliant, not to exceed $75.00 total.	$	25.00
	RecDesk Payments Monthly Fee (charged per MID)	$	25.00
NOTES			

IN WITNESS WHEREOF, the parties signing below have read and understand the terms and conditions of this Agreement, including any and all additional addenda or attachments. They represent and warrant that they are authorized to execute this Agreement on behalf of the applicable organization and that, upon execution, this Agreement is enforceable against that party in accordance with its terms. The parties hereto have caused this Agreement to be executed as of the ______**day ____, 20____ ("Execution Date").**

Customer: South Whidbey (WA) Parks and Recreation District	**RecDesk, LLC**
Signature:______________________________ By:_______________(Print Name) Its:_______________ (Title) Date:_________	Signature:______________________________ By: Patrick Hayden (Print Name) Its: President______(Title) Date:_________