CITY COUNCIL AGENDA

865 SE Barrington Drive, Oak Harbor, WA 98277

July 7, 2015 **6:00 p.m.**

---

1. CALL TO ORDER

Invocation/Pledge of Allegiance
Excuse Absent Councilmembers

2. HONORS AND RECOGNITIONS

a. Proclamation in Recognition of Christmas in July
b. Employee Service Recognitions
   - Pat Gardner, Senior Services – 10 years
   - Janet Sabalausky, Public Works – 20 years

3. PRESENTATIONS

a. Island County Drug Court Mentor Program - Brian Johnson (Program Coordinator)

4. APPROVAL OF AGENDA

5. CITIZEN COMMENT PERIOD

6. CONSENT AGENDA

a. Minutes of the Regular City Council meeting held on June 16, 2015, and Workshop and Special Meeting held on June 17, 2015
b. Approval of Accounts Payable and Check Numbers
c. Whidbey Pedestrian Crossing - Consultant Agreement with Transpo Group USA, Inc.
d. Waterfront Trail Repair -Consultant Agreement for Design with David Evans & Associates
e. NE 4th Ave Water Main Replacement- Construction Contract Award to C. Johnson Construction, Inc.
f. Ordinance 1732: Amending OHMC Chapter 3.95 relating to Utility Procedures and adding Chapter 3.96 entitled “Collection Procedures”
g. Resolution 15-21: Island County Fire Departments Inter-local Agreement for P25 Compliant Base Station Transmitter Radios
h. Update to the Transportation Element of the Comprehensive Plan - Professional Services Agreement with Fehr & Peers
i. Retainer Agreement with Weed, Graafstra and Associates, Inc., P.S. for Municipal Legal and Support Services
j. Resolution 15-22: Delay the closing date of the Staysail RV Park
k. Puget Sound Energy (PSE) Request for Vegetation Management Easements
l. Request to serve alcohol at Catalina Park for the Hoover Wedding Reception
m. Resolution 15-24: Staysail RV Park – Windjammer Park Lease Agreement relations to WWTP
n. WWTP – Temporary Construction Easement at Windjammer Park
o. Resolution 15-23: Accepting of "Barringtons" Art Sculpture for Pioneer Way
p. Wells Fargo Possession and Use Agreement

To assure disabled persons the opportunity to participate in or benefit from City services, please provide 24-hour advance notice to the City Clerk at (360) 279-4539 for additional arrangements to reasonably accommodate special needs.

CITY COUNCIL AGENDA

865 SE Barrington Drive, Oak Harbor, WA 98277

July 7, 2015 **6:00 p.m.**

7. STAFF, MAYOR AND COUNCIL COMMENTS

a. City Administrator – Wastewater Treatment Plant Staff Update
b. Mayor
c. Councilmembers

8. ORDINANCE AND RESOLUTIONS

9. PUBLIC HEARINGS/PUBLIC MEETINGS

a. Ordinance 1738: Wells Fargo Condemnation

10. UNFINISHED BUSINESS

11. NEW BUSINESS

a. Revenue and Expense Report for 2015 Whidbey Island Marathon, including options for continuation or severance of the Race Director Contract
b. Authorize Agreement with PSE for Schedule 74 Design relating to the WWTP
c. Beach View Relinquishment of Easements and Substitute Parking Agreement

12. ADJOURNMENT

As a courtesy to Council and the audience, PLEASE TURN YOUR CELL PHONES OFF before the meeting begins. During the meeting's Public Comments section, Council will listen to your input regarding subjects of concern or interest that are not on the agenda.

For scheduled public hearings, if you wish to speak, please sign your name to the sign-up sheet, located in the Council Chambers. The Council will take all information under advisement. To ensure your comments are recorded properly, state your name and address clearly into the microphone. Please limit your comments to three minutes in order that other citizens have sufficient time to speak.

Thank you for participating in your City Government!

To assure disabled persons the opportunity to participate in or benefit from City services, please provide 24-hour advance notice to the City Clerk at (360) 279-4539 for additional arrangements to reasonably accommodate special needs.

City of Oak Harbor

OFFICE OF THE MAYOR
SCOTT DUDLEY
MAYOR

Proclamation

Whereas: North Whidbey Help House is a local non-profit food bank that serves northern Whidbey Island; and

Whereas: in response to the annual slowdown of donations during the summer months, the Christmas in July Food and Fund Drive was developed to help keep the shelves stocked; and

Whereas: through the month of June 2015, the North Whidbey Help House has distributed 3,271 food baskets feeding 8,061 people; and

Whereas: with food and cash donations down and an average of five new applicants daily, donations are needed now more than ever; and

Whereas: on Saturday, July 18th, 10am to 2pm, volunteers from the Oak Harbor Lions Club will be at Wal-Mart and volunteers from various NAS Whidbey Commands will be staged at Safeway, Haggen and Saar's Market Place asking shoppers to contribute to the Help House "Christmas in July" Food and Fund Drive.

Now Therefore, WE, Scott Dudley, Mayor and Councilmembers of the City of Oak Harbor, do hereby proclaim,

Saturday, July 18, 2015 as:

Christmas in July Day

and urge all citizens of our City to support North Whidbey Help House
and its effort to provide assistance to those in need.

Signed and sealed, *on this the 7th day of July, 2015*

Scott Dudley, Mayor

Oak Harbor City Council
Regular Meeting Minutes
June 16, 2015

CALL TO ORDER

Mayor Scott Dudley called the meeting to order at 6:00 p.m.

ROLL CALL

City Council Present:
Mayor Scott Dudley
Mayor Pro Tem Danny Paggao
Councilmember Rick Almberg
Councilmember Jim Campbell
Councilmember Bob Severns
Councilmember Beth Munns
Councilmember Joel Servatius
Councilmember Tara Hizon

Staff Present:
City Administrator Larry Cort
Finance Director Doug Merriman
City Attorney Nikki Esparza
Development Services Director Steve Powers
Public Works Director Cathy Rosen
City Engineer Joe Stowell
Chief of Fire Ray Merrill
Captain of Police Teri Gardner
POC Firefighter Genevieve Reeves
Project Engineer Brett Arvidson
Archaeologist Gideon Cauffman
Executive Assistant to the Mayor Kellye Mazzoli
City Clerk Anna Thompson

CALL TO ORDER

Rilla Barrett, Reverend of the St. Stephen's Episcopal Church of Oak Harbor, gave the invocation, and Mayor Dudley led the Pledge of Allegiance.

HONORS AND RECOGNITIONS

Proclamation in Recognition of Pride Month

Councilmember Hizon read the Proclamation, acknowledging the month of June as Pride Month. Ms. Hizon will present the Proclamation to the Oak Harbor High School GSA Club.

PRESENTATIONS

Hector Powell introduced Rusty Hendrix, Board of President of the Whidbey Playhouse, and presented information to the Council and public about the Whidbey Playhouse.

Theresa Reed of the Elks Lodge provided the 2015 Whidbey Island Marathon Report.

Ed Sim, Exalted Ruler of the Elks Lodge, presented a contribution of $500.00 to Katie Espinoza of Hillcrest Elementary School for the largest number of children from local elementary schools who participated in the 2015 Marathon.

APPROVAL OF AGENDA

Motion: Councilmember Severns asked to move item 11.d to be heard right after council comments 7.c [to Item 7.d], seconded by Councilmember Servatius, unanimously approved.

Motion: Councilmember Servatius moved to add an item 10.a Discussion of the Whidbey Island Marathon. Seconded by Councilmember Almberg, unanimously approved.

Motion: Councilmember Severns moved to approve the Agenda as amended, seconded by Councilmember Almberg, unanimously approved.

CITIZEN COMMENT PERIOD

Mayor Dudley opened the Citizen Comment Period at 6:36 p.m., no comments, closed at 6:36 p.m.

CONSENT AGENDA

a. Minutes of the Regular City Council meeting held on June 2, 2015
b. Approval of Accounts Payable and Check Numbers
c. Ordinance 1736: Amending OHMC, Section 3.72.030 to Prohibit Claim Payments when Payments would cause a fund level deficiency
d. Request to Authorize a Storm Drain Intern Position

Motion: Councilmember Almberg moved to accept the Consent Agenda as presented, seconded by Councilmember Severns, unanimously approved.

STAFF, MAYOR AND COUNCIL COMMENTS

City Administrator

Wastewater Treatment Plant Staff update
Presented by City Engineer Joe Stowell

Dr. Cort reminded the council and public that the Workshop and Special Workshop meeting will be held on June 17, 2015 at the Former Whidbey Island Bank Building located at 321 SE Pioneer Way.

The Staff Picnic has been scheduled at Fort Nugent Park on August 20th during the lunch hour.

The City Administrator announced casual dress for Council and Staff at the Regular Council Meeting on July 7, 2015.

Mayor

No Comments.

Councilmembers

Councilmember Campbell thanked his wife for thirty-six years of marriage.

Councilmember Almberg provided updates regarding the Board of Island Transit.

Councilmember Munns thanked staff for the official "Kraken" art piece dedication to the City. She reminded citizens of Christmas in July at the Help House.

Councilmember Severns thanked Dr. Cort for the casual dress code reminder for the July and August Council meetings.

Councilmember Hizon thanked Councilmember Almberg for the Board of Island Transit update.

Councilmember Servatius expressed gratitude to Mr. Almberg for providing an update on the recent concerns at the Board of Island Transit. He reminded Council and the public about public school summer break.

Added Item 7.d Special Event Permit for Oak Harbor Chamber of Commerce – 4th of July Beer Garden

Captain Teri Gardner presented the staff report.

Mayor Dudley opened the Citizen Comment Period at 7:08 p.m., no comments, closed the comment period at 7:08 p.m.

Special Event Permit for Oak Harbor Chamber of Commerce – 4th of July Beer Garden

Motion: Councilmember Servatius moved to conditionally authorize the Mayor the City Administrator to sign the permit, providing the Washington State Liquor Control Board approves the permit prior to the event date. Motion seconded by Councilmember Munns, unanimously approved.

ORDINANCE AND RESOLUTIONS

Ordinance 1737: LOCAL Series 2015B – Authorization Ordinance
Dr. Merriman, Director of Finance, provided the staff report.

Mayor Dudley opened the Citizen Comment Period at 7:12 p.m., no comments, closed at 7:12 p.m.

Questions and comments among the Council.
Ordinance 1737: LOCAL Series 2015B – Authorization Ordinance

Motion: Councilmember Hizon moved to adopt Ordinance No. 1737. Motion seconded by Councilmember Severns, unanimously approved.

Resolution 15-20: County-wide Planning Policies
Development Services Director Steve Powers provided the staff report.

Mayor Dudley opened the Citizen Comment Period at 7:25 p.m., no comments, public comment closed at 7:25 p.m.

Resolution 15-20: County-wide Planning Policies

Discussion among Council and staff.

Motion: Councilmember Servatius moved to approve Resolution 15-20. Motion seconded by Councilmember Munns, unanimously approved.

Ordinance 1735: Amending OHMC 3.63 Traffic Impact Fees
Development Services Director Steve Powers provided the staff report.

Mayor Dudley opened the Citizen Comment Period at 7:41 p.m.

Ordinance 1735: Amending OHMC 3.63 Traffic Impact Fees

Questions among City Council.

Motion: Councilmember Hizon moved to approve Ordinance No. 1735. Motion seconded by Councilmember Servatius, unanimously approved.

Mayor Dudley called a 5-minute recess at 7:59 p.m. and reconvened the meeting at 8:05 p.m.

PUBLIC HEARINGS/PUBLIC MEETINGS

Ordinance 1733: Amending OHMC Chapter 19.36 entitled 'Sign Code'
Steve Powers, Director of Development Services, provided the staff report.

Mayor Dudley opened the Public Hearing at 8:07 p.m., no public comments, closed at 8:07 p.m.

Ordinance 1733: Amending OHMC Chapter 19.36 entitled 'Sign Code'

Motion: Councilmember Servatius moved to adopt the Findings of Fact regarding Ordinance 1733. Motion seconded by Councilmember Munns, unanimously approved.

UNFINISHED BUSINESS

Added Item 10.a Discussion of the Whidbey Island Marathon

Councilmember Servatius opened the item for discussion.

Dr. Merriman provided requested financial information regarding professional services and miscellaneous expense line items. He explained that the Finance Department will need additional time to provide a detailed analysis of differences of expenses between the 2014 and 2015 Marathon.

Ms. Munns asked whether we have some type of certification that breaks down in-kind donations. Dr. Merriman explained that donations from sponsors are between the Elks and the donor and that we should be able to receive such information from the Elks.

Councilmember Severns inquired about the Elk's plan to manage the Marathon without Melissa Riker's services and stated that we need to review cost comparisons. He suggested providing a survey to race participants in order to understand their perspectives and provide suggestions or concerns.

Councilmember Servatius agreed that providing a survey to the race participants would be an excellent idea.

Motion: Councilmember Servatius moved to instruct staff to prepare a detailed revenue and expense report for the 2015 Marathon with specific focus on any account that varied by more than 15% from the previous year, to be presented at our July 7th, 2015 Meeting and to include options for continuation or severance of this contract. Motion seconded by Councilmember Severns, unanimously approved.

NEW BUSINESS

Goldie Road, LLC Annexation Agreement Amendment
Staff report presented by Steve Powers, Development Services Director

Mayor Dudley opened the Citizen Comment Period at 8:23 p.m., no comments, closed at 8:23 p.m.

Goldie Road, LLC Annexation Agreement Amendment

Motion: Councilmember Hizon moved to approve Amendment to Goldie Road, LLC annexation agreement, Motion seconded by Councilmember Campbell, unanimously approved.

WWTP – General Contractor Construction Manager GMP Amendment No. 3
City Engineer Joe Stowell provided the staff report.

The following contractors were present at the meeting:

Trevor Thies – Hoffman Construction
Bryan Shirley – Hoffman Construction
Kelly Bush – ERCI
Dan Williams – KBA

Mayor Dudley opened the Citizen Comment Period at 8:40 p.m., no comments, closed at 8:40 p.m.

Questions among Council to City Engineer and Trevor Thies of Hoffman Construction.

WWTP – General Contractor Construction Manager GMP Amendment No. 3

Motion: Councilmember Servatius moved to authorize the Mayor to sign AIA Document A133 – 2009 Exhibit A (GMP #3) in the amount of $836,130 plus Sales Tax ($72,743) with Hoffman Construction for construction of Site Preparation A, Partial Excavation and Archaeological Survey. Motion seconded by Councilmember Munns, unanimously approved.

WWTP – Professional Services Agreement with Equinox Research Consultants International (ERCI), Amendment No. 5
City Engineer Joe Stowell provided the staff report.

Mayor Dudley opened the Citizen Comment Period at 8:53 p.m., no comments, closed at 8:53 p.m.

Motion: Councilmember Servatius moved to suspend the Council Rules and extend to meeting to 10:00 p.m., seconded by Councilmember Almberg, unanimously approved.

WWTP – Professional Services Agreement with Equinox Research Consultants International (ERCI), Amendment No. 5

Motion: Councilmember Hizon moved to authorize the Mayor to sign Amendment No. 5 to the Professional Services Agreement with ERCI. Motion seconded by Councilmember Servatius, unanimously approved.

EXECUTIVE SESSION

Discussion of Potential Property Acquisition – Discussion and potential action in Open Public Session may follow the Executive Session

Mayor Dudley called a recess for thirty to enter into Executive Session at 9:00 p.m., and reconvened the meeting at 9:28 p.m. for discussion and potential action in Open Public Session.

Motion: Councilmember Severns moved to authorize the Mayor sign a parking lease between Redneck Properties LLC Landlord and the City of Oak Harbor as Tenant of approximately 39,590 square feet as already signed by Redneck Properties LLC, lease shall commence on July 1, 2015. Motion seconded by Councilmember Servatius.

Amendment: Councilmember Almberg moved to identify the parcel as Island County Parcel S6565-00-0 B02-0 and S6565-00-0 B18-0. Seconded by Councilmember Severns, majority approved.

Councilmember Hizon opposed the motion.

Main Motion: Councilmember Severns moved to authorize the Mayor sign a parking lease between Redneck Properties, LLC, Landlord and the City of Oak Harbor as Tenant of approximately 39,590 square feet as already signed by Redneck Properties LLC, lease shall commence on July 1, 2015, Island County Parcel S6565-00-0 B02-0 and S6565-00-0 B18-0. Motion seconded by Councilmember Servatius. The motion was unanimously approved.

ADJOURN

Motion: Councilmember Hizon moved to adjourn, seconded by Councilmember Campbell, unanimously approved.

Meeting adjourned at 9:30 p.m.

Anna M. Thompson, City Clerk

Oak Harbor City Council
Workshop Meeting Minutes
June 17, 2015

Former Whidbey Island Bank Building, 321 SE Pioneer Way, Oak Harbor, WA

CALL TO ORDER

Councilmember Campbell called the meeting to order at 3:00 p.m.

ROLL CALL

City Council Present:
Councilmember Jim Campbell
Councilmember Rick Almberg
Councilmember Bob Severns
Councilmember Beth Munns
Councilmember Joel Servatius

Staff Present:
City Administrator Larry Cort
Finance Director Doug Merriman
City Attorney Nikki Esparza
Development Services Director Steve Powers
Public Works Director Cathy Rosen
Associate Planner Dennis Lefevre
Chief of Fire Ray Merrill
Executive Assistant to the Mayor Kellye Mazzoli

Councilmember Hizon arrived at 3:53 p.m.

Mayor Scott Dudley and Mayor Pro Tem Paggao were absent.

1. Departmental Briefings

a. Marina Update relating to F Dock

Chris Sublet, Harbor Master, provided an update relating to F Dock at the Marina.

Development Director Steve Powers responded to questions from Councilmembers.

2. Pending Agenda Items

a. Ordinance 1731: Amending OHMC Chapter 2 and adding section 2.07.050 entitled "Interfund Loan Authority"

Dr. Merriman, Director of Finance provided the staff report.

Ordinance 1731 will allow the Finance Department to issue short term interfund loans on an administrative level.

Questions and discussion among Council members.

b. Ordinance 1732: Amending OHMC Chapter 3.95 relating to Utility Procedures and adding Chapter 3.96 entitled "Collection Procedures"

Dr. Merriman, Director of Finance provided the staff report.

This code amendment will provided clarification to utility billing procedures. Proposed section 3.96 allows the City to collect on other accounts in addition to utility accounts.

Members of the Council had no questions on this item.

c. Ordinance 1718: Code Amendment to codify all City Funds

Dr. Merriman, Director of Finance provided the staff report.

No questions.

d. Interlocal Agreement with Island County Fire Departments for purchase of base station radios with FEMA Grant

Fire Chief Ray Merrill presented this item.

Councilmember Almberg asked questions about frequency types proposed in this Agreement.
Councilmember Severns asked additional questions including location of the radios.
Chief Merrill provided answers.

e. Homeless Encampment Draft Code Amendment

Associate Planner Dennis Lefevre presented this item.

Currently there is no procedure in place to respond to potential applications for homeless encampments.

Discussion among Council members.

3. Emerging Issues

a. Recommendation from Arts Commission – New Sculpture on Pioneer Way

Report provided by Skip Pohtilla, Chairman of the Arts Commission.

The art sculpture is named "Barringtons." The Arts Commission has an interest in recognizing historically significant individuals involved in the founding Oak Harbor. Mr. Pohtilla provided background on the Barringtons and their impact on the development of our community.

Questions among City Council. City Staff and Mr. Pohtilla answered the Council's questions.

Councilmember Campbell adjourned the meeting at 4:10 p.m.

Kellye Mazzoli, Executive Assistant to the Mayor

Oak Harbor City Council
Special Workshop Meeting Minutes
June 17, 2015

Former Whidbey Island Bank Building, 321 SE Pioneer Way, Oak Harbor, WA

CALL TO ORDER

Councilmember Campbell called the meeting to order at 5:00 p.m.

ROLL CALL

City Council Present:
Councilmember Jim Campbell
Councilmember Rick Almberg
Councilmember Bob Severns
Councilmember Beth Munns
Councilmember Tara Hizon

Staff Present:
City Administrator Larry Cort
Finance Director Doug Merriman
Development Services Director Steve Powers
Public Works Director Cathy Rosen
Chief of Fire Ray Merrill
City Engineer Joe Stowell
Project Engineer Brett Arvidson
Executive Assistant to the Mayor Kellye Mazzoli

Mayor Scott Dudley, Mayor Pro Tem Paggao, and Councilmember Servatius were absent.

Councilmember Almberg left at 6:20 p.m.

1. Tour of Site Location – 5:00 p.m.

City Council, staff, and members of the public toured the Wastewater Treatment Plant Site.

2. Update on the Design Charrette – 5:30 p.m.

a. Public Comments

Hal Hovey

b. Staff Update on the Results from the Wastewater Treatment Plant Design Workshop (Charrette) held May 6, 2015

City Engineer Joe Stowell provided a power presentation which explained the Design process and workshops held on November 13, 2014 and May 6, 2015.

Brian Matson and Karl Hadler of Carollo Engineers and AIA Jeff McGraw of MWA Architects spoke to their contributions on the Design Charrettes during the presentation.

3. Next Steps

Joe Stowell explained the next steps in the Wastewater Treatment Plant Construction process.

Questions and discussion among City Council.

Councilmember Campbell adjourned the meeting at 6:47 p.m.

Kellye Mazzoli, Executive Assistant to the Mayor

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.b
Date: July 7, 2015
Subject: Approval of Payroll and Accounts Payable Vouchers

FROM: **Dr. Merriman, Director of Finance**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

I move to approve:

Accounts Payable Vouchers and Payroll Checks, see Voucher Numbers and Check Numbers listed in the Background/ Summary Information section below.

BACKGROUND / SUMMARY INFORMATION

Oak Harbor Municipal Code Chapter 3.72 establishes procedures for claims (vouchers) payment. The documentation that regularly supports the signature coversheets is attached. Claim coversheets will be prior prior to the City Council meeting for appropiate Council signatures.

The following Voucher and Check Numbers are submitted for approval:

Accounts Payable Voucher Numbers:

-Voucher Numbers 162768 through 162922 in the amount of $320,863.29.

Payroll Check Numbers:

- Direct Deposit check numbers 34915 through 35070.

- EFT check numbers 720 through 724.

- Payroll check numbers 98100 through 98156.

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Voucher Listing (1)
2. Voucher Listing (2)
3. Voucher Listing (3)

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162768	6/12/2015	0007849 BROECKEL, BENJAMIN	Ref000224636		UB Refund Cst #00161571	176.12
					Total :	**176.12**
162769	6/12/2015	0007846 CAIN, MYRNA OR SHAWN	Ref000224631		UB Refund Cst #00124832	119.53
					Total :	**119.53**
162770	6/12/2015	0004906 CHURCHILL RENTAL	Ref000224632		UB Refund Cst #00125126	44.41
					Total :	**44.41**
162771	6/12/2015	0007850 GOELZ, MICHELLE	Ref000224637		UB Refund Cst #00161754	16.00
					Total :	**16.00**
162772	6/12/2015	0007855 HAGGEN #2124 FUEL STATION	Ref000224645		UB Refund Cst #00167354	112.19
					Total :	**112.19**
162773	6/12/2015	0007848 LECHOWICZ, MARY	Ref000224635		UB Refund Cst #00159890	9.37
					Total :	**9.37**
162774	6/12/2015	0007851 MARANO, MELISSA	Ref000224638		UB Refund Cst #00162991	162.28
					Total :	**162.28**
162775	6/12/2015	0007853 MCNEILL, TAYLOR	Ref000224640		UB Refund Cst #00164837	127.06
					Total :	**127.06**
162776	6/12/2015	0007845 MESNER, KAREN	Ref000224630		UB Refund Cst #00123485	25.05
					Total :	**25.05**
162777	6/12/2015	0007847 PENA, MARY	Ref000224634		UB Refund Cst #00157333	232.69
					Total :	**232.69**
162778	6/12/2015	0007843 REMAX	Ref000224633		UB Refund Cst #00125963	658.86
			Ref000224642		UB Refund Cst #00166558	13.77
					Total :	**672.63**
162779	6/12/2015	0007852 ROMANOWSKI, SETH	Ref000224639		UB Refund Cst #00164689	108.95
					Total :	**108.95**

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162780	6/12/2015	0007844 ROYCE, JOHN	Ref000224629		UB Refund Cst #00122853	135.78
					Total :	**135.78**
162781	6/12/2015	0007854 SCHREITER, ALINA	Ref000224641		UB Refund Cst #00165294	39.92
					Total :	**39.92**
162782	6/12/2015	0007841 SPAULDING, CASEY	Ref000224623		UB Refund Cst #00164419	389.00
			Ref000224624		UB Refund Cst #00164419	207.71
					Total :	**596.71**
162783	6/12/2015	0000973 WALDRON CONSTRUCTION	Ref000224643		UB Refund Cst #00166672	89.72
			Ref000224644		UB Refund Cst #00166675	89.72
					Total :	**179.44**

16 Vouchers for bank code : bank **Bank total : 2,758.13**

16 Vouchers in this report **Total vouchers : 2,758.13**

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162784	6/17/2015	0005024 ALMBERG, RICHARD	TRAVEL ADVANCE		TRAVEL ADVANCE	118.00
					Total :	**118.00**
162785	6/17/2015	0003675 CAMPBELL, JAMES	TRAVEL ADVANCE		TRAVEL ADVANCE	118.00
					Total :	**118.00**
162786	6/17/2015	0005085 SEVERNS, ROBERT	TRAVEL ADVANCE		TRAVEL ADVANCE	118.00
					Total :	**118.00**
162787	6/17/2015	0007450 MAZZOLI, KELLYE	TRAVEL ADVANCE		TRAVEL ADVANCE	118.00
					Total :	**118.00**
162788	6/18/2015	0000960 REVENUE, WASHINGTON STATE DEPT OF	061215		SALES/USE TAX	48,655.90
					Total :	**48,655.90**
162789	6/26/2015	0000950 LICENSING, WASHINGTON STATE DEPT OF	061015		CONCEALED WEAPONS PERMITS	818.00
					Total :	**818.00**
162790	6/30/2015	0007449 A-1 PERFORMANCE, INC	22954		JANITORIAL SERVICES	320.32
			23029		JANITORIAL SERVICES	3,066.58
			23051		JANITORIAL SERVICES	135.80
					Total :	**3,522.70**
162791	6/30/2015	0007869 ALEXANDER, SAM	02262015A		ANNOUNCING SERVICES	150.00
					Total :	**150.00**
162792	6/30/2015	0000028 ALL ISLAND LOCK & KEY	23884		KEYS	20.00
			49962		COBINATION CHANGE/KEYS	328.27
			49994		LOCK REPAIR	70.65
			51032		COMBINATION CHANGE	48.92
					Total :	**467.84**
162793	6/30/2015	0002044 ANACORTES.NET/HOW IT WORKS	47511		QUICK LINKS	25.00
					Total :	**25.00**
162794	6/30/2015	0003655 ANDERSON, STAN	061515		EXP REIMB	55.18

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162794	6/30/2015	0003655 0003655 ANDERSON, STAN	(Continued)		Total :	55.18
162795	6/30/2015	0005001 ARAMARK	1987995280		UNIFORM SERVICES	27.38
			1987995281		UNIFORM SERVICES	78.74
			1988002026		UNIFORM SERVICES	17.92
			1988002027		UNIFORM SERVICES	29.32
			1988002028		UNIFORM SERVICES	12.44
			1988002029		UNIFORM SERVICES	20.73
			1988002030		UNIFORM SERVICES	20.03
			1988002031		UNIFORM SERVICES	92.53
			1988002032		UNIFORM SERVICES	11.89
			1988006732		UNIFORM SERVICES	38.22
			1988006735		UNIFORM SERVICES	27.30
			1988013378		UNIFORM SERVICES	17.92
			1988013379		UNIFORM SERVICES	29.32
			1988013380		UNIFORM SERVICES	11.62
			1988013381		UNIFORM SERVICES	20.73
			1988013382		UNIFORM SERVICES	20.03
			1988013383		UNIFORM SERVICES	42.31
			1988013384		UNIFORM SERVICES	11.89
			1988018114		UNIFORM SERVICES	27.30
			1988018115		UNIFORM SERVICES	59.80
			1988024668		UNIFORM SERVICES	17.92
			1988024669		UNIFORM SERVICES	29.32
			1988024670		UNIFORM SERVICES	12.44
			1988024671		UNIFORM SERVICES	18.01
			1988024672		UNIFORM SERVICES	20.82
			1988024673		UNIFORM SERVICES	42.31
			1988024674		UNIFORM SERVICES	11.89
			1988029392		UNIFORM SERVICES	38.22
			1988029395		UNIFORM SERVICES	27.30
			1988029396		UNIFORM SERVICES	59.80
			1988035975		UNIFORM SERVICES	17.11
			1988035976		UNIFORM SERVICES	29.32
			1988035977		UNIFORM SERVICES	12.44
			1988035978		UNIFORM SERVICES	20.73
			1988035979		UNIFORM SERVICES	32.68

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162795	6/30/2015	0005001 ARAMARK	(Continued)			
			1988035980		UNIFORM SERVICES	42.31
			1988035981		UNIFORM SERVICES	11.89
			198806736		UNIFORM SERVICES	59.85
					Total :	**1,121.78**
162796	6/30/2015	0004019 ASSOCIATED PETROLEUM PRODUCTS	0754314-IN		FUEL	9,330.19
					Total :	**9,330.19**
162797	6/30/2015	0000065 AVOCET ENVIRONMENTAL TESTING	1501697-IN		TESTING	68.00
			1501859-IN		TESTING	991.00
					Total :	**1,059.00**
162798	6/30/2015	0000082 BAYSHORE OFFICE PRODUCTS, INC	0656418-001		CHAIR/FILE CABINETS/CONNECTORS/	5,338.26
					Total :	**5,338.26**
162799	6/30/2015	0000098 BIDDLE, KYLE	EXP REIMB		EXP REIMB	177.60
					Total :	**177.60**
162800	6/30/2015	0005453 BIXBY, SUE	1		TRAVEL REFUND	62.00
					Total :	**62.00**
162801	6/30/2015	0007807 BLIND ENTERPRISES	2259		NAME TAPES	10.50
					Total :	**10.50**
162802	6/30/2015	0001558 BOUND TREE MEDICAL, LLC	81806964		ENDOTRACHEAL TUBE HOLDER/GLOV	823.66
					Total :	**823.66**
162803	6/30/2015	0003097 BOYER, TALLIE	TRAVEL ADVANCE		TRAVEL ADVANCE	91.50
					Total :	**91.50**
162804	6/30/2015	0004642 BRAINARD, JENNIFER	061015		MUNICIPAL COURT PROTEM	660.72
					Total :	**660.72**
162805	6/30/2015	0005615 BUILDERS EXCHANGE OF	1046605		PUBLISH PROJECTS ONLINE	53.25
					Total :	**53.25**
162806	6/30/2015	0000627 CAPITAL ONE COMMERCIAL	129547206211		SUPPLIES	337.49

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162806	6/30/2015	0000627 CAPITAL ONE COMMERCIAL	(Continued)			
			133684106211		SUPPLIES	360.15
			153742106211		SUPPLIES	296.53
			178517106211		SUPPLIES	277.24
			181988106211		SUPPLIES	476.31
			260276392		SUPPLIES	331.86
			260280811		SUPPLIES	298.19
					Total :	**2,377.77**
162807	6/30/2015	0001235 CARROT-TOP INDUSTRIES	26749000		FLAGS	700.87
					Total :	**700.87**
162808	6/30/2015	0006016 CARTER, MARGOT L	061015		PUBLIC DEFENSE	300.00
			061715		PUBLIC DEFENSE	1,200.00
					Total :	**1,500.00**
162809	6/30/2015	0000150 CASCADE NATURAL GAS	03963180678		NATURAL GAS/210	12.62
			08793000004		NATURAL GAS/POLICE STATION	49.12
			11829220273		NATURAL GAS/208	10.60
			12470743597		NATURAL GAS/207	10.60
			13275491754		NATURAL GAS/205	10.60
			36624000000		NATURAL GAS/FIRE STATION	170.29
			40661045647		NATURAL GAS/ANIMAL SHELTER	77.74
			45420760055		NATURAL GAS/202	10.60
			57309970234		NATURAL GAS/201	10.60
			58793000009		NATURAL GAS/CITY HALL	176.02
			62337906945		NATURAL GAS/204	10.60
			67984882349		NATURAL GAS/209	19.71
			80434000008		NATURAL GAS/CITY SHOP	362.06
			82193000005		NATURAL GAS/ANNEX	28.13
			90134000000		NATURAL GAS/ADULT CARE CENTER	28.13
			92612025210		NATURAL GAS/203	10.60
					Total :	**998.02**
162810	6/30/2015	0000188 CODE PUBLISHING COMPANY	50114		MUNICIPAL CODE UPDATES	581.43
					Total :	**581.43**

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162811	6/30/2015	0005773 COMCAST	8498300290363841		INTERNET	228.98
					Total :	**228.98**
162812	6/30/2015	0001891 COMFORT INN AUBURN	25794551		HOTEL ACCOMMODATIONS/TYHUIS	349.20
					Total :	**349.20**
162813	6/30/2015	0000220 CUMMINS NORTHWEST, INC	001-57157		SENSOR	25.39
					Total :	**25.39**
162814	6/30/2015	0007654 DARLEY & COMPANY	17194949		ROPE	209.95
					Total :	**209.95**
162815	6/30/2015	0000247 DIAMOND RENTALS	1-526865		FOLDING CHAIRS	81.53
					Total :	**81.53**
162816	6/30/2015	0006724 DIEKMAN POLYGRAPH SERVICES	15-16		PRE-EMPLOYMENT	200.00
					Total :	**200.00**
162817	6/30/2015	0005471 DOORMAN COMMERCIAL	314253		DOOR MAINTENANCE	472.85
					Total :	**472.85**
162818	6/30/2015	0000273 EDGE ANALYTICAL, INC	15-11570		TESTING	1,068.00
			15-11691		TESTING	300.00
					Total :	**1,368.00**
162819	6/30/2015	0007381 ENGEL, DONNA	1		TRAVEL REFUND	42.00
					Total :	**42.00**
162820	6/30/2015	0002900 FASTENAL	WAOAK20200		FASTENERS	20.99
			WAOAK20205		FASTENERS	8.17
			WAOAK20235		FASTENERS	107.27
			WAOAK20252		FASTENERS	25.27
			WAOAK20253		FASTENERS	56.81
					Total :	**218.51**
162821	6/30/2015	0000355 FRONTIER	007-9244		CURRENT PHONE CHARGES	258.72
			240-2350		CURRENT PHONE CHARGES	1,346.47
			279-0841		CURRENT PHONE CHARGES	82.94

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162821	6/30/2015	0000355 FRONTIER	(Continued)			
			279-2236		CURRENT PHONE CHARGES	118.15
			675-1568		CURRENT PHONE CHARGES	245.18
			675-1572		CURRENT PHONE CHARGES	61.21
			675-2111		CURRENT PHONE CHARGES	69.94
			675-3121		CURRENT PHONE CHARGES	64.16
			675-6794		CURRENT PHONE CHARGES	58.81
			675-6858		CURRENT PHONE CHARGES	64.16
			679-0500		CURRENT PHONE CHARGES	75.27
			679-1640		CURRENT PHONE CHARGES	64.33
			679-1651		CURRENT PHONE CHARGES	64.16
			679-1789		CURRENT PHONE CHARGES	64.33
			679-2628		CURRENT PHONE CHARGES	400.92
			679-3902		CURRENT PHONE CHARGES	68.69
			679-5551		CURRENT PHONE CHARGES	173.96
			679-8477		CURRENT PHONE CHARGES	90.39
			679-8702		CURRENT PHONE CHARGES	73.35
			770-2694		CURRENT PHONE CHARGES	35.11
			770-2715		CURRENT PHONE CHARGES	28.80
					Total :	**3,509.05**
162822	6/30/2015	0000329 GALLS	003593430		PANTS/MCCALMONT	121.74
			003648370		BELTS/PANTS	177.41
					Total :	**299.15**
162823	6/30/2015	0002767 GATEWAY CONTROLS, INC	2015302		GATE CARDS	414.72
					Total :	**414.72**
162824	6/30/2015	0003064 GC SYSTEMS, INC	4243		REBUILD CONTROL VALVES	16,923.50
					Total :	**16,923.50**
162825	6/30/2015	0004784 GLUTH, BRAD	TRAVEL REIMB		TRAVEL REIMB	10.30
			TRAVEL REIMB		TRAVEL REIMB	91.50
			TRAVEL REIMB2		TRAVEL REIMB	12.00
					Total :	**113.80**
162826	6/30/2015	0000349 GRAINGER	9753439984		FLOATSWITCH	107.93

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162826	6/30/2015	0000349 0000349 GRAINGER	(Continued)		**Total :**	**107.93**
162827	6/30/2015	0002940 GRAY & OSBORNE, INC	13518.00-0000025		PROF SVC/WATER SYSTEM IMPROVEM	436.97
			14624.00-0000004		PROF SVC/EXISTING CHLORINATION E	305.90
			15463.00-0000003		PROF SVC/DECEPTION PASS BRIDGE	3,262.79
					Total :	**4,005.66**
162828	6/30/2015	0000345 GREATER OAK HBR CHAMBER OF COM	062415		REIMBURSEMENT CLAIM	3,142.25
			30196		JUN 2015 OPERATIONS	8,333.34
					Total :	**11,475.59**
162829	6/30/2015	0000323 HD FOWLER COMPANY	I3938736		NOZZLES CASES/NOZZLES/BUSH/SOL	1,181.67
			I3938794		WATER METERS	5,301.82
			I3939670		THREAD/BATTERY CONTROLLERS	284.79
					Total :	**6,768.28**
162830	6/30/2015	0007871 HERRICK POLYGRAPH SERVICE	452		PRE-EMPLOYMENT	273.60
			454		PRE-EMPLOYMENT	273.60
					Total :	**547.20**
162831	6/30/2015	0007709 HOFFMAN CONSTRUCTION COMPANY	060815		PROF SVC/OAK HARBOR CLEAN WATE	67,629.71
					Total :	**67,629.71**
162832	6/30/2015	0003095 HOME DEPOT CREDIT SERVICES	1026068		SHOP LIGHT	19.53
			1027629		WIPES	49.35
			1029266		PIPE	34.31
			1029272		SUPPLY LINE/FAUCET	82.58
			183695		SEED/ANNUAL PACK/HERBS/OGRANIC	185.05
			2029118		TAPE/HRDNR/BO SET	93.05
			2029215		PIP/FLANGES	51.19
			26209		BULBS	8.66
			29442		SAND	16.40
			4593670		SAND/BRUSHES	14.48
			5020220		SAND	24.60
			5028638		8OZ TSL	9.76
			5028698		STLKPLR/BLADE/LKPLRSSET	52.09
			5183944		SOIL	36.29
			5562696		SLV/ROPE	61.85

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162832	6/30/2015	0003095 HOME DEPOT CREDIT SERVICES	(Continued)			
			5562705		BATTERIES	84.66
			5584866		SHEETING/PAD	129.46
			5592919		TANK EXCHANGE	43.41
			592612		MORTAR/DUSTPAN	58.64
			6028438		1-950XLT2	156.53
			6028442		RND CON/IN-LINE/SNIPFREEFALL/CRM	73.80
			6028449		TIRE	21.72
			6562639		FG STEP	42.39
			6584790		SHOVELS	36.90
			6584791		BALLAST/ORGWRNT/YELWNGCON	31.41
			7081583		WDT720PADM	487.20
			7563170		ROV 9V12	58.60
			7573127		DRILL	113.50
			8028172		MOUNT	163.00
			8043544		PPP&FSLTGRYG	60.84
			8563660		BOTTLES/TRASH CANS	85.71
			8592739		MILBLKSHT	103.24
			9026361		WHT SURG	12.70
					Total :	**2,502.90**
162833	6/30/2015	0001910 HUGHES, BETTY	1		TRAVEL REFUND	10.00
					Total :	**10.00**
162834	6/30/2015	0000253 ID TECHNOLOGY SERVICES	15040159		MONITORS	426.04
			15040160		MONITOR	197.39
			15040180		COMPUTERS	878.62
					Total :	**1,502.05**
162835	6/30/2015	0005872 IMPAIRED DRIVING IMPACT PANEL	061315		DUI/UNDERAGE DRINKING PREVENTIC	166.67
					Total :	**166.67**
162836	6/30/2015	0000417 INDUSTRIAL BOLT & SUPPLY	590632-1		STRIPPER/TAPE/CONN/RINGS/NUTS	589.38
					Total :	**589.38**
162837	6/30/2015	0000401 ISLAND COUNTY AUDITOR	0084421		FILING FEE	106.00
			0084508		FILING FEE	76.00

Bank code : bank

Voucher	Date	Vendor		Invoice	PO #	Description/Account	Amount
162837	6/30/2015	0000401	0000401 ISLAND COUNTY AUDITOR	(Continued)		**Total :**	**182.00**
162838	6/30/2015	0000415	ISLAND DISPOSAL	060215		MAY 2015/COLLECTION CHARGES	18,948.61
				3989612		RECYCLING	102.41
						Total :	**19,051.02**
162839	6/30/2015	0000433	ISLAND DRUG	077039400		INMATE MEDS	7.91
						Total :	**7.91**
162840	6/30/2015	0000435	ISLAND HEATING & A/C, INC	0000069329		FURNACE REPAIR	207.89
						Total :	**207.89**
162841	6/30/2015	0000441	ISLAND SYSTEMS	233837		WATER/MARINA	18.45
				234097		WATER/MARINA	12.30
						Total :	**30.75**
162842	6/30/2015	0000454	JET CITY EQUIPMENT RENTAL	22454		EXCAVATOR	1,480.49
						Total :	**1,480.49**
162843	6/30/2015	0000476	KERR, JACK	06-15		JUN 2015/PUBLIC DEFENSE SCREENIN	1,400.00
						Total :	**1,400.00**
162844	6/30/2015	0003990	KUBALSKY, JOYCE	1		TRAVEL REFUND	36.00
						Total :	**36.00**
162845	6/30/2015	0003347	LIQUIVISION TECHNOLOGY, INC	5068		CLEANING & INSPECTIONS	5,136.08
						Total :	**5,136.08**
162846	6/30/2015	0000515	LOGGERS & CONTRACTORS, INC	00063952		CUTOFF SAW/WHEEL	1,200.59
				00064022		COVER/SOCKET	1,325.52
				00064030		CREDIT	-26.73
						Total :	**2,499.38**
162847	6/30/2015	0000522	LUEHR, TOM	1		DRIVING SERVICES	102.00
				1		DRIVING SERVICES	132.00
				1		DRIVING SERVICES	78.00
						Total :	**312.00**

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162848	6/30/2015	0007802 MAC EVENTS AND PROMOTIONS, LLC	062415		REIMBURSEMENT CLAIM	1,100.00
					Total :	**1,100.00**
162849	6/30/2015	0002729 MAILFINANCE	N5362087		LEASE PAYMENT	610.53
					Total :	**610.53**
162850	6/30/2015	0000530 MAILLIARD'S LANDING NURSERY	100163		YARD WASTE	303.70
			102696		YARD WASTE/SOIL	30.87
			98006		GARRY OAKS	86.94
			99619		YARD WASTE	343.25
			99770		COMPOST	124.90
					Total :	**889.66**
162851	6/30/2015	0000660 MARKET PLACE FOOD & DRUG	898751		GROCERIES	231.55
			998325		GROCERIES	317.56
			998336		GROCERIES	416.76
					Total :	**965.87**
162852	6/30/2015	0006072 MASTER'S TOUCH, LLC	J151389		STORAGE FOR WINDOW ENVELOPES	1,627.89
					Total :	**1,627.89**
162853	6/30/2015	0000040 MATRIX	608366761		LONG DISTANCE	397.16
					Total :	**397.16**
162854	6/30/2015	0006028 MCI COMM SERVICE	679-3902		LONG DISTANCE	37.57
					Total :	**37.57**
162855	6/30/2015	0004818 MICHAEL BOBBINK LAND USE SRVCS	062015		JUN 2015/HEARING EXAIMNER SERVIC	1,500.00
					Total :	**1,500.00**
162856	6/30/2015	0007129 MICRO PRECISION CALIBRATION, I	STL-19343		CALIBRATION	323.00
					Total :	**323.00**
162857	6/30/2015	0000587 MOTOR TRUCKS, INC	MV102128		SPILL KIT	126.05
			MV110489		HOSE	233.27
			MV98987		OIL/90 DEG E	-141.08
					Total :	**218.24**

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162858	6/30/2015	0000601 NATIONAL FIRE PROTECTION	6462071Y		FIRE FLOW TESTING/INSTALLATION OI	88.70
					Total :	**88.70**
162859	6/30/2015	0000612 NELSON PETROLEUM	0554287-IN		FUEL	952.43
					Total :	**952.43**
162860	6/30/2015	0007670 NETWORKFLEET, INC	OSV000000255418		MONTHLY SERVICE	238.60
					Total :	**238.60**
162861	6/30/2015	0000406 NORTH WHIDBEY FIRE & RESCUE	15-20A		2015 RECRUIT FIRE ACADEMY	1,082.39
					Total :	**1,082.39**
162862	6/30/2015	0000640 NORTHWEST BIOSOLIDS MGMT ASSOC	12292014001		MEMBERSHIP/MICHAELS	176.00
					Total :	**176.00**
162863	6/30/2015	0000672 OAK HARBOR ACE	254721		FREIGHT	29.92
			256285		TRIMMER LINE/BLADES	24.98
			256341		ROLLER/COVER	19.19
			256380		RESIN/DECKSL	35.85
			256408		ELECTRICAL SUPPLIES/FUSES	12.47
			256488		SEALER/VALVE/SRUBBER	17.35
			256546		GLOVES	21.73
			256619		NIPPLE	5.42
			256682		VALVE/COVER	39.11
			256684		HOLDER	8.67
			256716		SCREWDRIVER SET	9.23
			256797		DRILL	7.05
			256861		BATTERIES	19.54
			256908		SCREWDRIVERS/PLIERS/BALL	179.74
			256960		HOLDER	4.34
			256961		SEALANT	9.77
			257030		BRUSH/HANDLES	31.48
			257036		SEALANT	9.77
			257039		GLOSS	14.64
			257168		BALL VALVE/ADAPTER/COUPLE/BUSHI	60.76
			257179		CAULK/GLUE	10.30
			257180		BLADE BAND/MASKING TAPE/FILTERS	10.80

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162863	6/30/2015	0000672 OAK HARBOR ACE	(Continued)			
			257183		BLADE BAND	-10.86
			257201		BRACE	4.30
			257286		INHIBITOR/THREAD SEAL TAPE	22.77
					Total :	**598.32**
162864	6/30/2015	0000668 OAK HARBOR AUTO CENTER	001-241730		FILTERS	117.65
			001-241835		SRM-24	129.56
			001-241836		AMP	21.74
			001-242417		BEAM/CPSL	23.73
			001-242428		FILTERS	47.22
			001-242483		MINI LAMP	3.18
			001-243128		RAD CAP/OIL	42.69
					Total :	**385.77**
162865	6/30/2015	0006863 OAK HARBOR MUSIC FESTIVAL	062415		REIMBURSEMENT CLAIM	1,360.22
					Total :	**1,360.22**
162866	6/30/2015	0000681 OAK HARBOR SCHOOL DISTRICT	0000140146		JUN 2015/COMPUTER NETWORK SUPF	9,660.00
					Total :	**9,660.00**
162867	6/30/2015	0003092 OAK HARBOR SIGNS	115		NATIONAL NIGHT OUT SIGNS	43.48
					Total :	**43.48**
162868	6/30/2015	0007548 OFFICE AUTOMATION SYSTEMS	99055		CONTRACT SERVICES	282.62
					Total :	**282.62**
162869	6/30/2015	0000665 OFFICEMAX, INC	926523		FASTENERS	13.02
					Total :	**13.02**
162870	6/30/2015	0005783 PARTSMASTER	20903895		CUTOFF WHEEL	60.36
					Total :	**60.36**
162871	6/30/2015	0000709 PERS	01109688		MAY 2015/UNFUNDED LIABILITY	26.98
					Total :	**26.98**
162872	6/30/2015	0000721 PLACE, GEORGE	EXP REIMB		EXP REIMB	67.85

Bank code : bank

Voucher	Date	Vendor		Invoice	PO #	Description/Account	Amount
162872	6/30/2015	0000721	0000721 PLACE, GEORGE	(Continued)		**Total :**	**67.85**
162873	6/30/2015	0000710	PLATT ELECTRIC SUPPLY, INC	G90739		BALLAST	93.75
				H019081		BALLAST	31.25
				H019083		BALLAST	62.50
						Total :	**187.50**
162874	6/30/2015	0000724	PONY MAILING & BUSINESS CENTER	241772		SHIPPING	14.61
				243649		SHIPPING	50.00
						Total :	**64.61**
162875	6/30/2015	0000746	PUGET SAFETY EQUIPMENT	0026654-IN		CLASS 3 ORANGE	409.75
				0026673-IN		CLOSEOUT CHECKLITE	77.93
						Total :	**487.68**
162876	6/30/2015	0000743	PUGET SOUND ENERGY	200000136776		ELECTRICITY/1301 SE CATALINA DR	36.68
				200000881421		ELECTRICITY/1500 S BEEKSMA DR DIS	1,234.40
				200000919684		ELECTRICITY/WINDMILL	10.16
				200000947859		ELECTRICITY/CITY SHOP	1,994.21
				200001097589		ELECTRICITY/EBATH	11.81
				200001884218		ELECTRICITY/1888 NE 5TH AVE PUMP	13.06
				200002036164		ELECTRICITY/30505 ST ROUTE 20	136.32
				200002036719		ELECTRICITY/34777 STATE ROUTE 20 S	67.11
				200002036917		ELECTRICITY/BTWN BAYSHORE DR & I	132.67
				200002037097		ELECTRICITY/2000 SW SCENIC HEIGH	19.16
				200002037261		ELECTRICITY/1780 SW SPRINGFIELD C	10.86
				200002037501		ELECTRICITY/3285 SW SCENIC HEIGH	86.70
				200002170617		ELECTRICITY/552 NW CLIPPER DR	10.16
				200002511539		ELECTRICITY/2075 SW FT	44.80
				200002723381		ELECTRICITY/CMFTST	104.62
				200003131170		ELECTRICITY/WELL #7	13.11
				200003267636		ELECTRICITY/1000 SE IRELAND ST	13.78
				200003459654		ELECTRICITY/1957 FORT NUGENT RD I	161.61
				200004342099		650 NE 7TH AVENUE SEWAGE	26.72
				200004562878		ELECTRICITY/800 SE BIDWAY BLVD LIG	102.04
				200004856627		ELECTRICITY/1577 NW 8TH AVE	10.16
				200005263310		ELECTRICITY/SMITH PARK	10.25

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162876	6/30/2015	0000743 PUGET SOUND ENERGY	(Continued)			
			200005461666		ELECTRICITY/WKITCH	11.70
			200005643446		ELECTRICITY/NEIL PK & HOLLAND GAF	30.65
			200005933094		ELECTRICITY/700 SE PIONEER WAY LA	5,893.54
			200006103952		ELECTRICITY/5941 STATE ROUTE 20	12.44
			200007268135		ELECTRICITY/SW ERIE ST SW BARRIN	162.76
			200007702943		ELECTRICITY/700 AV W & MDIWAY	123.52
			200007824192		ELECTRICITY/75 SE JEROME ST	10.16
			200008386993		ELECTRICITY/FABER ST & HARVEST D	10.77
			200008816189		ELECTRICITY/ANNEX	14.70
			200010322895		ELECTRICITY/2330 SW ROSARIO PL	36.49
			200010499248		ELECTRICITY/1948 NW CROSBY AVE	96.67
			200010499446		ELECTRICITY/1661 NE 16TH AVE SWRS	18.59
			200010530240		ELECTRICITY/651 SE BAYSHORE DR L	62.09
			200010530802		ELECTRICITY/CITY BEACH PARK	10.77
			200010531024		ELECTRICITY/940 SE PIONEER WAY CA	152.53
			200010531172		ELECTRICITY/1300 NE BIG BERRY LOC	10.86
			200010531354		ELECTRICITY/CABI	115.71
			200010531941		ELECTRICITY/800 SE DOCK ST	80.09
			200010549943		ELECTRICITY/WELL #6	13.11
			200010699706		ELECTRICITY/BALLPK	105.11
			200011316839		ELECTRICITY/SR 20 & 650 AV W	722.28
			200011551930		ELECTRICITY/ADULT CARE CENTER	22.37
			200011579964		ELECTRICITY/285 SE JEROME ST	21.36
			200012220337		ELECTRICITY/128 E WHIDBEY AVE	10.16
			200012278087		ELECTRICITY/FIRE STATION	1,093.99
			200012838765		ELECTRICITY/PIONEER PARK	17.52
			200013734963		ELECTRICITY/672 CHRISTIAN RD PUMI	2,089.62
			200013968405		ELECTRICITY/1540 SE PIONEER WAY L	98.48
			200014151886		ELECTRICITY/1370 SE DOCK ST	44.94
			200014366534		ELECTRICITY/700 AV W & 80 NW	262.90
			200014596478		ELECTRICITY/CITY HALL	817.86
			200015399153		ELECTRICITY/1678 SW 8TH AVE	10.16
			200015618321		ELECTRICITY/600 NE 7TH AVE	103.94
			200015685833		ELECTRICITY/287 SE CABOT DR SWRF	63.96
			200017255619		ELECTRICITY/690 SW HELLER RD WTF	356.71
			200017441482		ELECTRICITY/CITY BEACH	718.64

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162876	6/30/2015	0000743 PUGET SOUND ENERGY	(Continued)			
			200017575347		ELECTRICITY/1367 NW CROSBY AVE S	83.92
			200017653656		ELECTRICITY/3300 OLD GOLDIE RD PU	68.57
			200017654415		ELECTRICITY/1000 SW THORNBERRY I	171.97
			200017853025		ELECTRICITY/2081 NE 9TH AVE SWRPI	10.98
			200019043344		ELECTRICITY/90 SE PIONEER WAY LIG	40.94
			200019500517		ELECTRICITY/1137 NW KATHLEEN DR I	45.65
			200020179194		ELECTRICITY/626 CHRISTIAN RD	42.91
			200020308330		ELECTRICITY/KITEST	13.78
			200022441113		ELECTRICITY/980 SW MCCROHAN ST I	34.35
			200023231067		ELECTRICITY/945 E WHIDBEY AVE #B	25.61
			200023360569		ELECTRICITY/700 W HELLER RD TRAF	46.49
			200024715845		ELECTRICITY/1285 NE TAFTSON ST LF	31.89
			200025075157		ELECTRICITY/33500 STATE ROUTE 20	173.01
			220000598098		ELECTRICITY/2725 NE GOLDE ST	123.41
			220002247165		ELECTRICITY/SW FAIRWAY POINT DR &	12.53
			220003651407		ELECTRICITY/101	343.12
			220003735804		ELECTRICITY/275 SE PIONEER WAY	705.12
			220005593946		ELECTRICITY/1770 NE GOLDIE ST PUM	17.32
			220005790955		ELECTRICITY/301 SE PIONEER WAY	246.84
			300000007421		ELECTRICITY/FT NUGENT RD	12,365.61
			300000010458		ELECTRICITY/INTSCTN OF MIDWAY & M	195.27
			300000010516		ELECTRICITY/900 SE MIDWAY BLVD LIG	134.36
					Total :	**32,611.19**
162877	6/30/2015	0007870 RAGLAND, JIMMY	4168		MOORAGE REFUND	222.22
					Total :	**222.22**
162878	6/30/2015	0006762 RAINIER ENVIRONMENTAL	1864		TESTING	500.00
					Total :	**500.00**
162879	6/30/2015	0000781 SAFEWAY	802548		GROCERIES	48.61
			804401		GROCERIES	220.49
					Total :	**269.10**
162880	6/30/2015	0000786 SASE COMPANY, INC	INV147551		PULLEY/BEARING/DRUM	1,477.81

Bank code : bank

Voucher	Date	Vendor		Invoice	PO #	Description/Account	Amount
162880	6/30/2015	0000786	0000786 SASE COMPANY, INC	(Continued)		**Total :**	**1,477.81**
162881	6/30/2015	0000801	SEA WESTERN, INC	184857		HELMETS/LEATHER FRONT	349.79
						Total :	**349.79**
162882	6/30/2015	0007800	SEBRIS BUSTO JAMES	58643		PROF SVC/BARGAINING	4,745.20
						Total :	**4,745.20**
162883	6/30/2015	0000809	SENIOR SERVICES OF ISLAND	OH05-2015		MAY 2015/SENIOR SERVICES	1,500.00
						Total :	**1,500.00**
162884	6/30/2015	0000816	SHELL FLEET PLUS	0000000065163545506		FUEL	55.83
						Total :	**55.83**
162885	6/30/2015	0000822	SHRED-IT USA, INC	9405982087		SHREDDING	52.97
				9405982214		SHREDDING	52.97
						Total :	**105.94**
162886	6/30/2015	0000831	SIX ROBBLEES', INC	14-305707		MINIBAR	411.29
				14-305887		WRT500TK TPMS	1,603.33
						Total :	**2,014.62**
162887	6/30/2015	0000814	SKAGIT FARMERS SUPPLY	429488		BEDDING PELLETS	5.42
				430022		PROPANE	10.16
						Total :	**15.58**
162888	6/30/2015	0007828	SKAGIT PUBLISHING	910169		HELP WANTED AD/STREET SPEC	223.59
						Total :	**223.59**
162889	6/30/2015	0000843	SOLID WASTE SYSTEMS, INC	0077782-IN		CURBTENDER ARM	3,991.46
						Total :	**3,991.46**
162890	6/30/2015	0000846	SOUND PUBLISHING	731257		MAY 2015/PUBLICATIONS-ACCT#80125	914.37
				WCW636373		NOA SEPA ENCAMPMENTS	142.04
				WCW637270		SUMMARY OF ORDS	92.20
				WCW637300		PLANNING COMMISSION REG MEETIN	148.27
				WCW637430		ORD 1733	56.07
				WCW638876		HE #06-29-15	89.71

Bank code : bank

Voucher	Date	Vendor		Invoice	PO #	Description/Account	Amount
162890	6/30/2015	0000846	0000846 SOUND PUBLISHING	(Continued)		**Total :**	**1,442.66**
162891	6/30/2015	0000851	SPRINT	182311697		LONG DISTANCE	5.80
						Total :	**5.80**
162892	6/30/2015	0000860	STANDARD INSURANCE COMPANY	062215		LIFE/POCFF	358.13
						Total :	**358.13**
162893	6/30/2015	0003883	STAPLES BUSINESS ADVANTAGE	3259682874		ENVELOPES/DESKPAD	37.08
				3260195027		CABLE TIES	14.12
				3265833347		SHIPPING TAGS	52.27
				3265833348		ENVELOPES	33.95
				3265833349		FOLDERS	44.24
				3265833350		PENS/FILE POCKETS	59.95
				3266920335		POUCHES	189.75
				3266920339		TONER	334.10
				3267704847		CARDSTOCK	48.95
				3267704848		PRINTER	307.83
				3267704849		RUBBER BANDS/COPY PAPER/HIGHLI(	118.47
				3267704850		THERMAL ROLLS	41.08
				3267704851		TONER	210.87
				3268493077		CREDIT	-51.68
				3268493081		TONER	204.89
				3268493082		REBEL T5	1,195.68
				3268493083		TAGS	7.05
				3268493085		DUST SPRAY	62.09
				3268987189		MOUSE	24.98
				3268987190		CHALK MARKER	28.14
				3268987191		MASKING TAPE	5.55
						Total :	**2,969.36**
162894	6/30/2015	0005786	STOWES SHOES & CLOTHING	0008591		BOOTS/ROBBINS	200.00
						Total :	**200.00**
162895	6/30/2015	0006673	SUMMIT SAFETY SHOES	9001541		BOOTS/BEBEE	152.13
						Total :	**152.13**
162896	6/30/2015	0000874	SURETY PEST CONTROL	1062145		PEST EXTERMINATION	106.53

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162896	6/30/2015	0000874 SURETY PEST CONTROL	(Continued)			
			1063123		PEST EXTERMINATION	54.35
			1063483		PEST EXTERMINATION	59.79
					Total :	**220.67**
162897	6/30/2015	0007265 THOMPSON, ANNA	061515		WELLNESS INCENTIVE	20.00
					Total :	**20.00**
162898	6/30/2015	0000986 TRANSPORTATION, WASHINGTON STATE DE	02348CN		PURCHASING AND CONTRACTING	75.00
					Total :	**75.00**
162899	6/30/2015	0000923 UNITED PARCEL SERVICE	0000A0182W235		SHIPPING	14.04
					Total :	**14.04**
162900	6/30/2015	0000922 UNUM LIFE INSURANCE COMPANY	061815		LONG TERM CARE	269.78
					Total :	**269.78**
162901	6/30/2015	0004903 US BANK	4485591001332901		CREDIT CARD PURCHASES	2,598.74
					Total :	**2,598.74**
162902	6/30/2015	0000932 VERIZON WIRELESS	9746997273		CURRENT COMM CHARGES	4,855.53
					Total :	**4,855.53**
162903	6/30/2015	0005920 VICKERS, JAMES	1		TRAVEL REFUND	10.00
					Total :	**10.00**
162904	6/30/2015	0001044 WASHINGTON CRIMINAL JUSTICE	20115272		REGISTRATION/HOAGLAN/SILVEIRA	100.00
					Total :	**100.00**
162905	6/30/2015	0001052 WASHINGTON STATE PATROL	I15008728		BACKGROUND CHECKS	597.75
					Total :	**597.75**
162906	6/30/2015	0000995 WEST, GARY	EXP REIMB		EXP REIMB	38.18
			EXP REIMB		EXP REIMB	38.82
			EXP REIMB		EXP REIMB	34.59
			EXP REIMB		EXP REIMB	33.39
			EXP REIMB		EXP REIMB	185.20

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162906	6/30/2015	0000995 0000995 WEST, GARY	(Continued)		**Total :**	**330.18**
162907	6/30/2015	0001039 WESTERN PETERBILT, INC	S855008		HOSE ASSY	254.35
			S855034		RESISTOR/SEAT BELT	287.78
			S855061		VALVES	227.38
			S855618		HOSE ASSY	107.60
					Total :	**877.11**
162908	6/30/2015	0001000 WHIDBEY AUTO PARTS, INC.	249533		TIP	8.64
			250070		MALE RIGI/HOSE	23.14
			250072		THREADSEAL TAPE	2.70
			250301		AIR BRAKE HOSE	48.16
			250325		AIR BRAKE HOSE	-48.16
			251188		HOSE/CLAMP	6.27
					Total :	**40.75**
162909	6/30/2015	0001007 WHIDBEY CLEANERS	273292		EMBROIDERY	195.66
					Total :	**195.66**
162910	6/30/2015	0000675 WHIDBEY COMMUNITY PHYSICIANS	042315-138		PHYSICAL/LAWSON	150.00
			051815-107		PHYSICAL/JENNINGS	150.00
					Total :	**300.00**
162911	6/30/2015	0007078 WHIDBEY SIGN COMPANY	15164		SIGNS	580.46
					Total :	**580.46**
162912	6/30/2015	0006969 WITMER PUBLIC SAFETY GROUP	1625293		CHEM AGENT	95.30
					Total :	**95.30**
162913	6/30/2015	0001037 WORK OUTFITTERS	50588		BOOTS/ARVIDSON	165.15
					Total :	**165.15**

130 Vouchers for bank code : bank **Bank total : 317,161.67**

130 Vouchers in this report **Total vouchers : 317,161.67**

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
162914	7/1/2015	0005674 HAWKINS, TOM	Ref000225000		UB Refund Cst #00153185	158.27
					Total :	**158.27**
162915	7/1/2015	0007868 HOME 4 INVESTMENT DBA REO NW	Ref000225003		UB Refund Cst #00167105	14.22
					Total :	**14.22**
162916	7/1/2015	0007867 NICKEL, ADOLF OR PATRICIA	Ref000224999		UB Refund Cst #00151132	123.30
					Total :	**123.30**
162917	7/1/2015	0007843 REMAX	Ref000225002		UB Refund Cst #00166738	127.70
					Total :	**127.70**
162918	7/1/2015	0007865 SMITH, IRVIN OR DONNA	Ref000224995		UB Refund Cst #00125680	155.60
					Total :	**155.60**
162919	7/1/2015	0007866 SMITH, JAMES OR OVERTON, SANDRA	Ref000224996		UB Refund Cst #00126646	145.50
					Total :	**145.50**
162920	7/1/2015	0001365 TARA PROPERTIES	Ref000224997		UB Refund Cst #00127413	1.68
					Total :	**1.68**
162921	7/1/2015	0000973 WALDRON CONSTRUCTION	Ref000225001		UB Refund Cst #00166673	111.75
					Total :	**111.75**
162922	7/1/2015	0001391 WINDERMERE	Ref000224998		UB Refund Cst #00149737	105.97
					Total :	**105.97**

9 Vouchers for bank code : bank **Bank total : 943.99**

9 Vouchers in this report **Total vouchers : 943.99**

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.c
Date: July 7, 2015
Subject: Whidbey Pedestrian Crossing - Consultant Agreement with Transpo Group USA, Inc.

FROM: Cathy Rosen, Pubic Works Director and Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

A motion authorizing the Mayor to sign to the Consultant Agreement with Transpo Group to develop a design and the construction documents for the Whidbey Avenue Pedestrian Crossing.

BACKGROUND / SUMMARY INFORMATION

The segment of East Whidbey Avenue between SR-20 and Oak Harbor Street is the busiest east-west arterial street in Oak Harbor carrying an average of 10,200 vehicles per day. The street segment is five lanes wide and is situated between a large multi-family neighborhood on the north side and a shopping center and transit stop on the south. This has resulted in chronic mid-block jay-walking by pedestrians traveling between their homes and the urban amenities on the opposite side of the street.

The Whidbey Avenue Pedestrian Crossing project is intended to provide a safe and convenient place for pedestrians to cross East Whidbey Avenue. The conceptual plan includes a pedestrian refuge island in the center of the street, a pedestrian-activated warning system and adjacent curb ramps. All of the facilities will be built in conformance with the American's with Disabilities Act.

Proposals for designing the crossing were solicited from three qualified transportation consultant firms selected from the MRSC roster. Two firms submitted proposals, Transpo Group and Gray and Osborne, Inc. After reviewing the proposals and interviewing the candidates, a selection committee chose Transpo Group as the most qualified firm to provide the services.

The City of Oak Harbor was awarded $224,500 from the Transportation Alternative Program (TAP) for designing and constructing the Whidbey Avenue Pedestrian Crossing. Of this $23,000 was budgeted for the design phase in the preliminary estimate. Transpo Group is aware of the limited grant budget and worked with staff to limit the scope of services to the minimum necessary to complete the design of the crossing and associated changes to the streets. The proposed fee from Transpo Group is $31,376. The difference between the estimated design cost and the proposed fee is primarily due to site conditions that

were not known at the time the estimate was prepared. The optimal location for the crossing was not known at the time the preliminary cost estimates were prepared. In the analysis documented in the technical memorandum *E. Whidbey Avenue – Pedestrian Crossing Evaluation,* Oct 10, 2014, Transpo Group, determined that the optimum crossing location conflicts with an existing driveway. Therefore it will be necessary to survey and design a new driveway site away from crossing in order to eliminate the travel mode conflict and mitigate project impacts to adjacent private property.

The Whidbey Avenue Pedestrian Crossing is primarily funded through a federal grant administered by the Washington State Department of Transportation (WSDOT). One of the requirements imposed by WSDOT is the use of their *Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement* form. Therefore the completed Consultant Agreement form attached to this Agenda Bill is not the standard City form.

FISCAL IMPACT

Funds Required:	$31,376
Appropriation Source:	$23,000 TAP Grant, $8,376 Arterial Streets

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

August 6, 2014 – City Council passed a motion to seek an opinion letter from a licensed traffic engineer confirming that this is or is not a recommend location for crossing prior to expending any engineering funds for a traffic study or design.

August 6, 2014 – City Council passed a motion to postpone taking action on adopting on Resolution 14-31 until after receiving the opinion letter.

October 14, 2014 - City Council adopted Resolution 14-31 accepting the terms of the Washington State Department of Transportation Local Agency Agreement for utilizing federal funds for design and construction of the Whidbey Avenue Pedestrian Crossing.

March 3, 2015 – City Council approved soliciting proposals from qualified traffic engineering consultants.

ATTACHMENTS

1. Consultant Agreement with Transpo Group USA, Inc.

Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Transpo Group USA, Inc.	
Address: 11730 - 118th Ave NE, Ste 600, Kirkland, WA 98034	Federal Aid Number: TAP-7762(003)
UBI Number: 603 258 009	Federal TIN or SSN Number: 46-1523472
Execution Date:	Completion Date: December 31, 2016
1099 Form Required: ☐ Yes ☑ No	Federal Participation: ☑ Yes ☐ No
Project Title: Whidbey Avenue Pedestrian Crossing	
Description of Work: Design of Pedestrian Crossing across Whidbey Avenue in the vicinity of Baron Drive. Work to include topographic and control survey, development of design, and preparation of plans, special provisions, and engineer's opinion of cost.	
☐ Yes ☑ No DBE Participation ☐ Yes ☑ No MBE Participation ☐ Yes ☑ No WBE Participation ☐ Yes ☑ No SBE Participation	Total Amount Authorized: $31,376 Management Reserve Fund: 0 Maximum Amount Payable: $31,376

Index of Exhibits

Exhibit A Scope of Work
Exhibit B DBE Participation
Exhibit C Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D Prime Consultant Cost Computations
Exhibit E Sub-consultant Cost Computations
Exhibit F Title VI Assurances
Exhibit G Certification Documents
Exhibit H Liability Insurance Increase
Exhibit I Alleged Consultant Design Error Procedures
Exhibit J Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Oak Harbor ,
hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

The CONSULTANT, on a monthly basis, is required to submit DBE Participation of the amounts paid to all DBE firms invoiced for this AGREEMENT.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:
Name: Arnold Peterschmidt, P.E.
Agency: City of Oak Harbor
Address: 865 SE Barrington Drive
City: Oak Harbor State: WA Zip: 98277
Email: apeterschmidt@oakharbor.org
Phone: 360 279-4525
Facsimile: 360 679-3902

If to CONSULTANT:
Name: Ryan Peterson, PE, PTOE
Agency: Transpo Group USA, Inc.
Address: 11730 - 118th Ave NE, Suite 600
City: Kirkland State: WA Zip: 98034
Email: ryan.peterson@transpogroup.com
Phone: 425-821-3665
Facsimile: 425-825-8434

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES, specified in Section II, "Scope of Work". The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov). The estimate in support of the Cost Plus Fixed Fee amount is attached hereto as Exhibits "D" and "E" and by this reference made part of this AGREEMENT.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, indirect cost rate, and direct non-salary costs.

1. Direct (RAW) Labor Costs: The Direct (RAW) Labor Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.

2. Indirect Cost Rate (ICR) Costs: ICR Costs are those costs, other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the ICR rates shown in attached Exhibits "D" and "E" of this AGREEMENT. Total ICR payment shall be based on Actual Costs. The AGENCY agrees to reimburse the CONSULTANT the actual ICR costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

   A summary of the CONSULTANT'S cost estimate and the ICR percentage is shown in Exhibits "D" and "E", attached hereto and by this reference made part of this AGREEMENT. The CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an ICR schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the ICR rate for billings received and paid during the fiscal year represented by the ICR schedule. It shall also be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's ICR cost to reflect the actual rate. The ICR schedule will be sent to Email: ConsultantRates@wsdot.wa.gov.

   Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed ICR costs until such time as the required information is received and an overhead rate for billing purposes is approved.

   The AGENCY's Project Manager and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual ICR rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in attached Exhibits "D" and "E" of this AGREEMENT. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."

5. Management Reserve Fund (MRF): The AGENCY may desire to establish MRF to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of $100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the MRF is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the MRF shall be made in accordance with Section XIII, "Changes of Work."

6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the MRF. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIII, "Changes of Work." No minimum amount payable is guaranteed under this AGREEMENT.

B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the ICR and calculated fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct (RAW) Labor, Direct Non-Salary, and allowable ICR Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed Direct (RAW) Labor costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, Direct (RAW) Labor rates, and present duties of those employees performing work on the PROJECT at the time of the interview.

C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent, if applicable, upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

   The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit; all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) working days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and/or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub-consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's

Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged and any appropriate fixed fee percentage at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to

date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs and appropriate fixed fee percentage in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold The State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and /or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated between the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

A. Worker's compensation and employer's liability insurance as required by the STATE.

B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars ($1,000,000.00) per occurrence and two million dollars ($2,000,000.00) in the aggregate for each policy period.

C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar ($1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Arnold Peterschmidt, P.E.
Agency: City of Oak Harbor
Address: 865 SE Barrington Drive
City: Oak Harbor State: WA Zip: 98277
Email: apeterschmidt@oakharbor.org
Phone: 360 279-4525
Facsimile: 360 679-3902

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT amount or one million dollars ($1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.

B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.

C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.

D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars ($100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars ($500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, State security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribblings, recordings, visual displays, photographs, minutes of meetings,

tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

Signature	Date
Signature	Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

Exhibit A
Scope of Work

Whidbey Ave. Pedestrian Crossing

Scope of Work

TASK 1 – TOPOGRAPHIC SURVEY

Pacific Surveying & Engineering, Inc. (PSE) will provide professional surveying & mapping services on the project.

Subtask 1A – Survey Control (Horizontal & Vertical)

- PSE will utilize published survey monuments on the NAD 83 horizontal & NAVD 88 vertical datums
- Controlling monuments for E Whidbey Ave & NE Barron Dr right of ways will be located in order to determine centerlines & margins
- Horizontal & Vertical control points will be set in the project vicinity (for use through construction)

Subtask 1B – Research (Utilities, Right of Way, Adjacent Parcels)

- Research of existing sub-surface utility plans / as-builts (in order to supplement surface structures & sub-surface locates)
- Research of existing survey records (right of way, adjacent parcels, etc.)

Subtask 1C – Existing Conditions Topographic Surveying & Sub-Surface Utility Locates

- Topographic surveying of the existing intersection, to the proposed project extents on E Whidbey Ave & NE Barron Dr (per Concept Design)
- Plan-view Topographic Surveying including: Roadway, sidewalks, channelization, utilities, & improvements within 50’ of the intersection on E Whidbey Ave & 150’ on NE Baron Dr only, including spot elevations at & within 10’ of proposed ramps & driveway (no other spot elevations, dtm / surface contours included)
- Channelization only beyond 50’ of the intersection on E Whidbey Ave & on NE Baron Dr
- Sub-surface utility locates via the 888 one-call notification center (coordinated & requested by the City of Oak Harbor)
- Standard WSDOT traffic control & signage throughout (no lane closures or traffic rerouting is anticipated)

Subtask 1D – Existing Conditions Basemap Drafting / Preparation

- Existing conditions plan-view basemap drafting (assuming 1”=20’ scale, C3D R2014 or equivalent)
- Incorporation of survey control, right of way, & adjacent parcel information / dimensions
- DWG & PDF sheets, LandXML (surface + points), ACAD support files, field notes (PDF), site photos (JPG)

Subtask 1E – Project Management / PLS Review & Certification / QA-QC / Data Submittals

Exhibit A
Scope of Work

- Project Management, Scheduling, and Layout
- In-house & field review, QA-QC
- PLS review & certification
- Survey / Basemap data submittals (DWG, PDF - digital formats)

Not included: Right of Way Plan and/or fee/easement acquisitions, Construction layout/staking, Construction inspection, Post-Construction as-builts

TASK 2 – DATA COLLECTION

The following data will be collected and reviewed:

- Traffic Counts at Whidbey/Barron intersection – Transpo will work with a traffic count vendor to collect AM and PM traffic counts at the Whidbey/Barron Intersection.
- Information on existing roadway lighting system – City staff will provide information regarding the existing lighting system along Whidbey Ave. including types of fixtures, mounting heights, pole and arm lengths, and circuit details.

TASK 3 – PUBLIC INVOLVEMENT SUPPORT

Transpo will support the City through the public involvement process by providing the following:

- Preparation of one ROW exhibit showing the driveway relocation for the apartment complex on the northeast corner of the Whidbey/Barron intersection. This will consist of one sheet showing existing features and the proposed improvements, including the closure and relocation of the property access on this corner.
- Preparation of up to 2 exhibits for use at a public meeting. This will consist of the printing and mounting of the Alternative 1 figure from the technical memorandum prepared by Transpo for the City dated October 10, 2014, and one other exhibit to be determined.
- Attendance at one (1) property owner meeting and one (1) public open house. It is assumed that these will occur on the same day.

TASK 4 – 30% DESIGN

Transpo will develop a 30% design submittal as follows:

Task 4A – Plan Preparation
Transpo will prepare the design of the pedestrian crossing. Improvements are anticipated to include a center refuge island, pedestrian activated beacon system, relocation of a driveway, and upgrading of roadway lighting. 30% Plans will show type and location of all proposed features. The plans are assumed to include the following sheets:

- Cover Sheet – 1 Sheet
- Removal and TESC Plan – 1 Sheet
- Roadway Plan – 2 Sheets
- Roadway Details – 1 Sheet
- Electrical Plan (Pedestrian crossing elements and roadway lighting) – 1 Sheet
- Electrical Details – 1 Sheet

Task 4B Utility Coordination

Exhibit A
Scope of Work

Transpo will coordinate with effected utilities. Impacts to non-City owned utilities are not anticipated. Coordination will include notifying City of impacts to City-owned facilities including stormwater catch basins, water valve adjustments, etc.

Task 4C 30% Cost Estimate

Transpo will prepare a 30% level Engineer's Opinion of Probable cost based on the proposed improvements.

Task 4D 30% Submittal

Transpo will submit the 30% Plans and Engineer's Opinion of Cost to the City. Materials will be submitted electronically in pdf format.

TASK 5 – 90% DESIGN

Transpo will prepare a 90% design submittal as follows:

Task 5A Address comments from 30% Design

Transpo will address comments received from the 30% design review. Comment responses will be documented in a comment response form and submitted with the 90% submittal.

Task 5B Prepare 90% Plans

Transpo will continue design activities to a 90% completion level. 90% plans will include all types and locations of proposed features and include details necessary for project construction.

Task 5C Prepare Special Provisions

Transpo will prepare special provisions to WSDOT's Standard Specifications for Road, Bridge, and Municipal Construction for the project.

Task 5D Submit 90% Plans, Special provisions, and Cost Estimate to City

Transpo will submit 90% Plans, Special provisions, and Engineer's Opinion of Cost to the City. Materials will be submitted electronically in pdf format.

TASK 6 – FINAL PS&E

Transpo will prepare the final Plans, Special provisions, and Engineer's Opinion of Cost

Task 6A Address comments from 90% Design

Transpo will address comments received from the 30% design review. Comment responses will be documented in a comment response form and submitted with the final submittal.

Task 6B Prepare and submit final Plans, Special provisions, and Estimate

Transpo will submit Final Plans, Special Provisions, and Engineer's Opinion of Cost to the City. Submittal will include one full-size and two half-size sets of paper plans, one Mylar set of plans, and two copies of the special provisions and Engineer's Opinion of Probable Cost. All Materials will also be submitted electronically in pdf format.

Exhibit C
Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

NAD 83 Washington State Planes, North Zone, US Foot

B. Roadway Design Files

AutoCAD Civil 3D

C. Computer Aided Drafting Files

Same as above

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

E. Specify the Electronic Deliverables to Be Provided to the Agency

Plans, Specifications and Estimates as detailed in Exhibit A

F. Specify What Agency Furnished Services and Information Is to Be Provided

City utility record drawings, City traffic data.

Agreement Number:

II. Any Other Electronic Files to Be Provided

III. Methods to Electronically Exchange Data

Email, FTP site, CD, DVD, thumb drive

A. Agency Software Suite

Microsoft Office, Adobe Professional, AutoCAD 2013

B. Electronic Messaging System

Micorsoft Outlook

C. File Transfers Format

Exhibit D
Prime Consultant Cost Computations

Transpo Group USA, Inc.

Cost Estimate Worksheet

transpogroup
WHAT TRANSPORTATION CAN BE.

Number / Project Name
15094.00/Whidbey Ave Pedestrian Crossing

Pay rates are effective from June 28, 2014 through June 26, 2015, within the ranges shown in the attachment
Only key staff are shown and other staff may work on and charge to the project as needed by the project manager.

	Project Manager	Quality Control	Project Engineer	CAD/ Graphics	Project Admin
initials	RP	GSM	CAC2	RM	CLF
job title	Eng L5	Eng L6	Eng L3	Eng L1	PA L1
cost rate	$46.22	$51.50	$34.62	$25.50	$21.64

Labor:

	Work Task						Hours	Cost
1	Topographic Survey	1		2			3	$115
2	Data Collection	2					2	$92
3	Public Involvement Support	6	0.5	8			14.5	$580
4	30% Design						0	$0
	-- Plan Preparation	6		18	45		69	$2,048
	--Utility Coordination	1		2			3	$115
	--30% Cost Estimate	0.5		2	4		6.5	$194
	--30% Submittal	1	3	2	4		10	$372
9	90% Design						0	$0
10	--Address comments from 30% Design	2		2	4		8	$264
11	--Prepare 90% Plans	4		12	32		48	$1,416
12	--Prepare Special Provisions	1		4			5	$185
13	--90% Submittal	1	3	2	4		10	$372
14						2	2	$43
15							0	$0
16							0	$0
17							0	$0
	Total Hours	**25.5**	**6.5**	**54**	**93**	**2**	**181**	
	Labor Costs	**$1,179**	**$335**	**$1,869**	**$2,372**	**$43**		**$5,797.62**

Overhead	**Rate**	**195.75%**	**$11,348.84**
Fee (as a % of labor)		**30.00%**	**$1,739.29**

Miscellaneous Expenses:

	Item	Reimbursable Cost
1	Federal Express / Courier	$0
2	Phone	$0
3	Fax	$0
4	Postage	$0
5	Graphic supplies	$0
6	Photography	$0
7	Travel expenses (mileage)	$100
8	Reproduction	$0
9	Traffic counts	$400
10	Traffic accident data	$0
11	Spec. MPS model run	$0
12	Transportation Concurrency Application	$0
	Total Reimbursable Expenses	**$500**

Subconsultants:

	Firm	Subs Cost
1	Pacific Surveying and Engineering	$11,990
2	Subconsultant B	$0
3	Subconsultant C	$0
4	Subconsultant D	$0
5	Subconsultant E	$0
	Total Subconsultants	**$11,990**

TOTAL ESTIMATE	***$31,376.00***

EXHIBIT E

Pacific Surveying & Engineering

CONSULTANT FEE DETERMINATION

SUMMARY OF COST

Whidbey Avenue Pedestrian Improvements, Oak Harbor, WA

Classification	Total Hours	X	Rate	=	Cost
Principal Land Surveyor	12.00	X	$53.98	=	$647.76
Project Manager	8.00	X	$53.98	=	$431.84
Survey Crew Chief	28.00	X	$33.00	=	$924.00
Survey Crew Person	48.00	X	$29.00	=	$1,392.00
Survey Coord	6.00	X	$32.45	=	$194.70
Senior CAD Technician	26.00	X	$32.45	=	$843.70
Project Surveyor	0.00	X	$53.98	=	$0.00
Admin	5.00	X	$33.65	=	$168.25
			DSC Subtotal		$4,602.25
Overhead (OH) Cost					
OH Rate x DSC of	123.64%		$4,602.25		$5,690.22
Fixed Fee (FF)					
FF Rate	30.00%		$4,602.25		$1,380.68
Reimbursables					
Mileage	(240 Miles x $0.57/mile)				$136.80
Field Supplies	(mic field supplies)				$120.00
Sub-surface utility locates	(888 one-call notification center only)				$0.00
Reproduction/Submittals	(misc 8.5x11, 11x17, 22x34 sheets)				$60.00
Subtotal					$316.80
Subconsultant Total:					$11,989.95

Date: 6/17/2015

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. Compliance with Regulations: The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.

2. Non-discrimination: The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

3. Solicitations for Sub-consultants, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.

4. Information and Reports: The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Non-compliance: In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
   - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
   - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

   Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G
Certification Documents

Exhibit G-1(a) Certification of Consultant

Exhibit G-1(b) Certification of _____

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number:

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Transpo Group USA, Inc.
whose address is
11730 - 118th Ave NE, Suite 600, Kirkland, WA 98034
and that neither the above firm nor I have:

a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;

b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or

c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Oak Harbor
and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Transpo Group USA, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

Exhibit G-1(b) Certification of City of Oak Harbor

I hereby certify that I am the:

☐

☐ Other

of the , and
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

a) Employ or retain, or agree to employ to retain, any firm or person; or

b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Agreement Number:

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.

II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Transpo Group USA, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

Exhibit I
Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manger and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J
Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than $1,000. If the consultant's claim(s) are a total of $1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total $1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Pubic Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.d
Date: July 7, 2015
Subject: Waterfront Trail Repair - Consultant Agreement for Design with David Evans & Associates, Inc.

FROM: Cathy Rosen, Public Works Director and Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

A motion authorizing the Mayor to sign a Consultant Agreement with David Evans & Associates, Inc. for services needed to develop a design, permitting and construction documents for the Waterfront Trail Repair.

BACKGROUND / SUMMARY INFORMATION

The Oak Harbor Waterfront Trail is a pedestrian and recreational facility that spans the entire City waterfront. Most of the trail is paved with asphalt or concrete pavement. The Waterfront Trail Repair project is in Veteran's Park on the south side of E. Pioneer Way immediately east of the intersection with Regatta Drive. The existing concrete trail at the project site was undermined by a landslide in February 2103 and has been closed since. The trail on either side of the slide is in good condition. The project includes relocation and reconstruction of the cement concrete trail, a barrier of some type to keep trail users a safe distance from the slide and bluff, landscaping, soil stabilization and installation of amenities to create a scenic overlook area.

The City of Oak Harbor was awarded $150,000 from the federal Transportation Alternative Program for designing and constructing this project.

Design proposals were solicited from three qualified consultant firms selected from the Municipal Research and Services Center (MRSC) consultant roster. We received a single response from the firm of David Evans and Associates. David Evans staff visited the site and we have provided them with the project requirements, background information and met with them to further refine the scope.

The resultant proposal provides the design and permitting services and deliverables that are necessary for the project however the costs are substantially higher than the Transportation Alternative Program (TAP) grant amount of $30,000 budgeted for the design phase of the project. The proposed design fee is $51,016. We have reviewed the scope and fee and believe that it is commensurate with the work that is

required for this project. It is not possible to reduce the scope and fee for the services to fit within the TAP grant without staff taking on a substantial amount of the work.

The Waterfront Trail Repair project is primarily funded through a federal grant administered by the Washington State Department of Transportation (WSDOT). One of the requirements imposed by WSDOT is the use of their *Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement* form. Therefore the completed Consultant Agreement form attached to this Agenda Bill is not the standard City form.

FISCAL IMPACT

Funds Required:	$51,016
Appropriation Source:	$30,000 TAP Grant, $21,016 Paths & Trails Fund 106

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

August 6, 2014 City Council adopted Resolution 14-30 accepting the terms of the Washington State Department of Transportation Local Agency Agreement for utilizing federal funds for design and construction of the Waterfront Trail Repair.

March 3, 2015, City Council authorized soliciting design proposals from qualified consultant firms.

ATTACHMENTS

1. Consultant Agreement with David Evans & Associates, Inc.

Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): David Evans and Associates, Inc.	
Address 1620 W. Marine View Dr., #200, Everett, WA 98201	Federal Aid Number
UBI Number 600 227 608	Federal TIN or SSN Number 93-0661195
Execution Date	Completion Date
1099 Form Required ☐ Yes ☑ No	Federal Participation ☐ Yes ☐ No
Project Title Veterans Memorial Park Sidewalk Repair	
Description of Work Land Development Services. See Exhibit A for the Scope of Services.	
☐ Yes ☑ No DBE Participation ☐ Yes ☑ No MBE Participation ☐ Yes ☑ No WBE Participation ☐ Yes ☑ No SBE Participation	Total Amount Authorized: $51,016 Management Reserve Fund: 0 Maximum Amount Payable: $51,016

Index of Exhibits

Exhibit A Scope of Work
~~Exhibit B DBE Participation~~
~~Exhibit C Preparation and Delivery of Electronic Engineering and Other Data~~ (See Scope of Work.)
Exhibit D Prime Consultant Cost Computations
~~Exhibit E Sub-consultant Cost Computations~~
Exhibit F Title VI Assurances
Exhibit G Certification Documents
~~Exhibit H Liability Insurance Increase~~
Exhibit I Alleged Consultant Design Error Procedures
Exhibit J Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Oak Harbor ,
hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

The CONSULTANT, on a monthly basis, is required to submit DBE Participation of the amounts paid to all DBE firms invoiced for this AGREEMENT.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:
Name: Arnold Peterschmidt, P.E.
Agency: City of Oak Harbor
Address: 865 SE Barrington Drive
City: Oak Harbor State: WA Zip: 98277
Email: apeterschmidt@oakharbor.org
Phone: 360 279-4525
Facsimile: 360 679-3902

If to CONSULTANT:
Name: Ryan Peterson, PE, PTOE
Agency: Transpo Group USA, Inc.
Address: 11730 - 118th Ave NE, Suite 600
City: Kirkland State: WA Zip: 98034
Email: ryan.peterson@transpogroup.com
Phone: 425-821-3665
Facsimile: 425-825-8434

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES, specified in Section II, "Scope of Work". The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov). The estimate in support of the Cost Plus Fixed Fee amount is attached hereto as Exhibits "D" and "E" and by this reference made part of this AGREEMENT.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, indirect cost rate, and direct non-salary costs.

1. Direct (RAW) Labor Costs: The Direct (RAW) Labor Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.

2. Indirect Cost Rate (ICR) Costs: ICR Costs are those costs, other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the ICR rates shown in attached Exhibits "D" and "E" of this AGREEMENT. Total ICR payment shall be based on Actual Costs. The AGENCY agrees to reimburse the CONSULTANT the actual ICR costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

   A summary of the CONSULTANT'S cost estimate and the ICR percentage is shown in Exhibits "D" and "E", attached hereto and by this reference made part of this AGREEMENT. The CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an ICR schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the ICR rate for billings received and paid during the fiscal year represented by the ICR schedule. It shall also be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's ICR cost to reflect the actual rate. The ICR schedule will be sent to Email: ConsultantRates@wsdot.wa.gov.

   Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed ICR costs until such time as the required information is received and an overhead rate for billing purposes is approved.

   The AGENCY's Project Manager and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual ICR rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in attached Exhibits "D" and "E" of this AGREEMENT. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."

5. Management Reserve Fund (MRF): The AGENCY may desire to establish MRF to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of $100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the MRF is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the MRF shall be made in accordance with Section XIII, "Changes of Work."

6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the MRF. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIII, "Changes of Work." No minimum amount payable is guaranteed under this AGREEMENT.

B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the ICR and calculated fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct (RAW) Labor, Direct Non-Salary, and allowable ICR Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed Direct (RAW) Labor costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, Direct (RAW) Labor rates, and present duties of those employees performing work on the PROJECT at the time of the interview.

C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent, if applicable, upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

   The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit; all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) working days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and/or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub-consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's

Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged and any appropriate fixed fee percentage at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to

date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs and appropriate fixed fee percentage in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold The State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and /or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated between the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

A. Worker's compensation and employer's liability insurance as required by the STATE.

B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars ($1,000,000.00) per occurrence and two million dollars ($2,000,000.00) in the aggregate for each policy period.

C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar ($1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Arnold Peterschmidt, P.E.
Agency: City of Oak Harbor
Address: 865 SE Barrington Drive
City: Oak Harbor State: WA Zip: 98277
Email: apeterschmidt@oakharbor.org
Phone: 360 279-4525
Facsimile: 360 679-3902

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT amount or one million dollars ($1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.

B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.

C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.

D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars ($100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars ($500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, State security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribblings, recordings, visual displays, photographs, minutes of meetings,

tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

Signature	Date
Signature	Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

EXHIBIT A

Scope of Services

CITY OF OAK HARBOR

Veterans Memorial Park Sidewalk Repair

Prepared by:

David Evans and Associates, Inc.
1620 W. Marine View Dr., Suite 200
Everett, WA 98201

June 23, 2015

TABLE OF CONTENTS

Task 1 – Environmental Permitting 1
Task 2 – Survey and Mapping 2
Task 3 – Preliminary Plans Specifications and Estimate (PS&E) (90%) 2
Task 4 – Final PS&E (100%) 3
Task 5 – Project Management 3
Assumptions 3

SCOPE OF SERVICES

City of Oak Harbor
Veterans Memorial Park Sidewalk Repair

The City of Oak Harbor Public Works Department (Client or City) has invited David Evans and Associates, Inc. (DEA) to prepare this scope of work to provide professional services to develop construction documents, permitting documents, and survey base mapping for the Veterans Memorial Park Sidewalk Repair project in Oak Harbor, Island County, Washington.

Task 1 – Environmental Permitting

Based on the nature and location of the proposed project, DEA anticipates that the following permits and environmental documentation will be required.

- WSDOT Categorical Exclusion Documentation (CED) Form for purposes of NEPA approval (assumes project qualifies as a Category 2 categorical exclusion).
- SEPA Checklist for City.
- Critical Areas Memorandum (trails are an allowed use in a marine shoreline buffer according to City code Section 20.25.040(6)(b) if they are consistent with an approved critical areas report). Based on the low level of potential impact of the project to critical areas, DEA assumes that a technical memorandum will satisfy City critical areas documentation requirements. This assumption will be verified upon further discussions with City staff.
- Shoreline permit exemption form. DEA believes the proposed project is exempt from requirements for a substantial shoreline development permit on the basis of meeting the description of normal maintenance and repair of existing developments, including damage by the elements.
- Grading permit from the City.
- NPDES permit from Ecology.

DEA assumes the following permits or documentation will not be required:

- Section 404/401 permits through the Corps or Ecology (no impacts below ordinary high water mark of wetlands or waters of the U.S.).
- Biological Assessment for ESA-listed species (ESA impacts will be covered under applicable section of ECS form).
- Shoreline Substantial Development Permit.
- HPA from WDFW (no impacts to waters of the State).
- Cultural resources assessment.
- Section 4(f) analysis (assumes that use of park is not changing so not needed).

One DEA staff will conduct a site visit to assess existing conditions related to social and natural resources. DEA will coordinate with local, state, and federal agencies as necessary through the permitting process.

DEA anticipates the following deliverables will be produced as part of the permitting process.

Deliverables:

1. CED Form – draft in electronic form; final in paper (up to 5 copies) and electronic format.
2. SEPA Checklist - draft in electronic form; final in paper (up to 5 copies) and electronic format.
3. Critical Areas Memorandum - draft in electronic form; final in paper (up to 5 copies) and electronic format.
4. Shoreline Exemption Letter - draft in electronic form; final in paper (up to 3 copies) and electronic format.
5. Grading Permit - draft in electronic form; final in paper (up to 3 copies) and electronic format.
6. NPDES Permit & SWPPP Report - draft in electronic form; final in paper (up to 5 copies) and electronic format.

Task 2 – Survey and Mapping

DEA will provide field survey and prepare an electronic base map in AutoCAD 2013. The base map will be used for preparation of the construction plans. DEA will also prepare Right-of-Way Plans.

- Right-of-Way Plans (1'= 20' scale, 22"X34" full size plans, in PDF format).

Task 3 – Preliminary Plans Specifications and Estimate (PS&E) (90%)

DEA will prepare preliminary plans for construction to a 90% level of design. Plans will be in conformance with the Americans with Disabilities Act, the WSDOT Local Agency Guidelines Manual, and the City of Oak Harbor Standards. Both civil engineering and landscape architecture features will be included. It is anticipated that demolition of the existing trail paving, temporary erosion and sediment control (T.E.S.C.), trail alignment, concrete flagpole plaza layout with stamped concrete and scoring pattern, seating wall, hand railing, planting, and interpretive panels will be included. The kiosk will be designed by others – only the location will be shown on the plans. Relocation of an existing bench and trash can in the park will be shown on the plans. The interpretive sign graphic layout of three (3) signs will be prepared by DEA with historical and environmental content provided by the City. Irrigation requirements will be identified as a performance specification for the contractor to design-build to tie-in with the existing irrigation system at the park.

DEA will provide a "progress plot" of the trail and plaza layout to the City for review and approval prior to the 90% submittal.

Plans will be prepared using AutoCAD 2013 software. DEA will prepare a cost estimate, and specifications will be provided in note format on the plans.

One meeting in Oak Harbor is anticipated during this is design phase for project kick-off.

DEA will meet with the Client to review comments on the 90% submittal. Revisions from one round of review comments on the preliminary PS&E will be incorporated into the Final PS&E. The preliminary plans are anticipated to include the following:

- Cover Sheet and Legend (1 sheet)
- Demolition & TESC Plan (1 sheet)
- Demolition & TESC Notes & Details (2 sheets)
- Grading & Paving Plan (1 sheet)
- Grading and Paving Notes & Details (2 sheets)
- Landscape Plan (Hand Rail, Planting, and, Interpretive panels) (1 sheet)
- Landscape Specifications & Details (2 sheets)

  Sheet Total: 10

Deliverables:

1. Progress plot of trail and plaza layout.
2. 90% PSE (22”X34” full size plans, and 8.5x11” cost estimate, in PDF format).

Task 4 – Final PS&E (100%)

DEA will prepare the final plans, specifications, and estimate for construction at a 100% level of design. City comments from the 90% plans will be incorporated into the 100% plans. Final plans will be submitted to the City for review and comment. Minor City comments will be incorporated into the ad-ready PS&E. The plans will be stamped and signed by a professional engineer and landscape architect certified in the State of Washington. One meeting in Oak Harbor is anticipated during this design phase for public presentation.

Deliverables:

1. 100% PSE (1'= 20' scale, 22"X34" full size plans, and 8.5x11" cost estimate, in PDF format).
2. Bid-Ready PSE (1'= 20' scale, 22"X34" full size plans, and 8.5x11" cost estimate, in PDF format).

Task 5 – Project Management

DEA shall provide project administration including budget and schedule management, internal quality assurance/quality control review of deliverables prior to submission, and maintenance of records and monthly invoicing. A project duration of 6 months is assumed for the Design Phase.

Assumptions

This proposal was prepared using the following assumptions. If any of these assumptions are incorrect or if conditions change, DEA reserves the right to renegotiate the Scope of Services and Fees.

1. Two rounds of review and response to consolidated comments from the project stakeholders (e.g., CLIENT and Agency).
2. DEA will provide specifications in note format on the plans. A separate specification package will not be included.

3. Graphic design for interpretive panels will be for layout only. All content including images and text will be provided by Client.
4. Informational kiosk design is by others.
5. Irrigation will be design-build by contractor.
6. Bidding assistance and construction support are not included in this scope of work but are extra services that can be provided by DEA at Client request.

Exhibit D

City of Oak Harbor
Veterans Memorial Park Sidewalk Repair

David Evans and Associates, Inc.

	Classification	Hrs.	x	Direct Rate	=	Cost
1	Sr. Professional Engineer (SPEN)	23		$ 66.51		$1,530
2	Senior Scientist (SCCI)	31		$ 43.62		$1,352
3	Sr. Lanscape Architect (SLAN)	70		$ 47.16		$3,301
4	Sr. CADD Technician (SCAD)	29		$ 41.80		$1,212
5	Design Engineer (DEEN)	90		$ 29.24		$2,632
6	Sr. Lanscape Designer (SLAD)	40		$ 34.98		$1,399
7	Sr. Graphic Specialist (SGRP)	9		$ 34.29		$309
8	Survey Manager (SVYM)	16		$ 53.05		$849
9	Party Chief (PCHF)	16		$ 28.98		$464
10	Environmental Planner (ENVP)	73		$ 38.32		$2,797
11	Executive Administrator (EXAD)	8		$ 33.31		$266
12	Administrative Assistant (ADMA)	6		$ 29.48		$177
	Total Hrs.	411				

Salary Cost					**$**	**16,288**
Salary Escalation Cost (estimated)						
Escalation - % of Labor Cost	0%	per year @	0	year(s)		$0
Total Salary Cost					**$**	**16,288**
Overhead Cost @	181.98%	of Direct Labor			**$**	**29,641**
Net Fee @	30.0%	of Direct Labor			**$**	**4,886**
Total Overhead & Net Fee Cost					**$**	**34,527**

Direct Expenses	**No.**	**Unit**	**Each**		**Cost**			
Reproduction Costs								
Copies	0	pages @	$0.06	/page	$	-		
Reports	0	reports @	$15	/report	$	-		
Plans	0	sets @	$2	/set	$	-		
Parking	0	@	$8		$	-		
Mail/Deliveries/Fed Ex	0	@	$20		$	-		
Mileage	350	miles @	$0.575	/mile	$	201.25		
Subtotal							**$**	**201**

David Evans and Associates Total **$ 51,016**

Exhibit D

City of Oak Harbor
Veterans Memorial Park Sidewalk Repair

David Evans and Associates, Inc.

Work Element #	Work Element	1 Sr. Professional Engineer (SPEN) Total hrs	2 Senior Scientist (SCCI) Total hrs	3 Sr. Lanscape Architect (SLAN) Total hrs	4 Sr. CADD Technician (SCAD) Total hrs	5 Design Engineer (DEEN) Total hrs	6 Sr. Lanscape Designer (SLAD) Total hrs	7 Sr. Graphic Specialist (SGRP) Total hrs	8 Survey Manager (SVYM) Total hrs	9 Party Chief (PCHF) Total hrs	10 Environmental Planner (ENVP) Total hrs	11 Executive Administrator (EXAD) Total hrs	12 Administrative Assistant (ADMA) Total hrs	DEA Total hrs	DEA Total $
1.0	**Environmental Permitting**														
1.1	Site Visit										7			7	$837
1.2	Client/Agency Coordination		2								12			14	$1,707
1.3	WSDOT ECS		2								24		2	28	$3,325
1.4	SEPA Checklist		1								16			17	$2,049
1.5	Grading Permit					6								6	$547
1.6	Critical Areas Memorandum		24										2	26	$3,450
1.7	Shoreline Permit Exemption		1								8			9	$1,092
1.8	NPDES Permit & SWPPP Report		1			10					6		2	19	$1,950
	Work Element 1.0 Total		31			16					73		6	**126**	**$14,957**
2.0	**Base Map**														
2.1	Field Survey								2	14				16	$1,597
2.2	Base Map								4	2				6	$843
2.3	Right-of-Way Plan								10					10	$1,655
	Work Element 2.0 Total								16	16				**32**	**$4,095**
3.0	**Preliminary Plans (90%)**														
3.1	Cover Sheet and Legend (1 Sheet)	0.5				8								9	$834
3.2	Demolition & TESC Plan (1 sheet)	1			4	10								15	$1,641
3.3	Demolition & TESC Notes & Details (2 sheets)	1			4	10								15	$1,641
3.4	Grading & Paving Plan (1 sheet)	1		8	4	10								23	$2,818
3.5	Grading & Paving Notes & Details (2 sheets)	1		8	4	10								23	$2,818
3.6	Landscape Plan (1 sheets)			10			12	6						28	$3,423
3.7	Landscape Notes & Details (2 sheets)			10			12							22	$2,781
3.8	Meetings	5		4										9	$1,626
	Work Element 3.0 Total	9.5		40	16	48	24	6						**144**	**$17,583**

David Evans and Associates, Inc.		1	2	3	4	5	6	7	8	9	10	11	12		
Work Element #	Work Element	Sr. Professional Engineer (SPEN)	Senior Scientist (SCCI)	Sr. Lanscape Architect (SLAN)	Sr. CADD Technician (SCAD)	Design Engineer (DEEN)	Sr. Lanscape Designer (SLAD)	Sr. Graphic Specialist (SGRP)	Survey Manager (SVYM)	Party Chief (PCHF)	Environmental Planner (ENVP)	Executive Administrator (EXAD)	Administrative Assistant (ADMA)	DEA	DEA
		Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total hrs	Total $
4.0	**Final Plans (100%)**														
4.1	Cover Sheet and Legend (1 Sheet)	0.5				2								3	$286
4.2	Demolition & TESC Plan (1 sheet)	1			3	6								10	$1,146
4.3	Demolition & TESC Notes & Details (2 sheets)	1			3	6								10	$1,146
4.4	Grading & Paving Plan (1 sheet)	1		5	3	6								15	$1,882
4.5	Grading & Paving Notes & Details (2 sheets)	1		5	4	6								16	$2,012
4.6	Landscape Plan (1 sheets)			8			8	3						19	$2,371
4.7	Landscape Notes & Details (2 sheets)			8			8							16	$2,050
	Work Element 4.0 Total	4.5		26	13	26	16	3						**89**	**$10,893**
5.0	**Project Management**														
5.1	Project Coordination, Invoicing, Budget Tracking, Schedule	4										8		12	$1,661
5.2	Meetings	5		4										9	$1,626
	Work Element 5.0 Total	9		4								8		**21**	**$3,287**
	EXPENSES														$201
PROJECT WORK ELEMENTS TOTALS		**23**	**31**	**70**	**29**	**90**	**40**	**9**	**16**	**16**	**73**	**8**	**6**	**411**	**$51,016**

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. Compliance with Regulations: The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.

2. Non-discrimination: The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

3. Solicitations for Sub-consultants, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.

4. Information and Reports: The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Non-compliance: In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
   - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
   - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

   Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G
Certification Documents

Exhibit G-1(a)	Certification of Consultant
Exhibit G-1(b)	Certification of City of Oak Harbor
Exhibit G-2	Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
Exhibit G-3	Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
Exhibit G-4	Certificate of Current Cost or Pricing Data

Agreement Number:

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Transpo Group USA, Inc.
whose address is
11730 - 118th Ave NE, Suite 600, Kirkland, WA 98034
and that neither the above firm nor I have:

a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;

b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or

c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Oak Harbor
and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Transpo Group USA, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

Exhibit G-1(b) Certification of City of Oak Harbor

I hereby certify that I am the:

☐

☐ Other

of the , and
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

a) Employ or retain, or agree to employ to retain, any firm or person; or

b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Agreement Number:

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.

II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Transpo Group USA, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, a officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000.00, and not more than $100,000.00, for each such failure.

   The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed $100,000, and that all such sub-recipients shall certify and disclose accordingly.

David Evans and Associates, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of Veterans Memorial Park Sidewalk Repair * are accurate, complete, and current as of May 20, 2015 **.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: David Evans and Associates, Inc.

	Project Manager
Signature	Title

Date of Execution***:

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)
**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.
***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

Exhibit I
Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manger and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J
Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than $1,000. If the consultant's claim(s) are a total of $1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total $1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Pubic Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.e

Date: July 7, 2015

Subject: NE 4th Ave Water Main Replacement - Construction Contract Award to C. Johnson Construction, Inc.

FROM: Cathy Rosen, Public Works Director and Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

A motion authorizing the Mayor to sign the Agreement with C. Johnson Construction, Inc. for the NE 4th Avenue Water Main Replacement Project.

BACKGROUND / SUMMARY INFORMATION

The existing water main on NE 4th Avenue east of NE O'Leary Street is comprised of 6-inch diameter steel pipe. The pipe is more than 50 years old and corrosion is causing the pipe to fail and leak. The only remedy for this problem is to replace the old pipe with new pipe. In addition to replacing a failing main, the project will also include new water services to each property, fire hydrants and chip-seal resurfacing of NE 4th Avenue.

Advertisements for construction bids were posted in the Whidbey News Times, Daily Journal of Commerce and the on-line plan center Builder's Exchange of Washington. Bids were opened publically at City Hall at 11:00 am on June 16, 2015. Eight general contractors registered on the plan holder's list and three bids were received. C. Johnson Construction, Inc. of Oak Harbor is the low bidder (see table below) with a bid price of $266,979.16. C. Johnson Construction, Inc. is a qualified contractor for this project and award of the Contract is recommended.

NE 4th Avenue Water Main Replacement - Abbreviated Bid Tabulation

Bidder	Bid Price
C. Johnson Construction, Inc.	$ 266,979.16
SRV Construction, Inc.	$ 334,773.72
Carmen's Construction, LLC	$ 367,871.51
Engineer's Estimate	$ 362,568.85

Schedule

There is some paper work to complete after award and before construction begins and it will take some additional time for the Contractor to organize labor, equipment and materials for the job. Work is not expected to begin in the street until the week of July 20 at the earliest. Contract time is 45 days after the commencement date stated in the Notice to Proceed.

FISCAL IMPACT

Funds Required: $266,979.16

Appropriation Source: Water Fund 401

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

CITY COUNCIL WORKSHOP

This item has not been presented at a Council workshop.

CITY COUNCIL PREVIOUS ACTIONS

July 2, 2013 - City Council awarded a professional services contract to the engineering firm of Gray & Osborne, Inc. to prepare construction plans, specifications and estimates for a series of capital water system projects.

October 21, 2014- City Council approved Amendment 1 to the Gray & Osborne contract increasing the scope of services to include construction plans, specifications and estimates for replacing several steel water mains in the northeast neighborhood including NE 4th Avenue.

February 17, 2015- City Council authorized a PSA with ERCI for archaeological investigation of NE 4th Ave.

May 19, 2015 - City Council authorized advertising for construction bids.

ATTACHMENTS

1. Bid Tabulation
2. Agreement

	BIDDER			ENGINEER'S ESTIMATE		C JOHNSON CONSTRUCTION, INC.		SRV CONSTRUCTION, INC.		CARMAN'S CONSTRUCTION LLC	
	BIDDER ADDRESS					P.O. Box 1467		P.O. Box 481		20 West Troxell Road	
						Oak Harbor, WA 98277		Oak Harbor, WA 98277		Oak Harbor, WA 98277	
	WASHINGTON STATE WORKMAN'S COMP. ACCT. NO.					104, 107-00		810, 875-00		144, 738-01	
	WASHINGTON STATE CONTRACTOR'S REG. NUMBER					CJOHNCI954RB		SRVCOI*990QA		CARMACL922NE	
	BID BOND OR OTHER GOOD FAITH TOKEN					5% BID BOND		5% BID BOND		5% BID BOND	
NO.	ITEM	QUANTITY		UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Minor Changes	1	CALC	$20,000.00	$20,000.00	$20,000.00	$20,000.00	$20,000.00	$20,000.00	$20,000.00	$20,000.00
2	Survey	1	LS	$6,000.00	$6,000.00	$1,200.00	$1,200.00	$500.00	$500.00	$2,205.00	$2,205.00
3	Mobilization, Cleanup and Demobilization	1	LS	$32,000.00	$32,000.00	$14,500.00	$14,500.00	$53,750.00	$53,750.00	$27,606.00	$27,606.00
4	Temporary Traffic Control	1	LS	$8,000.00	$8,000.00	$1,140.00	$1,140.00	$25,350.00	$25,350.00	$8,844.00	$8,844.00
5	Clearing and Grubbing	1	LS	$3,000.00	$3,000.00	$718.00	$718.00	$600.00	$600.00	$815.00	$815.00
6	Removal of Structures and Obstructions	1	LS	$5,000.00	$5,000.00	$1,410.00	$1,410.00	$2,075.00	$2,075.00	$4,573.00	$4,573.00
7	Controlled Density Fill	40	CY	$200.00	$8,000.00	$117.00	$4,680.00	$125.00	$5,000.00	$115.65	$4,626.00
8	Locate Existing Utilities	1	LS	$5,000.00	$5,000.00	$2,930.00	$2,930.00	$6,025.00	$6,025.00	$2,835.00	$2,835.00
9	Crushed Surfacing Top Course	260	TN	$30.00	$7,800.00	$20.00	$5,200.00	$35.00	$9,100.00	$26.75	$6,955.00
10	Emulsified Asphalt CRS-2P	10	TN	$850.00	$8,500.00	$379.00	$3,790.00	$395.00	$3,950.00	$5,893.00	$58,930.00
11	Furnishing and Placing Crushed 3/8"	80	TN	$35.00	$2,800.00	$31.60	$2,528.00	$30.00	$2,400.00	$37.85	$3,028.00
12	HMA Cl. 1/2" PG 64-22	50	TN	$135.00	$6,750.00	$214.00	$10,700.00	$203.00	$10,150.00	$292.32	$14,616.00
13	Temporary HMA Cl. 1/2" PG 64-22	10	TN	$150.00	$1,500.00	$249.00	$2,490.00	$134.00	$1,340.00	$236.50	$2,365.00
14	Pavement Repair Excavation, Incl. Haul	50	TN	$200.00	$10,000.00	$49.00	$2,450.00	$39.00	$1,950.00	$412.10	$20,605.00
15	DI Water Pipe, 8 In. Diam.	925	LF	$80.00	$74,000.00	$110.00	$101,750.00	$61.60	$56,980.00	$57.41	$53,104.25
16	Additional Fittings	1,000	LB	$3.00	$3,000.00	$2.00	$2,000.00	$1.60	$1,600.00	$4.23	$4,230.00
17	Connection to Existing Water Main	3	EA	$3,000.00	$9,000.00	$1,410.00	$4,230.00	$3,126.00	$9,378.00	$2,996.00	$8,988.00
18	Removal of Unsuitable Material (Trench)	100	CY	$75.00	$7,500.00	$11.50	$1,150.00	$13.20	$1,320.00	$22.95	$2,295.00
19	Bank Run Gravel for Trench Backfill	1,510	TN	$25.00	$37,750.00	$6.50	$9,815.00	$3.65	$5,511.50	$20.60	$31,106.00
20	Trench Excavation Safety Systems	1	LS	$5,000.00	$5,000.00	$264.00	$264.00	$10,680.00	$10,680.00	$1,149.00	$1,149.00
21	Gate Valves, 8 In.	8	EA	$1,500.00	$12,000.00	$1,170.00	$9,360.00	$1,265.00	$10,120.00	$1,240.00	$9,920.00
22	Fire Hydrant Assembly	3	EA	$3,500.00	$10,500.00	$4,060.00	$12,180.00	$4,840.00	$14,520.00	$4,647.00	$13,941.00
23	Short Side Service Connection, 1 In. Diam.	9	EA	$1,800.00	$16,200.00	$930.00	$8,370.00	$1,250.00	$11,250.00	$1,100.00	$9,900.00
24	Long Side Service Connection, 1 In. Diam.	10	EA	$2,200.00	$22,000.00	$1,550.00	$15,500.00	$1,740.00	$17,400.00	$1,602.70	$16,027.00
25	Erosion/Water Pollution Control	1	LS	$3,000.00	$3,000.00	$305.00	$305.00	$600.00	$600.00	$140.00	$140.00
26	Seeding, Fertilizing and Mulching	50	SY	$30.00	$1,500.00	$18.00	$900.00	$48.00	$2,400.00	$18.14	$907.00

DATE: 6/2015
DRAWN: SC
CHECKED: DVG
APPROVED: DVG

CITY OF OAK HARBOR, WASHINGTON
NE 4TH AVENUE WATER MAIN
GRAY & OSBORNE #13518

GRAY & OSBORNE
CONSULTING ENGINEERS
SEATTLE, OLYMPIA, YAKIMA,
VANCOUVER & ARLINGTON, WASHINGTON

	BIDDER			ENGINEER'S ESTIMATE		C JOHNSON CONSTRUCTION, INC.		SRV CONSTRUCTION, INC.		CARMAN'S CONSTRUCTION LLC	
27	Landscape Restoration	1	LS	$3,000.00	$3,000.00	$926.00	$926.00	$7,730.00	$7,730.00	$1,663.00	$1,663.00
28	Concrete Sidewalk Replacement	125	SY	$30.00	$3,750.00	$37.00	$4,625.00	$68.00	$8,500.00	$46.36	$5,795.00
29	Project Documentation	1	LS	$1,000.00	$1,000.00	$500.00	$500.00	$7,800.00	$7,800.00	$1,260.00	$1,260.00
	Subtotal:				$333,550.00		$245,611.00		$307,979.50		$338,428.25
	Sales Tax @ 8.7%				$29,018.85		$21,368.16		$26,794.22		$29,443.26
	TOTAL CONSTRUCTION COST				$362,568.85		$266,979.16		$334,773.72		$367,871.51

Sealed bids were opened at the City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, Washington 98277 on Tuesday, June 16, 2015, at 11:00 a.m. (local time).

I hereby certify that, to the best of my knowledge, the above tabulations are true and correct transcriptions of the unit prices and total amounts bid.

DOUGLAS J. VAN GELDER, P.E.

AGREEMENT

THIS AGREEMENT is entered into by and between the **CITY OF OAK HARBOR** (hereinafter called the Owner) and _____ (hereinafter called the Contractor).

The Owner and the Contractor agree as follows:

ARTICLE 1. WORK.

NE 4th Avenue Water Main improvements provide for the installation of approximately 925 linear feet of 8-inch ductile iron water main from the intersection of NE 4th Avenue and NE Oleary Street to the intersection of NE 4th Avenue and NE Ronhaar Street. This project will also include the installation of fire hydrants, valves, reconnection of residential water services and roadway surface restoration.

ARTICLE 2. CONTRACT TIME.

The Contractor shall substantially complete the Work required by the Contract within 45 calendar days (the Substantial Completion Date) and physically complete the Work within 14 working days (the Physical Completion Date).

ARTICLE 3. LIQUIDATED DAMAGES.

The Owner and the Contractor recognize that time is of the essence and that the Owner will suffer financial loss if the Work is not completed within the time, plus any extensions thereof, allowed in accordance with the Contract. They also recognize the inconvenience, expense, and difficulties involved in a legal proceeding to prove the actual loss suffered by the Owner if the Work is not completed within the time allowed in the Contract. Accordingly, the Owner and the Contractor agree that as liquidated damages for delay, and not as a penalty, the Contractor shall pay the Owner ($500) per day for each working day beyond the Substantial Completion Date that the Contractor achieves substantial completion of the Work and ($200) for each working day beyond the Physical Completion Date that the Contractor achieves physical completion of the Work.

ARTICLE 4. CONTRACT PRICE.

The Owner shall pay the Contractor the amount(s) set forth in the Proposal (in United States dollars) for completion of the Work in accordance with the Contract.

ARTICLE 5. CONTRACT.

The Contract, which comprises the entire agreement between the Owner and the Contractor concerning the Work, consists of the following:

- This Agreement;
- The Call for Bids;
- The Contractor's Proposal including the bid, bid schedule(s), information required of bidder, Proposal bond, and all required certificates and affidavits;
- The Performance Bond and the Labor and Material Payment Bond;
- The Contract Provisions, including 2014 WSDOT Standard Specification as referenced;
- The Plans (or drawings) consisting of ___12_____ sheets, as listed in the index on sheet ___G-1_____ of the Plans;
- Addenda numbers __1 and 2_____, inclusive; and
- Change Orders issued after the effective date of this Agreement.
- City of Oak Harbor Standard Details.
- WSDOT Standard Plans.

There are no Contract Documents other than those listed in this Article 5. The Contract may be amended only in writing by Change Order as provided in the Contract.

ARTICLE 6. MISCELLANEOUS.

The Contractor specifically waives any immunity granted under the State Industrial Insurance Law, RCW Title 51, which is specifically acknowledged by the Contractor. _____(Contractor's initials)

The Contractor shall not assign any rights under or interests in the Contract, including but not limited to rights to payment, without the prior written consent of the Owner. Unless specifically stated in a written consent to an assignment, no assignment will release or discharge the Contractor-assignor from any duty or responsibility under the Contract.

The Contract is binding upon the Owner and the Contractor, and their respective partners, successors, assigns and legal representatives.

ARTICLE 7. INDEMNIFICATION

The Contractor shall defend indemnify and hold the City, its officers, officials, employees and volunteers harmless from any claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115 then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this agreement.

IN WITNESS WHEREOF, Owner and Contractor have caused this Agreement to be executed the day and year first above written.

CITY OF OAK HARBOR	**CONTRACTOR**
	License No. _____
By_____	By_____
Date_____	Title_____
	Attest_____
	Name and Address for giving notices (print)
	_____
	_____
	_____

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.f

Date: July 7, 2015

Subject: Ordinance 1732: Amending OHMC Chapter 3.95 entitled "Utility Billing and Collection Procedures"

FROM: **Dr. Doug Merriman, Finance Director**

FROM: **Nikki Esparza, City Attorney**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Adopt Ordinance 1732.

BACKGROUND / SUMMARY INFORMATION

Ordinance No. 1732 amends OHMC Title 3 to provide a more transparent explanation for the city's collection process. The proposed addition of Section 3.96.020 allows the Finance Director to administratively write off debts that are deemed uncollectible after 2 years. The write-off policy shall be utilized only after the Finance Director has determined that there is no cost-effective means to collect on the debt. The proposed amendment provides a reliable City policy and will assist the City in complying with the Washington State Constitution Article VIII, section 7 relating to the prohibition of gifting public funds or the lending of credit.

LEGAL AUTHORITY

Revised Code of Washington (RCW) 19.16.500 entitled 'Public bodies may retain collection agencies to collect public debts'

Constitution of the State of Washington, Article VIII, section 7 entitled 'Credit not to be loaned'

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Draft Ordinance No 1732 Collection Procedures

ORDINANCE NO. 1732

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 3.95 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "UTILITY BILLING AND COLLECTION PROCEDURES" AND CREATING A NEW CHAPTER 3.96 ENTITLED "COLLECTION PROCEDURES"

WHEREAS, RCW 19.16.500 authorizes cities, subject to certain procedural requirements, to retain collection agencies for the purpose of collecting outstanding accounts receivables; and

WHEREAS, OHMC 3.95.150 provides for the referral of debts owed to the City to collection agencies and for the payment of certain costs primarily associated with collection by debtors in regards to City utilities; and

WHEREAS, the City Council desires to add provisions to a new OHMC Chapter 3.96 to specifically expand the authority of the Finance Director to refer delinquent accounts receivable of any city department, plus internal collection costs, to a collection agency for collection, and to write-off certain accounts receivables if deemed to be uncollectible;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Oak Harbor Municipal Code Chapter 3.95 entitled "Utility Billing and Collection Procedures" adopted by Ord. 1598 (2011) and Ord. 1696 (2014) is hereby amended to read as follows:

Chapter 3.95
UTILITY BILLING ~~AND COLLECTION PROCEDURES~~

Sections:

3.95.010 Policy and scope.
3.95.020 Definitions.
3.95.040 Application – Account initiation fee.
3.95.050 Account to be initiated by property owner or agent.
3.95.060 Payments applied.
3.95.070 Charges – Due date.
3.95.080 Delinquency.
3.95.090 Hearing prior to utility service turn-off.
3.95.100 Water cut-offs – Lien enforcement.
3.95.110 Disconnect water service – Charge – Unpaid – Payment requisite for reconnect.
3.95.120 Turning water on – Charges.
3.95.130 Utility connection charges – Waiver for low-income persons.
3.95.140 Security deposits for service and late fees.
~~3.95.150 Collection agency.~~

3.95.~~160~~150 Billing error appeals.
3.95.~~170~~160 NSF check – Fee for collection.
3.95.170 Delinquency constitutes a lien.

3.95.010 Policy and scope.

(1) The policy of the city is to apply standardized utility billing and collection procedures to simplify customer and administrative response to the process involved.

(2) This chapter shall apply to the water, stormwater, sewer and solid waste utilities.

3.95.020 Definitions.

(1) "Finance director" means the chief financial officer of the city of Oak Harbor.

(2) "Lien" is the lien for utilities authorized by state law. For the water utility, the lien statutes are RCW 35.21.290 and 35.21.300. For the solid waste utility, the lien statutes are RCW 35.21.140 and 35.21.150. For the stormwater utility and sewer utility, the lien statutes are RCW 35.67.200 through 35.67.290.

(3) "Supervisor of the water department" means the public works director or his or her designee.

(4) "Utility" refers to any of the city of Oak Harbor utilities which include stormwater utility (rates and regulations which are codified under OHMC Title 12), sewer utility (rates and regulations which are codified in OHMC Title 14), water utility (rates and regulations which are codified under OHMC Title 13) and the solid waste utility (rates and regulations which are codified in OHMC Title 15).

3.95.040 Application – Account initiation fee. Application to have utility accounts initiated shall be made during normal working hours in writing on forms directed by the finance director. An account initiation fee per the master fee schedule adopted by resolution of the city council shall be paid in advance by each applicant for utility service before the utility service is provided. The account initiation fee shall be nonrefundable and nontransferable. The account initiation fee shall only apply to new accounts and not existing accounts ~~or transferring accounts~~ within the city limits of Oak Harbor.

3.95.050 Account to be initiated by property owner or agent.

(1) Utility accounts shall be opened by and billed to the owner of the property to which the services are rendered or to such property owner's designated agent. Utility accounts for water and sanitary sewer service must be based upon service to at least one meter. No account may be opened for service to a customer unless that customer is responsible for all service to the water meter applicable to that account.

(2) A “designated agent” may be a tenant, property manager, or other person designated in writing by the property owner as the property owner’s agent for all purposes related to the utility account. The finance director shall prescribe the requisite form to be used by property owners wishing to designate an agent pursuant to this section. All owners of property, however, shall remain ultimately and legally liable for the payment of any and all utility charges against the premises to which such utility service has been furnished or is available to the maximum extent allowed by law.

(3) Tenant Accounts. In the event that a tenant meeting the requirements of RCW 35.21.217 requests to open a new account due to nonpayment of the existing account by the landlord, the tenant shall be allowed to open such an account; provided, that the tenant agrees to pay all charges owing which accrued during the tenant’s occupancy of the premises. In no event shall an account be opened for service unless the customer is responsible for all service to the water meter applicable to that account.

3.95.060 Payments applied. Payments received by the city for utility service shall be applied in the following order:

(1) Bank service charges;
(2) Outstanding late charges;
(3) Solid waste charges;
(4) Stormwater utility charges;
(5) Sanitary sewer charges;
(6) Water charges.

3.95.070 Charges – Due date. Utility service charges shall be billed monthly for services provided during the previous billing period. Bills shall be due upon billing and payable not later than the eighteenth day of the calendar month following the calendar month of mailing. Thereafter the utility service charges shall become delinquent. Sewer, stormwater and solid waste utility charges shall bear interest at the rate of eight percent per annum, prorated monthly, and water utility charges shall bear interest at the rate of eight percent per annum.

3.95.080 Delinquency. If the account is not paid when due, the city shall assess a fee that shall be in the master fee schedule adopted by resolution of the city council for delinquency payment and give notice that the utility account is delinquent. In addition, the notice shall:

(1) Set a date for water turn-off not less than seven days after giving of notice; and

(2) Specify that service will be shut off unless payment in full is made to the city within seven days; and

(3) Advise that a hearing may be requested by contacting the finance department prior to the scheduled date for water turn-off; and

(4) Provide the address and telephone number of the finance department; and

(5) Advise that an additional charge per the master fee schedule adopted by resolution of the city council will be added to the bill if water cut-off or meter removal is implemented as a charge for cutting off the water and/or meter removal; and

(6) Provide that service will not be shut off while a hearing is pending.

3.95.090 Hearing prior to utility service turn-off. Upon customer request of the finance director or his/her designee, the customer shall be given the opportunity to explain why the utility service should not be turned off. Service will not be shut off while this hearing is pending. The finance director or his/her designee shall set the hearing date to be held within three days of the customer's request for a hearing.

3.95.100 Water cut-offs – Lien enforcement.

(1) Sewer and Stormwater Lien. As an alternative method to enforce the lien for nonpayment of sewer or stormwater services or both, the city may cut off water service and refuse to provide water service to premises which were furnished water after the charges have become delinquent and unpaid; provided, that unless the lien is filed with the Island County auditor, the lien shall not be for more than six months' service.

(2) Water Lien. As a means of enforcement, the lien for water services supplied by the city may cut off and refuse to supply water to the premises which were furnished with the water services after the charges have become delinquent and unpaid; provided, that the lien may not be for more than four months of water services.

(3) The fee charged for turning off water shall be per the master fee schedule adopted by resolution of the city council and shall be assessed by ~~4:30~~ 5:00 p.m. the day before the water is turned off.

3.95.110 Disconnect water service – Charge – Unpaid – Payment requisite for reconnect. If the service has been disconnected because the water, sewer or stormwater bill has not been paid, the water service shall not be turned on until the delinquent charges ~~under~~ or the applicable lien or liens have been paid.

3.95.120 Turning water on – Charges. No water from the city water supply shall be turned on for service into any premises by any person except the supervisor of the water department or his/her designee. A fee per the master fee schedule adopted by resolution of the city council shall be charged for turning water on for service. This charge shall not be assessed when turning water on for purposes of account initiation pursuant to OHMC 3.95.040. The charge for turning on the water after 5:00 p.m. on any work day or on weekends, except for emergency responses, shall be in the master fee schedule adopted by resolution of the city council.

3.95.130 Utility connection charges – Waiver for low-income persons. The finance director may waive connection charges for properties purchased by low-income persons from organizations exempt from tax under Section 501(c)(3) of the federal Internal Revenue Code as

amended prior to July 23, 1995. Waivers of connection charges for the same class of utility service must be uniformly applied to all qualified property. Nothing in this section authorizes the impairment of a contract.

3.95.140 Security deposits for service and late fees.

(1) Security Deposit for Continuing Service. The finance director may order a deposit as a condition of continuing or restoring any utility service where it appears, in his/her discretion, there is a risk of nonpayment or underpayment or as permitted by 11 USC 366 or any other applicable law. The deposit shall be a reasonable amount, but in no case less than four months' established billing. The security deposit will be made by the account holder. The security deposit will not be released until the account of the account holder is closed and the account balance is paid in full. The security deposit funds may be applied to the outstanding balance at the time the account is closed with the remaining funds released to the account holder.

(2) Solid Waste Only Billing. Where premises are not served by city water or sewer service, the customer is required to tender a deposit to the utility department equal to four months of the estimated cost of the service to be provided as determined by the utility department.

(3) Front Load Dumpster Security. The solid waste utility shall collect advance payment for container placement and up to four months of charges for rental. The city finance director may accept satisfactory securities or surety bond in lieu of cash payment. Such payment or security may be applied toward the payment of service charges whenever the same shall become due. The solid waste utility reserves the right to require additional advance payment for subsequent service that may be requested by the customer.

(4) When a utility deposit required under this section remains unpaid for more than 30 days after giving notice of the same, the city may terminate utility service for the utility requiring deposit including turning off water so long as notice and availability of hearing is provided as per this chapter.

~~**3.95.150 Collection agency.**~~

~~(1) The city may refer unpaid accounts for collection to a collection agency approved by the city council for which there is a contract.~~

~~(2) Accounts referred to collection shall be only after written notice has been given to the account holder at his/her last known address by certified mail, return receipt requested, and by regular mail, postage prepaid 30 days in advance of the referral to collection.~~

3.95.~~160~~150 Billing error appeals.

(1) Time for Filing. A utility account holder objecting to any utility service charge billing may request a hearing before the city administrator by filing a written request with the finance director within 60 days of the first service date on the challenged billing.

(2) Form of Appeal. The request shall set forth the name, address and phone number of the person requesting the hearing; the nature of the service charges at issue, such as water, sewer, stormwater or solid waste; the amount of the billing; the dates of service; and the basis for the objection.

(3) Setting of Hearing Date. The city administrator or his/her designee shall set a hearing date and time within two weeks of the date of receipt of the request for a hearing, and shall advise the person requesting the hearing of the hearing date, time and location using the address and telephone information provided by the requestor.

(4) Failure to Appear. Failure of the requestor to appear for this hearing without prior notice and excuse shall constitute a waiver of the hearing.

(5) Format of the Hearing. At the hearing, the requestor shall have the opportunity to present evidence and argument in support of requestor's objections to the utility service charge billing.

(6) Determination of City Administrator. The city administrator shall consider the evidence and argument submitted by the requestor and make a determination on requestor's challenge in writing within 10 days.

(7) Time for Appeal from City Administrator Determination. The determination of the city administrator shall be final unless appealed within five business days of the date of mailing the determination to the address provided by the requestor above.

(8) Appeals to Hearing Examiner. Appeals from the determination of the city administrator shall be to the hearing examiner. The procedures of OHMC 1.24.020 through 1.24.110 shall apply to these appeals.

(9) Decision of Hearing Examiner Final. The decision of the hearing examiner shall be final unless appealed to a court of competent jurisdiction within 30 days of issuance of the hearing examiner's decision.

(10) Amount Owing. In the event that the account holder's appeal to the hearing examiner results in a determination that an amount is owing to the city, the amount must be paid within three days of the date of the final decision.

3.95.~~170~~160 NSF check – Fee for collection. The fee charged for a nonsufficient fund check (NSF check) shall be per the master fee schedule adopted by resolution of the city council, or the amount of the NSF check, whichever is less. In no case will the NSF fee charged for a NSF check be less than the amount charged to the City by the returning bank.

3.95.170 Delinquency constitutes a lien.

All charges for water service installation and sewer installation and all monthly service rates provided for in this chapter, together with penalties and interest thereon, when unpaid and delinquent shall be a lien upon the property to which the services are rendered superior to all other liens and encumbrances whatsoever except for general taxes and local special assessments. Enforcement of such lien or liens shall be in the manner provided by law.

Section Two. There is hereby added a new Chapter 3.96 entitled "Collection Procedures" to the Oak Harbor Municipal Code to read as follows:

Chapter 3.96
COLLECTION PROCEDURES

Sections:

3.96.010 Collection agency.
3.96.020 Write off of delinquent accounts.

3.96.010 Collection agency.

(1) The finance director, or his or her designee, is hereby authorized to assign debts owed to the city to a collection agency for the collection thereof. In all instances where a debt is so assigned, all reasonable costs involved in the collection of the debt through use of the collection agency are costs that shall be added to and included in the debt to be paid by the debtor. As used in this chapter, debts owed to the city include, but are not limited to, the following: past due utility accounts, fines, assessments, taxes, permit and license fees and charges, notes and contracts receivable, miscellaneous billings, penalties, interest, and any other charge or account receivable whatsoever nature legally imposed by or owing to the city. Prior to assigning any account to a collection agency, the director, or authorized representative, shall ensure that the procedural requirements of RCW 19.16.500, or any successor statute, have been met.

(2) Whenever this code or an ordinance or regulation of the city provides that a person is to pay a certain fee or charge, in the event of nonpayment for 30 days after the amount is due and owing, such person shall also pay the city's reasonable costs of collection and 10% per annum interest on the delinquent amount. The collection costs and interest will be added to the original amount due which will not be considered paid until the new total is paid in full.

(3) Accounts referred to collection shall be only after written notice has been given to the account holder at his/her last known address by certified mail, return receipt requested, and by regular mail, postage prepaid 30 days in advance of the referral to collection.

3.96.020 Write off of delinquent accounts. The finance director, or his or her designee, shall have the authority to write-off debts that are over two years old in an amount not to exceed $2,000 per account. This write-off option shall be utilized only after it has been determined by the finance director that there is no cost-effective means of collecting the account, a collection agency has been unsuccessful in collecting the debt, or the statute of limitations for collections has expired. A write-off of uncollectible accounts receivable from the City's accounting records does not constitute forgiveness of the debt and it is still payable by the debtor.

Section Three. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder or the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Four. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication.

PASSED by the City Council this_____day of_____, 2015.

THE CITY OF OAK HARBOR

Veto ( )
Approve ( )

By_____
Scott Dudley, Mayor

Dated: _____

Attest:

_____
Anna Thompson, City Clerk

Approved as to Form:

_____
Nikki Esparza, City Attorney

Published: _____

L:\LGLA\WORK\RES-ORD2015\Utility Billing and Collection Procedures Ord.docx

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.g

Date: July 7, 2015

Subject: Resolution 15-21: Island County Fire Departments Inter-local Agreement for P25 Compliant Base Station Transmitter Radios

FROM: **Ray Merrill, Chief of Fire**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Adopt Resolution 15-21, Authorizing the Fire Chief to sign the Island County Fire Department's interlocal agreement for the purchasing of the P25 compliant base station radio transmitters.

BACKGROUND / SUMMARY INFORMATION

This item was presented at the June 17, 2015 workshop. The Federal Government in conjunction with the Federal Communication Commission requires all public agencies radios to be P25 compliant. The current Motorola MTR2000 base station radio transmitters do not meet this requirement. These radios have reached their expected 20 year life span and are no longer supported by Motorola. The Oak Harbor Fire Department in conjunction with all Island County Fire Districts applied for an Assistance to Fire Fighters Grant to assist with the purchasing of these radios.

In order to meet or exceed the P25 standard the fire department(s) are proposing to purchase ten (10) Motorola GTR8000 base station transmitters. Each fire department will be allocated two (2) of the radios, to become part of their radio inventory, and the radios will be strategically located within the ICOM radio network.

Purchasing, should the grant be approved, will be completed utilizing the Western States Contracting Alliance Contract #02702 which recognizes Motorola as a sole source provider.

LEGAL AUTHORITY

Pursuant to the authority granted by the "Washington Inter local Cooperation Act", Revised Code of Washington (RCW)39.34 and Sections 39.34.010, 39.34.030, and 39.34.070 allows for/ and authorize agencies to enter into inter local agreements for the purchasing of goods and services.

FISCAL IMPACT

Depending on the approved Assistance to Firefighters (AFG) grant funding this amount could vary between $2,500.00 - $3,500.00

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

Presented at the June 17, 2015 Workshop Meeting.

ATTACHMENTS

1. Resolution 15-21
2. Inter Local Agreement for the Purchasing of Ten (10) GTR 8000 Transmitters

RESOLUTION NO. 15-21

A RESOLUTION AUTHORIZING THE ADOPTION OF THE ISLAND COUNTY FIRE DEPARTMENT'S INTER-LOCAL AGREEMENT FOR THE PURCHASING OF P25 COMPLIANT BASE STATION TRANSMITTERS.

WHEREAS, The Federal Government, in conjunction with the United States Federal Communications Commission requires all public service agencies radios to become P-25 compliant; and

WHEREAS; The current fire frequency one (1) Motorola MTR2000 base station radio transmitters are not P-25 compliant and are at or soon to be at the end of their live span; and

WHEREAS, Motorola Radio will no longer repair and/or provide repair parts for the MTR2000 base station radios. These radios shall be replaced with the Motorola GTR8000 P-25 compliant radio transmitters; and

WHEREAS, The City of Oak Harbor, acting as the host agency for all Island County Fire Departments did apply for an Assistance to Fire Fighter Grant, for the purchasing of ten (10) GTR8000 base station radios; and

WHEREAS, All Island County Fire Departments have agreed to enter into an Inter-Local agreement to pay their proportionate share of the 10% matching fund (approximately $3,100.00 to each agency) should the Assistance to Fire Fighters Grant be approved; and

WHEREAS, Upon approval of the Assistance to Fire Fighters Grant, the Motorola GTR800 base station radios will be ordered utilizing the Western States Contracting Alliance Contract #02702 which recognizes Motorola as a sole source provider. The ten (10) radios will be divided between the five (5) partner agencies for continued maintenance.

NOW, THEREFORE, it is hereby resolved by the City Council of Oak Harbor Washington that:

The City of Oak Harbor agrees to enter into this Inter-Local agreement with all partner agencies, and authorize Ray Merrill, Fire Chief to sign this Inter-Local agreement.

Passed by the City Council this 7th day of July, 2015

CITY OF OAK HARBOR

_____

Scott Dudley, Mayor

ATTEST:

Anna Thompson
City Clerk

APPROVED AS TO FORM:

Nikki Esparza
City Attorney

Return to:
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

INTERLOCAL AGREEMENT

Pursuant to the authority granted by the "Washington Interlocal Cooperation Act" Revised Code of Washington (RCW) 39.34. this Interlocal Agreement is being made under the authority of Sections 39.34.010,39.34.030 and 39.34.070 of the Revised Code of Washington and entered into by and between the City of Oak Harbor (hereinafter called CITY), Camano Island Fire and Rescue, Central Whidbey Fire and Rescue, North Whidbey Fire and Rescue and South Whidbey Fire and EMS (hereafter called PARTNERS); and

WHEREAS, the PARTNERS by the signing of this agreement hereby make, constitute and appoint CITY its true and lawful Purchasing and Fiscal Agent for the purchase of communications equipment specifically P-25 compliant base station radios. These transmitters will provide for the continued development of the regional radio system, a radio system extending through Whidbey and Camano Island(s). Quantities, costs and distribution as shown in Exhibit "A" – Budget Detail; and

WHEREAS, the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) created the Assistance to Firefighters Grant Program (hereinafter called PROGRAM) to provide financial assistance to enhance their ability to protect the public and fire service personnel from fire and related hazards; and

WHEREAS, the PROGRAM announced the availability of funds under the FY 2014 PROGRAM allocation and the CITY and PARTNERS agreed to submit a joint regional application for funding under the Assistance to Fire Fighters Grant; and

WHEREAS, CITY and PARTNERS requested and were awarded funds to purchase interoperable communications equipment, including base station radios in the quantities, costs and distribution as shown in Exhibit "A" – Budget Detail; and

WHEREAS, the grant award provides a Federal share portion of $_126,589.50___ (90 %) with a required local match share portion of $_____14,065.50_____ (10%), for a total projected cost of $140,655.00.00 (100%).

NOW, THEREFORE, the governing boards/councils of the respective jurisdictions of the City of Oak Harbor, Camano Island Fire and Rescue, Central Whidbey Fire and Rescue, North Whidbey Fire and Rescue and South Whidbey Fire and EMS do hereby agree as follows:

A. General Provisions.

1. CITY and PARTNERS agree to participate and collaborate in carrying out the goals and objectives of the PROGRAM.

2. In accordance with Homeland Security Presidential Directive (HSPD) – 5 (Management of Domestic Incidents), CITY and PARTNERS agree to utilize the National Incident Management System (NIMS), to include the Incident Command System.

3. CITY and PARTNERS agree to participate in the PROGRAM by furnishing resources and rendering services to other parties to this agreement and to respond to any type of emergency whether declared or not under current mutual aid agreements; provided, however, that no party shall be required to unduly deplete its resources in furnishing such assistance. If a Responder is unable to meet the Requestor's need for resources, the Requestor will be advised immediately.

4. CITY and PARTNERS agree to carry out the requirements of the PROGRAM as set forth in the Grant Agreement and according to Federal grant administration guidelines as defined in:
   - Circular A-87 (Revised 5/4/95, as further amended 8/29/97) Cost Principles for State, Local and Indian Tribal Governments,
   - Circular A-102 (Revised 10/7/94, as further amended 8/29/97) Grants and Cooperative Agreements with State and Local Governments,
   - Circular A-133 (Revised June 24, 1997 Audits of States, Local Governments and non-Profit Organizations, and
   - 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

   CITY and PARTNERS understand that all programmatic and fiscal requirements under the grant are subject to audit; CITY and PARTNERS acknowledge that equipment, procurement documentation and all expenditures and financial information may be requested by CITY, as fiscal agent, and subject to said audit.

B. Procedures for the Purchase and Distribution of Base Stations.

1. CITY and PARTNERS agree to the following procedures for the purchase and distribution of the communications equipment:

a. CITY and PARTNERS shall individually prepare the necessary specifications for the radio equipment that will ensure compatibility and interoperability with existing and future P-25 radio communications systems in their respective jurisdictions.

b. The specifications shall be designed to not exceed the budgeted allocations on the approved project budget. Any specifications for radio equipment that exceeds the approved budgeted amount shall be the responsibility of the individual PARTNER jurisdiction ordering the additional equipment.

c. CITY, as the Purchasing and Fiscal Agent for this project, will compile all radio equipment specifications from PARTNERS and will coordinate the purchase, through pre-negotiated Western States Contracting Alliance, of all radio communications equipment items being acquired through the CITY's Purchasing and Contracting Department. CITY will order all radio equipment pertaining to the grant agreement according to Federal, State, and local purchasing policies and procedures.

d. All radio equipment will be received by CITY and shall undergo a preliminary inspection and inventory to verify receipt of all radios ordered by CITY and PARTNERS prior to distribution of the equipment. CITY will then distribute the equipment to PARTNERS, upon receipt of matching funds.

e. Upon receipt of the equipment, CITY and PARTNERS shall be individually responsible for the following:

i. Inspecting the equipment for damage from shipping/handling.

ii. Testing of the equipment for proper operation.

iii. Programming of equipment to manufacturer and local jurisdictional communications standards and protocols.

C. Authorization from Partners Governing Bodies and Payment of Matching Funds.

1. If the purchase of the communications equipment requires the approval of the governing body of a participating jurisdiction, it shall be the responsibility of the individual PARTNERS to provide a certified copy of the documentation to CITY approving the purchase and specifying the method of payment of the local match share as shown in Exhibit "A" of this Agreement either by check or electronic transfer of funds from PARTNERS to CITY.

2. All documentation of authorization to participate in the grant project from PARTNERS governing bodies shall be submitted to CITY on or before

June 1, 2015. Documentation shall include an official Resolution or signed letter by the jurisdiction's Mayor, County Judge official from the governing body and execution of this Interlocal Agreement.

3. Payment of the local matching funds shall be paid by PARTNERS to CITY by either check or electronic transfer of funds within 30 days of the receipt of base station radios.

4. Distribution of equipment will take place after CITY receives matching funds from each participating PARTNER.

D. Warranties & Maintenance of Radios, Base Stations and Core Radio Controller.

1. CITY and PARTNERS shall be individually responsible for the following procedures for maintenance of the radios:

a. Ensuring that all warranties and service/maintenance agreements for the radios are registered with the manufacturer(s), that all warranty documentation is recorded and kept on file, including information regarding the warranty period, manufacturer's responsibilities, jurisdiction's responsibilities, etc.

b. Adherence to all conditions and requirements of any warranties or maintenance agreements/contracts with any manufacturer or manufacturer's representative in the event that a radio is damaged or requires repairs, service and maintenance. The cost for any repair and maintenance work that is not covered under warranty shall be the individual responsibility of CITY and PARTNERS.

c. All maintenance and repairs of the radios after the expiration of any warranties and/or service contracts/agreements shall be the individual responsibility of CITY and PARTNERS.

E. Inventory and Reporting Requirements.

1. CITY and PARTNERS agree to the following procedures for the purchase and distribution of the radio equipment:

a. To meet or exceed the Federal competitive bidding requirements the CITY will utilize the Western States Contracting Alliance (WSCA) contract #02702 for the purchasing of base stations. The competitive bidding requirement is met by the WSCA contract being previously bid by the State of Washington. In accordance with the WSCA contract public agencies shall use Phase 1 purchasing and sole source providers.
WSCA has contracted with Motorola Solutions for the P25 compliant

base station radios.

b. CITY will coordinate the creation of an equipment inventory and control process that will list all equipment that is retained by CITY and distributed to PARTNERS including information regarding manufacturer, model number, serial number, and location of each base station, assigned to the PARTNERS.

c. CITY and PARTNERS shall be responsible for maintaining accurate records on the location, condition, and status of all radios during the period of performance of the grant agreement from _____*(Dependent on grant approval date(s)*_____ through _____ and for a record retention period of three (3) years after the end of the performance period on _____ as required by federal grant management standards. PARTNERS will be responsible for reporting any loss or irreparable damage that occurs to any radio equipment immediately to CITY for the duration of grant performance period and during the three (3) year retention period.

d. In the event that a radio purchased under the grant is replaced due to loss or irreparable damage, it shall be the responsibility of PARTNERS to notify CITY of said replacement immediately and provide information regarding manufacturer, model, serial number, and location of the new radio.

e. The inventory of radio communications purchased through the grant agreement shall be recorded by CITY and PARTNERS by jurisdiction, manufacturer, model, serial number and location for each item purchased.

f. CITY and PARTNERS will certify that all information provided for each radio in their respective inventories is accurate and that they certify thus by signing the inventory form document.

This Interlocal Agreement is entered into this _____ day of _____, 2015, by and between CITY and PARTNERS. This agreement will take effect at the time of execution and will remain in effect during the period of performance from _____ through _____ and for ninety (90) days after the end of the performance and budget periods in order to allow for programmatic and fiscal compliance and grant close-out. This agreement can be modified with the mutual consent of CITY and PARTNERS as long as the modification(s) does not conflict with the requirements set forth in the grant agreement or with the policies and guidelines of the Assistance to Firefighters Grant Program. The executors of this agreement further represent that they have the authority to make such commitment on behalf of their respective jurisdictions/organizations.

CITY OF OAK HARBOR

_____ Dated: _____

Print: Ray Merrill
Title: Fire Chief

CAMANO ISLAND FIRE AND RESCUE

_____ Dated: _____

Print: Mike Schick
Title: Fire Chief

CENTRAL WHIDBEY FIRE AND RESCUE

_____ Dated: _____

Print: Ed Hartin
Title: Fire Chief

NORTH WHIDBEY FIRE AND RESCUE

_____ Dated: _____

Print: Marv Koorn
Title: Fire Chief

SOUTH WHIDBEY FIRE AND EMS

_____ Dated: _____

Print: H. L. "Rusty" Palmer
Title: Fire Chief

Exhibit "A"

Partner	Base Stn	Equipment total (per radio) (estimated)	Grand – eligible total	90% AFG Funds	10% Match	Total due the City
Oak Harbor	2	14,065.50 14,065.50	14,065.50 14,065.50	12,658.95 12,658.95	1,406.55 1,406.55	
Camano Island	2	14,065.50 14,065.50	14,065.50 14,065.50	12,658.95 12,658.95	1,406.55 1,406.55	**2,813.10**
Central Whidbey	2	14,065.50 14,065.50	14,065.50 14,065.50	12,658.95 12,658.95	1,406.55 1,406.55	**2,813.10**
North Whidbey	2	14,065.50 14,065.50	14,065.50 14,065.50	12,658.95 12,658.95	1,406.55 1,406.55	**2,813.10**
South Whidbey	2	14,065.50 14,065.50	14,065.50 14,065.50	12,658.95 12,658.95	1,406.55 1,406.55	**2,813.10**
Totals	10	140,655.00	140,655.00	126,589.50	14,065.50	**11,252.40**

NOTE: This is a preliminary estimate, final costs will be determined upon final bidding of the radios through Motorola Solutions. This amount does include installation costs by the radio technicians at ICOM.

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.h
Date: July 7, 2015
Subject: Update to the Transportation Element of the Comprehensive Plan - Professional Services Agreement with Fehr & Peers

FROM: Cathy Rosen, Public Works Director and Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

It is recommended that the City Council authorize the Mayor to sign a Professional Services Agreement with Fehr & Peers, Inc. for development of the update to the Transportation Element of the Comprehensive Plan on a time and materials basis not to exceed $188,126.

BACKGROUND / SUMMARY INFORMATION

The Transportation Element of the Comprehensive Plan is required under RCW 36.70A.070 and is due by June 30, 2016.

The Transportation Element of the Comprehensive Plan is intended to provide guidance regarding necessary improvements to the City's transportation infrastructure. Major items to be addressed in the plan include:

- Travel demand forecasting
- Public Outreach
- Development of a prioritized list of transportation projects to meet current and future needs, and
- Identification of necessary street networks and ROW corridors with emphasis on the southwest portion of the City's Urban Growth Area, and
- Estimates of total project costs (engineering, permitting, construction, etc.)

As required by RCW 36.70A, a financial analysis comparing prioritized transportation needs against probable funding resources is also part of the plan. Recommendations on funding options will be provided in the financial analysis.

Proposals were solicited from three qualified transportation consultant firms selected from the MRSC roster. Two firms submitted proposals, Transpo Group and Fehr & Peers. After reviewing the proposals and interviewing the candidates, a selection committee chose Fehr & Peers, Inc. as the most qualified firm

to provide the services.

Staff met with the Fehr & Peers to discuss project scope and priorities which Fehr & Peers used as the basis for developing a scope of services and fee for the project (attached). The scope of services meets the City's needs for the project and the fee is within the preliminary cost estimate prepared for the project.

FISCAL IMPACT

Funds Required: $188,126

Appropriation Source: Arterial Streets Fund

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

October 21, 2014 - Council approved The Surface Transportation Program – regional grant application for funding the update to the Transportation Element of the Comprehensive Plan.

December 16, 2014 - Council approved Resolution 14-53 on accepting the terms of the Washington State Department of Transportation Local Agency Agreement for utilizing federal funds for updating the Transportation Element of the Oak Harbor Comprehensive Plan.

March 3, 2015 – Council authorized staff to issue a Request for Proposal to qualified transportation consulting firms for services needed to develop the update to the Transportation Element of the Oak Harbor Comprehensive Plan.

ATTACHMENTS

1. Professional Services Agreement with Fehr & Peers

PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF OAK HARBOR AND FEHR & PEERS FOR CONSULTANT SERVICES

THIS AGREEMENT ("Agreement') is made and entered into by and between the City of Oak Harbor, a Washington State municipal corporation ("City"), and Fehr & Peers, a California Corporation ("Consultant").

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is to provide the City with consultant services regarding transportation planning as described in Article II. The general terms and conditions of the relationship between the City and the Consultant are specified in this Agreement.

ARTICLE II. SCOPE OF SERVICES

The Scope of Services is attached hereto as **Exhibit "A"** and incorporated herein by this reference ("Scope of Services"). All services and materials necessary to accomplish the tasks outlined in the Scope of Services shall be provided by the Consultant unless noted otherwise in the Scope of Services or this Agreement. All such services shall be provided in accordance with the standards of the Consultant's profession.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

III.1 **MINOR CHANGES IN SCOPE**. The Consultant shall accept minor changes, amendments, or revision in the detail of the Scope of Services as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the Scope of Services in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

III.2 **WORK PRODUCT AND DOCUMENTS**. The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon

completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City. Notwithstanding any provision to the contrary, Consultant's proprietary materials, including its trade secrets, inventions, improvements, discoveries, methodologies, models, formats, software, algorithms, processes, procedures, designs, specifications, and findings, that it develops, discovers, collects, or creates prior to, or independently of, the services provided by Consultant pursuant to this Agreement, are its Pre-existing Materials. Consultant shall retain ownership and all rights, titles, and interests, in its Pre-existing Materials, including any such materials that Consultant employs and applies in the services it provides pursuant to this Agreement, or incorporates into any part of its work product and documents produced under this Agreement. Consultant grants the City an irrevocable, non-exclusive, non-commercial, royalty-free, worldwide, right and license in perpetuity to publish, analyze, translate, reproduce, deliver, perform, derive from, display, transfer, and use, but not to sell, such Pre-existing Materials, and only as an inseparable part of its work product or documents produced under this Agreement.

In the event that the Consultant shall default on this Agreement or in the event that this Agreement shall be terminated prior to its completion as herein provided, all work product of the Consultant as qualified above, along with a summary of work as of the date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this Agreement. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of documents produced under this Agreement or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

III.3 **TERM.** The term of this Agreement shall commence on July 8, 2015 and shall terminate at midnight, December 31, 2016. The parties may extend the term of this Agreement by written mutual agreement.

III.4 **NONASSIGNABLE**. The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

III.5 **EMPLOYMENT**. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

III.6 **INDEMNITY**. Indemnification/Hold Harmless Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting

from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

III.7 **INSURANCE**.

a. **Minimum Limits of Insurance**. The Consultant shall procure, and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work and services hereunder by the Consultant, its agents, representatives, employees or subcontractors. The Consultant shall, before commencing work under this agreement, file with the City certificates of insurance coverage and the policy endorsement to be kept in force continuously during this Agreement, in a form acceptable to the City. Said certificates and policy endorsement shall name the City, its officers, elected officials, agents and/or employees as an additional named insured with respect to all coverages except professional liability insurance and workers' compensation. The minimum insurance requirements shall be as follows:

(1) Comprehensive General Liability. $1,000,000 combined single limit per occurrence for bodily injury personal injury and property damage; $2,000,000 general aggregate.

(2) Automobile Liability. $300,000 combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington.

(4) Consultant's Errors and Omissions Liability. $1,000,000 per occurrence and as an annual aggregate.

b. **Notice of Cancellation**. In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.

c. **Acceptability of Insurers**. Insurance to be provided by Consultant shall be with a Bests rating of no less than A:VII, or if not rated by Bests, with minimum surpluses

the equivalent of Bests' VII rating.

d. **Verification of Coverage**. In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current. Further, throughout the term of this Agreement, the Consultant shall provide the City with proof of insurance upon request by the City.

e. **Insurance shall be Primary**. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

f. **No Limitation**. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance or otherwise limit the recourse to any remedy available at law or in equity.

g. **Claims-made Basis**. Unless approved by the City all insurance policies except professional liability or errors and omissions insurance shall be written on an "Occurrence" policy as opposed to a "Claims-made" policy. The City may require an extended reporting endorsement on any approved "Claims-made" policy.

III.8 **DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION**. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, sexual orientation, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

III.9 **UNFAIR EMPLOYMENT PRACTICES**. During the performance of this Agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

III.10 **LEGAL RELATIONS**. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this Agreement. The Consultant represents that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this Agreement are fully qualified-and

properly licensed to perform the work to which they will be assigned. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any litigation commenced relating to this Agreement shall be in Snohomish County Superior Court.

III.11 **INDEPENDENT CONTRACTOR**.

a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants and agrees that his status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall claim any related employment benefits, social security, and/or retirement benefits.

b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

d. Prior to commencement of work, the Consultant shall obtain a business license from the City.

III.12 **CONFLICTS OF INTEREST.** The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant's client base of which Consultant has or should have knowledge, and shall obtain written permission from the City prior to providing services to third parties where a conflict or potential conflict of interest is apparent and known or should be known to Consultant. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

III.13 **CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City or an order of a court of competent jurisdiction in each instance, the confidences of the City or any information regarding the City or services provided to the City.

III.14 **SUBCONTRACTORS/SUBCONSULTANTS**.

a. The Consultant shall is responsible for all work performed by subcontractors/subconsultants pursuant to the terms of this Agreement.

b. The Consultant must verify that any subcontractors/subconsultants they directly hire meet the responsibility criteria for the project. Verification that a subcontractor/subconsultant has proper license and bonding, if required by statute, must be included in the verification process. The Consultant will use the following Subcontractors/Subconsultants :

Gibson Traffic Consultants_____

_____

_____

c. The Consultant may not substitute or add subcontractors/subconsultants without the written approval of the City.

d. All Subcontractors/Subconsultants shall have the same insurance coverages and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 **PAYMENTS**.

a. The Consultant shall be paid by the City on a time and materials basis for services rendered under this Agreement as described in the Scope of Services and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed $188,126 without the written agreement of the Consultant and the City. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount**.**

b. The Consultant shall submit a monthly invoice to the City for services performed in the previous calendar month. At a minimum, invoices shall include (1) a summary of previous invoices; (2) current invoice amount; (3) total current monthly billing; (4) amount authorized under this agreement; and (5) total authorized amount still remaining under the agreement. The Consultant shall maintain time and expense records and provide them to the Cities upon request.

c. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 **CITY APPROVAL**. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the Scope of Services and City requirements.

IV.3 **MAINTENANCE/INSPECTION OF RECORDS**. The Consultant shall maintain all books, records, documents and other evidence pertaining to the costs and expenses

allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

ARTICLE V. GENERAL

V.1 **NOTICES**. Notices to the City shall be sent to the following address:
Arnold Peterschmidt, P.E.
Project Engineer
City of Oak Harbor
865 SE Barrington Drive, Oak Harbor, WA 98277

Notices to the Consultant shall be sent to the following address:
Kendra Breiland
Senior Associate
Fehr & Peers
1001 4th Avenue, Suite 4120, Seattle, WA 98154

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION**. The right is reserved by the City to terminate this Agreement in whole or in part at any time upon ten (10) calendar days' written notice to the Consultant.

If this Agreement is terminated in its entirety by the City for its convenience, the City shall pay the Consultant for satisfactory services performed through the date of termination in accordance with payment provisions of Section VI.1.

V.3 **DISPUTES**. The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **EXTENT OF AGREEMENT/MODIFICATION**. This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

V.5 **SEVERABILITY**

a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

V.6 **NONWAIVER**. A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

V.7 **FAIR MEANING**. The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

V.8 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

V.9 **VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Snohomish County, Washington.

V.10 **COUNTERPARTS**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

V.11 **AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT**. The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth below.

DATED this _19th__ day of _June__, 2015.

CITY OF _____

By_____
Mayor

Approved as to form:

_____
City Attorney

Fehr & Peers

By _____
Christopher Breiland
Principal

EXHIBIT A
SCOPE OF WORK

City of Oak Harbor Transportation Element

SCOPE OF WORK

The transportation element is a local functional plan that will inform and support Oak Harbor's Comprehensive Plan. The creation of the transportation element will be heavily influenced by the other elements of the Oak Harbor Comprehensive Plan, including Land Use, Housing, and Economic Development. The plan is needed to guide the City's transportation investments and to ensure that transportation decision making is consistent with the City's other priorities. This scope represents what would be needed to create the long range transportation plan and the necessary environmental documentation. This transportation plan would be coordinated with adjacent jurisdictions and consistent with applicable County, Regional and State planning and policy documents. This work includes the following components:

Task A: Public and Agency Outreach

To the extent possible, the public outreach for the transportation plan will be coordinated with the entire Comprehensive Plan update. Below, we will list specific tasks which are specific to the transportation consultant:

- A1. Attend up to six Planning Commission/City Council meetings – consultant will solicit input on desired improvements and funding priorities, as well as present on progress of the plan development.
- A2. Perform up to five interviews with key agency or stakeholder representatives – this is a focused method to solicit feedback from key plan stakeholders, such as WSDOT, Island County, US Navy, downtown interests, and the transit agency.
- A3. Conduct a half-day workshop with City staff to solicit feedback in the following areas: known issues, funding levels and priorities, land use and economic development plans, and projects in the planning pipeline. This workshop will also walk staff through level of service options and the ramifications of selecting each.
- A4. Consultant will provide materials for placement on the city's website or to include in other local media, including the newspaper.

Deliverables:

- Presentation and attendance at up to six PC/CC meetings.
- Stakeholder interview script and memo with high level findings from interviews.
- Attendance and presentation at half day workshop.
- Project materials include project logo, project factsheet, and up to two newspaper or online articles.

Task B: Transportation Needs Assessment

We will use the results of the public outreach task to determine a set of key transportation issues. Once the key transportation issues are identified, we will review federal, state, regional, and City requirements/guidelines for guidance in how to address these issues. We will use these findings to conduct a needs assessment for the following transportation modes and programs:

- Vehicle Congestion (up to 25 intersection and/ or roadway facilities)
- Existing and Future Multimodal Demand (Biking, Walking, Transit)
- Network Connectivity
- Freight and Truck Mobility
- Parking
- Emergency Vehicle Access
- Safety

This needs assessment will include an evaluation of existing conditions, as well as anticipated future conditions, based on the modeling performed in the following task.

It is assumed that only a limited amount of new traffic counts would need to be collected (up to $4,000) since the City has provided counts from 2013 and 2014 to the consultant.

Deliverables:

- Memo documenting existing conditions for the above modes, as well as anticipated future conditions
- Delivery of final traffic counts

Task C: Future Conditions

We will develop forecasts of future traffic growth using adopted land use projections and identified transportation improvement projects. To the extent possible, Fehr & Peers will build from forecasts developed in the Island County update, confirming first that land use assumptions within Oak Harbor make sense.

Deliverables:

- Covered in memo developed under Task B

Task D: Policy Development

The purpose of this task is to update, refine, and condense the city's existing set of transportation policies. The resulting set of policies will be concise, user friendly, and will guide the development of the Transportation Chapter.

As part of the policy review, we will review and recommend updates to the City of Oak Harbor's current Level of Service (LOS) policies. As described in Task A, we will conduct a workshop to explore alternative LOS approaches, including several factors: geographic location, time period, and mode. The selection of

an LOS standard and methodology will guide the transportation improvements to be included in the Transportation Chapter, 6 year TIP, and 20 year project list. We will also review the city's concurrency policies and update them to be consistent with level of service and financial policies.

Deliverables:

- Updated set of goal and policies
- Memo summarizing how goals and policies are being updated

Task E: Developing the Project List

Based on the results from the above tasks, we recommend transportation capital improvements. These improvements will address needs identified for all modes (as described in Task C) and follow the goals and policies established in Task D. Planning-level cost estimates will be developed for up to 25 recommended improvements.

Deliverables:

- 20 year project list with planning level cost estimates for up to 25 projects. We will leverage existing cost estimates where available.

Task F: Financial Analysis

The purpose of this task is to identify and analyze funding sources for the list of transportation improvements, resulting in a financially feasible Transportation Element for the City of Oak Harbor. The analysis will include funding needs for ongoing maintenance and preservation of City streets.

We will review the City's Capital facilities element and CIP and financial data to be provided by the City. We will recommend the development of funding strategies including consideration of new revenues dedicated to the transportation system. The final financing plan for the Transportation Element will include recommendations on the potential actions that the City can take to minimize any funding shortfalls for identified transportation needs.

The project team recommends review and update of the City's fee program – although that update is included in Task J below.

Deliverables:

- Financial chapter of Transportation Element

Task G: Environmental Review (SEPA)

We will assist the City in the development of an environmental check list to accompany the Transportation Element update.

Deliverables:

- Transportation data required to complete SEPA check list

Task H: Transportation Element Development

Consultant will develop a reader-friendly Transportation Element of the Comprehensive Plan. The document will be concise and user friendly, while also conveying the necessary information to fulfill the scope items described above.

Deliverables:

- Draft Transportation Element
- Final Transportation Element that responds to one consolidated round of edits

Task I: Concurrency Program Update

The consultant will work with the City to update its concurrency program, including documentation of how the program should be run, code revisions and up to two presentations in front of City bodies (e.g, City Council and/or Planning Commission).

Deliverables:

- Memo documenting new concurrency program
- Code revisions to existing concurrency program
- Up to two presentations in front of City Council and/or Planning Commission

Task J: Impact Fee Program

The consultant will work with the City to update its impact fee program, including development of a rate study, documentation of how the program should be run, code revisions and up to two presentations in front of City bodies (e.g, City Council and/or Planning Commission).

Deliverables:

- Transportation Impact Fee Rate Study
- Code revisions to existing concurrency program
- Up to two presentations in front of City Council and/or Planning Commission

Task	Budget	Schedule
A: Outreach		
A1. Commission/Council	$7,800	See detail below.
A2. Stakeholder Interviews	$3,120	August-September 2015
A3. Priorities Workshop	$3,720	September 2015
A4. Online Materials	$3,440	As requested.
B: Needs Assessment		
Auto Oriented + Safety	$15,000	September-December 2015
Non-Auto Oriented + Documentation	$15,320	September-December 2015
C: Travel Modeling	$11,600	September-November 2015
D: Policy Development	$6,640	October-November 2015
E: Project List Development		
Project List Development	$17,880	January-February 2016
Auto Project ID/Costing	$8,000	January-February 2016
F: Financial	$9,080	March 2016
G: SEPA Check List	$7,980	April 2016
H: Document Production	$23,300	January-March 2016
I: Concurrency System Update	$12,000	May-June 2016
J: Fee Program Update	$30,000	June-July 2016
Raw Labor	$174,880	
Materials/Travel/Etc	$13,246	
Total	**$188,126**	

Commission/Council Outreach tentative schedule:

Topic	Planning Commission	City Council
Goals and policies	November 2015	January 2016
Level of service policy	December 2015	
Project list	February 2016	May 2016
Draft plan	April 2016	

FEHR & PEERS
Improving Communities Since 1985

May 19, 2015

Arnie Peterschmidt
865 SE Barrington Drive
Oak Harbor, WA 98277

Subject: Indemity Clause

Dear Mr. Peterschmidt,

Fehr & Peers looks forward to assisting the City of Oak Harbor with its 2016 Transportation Element Update. This will be a very exciting project helping the beautiful City of Oak Harbor identify solutions to address current mobility challenges, as well as projects that can help the City to be more navigable by all modes of transportation.

As we have discussed, the City's indemnification clause exceeds what is normally required of consultants in other communities. The clause does not distinguish between liability for negligent acts and those which meet the standard of care. Such liability is often not insurable since certain actions of other parties are beyond our control.

We have reviewed the language and feel our liability is limited because this is a planning project. All of the recommendations will be for transportation projects that will require further analysis and design prior to actual construction. As such, the recommendations of this plan will not directly result in construction of facilities that could cause harm to the travelling public.

We hope that this interpretation is reasonable and mutually agreeable for all parties. We look forward to working with you.

Sincerely,

Kendra L. Breiland

Kendra Breiland, AICP
Project Manager
Fehr & Peers

1001 4th Avenue | Suite 4120 | Seattle, WA 98154 | (206) 576-4220 | Fax (206) 576-4225
www.fehrandpeers.com

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.i

Date: July 7, 2015

Subject: Retainer Agreement with Weed, Graafstra and Associates, Inc., P.S. for Municipal Legal and Support Services

FROM: Larry Cort, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Authorize the Mayor to sign a Retainer Agreement for Legal Support Services with the firm of Weed, Graafstra and Associates, Inc., P.S., beginning July 1, 2015 and ending on June 30, 2016.

BACKGROUND / SUMMARY INFORMATION

The City retained interim legal services beginning June 4, 2012 from the Snohomish, WA firm of Weed, Graafstra and Benson. The City Council confirmed the hiring of this firm on June 18, 2012 and subsequently has approved extensions on seven separate occasions, most recently on July 1, 2014 for the period from July 1, 2014 to June 30, 2015.

The past year has again shown the value of Weed, Graafstra and Benson's services. The City has recently successfully litigated two lawsuits with Grant Weed's assistance. In addition, the services of the office's real estate paralegal has of late been invaluable in working with complicated real estate matters pertaining to the Waste Water Treatment Facility. Staff is looking forward to a continued relationship with this talented firm.

The attached Retainer Agreement, if approved, would extend the City's contractual arrangement with Weed, Graafstra and Associates, Inc., P.S., to June 30, 2016. The attached Retainer Agreement proposes a retainer in the amount of $4,200 per month which shall be compensation for up to 24 hours of work per month. Hours billed by the firm above 24 hours would be billed at the current rate of $185 per hour. The proposed amounts are the same as the previous contract. The City Attorney will be responsible for monitoring the work performed by Weed, Graafstra and Associates, Inc., P.S., and to manage the hours billed by the firm.

LEGAL AUTHORITY

FISCAL IMPACT

Funds Required: Retainer is $4,200 per month for 24 hours, $185 per hour above 24 hours.

Appropriation Source: Primarily General Fund (Legal).

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Retainer Agreement for Municipal Legal and Support Services

RETAINER AGREEMENT
FOR MUNICIPAL LEGAL AND SUPPORT SERVICES

I - PARTIES/EMPLOYMENT

The CITY OF OAK HARBOR (hereinafter "CITY") agrees to retain the law firm of WEED, GRAAFSTRA AND ASSOCIATES, INC., P.S., 110 Cedar Avenue, Suite 102, Snohomish, Washington 98290-2959, and said law firm (hereinafter "ATTORNEY") agrees to provide municipal law services and legal support services on the terms and conditions stated below. The ATTORNEY shall serve at the pleasure of the Mayor; PROVIDED, that all decisions relative to such employment, or termination of the same, shall be subject to confirmation by a majority vote of the City Council.

II - QUALITY OF SERVICES

The ATTORNEY shall perform all legal services covered by this contract in a capable and efficient manner, and in accordance with the professional and ethical standards of the Washington State Bar Association.

III - COMPENSATION

A. Basic Retainer: The CITY shall pay the ATTORNEY a retainer in the amount of $4,200.00 per month, which retainer shall be compensation for up to 24 hours of work per month for the following legal services:

1. To provide municipal law services and support to the Mayor, Councilpersons, City Administrator, City Attorney and administrative heads of the various departments of the CITY under the direction of the Mayor, City Administrator and City Attorney.

2. To prepare such ordinances, resolutions, and instruments as the Mayor, City Council and City Administrator may direct, to render legal advice on all civil and criminal matters, and to prepare or review such correspondence, contracts, easements, and instruments as may be necessary and appropriate. To perform such other municipal legal services as requested.

B. Additional Services: The CITY shall pay the ATTORNEY for the following additional or special legal services at the rate of $185.00 per hour, or, if said services are performed by a paralegal in the ATTORNEY's office the same shall be compensated at the rate of $140.00 per hour:

1. Time in excess of basic retainer. Any and all hours expended on legal services referred to in paragraph A above (Basic Retainer) in excess of 24 hours per month.

2. Meetings. Attendance, at the request of the Mayor or City Administrator, at evening meetings of CITY boards, City Council, commissions or committees.

3. Local Improvement Districts. All legal services performed in connection with the formation and financing of any LID or ULID (although it is understood that the primary responsibility for this type of legal work will fall under the exceptions referred to in paragraph V below).

C. Litigation. The CITY shall pay the ATTORNEY for all superior and appellate court litigation and all administrative hearings of a quasi-judicial nature, except those conducted by the CITY itself, at the rate of $195.00 per hour.

D. Time Records. In order to determine appropriate compensation, the ATTORNEY shall maintain accurate time records, copies of which shall be made available to the CITY.

E. Time for Payment. The CITY shall pay all compensation provided herein to the ATTORNEY on a monthly basis, and within two weeks of the date on which each billing statement is received.

IV - REIMBURSEMENT

In addition to compensation for the legal services specified above, the CITY shall reimburse the ATTORNEY for direct expenses incurred, and costs advanced, including but not limited to court costs, filing fees, witness fees, recording fees, copying expenses at cost, long distance phone calls, library charges for municipal law books, and the cost of travel, at the hourly rate one way, lodging and tuition relating to meetings of the Association of Washington Cities

and Association of Municipal Attorneys which shall be pro-rated. However, ordinary law office operating expenses, such as rent and secretarial services, shall not be compensated or reimbursed.

V - EXCEPTIONS

This contract shall not cover legal representation relating to insurance defense, the formation and financing of local improvement districts, or other specialized fields where it is agreed by the parties that outside legal counsel should be retained.

VI - INSURANCE COVERAGE

The ATTORNEY shall provide errors and omissions, and malpractice insurance coverage, while providing services under this Agreement. Provided, the CITY shall indemnify and hold the ATTORNEY harmless from any and all claims brought by third parties against the ATTORNEY acting in said capacity.

VII – EMPLOYMENT

The CITY agrees for a period of two years from the effective date of this Agreement it shall not employ or contract with any employee, former employee or independent contractor of WEED, GRAAFSTRA AND ASSOCIATES, INC., P.S., for services. This provision shall survive expiration and/or termination of this Agreement.

VIII - EFFECTIVE DATE AND DURATION

This contract shall take effect on July 1, 2015 and shall continue in effect through June 30, 2016 unless earlier terminated or renegotiated by either party upon 60 days' written notice.

DATED this _____ day of _____, 2015.

WEED, GRAAFSTRA AND BENSON, INC., P.S.	CITY OF OAK HARBOR
By:_____ GRANT K. WEED, PRESIDENT	By:_____ SCOTT DUDLEY, MAYOR

ATTEST:

By:_____
ANNA THOMPSON, City Clerk

L:\LGLA\WORK\CIV 2015\WGB ret.agmt.7.1.15 - 6.30.16.RED (clean copy).docx

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.j
Date: July 7, 2015
Subject: Resolution 15-22: Delay the Closing Date of the Staysail RV Park

FROM: **Cathy Rosen, Public Works Director and Joe Stowell, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ○ Scott Dudley, Mayor
- ◉ Larry Cort, City Administrator
- ◉ Doug Merriman, Finance Director
- ◉ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Adopt Resolution 15-22: Delay the closing date of the Staysail RV Park from February 1, 2015 to the Start of Deep Excavation Work on the Treatment Plant

BACKGROUND / SUMMARY INFORMATION

On January 6, 2015, City Council adopted Resolution 14-43 determining the laydown area for construction of the new wastewater treatment plant. The laydown area included portions of the Staysail RV Park along with a closing date of February 1, 2015. The construction schedule has changed resulting in delaying the closure of the RV Park.

The attached Resolution 15-22 amends the former resolution allowing the closure to occur when the area is needed for construction instead of a hard-fast date.

The cost of the closure will be calculated through a lease agreement between the general fund and the sewer fund which will be brought to City Council separately.

FISCAL IMPACT

Funds Required: $132,000/year (see lease agreement)

Appropriation Source: Wastewater Fund

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

CITY COUNCIL WORKSHOP

The laydown area for the wastewater treatment plant and closure of the RV Park was discussed at the September 24 and October 22, 2014 City Council Workshops

CITY COUNCIL PREVIOUS ACTIONS

January 6, 2015 – City Council adopted Resolution 14-43: Defining the Construction Work Location for the Wastewater Treatment Plant

ATTACHMENTS

1. Resolution 15-22

CITY OF OAK HARBOR
RESOLUTION NO. 15-22

A RESOLUTION AMENDING RESOLUTION NO. 14-43 TO DELAY THE CLOSING DATE OF THE STAYSAIL RV PARK FROM FEBRUARY 1, 2015 TO THE START OF DEEP EXCAVATION WORK ON THE TREATMENT PLANT

WHEREAS, Resolution No. 14-43 was adopted on January 6, 2015; and

WHEREAS, Resolution No. 14-43 called for the closure of the Staysail RV Park on February 1, 2015; and

WHEREAS, the construction schedule for the new treatment facility has been delayed, allowing the Staysail RV Park to remain open; and

WHEREAS, there is no need for Staysail RV Park to close until such time as deep excavation begins;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor that:

1. Section 2 of Resolution No. 14-43 is hereby amended as follows:
   "The City shall close the Staysail RV Park during construction of the Waste Water Treatment Facility. The closure shall begin at such time when the deep excavation begins."
2. All other provisions remain in full force and effect.

PASSED by the City Council and approved by its Mayor this _____ day of _____, 2015.

CITY OF OAK HARBOR

_____
SCOTT DUDLEY, MAYOR

Attest:

_____
Anna Thompson, City Clerk

Approved as to form:

_____
Nikki Esparza, City Attorney

L:\LGLA\WORK\RES-ORD2015\Staysail RV Park - Resolution.docx

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.k
Date: July 7, 2015
Subject: Puget Sound Energy Request for Vegetation Management Easements

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Motion to approve the Puget Sound Energy Vegetation Management Easements for two City owned parcels, deleting item 3, and authorize the Mayor to sign.

BACKGROUND / SUMMARY INFORMATION

Puget Sound Energy is requesting a 30 foot vegetation management easement fronting two City owned parcels of property for the purpose of maintaining vegetation in the transmission line corridor.

The City of Oak Harbor Water Division owns two parcels of property on SW Heller Street, which are the current sites of the west side water reservoirs. There are trees on this property that are taller than 25 feet that could compromise Puget Sound Energy's overhead transmission lines.

The easement documents have been reviewed by the City Engineer, Development Services Director, Public Works Director and City Attorney. After review it was determined:

- The easements will not affect any setback requirements if parcels would be sold as residential lots.
- The granting of the easements will not adversely affect future sale of the property or devalue the property.
- Item 3 will be removed from the easement documents. This item states that PSE has the authority to remove any trees outside of the easement area.

LEGAL AUTHORITY

FISCAL IMPACT

The City's Water Division will receive $14,711 from Puget Sound Energy for timber.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Puget Sound Energy Vegetation Management Easement Documents

Puget Sound Energy, Inc.
Real Property Voucher Form

AGENCY NAME: **Puget Sound Energy, Inc.** **Attn: EST-06W – Bryan Petri** **P.O. Box 97034** **Bellevue, WA 98009-9734**	**City of Oak Harbor** **By:** _____ **Its:** _____ **Date:** _____ **Tax ID/EIN:** _____
GRANTOR OR CLAIMANT: City of Oak Harbor 865 SE Barrington Dr Oak Harbor, WA 98277	**City of Oak Harbor** **By:** _____ **Its:** _____ **Date:** _____ **Tax ID/EIN:** _____

PROJECT NAME:	**PUGET SOUND ENERGY – WHIDBEY RELIABILITY PROJECT W#153002869**
ASSESSOR PARCEL NUMBER:	R13334-011-1180
PSE PARCEL NUMBER.:	LS 24 - 68

In Full and Final Payment for the title or interest conveyed or released, as fully set forth in the attached document:

Permanent Easement:	**$ 6,774.00**
Timber Value:	**$ 134.00**
Incentive for signing:	**$ 500.00**
Total of Final Settlement:	**$7,408.00**

Acquisition Agent:

_____
Casey Hodges
HDR-PHAROS
123 Second Avenue South
Edmonds, WA 98020
Phone: (425) 245-9133

_____
Date

Puget Sound Energy, Inc:

_____
Bryan Petri
P.O. Box 97034 EST-06E
Bellevue, WA 98009-9734
Phone: (425) 457-5623

_____
Date

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
City of Oak Harbor

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
☐☐☐ – ☐☐ – ☐☐☐☐

or

Employer identification number
☐☐ – ☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

RETURN ADDRESS:
Puget Sound Energy, Inc.
Attn: Bryan Petri
P.O. Box 97034 EST-06W
Bellevue, WA 98009-9734

PSE PUGET SOUND ENERGY

EASEMENT

REFERENCE #:
GRANTOR (Owner): **CITY OF OAK HARBOR**
GRANTEE (PSE): **PUGET SOUND ENERGY, INC.**
SHORT LEGAL: **PTN OF SW ¼, SW ¼, SEC 34, T 33N, R 1E, W.M., ISLAND CTY, WASHINGTON**
ASSESSOR'S PROPERTY TAX PARCEL: **R13334-011-1180**

For and in consideration of good and valuable consideration, the receipt and sufficiency of which are acknowledged, **CITY OF OAK HARBOR, a Washington municipal corporation**, ("Owner" herein), hereby grants and conveys to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("PSE" herein), for the purposes described below, a nonexclusive perpetual easement over, under, along across and through the following described real property (the "Property" herein) in Island County, Washington:

SEE EXHIBIT "A" ATTACHED HERETO.

Except as may be otherwise set forth herein PSE's rights shall be exercised upon that portion of the Property ("Easement Area" herein) described as follows:

SEE EXHIBIT "B" ATTACHED HERETO.

1. Purpose. PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for purposes of transmission, distribution and sale of electricity. Such systems may include, but are not limited to:

a. Overhead facilities. Poles and other support structures with crossarms, braces, guys and anchors; electric transmission and distribution lines; fiber optic cable and other lines, cables and facilities for communications; transformers, street lights, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing; and

Following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional facilities as it may require for such systems. PSE shall have the right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

2. Easement Area Clearing and Maintenance. PSE shall have the right, but not the obligation to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right, but not the obligation, to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area. **PSE shall be responsible for and compensate the Owner for any damage to the property and its structures caused by clearing and maintenance operations and damage caused by the exercise of such right of access by PSE.**

3. Trees Outside Easement Area. PSE shall have the right to cut, trim remove and dispose of any trees located on the Property outside the Easement Area that could, in PSE~~'s~~ **and Owners** ~~sole~~ judgment, interfere with or create a hazard to PSE's systems. PSE shall, except in the event of an emergency, prior to the exercise of such right, identify such trees ~~and make a reasonable effort to~~ **and will** give Owner ~~prior~~ **reasonable** notice **and receive Owners authorization** that such trees will be cut, trimmed, removed or disposed. Owner shall be entitled to compensation for the actual market value of merchantable timber (if any) cut and removed from the Property by PSE. **PSE shall be responsible for and compensate the Owner for any damage to the property and its structures caused by clearing and maintenance operations and damage caused by the exercise of such right of access by PSE outside of the Easement area.**

4. Owner's Use of Easement Area. Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not excavate within or otherwise change the grade of the Easement Area or construct or maintain any buildings or structures on the Easement Area and Owner shall do no blasting within 300 feet of PSE's facilities without PSE's prior written consent.

5. Indemnity. PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of ~~the negligence of PSE or its contractors in~~ the exercise of the rights herein granted to PSE, but nothing herein

shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner or the negligence of others.

6. Termination. The rights herein granted shall continue until such time as PSE terminates such right by written instrument. If terminated any improvements remaining in the Easement Area shall become the property of Owner. No termination shall be deemed to have occurred by PSE's failure to install its systems on the Easement Area.

7. Successors and Assigns. PSE shall have the right to assign, apportion or otherwise transfer any or all of its rights, benefits, privileges and interests arising in and under this easement. Without limiting the generality of the foregoing, the rights and obligations of the parties shall be binding upon their respective successors and assigns.

DATED this _____ day of _____, 2015.

OWNER:

CITY OF OAK HARBOR

BY: _____

ITS: _____

OWNER:

CITY OF OAK HARBOR

BY: _____

ITS: _____

STATE OF WASHINGTON)
) SS
COUNTY OF)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____, of **CITY OF OAK HARBOR**, a Washington municipal corporation, that executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed and the free and voluntary act and deed of City of Oak Harbor for the uses and purposes therein mentioned; and on oath stated that he/she was authorized to execute the said instrument on behalf of said non-profit corporation.

GIVEN under my hand and official seal hereto affixed the day and year in this certificate first above written.

_____
(Signature of Notary)

_____
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington, residing at _____
My Appointment Expires: _____

Notary seal, text and all notations must not be placed within 1" margins

STATE OF WASHINGTON)
) SS
COUNTY OF)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____, of **CITY OF OAK HARBOR**, a Washington municipal corporation, that executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed and the free and voluntary act and deed of City of Oak Harbor for the uses and purposes therein mentioned; and on oath stated that he/she was authorized to execute the said instrument on behalf of said non-profit corporation.

GIVEN under my hand and official seal hereto affixed the day and year in this certificate first above written.

_____
(Signature of Notary)

_____
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington, residing at _____
My Appointment Expires: _____

Notary seal, text and all notations must not be placed within 1" margins

EXHIBIT A - LEGAL DESCRIPTION

LS 24-68
CITY OF OAK HARBOR

PER DEED AFN 151164:

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1, EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;
THENCE WEST, ALONG THE SOUTH LINE OF SAID SECTION 34, 250.00 FEET;
THENCE NORTH AT 90° TO SAID SOUTH LINE, 200.00 FEET;
THENCE EAST, PARALLEL TO SAID SOUTH LINE, 250.00 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;
THENCE SOUTH, ALONG SAID EAST LINE, 200 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THE EAST 30 FEET THEREOF FOR COUNTY ROAD.

SITUATED IN ISLAND COUNTY, WASHINGTON.

EXHIBIT B – EASEMENT DESCRIPTION

LS 24-68
CITY OF OAK HARBOR

A STRIP OF LAND IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST, W.M., BEING THE EAST 30 FEET OF THAT PROPERTY HEREIN DESCRIBED AS EXHIBIT "A" LYING PARALLEL WITH, ADJACENT TO, AND MEASURED AT RIGHT ANGLES FROM THE WESTERLY RIGHT-OF-WAY MARGIN OF SOUTHWEST HELLER STREET (FORMERLY KNOWN AS HELLER ROAD).

THE SIDE LINES OF SAID STRIP ARE TO BE PROLONGED OR SHORTENED TO FIT WITHIN THE CONFINES OF SAID PARCEL DESCRIBED IN EXHIBIT "A".

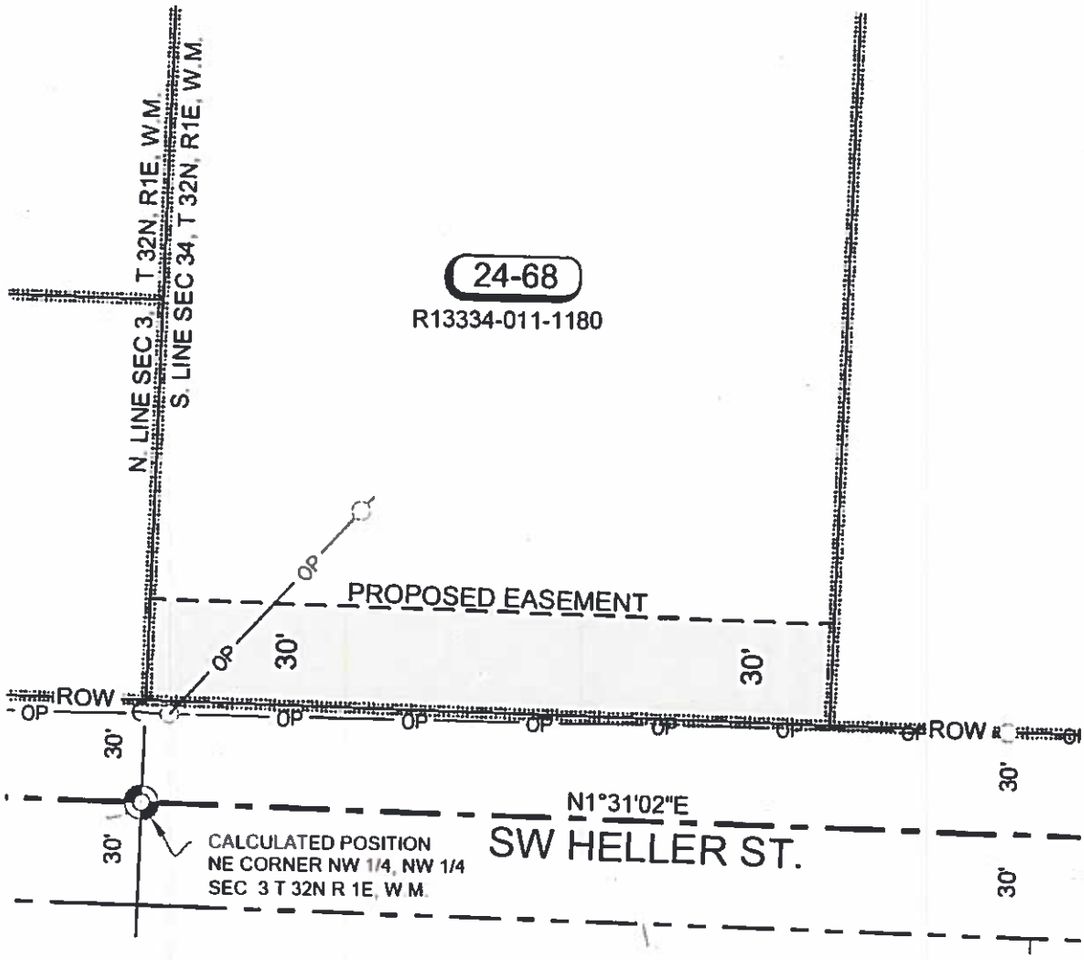
A SKETCH IS ATTACHED AS EXHIBIT "C" AND BY REFERENCE THERETO IS MADE A PART HEREOF.

SITUATED IN ISLAND COUNTY, WASHINGTON.

EXHIBIT C - EASEMENT SKETCH

24-68 CITY OF OAK HARBOR

A PORTION OF THE SW 1/4, SW 1/4, SEC 34, T 33N, R 1E, W.M.



1" = 50'

0 50 100

24-68 PARCEL DATA	
OWNER:	CITY OF OAK HARBOR
PARCEL ID:	R13334-011-1180
SITE ADDRESS:	SW HELLER ST
OWNER ADDRESS:	865 SE BARRINGTON DR. OAK HARBOR, WA 98277
EASEMENT AREA:	5,995 SF

HARMSEN & ASSOCIATES INC.
DBA: FAKKEMA & KINGMA
840 SE 8TH AVE, SUITE 102 OAK HARBOR, WA 98277
(360) 675-5973-(888) 794-7811-WWW.HARMSENINC.COM

PREPARED FOR: PUGET SOUND ENERGY

JOB NO: 11-115

DATE: 12/19/2014

Puget Sound Energy, Inc.
Real Property Voucher Form

AGENCY NAME: **Puget Sound Energy, Inc.** **Attn: EST-06W – Bryan Petri** **P.O. Box 97034** **Bellevue, WA 98009-9734**	**City of Oak Harbor** **By:** _____ **Its:** _____ **Date:** _____ **Tax ID/EIN:** _____
GRANTOR OR CLAIMANT: City of Oak Harbor 865 SE Barrington Dr Oak Harbor, WA 98277	**City of Oak Harbor** **By:** _____ **Its:** _____ **Date:** _____ **Tax ID/EIN:** _____

PROJECT NAME:	**PUGET SOUND ENERGY – WHIDBEY RELIABILITY PROJECT** **W#153002869**
ASSESSOR PARCEL NUMBER:	R13334-031-1180
PSE PARCEL NUMBER.:	LS 24 - 69

In Full and Final Payment for the title or interest conveyed or released, as fully set forth in the attached document:

Permanent Easement:	**$ 6,786.00**
Timber Value:	**$ 17.00**
Incentive for signing:	**$ 500.00**
Total of Final Settlement:	**$7,303.00**

Acquisition Agent:

_____
Casey Hodges
HDR-PHAROS
123 Second Avenue South
Edmonds, WA 98020
Phone: (425) 245-9133

_____
Date

Puget Sound Energy, Inc:

_____
Bryan Petri
P.O. Box 97034 EST-06E
Bellevue, WA 98009-9734
Phone: (425) 457-5623

_____
Date

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
City of Oak Harbor

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
☐☐☐ – ☐☐ – ☐☐☐☐

or

Employer identification number
☐☐ – ☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

RETURN ADDRESS:
Puget Sound Energy, Inc.
Attn: Bryan Petri
P.O. Box 97034 EST-06W
Bellevue, WA 98009-9734

PSE PUGET SOUND ENERGY

EASEMENT

REFERENCE #:
GRANTOR (Owner): **CITY OF OAK HARBOR**
GRANTEE (PSE): **PUGET SOUND ENERGY, INC.**
SHORT LEGAL: **PTN OF SW ¼, SW ¼, SEC 34, T 33N, R 1E, W.M., ISLAND CTY, WASHINGTON**
ASSESSOR'S PROPERTY TAX PARCEL: **R13334-031-1180**

For and in consideration of good and valuable consideration, the receipt and sufficiency of which are acknowledged, **CITY OF OAK HARBOR, a Washington municipal corporation**, ("Owner" herein), hereby grants and conveys to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("PSE" herein), for the purposes described below, a nonexclusive perpetual easement over, under, along across and through the following described real property (the "Property" herein) in Island County, Washington:

SEE EXHIBIT "A" ATTACHED HERETO.

Except as may be otherwise set forth herein PSE's rights shall be exercised upon that portion of the Property ("Easement Area" herein) described as follows:

SEE EXHIBIT "B" ATTACHED HERETO.

1. Purpose. PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for purposes of transmission, distribution and sale of electricity. Such systems may include, but are not limited to:

a. Overhead facilities. Poles and other support structures with crossarms, braces, guys and anchors; electric transmission and distribution lines; fiber optic cable and other lines, cables and facilities for communications; transformers, street lights, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing; and

Following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional facilities as it may require for such systems. PSE shall have the right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

2. Easement Area Clearing and Maintenance. PSE shall have the right, but not the obligation to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right, but not the obligation, to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area. **PSE shall be responsible for and compensate the Owner for any damage to the property and its structures caused by clearing and maintenance operations and damage caused by the exercise of such right of access by PSE.**

3. Trees Outside Easement Area. PSE shall have the right to cut, trim remove and dispose of any trees located on the Property outside the Easement Area that could, in PSE~~'s~~ **and Owners** ~~sole~~ judgment, interfere with or create a hazard to PSE's systems. PSE shall, except in the event of an emergency, prior to the exercise of such right, identify such trees ~~and make a reasonable effort to~~ **and will** give Owner ~~prior~~ **reasonable** notice **and receive Owners authorization** that such trees will be cut, trimmed, removed or disposed. Owner shall be entitled to compensation for the actual market value of merchantable timber (if any) cut and removed from the Property by PSE. **PSE shall be responsible for and compensate the Owner for any damage to the property and its structures caused by clearing and maintenance operations and damage caused by the exercise of such right of access by PSE outside of the Easement area.**

4. Owner's Use of Easement Area. Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not excavate within or otherwise change the grade of the Easement Area or construct or maintain any buildings or structures on the Easement Area and Owner shall do no blasting within 300 feet of PSE's facilities without PSE's prior written consent.

5. Indemnity. PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of ~~the negligence of PSE or its contractors in~~ the exercise of the rights herein granted to PSE, but nothing herein

shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner or the negligence of others.

6. Termination. The rights herein granted shall continue until such time as PSE terminates such right by written instrument. If terminated any improvements remaining in the Easement Area shall become the property of Owner. No termination shall be deemed to have occurred by PSE's failure to install its systems on the Easement Area.

7. Successors and Assigns. PSE shall have the right to assign, apportion or otherwise transfer any or all of its rights, benefits, privileges and interests arising in and under this easement. Without limiting the generality of the foregoing, the rights and obligations of the parties shall be binding upon their respective successors and assigns.

DATED this _____ day of _____, 2015.

OWNER:

CITY OF OAK HARBOR

BY: _____

ITS: _____

OWNER:

CITY OF OAK HARBOR

BY: _____

ITS: _____

STATE OF WASHINGTON)
) SS
COUNTY OF)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____, of **CITY OF OAK HARBOR**, a Washington municipal corporation, that executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed and the free and voluntary act and deed of City of Oak Harbor for the uses and purposes therein mentioned; and on oath stated that he/she was authorized to execute the said instrument on behalf of said non-profit corporation.

GIVEN under my hand and official seal hereto affixed the day and year in this certificate first above written.

_____
(Signature of Notary)

_____
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington, residing at _____
My Appointment Expires: _____

Notary seal, text and all notations must not be placed within 1" margins

STATE OF WASHINGTON)
) SS
COUNTY OF)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____, of **CITY OF OAK HARBOR**, a Washington municipal corporation, that executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed and the free and voluntary act and deed of City of Oak Harbor for the uses and purposes therein mentioned; and on oath stated that he/she was authorized to execute the said instrument on behalf of said non-profit corporation.

GIVEN under my hand and official seal hereto affixed the day and year in this certificate first above written.

_____
(Signature of Notary)

_____
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington, residing at _____
My Appointment Expires: _____

Notary seal, text and all notations must not be placed within 1" margins

EXHIBIT A - LEGAL DESCRIPTION

LS 24-69
CITY OF OAK HARBOR

PER DEED AFN 192797:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1, EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;
THENCE WEST, ALONG THE SOUTH LINE OF SAID SECTION 34, 250.00 FEET;
THENCE NORTH, AT 90° TO SAID SOUTH LINE, 200.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;
THENCE EAST, PARALLEL TO SAID SOUTH LINE, 250 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;
THENCE NORTH, ALONG SAID EAST LINE, 200 FEET, THENCE
WEST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER 250 FEET;
THENCE SOUTH 200 FEET TO THE POINT OF BEGINNING.

EXCEPT THE EAST 30 FEET, THEREOF, FOR COUNTY ROAD.

SITUATED IN ISLAND COUNTY, WASHINGTON.

EXHIBIT B – EASEMENT DESCRIPTION

LS 24-69
CITY OF OAK HARBOR

A STRIP OF LAND IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST, W.M., BEING THE EAST 30 FEET OF THAT PROPERTY HEREIN DESCRIBED AS EXHIBIT "A" LYING PARALLEL WITH, ADJACENT TO, AND MEASURED AT RIGHT ANGLES FROM THE WESTERLY RIGHT-OF-WAY MARGIN OF SOUTHWEST HELLER STREET (FORMERLY KNOWN AS HELLER ROAD).

THE SIDE LINES OF SAID STRIP ARE TO BE PROLONGED OR SHORTENED TO FIT WITHIN THE CONFINES OF SAID PARCEL DESCRIBED IN EXHIBIT "A".

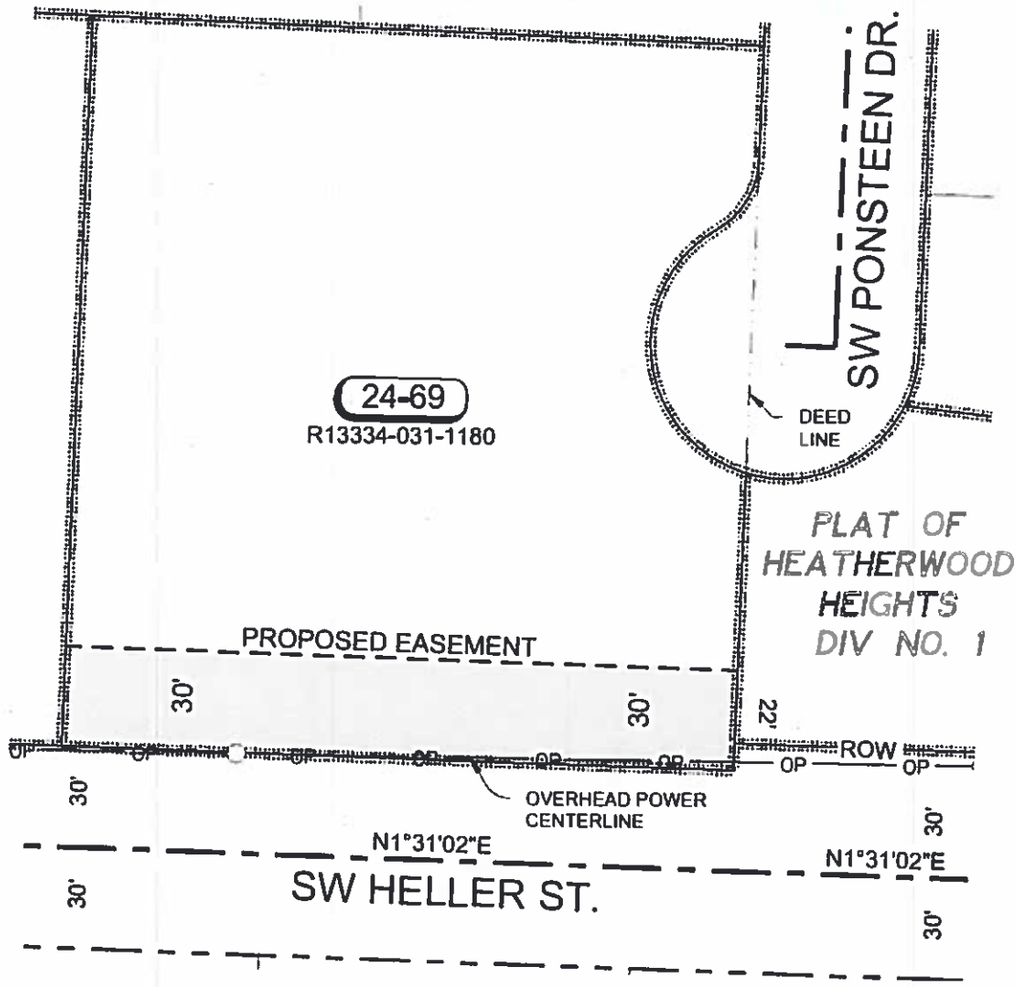
A SKETCH IS ATTACHED AS EXHIBIT "C" AND BY REFERENCE THERETO IS MADE A PART HEREOF.

SITUATED IN ISLAND COUNTY, WASHINGTON.

EXHIBIT C - EASEMENT SKETCH

24-69 CITY OF OAK HARBOR

A PORTION OF THE SW 1/4, SW 1/4, SEC 34, T 33N, R 1E, W.M.



24-69 PARCEL DATA	
OWNER:	CITY OF OAK HARBOR
PARCEL ID:	R13334-031-1180
SITE ADDRESS:	SW HELLER ST
OWNER ADDRESS:	865 SE BARRINGTON DR OAK HARBOR, WA 98277
EASEMENT AREA:	6,005 SF

1" = 50'

0 50 100

HARMSEN & ASSOCIATES INC.
DBA: FAKKEMA & KINGMA
840 SE 8TH AVE, SUITE 102 OAK HARBOR, WA 98277
(360) 675-5973-(888) 794-7811-WWW.HARMSENINC.COM

PREPARED FOR: PUGET SOUND ENERGY

JOB NO: 11-115

DATE: 12/19/2014

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.1

Date: July 7, 2015

Subject: Special Event Permit to Serve Alcohol at Catalina Park - Hoover Wedding Reception

FROM: **Edgar J. Green, Chief of Police**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

The City Council reviews the enclosed documents, accept or amend the proposed conditions and authorize the Mayor or City Administrator to sign the permit.

BACKGROUND / SUMMARY INFORMATION

On June 30, 2015 Erin Hoover submitted a Special Event Permit for a private wedding / reception at Catalina Park (1401 SE Catalina Drive, Oak Harbor, WA) on July 11, 2015. She also applied for and received a Washington State Liquor Control Banquet License allowing service of alcohol at this event from 5:30 PM to 11:30 PM.

Catalina Park is a public park. The applicant understands that she cannot close the park to public access, but she is restricted in service of alcohol to her wedding guests.

LEGAL AUTHORITY

Per the Oak Harbor Municipal Code, Section 6.12.080(1) this permit must be approved by the City Council.

FISCAL IMPACT

N/A

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

N/A

ATTACHMENTS

1. Hoover Wedding Insurance
2. Hoover Wedding Permit
3. WSLCB Banquet Permit #LCB -BP17783
4. Hoover Wedding Conditions

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/02/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Specialty Advantage Insurance Services
1100 Glendon Ave.
Suite 900
Los Angeles, CA 90024

CONTACT NAME: TULIP Administrator
PHONE (A/C, No, Ext): (800) 507-8414 FAX (A/C, No):
E-MAIL ADDRESS: tulip@onebeacon.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Atlantic Specialty Insurance Company	27154
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
erin hoover
1350 napoleon dr
oak harbor, WA 98277

COVERAGES **CERTIFICATE NUMBER:** 71497 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X		GL03426-02	07/11/2015	07/12/2015	EACH OCCURRENCE	$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 50,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$ Excluded
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ None
	GEN'L AGGREGATE LIMIT APPLIES PER						PRODUCTS - COMP/OP AGG	$ 1,000,000
	POLICY X PRO-JECT LOC							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS / OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
wedding
07/11/2015

CERTIFICATE HOLDER
Washington Cities Insurance Authority
Location - per below
City, WA 0000

OAK HARBOR-All Events
865 SE Barrington Drive
Oak Harbor, WA 98277

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

JUL 22 2015 8:33

City of Oak Harbor
Special Event Permit Application

Please submit this application 60 days in advance with **$50.00** non-refundable application fee (City of Oak Harbor Master Fee Schedule)*
Applications may be submitted to the Oak Harbor Police Department at 860 SE Barrington Drive, Oak Harbor, WA 98277
*Other fees may apply and are listed throughout the application

Event Producer Contact Information

Name of Applicant* Erin Hoover & John Hoover

Name of Organization/Individual Client

Religious/Political Event (Fee Exempt: OHMC 5.50.020[2]) ? Yes ☑ marriage No ☐

Street Address 1350 Napoleon Dr.

City, State, Zip Code Oakharbor, WA 98277

Daytime Phone 360-240-9263 Cell Phone 360-932-5307

E-mail Address johnnyhoover92@gmail.com ~~Fax~~ # Johnny Cell # 932 5308

Onsite Contact Name Erin / Johnny Cell Phone

Emergency Contact(s) Cell Phone

Insurance Provider/Policy Number PLQ915m78160

Insurance Agent Name Anthem blue cross Phone

Tax ID or Business License #

Who is the beneficiary(s) of this event, if any?

*If applicant is working on behalf of, or for the organization, and is not an employee of the organization, please provide a letter from the sponsoring organization that shows authorization for the individual applicant to work on behalf of the organization, certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the special event, and a copy of the tax exemption letter from the IRS if the applicant claims to be a tax-exempt nonprofit organization.

Event Information

Event Name WEDDING

Proposed Event Date(s) July-11-2015

Proposed Event Set-up Time July-11- 8:00am Proposed Clean-up Time 11pm

Proposed Event Operating Time(s) 5:30

Proposed Event Location* 1401 S.E. Catalina Dr.

*Please attach proof of confirmed venue, i.e., park rental agreement, letter from property manager, etc. (If the event is in Windjammer or Ft Nugent parks please indicate on maps the location and extent of the activity you are applying for.)

This event includes the following (check all that apply – attach additional sheets if necessary):

☐ **Walk/Run/Bike Route**
Please attach a detailed course map and written narrative traffic control plan indicating street closures and flagger locations.

☐ **Beer Garden**

Anticipated capacity? _____

☐ **Portable Toilets**

Number of REGULAR units: _____

Number of ADA ACCESSIBLE units*: _____
*The ADA requires at least 1 accessible unit per cluster up to 20 units, or 25% of the total number of units with at least 1 per cluster. If your event will have only 1 unit, it must be ADA accessible.

☒ **Vehicles**
Type of vehicles involved: Cars / trucks

Number of vehicles involved: 30

☐ **Vendors cooking or using electricity**
Please provide a list of Food Vendors (if more space is needed, attach a complete list):
*Compliance with WAC 246-215 and Island County Health Dept. Rules and Regulations required.

☐ **Parade**
Location of assembly and/or production area:
(Please attach a detailed parade route map indicating street closures.)

Location of reviewing stands, if any:

Location of disbanding area:

☐ **Designated Parking (list all space requests here)**
*Please include a parking plan that includes the number and location of ADA accessible spaces.

☐ **Animals**
List of animals involved in event, including quantity:

☐ **Bands/Music/Performers**
Number of Bands/Performers:

Names:

Type of music to be played:

☐ **Sound Reinforcement (amplification)**
Name of Sound Company:
Description of sound reinforcement (i.e., small PA, full sound system, staging, etc.):

Oak Harbor Fire Department Information:
The City of Oak Harbor Fire Department has additional permit fees that may apply. Please select pertinent items below. An Oak Harbor Fire Department employee will contact you if any additional items will need to be submitted, identify requirements for fire code operational permit(s) and to explain the permit fees that will be assessed.

☐ **Tent(s)** – with or without side walls, greater than 400 sq. ft. (single tents larger than 20'x20' or multiple tents less than 12' apart)

☐ **Fenced Area** (such as a beer garden)
Proposed occupant load:

☐ **Fuel-Powered Equipment/Machinery** (propane, gasoline, etc.)
Please describe equipment and fuel:

☐ **Candles, Open Flames/Burning, Torches or Pyrotechnics Displays**

Amusement Building/Fair/Carnival Rides

☐ Carnival $50.00 per day fee (City of Oak Harbor Master Fee Schedule)
☐ Compliance with RCW 67.42 and WAC 296-403A required.
☐ Department of Labor and Industries (L&I) permits must be obtained for all amusement rides or inflatables.
☐ L&I decals must be displayed on all amusement rides and inflatables in an easily viewable location.
☐ Proof of insurance must be provided to the property owner on which the amusement ride or inflatable(s) stands.

Site Plan

Please provide a detailed site map that includes the locations of any tents, staging, fencing, emergency exits, banners, portable toilets, and /or any other event infrastructure*.
*If you are holding your event on private property (such as in a parking lot) please provide a letter from the property manager indicating permission for you to hold the event at that location.

Security Plan

Your security plan* should be what you plan to do in the case of an emergency at your event. If your event is fenced, or has a fenced area (such as a beer garden) additional information is needed regarding emergency exits, security guards, alcohol monitors, etc.

Please identify the following:
Number and location of first aid kits: Its a wedding we would call 911

Number of trained security personnel:_____ Contracted Security Company:_____

Number of security volunteers:_____ Number of alcohol monitors (beer garden event):_____

Emergency evacuation plan for fenced events and events with a fenced area (beer garden): _____

Who calls 911 in case of an emergency? I will Johnny Hoover

Is there a CPR certified person onsite throughout the event? Name: _____

*Not all events require the same amount of security. If you have any questions about the security plan for your event, please contact the police department at 360-279-4600 or ohpd@oakharbor.org

Garbage/Recycling Plan*

Do you plan to sell or provide food and/or beverage at your event? Yes ☐ No ☑
If "YES", will you be using disposable plates and cups? Yes ☐ No ☑

**(The law (RCW 70.93.093) concerning event recycling went into effect in Washington on July 22. 2007 and states that "in communities when there is an established curbside service and where recycling service is available to businesses, a recycling program must be provided at every official gathering and at every sport facility by the vendors who sells beverages in single-use aluminum, glass, or plastic bottles or cans).*

For events at _____(location), please check all that apply:
☐Self-haul out of park ☐Rent 1 dumpster ☐Rent 2 dumpsters ☐ Rent 1 recycling cart
(All dumpster/recycling cart fees are taken out of your damage deposit and are NOT due with this application)

It is against the law to dispose of any liquids or solids in any storm drain (OHMC 12.50.010). Please describe your plan for disposing of liquids, garbage and recycling generated by your event: in the garbage can

Dumpsters and recycling containers are available for a fee from City of Oak Harbor (360-279-4530).

Items Requested from the City of Oak Harbor

Traffic Cones: ☐ Barricades: ☐ Portable Message Board: ☐ Signage: ☐ Sandwich Boards: ☐
Portable Sound System: ☐ Maps: ☐

Neighborhood Notification

Event organizers must notify neighbors within 500 ft. of the event, or through the neighborhood association, if applicable, at least two (2) weeks prior to the event. This includes businesses. Notification should be in writing (email is acceptable) and include times when traffic/parking and/or noise may be affected in the area.

☐ **I certify that I have contacted neighbors and/or abutting businesses of my event and have attached a copy of my notification to them.**

Insurance Requirements

A CERTIFICATE OF INSURANCE must be submitted with permit application under the following conditions. Unless otherwise stated and agreed to, insured will be responsible for any damage to existing site property and/or facilities and/or in-place equipment.

> **The wording of the Certificate of Liability Insurance should include: "The certificate holder is afforded coverage as an Additional Insured but only with respects to claims arising out of the negligence of the named insured." The certificate holder must be named in the designated box as: City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277."**

The City of Oak Harbor requires event insurance prior to issuance of a permit. Commercial General Liability Insurance – this needs to be written on ISO form CG 00 01 01 96, or its equivalent. The limits and aggregates are as follows:

- Per Occurrence Limit = $1 million
- General Aggregate Limit = $2 million
- Products – Completed Operations Aggregate Limit = $1 million

Other requirements include the following:

- Coverage Trigger – The insurance must be written on an "occurrence" basis. This must be indicated on the certificate. Claims made policies will not be acceptable.
- City as Additional Insured – The City of Oak Harbor must be named as an additional insured on the commercial general liability policy, and must be shown on the certificate as an additional insured, not just as a certificate holder. In addition, endorsement CG 20 12, or its equivalent, must be attached to the certificate.
- Liquor liability or fireworks insurance are required for events involving the serving of alcohol beverages or the use/demonstration of fireworks. Liquor liability coverage shall be per occurrence limit of $1 million. Higher limits may be required dependent upon the event type or as determined by the City's Risk Manager.

Event holders are able to purchase Commercial General Liability insurance for their events through a TULIP through WCIA (see attached).

Proof of Other Permits Obtained

If your event requires a permit from a jurisdiction outside of the City of Oak Harbor, please provide proof that you have obtained such permit(s).

Mail your application to:
City of Oak Harbor Police Department
Attn: Special Events
860 SE Barrington Drive
Oak Harbor, WA 98277

Submit your application in person:
City of Oak Harbor Police Department
Attn: Special Events
860 SE Barrington Drive
Oak Harbor, WA 98277

Payment for events can be made by check; in person by check, credit card, debit card or cash.

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

CITY PARKS
Facility Reservation Form

Today's date 7-1-2015

Contact Name Erin Hoover

Phone number 360-240-9263

Organization WEDDING
(for reservation SIGN)

Number of Participants 30-50 depending on who shows up.

Billing Address 1350 Napoleon Dr.

Day/Date/Time of reservation _____

Windjammer Park	Ft. Nugent Park	Flintstone Park	Hal Ramaley Park	Smith Park
East Kitchen A ☐	Shelter 1 ☐	Shelter ☐	Gazebo ☐	Gazebo ☐
East Kitchen B ☐	Shelter 2 ☐			
West Kitchen C ☐				
Gazebo D ☐				
Canopy E ☐				

Mariner Park

Will the event include amplified sound? **Yes** ☐ **No** ☑ (Kitchen Key _____) (Bollard Key _____)
(If YES, a Special Events/Noise Permit application is required.)

Please check box(es) below if applicable:

☐ **I will be bringing in a Party Canopy.** *(Must be placed in a designated area.)*

☐ **I will be hiring a Portable Play Apparatus.** **Allowed only when operated by a licensed insured provider.** The provider must submit a copy of a valid permit issued from the Dept. of Labor & Industries to operate amusement rides on public property and a certificate of liability insurance naming the City as an addition insured. *(Must be placed in a designated area.)*

- The facility fee is $25.00 per day which is non-refundable. The key check out fee is $5.00 and is refundable, providing all keys are returned. All fees must be paid in advance.
- The $5.00 key deposit will be returned to the person returning the key provided they are the person who made the reservation or have a signed note from said person allowing them to pick up the $5.00.
- If a bollard key is required, measures must be taken to ensure that only authorized vehicles are allowed past the bollard, and that the bollard is immediately replaced.
- A reserved sign with your party's name will be posted on the facility you have requested, and the facility will be locked for your party.
- If you need access to the facility (for decorating purposes) prior to the date you have reserved, you must reserve the facility for the additional date(s).
- Do not leave personal belongings unattended in the facility. The City of Oak Harbor is not responsible for damage to, or theft of, personal property.
- Remove all food, dishes, decorations etc. brought in for the event. Place trash in nearby receptacles. Wipe counters, sink and any spills on the floor.
- The City of Oak Harbor reserves the right to assess an additional cleanup fee if the facility is not left in an acceptable manner.
- If it is necessary to drive a vehicle into the park to deliver supplies, please do so on the asphalt pathways only. No vehicles should be left unattended in the park.
- The City of Oak Harbor reserves the right to assess charges to repair damage resulting from vehicles driven across park grounds.
- Check-out time is 10:00 PM.
- Please lock the facility when you leave, and return the key to the City Hall Utilities Office by the following business day.
- **ALCOHOLIC BEVERAGES ARE NOT ALLOWED IN CITY PARKS PER OHMC 16.12.020.**

Signature _____ Scheduled key return date _____

HOLD HARMLESS AGREEMENT

WHEREAS, Johnny Hoover ("Grantee") has applied for a Special Event/Street Use permit under City Ordinance codified at OHMC _____.

NOW, THEREFORE, Grantee on behalf of itself, its agents, heirs and assigns, and in consideration of the grant of the Special Event/Street Use permit, and other good and adequate consideration, the receipt of which is hereby acknowledged, agrees to indemnify, hold harmless and defend the City of Oak Harbor, its appointed and elected officers, employees, agents and assigns from any and all claims which may arise or be claimed to arise as a result of granting this permit.

The City shall not be liable to Grantee, or any other party for any claim whatsoever arising in connection with this permit, except for negligence solely and entirely the fault of the City.

Grantee shall obtain and maintain a general liability insurance policy naming the City of Oak Harbor as additional insured. The minimum amount of coverage in this policy shall be $2,000,000 general aggregate, $1,000,000 personal injury and $1,000,000 each occurrence.

Dated this 2014 day of 2, 2015.

Signature: [signature]
Print name: Johnny J Hoover

STATE OF WASHINGTON)
) ss:
COUNTY OF ISLAND)

I certify that I know of have satisfactory evidence that Johnny Hover (name of signer) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ (type of authority, e.g., officer, trustee, etc.) of _____ (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 2 day of July, 2015.

Lisa Edlin
Print Name: Lisa Edlin
NOTARY PUBLIC in and for the State of Washington,
Residing in Oak Harbor, WA
Commission expires: August 9, 2017

LISA EDLIN
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
AUGUST 9, 2017

Washington State
Liquor Control Board

Washington State Liquor Control Board
BANQUET PERMIT
(Does Not Authorize Sale of Alcohol)

Document Number: LCB-BP17783

Name of Organization (if applicable):		**Start Date of Event:** Jul 11, 2015
Applicants Name: erin hoover	**Phone Number:** 3602409263	**Event Start Time:** 5:30 PM
Applicants Home Address: 1350 napoleon dr oak harbor WA 98277		**Event End Time:** 11:30 PM
Name of Building or Location: catalina park	**Room or Area Held:** catalina park	**Number of Event Days:** 1
Street Address of Building or Location: 1401 SE Catalina Dr	**City of Building or Location:** oak harbor	**County of Building or Location:** Island
Purpose of Occasion (be specific): Wedding		
Number of Persons to Attend: 50	**Number of Persons Under 21 Years of Age That Will Attend:** 15	
Attendees **WILL NOT** bring their own Alcohol.		
Name of Caterer: Suni Homer	**Address:** 1451 central drive oak harbor	**Phone:** 3609299592

I have accepted this permit subject to following conditions:

- **THE EVENT WILL NOT BE OPEN TO THE PUBLIC.** No advance sale of tickets will be made to general public and no advertising will be directed to the general public.
- **Liquor will not be sold** for cash, scrip, tickets or any other manner whatsoever.
- This permit is not valid on liquor-licensed premises while the liquor license is suspended.
- All liquor served will be purchased in Washington State from an authorized liquor retailer.
- This permit will be conspicuously posted in the banquet area.
- Liquor will be served and consumed only in the portion of the Building or Location described.
- Liquor will be served only to members and invited guests who are 21 years of age or older.
- Legal hours for service and consumption of liquor are 6:00 a.m to 2:00 a.m daily
- The event and the premises for which the permit is issued will be subject to inspection by any liquor control officer or law enforcement officer.

Warning: WAC 314-18-070 states that no banquet permittee or employee of a banquet permittee may knowingly permit.

- The service of liquor to or consumption of liquor by any person under 21 years of age at the Banquet Permit event.
- Any disorderly conduct to occur at the Banquet Permit event.
- The service of liquor to or consumption of liquor by an apparently intoxicated person(s).

By making this application and accepting the Banquet Permit YOU ARE ASSUMING FULL RESPONSIBILTY FOR THIS FUNCTION. A violation could subject the violator to criminal prosecution, immediate cancellation of the permit and render the application/premises ineligible for future permits.

This permit is not valid unless signed, dated and posted at the event location.

I am assuming full responsibility for the event and the compliance of the rules stated above.

Sign your name to affirm the above conditions: _____ **Date:** 6-29-15

CONDITIONS FOR:

Hoover Wedding
Catalina Park
Oak Harbor, WA 98277
July 11, 2015 / 5:30 PM to 11:00 PM

- No alcohol sales
- No illegal, Non-prescribed drugs
- The organizer acknowledges that this event is being held at a public park where exclusive access is not permitted; which means uninvited park guests may be present at the event.
- The coordinator will contact the parks department (Hank Nydam 360-279-4756) to make arrangements for park access; use of the selected park area; parking and bleachers.
- Noise from the event is permitted from beginning of event to end of event without any other permit required.
- Limit driving in park prior to setup (8:00 AM) and break down (11:00 PM).
- During the event all vehicles must be parked in the parking lot; not in the "park" itself.
- Any music/noise will be limited to reserved area of the park and kept at a level so as not to interfere with other patrons.
- The organizer must remove all decorations from the park once the event is over.
- No spikes, rods, poles or flag poles are allowed to be driven into the grounds.
- Signs advertising the event are limited to: two A-frame signs not to exceed 36" X 48". These signs must be located on the event property.
- In addition one civic organization sign not to exceed 36" X 48" is allowed on site.
- Incidental signs (directional sign) are allowed and shall not exceed 4 square feet in area and maximum height of 3.5 feet.
- Signs may be placed 30 days prior to the event and must be removed within seven days following the event.
- All canopies or tents exceeding 400 square feet in area require a permit from the Fire Department (IFC Section 3103).
- The organizer is responsible for all of the conditions set forth in this permit. Failure to comply may result in the cancelation of the event and could lead to civil and criminal penalties (OHMC 5.50.110 -5.50.120).

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.m

Date: July 7, 2015

Subject: Resolution 15-24: Staysail RV Park/Windjammer Park Lease Agreement Relating to the WWTP

FROM: **Cathy Rosen, Public Works Director**

FROM: **Joe Stowell, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ○ Scott Dudley, Mayor
- ◉ Larry Cort, City Administrator
- ◉ Doug Merriman, Finance Director
- ◉ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Adopt Resolution #15-24 authorizing the Mayor to sign a temporary lease agreement in the amount of $132,000/year between the general and sewer fund for use of the Staysail RV Park and Windjammer Park during the wastewater treatment plant construction.

BACKGROUND / SUMMARY INFORMATION

On January 6, 2015, City Council adopted Resolution #14-43 determining the laydown area for construction of the new wastewater treatment plant. The laydown area included portions of the Staysail RV Park and Windjammer Park which are general fund assets. Since the new wastewater treatment plant is a sewer fund asset and the park facilities are general fund, state accounting principles require a transfer of revenue between the funds.

During construction most of the impacts will be temporary and a lease agreement prepared to formally account for the inter-fund activity. The attached Resolution #15-24 provides for an annual lease amount of $132,000 to account for impacts to the park, including loss of general fund revenue from Staysail Park. This resolution is timed with the start of construction at the treatment plant site.

This resolution provides for temporary use of the park facilities. Any permanent inter-fund transfers will be presented to council at a later date.

FISCAL IMPACT

Funds Required: $132,000/year (see lease agreement)

Appropriation Source: Wastewater Fund

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

The laydown area for the wastewater treatment plant and closure of the RV Park was discussed at the September 24, 2014, October 22, 2014, April 7, 2015 City Council Workshops.

January 6, 2015 -- City Council adopted Resolution #14-43 defining the Construction Work Location for the Wastewater Treatment Plant.

ATTACHMENTS

1. Exhibit "A" - Lease area
2. Resolution #14-43
3. Resolution #15-24

EXHIBIT "A"

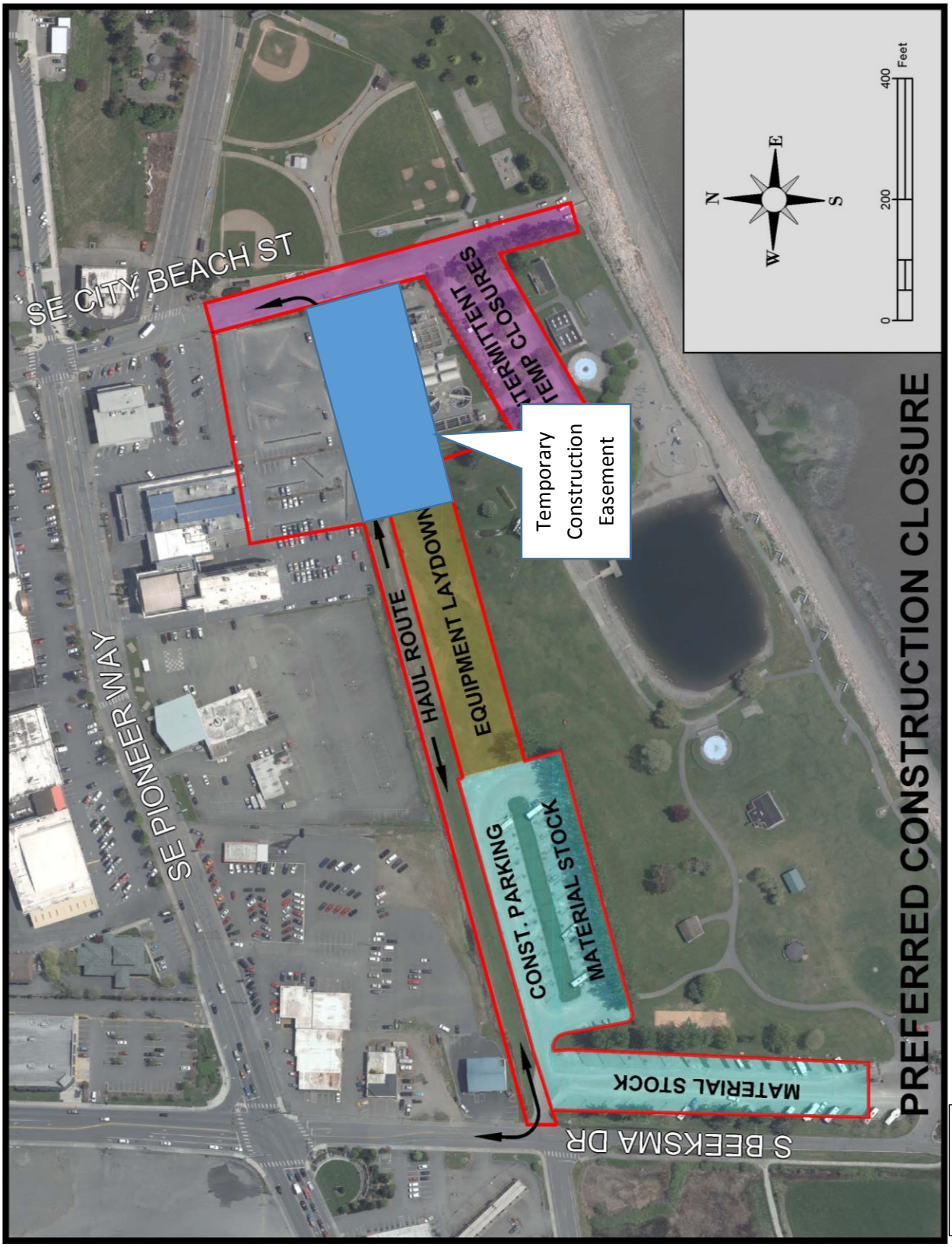


Exhibit A

CITY OF OAK HARBOR
RESOLUTION NO. 14-43

A RESOLUTION OF THE OAK HARBOR CITY COUNCIL DEFINING THE CONSTRUCTION WORK LOCATION FOR THE WASTE WATER TREATMENT PLANT AS PRESENTED THROUGH THIS RESOLUTION

WHEREAS, the 2008 City of Oak Harbor Comprehensive Sewer Plan identifies the need for a new wastewater treatment facility to meet future growth and to replace aging and at-risk infrastructure; and

WHEREAS, recognizing that the City of Oak Harbor is connected to the pristine waters of Puget Sound, specifically Oak Harbor Bay and Crescent Harbor Bay, the City's goal is to obtain the highest level of water quality practical while recognizing the limitations of the rate payers of the City to fund the improvements; and

WHEREAS, National Pollution Discharge Elimination System Waste Discharge Permit No. WA0020567 from the Washington State Department of Ecology has directed the City of Oak Harbor to increase wastewater treatment capacity by December 31, 2017; and

WHEREAS, the City of Oak Harbor Capital Improvement Plan of 2015-2020 specifically lists the Wastewater Treatment Plant Facilities Plan as a prioritized public project to be undertaken within the capital improvement plan time period; and

WHEREAS, on August 14, 2012, City Council adopted Resolution 12-17 selecting the Windjammer Park site using a membrane bioreactor process (MBR) to best meet the needs of the City; and

WHEREAS, on March 18, 2014, City Council authorized the Mayor to sign closing documents, lease back to Whidbey Island Bank and other documents as needed to secure the purchase the Whidbey Island Bank building for the purpose of constructing the wastewater treatment plant; and

WHEREAS, on July 1, 2014, City Council authorized the Mayor to sign a contract with Hoffman Construction to perform General Contractor / Construction Manager (GC/CM) preconstruction services for the new wastewater treatment plant; and

WHEREAS, the City of Oak Harbor encouraged Hoffman Construction to explore ways to add value and reduce costs for constructing the new wastewater treatment plant; and

WHEREAS, Hoffman Construction proposed a potential savings to the City by maintaining equipment and material storage close to the proposed construction site; and

WHEREAS, the use of the Staysail RV Park has been chosen to have the least impact to activities enjoyed in Windjammer Park; and

WHEREAS, the use of the Staysail RV Park provides a location with the least impact on the shoreline environment; and

WHEREAS, the City of Oak Harbor finds the proposed construction area for the new wastewater treatment plant provides the greatest value for the utility rate payers.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. The City shall allow Hoffman Construction to use those portions of the park illustrated in the attached exhibit for construction purposed.
2. The City shall close the Staysail RV Park on February 1, 2015 until such time as construction is complete (estimated to be January 1, 2018)
3. The City shall compensate the general fund for lost revenue due to the closure of the Staysail RV Park in an amount equal to the pro-rated value of the net loss in revenue as compared to the last three years.

PASSED by the City Council and approved by its Mayor this 6th day of January, 2015.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Anna Thompson, City Clerk

Approved as to form:

Nikki Esparza, City Attorney

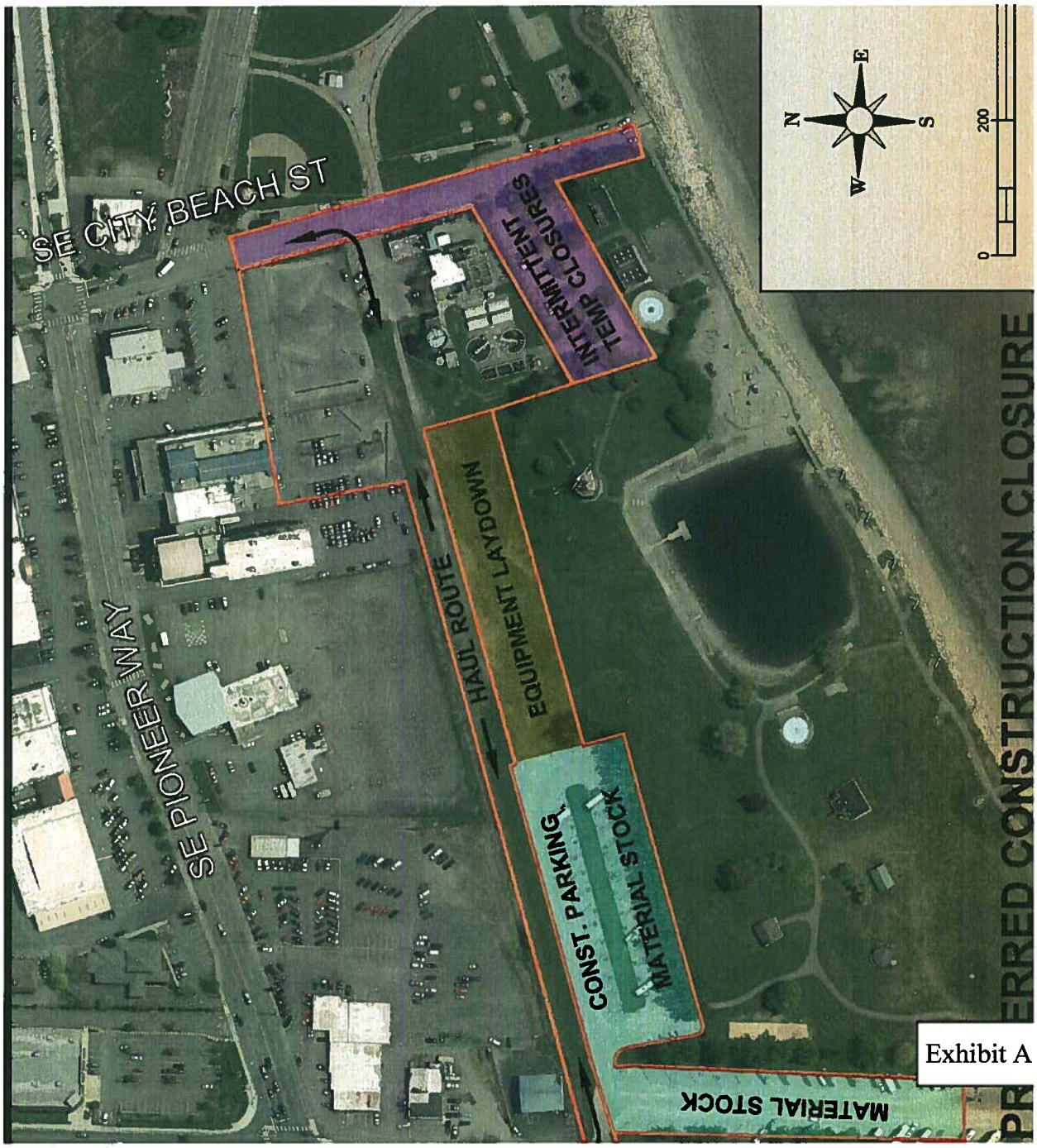

SE CITY BEACH ST
SE PIONEER WAY
INTERMITTENT TEMP CLOSURES
HAUL ROUTE
EQUIPMENT LAYDOWN
CONST. PARKING
MATERIAL STOCK
MATERIAL STOCK
N
E
S
W
0
200
PREFERRED CONSTRUCTION CLOSURE

Exhibit A

RESOLUTION NO. 15-24

A RESOLUTION RELATING TO CITY-OWNED PROPERTY; AUTHORIZING THE EXECUTION AND CONVEYANCE OF A TEMPORARY ACCESS LEASE AGREEMENT MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" (THE "TEMPORARY ACCESS LEASE PREMISES"), ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

WHEREAS, this temporary access lease agreement granted by and between the City of Oak Harbor General Fund #001 (the "Grantor"), and the City of Oak Harbor Wastewater Fund #402 (the "Grantee"), both of whose mailing address is 865 SE Barrington Drive, Oak Harbor, WA 98277, and

WHEREAS, that Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to the Grantee, its successors, contractors, agents, and assigns, a Temporary Access Lease, more particularly described in Exhibit "A" (the "Temporary Access Lease Premises"), attached hereto and incorporated herein by reference, and

WHEREAS, the Grantee will give to the Grantor, in fair consideration of the granting of a temporary access lease, an annual payment in the amount of $132,000, representing the forgone revenue to have been earned by the General Fund #001 as calculated by the actual receipt of campground receipt fees received from the temporary lease premises during calendar year 2014, and

WHEREAS, the temporary lease agreement shall be used by the Grantee for the purpose of access to and construction of public utility improvements. This temporary lease agreement shall expire three years from the date of execution or upon completion of the public utility construction, whichever occurs first.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Oak Harbor that:

Section 1. A temporary access lease agreement is hereby authorized between the Grantor and Grantee for a period of three years from the date of execution or upon completion of the public utility construction, whichever comes first.

Section 2. In consideration for the granting of the temporary lease agreement, the Grantee will pay the Grantor the annual rate amount of $132,000 per year. Annual rate amount shall be prorated should lease term expire prior to the end of any one year period.

Section 3. This resolution shall become effective upon its passage and approval.

PASSED and approved by the City Council this 7th day of July, 2015.

THE CITY OF OAK HARBOR

_____

SCOTT DUDLEY, MAYOR

ATTEST:

_____
Anna Thompson, City Clerk

APPROVED AS TO FORM:

_____
Nikki Esparza, City Attorney

Introduction:
Adopted:
Published:

L:\LGLG\2015 Ord and Res\Resolution No 15-24 Temporary Lease agreement Sewer-GFund (3).docx

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.n

Date: July 7, 2015

Subject: Temporary Construction Easement and Agreement between the general fund and the sewer fund

FROM: **Nikki Esparza, City Attorney**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Authorize the Mayor to sign the Temporary Construction Easement and Agreement between the general fund and the sewer fund.

BACKGROUND / SUMMARY INFORMATION

The current waste water treatment facility was constructed in the 1950s, prior to the enactment of the State Accountancy Act. In the 1950s, there was no requirement that the utility funds and the general fund operate separately. As a result, the current treatment facility sits on land that is owned by the general fund as opposed to the sewer fund. The City will be pursuing a boundary line adjustment for the property line that lies between the general fund property on which the current facility sits and the adjacent sewer fund property acquired from Whidbey Island Bank in 2012. Doing so will create one sewer fund owned parcel on which to build the new waste water treatment facility. However, a technical issue has arisen that has increased the timeframe required to complete the boundary line adjustment. Specifically, a potential unopened road through part of the general fund parcels has created the need for additional steps prior to completing a boundary line adjustment.

In order to comply with State Accountancy Act requirements that all funds operate separately, it is advisable for the general fund parcels on which the old treatment facility sits to grant a temporary construction easement to the sewer utility so that the shallow excavation authorized under Hoffman Construction's GMP #3 can begin on or around July 8, 2015. This temporary construction easement allows the sewer utility fund to begin work on general fund property and maintain the current timeline. The temporary construction easement will only be necessary until the boundary line adjustment is accomplished.

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

March 18, 2014 - City Council authorized purchase of Whidbey Island Bank property for use in construction of new Waste Water Treatment Plant.

August 6, 2014 - City Council identified by Resolution No. 14-28, the physical location of the new Waste Water Treatment Plant within the Windjammer vicinity.

June 16, 2015 - GMP #3 authorized Hoffman Construction to begin exploratory excavation on the waste water treatment facility site.

ATTACHMENTS

1. Temporary Construction Easement and Agreement

TEMPORARY CONSTRUCTION EASEMENT AND AGREEMENT

WHEREAS, the CITY OF OAK HARBOR ("City") is the owner of the following-described property:

See **EXHIBIT A** attached hereto
and incorporated herein by this reference

hereinafter the "Property"; and

WHEREAS, title to the Property is believed to be acquired by and is held in the City's general fund account; and

WHEREAS, the City has determined that the portion of the Property depicted on **EXHIBIT B** (hereinafter the "Conveyance Property") will be most suitable for the location of a portion of a new wastewater treatment plant facility that is required to meet the needs of the public; and

WHEREAS, RCW 43.09.210 provides, in part, as follows:

> All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

and

WHEREAS, the City sewer utility enterprise has acquired property adjacent to the Conveyance Property where the remaining portion of the new wastewater treatment plan facility will be located; and

WHEREAS, the City general fund and sewer utility enterprise fund have retained the services of a surveyor and secured a title report to prepare a boundary line adjustment to merge the Conveyance Property with the adjacent property where the remainder of the plant will be constructed, and allow the transfer of the Conveyance Property to the sewer utility enterprise; and

WHEREAS, the City's title research has disclosed that an unopened road, namely Beach Avenue, appears to have been established by exceptions from deeds and

not dedicated to the City for street, leaving at issue a question of whether the unopened road was ever conveyed to the City; and

WHEREAS, transfer of the Conveyance Property to the sewer utility enterprise cannot be concluded until the following "Conditions Precedent" have been completed: (a) title to Beach Avenue has been quieted in the City, (b) the City has surplused the Conveyance Property, (c) the boundary line adjustment has been completed, and (d) an appraisal determining the fair value of the Conveyance Property has been secured; and

WHEREAS, it is anticipated that the Conditions Precedent will take several months to be completed; and

WHEREAS, the City has contracted to commence construction of the wastewater treatment plant immediately, and any delay in the construction program is contrary to the public interest; and

WHEREAS, the City utility enterprise therefore requires immediate possession and use of the Conveyance Property; NOW, THEREFORE,

THE CITY HEREBY DECLARES AS FOLLOWS:

1. The City hereby grants and conveys for use by the sewer utility enterprise fund, its employees, agents, contractors and representatives, a temporary construction easement for the purpose of performing all tasks necessary for the construction of the wastewater treatment plant on the Conveyance Parcel in accordance with the plans now on file with the City Public Works Department or as hereafter amended.

2. Upon conclusion of the Conditions Precedent the City sewer utility enterprise fund shall pay the fair value of the Conveyance Property to the City general fund, and title to the Conveyance Property shall be transferred to the City sewer utility enterprise fund by deed recorded in the records of the Island County Auditor.

DATED this _____ day of _____, 2015.

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that SCOTT DUDLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF OAK HARBOR to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of July, 2015.

_____

_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

Exhibit A

PARCEL A:

That portion of Government Lots 3, 4 and 5 of Section 2, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Northeast corner of that certain tract conveyed to Neil H. Koetje and Hazel A. Koetje, husband and wife, by deed dated April 8, 1946, recorded April 10, 1946, in Volume 61 of Deeds, page 458, as File No. 64868, records of said County; (said point being the intersection of the West line of Rainier Street and the North line of Beach Avenue);
thence North 16°35' West along the West line of said Rainier Avenue 200 feet;
thence Westerly 1600 feet more or less, on a straight line, to a point 20 feet East of the East line of Ulrich Freund DLC and 400 feet South of the South line of Barrington Street, also called Midway Boulevard,
thence South 500 feet;
thence East to the North line of Beach Avenue;
thence North 58°16' East along the North line of said Beach Avenue to the true point of beginning,

EXCEPT road.

PARCEL B:

That portion of Government Lot 4 of Section 2, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at a point 20 feet East of the East line of Ulrich Freund DLC and 900 feet South of the South line of Barrington Street also called Midway Boulevard;
thence East 300 feet to the intersection of the North line of Beach Avenue;
thence Southwesterly along the North line of said Beach Avenue to a point due South of the point of beginning;
thence North to the point of beginning;

EXCEPT roads and EXCEPT that portion thereof lying within the boundaries of that certain tract conveyed to John Reinstra by deed dated December 20, 1924 and recorded in Volume 41 of Deeds, page 308, records of said County.

PARCEL C:

A tract of land in Government Lot 4, Section 2, Township 32 North, Range 1 East of the Willamette Meridian described as follows:

(Continued...)

(PARCEL C continued)

Beginning at the Southwest corner of said Lot 4 which lies South 0°28'20" West 61.80 feet from a concrete monument on the West line of said lot;
thence North 57°15'00" East 35.86 feet along the meander line to the true point of beginning of this description;

thence continue North 57°15'00" East 137.47 feet along said meander line;
thence North 0°28'20" East 329.47 feet to a point of the South line of Beach Avenue as conveyed to the Town of Oak Harbor;
thence North 58°16'00" East 147.96 feet along the South line of said Beach Avenue to a point on the East line of that certain tract conveyed to John Reinstra by deed recorded in Volume 41 of Deeds, page 308;
thence South 17°10'00" East 283.41 feet along the East line of said Reinstra tract to a point on the meander line;
thence Southwesterly along said meander line to a point that lies South 32°45'00" East from the true point of beginning;
thence North 32°45'00" West to the true point of beginning.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

AND a tract of land in Government Lot 4, Section 2, Township 32 North, Range 1, East W.M., described as follows:

Beginning at the Southwest corner of said Lot 4, which lies South 0°28'20" West 61.80 feet from a concrete monument on the West line of said Lot;
thence North 57°15'00" East 36.86 feet along the meander line to the true point of beginning of this description;
thence continue North 57°15'00" East 137.47 feet along said meander line;
thence North 0°28'20" East 329.47 feet to a point on the South line of Beach Avenue as conveyed to the Town of Oak Harbor;
thence South 58°16'00" West 135.91 feet along said South line to a point that lies 30.00 feet, perpendicular measurement, easterly from the West line of said Lot 4;
thence South 0°28'20" West 332.35 feet, parallel with the West line of said Lot 4, to the true point of beginning.

PARCEL D:

The Westerly 100 feet of the following portion of Government Lot 4 in Section 2, Township 32 North, Range 1, East of the Willamette Meridian:

Beginning at the intersection of the Northerly line of Beach Avenue as established in the Town of Oak Harbor with the Easterly line of a tract of land conveyed to John Reinstra by deed dated December 20, 1924, filed January 16, 1925, as File No. 27006, recorded in Volume 41 of Deeds, page 308;

(Continued...)

(PARCEL D continued)

thence South 17°10' East along the Easterly line of said Reinstra tract to the Government meander line;
thence Northeasterly along said meander line to the Southwest corner of a tract of land conveyed to Charles H. Heighton, et ux, by deed dated August 9, 1948, filed August 25, 1948, as File No. 72541, recorded in Volume 65 of Deeds, page 111;
thence North 16°35' West along the Westerly line of said Heighton tract to the Northerly line of Beach Avenue;
thence Southwesterly along said Northerly line to the point of beginning;

EXCEPT the Northerly 60 feet thereof for street;

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

PARCEL E:

That portion of Government Lot 4, Section 2, Township 32 North, Range 1 EWM, described as follows:

Beginning at a concrete monument at the beach, in the East boundary line of the Ulrich Freund D.C. in Section 2, Township 32 North, Range 1, EWM 5655.99 feet South of the Northeast corner, and 61.8 feet North of the Southeast corner of said DC;
thence North 58°16' East 574.1 feet to the true point of beginning;
thence North 58°16' East 400 feet;
thence North 16°35' West 300 feet;
thence South 58°16' West 400 feet;
thence South 16°35' East 300 feet to the true point of beginning;

EXCEPT the North 60 feet for street,

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

AND that portion of Government Lot 4, Section 2, Township 32 North, Range 1 EWM, described as follows:

Beginning at the intersection of the North line of Beach Avenue as established in the Town of Oak Harbor with the East line of a tract conveyed to John Reinstra by deed recorded in Volume 41 of Deeds, page 308;

(Continued...)

(PARCEL E continued)

thence South 17°10' East along the Easterly line of the Reinstra tract to the Government meander line;
thence Northeasterly along said meander line to the Southwest corner of a tract conveyed to Charles H. Heighton by deed recorded in Volume 65 of Deeds, page 511;
thence North 16°35' West along the Westerly line of said tract to the Northerly line of Beach Avenue;
thence Southwesterly along said Beach Avenue the point of beginning;

EXCEPT the North 60 feet thereof for street,

And EXCEPT the Westerly 100 feet deeded to Barney Riksen in deed recorded August 12, 1958 under Auditor's File No. 116405.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

PARCEL F:

The Westerly 100 feet of that portion of Government Lot 4, Section 2, Township 32 North, Range 1, East of the Willamette Meridian, described as follows:

Beginning at a concrete monument at the beach on the East boundary of the Ulrich Freund Donation Claim which is 5655.99 feet South of the Northeast corner of said Donation Claim and 61.8 feet North of the Southeast corner of said Donation Claim;
thence North 58°16' East 974.1 feet to the true point of beginning;
thence continue North 58°16' East 800 feet to the Westerly line of Rainier Street;
thence North 16°35' West on said street line 300 feet;
thence South 56°16' West 800 feet to the point which lies North 16°35' West of the true point of beginning;
thence South 16°35' East to the true point of beginning,

EXCEPT that portion, if any, lying within Beach Avenue;

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

(Continued...)

PARCEL G:

The Easterly 100 feet of the Westerly 200 feet of that portion of Government Lot 4, Section 2, Township 32 North, Range 1, East of the Willamette Meridian, described as follows:

Beginning at a concrete monument at the beach on the East boundary line of the Ulrich Freund Donation Claim, in said section, 5655.99 feet South of the Northeast corner, and 61.8 feet North of the Southeast corner of said Donation Claim;
thence North 58°16' East 974.1 feet to the true point of beginning;
thence North 58°16' East 800 feet to the West line of Rainier Street;
thence North 16°35' West on said street line 300 feet;
thence South 58°16' West 800 feet;
thence South 16°35' East to the true point of beginning;

EXCEPT public streets;

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

PARCEL H:

The Easterly 100 feet of the Westerly 300 feet of the following described tract:

Beginning at a concrete monument at the beach on the East boundary line of the Ulrich Freund Donation Claim in Section 2, Township 32 North, Range 1, East of the Willamette Meridian 5655.99 feet South of the Northeast corner, and 61.8 feet North of the Southeast corner of said D.C.;
thence North 58°16' East 974.1 feet to the true point of beginning;
thence North 58°16' East 800 feet to the West line of Rainier Street;
thence North 16°35' West on said Street line 300 feet;
thence South 58°16' West 800 feet;
thence South 16°35' East to the true point of beginning.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

PARCEL I:

The Easterly 300 feet of the Westerly 600 feet of the following described tract:

Beginning at a concrete monument at the Beach on the East boundary line of the Ulrich Freund Donation Claim in Section 2, Township 32 North, Range 1, East of the Willamette Meridian 5655.99 feet South of the Northeast corner, and 61.8 feet North of the Southeast corner of said Donation Land Claim;

(Continued...)

(PARCEL I continued)

thence North 58°16' East 974.1 feet to the true point of beginning;
thence North 58°16' East 800 feet to the West line of Rainier Street;
thence North 16°35' West on said street line 300 feet;
thence South 58°16' West 800 feet;
thence South 16°35' East to the true point of beginning.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

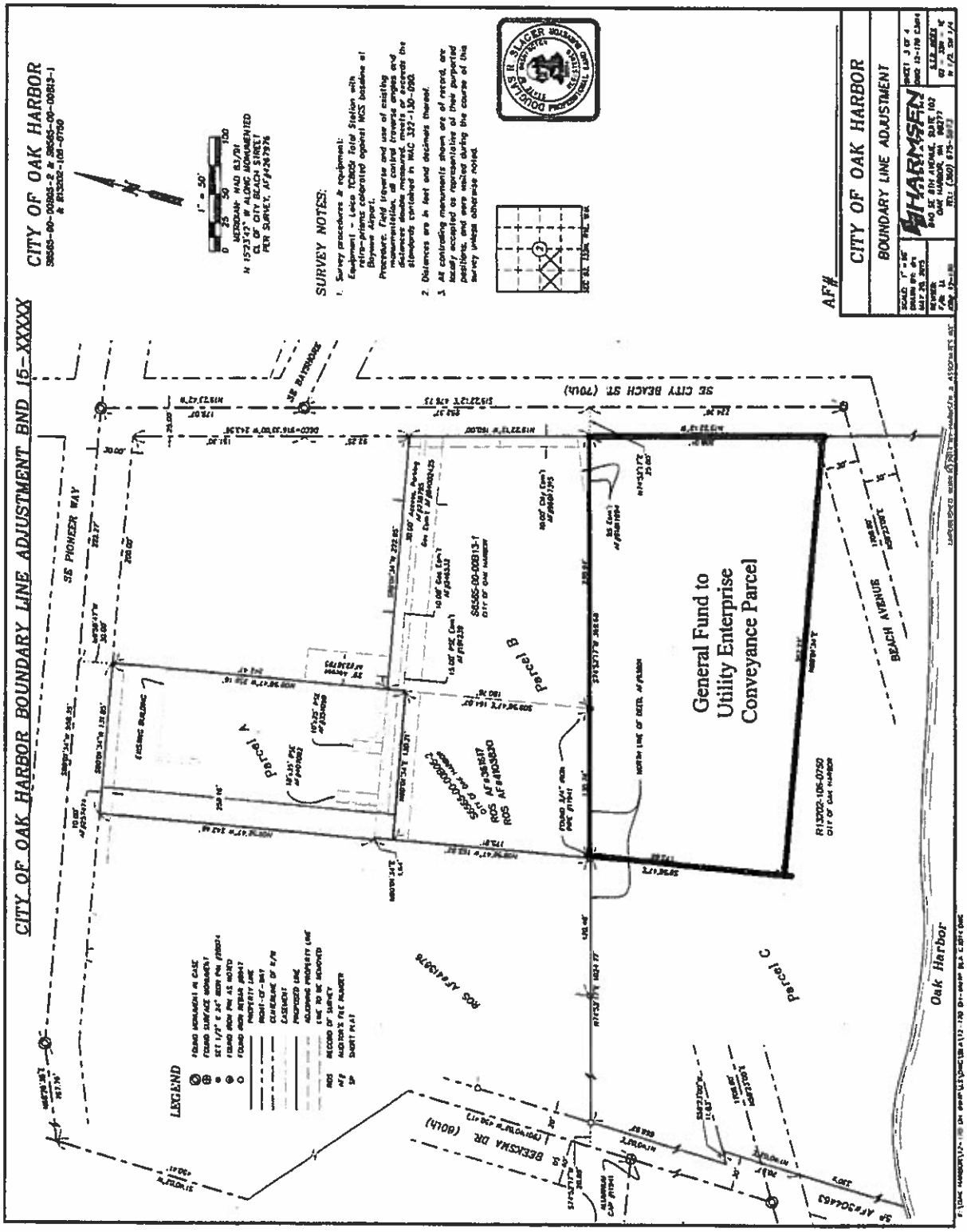
PARCEL J:

Beginning at a concrete monument at beach on the East boundary of the Ulrich Freund Donation Claim, situated in Section 2, Township 32 North, Range 1, East of the Willamette Meridian 5655.99 feet South of the Northeast corner and 61.8 feet North of the Southeast corner of said D.C.;
thence North 58°16' East 1,574.1 feet to the true point of beginning;
thence North 58°16' East 200 feet to the West line of Rainier Street;
thence North 16°35' West on said street line 240 feet to Beach Avenue;
thence South 58°16' West 200 feet;
thence South 16°35' East to the point of beginning.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington by deed recorded May 2, 1907 in Volume 22 Page 298, lying in front of, adjacent to or abutting upon the above described property.

ALL situate in the County of Island, State of Washington.

EXHIBIT B



OH-15-015/Temp Const Agmt

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 6.o
Date: July 7, 2015
Subject: Resolution 15-23: Accepting of "Barringtons" Art Sculpture for Pioneer Way

FROM: Larry Cort, City Administrator

FROM: Cac Kamak, Senior Planner

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Approve the resolution authorizing the expenditure of funds from the Arts Acquisition Funds and authorizing the Mayor to enter into a contract with Wayne Lewis for the acquisition of the art piece "Barringtons" as proposed.

BACKGROUND / SUMMARY INFORMATION

The purpose of this agenda bill is to introduce an art piece for the City Council's consideration. The proposed art piece, labeled "Barringtons" and created by artist Wayne Lewis, is requested to be located on Pioneer Way across from SE Ireland Street.

The proposal for "Barringtons", a 3 ft. tall bronze sculpture, depicting Captain Edward Barrington and Christina McCrohan, mounted on a 3 ft. tall concrete pedestal, is attached to this agenda bill.

The Artist has been in discussion with the Arts Commission on his interest to locate this sculpture on Pioneer Way. The proposal was presented, similar to "Island Spirit", as a donation of labor and skill, but with a request for cost of bronzing. The bronzing and related costs, as indicated in the attached proposal, is approximately $12,000.

The proposal has been supported by Peggy Darst Townsdin, who was on the Arts Commission and has recently resigned. In an effort to help with the costs, Peggy Darst Townsdin has raised some funds towards bronzing the piece and has requested that the City pay the balance to complete the piece. The Arts Commission considered the request at its June meeting and voted recommending that the City Council accept the sculpture and match the fund raising by Peggy Darst Townsdin up to $6000.

The City does have a policy to not accept donations unless sufficient funds are provided by the donor for

installation, base etc. See attached "Visual Arts Collection Management Plan – Policies and Procedures- VI. D. However, since this sculpture, similar to the "Island Spirit" has a historical significance(see attachment 2) to Oak Harbor, the Arts Commission has recommended supporting the piece with matching funds.

LEGAL AUTHORITY

The Council has authority under 35A.11.020 to regulate its internal affairs, to provide for the improvement and beautification of public ways, and to render local, social and cultural services.

FISCAL IMPACT

Funds Required: no more than $6,000 as match to funds raised
Appropriation Source: Fund #115 – Arts Acquisition and Maintenance Fund.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

The City Council was updated on this proposal at its June 17th workshop.

ATTACHMENTS

1. Resolution 15-23
2. Proposal by Wayne Lewis for "Barringtons"
3. Visual Arts Collection Management Plan - Policies and Procedures
4. Historical information provided by Scott Hornung

CITY OF OAK HARBOR
RESOLUTION NO. 15-23

A RESOLUTION BY THE CITY COUNCIL OF OAK HARBOR AUTHORIZING THE ACCEPTANCE OF PUBLIC ART KNOWN AS THE "BARRINGTONS", CREATED BY ARTIST WAYNE LEWIS

WHEREAS, the City finds that public artistic expression of all kinds enhance the historical, cultural, economic, educational and social life of the community and benefits the health and welfare of the City's residence: and

WHEREAS, the City finds it appropriate, necessary, and desirable to promote and support public experiences of the visual arts and artistic disciplines for the good of the citizens of Oak Harbor: and

WHEREAS, the Arts Commission was created on October 18, 2005, as an advisory body to the Mayor and the City Council to foster arts and cultural programs, foster the development of a local arts community, encourage an environment for the success of working artists and further the vision of Oak Harbor as a vibrant and progressive community: and

WHEREAS, the Arts Acquisition and Maintenance Fund was created on April 7, 2009 by imposing the .25% utility tax on water, sewer and solid waste utilities, since an on-going steady source of funding for the arts was desirable; and

WHEREAS, the Arts Commission reviewed an art piece known as "Barringtons" by artist Wayne Lewis proposed for Pioneer Way and has recommended approval; and

WHEREAS, the artist Wayne Lewis wishes to donate his time and effort for the "Barringtons" and has requested $6000 towards other expenses related to the art; and

WHEREAS, as of the beginning of June 2015, the balance in the Art Acquisition and Maintenance Fund is approximately $62,594; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor, Washington, the Mayor is authorized to commission the acquisition of the "Barringtons", created by artist Wayne Lewis, to be located on Pioneer Way.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 7th day of July 2015.

CITY OF OAK HARBOR

_____
SCOTT DUDLEY, MAYOR

Attest:

_____
Anna Thompson, City Clerk

Approved as to Form:

_____
Nikki Esparza, City Attorney

The Barringtons

Sculpture Proposal to the Oak Harbor Arts Commission

Sculpture Description:
Bronze sculpture, titled "The Barringtons", 3 ft. tall, mounted on 3 ft. tall concrete pedestal, depicting Captain Edward Barrington and Christina McCrohan on their Wedding Day, September 13,1865.

Purpose for the Sculpture:
The sculpture is intended to give Perspective to the History of Oak Habor.

Proposed Location:
The proposed site is in the "Pocket Park" on Pioneer Way near SE Ireland Street (see map below). The site is at the location of the Barrington's original store.

Funding:
50/50 funding will be provided by the City of Oak Harbor and Private Funds.

I request that the City Council approve the Sculpture, the Site and Funding.

Thank you for your consideration,

Wayne R. Lewis
Cell: (360) 320-1862
Home:679-3257
novaart@whidbey.net

Barrington Sculpture Casting and Installation Cost

Artist Fee.....$0

Pedistal:

Donated by Ron Wallin, P&L Construction &
Ron VanDam, Concrete Nor'West.....$0

Bond & Permit.....$500

Casting Cost:

Valley Bronze, Joseph, Oregon

Mould.....$4750

Casting in Bronze.....$4875

Bronze Plaque.....(Bellingham Signs Plus).....$500

Two trips to foundry in Joseph Oregon:

Gas.....$280

Meals:.....$150

Lodging.....$300

Project insurance.....$500

Total.....$11,855

Requested amount $12,000

CITY OF OAK HARBOR

VISUAL ARTS COLLECTION MANAGEMENT PLAN
POLICIES AND PROCEDURES

- **Policy on Acquiring Public Art**

  I. Objectives

  II. Definitions

  III. Policies

  IV. Selection Process Options

  V. Works of Art

  VI. Acceptance of Donated Works.

- **Policy on Displaying and Siting Works of Art**

  I. Objectives

  II. Definitions

  III. Policies

  IV. Procedures

- **Policy on Documentation and Conservation of Works of Art**

  I. Objectives

  II. Definitions

  III. Policies

  IV. Procedures

- **Policy on Deaccessioning Works of Art**

  I. Objectives

  II. Definitions

  III. Policies

  IV. Procedures

POLICY ON ACQUIRING PUBLIC ART

I. OBJECTIVES

The objective of these guidelines is to establish policies and guidelines for acquiring works of art of the highest qualities for Oak Harbor's public spaces. Acceptance of donated works of art, long term loans, and commissions shall be subject to specific acceptance criteria and procedures.

A. To establish policies and guidelines for adding works of art to the City of Oak Harbor's permanent collection of public art.

B. To establish procedures for the acquisition of works of art and to establish procedures for acceptance of loaned works of art.

II. DEFINITIONS

A. **Acquisition** – Procurement of works of art for the City of Oak Harbor's permanent collection. This includes commission through open competition, limited competition, invitation, donation, direct purchase, or any other means.

B. **Deaccessioning** – The removal of an artwork from permanent display, whether it is disposed or not.

C. **Display** – The temporary showing of a work of art.

D. **Gift** – An existing or proposed work of art offered as a donation to the City for placement at a public site under the City's jurisdiction.

E. **OHAC** – Oak Harbor Arts Commission

F. **Preservation** – Actions taken to retard or prevent deterioration or damage in works of art and to maintain them in as unchanging state as possible.

G. **Restoration** – The treatment of a deteriorated or damaged work of art to approximate as nearly as possible its' original form, design, color and function with minimal further sacrifice of aesthetic integrity.

H. **Siting** – The permanent installation of a work of art.

I. **Works of Art** - All forms of original visual and tactile art.

III. POLICIES

A. The City shall acquire and display public artwork for the benefit and enjoyment of its citizens.

B. Public art differs from art intended for private enjoyment, in that it must speak, in a significant way, to a larger portion of the population. Public art is a gesture to the public and as such, should provide a generous benefit. Public art should bring meaning to public spaces and make them more enjoyable.

C. Whenever appropriate, selection procedures shall encourage collaboration between artists and design professionals, including architects, landscape architects, project managers and engineers.

D. Selection procedures shall establish specific criteria for the acceptance of gifts or the long-term loan of art to the City. Generally, gifts shall be accepted without restrictions as to future use or disposition. Acquisition of an artwork implies that it will become a permanent part of the City collection, that it will be thoughtfully sited or displayed, and that it will be properly maintained.

E. The City shall establish and maintain records that include documents transferring title, artists' contracts, reports, invoices and other pertinent material.

F. Works of art shall be acquired without legal restrictions about use and disposition, except with respect to copyrights, or other specifically defined rights as part of the contract negotiated with the artist.

G. The liability associated with ownership of public works of art shall be covered under the City's personal injury coverage and other applicable insurance programs.

H. The City's purpose in implementing this policy is to regulate its own acquisition of artworks (either by purchase or loan) to display in its buildings and on its property and not to create public fora.

I. The artwork must not be lewd or obscene as defined in RCW 7.48A.010 (2).

J. The City Attorney shall review all necessary contracts.

K. The OHAC shall not financially encumber the City without the Council's vote of approval.

L. The City Council shall have final approval authority of all acquisitions and siting of permanent or temporary pieces.

IV. SELECTION PROCESS OPTIONS

A. Works of art shall be subject to specific selection procedures. Project budgets include:

1. The cost of the work, including installation.

2. Identifying plaques.

3. Maintenance if necessary.

B. Acceptance of donated works of art or long term loans shall be subject to specific acceptance criteria and procedures.

C. Project Funding Alternatives:

1. Project funding may be applied from the City's general budget as available.

2. The 1% rule on new City public construction projects may provide a limited opportunity for the Oak Harbor Arts Commission (OHAC) to participate in the art enhancement of the specific building involved.

3. Absent specific arts funding, project funding should be sought through, but not limited to grants, donations and endowments. To this end, the OHAC shall establish a standing committee for funding acquisition, provide training in grant application writing and other funding-seeking processes as needed.

4. Gifts and monetary donations shall be considered.

V. WORKS OF ART

A. Works shall be selected through open competition, limited competition, invitation and direct purchases. Works shall be selected by the OHAC and a recommendation forwarded to the City Council for consideration and approval.

1. Open Competition - The project is widely publicized and proposals are accepted from all artists. Proposal development fees to artists are not paid.

2. Limited Competition - A small number of artists are invited to submit proposals. Generally, proposal development fees are paid to the artists.

3. Invitation – One artist is invited and paid to develop a proposal for the project.

4. Direct Purchases – an existing work is purchased.

B. The OHAC shall meet as often as necessary to reach a final decision. All meetings shall be open to the public and shall be publicized. There will be at least one opportunity for public comment during the selection process.

C. If the OHAC cannot reach a consensus decision, then a vote shall be taken with majority rule.

D. The OHAC shall have the option of making no selection if, in the OHAC members opinion, there is insufficient merit or information to make a final selection. In this event, the OHAC shall initiate a new selection process.

E. The OHAC shall send a written recommendation, by way of an agenda bill prepared by staff, to the City Council for final project approval. If the City Council does not approve the project, the selection shall be voided, and the OHAC shall begin a new selection process. The selection is to be considered final, provided that:

1. The selection process was consistent with acquisition policies, procedures and selection criteria.

2. The selection was reviewed by the appropriate City staff to determine that installation is technically feasible.

If the OHAC finds that the process was not correct or legitimate installation problems are demonstrated, the OHAC may reject the selection, and begin a new selection process.

F. The selected artist shall:

1. Enter into a contract, which is reviewed and approved by the City Attorney prior to contract ratification, with the City to execute and complete the work in a timely and professional manner or transfer title of an existing work.

2. Maintain a close working relationship with the OHAC through installation unless borrowed and then through the art's return, and if appropriate, the project architect and the City's Planning Department.

3. Deliver and install the work, unless specified otherwise in the contract.

4. Be available for at least one public presentation, if so requested by the City.

5. Address all conditions listed in the procedures on documentation and conservation of works, Item 2, A – D, Item 3 A – D.

G. Should the artist propose any significant change to the scope of work, including the design, materials, or siting of the work, the artist will submit a request in writing to the OHAC for review and approval.

VI. ACCEPTANCE OF DONATED WORKS OF ART

A. The OHAC shall review all proposed donations of art to the City.

B. The proposed gift shall be evaluated based on the following criteria:

1. The quality of the work.
2. Condition of the work.
3. Maintenance requirements.
4. Installation issues.
5. Availability of an appropriate site.
6. Donor conditions, if any.
7. Advice of City staff.
8. Provide documentation of the work as listed in the policy on documentation and conservation of art, Item 2, A – D, and Item 3, A – D.

C. If further discussion with the donor is necessary, staff and the OHAC will meet with the donor to discuss appropriate sites, and receiving department or donor conditions, if any.

D. Generally gifts shall not be accepted unless sufficient funds are provided by the donor or funds have been made available through other sources to pay for installation, framing or base, (if applicable), display needs, and an identification plaque.

E. The OHAC shall send a recommendation to the City Council for final action.

F. If the work is accepted:

1. City staff shall prepare the instrument of transfer and prepare a written implementation plan.
2. The City shall oversee the actual installation of the work according to the specifications in the implementation plan.

G. If the donation is to commission a work of art, the OHAC shall initiate a selection process as outlined above.

H. Works of art proposed for long term loan (one year or more) to the City shall go through a similar review process. Short term loan proposals shall be reviewed directly by the OHAC, with a recommendation to the Mayor and City Council. If the loan is approved, all terms and conditions shall be set forth in an agreement signed by both parties.

POLICY ON DISPLAY AND SITING WORKS OF ART

I. OBJECTIVES

A. To establish a plan for the thoughtful display and siting of public works of art.

B. To establish procedures for the display and siting of public works of art.

II. DEFINITIONS

A. **Display** - The temporary showing of a work of art

B. **Siting**: The permanent installation of a work of art

III. POLICIES

A. The OHAC shall establish and recommend an Artwork Site Plan that identifies and prioritizes locations within the City for the placement of public art. Public art shall contribute to the specific site, and the overall design and character of the community.

B. The plan shall address permanent locations, as well as the planned movement of appropriate works of art to various locations in the City.

IV. PROCEDURES

A. The OHAC shall establish and annually update an Artwork Site Plan. The plan shall be annually reviewed by the City Council. Site or location priorities shall be based on specific criteria that include:

1. Maximum visibility and public benefit.

2. Public safety.

3. Integration with formal City plans.

4. Permanence.

5. Appropriateness to the type, scale and scope of potential projects.

6. Security and ease of maintenance.

7. Integration and coordination with proposed or potential private sector projects.

B. Works of art should not be located in areas that are visually inaccessible to the general public.

POLICY ON DOCUMENTATION AND CONSERVATION OF WORKS OF ART

I. OBJECTIVES

A. To ensure the care of public works of art through systematic record keeping.

B. To ensure regular examination, preservation and restoration of public works of art.

II. DEFINITIONS

A. **Conservation** - A broad concept of care encompassing three activities: examination, preservation, and restoration.

B. **Preservation** - Actions taken to retard or prevent deterioration or damage in works of art, and to maintain them in as unchanging a state as possible.

C. **Restoration**: The treatment of a deteriorated or damaged work of art to approximate as nearly as possible its original form, design, color, and function with minimal further sacrifice of aesthetic integrity.

III. POLICIES

A. The City shall systematically document all works of art in the City's collection.

B. The City shall examine all works of art on a regular basis.

C. The City shall preserve all works of art in a planned and orderly manner.

D. When works of art require restoration, the OHAC shall provide a plan for such in cooperation with the City department that houses the work.

IV. PROCEDURES

A. Each work of art shall be listed on the City's Master Inventory and Maintenance Schedule.

B. Additional documentation shall include the following:

1. Acquisition documents and a unique accession number.

2. Curatorial information to include:

   a. Artist's biography.

   b. Title and date completed.

   c. Purchase price and insurance value.

   d. Data regarding when the item was included within the City inventory.

   d. Other descriptive information.

3. Conservation information to include:

   a. Materials and sources used in the work.

   b. Methods of fabrication.

   c. Installation specifications.

   d. Method and frequency of maintenance.

4. Administrative information to include:

   a. Legal instrument of conveyance.

   b. Artist contract.

   c. Significant agencies involved and their roles.

   d. Significant dates.

   e. Permits and project costs.

   f. Insurance information.

5. Photographic documentation.

C. The City shall establish a contract with the artist that provides the following:

1. A guarantee that the work will be free of defects in materials and workmanship, for a period of one year following installation.

2. Drawings of the installation, and detailed instructions for routine maintenance of the work.

D. Regular maintenance shall be the responsibility of the receiving department, consistent with written procedures provided by the OHAC.

E. Responsibility for extraordinary maintenance or repairs shall be cooperatively negotiated between the OHAC and the department that houses the work.

POLICY ON DEACCESSIONING OF WORKS OF ART

I. OBJECTIVES

A. To establish a regular policy and procedures for reviewing the status of public works of art.

B. To establish procedures for the deaccession, disposal, or relocation of public works of art.

II. DEFINITIONS

A. **Deaccessioning** - The removal of an artwork from permanent display, whether it is disposed or not.

B. **Disposal** - Actions that result in the cessation of ownership and possession of an artwork.

III. POLICIES

A. The City shall seek to ensure the ongoing presence and integrity of all works of art at the sites where they are located.

B. Consideration for deaccession or disposal shall be subject to careful review procedures that shall include input from art professionals and the public. Criteria for reviewing public art shall address the quality of the work itself, and how it relates to the City's goals and policies for public art.

C. A work of art may be considered for deaccessioning or disposal for one or more of the following reasons:

1. The condition and security of the work of art can not be reasonably assured.

2. The work endangers public safety, in which case the work shall be removed immediately.

3. The work is damaged and repair is not practical or feasible.

4. The work requires excessive maintenance.

5. A suitable site for display of the work is no longer available. This could include a significant change in the use, character, or design of an existing site which affects the integrity of the work.

6. The work is not or is rarely displayed.

7. The work has received significant adverse public opinion continuously for six months to a year.

8. The quality or the authenticity of the work is called into question.

9. The department which displays the work requests that its status be reviewed.

10. Removal is requested by the artist.

IV. PROCEDURES

A. The Review process shall be initiated by a majority vote of the OHAC or specific direction from the City Council.

B. The OHAC shall make an initial recommendation based on the following information, reviewed and discussed at open public meetings:

1. Review of the artist's contract and other pertinent documents.

2. Discussion of review with the artist, if he/she can be notified by reasonable means.

3. Opinions of several independent professionals qualified to make recommendations (conservators, architects, engineers, safety experts, art historians, etc.)

4. Review of all evidence of public comment and debate.

C. If reasonable measures do not exist, or the City Council determines that the recommended measures do not resolve the concern, the City shall consider the removal of the work.

D. The OHAC shall consider, in order of priority, the following:

1. Relocation.

2. Remove the work and place in storage, with the intent of finding a new site for the work. If a new site is not found in a five year period, the work shall be removed from the City collection.

3. Removal of the work from the City collection by sale or trade.

4. Destruction of the work. If the Commission can not reach consensus, then a vote shall be taken, with majority rule, and a recommendation forwarded to the City Council for action.

E. The decision of the City Council shall be final and binding.

4 June 2015

ATTACHMENT 4

I recommend the Oak Harbor Arts Commission approve the (Barringtons) sculpture proposal submitted by Wayne Lewis.

The following bullets address the worthiness of Captain Ed Barrington and Christina Barrington for such recognition by the City of Oak Harbor:

- Sea Captain Ed Barrington was one of the earliest pioneers to establish permanent residency in Oak Harbor
    - Evidence indicates Captain Barrington sailed the waters off Whidbey Island in 1849 and lived in Oak Harbor as early as 1852
- Captain Barrington was both friend and protector of the Skagit tribe residing in Oak Harbor. His first marriage was to a member of the Skagit Tribe, strengthening his relationship with the Native Americans in Oak Harbor
- Taftezon and Sumner Donation Land Claims (DLCs) were filed in 1851 and established the contiguous geographic parameters that circumscribed the settlement called Oak Harbor. However, by the late 1850s Captain Ed Barrington had purchased the Taftezon and Sumner DLCs, thus controlling the development of the waterfront business district of Oak Harbor until the late 1800s
    - In the mid-1850s, Captain Ed Barrington established the first business in Oak Harbor, a Warehouse/Store/Saloon, in a building reported to be occupied today by the OHT
    - In 1859, Captain Ed Barrington established a boat building business in Oak Harbor with the building of a schooner called "The Growler"
    - In 1880 it was said that all businesses in town (Oak Harbor) were centered around Ed Barrington
    - The main street (now called Pioneer Way) was named Barrington Ave to honor Ed Barrington
- Ed Barrington served a term in the Legislature of Washington Territory. As noted by Dorothy Neil, Captain Barrington contributed greatly to government leadership in the early pioneer days.
- In1865, after the death of his Native American wife, Captain Ed Barrington married Christina McCrohan. They were the center of all business and social activity in Oak Harbor in the late-mid 1800s.
    - Christina was a self-taught nurse. She helped treat the ill and functioned as mid-wife in the birth of children to Native American women, as well as Pioneer women
    - In 1890 Christina Barrington filed the initial plat for Oak Harbor, establishing the original center of the business district in Oak Harbor
    - Christina Barrington was responsible for the creation of the Town Park (called Smith Park)
- In 1883 Captain Ed Barrington died and was honored by being buried in Lakeview cemetery among other great pioneers such as the Denny and Maynard families of Seattle
    - Captain Ed Barrington's obituary notes: "May we never forget them and may their histories be written where the coming generations shall read of those brave souls who laid the foundations for the glorious future which is dawning on our Territory."
- In 1938 Christina Barrington died and was also honored by being buried in Lakeview cemetery among Ed Barrington and the other great pioneers

Respectfully submitted,

Scott Hornung
2044 Rockcress Lane
Oak Harbor WA 98277
Phone: 360-672-1771

City of Oak Harbor
City Council Agenda Bill

Bill No.	C/A 6.p
Date:	July 7, 2015
Subject:	Wells Fargo Possession and Use Agreement

FROM: **Nikki Esparza, City Attorney**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ○ Scott Dudley, Mayor
- ◉ Larry Cort, City Administrator
- ◉ Doug Merriman, Finance Director
- ◉ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Motion to authorize the Mayor to execute the Possession and Use Agreement with Wells Fargo in substantially the form which has been provided in the council agenda materials with any revisions being subject to the review and approval of the City Attorney.

BACKGROUND / SUMMARY INFORMATION

The City is in the process of negotiating with Wells Fargo for temporary parking and permanent subsurface use of the southernmost 88 feet of parking lot located at Wells Fargo's 361 SE Pioneer Way location. The Wells Fargo property is adjacent to the City's property (formerly known as the Whidbey Island Bank property) that will be the site of the new waste water treatment facility. The City needs 88 feet to temporarily provide parking for the Daily Grind and construction crew and 25 feet of subsurface to permanently house tiebacks.

Wells Fargo has indicated theoretical willingness to agree to a Possession and Use Agreement that would be conditioned on the City installing a fence between the easement area Wells Fargo's ingress/egress lanes. This Agreement would provide the City with possession and control over the 88 feet temporarily while the negotiations for a permanent solution continue or condemnation proceedings are initiated.

The City hired Jim Dodge with Valbridge Property Advisers to conduct an appraisal on the subject 88 feet. The appraised value of the temporary parking and access is $15,500 per year or $1,291.67 per month. The appraised value of the tieback and temporary construction easement is $14,000. The appraisal has been provided to Wells Fargo's legal counsel. The Possession and Use Agreement provides that the City will compensate Wells Fargo for the appraised values, pending completion of negotiation or condemnation.

The shallow excavation work authorized under GMP #3 will begin the week of July 6, 2015. It would be beneficial to the Daily Grind to have alternate parking upon commencement of shallow excavation.

LEGAL AUTHORITY
RCW 35A.11.010 provides that code cities my lease or acquire real property.

FISCAL IMPACT
This item has a fiscal impact of $15,500 per year for the temporary access and parking easement, plus a flat $14,000 for the permanent tieback easement.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS
1. Possession and Use Agreement

After Recording Return to:

City Clerk
City of Oak Harbor
865 S.E. Barrington Drive
Oak Harbor, WA 98277

POSSESSION AND USE AGREEMENT

Grantor:	WELLS FARGO BANK, N.A.	
Grantee:	CITY OF OAK HARBOR	
Property:	Ptn Reserve B, Ely's Addition, V2, p. 27, Island County, WA	Add'l on P. 5-6
Tax Account No.:	Ptn of S6565-00-00B17-0 ID 252176	
In the matter of:	CITY OF OAK HARBOR Wastewater Treatment Plant	

THIS AGREEMENT is made and entered into by and between the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, hereinafter referred to as the "City," and WELLS FARGO BANK, N.A., a national banking association, (successor-in-interest by merger to First Interstate Bank of Washington, N.A., and Olympic Bank) who acquired title as Everett Trust and Savings Bank, a Washington corporation, hereinafter referred to as "Owner ":

WITNESSETH:

WHEREAS, the City affirms that the Owner's real estate described herein is required by the City for immediate project construction; and

WHEREAS, the City affirms that any delay in its construction program is contrary to the public interest; and

WHEREAS, the City has made a firm and continuing offer to pay the amount of FOURTEEN THOUSAND AND NO/100THS DOLLARS ($14,000.00) for the

purchase of the tieback easement and temporary construction easement affecting property situated in the Island County, Washington, more fully described in **EXHIBIT A** attached hereto and incorporated herein by this reference; and

WHEREAS, the City has made a firm and continuing offer to pay the amount of FIFTEEN THOUSAND FIVE HUNDRED AND NO/100THS DOLLARS ($15,500.00) per year, which breaks down to $1,291.67 per month, for the temporary parking and access easement affecting property situated in the Island County, Washington, more fully described in **EXHIBIT B** attached hereto and incorporated herein by this reference; and

WHEREAS, the Owner requires time to evaluate said firm offer and/or to resolve any questions concerning just compensation; NOW, THEREFORE,

IT IS AGREED THAT:

1. The property and rights described in **EXHIBITS A** and **B** are necessary for public use of the City of Oak Harbor, State of Washington.

2. Owner represents and warrants that Owner is the real party in interest and the legal owner of the Property and is entitled to receive the offered compensation.

3. The City will issue payment to the Owner in the amount of $14,000.00 for the **EXHIBIT A** temporary construction and permanent tieback easement, subject only to deduction of the value of interests of others, such as mortgage, judgment and lien holders, and subject to deduction of unpaid current year's real estate taxes, which will be paid by City directly to the Island County Treasurer. In addition the City will issue payment to the Owner of $1,291.67 per month, in advance, for each month of use of the **EXHIBIT B** temporary parking and access easement. The Owner has not agreed to the firm offer amount. So the final payment may be determined in condemnation proceedings or by other settlement. The sums paid pursuant to this Possession and Use Agreement to Owner, and/or to others with an interest in the Property, and/or paid to the Island County Treasurer for real estate taxes assessed against the Property, shall be credited against the award to Owner in any condemnation proceeding or other settlement for acquisition of the Property.

4. Upon resolution of the above-mentioned matters, the Owner will convey to the City the **EXHIBIT A** and **B** property rights, free and clear of all encumbrances, taxes and assessments, by execution of the appropriate legal instruments.

5. Upon acceptance of this agreement by the City and payment of the firm offer amount, Owner grants immediate possession and use of the above-described property to the City and its employees, agents, contractors and representatives, for the purpose of commencing construction and performing all tasks necessary for completion of the above-referenced project.

6. Within 30 days after commencement of City's use of the parking easement area, the City shall erect a sight-obscuring fence not less than 5 feet in height along the entire northerly boundary of the parking easement area, which fence shall block access from the bank's remaining property to the parking easement area.

7. It is understood and agreed that Owner hereby tenders delivery of this agreement to City, and that the terms and obligations hereof shall not become binding upon City unless and until accepted and approved hereon in writing by the City of Oak Harbor.

8. Upon acceptance by the City, this agreement shall be binding upon the parties hereto, their heirs, successors and assigns. The City is authorized to record this Possession and Use Agreement in the records of the Island County Auditor.

9. If it becomes necessary for the City to institute condemnation proceedings, the Owner hereby stipulates to, and has no objection to, the City's forthwith entering an Order Adjudicating Public Use as provided in RCW 8.12.090.

10. This Possession and Use Agreement is equivalent to a stipulation to an Order of Immediate Possession and Use as provided by RCW 8.25.070(3), and Owner hereby stipulates and agrees that it may be filed as such in any condemnation proceeding instituted by the City with respect to the Property. It is expressly understood by both parties to this agreement that by signing this agreement, the Owner is deemed to have met the requirements of RCW 8.25.070(3) concerning responding to a written request for possession and use, and that the date of City's acceptance of this Possession and Use Agreement is the agreed date of valuation.

11. The Owner and City each agree to indemnify, hold harmless and defend the other from any and all claims, liability, damages, costs, expenses and judgments arising from the negligence or intentional misconduct of themselves, their respective officers, employees, agents, or contractors on the above-described property occurring prior to closing of the sale of the Property.

12. This agreement contains all of the agreements of the parties with respect to any matter covered or mentioned in this agreement. The Owner has been advised of Owner's right to secure review of this agreement by Owner's own legal counsel and has not relied upon the City for any advice concerning this agreement. No provision of this agreement may be amended or modified except in writing signed by all parties. Any provision of this agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision. Individuals signing on behalf of a principal represent and warrant that they have the authority to bind their principals. The venue for any dispute related to this agreement shall be Island County, Washington. Failure of the City to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such breach or default. Time is of the essence of this agreement and each and all of its provisions in which performance is a factor.

DATED this _____ day of _____, 2015.

WELLS FARGO BANK, N.A.

By_____
_____ (print name)
_____ (title)

ACCEPTED AND APPROVED

this _____ day of _____, 2015:

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

STATE OF _____)
)ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that _____ signed this instrument, on oath stated that _____ was authorized to execute the instrument and acknowledged it as the _____ of WELLS FARGO BANK, N.A. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2015.

_____

_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

EXHIBIT A
PERMANENT TIEBACK AND TEMPORARY CONSTRUCTION EASEMENT

1. Easement Area Description:

   The entire subsurface area of the South 25 feet of the following-described property:

   That portion of Reserve "B" of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Vol. 2 of Plats, page 27, records of Island County, Washington, described as follows:

   Beginning at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street;
   Thence South 16°35' East 243.56 feet along said West line of 70th Southwest Street;
   Thence South 78°50' West 222.29 feet parallel with the South line of West Pioneer Way;
   Thence North 11°10' West 242.47 feet to said South line of West Pioneer Way;
   Thence North 78°50' East 200.00 feet along said South line to the Point of Beginning.

   Situate in Island County, Washington.

2. Temporary Construction Easement: A temporary underground construction easement for the purpose of installation, monitoring, adjustment and maintenance of wall support members and devices, including, but not limited to, tiebacks, anchors, cables and soil nails, hereinafter collectively referred to as the "tiebacks," together with the right to enter the Easement Area with such equipment and materials as may be required for said purposes. The surface of the Easement Area will not be impacted. This temporary construction easement will commence on the date this easement is taken, and shall terminate upon completion and final approval of City's construction project and restoration of Grantor's property, or on December 31, 2021, whichever occurs sooner.

3. Permanent Installation Easement: A perpetual easement and right to permanently keep in place and maintain within the Easement Area the tiebacks and other underground equipment installed in the Easement Area in connection with construction of the City's wastewater treatment plant, and the right at any time to monitor, tension, re-tension and de-tension, adjust, maintain, destroy, cut through or leave such abandoned tiebacks in place, at City's discretion.

EXHIBIT B
TEMPORARY PARKING AND ACCESS EASEMENT

1. Easement Area Description:

   The South 88.40 feet of the following-described property:

   That portion of Reserve "B" of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Vol. 2 of Plats, page 27, records of Island County, Washington, described as follows:

   Beginning at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street;
   Thence South 16°35' East 243.56 feet along said West line of 70th Southwest Street;
   Thence South 78°50' West 222.29 feet parallel with the South line of West Pioneer Way;
   Thence North 11°10' West 242.47 feet to said South line of West Pioneer Way;
   Thence North 78°50' East 200.00 feet along said South line to the Point of Beginning.

   Situate in Island County, Washington.

2. Temporary Parking Easement: An exclusive easement and right for the City, its employees, contractors, agents, permittees and licensees and the public, to park vehicles in the Easement Area, subject to sole regulation by the City, including, but not limited to, the right, but not the obligation, to limit public parking to patrons, owners and employees of the business located at Suite 102, 321 SE Pioneer Way, Oak Harbor, Washington.

3. Temporary Access: A temporary access easement to the business located on City-owned property commonly known as Suite 102, 321 SE Pioneer Way, Oak Harbor, Washington, including the right of ingress and egress by the public and the owners, employees, invitees and licensees of the business, and the right to make deliveries to and from the business.

4. Maintenance: The City shall have the sole right to maintain the Easement Area. City shall have the right to stripe the parking area as it deems suitable and to control traffic patterns and movements within the parking area.

5. Ingress and Egress: The City and its employees, contractors, agents, permittees,

licensees and invitees, shall have the right of ingress to and egress from and on the Easement Area for the purposes stated herein, and for purposes of preconstruction surveying, engineering and similar activities, and activities associated with the tiebacks being installed in the construction of the wastewater treatment plant.

6. Term: The term of this easement shall run from the date of taking of this easement until completion and final approval of construction of the City wastewater treatment plant immediately south of the easement area and construction the parking area to serve the treatment plant has been completed, but in no event later than December 31, 2021.

City of Oak Harbor
City Council Regular Meeting
July 7, 2015

Wastewater Treatment Plant Update

City Administrator Comments

Waste Water Treatment Plant Staff Update

Larry Cort, City Administrator and Joe Stowell, City Engineer

Attachments

Update for 7/07/2015

City of Oak Harbor
Clean Water Facility Project

CITY COUNCIL PROJECT UPDATE – July 7, 2015 **WWW.OAKHARBORCLEANWATER.ORG**

PERMIT ACQUISITIONS:

Wastewater Outfall –

- **Construction is currently under way. Staff and our Construction Management team are tracking permit requirements and ensuring compliance.**

Wastewater Treatment Plant

- **Site Preparation A – Applications for city permits have been submitted. A grading permit will be issued at time of construction.** Other Permits – Staff is actively pursuing many other permits necessary to construct the project. As they come to fruition, they will be presented in this section.

COST ESTIMATES:

Wastewater Outfall –

- Guaranteed Maximum Price No. 2 - Awarded by City Council on April 21, 2015 in the amount of $2,164,488 (includes sales tax).

Wastewater Treatment Plant –

- Overall Project - Project team is evaluating cost saving measures to incorporate into 60% design. There will likely be several Guaranteed Maximum Price amendments that comprise the total cost of the treatment plant. As they are developed, they will be presented in this section.
- **Biosolids Dryer - Hoffman received proposals on June 16, 2015.** The Proposals will be evaluated and used to further refine the cost estimates for the different biosolids handling options. Staff will be returning to City Council later this summer to discuss potential biosolids options and seek City Council approval of the preferred option.
- **Site Preparation Package A – Guaranteed Maximum Price No. 3 - Site Preparation Package A - Partial Excavation and Archaeological Survey was approved by Council June 16, 2015. Hoffman has a self-perform agreement for this work with construction starting after July 6, 2015.** Carollo and Hoffman have prepared an early site preparation package separate from the Deep Excavation Package that will begin the utility relocation and archaeological process. This early site preparation package will allow the City to investigate archaeological conditions without delaying expensive construction activities with potential finds. Early validation of the site conditions will lead to reducing the large contingency amounts dedicated to archaeology and soil stabilization. Information gathered during this phase of work is necessary to determine which soil stabilization method will be used (stone columns, pipe piles, etc.) allowing the design team to further refine the cost estimate for the project.

DESIGN / CONSTRUCTION:

Wastewater Outfall Construction –

- **Hoffman and the outfall subcontractor have started excavation of the upland areas. Parts of the park near the existing sewage treatment plant will be utilized. In-water work will continue depending on tides. Some of the in-water work will be conducted by a barge anchored in the harbor.**

Wastewater Treatment Plant –

- **Overall Project Design – Carollo Engineers have submitted 60% design drawings.** A 60% Design presentation and cost estimate is scheduled to be presented to the City Council in September.
- Deep Excavation Package - The design for the deep excavation package is underway and tentatively scheduled for Council approval in September, following completion of 60% design.

FUNDING:

2015 CWSRF – Outfall Design and Construction – The City has received $3,200,000 in low interest loans from DOE for design and construction of the new outfall for the wastewater treatment plant. The loan is for 20 years at 2.7% interest.

2015 CWSRF – WWTP Design – The City has received $8,260,000 in low interest loans for design of the new wastewater treatment plant. The loan is for 20 years at 2.7% interest.

2016 CWSRF – WWTP Construction – The City has submitted an application for construction of the treatment plant and has been tentatively awarded $15,631,311 at a reduced interest rate of 1.9% for 20 years and an additional $463,154 forgivable principal for hardship and green project reserve. An additional $4,586,846 in Centennial Grant was also offered. Final award will not occur until state legislature has passed the state budget it July. Staff intends to apply for additional funding next year to cover the remaining construction costs.

2017 CWSRF - WWTP Construction – Applications for 2017 CWSRF funding are due in October 16, 2015.

Bonds – The City is reviewing our funding options with regards to CWSRF vs. Bonds to develop the most advantageous funding program for the project. The goal is to reduce the overall burden on the rate payers.

Reserves – The sewer fund has been accumulating reserves that have been earmarked for this project.

Rates – Staff is currently reviewing the impacts of the funding sources listed above, current bond rates and the estimated cost of the project to determine how the project rates might be impacted by the construction cost increases and lower financing rates.

OTHER ITEMS OF INTEREST:

Neighborhood Notification -

- **Citywide Mailer – Has been delivered.**
- **Utility Bill Stuffer –Was included in the June 20 bill cycle.**
- **Door Hangers – Being delivered to immediate neighbors**
- **Whidbey News Times – Advertisement is being prepared**

Parking – Agreements to satisfy parking requirements are on tonight's agenda.

Bolded items indicate updates from previous editions
Standard text indicates no significant change since the last update.

To sign up for the e-mail distribution list, please send an e-mail to treatmentplant@oakharbor.org or call the treatment plant information line at 360-914-7000.

Brett Arvidson PE
Project Engineer
360-279-4521
barvidson@oakharbor.org

Joe Stowell PE
City Engineer
360-279-4520
jstowell@oakharbor.org

City of Oak Harbor
City Council Agenda Bill

Bill No. 9.a
Date: July 7, 2015
Subject: Ordinance 1738: Wells Fargo Condemnation

FROM: **Grant Weed and Nikki Esparza**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Adopt Ordinance No. 1738 authorizing the condemnation, appropriation, taking and damaging of land and other property for purposes associated with construction of the wastewater treatment plant.

BACKGROUND / SUMMARY INFORMATION

The City has a need for temporary parking and access on the southernmost 88.40 feet of the Wells Fargo property at the corner of City Beach Street and Pioneer Way during construction of the Wastewater Treatment Facility. It also has a need for a permanent (subsurface) installation easement in the southernmost 25 feet of the property for tiebacks.

The City has provided Wells Fargo's legal counsel with the proposed easements and the appraised values of the easements. Staff has not yet secured an agreement, but fully intends to continue working toward an agreed upon resolution. In order to preserve construction timelines set for the Wastewater Treatment Plant, initiation of condemnation proceedings is necessary to ensure that construction is not delayed. Prior to filing a condemnation petition with the court, the Council must pass an ordinance authorizing condemnation.

If the City intends to maintain the current Wastewater Treatment Facility construction timeline, it is staff's recommendation that the Council adopt Ordinance 1738, authorizing the condemnation of the temporary parking and access easement and the permanent tieback easement. These easements are necessary to begin the deep excavation portion of construction, which is currently scheduled for September 2015.

Notice of this proposed action has been provided in accordance with RCW 8.25.290.

LEGAL AUTHORITY

RCW 35A.11.030 authorizes code cities to exercise eminent domain.

Chapter 8.12 RCW contains the procedural requirements applicable to cities utilizing condemnation.

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Ordinance No. 1738

ORDINANCE NO. 1738

AN ORDINANCE OF THE CITY OF OAK HARBOR AUTHORIZING THE CONDEMNATION, APPROPRIATION, TAKING AND DAMAGING OF LAND AND OTHER PROPERTY FOR PURPOSES ASSOCIATED WITH CONSTRUCTION OF THE WASTEWATER TREATMENT PLANT

WHEREAS, the City Council of the City of Oak Harbor (hereinafter the "City") finds as follows:

1. Public safety, convenience, use and necessity demand construction of a wastewater treatment plant for the purposes of serving the current and future needs of the public.

2. The City has conducted engineering studies and has determined that the best location for the wastewater treatment plant is adjacent to the existing wastewater treatment plant, on property located between SE City Beach Street (70th Southwest Street) and Windjammer Park.

3. The project construction plans require the installation of tiebacks under the south 25 feet of the property described in **EXHIBIT A,** attached hereto and incorporated herein by this reference, to support the treatment facility walls.

4. During construction, City employees, contractors and their employees will require parking in the vicinity of the project. The South 88.40 feet of the **EXHIBIT A** property has been determined to be the most convenient and practical location for such parking.

5. Access to the business located on City-owned property commonly known as Suite 102, 321 SE Pioneer Way, Oak Harbor, Washington, crosses the wastewater treatment plant construction site. Parking for said business is located within the wastewater treatment plant site. Such access and parking will no longer be available once construction is commenced. During construction alternate access to and parking for said business will be required. Such access and parking would be most conveniently located upon the South 88.40 feet of the **EXHIBIT A** property, which is the only location that would satisfy handicapped parking requirements for the business.

6. The entire cost of acquisition of the real property interests provided by this ordinance shall be paid by the following funds of the City:

   Fund #402 Wastewater Fund

   or such other funds as may be provided by law.

7. The City may be unable to agree with the property owner upon the compensation to be paid for said real property interests.

8. Notice of the planned final action authorizing the condemnation of the property rights described in **EXHIBITS B** and **C** has been given to the owner of said property and published in the Whidbey News-Times in accordance with the provisions of RCW 8.25.290.

9. The City has authority pursuant to RCW Chapter 8.12 to acquire, if necessary, title to real property for public purposes. The construction of a wastewater treatment plant is a public purpose.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR DO ORDAIN AS FOLLOWS:

1. The City is hereby authorized to condemn, appropriate, take and damage the portions of the **EXHIBIT A** property described in **EXHIBITS B** and **C** attached hereto and incorporated herein by this reference, limited to the easement rights described in said **EXHIBITS B** and **C**.

2. The use of the described portions of the **EXHIBIT A** property is for purposes associated with construction of a wastewater treatment plant, which is a permanent public use and is reasonably necessary for the purposes for which it is sought.

3. All easement rights described in **EXHIBIT B** are hereby authorized to be condemned, appropriated, taken and damaged for the purpose of installing tiebacks to support the walls of the wastewater treatment plant to be constructed.

4. All easement rights described in **EXHIBIT C** are hereby authorized to be condemned, appropriated, taken and damaged for the purpose of providing temporary parking to City employees, contractors, agents, permittees and licensees engaged in construction of the wastewater treatment plant, and for temporary access to and public parking for the City-owned property commonly known as Suite 102, 321 SE Pioneer Way, Oak Harbor, Washington.

5. All lands, rights, privileges and other properties are to be taken, damaged and appropriated only after just compensation has been made, or paid into the court for the owners thereof in the manner provided by law.

6. The City is further authorized to amend the legal descriptions and rights contained in **EXHIBITS B** and **C** as may be necessary and appropriate to meet requirements of the project.

7. The cost of the acquisition provided for by this ordinance shall be paid by the following funds of the City:

   Fund #402 Wastewater Fund

   or such other funds as may be provided by law.

8. The City's attorneys should be and hereby are authorized and directed to begin and prosecute the actions and proceedings in a manner provided by law to carry out the provisions of this ordinance, and to enter into settlements to mitigate damages.

PASSED by the City Council and APPROVED by the Mayor this _____ day of July, 2015.

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

ATTEST:

By_____
ANNA THOMPSON, Clerk

Approved as to form:

By_____
NIKKI C. ESPARZA, City Attorney

Date of Publication: _____

Effective Date (5 days after publication): _____

EXHIBIT A

WELLS FARGO BANK, N.A.
PROPERTY LEGAL DESCRIPTION

That portion of Reserve "B" of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Vol. 2 of Plats, page 27, records of Island County, Washington, described as follows:

Beginning at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street;
Thence South 16º35' East 243.56 feet along said West line of 70th Southwest Street;
Thence South 78º50' West 222.29 feet parallel with the South line of West Pioneer Way;
Thence North 11º10' West 242.47 feet to said South line of West Pioneer Way;
Thence North 78º50' East 200.00 feet along said South line to the Point of Beginning.

Situate in Island County, Washington.

EXHIBIT B
TIEBACK EASEMENT

1. Easement Area Description:

   The entire subsurface area of the South 25 feet of the following-described property:

   That portion of Reserve "B" of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Vol. 2 of Plats, page 27, records of Island County, Washington, described as follows:

   Beginning at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street;
   Thence South 16º35' East 243.56 feet along said West line of 70th Southwest Street;
   Thence South 78º50' West 222.29 feet parallel with the South line of West Pioneer Way;
   Thence North 11º10' West 242.47 feet to said South line of West Pioneer Way;
   Thence North 78º50' East 200.00 feet along said South line to the Point of Beginning.

   Situate in Island County, Washington.

2. Temporary Construction Easement: A temporary underground construction easement for the purpose of installation, monitoring, adjustment and maintenance of wall support members and devices, including, but not limited to, tiebacks, anchors, cables and soil nails, hereinafter collectively referred to as the "tiebacks," together with the right to enter the Easement Area with such equipment and materials as may be required for said purposes. The surface of the Easement Area will not be impacted. This temporary construction easement will commence on the date this easement is taken, and shall terminate upon completion and final approval of City's construction project and restoration of Grantor's property, or on December 31, 2021, whichever occurs sooner.

3. Permanent Installation Easement: A perpetual easement and right to permanently keep in place and maintain within the Easement Area the tiebacks and other underground equipment installed in the Easement Area in connection with construction of the City's wastewater treatment plant, and the right at any time to monitor, tension, re-tension and de-tension, adjust, maintain, destroy, cut through or leave such abandoned tiebacks in place, at City's discretion.

EXHIBIT C

TEMPORARY PARKING AND ACCESS EASEMENT

1. Easement Area Description:

   The South 88.40 feet of the following-described property:

   That portion of Reserve "B" of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Vol. 2 of Plats, page 27, records of Island County, Washington, described as follows:

   Beginning at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street;
   Thence South 16º35' East 243.56 feet along said West line of 70th Southwest Street;
   Thence South 78º50' West 222.29 feet parallel with the South line of West Pioneer Way;
   Thence North 11º10' West 242.47 feet to said South line of West Pioneer Way;
   Thence North 78º50' East 200.00 feet along said South line to the Point of Beginning.

   Situate in Island County, Washington.

2. Temporary Parking Easement: An exclusive easement and right for the City, its employees, contractors, agents, permittees and licensees and the public, to park vehicles in the Easement Area, subject to sole regulation by the City, including, but not limited to, the right, but not the obligation, to limit public parking to patrons, owners and employees of the business located at Suite 102, 321 SE Pioneer Way, Oak Harbor, Washington.

3. Temporary Access: A temporary access easement to the business located on City-owned property commonly known as Suite 102, 321 SE Pioneer Way, Oak Harbor, Washington, including the right of ingress and egress by the public and the owners, employees, invitees and licensees of the business, and the right to make deliveries to and from the business.

4. Maintenance: The City shall have the sole right to maintain the Easement Area. City shall have the right to stripe the parking area as it deems suitable and to control traffic patterns and movements within the parking area.

5. Ingress and Egress: The City and its employees, contractors, agents, permittees, licensees and invitees, shall have the right of ingress to and egress from and on the Easement Area for the purposes stated herein, and for purposes of preconstruction surveying, engineering and similar activities, and activities associated with the tiebacks being installed in the construction of the wastewater treatment plant.

6. Term: The term of this easement shall run from the date of taking of this easement until completion and final approval of construction of the City wastewater treatment plant immediately south of the easement area and construction the parking area to serve the treatment plant has been completed, but in no event later than December 31, 2021.

City of Oak Harbor
City Council Agenda Bill

Bill No. 11.a

Date: July 7, 2015

Subject: Revenue and Expense Report for 2015 Whidbey Island Marathon, including options for continuation or severance of the Race Director Contract

FROM: **Administration**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ○ Scott Dudley, Mayor
- ○ Larry Cort, City Administrator
- ◉ Doug Merriman, Finance Director
- ◉ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

BACKGROUND / SUMMARY INFORMATION

This item has been added to the Agenda in response to Councilmember Servatius' motion on June 16, 2015, seconded by Councilmember Severns, relating to the 2015 Whidbey Island Marathon.

Motion by Councilmember Servatius: "I move to instruct staff to prepare a detailed revenue and expense report for the 2015 Marathon with specific focus on any account that varied by more than 15% from the previous year, to be presented at our July 7th, 2015 Meeting and to include options for continuation or severance of this contract. Motion seconded by Councilmember Severns, unanimously approved.

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Marathon Detailed Financial Information 2010-2015
2. Professional Services Agreement for 2015 Marathon Race Director - Elk's Lodge

Whidbey Island Marathon
Income Statement
For the Marathon Year:

						30-Jun
Revenue	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Number of Participants	2,007	1,951	1,911	1,749	3,392	1,683
Participant Fees:						
Full Marathon	25,661.00	18,915.00	21,800.73	24,383.83	36,527.64	16,709.04
Half Marathon	95,889.00	94,464.00	86,255.44	76,494.39	90,783.69	60,211.72
1/5/10K Fun Run	3,424.00	5,809.05	5,255.28	4,415.84	17,202.35	16,058.67
Discount on Participant Fees	(2,143.00)	(88.00)	-	(69.96)	-	-
Total Participant Fees	122,831.00	119,100.05	113,311.45	105,224.10	144,513.68	92,979.43
Vendor Displays	2,580.00	2,625.00	2,468.75	2,750.00	1,750.00	1,840.00
Sale of Merchandise	-	1,119.56	1,161.04	903.41	1,503.68	-
Contributions						
Walmart	2,000.00	-	3,000.00	4,000.00	5,000.00	4,000.00
Waste Management	25,000.00	25,000.00	-	-	-	-
PSE	10,000.00	6,000.00	10,000.00	5,000.00	-	-
Other Local Vendors	5,515.00	1,250.00	1,800.00	-	1,000.00	1,250.00
Tourism/2% Grant	-	4,350.00	-	-	8,250.37	-
Total Contributions	42,515.00	36,600.00	14,800.00	9,000.00	14,250.37	5,250.00
Over/Short/Exchange	-	-	(84.01)	-	(24.25)	-
Total Revenue	**167,926.00**	**159,444.61**	**131,657.23**	**117,877.51**	**161,993.48**	**100,069.43**
Expenses						
Salaries and Benefits	-	-	6,603.75	18,928.01	20,346.27	14,667.39
Office and Operating Supplies						
Shirts	20,315.01	24,057.89	21,059.28	21,702.27	28,490.10	18,133.11
Medals	5,258.98	6,283.09	6,414.82	6,564.22	10,648.64	6,437.82
Food		1,182.00	3,546.11	2,763.83	11,373.43	2,575.72
Promotional Items			332.50		624.21	1,594.25
Operating Supplies	524.52	5,059.59	671.77	4,191.06	3,514.08	751.03
Cash Prizes	4,950.00	5,250.00	5,250.00	2,950.00	3,900.00	3,100.00
Expo Events	1,025.00	1,075.00	2,225.00	2,672.82	1,200.00	2,189.82
Participant Housing		2,247.86	1,634.60	1,614.99	2,360.37	1,948.21
Advertising	17,706.57	11,980.21	12,568.60	14,294.33	13,290.38	11,151.71
Travel	386.40	1,659.21	1,224.66	3,816.15	1,591.92	2,594.33
Insurance	610.00	610.00	610.00	610.00	610.00	610.00
Fees and Memberships	10.98	111.33	260.00	254.36	1,160.39	502.16
B&O Taxes	322.71	2,157.69	704.90	1,727.95	711.83	464.35
Operating Rentals						
Tents/Tables		3,375.56	2,974.56	4,241.69	9,965.26	5,304.78
Expos Booths		1,050.00	382.44	1,986.16	4,300.92	2,111.40
Port-a-Potties		2,375.00	3,330.00	4,317.48	5,101.20	4,934.16
Vehicles	900.00	2,416.87	1,765.68	890.06	1,109.00	676.62
Barricades	1,533.00	7,077.62	10,112.07	8,925.22	10,402.86	7,992.92
Professional Services						
Coordinator	33,729.25	33,923.16	35,100.00	28,606.00	28,006.00	30,000.00
Bonus					23,805.00	-
Website	2,120.00	2,231.65	255.15	207.35	390.70	233.90
Event Production	23,031.39	9,500.00	4,000.00	18,008.00	17,500.00	17,500.00
Timing	5,823.00	8,371.45	8,359.75	8,046.86	13,647.50	6,251.25
Photography				530.00	5,570.00	4,353.60
Entertainment	300.00	2,100.00	1,800.00	3,600.00	7,074.50	3,647.95
Ground Support	152.34	6,153.37	7,217.04	5,506.92	5,814.15	6,452.04
Total Expenses	**118,699.15**	**140,248.55**	**138,402.68**	**166,955.73**	**232,508.71**	**156,178.52**
Net Income	**49,226.85**	**19,196.06**	**(6,745.45)**	**(49,078.22)**	**(70,515.23)**	**(56,109.09)**

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into in duplicate this 7th day of August, 2014, by and between the CITY OF OAK HARBOR, a Washington municipal corporation, hereinafter referred to as the "CITY" and OAK HARBOR ELKS LODGE NO. 2362, 155 NE Ernst Street, Oak Harbor, WA 98277, referred to as the "SERVICE PROVIDER".

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

1. Scope of Services.

   The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER Scope of Work responsibilities throughout this Agreement and as detailed in Exhibit "A" attached hereto and incorporated herein as **2015 and 2016 Whidbey Island Marathon Race Director Scope of Work**.

2. Term.

   The Project shall begin on August 7, 2014 and shall be completed no later than May 14, 2016, unless sooner terminated according to the provisions herein. No later than April 30 of each year beginning in 2015, the SERVICE PROVIDER may request and the CITY may approve a one-year extension to this Agreement.

3. Compensation and Method of Payment.

   3.1 Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

   3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

   3.3 The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement beginning August 7, 2014 through and including May 14, 2016. The

total amount paid under this Agreement will not exceed $30,000.00 per race year except as provided for in Section 3.4. Payment under this Agreement for serving as Race Director for the 2015 Whidbey Island Marathon race year will be as follows: CITY will pay SERVICE PROVIDER one payment of $9,000.00 on or before August 29, 2014; and (2) CITY will pay SERVICE PROVIDER $3,000.00 monthly on or before the last day of each month beginning in September, 2014 and ending in March, 2015. Payment under this Agreement for serving as Race Director for the 2016 Whidbey Island Marathon race year will be as follows: CITY will pay SERVICE PROVIDER $3,000.00 monthly on or before the last day of each month beginning in June, 2015 and ending in March, 2016.

3.4 As an incentive for the SERVICE PROVIDER to work towards increasing sponsorship participation in the Whidbey Island Marathon, the CITY shall pay an incentive bonus of 20% of the total revenue generated each year through cash sponsorships. Further, the City shall pay an incentive bonus of 10% of the market value of product donations to the Whidbey Island Marathon. CITY shall pay any incentive bonuses earned subject to the City of Oak Harbor first breaking even for all costs incurred for this event, as determined by the City Finance Director, prior to any payment for any bonus.

3.5 The scope of services as shown on, as shown on Exhibit "A" attached hereto, may require the SERVICE PROVIDER to travel to and attend expositions or other events for marketing or early registration purposes, such travel and attendance subject to review by the CITY. The CITY agrees to reimburse the SERVICE PROVIDER for the reasonable costs of lodging, travel expenses and event cost for such events up to a maximum of $5,000.00 per race year upon presentation of receipts and other supporting documentation.

4. Reports and Inspections.

4.1 The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.

4.2 The SERVICE PROVIDER shall at any time upon reasonable notice during normal business hours and as often as the CITY or State Auditor may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the SERVICE PROVIDER'S activities that relate, directly or indirectly, to this Agreement.

5. Independent Contractor Relationship.

5.1 The parties intend that an independent SERVICE PROVIDER/CITY relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

5.2 In the performance of the services herein contemplated, the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. Service Provider Employees/agents.

The CITY may at its sole discretion request that the SERVICE PROVIDER remove an employee(s), agent(s) or servant(s) from employment on this Project. The CITY will provide justification for the request and SERVICE PROVIDER may not unreasonably deny the request. The SERVICE PROVIDER may, however, employ that (those) individual(s) on other non-CITY related projects.

7. Hold Harmless/Indemnification.

7.1 SERVICE PROVIDER shall defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the SERVICE PROVIDER in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

7.2 For purposes of this indemnification and hold harmless agreement, the SERVICE PROVIDER waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.

7.3 No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. Insurance.

The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, or employees.

8.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:

a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

b. Commercial General Liability insurance: Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury.

c. Workers' Compensation coverage: N/A

d. Professional Liability Insurance: N/A

8.2 Minimum Amounts of Insurance. SERVICE PROVIDER shall maintain the following insurance limits:

a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Hundred Thousand Dollars ($100,000) per occurrence and Three Hundred Thousand Dollars ($300,000) general aggregate per accident.

b. Commercial General Liability insurance: $1,000,000 combined single limit per occurrence for bodily injury personal injury and property damage; $2,000,000 general aggregate.

c. Professional Liability insurance: N/A

8.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability insurance:

a. The SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the SERVICE PROVIDER'S insurance and shall not contribute with it.

b. The SERVICE PROVIDER'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

8.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

8.5 Verification of Coverage. SERVICE PROVIDER shall furnish the City with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the SERVICE PROVIDER before commencement of the work.

9. Treatment of Assets.

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement.

10. Compliance with Laws.

10.1 The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

10.2 The SERVICE PROVIDER specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

11. Nondiscrimination.

11.1 The CITY is an equal opportunity employer.

11.2 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment without

discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The SERVICE PROVIDER shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

11.3 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.

11.4 If any assignment and/or subcontracting has been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. Assignment/subcontracting.

12.1 The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

12.3 Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. Changes.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. Maintenance and Inspection of Records.

14.1 The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

14.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. Other Provisions.

The following additional terms shall apply: It is agreed between the parties that pursuant to changes in state law necessitating that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement cannot be reached, the CITY may terminate this Agreement no sooner than sixty (60) days thereafter.

16. Termination.

16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by giving at least thirty (30) days' written notice to the SERVICE PROVIDER. Upon such termination for convenience, the City shall pay the SERVICE PROVIDER for all services provided under this Agreement through the date of termination.

16.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this Agreement through the date of termination.

17. Notice.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorneys Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. Jurisdiction and Venue.

19.1 This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Island County, Washington.

20. Severability.

20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

21. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute a material breach of contract and be cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, WA 98277

Scott Dudley, Mayor

Attest:

Anna Thompson, City Clerk

SERVICE PROVIDER:

ELKS LODGE NO. 2362
155 NE Ernst Street
Oak Harbor, WA 98277

John Vega, Exalted Ruler

Brian Fakkema, Board Chair

EXHIBIT "A"

2015-16 WHIDBEY ISLAND MARATHON
Scope of Work for Race Director

1. General Organizational Coordination

Race Director shall provide general coordination between all Whidbey Island Marathon 2015-16 ("Marathon") related parties and individuals to assure proper communication, task completion and contract provision adherence for race event preparation and performance. Those known parties and individuals shall include the Race Contractor, City of Oak Harbor Departments (Administration, Mayor, Police, Fire and Public Works), Oak Harbor Chamber of Commerce, local media, expo exhibitors, race sponsors, race volunteers, the Oak Harbor School District, Whidbey SeaTac Shuttle, and Coupeville School District No. 204. The above listing is not to be considered exclusive. The Race Director will be responsible for organizing and chairing task meetings with the City, Race Contractor and Race Director.

- Maintain a running accounting of known revenue and expenditures and provide bi-monthly report to the City.

2. Sponsorship.

Race Director shall make all reasonable efforts to secure relevant cash sponsors for the 2015-16 Whidbey Island Marathon event. The minimum direct cash sponsorship goal for each year is $10,000. Race Director agrees to work closely with the City of Oak Harbor to recommend, coordinate and complete the necessary steps to ensure that the sponsor focused efforts are strategically done and not duplicated. Race Director will leverage the working relationship it has with past sponsors to invite them to become sponsors of the 2015-16 Whidbey Island Marathon event.

3. Coordination of Promotion and Marketing Tasks

Race Director shall develop an overall marketing and promotion plan to ensure continued race participation levels for the Whidbey Island Marathon. This task shall include the development of a marketing, promotion and distribution plan. This plan can include the preparation of print ads, posters, rack cards, electronic media, awards, maps, banners, stuffers, campaigns, brochures and entry forms. Race Director shall consult with the City regarding public announcements, news releases and Internet advertising. Race Director will coordinate the adequate distribution of marketing and promotion materials to a pre-approved list of distribution points including other races. Race Director will assist with the execution of any and all promotional programs as agreed upon with the City. Those specific tasks for coordination of promotion and marketing tasks are as follows:

- Provide any marketing-focused coordination required with the City of Oak Harbor and any other race partners or sponsors to ensure that a clean and consistent marketing message gets communicated to the targeted demographic of the 2015-16 Whidbey Island Marathons.
- Review and coordinate the distribution of the 2015-16 Whidbey Island Marathon event promotion materials to health focused businesses and points of registrant contact located in Washington to ensure that these items are well distributed.
- Review and coordinate the distribution of the 2015-16 Whidbey Island Marathon promotion materials to regional health and fitness locations on the west coast from California north through Canada.
- Secure the distribution of Whidbey Island Marathon promotion materials to established half and full marathon events throughout the United States in the months leading up to the marathon through running organization memberships.
- Race Director will mount an email marketing campaign and work closely with the City of Oak Harbor to make sure that the content within the emails positively communicates the interests of Oak Harbor as well as the 2015-16 Whidbey Island Marathon event.
- If requested, Race Director will secure and work closely with any outsourced marketing or graphics design agency to ensure that any and all relevant marathon related information is included within the marketing materials created.
- Assist with the development of display materials for the Whidbey Island Marathon booth for the Seattle Marathon Expo and other marathon expos as requested by and subject to approval by the City.
- Race Director shall work with the City website administrator to assure consistency and accuracy of marketing and promotion themes.

4. <u>Expo Coordination</u>

Race Director shall coordinate with Race Contractor and the Oak Harbor School District, to organize and conduct the Marathon Expo. Such tasks shall include securing the expo site, assistance with set up and vendor booth layout coordination, the rental of all necessary equipment, coordination between expo vendors, coordinating expo volunteers and coordinating the preparation and disbursement of "goody bags". Race Director shall work with Race Contractor to ensure a well-organized packet pickup for the participants and volunteers. Those specific tasks for Expo coordination are as follows:

- Review the selected expo site and create a strategic expo layout that best suits the goals and size of the 2015-16 Whidbey Island Marathon event.
- Recruit and secure an adequate volume of Expo exhibitors to support the goals and size of the 2015-16 Whidbey Island Marathon event.
- Provide all the exhibitor contract documents needed for the securing of the exhibitors.
- The coordination and continual contact with any equipment rental companies required for creating a professionally designed Expo. Such equipment includes the rental of pipe & drapes, tables, chairs, podiums, stages, etc.

- The management of the participant goodie bag giveaways, including the contacting and securing of the bags, items to go in the bags and volunteers to stuff them.
- Coordination of transportation of goodie bags to the event expo site.
- The responsibility for the physical set up of the event expo site.
- Coordinate with the City and volunteers as needed to perform late registration, t-shirt and bib distribution and disseminate aid as needed for providing troubleshooting and general race information.
- Coordinate and procure all volunteers for registration/health and fitness expo.
- Responsible for volunteer needs, concerns and/or general well being to assure all volunteers receive required and adequate care, recognition, t-shirts and other amenities during their time with the Expo event.
- Ensure all volunteers complete and submit City volunteer agreement forms.
- Maintain a volunteer database and keep everyone informed of changes or updates.
- The management of all the on-site activities during the hours of operation for the Expo. This includes the management of any onsite volunteers, the coordination with any onsite exhibitors or sponsors, the coordination with the facility where the Expo takes place and all the registration and packet pickup activities.
- The creation and management of the Expo schedule, including any onsite guest speakers, or special exhibitor giveaways.
- The creation and management of the day-of-race program script ensuring that all the pertinent race related information gets communicated to the Expo attendees and race participants.
- The management of the interaction with the event timing company to ensure that the race registration and packet pickup operates smoothly.
- The management of the clean-up of the Expo site ensuring that the Expo site is returned to its original condition.

5. Race Course Coordination

Race Director shall provide coordination with the Race Contractor and City to assure all race course tasks are in place and covered as well as conducting direct and specific race course tasks. Those specific tasks for race course coordination are as follows:

- Recruit and coordinate all necessary volunteer assistance and training of water/aid stations.
- Recruit and coordinate all necessary volunteer assistance and training of course monitors and certified flaggers.
- Recruit and coordinate necessary law enforcement assistance.
- Recruit and coordinate all necessary volunteers for the race start(s) which includes set up and tear down.
- Coordinate overall water/aide station supplies and distribution materials (emergency kits, banners, gloves, anti-friction cream, etc.) that are not part of the Race Contractor duties.

- Recruit and coordinate ham radio operators and motorcycle volunteers for the race course.
- Coordinate and organize the gear check at the race starts and finish.
- Coordinate the procurement and placement of porta-potties throughout the race course, starts and finishes of Whidbey Island Marathon event.
- Delegate appropriately race day activities to insure a smoothly run event effective communication between between all parties.
- Assist the City with the coordination of providing sound systems as needed, decorative amenities, refreshments as prescribed, and banners at the starts and finishes.

6. Start/Finish Event Coordination

Race Director shall provide coordination with the Race Contractor and City to assure all Start/Finish Event tasks are in place and covered as well as conducting direct and specific Start/Finish Event tasks. Those specific tasks for Start/Finish Event coordination are as follows:

- Assist the City with the coordination of safe and efficient passenger shuttle service for marathon and half marathon race participants.
- Coordinate and organize the scheduling of shuttle service to bring runners to the start of both races and to return runners from the finish area to designated areas throughout the City of Oak Harbor.
- Coordinate and organize volunteers for the gear check, late t-shirt distribution and any remaining general information and assistance to race participants.
- Coordinate and organize the procurement of race start amenities such as marathon start heaters, refreshments and decorations.
- Procure, organize and coordinate food and refreshment distribution.
- Procure, organize and coordinate awards ceremony, entertainment, food and activity tents, vendor set-up, sponsor promotions, all volunteer tasks to staff the start and finish events and an adequate number of porta-potties strategically placed and adequately stocked with associated supplies.
- Coordinate with Race Contractor first aid station, race results, race finish line set-up, banners, awards stage set-up, and sound system.
- Coordinate with City regarding parking, security, trash pick-up, recycling, shuttle information, medal distribution, event photographer, banners, balloons, and award ceremony.

7. 5K Fun Run Coordination

Race Director shall provide coordination with the Race Contractor and City to assure the 5K Fun Run is produced and conducted as a community wellness and overall fitness event. Those specific tasks for the 5K Fun Run coordination are as follows:

- Coordinate the recruitment and training for any volunteers required to assist such as course monitors, finish line assistants, registration assistants, t-shirt assistants, water/aid station volunteers and set-up volunteers.

- Coordinate with the City for trash collection, water/aid station set-up, registration/t-shirt/bib distribution station set-up and vendor/sponsor banner set- up
- Coordinate with Race Contractor for all amenities related to race course lay-out, start/finish line set-up, race bib distribution, finish results, sound system set-up.

8. Post-Marathon Coordination

Race Director will schedule and conduct a post-Marathon meeting to evaluate the results and organize the responses for use in future Marathons.

City of Oak Harbor
City Council Agenda Bill

Bill No. 11.b

Date: July 7, 2015

Subject: Wastewater Treatment Plant - Notice to Proceed with Schedule 74 Design with PSE

FROM: Cathy Rosen, Public Works Director

FROM: Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Authorize the Mayor to issue a notice to proceed with Schedule 74 design with Puget Sound Electric (PSE) in the not to exceed amount of $6,900 to underground power lines along City Beach St.

BACKGROUND / SUMMARY INFORMATION

The City of Oak Harbor is actively pursuing the replacement of two aging wastewater treatment plants with a new, state of the art, membrane bioreactor treatment plant. The project involves undergrounding the power lines along City Beach St for construction safety and to improve the appearance of the plant frontage.

In order to underground these power lines, the city enters into contracts with PSE to design and construct the improvements. This conversion, regulated by state law, is called a Schedule 74 conversion. The first stage of the process involves PSE designing the improvements and providing a construction cost for city approval. PSE will proceed with the design upon receipt of a notice to proceed (a letter or email) from the city. The design services are a not to exceed $6,900 (note some design costs will be reimbursed upon construction).

Upon completion of the design, PSE will provide the city with a construction contract for the improvements for approval. The construction contract with PSE will be presented to council at that time.

FISCAL IMPACT

Funds Required: $6,900

Appropriation Source: Wastewater Fund

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

This item has not been presented at previous City Council Meetings.

ATTACHMENTS

1. PSE Design Estimate

PUGET SOUND ENERGY

June 29, 2015 Via Electronic Mail

Brett Arvidson, Project Engineer
City of Oak Harbor
865 Barrington Drive
Oak Harbor, WA 98277

RE: City Beach St. Schedule 74 Underground Conversion – Project #101094661
Design Cost and Schedule Presentation

Dear Brett:

Enclosed find our presentation of the estimated cost and proposed schedule to perform the Design Work for this project. Once you have reviewed these materials, please contact me to discuss their contents and any questions you may have. Please note that PSE will not begin this Design Work until we have received from the Town a written notice to proceed to do so.

Please review these materials and then contact:

Joshua Grenner, PSE Project Manager (425) 457-4547 (or) *Joshua.grenner@pse.com*

The sooner we agree on any adjustments to these materials and receive written notice to proceed from the Town, the sooner we can get started. I look forward to hearing from you.

Sincerely,

Josh Grenner
Project Manager

cc: Mike Schroyer, Project Engineer for PSE

Enclosures

Puget Sound Energy • P.O. Box 90868 XRD-1W • Bellevue, WA 98009-0868

PUGET SOUND ENERGY

OAK HARBOR – City Beach St.
DESIGN COST ESTIMATE & PROPOSED SCHEDULE PRESENTATION
Prepared: June 29, 2015

Project Number: 101094661
Project Manager: Josh Grenner

INTRODUCTION

In response to the Conversion Project Scope of Work provided by Oak Harbor (the City) and consistent with Section 3 of the Schedule 74 Design Agreement, this document and attachments hereto have been prepared by Puget Sound Energy (the Company) to present 1) the Company's estimate of the cost to perform the Design Work for this Conversion Project (the Design Cost Estimate), and 2) the Company's proposed schedule to complete the Design Work (the Design Schedule). The City should review the information contained herein and then respond to the Company to finalize the Conversion Project Scope of Work, Design Cost Estimate and Design Schedule.

CONVERSION PROJECT SCOPE OF WORK

This Design Cost Estimate and Design Schedule have been prepared based on the Scope of Work provided by the City, attached hereto (excluding drawings) as Attachment 1.

Government-requested upgrades to be included in the design for this project include the following: None.

Company-initiated upgrades to be included in the design for this project include the following: None.

Installation of ducts and vaults will be performed by the City (unless otherwise agreed by the Company and the City prior to the completion of the Project Plan.

ASSUMPTIONS

The Design Cost Estimate and proposed Design Schedule reflect the following assumptions, in addition to the attached Scope of Work.

1. The Company will receive written notice to proceed with the Design Work from the City within thirty (30) days of the date of this presentation.
2. All facilities for the Underground Distribution System will be located within City public rights-of-way (Public Thoroughfare) or other operating rights provided by the City as determined suitable by the Company.

DESIGN SCHEDULE

Upon receipt by the Company of the City's written notice to proceed (NTP) with the Design Work, the Company proposes to perform the Design Work in accordance with the following schedule:

- Completion of preliminary design and presentation of sufficient space analysis (within Public Thoroughfare) – within thirty (30) business days following NTP.
- Completion of design engineering and presentation of a draft Project Plan (including design drawings and specifications, project responsibilities, estimated project construction costs and proposed construction schedule) – within sixty (60) business days following City acceptance of the preliminary design.

DESIGN COST ESTIMATE

The Design Cost Estimate attached hereto as Attachment 2 reflects the Company's good faith estimate of the cost to perform the Design Work for this Conversion Project in accordance with the proposed Design Schedule above. The estimated Design Cost is $6,900.

PUGET SOUND ENERGY

CITY OF OAK HARBOR – City Beach St. S74 -- 101094661
UNDERGROUND CONVERSION -- SCOPE OF WORK
June 29, 2015

CITY CONTACT: Brett Arvidson, Project Enginner, 865 Barrington Dr., Oak Harbor, WA 98277, 360-914-7987, barvidson@oakharbor.org

CONVERSION PROJECT DESCRIPTION

The City of Oak Harbor (the City) requests that Puget Sound Energy (PSE) convert its existing overhead electric distribution system of 15,000 volts or less to a comparable Underground Distribution System within the following Conversion Area: Along City Beach St., south of Pioneer Way. A distance of approximately 900' lineal feet.

Government Requested Upgrades: The following Government-Requested Upgrades are included in this Scope of Work: None

Additional Considerations. The following additional considerations should be accommodated in this Conversion Project: None.

INSTALLATION OF DUCTS AND VAULTS FOR THE CONVERSION PROJECT

The City desires to install the ducts and vaults for this Conversion Project.

PUGET SOUND ENERGY

Date: 6/29/2015
Project Title: OAK HARBOR - City Beach St. S74 Underground Conversion
Project Description: Convert the existing OH distribution system to UG along City Beach St., South from Pioneer Way

Rate Schedule: 74
Project Manager / Phone #: Josh Grenner 425-457-4547
Project Engineer / Phone #: Mike Schroyer 360-941-2007
Municipal Liaison Mgr / Phone #: RaeLynn Asah 360-766-5509
Project #: 101094661
Revision #:
Revision Date:

Design Costs Estimate Summary[1,2]

		100% Government Entity Reimbursable Costs						
	Shared Costs[3]	Private Conversion	Gov Req Upgrade	Temporary Services	Prior Conv/Reloc Within 5 Years	Total 100% GE Reimbursable Costs	100% PSE Costs	Design Costs Totals
	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
Design & Engineering								
Labor	$ 6,000	$ -	$ -	$ -	$ -	$ -	$ -	$ 6,000
Material	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Equipment	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Service Provider Outside Services	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Overhead	$ 900	$ -	$ -	$ -	$ -	$ -	$ -	$ 900
Design Costs Totals	$ 6,900	$ -	$ -	$ -	$ -	$ -	$ -	$ 6,900

Notes:
[1] Estimate of Company design work costs prepared in accordance with Section 3 of Schedule 74 Design Agreement
[2] All amounts shown in this estimate are rounded up to the next $100
[3] Shared Costs are allocated 40% to the Government Entity and 60% to the Company if the Conversion Project is completed

Estimated Amount Due At Completion of Design Work	**$ 6,900**

City of Oak Harbor
City Council Agenda Bill

Bill No. 11.c
Date: July 7, 2015
Subject: Beach View Relinquishment of Easements and Substitute Parking Agreement

FROM: **Nikki Esparza, City Attorney**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Scott Dudley, Mayor
- Larry Cort, City Administrator
- Doug Merriman, Finance Director
- Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

1. Authorize the Mayor to sign the Beach View Relinquishment of Easements

2. Authorize the Mayor to sign the Beach View Substitute Parking Agreement

BACKGROUND / SUMMARY INFORMATION

When the City purchased the Whidbey Island Bank property for construction of the Waste Water Treatment Facility, it was understood that the property was encumbered by an easement in favor of Beach View Plaza for a shared 90 parking spots in the lot to the southeast of the Bank building. Prior to commencement of construction of the plant and interference with the shared parking easement, it was necessary to come to an agreement for alternative parking.

On June 16, 2015, Council authorized the Mayor to sign a lease agreement with Redneck Properties. Redneck borders the Beach View property. Beach View has agreed to relinquish its easement on the Whidbey Island Bank property in exchange for temporary parking on the leased Redneck property and the agreement to furnish permanent parking within the next six years.

The attached Relinquishment of Easements extinguishes Beach View's easement on City property. The attached Substitute Parking Agreement provides for temporary parking (45 spaces) on the leased Redneck property (or other location that meets the requirements) until a permanent solution is identified. It also contains requirements that permanent parking be agreed to within six years from the date the agreement is signed. The permanent parking shall be on the same side of Pioneer Way and within the same distance from Beach View building as the current parking.

Staff anticipates interference with the parking easement during shallow excavation authorized by GMP #3. This work is scheduled to begin the week of July 6, 2015. In order to maintain the current construction schedule, time is of the essence and staff is recommending authorization to sign both

agreements.

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. Relinquishment of Easements
2. Substitute Parking Agreement

After Recording Return to:

WEED, GRAAFSTRA AND BENSON INC PS
21 AVENUE A
SNOHOMISH, WA 98290

RELINQUISHMENT OF EASEMENTS

Grantor:	BEACH VIEW PLAZA, LLC OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK
Grantee:	CITY OF OAK HARBOR
Legal Description:	Ptn. Res. B, Elys and Lots 1 and 2, OH BLA No. BND 04-00004, Vol. 4 SP, Pg. 53-54 Add'l on P. 1-2
Tax Account No.:	S6565-00-00B13-1, S6565-00-00B05-2 and S6565-00-00B34-2
Reference No.	4103822, 4103820 and 280333

WHEREAS, the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, is the owner of the following-described parcels:

> That portion of Reserve B of Ely's Addition to Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington, and that portion of Government Lots 3 and 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:
>
> Commencing at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street, said West Pioneer Way being 60 feet in width and said 70th Southwest being 50 feet in width;
> Thence South 16°35'00" East along the West line of said 70th Southwest Street, a distance of 243.56 feet to the true point of beginning;
> Thence South 78°50'00" West 222.99 feet;
> Thence South 11°10'00" East 180.77 feet to the North line of that certain tract conveyed to the town of Oak Harbor by deed dated March 31, 1954, and recorded under Auditor's File No. 93801, records of Island County, Washington;
> Thence North 73°40'35" East along said North line 239.05 feet to

the Westerly boundary of 70th Southwest Street;
Thence North 16°35'00" West, along the Westerly boundary of 70th Southwest Street, 160.00 feet to the true point of beginning.

Situated in Island County, Washington.

Island County Tax Parcel S6565-00-00B13-1

hereinafter "the Reserve B Property"; and

Lot 2 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004, in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Island County Tax Parcel S6565-00-00B05-2

hereinafter "Lot 2";

and

WHEREAS, BEACH VIEW PLAZA, LLC, a Washington limited liability company, is the owner of the following-described property:

Lot 1 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004 in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Situated in Island County, Washington.

Island County Tax Parcel S6565-00-00B34-2

hereinafter the "Beach View Property."

and

WHEREAS, OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK is the mortgagee of the Beach View Property, pursuant to a Deed of Trust recorded at Island County Auditor's file no. 4360423; and

WHEREAS, by Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004, in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington (hereinafter "Boundary Line Adjustment No. BND 04-00004" or "BLA"), and by Reciprocal Easement Agreement dated June 14, 2004 and recorded June 16, 2004 under Auditor's File No. 4103822, records of Island County, Washington (hereinafter the "Reciprocal Easement Agreement") and by earlier instruments of record, the following easements were established:

1. A 30-foot-wide easement for ingress and egress as depicted on Boundary Line Adjustment BND 04-00004 over a portion of the Reserve B Property for the benefit of Lots 1 and 2 of the BLA;

2. A 20-foot-wide easement for ingress and egress as depicted on Boundary Line Adjustment BND 04-00004 over a portion of Lot 2 of the BLA for the benefit of Lot 1 of the BLA;

3. A parking easement in the Reserve B Property for the benefit of Lots 1 and 2 of Boundary Line Adjustment BND 04-00004.

and

WHEREAS, the CITY OF OAK HARBOR has provided BEACH VIEW PLAZA, LLC, with substitute parking that does not require use of the ingress and egress easements; NOW, THEREFORE,

IN CONSIDERATION OF the mutual benefits to the parties, the CITY OF OAK HARBOR and BEACH VIEW PLAZA, LLC hereby terminate and relinquish all right, title and interest to the above-described easements 1, 2 and 3, and said easements are hereby declared void and of no further force or effect.

BEACH VIEW PLAZA, LLC, also covenants to and with the CITY OF OAK HARBOR that BEACH VIEW PLAZA, LLC, is lawfully seized and possessed of the Benefited Estate and has a good and lawful right and power to terminate the above-described easement, that all encumbrancers of the Beach View Property have signed below approving this relinquishment of easement, and BEACH VIEW PLAZA, LLC

will forever warrant and defend the title to the servient estates and the quiet possession thereof against the lawful claims and demands of all persons whomsoever arising as a result of BEACH VIEW PLAZA, LLC's interest in the easement relinquished hereby.

DATED this _____ day of _____, 2015.

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

BEACH VIEW PLAZA, LLC,

By_____
MARILYN BEEM (print name)
MANAGER (title)

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that SCOTT DUDLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF OAK HARBOR to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2015.

_____
_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

Oregon 6/23/15

STATE OF ~~WASHINGTON~~)
)ss.
COUNTY OF ~~ISLAND~~ Deschutes 6/23/15)

I certify that I know or have satisfactory evidence that the Marilyn Beem is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath acknowledged that he/she was authorized to execute the instrument, and acknowledged it as the Manager of BEACH VIEW PLAZA, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 23rd day of June, 2015.

Maria V. Yozamp
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oregon
~~Washington~~, residing at Bend OR 6/23/15
My commission expires June 11, 2018

OFFICIAL STAMP
MARIA V YOZAMP
NOTARY PUBLIC-OREGON
COMMISSION NO. 929453
MY COMMISSION EXPIRES JUNE 11, 2018

APPROVED:

OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK, Mortgagee

By
Ryan L. Laisle (print name)
Its SVP (title)

STATE OF OKLAHOMA)
)ss.
COUNTY OF Oklahoma

I certify that I know or have satisfactory evidence that Ryan Laisle is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the SVP of OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 22nd day of June, 2015.

AMY JINKINS NOTARY # 09005370 EXP. 06/30/17 PUBLIC STATE OF OKLAHOMA

(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oklahoma, residing at Oklahoma
My commission expires 6/30/17

SUBSTITUTE PARKING AGREEMENT

THIS AGREEMENT is made by and between the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, hereinafter "City" and BEACH VIEW PLAZA, LLC, a Washington limited liability company, hereinafter "Beach View."

RECITALS:

A. City is the owner of the following-described properties:

> That portion of Reserve B of Ely's Addition to Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington, and that portion of Government Lots 3 and 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:
>
> Commencing at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street, said West Pioneer Way being 60 feet in width and said 70th Southwest being 50 feet in width;
> Thence South 16°35'00" East along the West line of said 70th Southwest Street, a distance of 243.56 feet to the true point of beginning;
> Thence South 78°50'00" West 222.99 feet;
> Thence South 11°10'00" East 180.77 feet to the North line of that certain tract conveyed to the town of Oak Harbor by deed dated March 31, 1954, and recorded under Auditor's File No. 93801, records of Island County, Washington;
> Thence North 73°40'35" East along said North line 239.05 feet to the Westerly boundary of 70th Southwest Street;
> Thence North 16°35'00" West, along the Westerly boundary of 70th Southwest Street, 160.00 feet to the true point of beginning.
>
> Situated in Island County, Washington.
>
> Island County tax parcel S6565-00-00B13-1

hereinafter the "Existing Parking Parcel"; and

> Lot 2 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004, in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Island County tax parcel S6565-00-00B05-2

hereinafter referred to as "City Lot 2."

B. Beach View is the owner of the following-described property:

Lot 1 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004 in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Situated in Island County, Washington.

Island County tax parcel S6565-00-00B34-2

hereinafter the "Beach View Property."

C. City's and Beach View's predecessors in interest entered into a Reciprocal Easement Agreement dated June 14, 2004 and recorded under Island County Auditor's file no. 4103822, hereinafter the "Easement Agreement," which runs with the land and binds and benefits successors.

D. Among other matters, the Easement Agreement establishes:

At paragraph 2.3(a)(i) a 20-foot-wide easement over City Lot 2 for pedestrian and vehicular access between the Beach View Property and the Existing Parking Parcel, benefiting the Beach View Property, and at paragraph 2.3(a)(ii) a 30-foot-wide easement over the Existing Parking Parcel for pedestrian and vehicular access benefiting the Beach View Property and City Lot 2. The easements at paragraph 2.3(a)(i) and (ii) of the Easement Agreement are collectively referred to herein as the "Access Easements."

At paragraph 2.3(b)(ii) a nonexclusive easement on the Existing Parking Parcel for parking of vehicles for the benefit of the Beach View Property, hereinafter referred to as the "Parking Easement." The Existing Parking Parcel provides approximately ninety (90) parking spaces. The Easement Agreement provides that parking on the Parking Easement shall be shared between the Beach View Property and City Lot 2 without allocating a specific number of spaces to either property.

E. The Beach View Property and City Lot 2 were established as lots pursuant to City of Oak Harbor Boundary Line Adjustment No. BND 04-0004, recorded under Island County Auditor's File No. 4103820 (hereinafter the "BLA"). The BLA created the Access

Easements. Prior access and utility easements had been established in the area of the Access Easements, but said easements were extinguished, removed and vacated by the BLA.

F. City will be constructing a wastewater treatment plant on the Existing Parking Parcel, necessitating the termination of the Access Easements and the Parking Easement.

G. City and Beach View desire to come to an equitable agreement to substitute new parking for the Parking Easement.

AGREEMENT:

For and in consideration of the covenants contained herein and the mutual benefits to the parties, the CITY OF OAK HARBOR and BEACH VIEW PROPERTIES, LLC hereby covenant and agree as follows:

1. Termination of Easements: For the purposes of this agreement "substitute parking" shall mean temporary and permanent substitute parking as further described herein. The Access Easements created at paragraphs 2.3(a)(i) and (ii) of the Easement Agreement, by the BLA and by prior recorded instruments, and the Parking Easement created at paragraph 2.3(b)(ii) of the Easement Agreement shall be terminated and be of no further force and effect upon the date when the City provides temporary substitute parking to Beach View. City shall provide Beach View with no less than five (5) business days' notice of the location of the substitute parking and the date the substitute parking will become available. On the date that temporary substitute parking becomes available, the Access Easements and Parking Easement shall terminate. Beach View shall be responsible for notifying the tenants at the Beach View Property of the change in parking.

2. Recording of Termination of Easement: Within two (2) business days after City gives notice that the temporary substitute parking will become available, Beach View shall provide City with a original relinquishment of the Access Easements and Parking Easement in the form attached hereto as **EXHIBIT A** fully executed by Beach View and its lender. City shall execute the relinquishment, and said relinquishment shall be effective and may be recorded in the records of the Island County Auditor on the date that the City provides substitute parking to Beach View.

3. Substitute Parking Requirements: The substitute parking shall be comparable to the parking on the Existing Parking Parcel, and shall be paved, located on the same side of Pioneer Way as the Beach View Property, at no greater distance than the approximate distance of the Beach View Property from the Existing Parking Parcel and shall make available to Beach View at least forty-five (45) parking spaces during hours when the businesses located within the building on the Beach View Property are open, and extending for one hour before and one hour after such open hours. City shall retain the right to authorize use of such parking by the public during times when such businesses are not open. Distance shall be measured between the closest points of the Beach View Property and the substitute parking parcel(s).

4. Temporary Substitute Parking: The initial substitute parking to be provided by the City to Beach View may be temporary. City may provide parking on the Redneck Properties, LLC property adjacent to the west boundary of the Beach View Property or at any other location that meets the substitute parking requirements stated above. City shall provide temporary substitute parking of 45 stalls for a period of up to six (6) years from the date this agreement is executed by all parties.

5. Permanent Substitute Parking: Not later than six (6) years from the date this agreement is executed by all parties, the City shall provide Beach View with permanent substitute parking for a mutually agreed upon number of stalls that meet the substitute parking requirements set forth in paragraph 3 above. At such time as permanent substitute parking is provided, City shall execute and record a permanent parking easement in favor of Beach View in substantially the form attached hereto as **EXHIBIT B**. In the event the parties are unable to agree upon the number of permanent parking stalls to be provided, the parties shall submit the matter to the dispute resolution provisions of paragraph 8 below.

6. Risk of Loss: All personal property of Beach View or its tenants kept or maintained at the substitute parking area shall be at the risk of the owner of such property. Beach View further agrees not to hold City liable in any manner or on account of any loss or damage sustained by action of any third party, fire, water, theft or elements.

7. Indemnification:

(a) City shall, at its own expense, protect, hold harmless, indemnify, and defend Beach View, its officers, employees and agents, from any loss or claim for damages of any nature whatsoever, including claims by third parties, or by City's employees from which it would otherwise be immune under TITLE 51 RCW or other law, arising out of any act or omission on or about the substitute parking areas or relating to this agreement by City, its appointed or elected officials, officers, employees or agents. If a loss or claim is caused by or results from the concurrent negligence of City, its appointed or elected officials, officers, employees or agents, and Beach View, its officers, employees or agents, this clause shall be valid and enforceable only to the extent of the negligence of the City, its appointed or elected officials, officers, employees or agents.

(b) Beach View shall, at its own expense, protect, hold harmless, indemnify, and defend the City, its appointed and elected officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, including claims by third parties, or by Beach View's employees from which it would otherwise be immune under TITLE 51 RCW or other law, arising out of any act or omission on or about the substitute parking areas or relating to this agreement by Beach View, its officers, employees, or agents. If a loss or claim is caused by or results from the concurrent negligence of Beach View, its officers, employees, or agents, and City, its appointed or elected officials, officers, employees, or agents, this clause shall be valid and enforceable only to the extent of the negligence of Beach view, its officers, employees, or agents.

The parties acknowledge that the foregoing indemnity provisions were mutually negotiated and survive the termination of this Substitute Parking Agreement.

8. Dispute Resolution: In the event of a dispute between the parties with regard to this agreement, the parties shall select a single mediator at JAMS in Seattle and participate in mediation to resolve the dispute. If the parties cannot agree on a mediator, each party shall propose one mediator, and selection shall be by a coin flip. The parties shall each pay one half of the mediator's fee and each party shall bear its own costs of mediation. In the event the parties remain unable to resolve the dispute through mediation, the mediator shall resolve the dispute as arbitrator. The decision of the arbitrator shall be final and binding. The arbitrator may assess the costs of arbitration and award legal costs and reasonable attorneys' fees to the substantially prevailing party.

9. Attorney Fees: In the event of litigation between the parties hereto, the substantially prevailing party shall be entitled to collect, in addition to any judgment awarded by a court, a reasonable sum as attorneys' fees, and all costs and expenses incurred in connection with such a lawsuit, including attorneys' fees, costs, and expenses of any appeal of a judgment, and if the substantially prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment. This agreement shall be governed by the laws of the State of Washington. The venue for any litigation related to this agreement shall be Island County, Washington.

10. Easement Agreement Provisions Incorporated: The following provisions of the Easement Agreement are incorporated herein by this reference and shall apply to the temporary and permanent substitute parking, provided that "REA" as used therein shall refer to this Substitute Parking Agreement:

(a) Article 4. Transfer or Conveyance of Parcels;
(b) Article 6. Condemnation;
(c) Article 7. Excuses for Nonperformance;
(d) Article 8. Rights upon Default;
(e) Article 9. Notices, except as provided in Section 11 below;
(f) Article 10. Expiration;
(g) Article 11. Miscellaneous, provided the recording requirement of 11.1 Amendment is deleted.

11. Notices – To Whom Addressed: Any notice under this agreement shall be addressed to Beach View at:

Beach View Properties, LLC
ATTN: MARILYN BEEM
60351 ARNOLD MARKET RD
BEND, OR 97702

and to City at:

City of Oak Harbor
ATTN: City Administrator
865 S.E. Barrington Drive
Oak Harbor, WA 98277

12. Survival of Other Provisions of Reciprocal Easement Agreement: All other easements, terms and conditions of the Reciprocal Easement Agreement not specifically amended or terminated herein shall remain in full force and effect, unamended by this Substitute Parking Agreement. In the event of any conflict between language contained in this agreement and the Reciprocal Easement Agreement, this agreement shall be deemed to prevail. Unless specifically modified herein, the parties retain all rights and responsibilities as stated in the Reciprocal Easement Agreement.

13. Entire Agreement: This Substitute Parking Agreement contains all of the agreements between the parties with respect to any matter covered or mentioned herein, and no prior agreement, letter of intent, or understanding relating to any such matter will be effective for any purpose.

14. Authority to Execute: Individuals signing on behalf of a principal warrant that they have the authority to bind their principals.

DATED JUNE 23, 2015:

BEACH VIEW PLAZA, LLC

By Marilyn Beem
MARILYN BEEM (Print Name)
MANAGER (Title)

DATED _____, 2015:

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

STATE OF ~~WASHINGTON~~ OREGON)
)ss.
COUNTY OF ~~ISLAND~~ DESCHUTES)

I certify that I know or have satisfactory evidence that the Marilyn Beem is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath acknowledged that he/she was authorized to execute the instrument, and acknowledged it as the Manager of BEACH VIEW PLAZA, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 23rd day of June, 2015.

OFFICIAL STAMP
MARIA V YOZAMP
NOTARY PUBLIC-OREGON
COMMISSION NO. 929453
MY COMMISSION EXPIRES JUNE 11, 2018

Maria V. Yozamp
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oregon
Washington, residing at Bend OR
My commission expires June 11, 2018

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that SCOTT DUDLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF OAK HARBOR to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2015.

_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

APPROVED:

OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK, Mortgagee

By_____

Rory R. Laisle (print name)

Its SVP (title)

STATE OF OKLAHOMA)
)ss.
COUNTY OF Oklahoma

I certify that I know or have satisfactory evidence that Rory Laisle is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the SVP of OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 22nd day of June, 2015.

AMY JINKINS NOTARY # 09005379 EXP. 06/30/17 PUBLIC STATE OF OKLAHOMA

_____

(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oklahoma, residing at Oklahoma
My commission expires 6/30/17

EXHIBIT A

RELINQUISHMENT OF EASEMENTS

After Recording Return to:

WEED, GRAAFSTRA AND BENSON INC PS
21 AVENUE A
SNOHOMISH, WA 98290

RELINQUISHMENT OF EASEMENTS

Grantor:	BEACH VIEW PLAZA, LLC OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK
Grantee:	CITY OF OAK HARBOR
Legal Description:	Ptn. Res. B, Elys and Lots 1 and 2, OH BLA No. BND 04-00004, Vol. 4 SP, Pg. 53-54 Add'l on P. 1-2
Tax Account No.:	S6565-00-00B13-1, S6565-00-00B05-2 and S6565-00-00B34-2
Reference No.	4103822, 4103820 and 280333

WHEREAS, the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, is the owner of the following-described parcels:

> That portion of Reserve B of Ely's Addition to Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington, and that portion of Government Lots 3 and 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:
>
> Commencing at the intersection of the South line of West Pioneer Way and the West line of 70th Southwest Street, said West Pioneer Way being 60 feet in width and said 70th Southwest being 50 feet in width;
> Thence South 16°35'00" East along the West line of said 70th Southwest Street, a distance of 243.56 feet to the true point of beginning;
> Thence South 78°50'00" West 222.99 feet;
> Thence South 11°10'00" East 180.77 feet to the North line of that certain tract conveyed to the town of Oak Harbor by deed dated March 31, 1954, and recorded under Auditor's File No. 93801, records of Island County, Washington;
> Thence North 73°40'35" East along said North line 239.05 feet to

the Westerly boundary of 70th Southwest Street;
Thence North 16°35'00" West, along the Westerly boundary of 70th Southwest Street, 160.00 feet to the true point of beginning.

Situated in Island County, Washington.

Island County Tax Parcel S6565-00-00B13-1

hereinafter "the Reserve B Property"; and

Lot 2 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004, in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Island County Tax Parcel S6565-00-00B05-2

hereinafter "Lot 2";

and

WHEREAS, BEACH VIEW PLAZA, LLC, a Washington limited liability company, is the owner of the following-described property:

Lot 1 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004 in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Situated in Island County, Washington.

Island County Tax Parcel S6565-00-00B34-2

hereinafter the "Beach View Property."

and

WHEREAS, OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK is the mortgagee of the Beach View Property, pursuant to a Deed of Trust recorded at Island County Auditor's file no. 4360423; and

WHEREAS, by Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004, in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington (hereinafter "Boundary Line Adjustment No. BND 04-00004" or "BLA"), and by Reciprocal Easement Agreement dated June 14, 2004 and recorded June 16, 2004 under Auditor's File No. 4103822, records of Island County, Washington (hereinafter the "Reciprocal Easement Agreement") and by earlier instruments of record, the following easements were established:

1. A 30-foot-wide easement for ingress and egress as depicted on Boundary Line Adjustment BND 04-00004 over a portion of the Reserve B Property for the benefit of Lots 1 and 2 of the BLA;

2. A 20-foot-wide easement for ingress and egress as depicted on Boundary Line Adjustment BND 04-00004 over a portion of Lot 2 of the BLA for the benefit of Lot 1 of the BLA;

3. A parking easement in the Reserve B Property for the benefit of Lots 1 and 2 of Boundary Line Adjustment BND 04-00004.

and

WHEREAS, the CITY OF OAK HARBOR has provided BEACH VIEW PLAZA, LLC, with substitute parking that does not require use of the ingress and egress easements; NOW, THEREFORE,

IN CONSIDERATION OF the mutual benefits to the parties, the CITY OF OAK HARBOR and BEACH VIEW PLAZA, LLC hereby terminate and relinquish all right, title and interest to the above-described easements 1, 2 and 3, and said easements are hereby declared void and of no further force or effect.

BEACH VIEW PLAZA, LLC, also covenants to and with the CITY OF OAK HARBOR that BEACH VIEW PLAZA, LLC, is lawfully seized and possessed of the Benefited Estate and has a good and lawful right and power to terminate the above-described easement, that all encumbrancers of the Beach View Property have signed below approving this relinquishment of easement, and BEACH VIEW PLAZA, LLC

will forever warrant and defend the title to the servient estates and the quiet possession thereof against the lawful claims and demands of all persons whomsoever arising as a result of BEACH VIEW PLAZA, LLC's interest in the easement relinquished hereby.

DATED this _____ day of _____, 2015.

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

BEACH VIEW PLAZA, LLC,

By Marilyn Beem
MARILYN BEEM (print name)
MANAGER (title)

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that SCOTT DUDLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF OAK HARBOR to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2015.

_____
_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

OREGON MM 6-23-15

STATE OF ~~WASHINGTON~~)
DESCHUTES)ss.
COUNTY OF ~~ISLAND~~)
MM 6-23-15

I certify that I know or have satisfactory evidence that the Marilyn Beem is the person who appeared before me, and said person acknowledged that ~~he~~/she signed this instrument, on oath acknowledged that ~~he~~/she was authorized to execute the instrument, and acknowledged it as the Manager of BEACH VIEW PLAZA, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 23rd day of June, 2015.

Maria V. Yozamp
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oregon
~~Washington~~, residing at Bend, OR
My commission expires June 11, 2018

MMJ 6/23/15

OFFICIAL STAMP
MARIA V YOZAMP
NOTARY PUBLIC-OREGON
COMMISSION NO. 929453
MY COMMISSION EXPIRES JUNE 11, 2018

APPROVED:

OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK, Mortgagee

By_____
_____ (print name)
Its_____ (title)

STATE OF OKLAHOMA)
)ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that _____ signed this instrument, on oath stated that _____ was authorized to execute the instrument and acknowledged it as the _____ of OKLAHOMA FIDELITY BANK, A DIVISION OF FIDELITY BANK to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2015.

_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oklahoma, residing at _____
My commission expires _____

EXHIBIT B

PERMANENT SUBSTITUTE EASEMENT

After Recording Return to:

WEED, GRAAFSTRA AND BENSON INC PS
21 AVENUE A
SNOHOMISH, WA 98290

PARKING EASEMENT

Grantor:	CITY OF OAK HARBOR
Grantee:	BEACH VIEW PLAZA, LLC
Legal Description:	_____
	Lot 1, BND 04-00004, Vol. 4 SP, Pg. 53-54 Add'l on P. _____
Tax Account No.:	_____ and S6565-00-00B34-2

WHEREAS, the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, is the owner of the following-described property:

See **EXHIBIT 1** attached hereto
and incorporated by this reference

and

WHEREAS, pursuant to an agreement between the parties to substitute parking, BEACH VIEW PLAZA, LLC relinquished an easement for parking on Island County Tax Parcel S6565-00-00B13-1 by Relinquishment of Easement recorded at Island County Auditor's File No. _____; NOW, THEREFORE,

In fulfillment of that certain Substitute Parking Agreement between the parties dated _____, 2015, the CITY OF OAK HARBOR ("Grantor") hereby grants and conveys unto BEACH VIEW PLAZA, LLC, its successors and assigns ("Grantee"), a perpetual, nonexclusive easement for parking upon the following-described property of said Grantor, together with ingress and egress for parking purposes:

See **EXHIBIT 2** attached hereto
and incorporated herein by this reference

hereinafter the "Substitute Parking Area."

Said easement is appurtenant to the following-described property of the Grantee, and shall be construed as a covenant running with and for the perpetual benefit of said property:

Lot 1 of City of Oak Harbor Boundary Line Adjustment No. BND 04-00004 as approved June 17, 2004, and recorded June 17, 2004 in Volume 4 of Short Plats, pages 53 and 54, under Auditor's File No. 4103820, records of Island County, Washington; being a portion of Government Lot 5, Section 2, Township 32 North, Range 1 East of the Willamette Meridian and Reserve B of Ely's Addition to the Town of Oak Harbor, according to the plat thereof recorded in Volume 2 of Plats, page 27, records of Island County, Washington.

Situated in Island County, Washington.

Island County tax parcel S6565-00-00B34-2

This Parking Easement is subject to the following terms and conditions:

1. Risk of Loss: All personal property of Grantee or its tenants kept or maintained at the Substitute Parking Area shall be at the risk of the owner of such property. Grantee further agrees not to hold Grantor liable in any manner or on account of any loss or damage sustained by action of any third party, fire, water, theft or elements.

2. Indemnification:

(a) Grantor shall, at its own expense, protect, hold harmless, indemnify, and defend Grantee, its officers, employees and agents, from any loss or claim for damages of any nature whatsoever, including claims by third parties, or by Grantor's employees from which it would otherwise be immune under TITLE 51 RCW or other law, arising out of any act or omission on or about the Substitute Parking Area or relating to this agreement by Grantor, its appointed or elected officials, officers, employees or agents. If a loss or claim is caused by or results from the concurrent negligence of Grantor, its appointed or elected officials, officers, employees or agents, and Grantee, its officers, employees or agents, this clause shall be valid and enforceable only to the extent of the negligence of the Grantor, its appointed or elected officials, officers, employees or agents.

(b) Grantee shall, at its own expense, protect, hold harmless, indemnify, and defend the Grantor, its appointed and elected officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, including claims by third parties, or by Grantee's employees from which it would otherwise be

immune under TITLE 51 RCW or other law, arising out of any act or omission on or about the Substitute Parking Area or relating to this agreement by Grantee, its officers, employees, or agents. If a loss or claim is caused by or results from the concurrent negligence of Grantee, its officers, employees, or agents, and Grantor, its appointed or elected officials, officers, employees, or agents, this clause shall be valid and enforceable only to the extent of the negligence of Grantee, its officers, employees, or agents.

The parties acknowledge that the foregoing indemnity provisions were mutually negotiated and survive the termination of this Parking Easement.

3. Dispute Resolution: In the event of a dispute between the parties with regard to this Parking Easement, the parties shall select a single mediator at JAMS in Seattle and participate in mediation to resolve the dispute. If the parties cannot agree on a mediator, each party shall propose one mediator, and selection shall be by a coin flip. The parties shall each pay one half of the mediator's fee and each party shall bear its own costs of mediation. In the event the parties remain unable to resolve the dispute through mediation, the mediator shall resolve the dispute as arbitrator. The decision of the arbitrator shall be final and binding. The arbitrator may assess the costs of arbitration and award legal costs and reasonable attorneys' fees to the substantially prevailing party.

4. Attorney Fees: In the event of litigation between the parties hereto, the substantially prevailing party shall be entitled to collect, in addition to any judgment awarded by a court, a reasonable sum as attorneys' fees, and all costs and expenses incurred in connection with such a lawsuit, including attorneys' fees, costs, and expenses of any appeal of a judgment, and if the substantially prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment. This agreement shall be governed by the laws of the State of Washington. The venue for any litigation related to this agreement shall be Island County, Washington.

5. Reciprocal Easement Agreement Provisions Incorporated: The following provisions of that certain Reciprocal Easement Agreement recorded at Island County Auditor's file no. 4103822 are incorporated herein by this reference and shall apply to the Substitute Parking Area, provided that "REA" as used therein shall refer to this Parking Easement:

(a) Article 4. Transfer or Conveyance of Parcels;
(b) Article 6. Condemnation;
(c) Article 7. Excuses for Nonperformance;
(d) Article 8. Rights upon Default;
(e) Article 9. Notices, except as provided in Section 6 below;

(f) Article 11. Miscellaneous.

6. Notices – To Whom Addressed: Any notice under this agreement shall be addressed to Grantee at:

JMB 6-23-15

BEACH VIEW PLAZA
~~Grantee Properties~~, LLC
ATTN: MARILYN BEEM
60351 ARNOLD MARKET RD
BEND, OR 97702

and to Grantor at:

Grantor of Oak Harbor
ATTN: Grantor Administrator
865 S.E. Barrington Drive
Oak Harbor, WA 98277

7. Authority to Execute: Individuals signing on behalf of a principal warrant that they have the authority to bind their principals.

DATED this _____ day of _____, 2015.

CITY OF OAK HARBOR

By_____
SCOTT DUDLEY, Mayor

Accepted and Approved:

BEACH VIEW PLAZA, LLC,

By Marilyn Beem
MARILYN BEEM (print name)
MANAGER (title)

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that SCOTT DUDLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF OAK HARBOR to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2015.

_____
_____
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STATE OF ~~WASHINGTON~~ Oregon)
)ss.
COUNTY OF ~~ISLAND~~ Deschutes)

I certify that I know or have satisfactory evidence that the Marilyn Beem is the person who appeared before me, and said person acknowledged that ~~he~~/she signed this instrument, on oath acknowledged that ~~he~~/she was authorized to execute the instrument, and acknowledged it as the Manager of BEACH VIEW PLAZA, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 23rd day of June, 2015.

OFFICIAL STAMP
MARIA V YOZAMP
NOTARY PUBLIC-OREGON
COMMISSION NO. 929453
MY COMMISSION EXPIRES JUNE 11, 2018

Maria V. Yozamp
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of Oregon
~~Washington~~, residing at Bend OR
My commission expires June 11, 2018