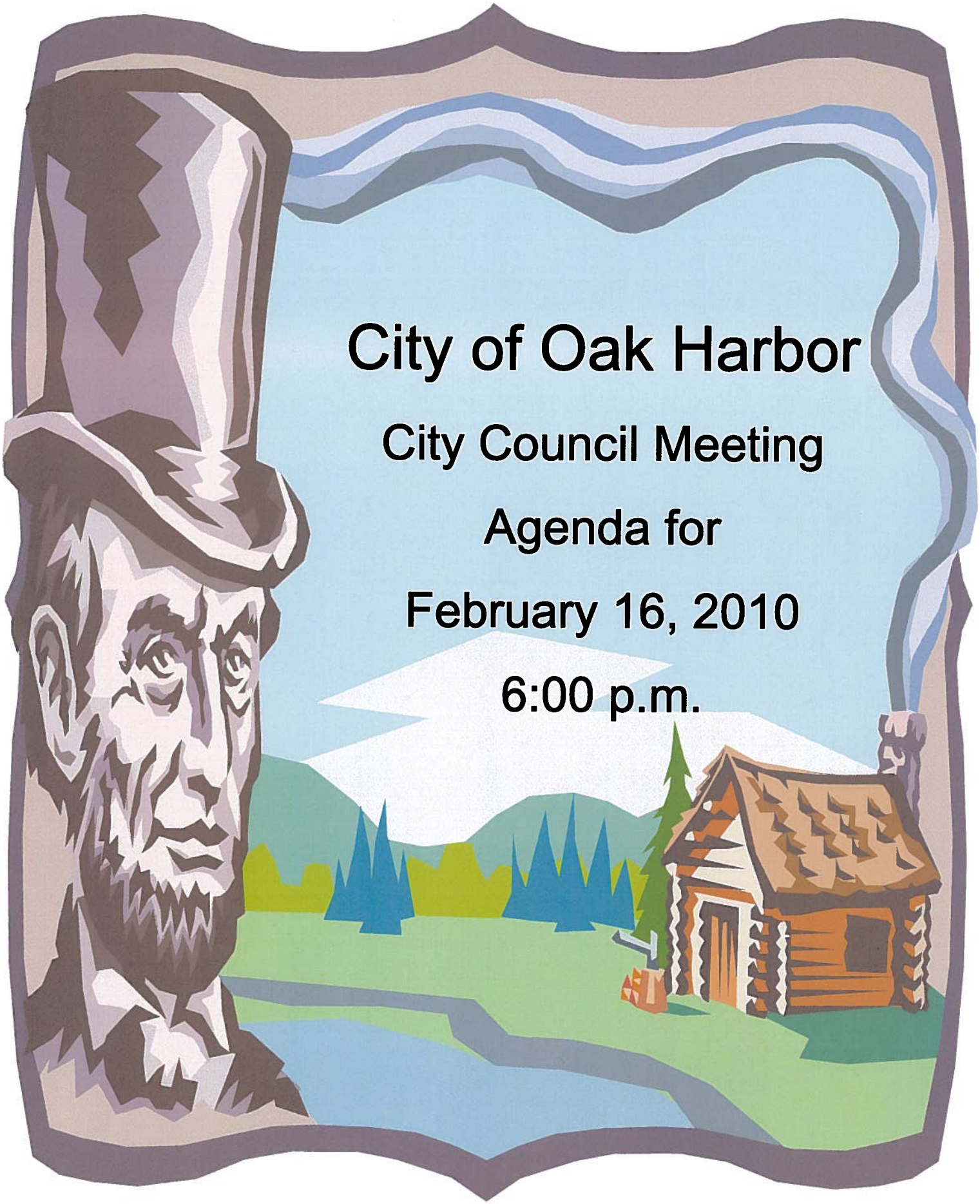

# City of Oak Harbor

## City Council Meeting

## Agenda for

## February 16, 2010

## 6:00 p.m.

# Oak Harbor City Council
## Tuesday, February 16, 2010, 6:00 p.m.

***Welcome to the Oak Harbor City Council Meeting***

*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, please sign your name to the sign up sheet, located in the Council Chambers if you wish to speak. The Council will take all information under advisement, but generally will not take any action during the meeting. 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!***

**CALL TO ORDER**

**INVOCATION** Ben Norris, Church of the Nazarene

**ROLL CALL**

**MINUTES**

**NON-ACTION COUNCIL ITEMS:**

1. Introduction of New Employees.
2. Employee Recognition – Rich Rogers, 35 years.
3. Public Comments.
4. Comments from Island County Commissioner Angie Homola – Follow up to Council's questions from Ms. Homola's 1/21/2010 presentation on Island County Government and Finances.

**COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:**

5. Consent Agenda:

**Page 21**

a. Excused Absences for Mayor and Council – NLC Conference. No quorum on 3/16/10, schedule a meeting on 3/23/10.

**Page 23**

b. Excused Absence – Councilmember Campbell from the March 23, 2010 Council meeting.

**Page 24**

c. Council Memberships – Committees and Boards.

d. Approval of Accounts Payable Vouchers (Pay Bills).

**Page 26**

6. Sub-Division Code Amendments – Continue the Public Hearing to March 2, 2010.

**Page 27**

7. Public Hearing – Ordinance, Stormwater Management, Oak Harbor Municipal Code 12.30.

**Page 69**

8. Introduction – Speed Limit Ordinance.

**Page 75**

9. Interlocal Agreement – Agreement with Island County for Roadway Maintenance

**Page 81**

10. Contract Amendment with Moffett and Nichol – 42" Outfall.

**Page 126**

11. Contract Award – North Oak Harbor Street.

**Page 134**

12. Municipal Court – 4-year Interlocal Agreement.

**Page 144**

13. Agreement – Oak Harbor Police Association.

14. City Administrator's Comments.
15. Councilmembers' Comments.
    - Standing Committee Reports.
16. Mayor's Comments.

**ADJOURN**

*"Remember, today is the tomorrow you worried about yesterday."*
-- Dale Carnegie

*If you have a disability and are in need of assistance, please contact the City Clerk at (360) 279-4539 at least two days before the meeting.*

**Regular City Council Meeting**
**Tuesday, February 2, 2010, 6:00 p.m.**
**City Hall – Council Chambers**

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**CALL TO ORDER** Mayor Slowik called the meeting to order at 6:00 p.m.

**INVOCATION** Grafton Robinson, Southern Baptist Church

**ROLL CALL**

Jim Slowik, Mayor
Seven Members of the Council,
- Rick Almberg
- James M. Campbell
- Scott Dudley
- Jim Palmer
- Beth Munns
- Danny Paggao, Mayor Pro Tem
- Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Bill Hawkins, Prosecuting Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Ethan Spoo, Senior Planner
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

**MINUTES**

Councilmember Dudley asked that the 1/19/2010 minutes be corrected (on page 20 of this evening's agenda packet). Mr. Dudley's verbatim request: I asked if the Mayor instructed Perteet to take a harder look at the two-way design to come up with a better two-way design for more parking and the Mayor responded that this would only occur if the decision was rescinded. I asked again and he responded affirmatively. So I just want the record show that Perteet was instructed to come up with a better design for two-way with increased parking.

Verbatim correction to the 1/19/10 minutes:

> **Mayor Slowik:**
> We have a one-way decision. If there is no change in the one-way decision, then there is no need for Perteet to look at two-way.
> **Councilmember Dudley:**
> My understanding was that the Mayor did instruct Perteet to take a harder look at the two-way plan and come up with a better two-way plan with improved parking. Is that true?
> **Mayor Slowik:** That is true. It would only be brought (forward) if you rescinded the decision.

**MOTION:** **Councilmember Dudley moved to approve the minutes of the 1/19/10 regular meeting as corrected and the 1/21/10 special meeting. The motion was seconded by Councilmember Palmer and carried unanimously.**

## NON-ACTION COUNCIL ITEMS

### Public Comments

**Mel Vance, P.O. Box 2882.** Mr. Vance spoke about the budget process and how to find efficient methods for budget savings. Mr. Vance recommended an employee program which would reward employees for effective cost savings suggestions either as a percentage of the first year's savings or a set cash value.

With no other comments coming forth, Mayor Slowik closed public comments at 6:05 p.m.

## COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

### Consent Agenda

A. Agreement – Facilitator for City Council Retreat on February 27, 2010.
B. Excused Absence – Councilmember Dudley's absence from the March 16, 2010 Council Meeting.
C. Excused Absence – Councilmember Campbell's absence from the April 6, 2010 Council Meeting.
D. Introduction – Ordinances, Stormwater Management, OHMC 12.30.
E. Approval of Accounts Payable Vouchers (Pay Bills)

Councilmember Campbell asked that Item D be removed for discussion.
Councilmember Palmer asked that Item A be removed for discussion.

**A. Agreement – Facilitator for City Council Retreat on February 27, 2010**
Councilmember Palmer asked about the retreat's location at the Oak Harbor Yacht Club this year and if the City was paying for this venue. Mr. Schmidt responded that the City's Public Works Department is unavailable for Council's retreat due to the Engineering remodel and the City is paying $200 for use of the yacht club.

**D. Introduction – Ordinances, Stormwater Management, OHMC 12.30**
Councilmember Campbell asked about setting a public hearing for a future meeting date without discussion. This introduction can remain on the consent agenda.

**<u>MOTION</u>:** **Councilmember Campbell moved to approve the entire consent agenda as presented with Item E paying accounts payable check numbers 130188 – 140192 in the amount of $41,508.02, accounts payable check numbers 140193 – 140332 in the amount of $808,133.14, and payroll check numbers 93522 – 93583 in the amount of $953,197.65. The motion was seconded by Councilmember Palmer and carried unanimously.**

**Public Hearing – Wallen Appeal**
City Attorney Hite talked about the quasi-judicial process noting that she had provided advice and representation to the City's Administration in the described hearing (Hearing Examiner, November 6, 2009) so Mr. Hawkins would act as Council's advisor for this evening's hearing.

Councilmember Severns asked to be disqualified from the appeal presentation. Councilmember Palmer stated that he is a landlord but not involved with this case and would remain for the appeal.

City Prosecuting Attorney Bill Hawkins explained the appearance of fairness and quasi-judicial procedure and began with ex parte communications.

As stated in RCW 42.36.060:
During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

- Places on the record the substance of any written or oral ex parte communication concerning the decision of the action; and
- Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

Mr. Hawkins then asked each Council Member to state, for the record, what ex parte contacts they have had, whether written or oral, concerning the matter to be decided. Councilmember Dudley had visited the Utilities Department and had asked what is signed when a utility account is opened. Mr. Merriman had been there and talked generically about utilities. Councilmember Almberg had been present in standing committee discussion and had asked the Mayor why this issue was coming before Council; otherwise no ex parte contacts. Mayor Pro Tem Paggao, Councilmember Campbell, and Councilmember Munns had also been present when this issue was discussed in standing committee.

Mr. Hawkins noted that there had been some ex parte communications and called for audience response. No audience members came forward; no disqualifications. None of the Council Members felt that they should disqualify themselves.

Mr. Hawkins continued to these appearance of fairness questions which were individually asked of each Council Member:

| | Mr. Almberg | Mr. Campbell | Mr. Dudley | Ms. Munns | Mr. Paggao | Mr. Palmer |
|---|---|---|---|---|---|---|
| 1. Do you have knowledge of having conducted business with either the proponents or opponents of this project? | No | No | No | No | No | No |
| 2. Do you have either a pecuniary or a non-pecuniary interest in the outcome of this proceeding? | No | No | No | No | No | No |
| 3. Do you know whether or not your employer has a financial interest in the land or area which will be impacted by the decision in this proceeding? | No | No | No, but Mr. Dudley manages an investment office close to this area. | No | No | No |
| 4. Do you live or own property within 300 feet of the area which will be impacted by the decision in this proceeding? | No | No | No | No | No | No |
| 5. Do you have any special knowledge about the substance of the merits of this proceeding which would or could cause you to prejudge the outcome of this proceeding? | No | No | No | No | No | No |
| 6. Do you believe that you cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding? | No | No | No | No | No | No |
| 7. Is there any member of the audience who because of the "Appearance of Fairness" doctrine wishes to disqualify any member of the Council from hearing this matter? If so, please state the reason or reasons why you believe this Council Member should be disqualified. | | | | | | |
| No audience members came forward. | | | | | | |

Finance Director Doug Merriman presented the history of this appeal. On June 19, 2009, Mr. Merriman made a code interpretation decision in favor of the owner of an apartment building, Mr. Darrell Wallen, finding he had been overcharged on the water and sewer utility bill for his apartment building. This decision refunded payments to Mr. Wallen which he had made over a two-year period for a laundry room. Mr. Wallen was

dissatisfied with this decision and appealed to the City Administrator who authorized a refund of over-payments for an additional year based on the three-year statute of limitations in state law. Mr. Wallen appealed that decision as well. A hearing was held before Oak Harbor Hearing Examiner Michael Bobbink on November 6, 2009. After hearing testimony and argument from both the City and Mr. Wallen, Mr. Bobbink rendered a written decision on December 19, 2009 upholding the decision of the City Administrator. Pursuant to Oak Harbor Municipal Code, the decision of the Hearing Examiner is reviewed by the City Council which makes the ultimate decision.
Mr. Wallen's appeal raises three issues:

1. Does the term units "available for occupancy" in Ch. 13.32 OHMC mean "when the property owner determines that the units are available?"
2. What is the statute of limitations for claims of over-billing for City utility charges?
3. Is a utility customer entitled under the City Code to interest of 8% per annum on amounts over-billed?

Mr. Merriman also gave a PowerPoint presentation on the history of this account.

Council Discussion

Discussion followed regarding the "available for occupancy" term and the laundry room, how the laundry room and apartments are metered, statute of limitations and state law (three years) which is what the refund ultimately reflected, when the laundry room was built (it was built when the apartment building was constructed), and that the City must act within the scope of the law.

Mayor Slowik swore in Mr. Merriman and Mr. Wallen asking them to tell the truth in public testimony in this case. Mr. Merriman talked about ready-to-serve and consumption charges for a water bill, if a building official is involved in determining what is occupiable, and OHMC language for two years' worth of refund. Discussion continued about the statute of limitations and gifting of public funds, that the City must comply with the statute of limitations, and even wanting to refund back further than three years is not possible because of the statute of limitations. The gifting issue is not about how the City received the money but rather the impact of stepping outside the rules – the statute of limitations. The legislature decides what the statute of limitations should be and the City's role is to refund within the applicable statute of limitations which, for this appeal, is three years. Discussion followed about written contracts which would then refer to a six-year statute of limitations. The Hearing Examiner, Ms. Hite, and Mr. Hawkins at this meeting concurred that the City was legally responsible for paying up to that three-year limit but not beyond; the City is not free to disregard this statute. There was also some responsibility for the property owner to be mindful of utility charges. The City acted properly and promptly refunded the money when the error was recognized.

Council discussion continued about the appropriateness of only responding to three years of billing, the definition of a written contract and a six year statute of limitations, use of the 8 percent interest rate, whether the City acted in bad faith, and gifting of public funds. It was noted that signing up for utilities does not constitute a written contract – it is typically considered an oral agreement and falls within the three-year

statute of limitations, that statutes of limitations vary, and what is applicable in another state does not apply to Washington.

Mr. Wallen presented a utility bill to Mr. Hawkins and asked him how many units were detailed on the bill. Mr. Hawkins passed the bill to Mr Schmidt and Ms. Hite objected noting that Mr. Wallen was present for his testimony. Mr. Wallen spoke about being diligent concerning his billing. The amount of units being billed was not detailed until 2007 and he discovered the error in 2008. The laundry room has always been on-premises and was not added at a later date. Mr. Wallen also noted that his billing was handled by a management company. Mr. Wallen talked about his metering on the street which includes the laundry room and that he had installed a meter for each unit to monitor his tenants' water use.

Council continued to discuss how an increase would be noticed on a multi-unit utility bill, the City's communication with Mr. Wallen, and whether the overages would still belong to Mr. Wallen.

Mr. Hawkins noted that that the utility bill presented by Mr. Wallen would be made a part of the record as Exhibit A. The utility bill does not constitute a written contract. Mr. Hawkins noted that Councilmember Dudley is not alone in trying to better resolve this issue and use of a six-year statute of limitations, but the City does not have a basis for a written contract with this issue. The Hearing Examiner and City's legal counsel found the three years to be correct. City Council could remand back to the Hearing Examiner. Ms. Hite added that, whatever Council chooses to do, Council would have to make a decision concerning the Code, but a different interpretation would become law for future cases as well. Interpretation does not run to this case alone. OHMC 3.95.160 addresses 8 percent for underbilling, not overbilling. The Hearing Examiner's decision was made in the interest of fairness, the City paid Mr. Wallen, and the interest provision did not arise. Mr. Wallen did not offer an interpretation during the appeal before the Hearing Examiner, and did not file an exception to the Hearing Examiner's decision. Council discussion continued to how the State Auditors would respond if Council responded differently (Council would need to follow proper procedures) and any consequences for the City if Council did not adopt the Hearing Examiner's decision. Discussion followed that the appellant did not challenge the unpaid $1,178 because of the legal expenses to do so. Mr. Merriman noted that, when you part with laws or code, the Finance Director becomes liable and it would result in an audit finding which could affect the City's bonding rate. The City exceeded its own code (two years), and went to the state statute for the three year determination. Discussion continued that the City made the mistake and Mr. Wallen is entitled to the $1,178. Mr. Hawkins noted that such an argument – the notion that this money is not now the City's money – would negate the statute of limitations and is not the law. Mr. Hawkins was also concerned about potential audit findings. Final Council remarks (Councilmember Munns) noted that the City's heart is in the right place, but Council Members are not attorneys and two attorneys and a judge could not legally find a way to refund this money.

**MOTION:** **Councilmember Munns moved to adopt the Hearing Examiner's decision in its entirety. The motion was seconded by Councilmember Almberg.**

Council Discussion before Voting on the Motion
Councilmember Dudley stated that there is a reason why this has come before Council and it is up to Council to make a wise decision. Council could choose to refund the $1,178, could justify this in an audit situation due to the City's erroneous overbilling to Mr. Wallen, and should apologize to Mr. Wallen.
Councilmember Palmer, speaking as a landlord, could see how this could be missed by Mr. Wallen, but did not see how Council could overrule this decision.
Councilmember Campbell felt that this appeal strongly shows that the City's ordinance needs to be changed to cover the City's operations.
Mayor Pro Tem Paggao agreed with Councilmember Dudley that $1,178 refund would be fair and not a gifting of money, but the City's hands are tied due to the statute of limitations and definition of a written contract.
Councilmember Almberg thought it is politically expedient to hand it over, but it is not a reality, and the City has to move on.

Councilmember Campbell called for the question.

**VOTE ON THE MOTION:**
**Councilmembers Almberg, Campbell, Munns, Paggao, Palmer voted in favor of the motion. Councilmember Severns had not participated in this discussion. Councilmember Dudley opposed the motion. The motion carried.**

**Break**
Mayor Slowik called for a five minute break and the meeting reconvened at 7:45 p.m.

**Public Hearing – Sub-Division Code Amendments**
Development Services Director Steve Powers introduced this agenda bill presenting amendments to Oak Harbor Municipal Code's Chapter 19.31 (Planned Residential Development) and Title 21 (Subdivisions) and thanked the City's other departments and the Planning Commission for their countless hours on this project. Mr. Powers also noted the small revision on page 306 of the agenda packet addressing OHMC 21.60.260 (4) regarding stormwater pond landscaping. Senior Planner Ethan Spoo, who has managed this project for the City, led the presentation and presented a PowerPoint program in addition to the agenda bill. At the heart of the draft code are eleven basic "concepts." If adopted, these new code concepts will affect how the City's planned residential developments and subdivisions look and function, with an emphasis on walkable neighborhoods and sustainable design. The code amendments pertain primarily to residential subdivisions and planned residential developments (PRDs), but not exclusively.

These concepts are summarized below:

1. **New narrow streets.** The proposed code will implement a new standard narrow street section. The new narrow street section is expected to reduce stormwater runoff, as well as maintenance costs to the City and construction costs to applicants.
2. **Grid street pattern**. The draft code requires that streets in new subdivisions assume a grid or modified grid pattern making neighborhoods more connected and pedestrian-friendly.
3. **Pedestrian/bike connections.** The draft code requires pedestrian connections in the middle of long blocks (more than 800 feet long) and to all adjacent land uses. The pedestrian connections will make neighborhoods more "walkable" and "bikable," especially for children, seniors and those without access to a car.
4. **Street trees.** The draft code requires that street trees be placed along both sides of all residential streets aesthetically enhancing the streetscape, creating a more comfortable pedestrian atmosphere and offering the environmental benefits of improved air and stormwater quality.
5. **Limit on dead-ends.** The draft code limits (not prohibits) dead-ends. Fewer dead-ends mean more connections for all travel modes, which is especially important for pedestrians and bikes.
6. **Limit on block length.** As part of creating walkable neighborhoods, the new code will set an 800-foot block length limit.
7. **Private streets.** The new code will allow lots in short subdivisions (nine lots or less) to take access from private streets and shared drives. This provision will promote more efficient lot arrangements especially in infill situations where public streets are currently required.
8. **Corridor buffers.** New standards for landscape buffers along minor arterials will require planting plans in an effort to promote a more consistent appearance and reduce wind throw.
9. **Stormwater pond design.** New code requirements will discourage fencing around ponds, limit the use of plain, smooth, unfinished concrete as a pond material, and require ten feet of landscaping around ponds. These changes are expected to result in better looking ponds while preserving pond functionality and safety.
10. **Better active open spaces.** The draft PRD requirements mandate that these spaces have a minimum street frontage, regulate the size of these spaces, and require that the space have certain amenities (activity center, trash cans, benches, lighting) all in an effort to make these spaces an amenity to neighborhoods rather than "leftover space."
11. **Alternating front setbacks in PRDs.** The new PRD code will require that buildings have alternating front setbacks or, as an alternative, garages which do not project beyond the front entrances. These changes will focus attention on quality urban streetscapes and help mitigate monotonous residential design.

The code concepts, when implemented, are expected to further the project goals of sustainability and livability. In addition, the code concepts use the Comprehensive Plan goals and policies as a foundation. The project goal of readability is different than the other two goals in that it addresses the clarity of the code itself, rather than the physical results of development. The readability goal has been addressed by reorganizing the code in a more logical way, eliminating wordiness and redundancies and re-labeling sections of the code. Additionally, staff has created a "Subdivision Design Manual" which illustrates the concepts and ideas discussed in the code. The Subdivision Design Manual is a companion document to the code, but is not part of the code. Its purpose is to illustrate concepts and thereby enhance readability of the code.

Mayor Slowik opened the Public Hearing at 8:10 p.m.
**Mel Vance, P.O. Box 2882.** Mr. Vance lives in a neighborhood with a curvilinear pattern and supports the benefits of a grid-patterned neighborhood. He talked about street trees and raised planting beds and felt they should be at street level or below to allow runoff into the beds. He also spoke about the planting list and that only two trees on that list are native with Garry oak, fir, and madrona not being included. He talked about bike lanes in neighborhoods and felt they are more useful on thoroughfares. His largest concern was with safety issues for stormwater ponds, their lack of fencing, and landscaping which would obscure the ponds. Mr. Vance also asked about compacted soil in a shallow pond design and if that would create pond flooding. He talked about minimizing clear cutting in developments allowing trees to act as windbreaks, that street trees improve air and water quality, and disagreed with the proposed use of alternating setbacks. Mr. Vance also felt the use of alleys increases pavement and that it is not necessary to remove garages from the street. He spoke about narrow streets, potential lack of parking, and accessibility for emergency vehicles. Mr. Vance spoke positively about the subdivision design manual but thought that some of the stated goals did not match the written text.

Mayor Slowik closed public comments at 8:20 p.m.

<u>Council Discussion</u>
Discussion followed about how to designate parking on one side of a narrow street, traffic studies and cul-de-sacs, stop signs at intersections, crime studies and grid-patterned streets, and the grant obligation (which was met in 2009) with no comments from the Department of Commerce. Discussion continued about stormwater ponds and their safety, the design formula for shallower ponds (internal slope of 3 to 1; depth may decrease and width may increase), and that they detain the water and also treat it at a control structure which releases water at a given rate. It is important to remember that these pieces all work together – stormwater detention and slowing water down to a certain size of storm event. Mr. Powers noted that we have historically followed the Department of Ecology's standards for detention ponds. There had been much successful input overall from stakeholders; notably through the blog. Councilmember Almberg presented a document to Council for consideration of a different ratio regarding density bonuses for affordable housing. The third sheet of this document addresses typical median-priced townhomes in Oak Harbor. That document is attached to these

minutes as Exhibit B. Mr. Almberg asked for feedback from staff on this document, and Mr. Powers and Mr. Spoo will review it. Discussion continued about trees, that Garry Oaks are listed as critical areas in the OHMC, and that the tree section allows for review of other tree species. Council asked about pedestrian and bike surfaces (pervious concrete or asphalt), landscape strips and sidewalks, landscape strip maintenance, and the use of attractive "no parking" signs. Discussion continued about narrow streets (City did parking surveys on three different evenings during peak hours – one car was parked for every three units), and short driveways' accommodation of larger and multiple vehicles (City standard for length is 18 feet). The new code applies to any new subdivision which can be single residences, townhomes, duplexes; the short plat references private streets. The applicant can forward a different design which is subject to a more rigorous review process. This idea is part of contemporary design and planning, but also reflects applicants remarks over the last several years to vary from current standards. The LID code update will propose some additional street sections.

**MOTION:** **Councilmember Campbell moved to continue the public hearing on amendments to Chapter 19.31 (Planned Residential Developments) and Title 21 (Subdivisions) of the Oak Harbor Municipal Code to February 16, 2010. The motion was seconded by Councilmember Munns and carried unanimously.**

Mayor Slowik asked Mr. Powers to tell Council, for the next Council meeting, how many hours are in this project.

**Resolution – Standing Committee Assignments**
Mr. Schmidt talked about the success of standing committees noting there have been 88 public meetings, 176 hours of meeting time, 1,032 hours of staff and Council time, and committees have reviewed 440 to 480 issues. The agenda bill requested adoption of Resolution 10-03 to establish standing committee membership from January 2010 through December 2011. Mayor Slowik called for public comments but there were none.

**MOTION:** **Councilmember Campbell moved to adopt Resolution 10-03 which establishes standing committee membership from January 2010 through December 2011. The motion was seconded by Councilmember Palmer and carried unanimously.**

**City Administrator's Comments**
City Administrator Paul Schmidt reviewed the upcoming meetings' schedule, noting the 2/18/2010 special meeting with the Marina Committee, and the 2/27/2010 Council retreat.

**Council Members' Comments**
Council Members gave available standing committee reports. Councilmember Campbell talked about judging the excellent presentations given by Mr. Crouch's Government Class, noting the class' suggestion that blogs be set up for each City department. Mr. Campbell, referencing the crosswalk presentation which had been given to Council last year by a concerned citizen, talked about the need for a crosswalk at Heller and Sixth Avenue. Students walk up the east side on a sidewalk and eventually cross over to the sidewalk on the other side. There is not a crosswalk between Whidbey and Swantown. Mr. Campbell also asked about a sign on Pioneer Way that indicated additional parking and the sign is now gone. Merchants would like to have it replaced. Councilmember Palmer talked about shopping locally. Councilmember Munns reviewed the County's two percent meeting and adjustment to the director's contract and also talked about the successful AWC conference – 300 elected officials participated. Councilmember Almberg dispelled the rumor that he owns property on Pioneer Way, and went on to say that he has no financial interest or connection to Pioneer Way, and his vote was based on geometrics and restrictions. Mr. Almberg also talked about the AWC conference and successful meetings with our representatives and senator with the primary issue being the budget. AWC had talking points for presentation to legislators. Councilmember Dudley talked about the success of standing committee meetings and would enjoy seeing them held in Council Chambers so they could be taped and aired. Mr. Dudley also talked about the High School Resource Officer position and would like to see it funded and back in place. Mayor Slowik noted that this position will be part of budget discussions this year.

**Mayor's Comments**
Mayor Slowik talked about the art by Joan Brosnahan which is displayed in Council Chambers. Mayor Slowik, along with Mayor Samuelson and Mayor Conard, will be giving presentations on city sustainability at this weekend's Soundwaters Conference in Coupeville.

**ADJOURN**
With no other business coming before Council, Councilmember Campbell moved to adjourn; the motion was seconded by Councilmember Palmer and carried unanimously. The meeting adjourned at 9:30 p.m.

_____
Connie T. Wheeler
City Clerk

# CITY OF OAK HARBOR

865 S.E. BARRINGTON DR.
OAK HARBOR, WA 98277-4092
CITY HALL (360) 679-5551

ACCOUNT NUMBER : 15-126000-01
CUSTOMER NAME : 7TH AVE APTS/WALLEN DARRELL
SERVICE LOCATION : 260 NE 7TH AVE

BILLING DATE : 11/20/03 DUE DATE : 12/18/03

| SERVICE FROM | SERVICE TO | NO. OF DAYS | DESCRIPTION | METER READING PREVIOUS | METER READING CURRENT | CONSUMPTION | AMOUNT |
|---|---|---|---|---|---|---|---|
| 9/20/03 | | | Previous Balance | | | | 2646.32 |
| 10/15/03 | | | Receipt | | | | 2646.32CR |
| | | | Water Base | | | | 433.92 |
| 9/20/03 | 11/20/03 | 61 | Water Cons | 608 | 753 | 145 | 168.64 |
| | | | Sewer | | | | 934.24 |
| | | | Garbage | | | | 1013.56 |
| | | | Storm Drain | | | | 81.48 |
| | | | Current Charges | | | | 2631.84 |
| | | | Balance Due | | | | 2631.84 |

W-S 1536.80

25.44

2657.28

x 6

9221.80

÷ 17

542.40

| | THIS PERIOD | SAME PERIOD LAST YEAR |
|---|---|---|
| Wat Con | 145 | 349 |

**Exhibit A**

$15 LATE FEE and .67% PENALTY charged after 5:00pm on the due date.

Reminder - Cans must be curbside by 7am with lids completely closed.

Please look at insert. 2004 Animal Licenses available now at City Hall

If the City is really encouraging an affordable housing program without government support now is the opportunity by revising the proposed PRD Density unit ratio from 2 units affordable: 1 unit market rate to 1 unit affordable: 5 units market rate.

- Proposed OHMC 19.31.090 Density for PRD provides a density bonus for including affordable housing in a PRD development. For every 2 units of affordable housing applicants are allowed 1 unit additional of market rate housing BUT the total of market rate units and affordable units may not exceed 30% of the allowable density in the zone. This sounds good but the City probably won't get any participants from the private development community.

- Affordable housing is defined in the 2009 Comp Plan as "housing that does not exceed 30% of a family's gross income, for households at or below 80% of Island County's median income level.
    - Island County's median income level = $45,513±
    - 80% of median income = $36,410±
    - 30% of the 80% median income = $950-$1,100±/monthly payments.
- A USDA Guaranteed Rural Housing Loan Program could qualify a loan applicant for $180,000± (all subject to credit approval and existing debt.) That would provide a monthly payment of approximately $950-$1,100±.

- Typical medium market rate PRD townhome would sell in a range of $220,000-$275,000 (depending on land & development cost.) Per EDC Winter Report 2009 North Whidbey Residential home average home price

$264,604. Development, land, finance, and sales costs will be the same for market rate and affordable rate units. The hard Cost for the structure will have approximately the same cost per s.f. Therefore, the affordable unit price can only be adjusted by reducing the square footage of the unit and/or include less expensive finishes.

- In this model there is a $40,000+-$95,000+ spread between affordable housing sales price and market rate price points. This difference has to be made up some place in the costing formula. Because there is little or no profit at the affordable unit cost. <u>There is no incentive to the applicant to produce units at $180,000.</u>

- To justify the risk for including affordable housing in a PRD development the per/unit land/development cost would have to be reduced and this can only be done by increasing the total project density (number of units per acre.) In this reduced land/development cost format the market rate units would effectively subsidizes the affordable units through higher densities.

- I am proposing that the Staff consider a bonus ratio of +5 units market for 1 unit affordable, not to exceed 30% of the allowable density in the zone. By doing this we help reduce the government's burden for affordable housing.

THIS IS AN INCENTIVE FOR AN APPLICANT TO TAKE THIS RISK WITH PRIVATE FUNDING. This proposal also achieves some of the Comprehensive Plan goals for the community to encourage "Infill Development" and a mix of housing types.

This is good for the <u>consumer</u>, <u>community</u> and <u>economy</u>. and this doesn't cost the City anything for doing this!

Rick Almberg

**Typical Median Priced Townhome**

**Oak Harbor, Washington**

**$220,000-$275,000**

| | | |
|---|---|---|
| Land (improved with fees paid) | $60,000/unit | |
| Construction Cost: | | |
| 1,150 s.f. @ $75/s.f. | $86,250/unit | |
| Architect/Engineer (Design) | $ 7,000/unit | |
| ***Subtotal*** | | ***$153,250*** |
| Developer/Contractor Fee/ OH 15% | $ 22,988 | |
| Financing ($180,000 x 7% x 12 months) | $ 12,600 | |
| ***Subtotal*** | | ***$188,838*** |
| Sales & Closing Costs (9% x $188,838) | | $ 16,995 |
| ***Subtotal*** | | ***$205,833*** |
| Market Condition Contingency 10% | | $ 20,583 |
| **Total Projected Cost** | | **$226,416** |

*Construction Financing:*

70% loan to value .70 x 226,416 = $158,491

80% loan to value .80 x 226,416 = $181,132

# City of Oak Harbor
# City Council Agenda Bill

Bill No. 2
Date: February 16, 2010
Subject: Employee Recognition

**FROM:** **Jim Slowik, Mayor**

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

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## PURPOSE

To recognize a City employee for 35 years of service.

## AUTHORITY

It is the practice of the City to recognize dedicated employees who have completed 10 years or more of service.

## SUMMARY STATEMENT

The Mayor and City Council will recognize the following employee for his years of service with the City:

- Rich Rogers / Oak Harbor Fire Department

## STANDING COMMITTEE REPORT

None

## RECOMMENDED ACTION

Congratulate Mr. Rogers for completing 35 years of service.

## ATTACHMENTS

None

## MAYOR'S COMMENTS

None

**City of Oak Harbor**
**City Council Agenda Bill**

**Bill No.** 3

**Date:** FEBRUARY 16, 2010

**Subject:** **PUBLIC COMMENTS**

**FROM:** **Jim Slowik, Mayor**

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney

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**SUMMARY STATEMENT**

City Council will accept public comments for items not otherwise on the agenda for the first 15 minutes of the Council meeting. You may also speak to any of the consent agenda items.

**City of Oak Harbor**
**City Council Agenda Bill**

Bill No. C/A 5A
Date: February 16, 2010
Subject: Excused Absences for Mayor and Council Members from March 16, 2010 Regular Meeting and Council Meeting Date Change

**FROM:** Paul Schmidt PM
City Administrator

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney as to form

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## PURPOSE

The purpose of this agenda bill is to request approval of excused absences for Mayor and Council Members attending the National League of Cities (NLC) Congressional City Conference, March 13 – 17, 2010, and due to lack of a quorum for the regular March 16, 2010 City Council meeting, set a new meeting date for March 23, 2010, 6:00 p.m.

## AUTHORITY

Pursuant to RCW 42.30 090, the City Council may direct the City Clerk to adjourn the March 16, 2010 regular City Council meeting on that date and time for lack of a quorum. Further, the City Clerk shall be directed to set a new meeting date of March 23, 2010, at 6:00 p.m., in City Council Chambers. The City Clerk should then provide the appropriate notices as required by RCW 42.30.090.

## SUMMARY STATEMENT

Mayor Jim Slowik, and Council Members Rick Almberg, Beth Munns, and Bob Severns will be attending the NLC Congressional City Conference from March 13 – 17, 2010. Councilmember Scott Dudley will also not be able to attend the March 16, 2010 Council meeting (excused absence approved on 2/2/2010), so there will not be a quorum for that meeting. The new meeting on March 23, 2010 at 6:00 p.m. will then constitute a regular meeting of the Oak Harbor City Council.

## STANDING COMMITTEE REPORT

N/A

## RECOMMENDED ACTION

1. Approve Mayor Jim Slowik and Council Members Rick Almberg, Beth Munns, and Bob Severns excused absences from the March 16, 2010 City Council meeting to allow for their attendance at the NLC Conference March 13 – 17, 2010.

2. Direct the City Clerk to adjourn the regular meeting on March 16, 2010 (for lack of a quorum) to a new regular meeting date of March 23, 2010 at 6:00 p.m. in City Council Chambers and provide appropriate notice of the adjournment on March 16, 2010 and as required by RCW 42.30.090.

## ATTACHMENTS

None

## MAYOR'S COMMENTS

**City of Oak Harbor**
**City Council Agenda Bill**

Bill No. d/A 5B
Date: February 16, 2010
Subject: Excused Absence Request
Councilmember Jim Campbell

**FROM:** Jim Slowik
Mayor

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney as to form

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## PURPOSE

The purpose of this agenda bill is to present and approve Councilmember Jim Campbell's excused absence request for the March 23, 2010 City Council meeting.

## AUTHORITY

Per RCW 35A.12.060: *...A council position shall become vacant if the councilmember fails to attend three consecutive regular meetings of the council without being excused by the council.*

## SUMMARY STATEMENT

Councilmember Campbell has submitted an excused absence request since he will not be able to attend the March 23, 2010 City Council meeting.

## STANDING COMMITTEE REPORT

N/A

## RECOMMENDED ACTION

Approve Councilmember Jim Campbell's excused absence from the March 23, 2010 City Council meeting.

## ATTACHMENTS

None

## MAYOR'S COMMENTS

**City of Oak Harbor**
**City Council Agenda Bill**

Bill No. CA 5c
Date: February 16, 2010
Subject: Recommended Council Memberships - Committees and Boards

**FROM:** Paul Schmidt
City Administrator

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney as to form

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## PURPOSE

The purpose of this agenda bill is for City Council to approve, as recommended by Mayor Slowik, Council membership for the Island County Economic Development Council, Island Transit Board, Association of Washington Cities Board of Directors, and to appoint a City Council member to the Oak Harbor Lodging Tax Advisory Committee.

## AUTHORITY

Appointment to boards and commissions is generally governed by OHMC Chapter 2.65, providing for Council approval of Mayoral appointments. However, OHMC 2.66.020 specifically provides that the City Council appoints the members of the Oak Harbor Lodging Tax Advisory Committee.

## SUMMARY STATEMENT

Mayor Slowik is recommending these Council Members for the following Committees and Boards:

1. Jim Campbell – Oak Harbor Lodging Tax Advisory Committee
2. Scott Dudley – Island County Economic Development Council
3. Jim Palmer – Island Transit Board
4. Beth Munns – Association of Washington Cities Board of Directors, District 14

## STANDING COMMITTEE REPORT

N/A

## RECOMMENDED ACTION

1. Appoint Jim Campbell as the Council Member and Chair of the Oak Harbor Lodging Tax Advisory Committee.
2. Approve the Mayor's appointment of the following Council Members for their respective membership on these Committees and Boards:
   Scott Dudley – Island County Economic Development Council
   Jim Palmer – Island Transit Board
   Beth Munns – Association of Washington Cities Board of Directors, District 14

## ATTACHMENTS

None

## MAYOR'S COMMENTS

# City of Oak Harbor
# City Council Agenda Bill

Bill No. 6
Date: February 16, 2010
Subject: Subdivision Code Update Project

**FROM:** Steve Powers, Development Services Director RSP

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

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## SUMMARY STATEMENT

Staff requests this item be continued to the March 2, 2010 meeting in order to allow additional time to respond to questions and issues raised at the February 2, 2010 City Council hearing.

Prior to the City Council action on the requested continuance, staff will brief the Council on our review of Councilman Almberg's proposal regarding the affordable housing density bonus provisions of the Planned Residential Development code. At the conclusion of the briefing, staff will seek direction from the Council as to your wishes regarding this matter.

## RECOMMENDED ACTION

Continue public hearing on amendments to Oak Harbor Municipal Code Chapter 19.31, Planned Residential Developments, and Title 21, Subdivisions, to March 2, 2010

## ATTACHMENTS

None

## MAYOR'S COMMENTS

**City of Oak Harbor**
**City Council Agenda Bill**

Bill No. 7
Date: February 16, 2010,
Subject: Public Hearing – Further Consideration of Ordinance, Stormwater Management OHMC 12.30 – Continuation of Public Hearing

**FROM: Cathy Rosen, Public Works Director**
**Eric Johnston, City Engineer**

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

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## PURPOSE

This agenda bill presents an ordinance for further consideration which amends Title 12 of the Oak Harbor Municipal Code related to stormwater management and development regulations in the City of Oak Harbor. The ordinance was introduced on February 2, 2010. The proposed code changes are required by the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit issued to the City of Oak Harbor by the Washington State Department of Ecology. Council action will not be requested until May 4, 2010 due to other regulatory steps that will occur by that date.

## AUTHORITY

The City Council is granted authority under RCW 35A.11.020 to adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the City.

## SUMMARY STATEMENT

In February of 2007 the City of Oak Harbor was formally issued an NPDES Phase II Municipal Stormwater Permit by the Washington State Department of Ecology (DOE). The DOE is required to issue the NPDES stormwater permits under the terms of the Washington State Water Pollution Control Law and the Federal Water Pollution Control Act (the Clean Water Act). The NPDES permit requires the City of Oak Harbor to undertake a significant number of operational changes as well as policy and code changes in order to reduce or eliminate sources of pollution through the City stormwater drainage system. The regulations proposed will increase the City of Oak Harbor's effort to control, prevent, and cleanup up pollution of surface waters inside City limits.

It is important to note that the NPDES permit is issued to the City as the governmental jurisdiction but that much of the content of the NPDES is directed towards the actions of private parties, businesses, developers and property owners with the City acting as the policing agent for the protection of water resources. The requirements for these changes are mandated by the NPDES permit with the intent being to minimize the damaging effects of stormwater. These and other changes to the City stormwater regulations are more stringent than similar regulations imposed by other jurisdictions in Island County.

The proposed amendments to OHMC 12.30 address the required changes to development regulations for stormwater.

OHMC 12.30 Stormwater Management

In October of 2008 the City Council adopted revisions to OHMC 12.30, formally adopting the Department of Ecology 2005 Stormwater Management Manual for Western Washington (SWMMM) as the standard for stormwater runoff related to development and redevelopment projects. Adoption of the manual and the revisions to OHMC 12.30 were necessary to clarify the use of the most current version of the Ecology stormwater manual as the standard in the City of Oak Harbor.

The requirements of the NPDES Phase II permit related to development regulations vary slightly from the requirements of the SWMMM. The proposed amendment to OHMC 12.30 will bring the City's stormwater regulations into conformance with the requirements of the NPDES Permit. Attached to this agenda bill is a legislative draft of the ordinance showing the proposed changes to OHMC 12.30. Deletions are shown as strikeout text with additions being indicated with underline text.

The majority of the changes include definitions of terms, clarification on submittal requirements and limitations on construction-related erosion control activities. There are two areas worthy of attention. The first relates to the economic impacts while the second relates to treatment thresholds.

The proposed amendments, as required by the NPDES permit, broaden the section on allowable exceptions (see OHMC 12.30.580) to the minimum requirements to include consideration of the economic effects of compliance with the code requirements compared to the regulations in existence prior to imposition of the NPDES permit.

There are two areas of the permit that do not apply to the City of Oak Harbor. The NPDES permit mandates that minimum requirement #6 - Runoff Treatment, OHMC 12.30.540, include treatment thresholds for oils, phosphorous, enhanced treatment and basic treatment. The proposed amendments to OHMC 12.30 include the thresholds for oil and basic treatment but do not include the phosphorous or enhanced treatment requirements.

The language of the permit for phosphorous control is limited to municipalities with a local lake management plan or a DOE imposed waste load allocation. As the City of Oak Harbor does not have a phosphorous control, is not subject to a DOE waste load allocation, and is not listed under section 305(b) or section 319(a) of the Clean Water Act, a phosphorous treatment threshold is not

warranted at this time. The threshold language of the permit for enhanced treatment is directed towards the reduction of dissolved metals for project sites discharging to fish-bearing streams. There are currently no streams within the jurisdiction of the City of Oak Harbor classified as fish-bearing streams. Therefore, the inclusion of the enhanced treatment threshold is not warranted at this time.

Should a phosphorous control or an enhanced treatment threshold become necessary, a modification to the code would be required.

**STANDING COMMITTEE REPORT**

The recommended changes were presented to the Public Works Standing Committee on February 4, 2010.

**RECOMMENDED ACTION**

After further consideration of the ordinance, continue the public hearing to the May 4, 2010 City Council meeting.

**ATTACHMENTS**

Draft ordinance.

**MAYOR'S COMMENTS**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 12.30 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "STORMWATER MANAGEMENT"

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

**Section One**. Oak Harbor Municipal Code Chapter 12.30 entitled "Stormwater Management" is hereby amended to read as follows:

## Chapter 12.30
## ~~STORM WATER~~STORMWATER MANAGEMENT

**Sections:**


Subchapter 12.30.000 – Preliminary Provision
12.30.010 Findings of fact.
12.30.020 Need.
12.30.030 Purpose.
12.30.040 Definitions.

Subchapter 12.30.100 – General Provisions
12.30.110 Abrogation and greater restrictions.
12.30.120 Interpretation.
12.30.130 Applicability.

Subchapter 12.30.200 – Regulated Activities and Allowed Activities
12.30.210 Regulated activities.
12.30.220 Exemptions.

Subchapter 12.30.300 – General Requirements
12.30.310 ~~Storm Water~~Stormwater Management Manual for ~~the Puget Sound Basin~~Western Washington adopted.
12.30.320 ~~Storm water~~Stormwater best management practices (BMPs).
12.30.330 Illicit discharges.

Subchapter 12.30.500 – Minimum Requirements
12.30.510 New development.
12.30.515 Redevelopment.
12.30.520 Minimum Requirement #1 – Preparation of ~~storm water~~stormwater site plans.
12.30.525 Minimum Requirement #2 – Construction ~~storm water~~Stormwater ~~p~~Pollution ~~p~~Prevention (SWPP).
12.30.527 Minimum Requirement #3 – Source control of pollution.
12.30.530 Minimum Requirement #4 – Preservation of natural drainage systems and outfalls.
12.30.535 Minimum Requirement #5 – On-site ~~storm water~~stormwater management.
12.30.540 Minimum Requirement #6 – Runoff treatment.

12.30.545 Minimum Requirement #7 – Flow control.
12.30.550 Minimum Requirement #8 – Wetlands protection.
12.30.555 Minimum Requirement #9 – Basin/watershed planning.
12.30.560 Minimum Requirement #10 – Operation and maintenance.
12.30.565 Minimum Requirement #11 – Financial liability.
12.30.570 Minimum Requirement #12 – Off-site analysis and mitigation.
12.30.575 Adjustments.
12.30.580 Exceptions and variances.

Subchapter 12.30.600 – Administration
12.30.610 Director.
12.30.620 Review and approval.
12.30.625 Review process.
~~12.30.630 Enforcement authority.~~
12.30.640 Inspection.

Subchapter 12.30.700 – Enforcement
12.30.710 General.
12.30.720 Stop work order.
12.30.730 ~~Civil penalty~~Penalties.
12.30.740 ~~Penalties due~~Enforcement.

## Subchapter 12.30.000 – Preliminary Provision

**12.30.010 Findings of fact.** The city council of the city of Oak Harbor hereby finds that:

(1) ~~Storm water~~Stormwater pollution is a problem associated with land utilization and development and the common occurrence of potential pollutants such as pesticides, fertilizers, petroleum products, pet wastes and numerous others.

Land utilization and development is also known to increase both the volume and duration of peak flows resulting in erosion, scouring, and deposition of sediment.

(2) An expanding population and increased development of land may lead to possible consequences of water quality degradation through discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances; drainage and storm and surface water runoff problems; and safety hazards posed by water runoff on streets and highways.

(3) In the future, such problems and dangers associated with ~~storm water~~stormwater runoff will be reduced or avoided if existing properties and future developers, both private and public, provide for ~~storm water~~stormwater quality and quantity controls.

(4) ~~Storm water~~Stormwater quality and quantity controls can be achieved when land is developed or redeveloped by implementing appropriate best management practices (BMPs).

(5) Best management practices can be expected to perform as intended only when properly designed, constructed and maintained.

(6) The Federal Clean Water Act and rules established by the Environmental Protection Agency require the Washington State Department of Ecology to issue permits to owners of municipal separate storm sewer systems (MS4).

(7) ~~As an owner of a municipal separate storm sewer system (MS4), t~~The City of Oak Harbor is an owner of a MS4 and is subject to the requirements of the NPDES Phase II Municipal Stormwater Permit issued by the Department of Ecology.

**12.30.020 Need.** The city finds that this chapter is necessary in order to:

(1) Minimize or eliminate water quality degradation;

(2) Prevent erosion and sedimentation in creeks, streams, ponds, lakes and other water bodies;

(3) Protect property owners adjacent to existing and developing lands from increased runoff rates which could cause erosion of abutting property;

(4) Preserve and enhance the suitability of waters for contact recreation, fishing, and other beneficial uses;

(5) Preserve and enhance the aesthetic quality of the water;

(6) Promote sound development policies which respect and preserve city surface water, ground water and sediment;

(7) Ensure the safety of city roads and rights-of-way;

(8) Decrease ~~storm water~~stormwater-related damage to public and private property from existing and future runoff;

(9) Protect the health, safety and welfare of the inhabitants of Oak Harbor~~.~~; and

(10) Comply with the requirements and minimum standards contained in the NPDES Phase II municipal stormwater permit for control of ~~storm water~~stormwater for review and permitting of all development, and related activities, inside city limits.

**12.30.030 Purpose.** The provisions of this chapter are intended to guide and advise all who conduct new development or redevelopment within the city. The provisions of this chapter establish the minimum level of compliance which must be met to permit a property to be developed or redeveloped within the city. This chapter is an exercise of the police power for the general public and not for protection of specific individuals.

Specifically, it is the purpose of this chapter to:

(1) Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies;

(2) Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;

(3) Maintain and protect ground water resources;

(4) Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;

(5) Decrease potential landslide, flood and erosion damage to public and private property;

(6) Promote site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions;

(7) Maintain and protect the city ~~storm water~~stormwater management infrastructure and those downstream; provided nothing herein shall be construed as providing a right to any individual, class or group of individuals;

(8) Provide a means of regulating clearing and grading of private and public land while minimizing water quality impacts in order to protect public health and safety; and

(9) Provide minimum development regulations and construction procedures which will preserve, replace or enhance, to the maximum extent practicable, existing vegetation to preserve and enhance the natural qualities of wetlands and water bodies and promote enhancement of critical lands.

**12.30.040 Definitions.** For the purpose of this chapter, the following definitions shall apply:

(1) "American Public Works Association" or "APWA" means the adopted edition of the Washington State Chapter of the American Public Works Association.

(2) "Approval" means the proposed work or completed work conforms to this chapter in the opinion of the director.

(3) "Arterial" means a road or street primarily for through traffic. A major arterial connects an Interstate Highway to cities and counties. A minor arterial connects major arterials to collectors. A collector connects an arterial to a neighborhood. A collector is not an arterial. A local access road connects individual homes to a collector.

(4) "As-graded" means the extent of surface conditions on completion of grading.

(5) "Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and ~~storm water~~ stormwater management facilities and features within individual subbasins.

(6) "Bedrock" means the more or less solid rock in place either on or beneath the surface of the earth. It may be soft, medium, or hard and have a smooth or irregular surface.

(7) "Bench" means a relatively level step excavated into earth material on which fill is to be placed.

(8) "Best management practice" or "BMP" means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water. BMPs are listed and described in the Manual.

(9) "Civil engineer" means a professional engineer licensed in the state of Washington in civil engineering who is experienced and knowledgeable in the practice of civil engineering.

(10) "Civil engineering" means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

(11) "Certified Erosion and Sediment Control Lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State Department of Ecology (see BMP C160 in the Stormwater Management Manual for Western Washington (2005)). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges.

(~~11~~12) "Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

(~~12~~13) "Commercial agriculture" means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

(~~13~~14) "Compaction" means densification of a fill by mechanical means.

(~~14~~15) "Critical areas" means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems.

(~~15~~16) "Design storm" means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.)

(~~16~~17) "Detention" means the release of ~~storm water~~stormwater runoff from the site at a slower rate than it is collected by the ~~storm water~~stormwater facility system, the difference being held in temporary storage.

(~~17~~18) "Detention facility" means an above or below ground facility, such as a pond or tank, that temporarily stores ~~storm water~~stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored ~~storm water~~stormwater.

(~~18~~19) "Drainage basin" means a geographic and hydrologic subunit of a water shed.

(~~19~~20) "Earth material" means any rock, natural soil or fill and/or any combination thereof.

(~~20~~21) "Ecology" means the Washington State Department of Ecology.

(~~21~~22) "Effective Impervious surface" means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces on residential development sites are considered ineffective if the runoff is dispersed through at least one hundred feet of native vegetation.

(~~22~~23) "Engineering geologist" means a geologist experienced and knowledgeable in engineering geology.

(~~23~~24) "Engineering geology" means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

(~~24~~25) "Erosion" means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(~~25~~26) "Excavation" means the mechanical removal of earth material.

(~~26~~27)"Existing site conditions" means:

(a) For developed sites with ~~storm water~~stormwater facilities that have been constructed to meet the standards in the minimum requirements of this chapter, existing site conditions shall mean the existing conditions on the site.

(b) For developed sites that do not have ~~storm water~~stormwater facilities that meet the minimum requirements, existing site conditions shall mean the conditions that existed prior to local government adoption of a ~~storm water~~stormwater management program. If in question, the existing site conditions shall be documented by aerial photograph records, or other appropriate means.

~~(c) For all sites in water quality sensitive areas as identified under Minimum Requirement #7, Water Quality Sensitive Areas , existing site conditions shall mean undisturbed forest, for the purpose of calculating runoff characteristics.~~

~~(d) For all undeveloped sites outside of water quality sensitive areas, existing site conditions shall mean the existing conditions on the site.~~

(~~27~~28) "Experimental BMP" means a BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.

(~~28~~29) "Fill" means a deposit of earth material placed by artificial means.

(~~29~~30) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber~~,~~ including, but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees;

(h) Brush control.

(~~30~~31) "Frequently flooded areas" means the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

(32) "Full stabilization" means concrete or asphalt paving; quarry spalls used as ditch lining; or the use of rolled erosion products, a bonded fiber matrix product, or vegetative cover in a manner that will fully prevent soil erosion.

(~~31~~33) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events are not suited to the siting of commercial, residential or industrial development consistent with public health or safety concerns.

(~~32~~34) "Grade" means the slope of a road, channel, or natural ground. The finished surface of a canal bed, road bed, top of embankment, or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of a conduit.

(a) "Existing grade" means the grade prior to grading.

(b) "Rough grade" means the stage at which the grade approximately conforms to the approved plan.

(c) "Finish grade" means the final grade of the site which conforms to the approved plan.

(~~33~~35) "Gradient terrace" means an earth embankment or a ridge-and-channel constructed with suitable spacing and an acceptable grade to reduce erosion damage by intercepting surface runoff and conducting it to a stable outlet at a stable nonerosive velocity.

(~~34~~36) (To) "grade" means to finish the surface of a canal bed, road bed, top of embankment or bottom of excavation.

(~~35~~37) "Ground water" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

(~~36~~38) "Highway" means a main public road connecting towns and cities.

(~~37~~39) "Hydroperiod" means the seasonable occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.

(~~38~~40) "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements

are exceeded. Open, un-covered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

(~~39~~41) "Illicit discharge" means all non-~~storm water~~stormwater discharges to ~~storm water~~stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems.

(~~40~~42) "Interflow" means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, for example, in a wetland, spring or seep.

(~~41~~43) "Land disturbing activity" means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, ~~demolition, construction,~~ clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity.

(~~42~~44) "Large parcel erosion and sediment control plan" or "large parcel ESC plan" means a plan to implement BMPs to control pollution generated during land disturbing activity.

(~~43~~45) "Low Impact Development" means a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions.

(~~44~~46) "Maintenance" ~~means activities or repairs conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems.~~means activities or repairs conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed.

(~~45~~47) "Mitigation" means, in the following order of preference:

(a) Avoiding the impact altogether by not taking a certain action or part of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and

(e) Compensation for the impact by replacing, enhancing, or providing substitute resources or environments.

(~~46~~48) "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

(~~47~~49) "Natural location" means the location of those channels, swales, and other non-manmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate.

(~~48~~50) "New development" means the following activities: land disturbing activities, structural development, including construction, installation or expansion of a building or other structure; creation of impervious surfaces; Class IV general forest practices that are conversions from timber land to other uses; and subdivision and short subdivision of land and binding site plans as defined in RCW 58.17.020. All other forest practices and commercial agriculture are not considered new development.

(~~49~~51) "Permanent ~~storm water~~stormwater quality control (PSQC) plan" means a plan which includes permanent BMPs for the control of pollution from ~~storm water~~stormwater runoff after construction and/or land disturbing activity has been completed. For small sites, this requirement is met by implementing a small parcel erosion and sediment control plan. Guidance on preparing a PSQC plan is contained in the Manual.

(~~50~~52) "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

(~~51~~53) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a

nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

(~~52~~54) "Pollution-generating impervious surface (PGIS)"means those impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those which are subject to: vehicular use; industrial activities (as further defined in the glossary); or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage. Metal roofs are also considered to be PGIS unless they are coated with an inert, non-leachable material (e.g., baked-on enamel coating).

A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly-used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.

The following are not considered regularly-used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, and infrequently used maintenance access roads.

(55) "Pollution-generating pervious surfaces (PGPS)" means any non-impervious surface subject to use of pesticides and fertilizers or loss of soil. Typical PGPS include lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields.

(56) "Pre-developed condition" means the native vegetation and soils that existed at a site prior to the influence of Euro-American settlement. The pre-developed condition shall be assumed to be a forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

(57) "Project site" means that portion of a property, properties, or right-of-way subject to land disturbing activities, new impervious surfaces, or replaced impervious surfaces.

(~~53~~58) "Redevelopment" means, on an already substantially developed (i.e., has thirty-five percent (35%) or more of existing impervious surface coverage) site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment.

(~~54~~59) "Regional retention/detention system" means a ~~storm water~~stormwater quantity control structure designed to correct existing excess surface water runoff problems of a basin or subbasin. The area downstream has been previously identified as having existing or predicated significant and regional flooding and/or erosion problems. This term is also used when a detention facility is used to detain ~~storm water~~stormwater runoff from a number of different businesses, developments or areas within a catchment.

(~~55~~60) "Replaced impervious surface" means for structures, the removal and replacement of any exterior impervious surfaces or foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement.

(~~56~~61) "Retention/detention facility (R/D)" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and ~~storm water~~stormwater runoff for a short period of time and then release it to the surface and ~~storm water~~stormwater management system.

(~~57~~62) "Site" means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

(~~58~~63) "Slope" means the degree of deviation of a surface from the horizontal, measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90-degree slope being vertical (maximum) and 45 degrees being a 1:1 or 100 percent slope.

(~~59~~64) "Small parcel erosion and sediment control plan" or "small parcel ESC plan" means a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, primarily erosion and sediment. Guidance for preparing a small parcel ESC plan is contained in the Manual.

(~~60~~65) "Soil" means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

(~~61~~66) "Source control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. This manual separates source control BMPs into two types. Structural Source Control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

(~~62~~67) "~~Storm water~~Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

(~~63~~68) "~~Storm water~~Stormwater drainage system" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter ~~storm water~~stormwater.

(~~64~~69) "~~Storm water~~Stormwater facility" means a constructed component of a ~~storm water~~stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. ~~Storm water~~Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement.

(~~65~~70) "~~Storm Water~~Stormwater Management Manual" or "Manual" means the Washington State Department of Ecology 2005 Stormwater Management Manual for Western Washington~~-~~.

(~~66~~71) "~~Storm water~~Stormwater site plan" means a plan which includes an erosion and sediment control (ESC) plan and/or a permanent ~~storm water~~stormwater quality control plan (PSQCP). For small sites, this plan is the equivalent of a small parcel erosion and sediment control plan. Guidance on preparing a ~~storm water~~stormwater site plan is contained in the Manual.

(~~67~~72) "Threshold Discharge Area" means an onsite area draining to a single natural discharge location or multiple natural discharge locations that combine within one-quarter mile downstream (as determined by the shortest flowpath).

(~~68~~73) "Toe of slope" means a point or line of slope in an excavation or cut where the lower surface changes to horizontal or meets the existing ground slope.

(~~69~~74) "Top of slope" means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.

(~~70~~75) "Treatment BMP" means a BMP that is intended to remove pollutants from ~~storm water~~stormwater. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration swales and constructed wetlands.

(~~71~~76) "Unstable slopes" means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit mass movement of earth.

(~~72~~77) "Water body" means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

(~~73~~78) "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the state of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC.

(~~74~~79) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adopted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites including, but not limited to, ~~This includes wetlands created, restored or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from sites that are not wetlands:~~ irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, ~~agricultural detention facilities,~~ farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

(~~75~~80) "Vegetation" means all organic plant life growing on the surface of the earth.

## Subchapter 12.30.100 – General Provisions

**12.30.110 Abrogation and greater restrictions.** It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

**12.30.120 Interpretation.** The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

**12.30.130 Applicability.**

(1) When any provision of any other chapter of the city conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

(2) The director is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Prior to fulfilling the requirements of this chapter, the city shall not grant any approval or permission to conduct a regulated activity including, but not limited to, the following: building permit, commercial or residential; binding site plan; conditional use permit; franchise right-of-way construction permit; grading and clearing permit; master plan development; planned unit development; right-of-way permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; unclassified use permit; variance; zone reclassification; subdivision; short

subdivision; special use permit; utility and other use permit; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this chapter.

(3) Regulated activities shall be conducted only after the director approves a ~~storm water~~stormwater site plan as required by this chapter.

**Subchapter 12.30.200 – Regulated Activities and Allowed Activities**

**12.30.210 Regulated activities.** Consistent with the minimum requirements contained in this chapter, the director shall approve or disapprove the following activities, unless exempted in OHMC 12.30.220:

(1) New Development.

(a) Land disturbing activities;

(b) Structural development, including construction, installation or expansion of a building or other structure;

(c) Creation or replacement of impervious surfaces;

(d) Class IV general forest practices that are conversions from timber land to other uses;

(e) Subdivision, short subdivision and binding site plans, as defined in RCW 58.17.020.

(2) Redevelopment. On an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, land disturbing activity, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment.

**12.30.220 Exemptions.**

(1) ~~Road maintenance, c~~Commercial agriculture, and forest practices regulated under WAC Title 222, except for Class IV general forest practices that are conversions from timber land to other uses, are exempt from the provisions of this chapter.

(2) Road Maintenance activities, including pothole and square cut patching, overlaying existing asphalt or concrete pavements with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regarding drainage systems, crack sealing, resurfacing with in-kind material (including bituminous surface treatments over existing asphalt) without expanding the road prism and vegetation managements are exempt from the provisions of this chapter.

(3) Development undertaken by the Washington State Department of Transportation in state highway rights-of-way is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program.

(4) Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are exempt from the provisions of this chapter except for Minimum Requirement #2, Construction Stormwater Pollution Prevention.

All other new development and redevelopment is subject to the minimum requirements of this chapter.

## Subchapter 12.30.300 – General Requirements

**12.30.310 ~~Storm Water~~Stormwater Management Manual for Western Washington adopted.** The 2005 Stormwater Manual for Western Washington issued by the Washington State Department of Ecology is hereby adopted by reference and is hereinafter referred to as "the ~~m~~Manual", a copy of which is filed with the city clerk. The director shall maintain a copy of the ~~m~~Manual in his/her office.

**12.30.320 ~~Storm water~~Stormwater best management practices (BMPs).**

(1) General. BMPs shall be used to control pollution from ~~storm water~~stormwater. BMPs shall be used to comply with the standards in this chapter. BMPs are in the ~~m~~Manual; provided, that if there is a conflict with the Oak Harbor ~~storm water~~stormwater plan, the provision with the greatest environmental protection shall apply.

(2) Experimental BMPs. In those instances where appropriate BMPs are not in the ~~m~~Manual, experimental BMPs should be considered. Experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the ~~m~~Manual in an effort to improve ~~storm water~~stormwater quality technology. Experimental BMPs must be approved in accordance with the approval process outlined in the ~~m~~Manual.

**12.30.330 Illicit discharges.** Illicit discharges to storm water drainage systems are prohibited.

## Subchapter 12.30.500 – Minimum Requirements

**12.30.510 New development.**

(1) All new development shall be required to comply with Minimum Requirement #2.

(2) The following new development shall comply with Minimum Requirements #1 through #5 for the new and replaced impervious surfaces and the land disturbed:

(a) Creates or adds 2,000 square feet, or greater, of new, replaced, or new plus replaced impervious surface area; or

(b) Has land disturbing activity of 7,000 square feet or greater.

(3) The following new development shall comply with Minimum Requirements #1 through #10 for the new impervious surfaces and the converted pervious surfaces:

(a) Creates or adds 5,000 square feet, or more, of new impervious surface area; or

(b) Converts three-quarters of an acre, or more, of native vegetation to lawn or landscaped areas; or

(c) Converts two and one-half acres, or more, of native vegetation to pasture.

**12.30.515 Redevelopment.**

(1) All redevelopment shall be required to comply with Minimum Requirement #2. In addition, all redevelopment that exceeds certain thresholds shall be required to comply with additional minimum requirements as follows.

(2) The following redevelopment shall comply with Minimum Requirements #1 through #5 for the new and replaced impervious surfaces and the land disturbed:

(a) The new, replaced, or total of new plus replaced impervious surfaces is 2,000 square feet or more~~,~~; or

(b) Seven thousand square feet or more of land disturbing activities.

(3) The following redevelopment shall comply with Minimum Requirements #1 through #12 for the new impervious surfaces and converted pervious areas:

(a) Adds 5,000 square feet or more of new impervious surfaces; or

(b) Converts three-quarters of an acre, or more, of native vegetation to lawn or landscaped areas; or

(c) Converts two and one-half acres, or more, of native vegetation to pasture.

(4) If the runoff from the new impervious surfaces and converted pervious surfaces is not separated from runoff from other surfaces on the project site, the ~~storm water~~ stormwater treatment facilities must be sized for the entire flow that is directed to them.

(5) The director may allow the minimum requirements to be met for an equivalent (flow and pollution characteristics) area within the same site. For public roads' projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.

(6) For road-related projects, runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) shall meet all the minimum requirements if the new impervious surfaces total 5,000 square feet or more and total 50% ~~percent~~ or more of the existing impervious surfaces within the project limits. The project limits shall be defined by the length of the project and the width of the right-of-way.

(7) Other types of redevelopment projects shall comply with all the minimum requirements for the new and replaced impervious surfaces if the total of new plus replaced impervious surfaces is 5,000 square feet or more, and the valuation of proposed improvements – including interior improvements – exceeds 50% ~~percent~~ of the assessed value of the existing site improvements.

~~(8) A local government may exempt or institute a stop-loss provision for redevelopment projects from compliance with minimum requirements for treatment, flow control, and wetlands protection as applied to the replaced impervious surfaces if the local government has adopted a plan and a schedule that fulfills those requirements in regional facilities.~~

**12.30.520 Minimum Requirement #1 – Preparation of ~~storm water~~stormwater site plans.** All projects meeting the thresholds in OHMC 12.30.510 and 12.30.515 shall prepare and submit a ~~Storm water~~stormwater ~~S~~site ~~P~~plan for review. ~~Storm water~~Stormwater ~~S~~site ~~P~~plans shall be prepared in accordance with Volume I, Chapter 3, of the ~~m~~Manual.

**12.30.525 Minimum Requirement #2 – Construction ~~Storm water~~Stormwater Pollution Prevention (SWPP).** All new development and redevelopment projects are responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters. All new development and redevelopment shall comply with Construction SWPP Elements #1 through #12 below.

Projects in which the new, replaced, or new plus replaced impervious surfaces total 2,000 square feet or more, or disturb 7,000 square feet or more of land must prepare a construction ~~storm water~~stormwater pollution prevention plan (SWPPP) as part of the ~~Storm water~~stormwater ~~S~~site ~~P~~plan. The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project. Sediment and erosion control BMPs shall be consistent with the BMPs contained in Chapters 3 and 4 of Volume II of the Manual, and/or other equivalent BMPs contained in technical manuals approved by Ecology. Each of the 12 elements must be considered and included in the construction SWPPP unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the narrative of the SWPPP.

Projects that add or replace less than 2,000 square feet of impervious surface or disturb less than 7,000 square feet of land are not required to prepare a construction SWPPP, but must consider all of the 12 elements of construction ~~storm water~~stormwater pollution prevention and develop controls for all elements that pertain to the project site.

(1) *Element #1*: Mark Clearing Limits.

(a) Prior to beginning land disturbing activities, including clearing and grading, all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area shall be clearly marked, both in the field and on the plans, to prevent damage and off-site impacts.

(b) Plastic, metal, or stake wire fence may be used to mark the clearing limits.

(c) The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum extent practicable. If it is not practicable to retain the duff layer in place, it should be stockpiled on-site, covered to prevent erosion, and replaced immediately upon completion of the ground disturbing activities.

(2) *Element #2:* Establish Construction Access.

(a) Construction vehicle access and exit shall be limited to one route, if possible, or two for linear projects such as roadways where more than one access is necessary for large equipment maneuvering.

(b) Access points shall be stabilized with a pad of quarry spalls or crushed rock prior to traffic leaving the construction site to minimize the tracking of sediment onto public roads.

(c) Wheel wash or tire baths should be located on-site~~, if applicable~~ if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.

(d) If sediment is tracked off-site, public roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather, if necessary, to prevent sediment from entering waters of the state. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area. Street washing will be allowed only after sediment is removed in this manner.

(e) Street wash wastewater shall be controlled by pumping back on-site, or otherwise be prevented from discharging into systems tributary to state surface waters.

(3) *Element #3*: Control Flow Rates.

(a) Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of ~~storm water~~stormwater runoff from the project site, as required by local plan approval authority.

(b) Downstream analysis is necessary if changes in flows could impair or alter conveyance systems, stream banks, bed sediment or aquatic habitat.

(c) Where necessary to comply with Minimum Requirement #7, ~~storm water~~ stormwater retention/detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g. impervious surfaces).

(d) The director may require pond designs that provide additional or different ~~storm water~~ stormwater flow control if necessary to address local conditions or to protect properties and waterways downstream from erosion due to increases in the volume, velocity, and peak flow rate of ~~storm water~~ stormwater runoff from the project site.

(e) If permanent infiltration ponds are used for flow control during construction, these facilities should be protected from siltation during the construction phase.

(4) *Element #4*: Install Sediment Controls.

(a) Prior to leaving a construction site, or prior to discharge to an infiltration facility, ~~storm water~~ stormwater runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard of Element #3. ~~"Full stabilization" means concrete or asphalt paving; quarry spalls used as ditch lining; or the use of rolled erosion products, a bonded fiber matrix product, or vegetative cover in a manner that will fully prevent soil erosion.~~ The director shall inspect and approve areas stabilized by means other than pavement or quarry spalls.

(b) Sediment ponds, vegetated buffer strips, sediment barriers or filters, dikes, and other BMPs intended to trap sediment on-site shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land disturbing activities take place.

(c) Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indicated in Element #5.

(d) BMPs intended to trap sediment on-site must be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages, often during nonstorm events, in response to rain event changes in stream elevation or wetted area.

(5) *Element #5:* Stabilize Soils.

(a) All exposed and unworked soils shall be stabilized by application of effective BMPs that protect the soil from the erosive forces of raindrop impact and flowing water, and wind erosion.

(b) From October 1st through April 30th, no soils shall remain exposed and unworked for more than two days. From May 1st to September 30th, no soils shall remain exposed and unworked for more than seven days. This condition applies to all soils on-site, whether at final grade or not. These time limits may be adjusted by the local permitting authority if it can be shown that the average time between storm events justifies a different standard.

(c) Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.

(d) Applicable practices include, but are not limited to, temporary and permanent seeding, sodding, mulching, plastic covering, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.

(e) Soil stabilization measures selected should be appropriate for the time of year, site conditions, estimated duration of use, and potential water quality impacts that stabilization agents may have on downstream waters or ground water.

(f) Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and when possible, be located away from storm drain inlets, waterways and drainage channels.

(g) Linear construction activities, including right-of-way and easement clearing, roadway development, pipelines, and trenching for utilities, shall be conducted to meet the soil stabilization requirement. Contractors shall install the bedding materials, roadbeds, structures, pipelines, or utilities and restabilize the disturbed soils so that:

(i) From October 1st through April 30th, no soils shall remain exposed and unworked for more than two days; and

(ii) From May 1st to September 30th, no soils shall remain exposed and unworked for more than seven days.

(6) *Element #6:* Protect Slopes.

(a) Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion.

(b) Consider soil type and its potential for erosion.

(c) Reduce slope runoff velocities by reducing the continuous length of slope with terracing and diversions, reduce slope steepness, and roughen slope surface.

(d) Off-site ~~storm water~~ stormwater (run-on) shall be diverted away from slopes and disturbed areas with interceptor dikes and/or swales. Off-site ~~storm water~~ stormwater should be managed separately from ~~storm water~~ stormwater generated on the site.

(e) At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion. Temporary pipe slope drains shall handle the peak flow from a 10-year, 24-hour event assuming a Type 1A rainfall distribution to the developed condition.. Alternatively, the 10-year and 25-year, one-hour flow rates indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology model to predict flows, bare soil areas should be modeled as "landscaped area".

(f) Provide drainage to remove ground water intersecting the slope surface of exposed soil areas.

(g) Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

(h) Check dams shall be placed at regular intervals within channels that are cut down a slope.

(i) Stabilize soils on slopes, as specified in Element #5.

(7) *Element #7:* Protect Drain Inlets.

(a) All storm drain inlets made operable during construction shall be protected so that ~~storm water~~ stormwater runoff shall not enter the conveyance system without first being filtered or treated to remove sediment.

(b) All approach roads shall be kept clean. ~~All sediment and street wash water shall not be allowed to enter storm drains without prior and adequate treatment unless treatment is provided before the storm drain discharges to waters of the state.~~

(c) Inlets should be inspected weekly at a minimum and daily during storm events. Inlet protection devices should be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

(8) *Element #8:* Stabilize Channels and Outlets.

(a) All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected peak 10-minute velocity of flow from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used.

(b) Stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

(9) *Element #9:* Control Pollutants.

(a) All pollutants, including waste materials and demolition debris, that occur on-site shall be handled and disposed of in a manner that does not cause contamination of ~~storm water~~stormwater. Woody debris may be chopped and spread on-site.

(b) Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and non-inert wastes present on the site (see Chapter 173-304 WAC for the definition of inert waste). On-site fueling tanks shall include secondary containment.

(c) Maintenance and repair of heavy equipment and vehicles involving oil changes, hydraulic system drain down, solvent and de-greasing cleaning operations, fuel tank drain down and removal, and other activities which may result in discharge or spillage of pollutants to the ground or into ~~storm water~~ stormwater runoff must be conducted using spill prevention measures, such as drip pans. Contaminated surfaces shall be cleaned immediately following any discharge or spill incident. Emergency repairs may be performed on-site using temporary plastic placed beneath and, if raining, over the vehicle.

(d) Wheel wash or tire bath wastewater, shall be discharged to a separate on-site treatment system or to the sanitary sewer.

(e) Application of agricultural chemicals, including fertilizers and pesticides, shall be conducted in a manner and at application rates that will not result in loss of chemical to ~~storm water~~ stormwater runoff. Manufacturers' recommendations for application rates and procedures shall be followed.

(f) BMPs shall be used to prevent or treat contamination of ~~storm water~~ stormwater runoff by pH modifying sources. These sources include, but are not limited to, bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, and concrete pumping and mixer washout waters. Stormwater

discharges shall not cause or contribute to a violation of the water quality standard for pH in the receiving water.

(g) Construction sites with significant concrete work shall adjust the pH of ~~storm water~~ stormwater if necessary to prevent violations of water quality standards. Construction site operators shall obtain written approval from Ecology prior to using chemical treatment, other than $CO_2$ or dry ice, to adjust pH.

(10) *Element #10:* Control De-Watering.

(a) Foundation, vault, and trench de-watering water, which has similar characteristics to ~~storm water~~ stormwater runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond. Channels must be stabilized, as specified in Element #8.

(b) Clean, non-turbid de-watering water, such as well-point ground water, can be discharged to systems tributary to state surface waters, as specified in Element #8, provided the de-watering flow does not cause erosion or flooding of receiving waters. These clean waters should not be routed through a ~~storm water~~ stormwater sediment pond.

(c) Highly turbid or otherwise contaminated de-watering water, such as from construction equipment operation, clamshell digging, concrete tremie pour, or work inside a cofferdam, shall be handled separately from ~~storm water~~ stormwater.

(d) Other disposal options, depending on site constraints, may include: (i) infiltration, (ii) transport off-site in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters, (iii) Ecology-approved on-site chemical treatment or other suitable treatment technologies, (iv) sanitary sewer discharge with local sewer district approval, if there is no other option, or (v) use of a sedimentation bag with outfall to a ditch or swale for small volumes of localized de-watering.

(11) *Element #11:* Maintain BMPs.

(a) All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with BMP specifications.

(b) All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of BMPs or vegetation shall be permanently stabilized.

(12) *Element #12:* Manage the Project.

(a) Phasing of Construction. Development projects shall be phased where feasible in order to prevent soil erosion and, to the maximum extent practicable, the transport of sediment from the site during construction. Revegetation of exposed areas and maintenance of that vegetation shall be an integral part of the clearing activities for any phase.

(b) For construction sites one acre or larger that discharge stormwater to surface waters of the state, a CESCL specialist shall be identified in the Construction SWPPP and shall be on-site or on-call at all times. Certification may be obtained through an approved training program that meets the erosion and sediment control training standards established by Ecology.

(c) Whenever inspection and/or monitoring reveals that the BMPs identified in the construction SWPPP are inadequate, due to the actual discharge of or potential to discharge a significant amount of any pollutant, appropriate BMPs or design changes shall be implemented as soon as possible.

(d) The construction SWPPP shall be retained on-site or within reasonable access to the site.

(e) The SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.

(f) The SWPPP shall be modified, if during inspections or investigations conducted by the owner/operator, or the director, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the site. The SWPPP shall be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP shall be completed within seven calendar days following the inspection.

(13)

~~(b)~~ Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. When establishing these permitted clearing and grading areas, consideration should be given to minimizing removal of existing trees and minimizing disturbance/compaction of native soils except as needed for building purposes. These permitted clearing and grading areas and any other areas required to

preserve critical or sensitive areas, buffers, native growth protection easements, or tree retention areas, shall be delineated on the site plans and the development site.

(14)

~~(e)~~ Seasonal Work Limitations. From October 1st through April 30th, clearing, grading, and other soil disturbing activities shall only be permitted if shown to the satisfaction of the director that silt-laden runoff will be prevented from leaving the site through a combination of the following:

(a)

~~(i)~~ Site conditions including existing vegetative coverage, slope, soil type and proximity to receiving waters; and

(b)

~~(ii)~~ Limitations on activities and the extent of disturbed areas; and

(c)

~~(iii)~~ Proposed erosion and sediment control measures.

(15)

~~(13)~~ Based on the information provided and/or local weather conditions, the director may expand or restrict the seasonal limitation on-site disturbance. The director shall take enforcement action, such as a notice of violation, administrative order, penalty, or stop-work order, under the following circumstances:

(a) If, during the course of any construction activity or soil disturbance during the seasonal limitation period, sediment leaves the construction site causing a violation of the surface water quality standard; or

(b) If clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained.

(~~14~~16) The following activities are exempt from the seasonal clearing and grading limitations:

(a) Routine maintenance and necessary repair of erosion and sediment control BMPs;

(b) Routine maintenance of public facilities or existing utility structures that do not expose the soil or result in the removal of the vegetative cover to soil; and

(c) Activities where there is 100% ~~percent~~ infiltration of surface water runoff within the site in approved and installed erosion and sediment control facilities.

(~~15~~17) (a) Coordination with Utilities and Other Contractors. The primary project proponent shall evaluate, with input from utilities and other contractors, the ~~storm water~~ stormwater management requirements for the entire project, including the utilities, when preparing the construction SWPPP.

(b) Inspection and Monitoring. All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function. Site inspections shall be conducted by a person who is knowledgeable in the principles and practices of erosion and sediment control. The person must have the skills to (i) assess the site conditions and construction activities that could impact the quality of ~~storm water~~ stormwater, and (ii) assess the effectiveness of erosion and sediment control measures used to control the quality of ~~storm water~~ stormwater discharges.

~~(16) For construction sites one acre or larger that discharge storm water to surface waters of the state, a certified erosion and sediment control specialist shall be identified in the Construction SWPPP and shall be on-site or on-call at all times. Certification may be obtained through an approved training program that meets the erosion and sediment control training standards established by Ecology.~~

~~(17) Whenever inspection and/or monitoring reveals that the BMPs identified in the construction SWPPP are inadequate, due to the actual discharge of or potential to discharge a significant amount of any pollutant, appropriate BMPs or design changes shall be implemented as soon as possible.~~

~~(18) The construction SWPPP shall be retained on-site or within reasonable access to the site.~~

~~(19) The SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.~~

~~(20) The SWPPP shall be modified, if during inspections or investigations conducted by the owner/operator, or the director, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the site. The SWPPP shall be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP shall be completed within seven calendar days following the inspection.~~

**12.30.527 Minimum Requirement #3 – Source control of pollution.** All known, available and reasonable source control BMPs shall be applied to all projects. Source control BMPs shall be selected, designed, and maintained according to the ~~m~~Manual.

~~An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop source control requirements that are tailored to a specific basin; however, in all circumstances source control BMPs shall be required for all sites.~~

**12.30.530 Minimum Requirement #4 – Preservation of natural drainage systems and outfalls.** Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down gradient properties. All outfalls require energy dissipation.

**12.30.535 Minimum Requirement #5 – On-site ~~storm water~~ stormwater management.** Projects shall employ on-site ~~storm water~~ stormwater management BMPs to infiltrate, disperse, and retain ~~storm water~~stormwater runoff on-site to the maximum extent feasible without causing flooding or erosion impacts. Roof downspout control BMPs, functionally equivalent to those described in ~~Chapter 3 of Volume III of~~ the ~~m~~Manual, and dispersion and soil quality BMPs, functionally equivalent to those in Chapter 5 of Volume V of the ~~m~~Manual, shall be required to reduce the hydrologic disruption of developed sites. Use of low impact development practices and BMPs is encouraged and is consistent with the Manual.

**12.30.540 Minimum Requirement #6 – Runoff treatment.**

(1) The following require construction of ~~storm water~~ stormwater treatment facilities:

(a) Projects in which the total of effective, pollution-generating impervious surface (PGIS) is 5,000 square feet or more in a threshold discharge area of the project; or

(b) Projects in which the total of pollution-generating pervious surfaces (PGPS) is three-quarters of an acre or more in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site.

(2) Treatment-Type Thresholds.

(a) Oil Control: Treatment to achieve Oil Control applies to projects that have "high-use sites". High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:

(i) An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;

(ii) An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;

(iii) An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);

(iv) A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.

(b) Basic Treatment: Basic Treatment generally applies to:

(i) Project sites that discharge to the ground, UNLESS:

(A) The soil suitability criteria for infiltration treatment are met; (see Chapter 3 of Volume III of the Manual for soil suitability criteria; or

(B) The project uses infiltration strictly for flow control - not treatment - and the discharge is within ¼ mile of the phosphorus sensitive lake (use a Phosphorus Treatment facility), or within ¼ mile of a fish-bearing stream, or a lake (use an Enhanced Treatment facility).

(ii) Residential projects not otherwise needing phosphorus control as designated by USEPA, Ecology, or by the City of Oak Harbor; and

(iii) Project sites discharging directly to salt waters, river segments, and lakes listed in Appendix I-C of the Manual; and

(iv) Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams; and

(v) Landscaped areas of industrial, commercial, and multi-family project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the Basic Treatment requirement shall apply when the runoff from the areas subject to the Basic Treatment requirement comprise 50% or more of the total runoff within a threshold discharge area.

(~~2~~3) Treatment Facility Sizing. Water Quality Design Storm Volume: The volume of runoff predicted from a 24-hour storm with a six-month return frequency (a.k.a., six- month, 24-hour storm). Wetpool facilities are sized based upon the volume of runoff predicted through use of the Natural Resource Conservation Service curve number equations in ~~Chapter 2 of Volume III of~~ the ~~m~~Manual, for the six-month, 24-hour storm. Alternatively, the 91st percentile, 24-hour runoff volume indicated by an approved continuous runoff model may be used.

(~~3~~4) Water Quality Design Flow Rate.

(a) Preceding Detention Facilities or When Detention Facilities Are Not Required: The flow rate at or below which 91% ~~percent~~ of the runoff volume, as estimated by an approved continuous runoff model, will be treated. Design criteria for treatment facilities are assigned to achieve the applicable performance goal at the water quality design flow rate (e.g., 80% ~~percent~~ TSS removal).

(b) Downstream of Detention Facilities: The full two-year release rate from the detention facility.

Alternative methods can be used if they identify volumes and flow rates that are at least equivalent.

That portion of any development project in which the above PGIS or PGPS thresholds are not exceeded in a threshold discharge area shall apply on-site ~~storm water~~ stormwater management BMPs in accordance with Minimum Requirement #5.

(4~~5~~) Treatment Facility Selection, Design, and Maintenance.

(a) ~~Storm water~~ Stormwater treatment facilities shall be:

(i) Selected in accordance with the process identified in ~~Chapter 4 of Volume I of~~ the ~~m~~Manual;

(ii) Designed in accordance with the design criteria in ~~Volume V of~~ the ~~m~~Manual or the Low Impact Development Technical Guidance Manual for Puget Sound; and

(iii) Maintained in accordance with the maintenance schedule in ~~Volume V of~~ the ~~m~~Manual or the Low Impact Development Technical Guidance Manual for Puget Sound.

(~~5~~6) Additional Requirements. Direct discharge of untreated ~~storm water~~ stormwater from pollution-generating impervious surfaces to ground water is prohibited, except for the discharge achieved by infiltration or dispersion of runoff from residential sites through use of on-site ~~stormwater~~stormwater management BMPs.

**12.30.545 Minimum Requirement #7 – Flow control.**

(1) Applicability. Projects shall provide flow control to reduce the impacts of ~~storm water~~ stormwater runoff from impervious surfaces and land cover conversions. The requirements of this section apply to projects that discharge ~~storm water~~ stormwater directly, or indirectly through a conveyance system, into a fresh water, except for projects

that discharge to a water in the ~~m~~Manual, Appendix I-E - Flow Control-Exempt Receiving Waters, in accordance with the following restrictions:

(a) Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Types 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Types "S", "F", or "Np" in the Permanent Water Typing System, or from any Category I, II, or III wetland; and

(b) Flow-splitting devices or drainage BMPs are applied to route natural runoff volumes from the project site to any downstream Type 5 stream or Category IV wetland:

(i) Design of flow-splitting devices or drainage BMPs will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5 stream reaches will approximate, but in no case exceed, durations ranging from 50% ~~percent~~ of the two-year to the 50-year peak flow;

(ii) Flow-splitting devices or drainage BMPs that deliver flow to Category IV wetlands will also be designed using continuous hydrologic modeling to preserve pre-project wetland hydrologic conditions unless specifically waived or exempted by regulatory agencies with permitting jurisdiction; and

(c) The project site must be drained by a conveyance system that is comprised entirely of manmade conveyance elements (e.g., pipes, ditches, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and

(d) The conveyance system between the project site and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from future build-out conditions (under current zoning) of the site, and the existing condition from non-project areas from which runoff is or will be collected; and

(e) Any erodible elements of the manmade conveyance system must be adequately stabilized to prevent erosion under the conditions noted above.

(2) If the discharge is to a stream that leads to a wetland, or to a wetland that has an outflow to a stream, both this requirement and Minimum Requirement #8 apply.

(3) Thresholds. The following require construction of flow control facilities and/or land use management BMPs that will achieve the standard requirement for western Washington:

(a) Projects in which the total of effective impervious surfaces is 10,000 square feet or more in a threshold discharge area; or

(b) Projects that convert three-quarters of an acre or more of native vegetation to lawn or landscape, or convert two and one-half acres or more of native vegetation to pasture in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site; or

(c) Projects that through a combination of effective impervious surfaces and converted pervious surfaces cause a 0.1 cubic feet per second increase in the 100-year flow frequency from a threshold discharge area as estimated using the Western Washington Hydrology Model or other approved model.

(4) That portion of any development project in which the above thresholds are not exceeded in a threshold discharge area shall apply on-site ~~storm water~~ stormwater management BMPs in accordance with Minimum Requirement #5.

(5) Standard Requirement. ~~Storm water~~ Stormwater discharges shall match developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 50% ~~percent~~ of the two-year peak flow up to the full 50-year peak flow. The pre-developed condition to be matched shall be a forested land cover unless:

(a) Reasonable, historic information is provided that indicates the site was prairie prior to settlement (modeled as "pasture" in the Western Washington Hydrology Model); or

(b) The drainage area of the immediate stream and all subsequent downstream basins have had at least 40% ~~percent~~ total impervious area since 1985. In this case, the pre-developed condition to be matched shall be the existing land cover condition. Where basin-specific studies determine a stream channel to be unstable, even though the above criterion is met, the pre-developed condition assumption shall be the "historic" land cover condition, or a land cover condition commensurate with achieving a target flow regime identified by an approved basin study.

This standard requirement is waived for sites that will reliably infiltrate all the runoff from impervious surfaces and converted pervious surfaces.

(5) Engineering Analysis Modeling Requirement. ~~Storm water~~Stormwater runoff volumes and rates shall be determined using the Department of Ecology Western Washington Hydrology Model as required by the ~~m~~Manual or an equivalent continuous runoff model approved for use by the director. A discrete runoff model, such as the Santa Barbara Urban Hydrograph, may be authorized for use by the director when all of the runoff is conveyed to an exempt water body without affecting an wetland, classified stream or other critical area.

**12.30.550 Minimum Requirement #8 – Wetlands protection.**

(1) Applicability. The requirements below apply only to projects whose ~~storm water~~ stormwater discharges into a wetland, either directly or indirectly through a conveyance system. These requirements must be met in addition to meeting Minimum Requirement #6, Runoff treatment.

(2) Thresholds. The thresholds identified in Minimum Requirement #6, Runoff treatment, and Minimum Requirement #7, Flow control, shall also be applied for discharges to wetlands.

(3) Standard Requirement. Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise by a regulatory agency with jurisdiction. A wetland can be considered for hydrologic modification and/or ~~storm water~~ stormwater treatment in accordance with guide of the ~~m~~Manual.

(4) Additional Requirements. The standard requirement does not excuse any discharge from the obligation to apply whatever technology is necessary to comply with state water quality standards, Chapter 173-201A WAC, or state ground water standards, Chapter 173-200 WAC. Additional treatment requirements to meet those standards may be required by federal, state, or local governments. ~~Storm water~~Stormwater treatment and flow control facilities shall not be built within a natural vegetated buffer, except for:

(a) Necessary conveyance systems as approved by the local government; or

(b) As allowed in wetlands approved for hydrologic modification and/or treatment in accordance with Guidesheet 1B.

An adopted and implemented basin plan (Minimum Requirement #9), or a total maximum daily load (TMDL, also known as a water clean-up plan) may be used to develop requirements for wetlands that are tailored to a specific basin.

**12.30.555 Minimum Requirement #9 – Basin/watershed planning.**

(1) Projects may be subject to equivalent or more stringent minimum requirements for erosion control, source control, treatment, and operation and maintenance, and alternative requirements for flow control and wetlands hydrologic control as identified in basin/watershed plans. ~~Basin/watershed plans shall evaluate and include, as necessary, retrofitting urban storm water BMPs into existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction and flow control goals that are consistent with requirements of the Federal Clean Water Act. Standards developed from basin plans shall not modify any of the above minimum requirements until the basin plan is formally adopted and implemented by the local governments within the basin.~~Basin planning may be used to support alternative treatment, flow control, and/or wetland

protection requirements to those contained in this Chapter, the Manual or the requirements of the City of Oak Harbor NPDES Phase II stormwater permit. Basin planning may also be used to demonstrate an equivalent level of treatment, flow control, and/or wetland protection through the construction and use of regional stormwater facilities.

(2) In order for a basin plan to serve as a means of modifying the minimum requirements, the following conditions must be met:

(a) The plan must be formally adopted by all jurisdictions with responsibilities under the plan; and

(b) All ordinances or regulations called for by the plan must be in effect; and

(c) The basin plan must be reviewed and approved by Ecology.

**12.30.560 Minimum Requirement #10 – Operation and maintenance.** An operation and maintenance manual consistent with the provisions in ~~Volume V of~~ the ~~m~~Manual shall be provided for all proposed ~~storm water~~ stormwater facilities and BMPs. The party (or parties) responsible for maintenance and operation shall be identified. At private facilities, a copy of the ~~m~~Manual shall be retained on-site or within reasonable access to the site, and shall be transferred with the property to the new owner. A record or log of all maintenance activities shall be kept and be available for inspection by the city. Operation and maintenance of all public private ~~storm water~~ stormwater facilities shall be in accordance with Chapter 12.20 OHMC.

**12.30.565 Minimum Requirement #11 – Financial liability.** Performance bonding in the amount of 112% ~~percent~~ of the cost to construct, or other performance surety acceptable to the director, may be required by the director for projects to ensure compliance with these standards. When required by the director, performance sureties shall be posted prior to issuance of the development permit.

**12.30.570 Minimum Requirement #12 – Off-site analysis and mitigation.** Development projects that discharge ~~storm water~~ stormwater off-site shall submit an off-site analysis report that assesses the potential off-site water quality, erosion, slope stability, and drainage impacts associated with the project and that proposes appropriate mitigation of those impacts. An initial qualitative analysis shall extend downstream for the entire flow path from the project site to the receiving water or up to one mile, whichever is less. If a receiving water is within one-quarter mile, the analysis shall extend within the receiving water to one-quarter mile from the project site. The analysis shall extend one-quarter mile beyond any improvements proposed as mitigation. The analysis must extend upstream to a point where any backwater effects created by the project cease. Upon review of the qualitative analysis, the local director may require that a quantitative analysis be performed.

The existing or potential impacts to be evaluated and mitigated shall include: conveyance system capacity problems, localized flooding and upland erosion impacts, including landslide hazards.

**12.30.575 Adjustments.** An adjustment to the minimum requirements is a minor modification meeting the purpose and intent of the requirements, but does not lift or waive any specific requirement. Adjustments to the minimum requirements may be granted prior to permit approval and construction. The director may grant an adjustment; provided, that a written finding of fact is prepared that addresses the following:

(1) The adjustment provides substantially equivalent environmental protection.

(2) The objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are met.

**12.30.580 Exceptions and Variances.**

(1) An exception or variance to the minimum requirements either lifts or waives any of the minimum requirements whether in whole or in part. Exceptions or variances to Minimum Requirements #1 through #12 may be granted by the director prior to permit approval and construction. An exception or variance may be granted following legal public notice of an application for an exemption, legal public notice of the director's decision and the director's written finding of fact that documents the following:

(~~1~~a) The exception provides equivalent environmental protection is not injurious to other properties in the vicinity, and is in the overriding public interest; and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are ~~fully~~ met;

(~~2~~b) That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of ~~all~~ reasonable use of the parcel of land in question~~, and every effort to find creative ways to meet the intent of the minimum standards has been made~~;

~~(3) That the granting of the exception will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and~~

(~~4~~c) The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements.

(2) The director is further authorized to grant an exception or variance to the minimum requirements if strict application imposes a severe and unexpected economic hardship.

(3) In determining the economic hardship, the director shall consider the following:

(a) The current (pre-project) use of the site; and

(b) How the application of the minimum requirement(s) restricts the proposed use of the site compared to the stormwater regulations in effect prior to 2007; and

(c) The possible remaining uses of the site if the exception were not granted; and

(d) The uses of the site that would have been allowed prior to 2007; and

(e) A comparison of the estimated amount and percentage of value loss as a result of the minimum requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to 2007; and

(f) The feasibility for the owner to alter the project to apply the minimum requirements.

(4) The director is authorized to establish application procedures and requirements for consideration of all requests for exceptions or variance to the minimum requirements of this section. Application for an exception to these requirements shall be made on forms provided by the director. In all cases the burden of demonstrating through analysis and supporting documentation that an exception or variance is justified rests with the applicant.

## Subchapter 12.30.600 – Administration

**12.30.610 Director.** The director or his/her designee shall administer this chapter. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter. The city engineer or designee is hereby assigned the duty of director under this chapter.

**12.30.620 Review and approval.** The director may approve, conditionally approve or deny an application for activities regulated by this chapter.

**12.30.625 Review process.** Reviews under this chapter are considered Type I as defined in Chapter 18.20 OHMC.

~~**12.30.630 Enforcement authority.** The director shall enforce this chapter.~~

**12.30.640 Inspection.** All activities regulated by this chapter, except those exempt in OHMC 12.30.220, shall be inspected by the director. The director shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction; installation of BMPs; land disturbing activities; installation of utilities, landscaping, retaining walls and completion of project. When required by the director, special inspection and/or testing shall be performed.

## Subchapter 12.30.700 – Enforcement

**12.30.710 General.** Enforcement action shall be in accordance with this chapter whenever a person has violated any provision of this chapter. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the

public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action.

**12.30.720 Stop work order.** The director shall have the authority to serve a person a stop work order if an action is being undertaken in violation of this chapter.

(1) Content of Order. The order shall contain:

(a) A description of the specific nature, extent, and time of violation and the damage or potential damage; and

(b) A notice that the violation or the potential violation shall cease and desist, and, in appropriate cases, the specific corrective action to be taken within a given time. ~~A civil penalty under OHMC 12.30.730 below may be issued with the order.~~

(2) Notice. A stop work order shall be imposed by a notice in writing, either by certified mail with return receipt requested, or by personal service, to the person incurring the same.

(3) Effective Date. The stop work order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

(4) Compliance. Failure to comply with the terms of a stop work order shall result in enforcement actions including, but not limited to, the issuance of a notice of civil ~~penalty.~~infraction pursuant to Ch. 1.28 OHMC and/or a criminal citation or complaint in accordance with CrRLJ 2.1, as applicable.

**12.30.730** ~~**Civil penalty.** A person who fails to comply with the requirements of this chapter, who fails to conform to the terms of an approval or order issued, who undertakes new development without first obtaining city approval, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty.~~

~~(1) Amount of Penalty. The penalty shall not be less than One Hundred Dollars ($100.00) or exceed Two Hundred Fifty Dollars ($250.00) for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.~~

~~(2) Aiding or Abetting. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.~~

~~(3) Notice of Penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the city. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require necessary corrective action within a specific time.~~

~~(4) Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the city for remission or mitigation of such penalty. Upon receipt of the application, the city supervisor~~administrator~~ may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. The decision may be appealed to the city council within 10 days of the decision.~~

~~(5) Appeal of Civil Penalty. Persons incurring a penalty imposed by the director may appeal to the city supervisor~~administrator~~, in writing, within 10 days of the receipt of the penalty. The city supervisor~~administrator~~'s decision may be appealed to the city council within 10 days of the decision.~~**Penalties.**

(1) The failure to comply with the provisions of this chapter is a civil offense, classified as a Class 1 infraction pursuant to Ch. 1.28 OHMC. Each day of violation shall be a separate offense. This is an absolute liability offense. No mental element as defined in law is required for proof of violation.

(2) The knowing or intentional failure or refusal to comply with a stop work order under the provisions of this chapter is a misdemeanor which shall be punishable by the maximum penalty established by RCW 9.92.030 as now or hereafter amended.

(3) An intentional or repeated violation of this chapter by the person responsible shall be a misdemeanor.

**12.30.740** ~~**Penalties due.** Penalties imposed under this section shall become due and payable 30 days after receiving it unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision have been issued confirming all or part of the penalty. If the amount of a penalty owed the city is not paid within the time specified, the city may take actions necessary to recover such penalty.~~**Enforcement.**

(1) Provisions of this chapter will be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(2) Civil Infraction Procedures Applicable. If a civil offense is filed against any person, the civil infraction procedures of Ch. 1.28 OHMC shall be followed.

(3) Criminal Prosecution. A criminal complaint may be brought by the City Attorney or a citation may be issued by a duly commissioned law enforcement officer for violation of the misdemeanor provisions of this chapter, in accordance with CrRLJ 2.1.

(4) Nothing in this section shall limit the authority of the City to take any action, including emergency actions, civil infractions, criminal prosecutions or any other enforcement action, to enforce the provisions of this chapter.

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

**Section Three**. Effective Date. This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the City Council and approved by its Mayor this_____ day of _____, 2010.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published: _____

**City of Oak Harbor**
**City Council Agenda Bill**

**Bill No.** 8
**Date:** February 16, 2010
**Subject:** Introduction – Speed Limit Ordinance

**FROM:** Cathy Rosen, Public Works Director
Eric Johnston, City Engineer

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, approved as to form

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## PURPOSE

The purpose of this agenda bill is to introduce proposed changes to Chapter 10.08 of the Oak Harbor Municipal Code related to speed limits. The changes are largely related to changes in City limit boundaries resulting from annexations over the last several years. Also included is a reduction of the speed limit along Heller Street and N Oak Harbor Street for consistency and safety.

## AUTHORITY

The City is given authority through Washington State Law to regulate speed limits in City streets within prescribed guidelines provided that said speed regulations are based on engineering studies and recommendations.

***WAC 308-330-270 - Local authority - Authority.***
*After an engineering and traffic investigation by the traffic engineer, the local authority may by resolution:*
1. *Decrease maximum speed limits pursuant to RCW 46.61.415;*
2. *Increase maximum speed limits pursuant to RCW 46.61.415;*
3. *Determine and declare the maximum speed limits on arterial highways pursuant to RCW 46.61.415.*

***RCW 46.61.415 - When local authorities may alter maximum limits.***
1. *Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.440 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:*
   *a) Decreases the limit at intersections; or*
   *b) Increases the limit but not to more than sixty miles per hour; or*
   *c) Decreases the limit but not to less than twenty miles per hour.*

2. *Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under RCW 46.61.400(2) but shall not exceed sixty miles per hour.*

**SUMMARY STATEMENT**

Speed limits along public roadways are established by ordinance to provide the maximum safe speed along the roadway. Speed limits are required by state law to be based on the engineering studies and recommendations of the traffic engineer. Washington Administrative Code (WAC) 308-330-260 designates the City Engineer as the traffic engineer in the City of Oak Harbor. The engineering recommendations related to speed limits are based on an analysis that considers the vertical and horizontal alignment, traffic volume, measured vehicle speeds, roadway classification, the number of access points and intersections as well as other factors.

Heller Street Speed Limit Reduction.

Currently, the speed limit on SW Heller Street is 40 mph, from SW Swantown Avenue to a point 528 feet south of W Whidbey Avenue, where the speed limit changes to 35 mph to a point 750 feet north of W Whidbey Avenue, where the speed limit returns to 40 mph until the north City limit boundary at NW Crosby Avenue. There is also a 20 mph speed limit when the school zone lights are scheduled to flash between NW 2nd Avenue to just south of NW 5th Avenue, which includes both a portion of the existing 35 mph and the 40 mph speed limit boundaries. The Oak Harbor Police Department has raised concerns related to the difficulty of enforcement resulting from the multiple speed zones.

The City Engineer has conducted a traffic study of the speeds on SW and NW Heller Street and has considered the vertical alignment, the number of access points, traffic volumes as well as other factors. Based on this information it is recommended that the speed limit on Heller Street be reduced to 35 mph from Swantown Avenue to north City limits. The proposed changes to OHMC 10.08 reflect this recommendation.

Oak Harbor Street Speed Limit Reduction.

Currently, the speed limit on Oak Harbor Street is 30 mph, from SE 3rd Avenue to NE 7th Avenue. Between NE 7th Avenue and north City limits the speed limit increases to 35 mph.

The City Engineer has conducted a traffic study of the speeds on N Oak Harbor Street and has considered the vertical alignment, the number of access points, traffic volumes as well as other factors. Based on this information it is recommended that the speed limit on N Oak Harbor Street be reduced to 30 mph from NE 7th Avenue to north City limits. The proposed changes to OHMC 10.08 reflect this recommendation.

Other Changes.

Over the years, portions of county roads and SR-20 have been annexed into the City of Oak Harbor however the speed limit code has not been kept current with the changes in jurisdictional boundaries. In some cases, speed limit signs were moved concurrent with the relocation of City

limits signs however the speed limit code was not changed. The proposed revisions to OHMC 10.08 as shown in the attached ordinance reflect the current City of Oak Harbor jurisdictional boundaries and the currently posted speed limits. These changes are needed for consistency and enforceability of the ordinance however these changes will not alter the existing speed limits as currently posted.

Recommendation

It is the recommendation of the City Engineer to lower the speed limit on Heller Street to 35 mph, to lower the speed limit on N Oak Harbor Street to 30 mph, and to further modify OHMC 10.08 to reflect current City limits as proposed in the attached draft ordinance.

If approved by the Council, the speed limit signs on Heller Street and Oak Harbor Street will be revised in accordance with the standards contained in the Manual on Uniform Traffic Control Devices as required by Washington State Law. Staff will coordinate with law enforcement agencies and Island County Public Works staff on the appropriate sign revisions.

**STANDING COMMITTEE REPORT**

This item was presented to the Public Works and Utilities Committee at the October 1, 2009 meeting and the Public Safety Committee at the January 21, 2010 meeting.

**RECOMMENDED ACTION**:

A motion setting March 2, 2010 for a public hearing to consider the ordinance.

**ATTACHMENTS:**

Draft ordinance

**MAYOR'S COMMENTS**:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR ESTABLISHING NEW SPEED LIMITS, AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 10.08 "SPEED LIMITS," SECTIONS 10.08.010, 10.08.020, 10.08.030, 10.08.040, 10.08.070 AND ADDING A NEW SECTION 10.08.050 REGARDING SCHOOL ZONES

**Section One**. Oak Harbor Municipal Code Chapter 10.08, last amended by Ordinance 1090 in 1997, is hereby amended to read as follows:

SPEED LIMITS
Sections:

10.08.010 Speed limits on SR 20.
10.08.020 Forty miles per hour. ~~Speed limit on portion of S.W. Heller Street and N.W. Heller Street.~~
10.08.030 Thirty-five miles per hour.
10.08.040 Thirty miles per hour.
10.08.050 School Zones.
10.08.060 Signage.
10.08.070 Violation of OHMC 10.08.010, 10.08.020, 10.08.030, ~~and~~ 10.08.040 and 10.08.050.

**10.08.010 Speed limits on SR 20.**

(1) The speed limit along SR 20 from the city limits south corporate limits on SR 20 to ~~400~~ 200 feet west of S.W. Barlow Street is established as 40 miles per hour;

(2) The speed limit along SR 20 from a point ~~40~~ 200 feet west of S.W. Barlow Street to 500 feet north of S.W. 6th Avenue is established as 30 miles per hour;

(3) The speed limit along SR 20 from a point 500 feet north of S.W. 6th Avenue to 1700 feet north of N.E. 16th Avenue ~~the north corporate limits of the city~~ is established as 40 miles per hour.

(4) The speed limit along SR 20 from a point 1700 feet north of N.E. 16th Avenue to the north corporate city limits on SR 20 is established as 50 miles per hour.

**10.08.020 Forty miles per hour. ~~Speed limit on portion of S. W. Heller Street and N. W. Heller Street.~~**

The maximum speed limit on the following described street is established at 40 miles per hour: ~~The motor vehicle speed limit on that portion of S. W. Heller Street from S. W. Swantown Avenue to Whidbey Avenue and N. W. Heller Street from W. Whidbey Avenue north to city limits of the city of Oak Harbor is established as 40 miles per hour. Ord. 1090 §2m 1997; Ord. 949 §1, 1993; Ord. 829 §, 1989).~~

N.E. Regatta Drive from Crescent Harbor Road to SR 20.

**10.08.030 Thirty-five miles per hour.**

The maximum speed limit on the following described streets is established at 35 miles per hour:

(1) N.E. Goldie Street from SR 20 to city limits;

(2) N.E. 16th Avenue from SR 20 to N.E. Goldie Street;



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(3) N.W. Crosby Avenue from N. Oak Harbor Street to city limits;
~~(4) N. Oak Harbor Street from N. E. 7th Avenue to north city limits;~~
(~~5~~4) N.E. 7th Avenue from SR 20 to N. Oak Harbor Street;
(~~6~~5) S.W. Swantown Avenue from SR 20 to Fairway Lane. ~~S. W. Heller Street;~~
(~~7~~6) S.W. and N.W. Heller Street from S.W. Swantown Avenue to N.W. Crosby Avenue. ~~a point 528 feet south of the centerline intersection of W. Whidbey Avenue to a point 750 feet north of said intersection;~~
(~~8~~7) S.W. Fort Nugent Avenue from west city limits to S.W. Swantown Avenue;
(~~9~~8) S.W. Scenic Heights Street from S.W. Balda Street ~~south city limits~~ to SR 20;
(~~10~~9) S.W. Balda Street from S.W. Scenic Heights Street to city limits.

**10.08.040 Thirty miles per hour.**
The maximum speed limit on the following described streets is established at 30 miles per hour:
(1) N.E. and S.E. Midway Boulevard from SR 20 ~~and S. E. Midway Boulevard south of Whidbey Avenue~~ to S.E. Pioneer Way.~~,~~ ~~except where school zones are posted;~~
(2) S.E. Pioneer Way from S.E. Midway Boulevard to S.E. Regatta Drive;
(3) S.E. Bayshore Drive from S.E. Midway Boulevard to S.E. City Beach Street;
(4) S. and N. Oak Harbor ~~and N. Oak Harbor~~ Street ~~north of its intersection with SR 20;~~ from S.E. 3rd Avenue to city limits.
(5) ~~All of~~ W. ~~Whidbey Avenue~~ and E. Whidbey Avenue, from N.W. Heller Street to N.E. Regatta Drive. ~~except designated school zones~~.
(6) S.E. ~~Regatta Drive~~ and N.E. Regatta Drive from S.E. Pioneer Way to Crescent Harbor Road; ~~except for designated school zones.~~ ;
(7) W. Loerland Drive from N.W. Heller Street to west city limits;
(8) N.E. 16th Avenue from SR 20 to N.E. Regatta Drive.

**10.08.050 School Zones.**
Designated School Zones shall be 20 miles per hour.

**10.08.060 Signage.**
Each of the speed zones designated in the chapter shall be signed in the manner designated by the city engineer.

**10.08.070 Violation of OHMC 10.08.010, 10.08.020, 10.08.030, ~~and~~ 10.08.040 and 10.08.050.**
Violation of the speed zones established under this chapter shall be punishable as an infraction as specified in the Model Traffic Ordinance as now in effect or as hereafter amended.

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

**Section Three**. Effective Date. This ordinance shall take effect five days after publication provided that the changes in speed limits provided herein shall not take effect until appropriate signs giving notice thereof are erected and further provided that the speed limit established in OHMC 10.08.010 (4) herein shall not take effect until approved by the Washington State Secretary of Transportation.

PASSED by the City Council this _____ day of _____, 2010.

THE CITY OF OAK HARBOR

Approved ( )
Vetoed ( )

_____
Jim Slowik, Mayor

_____
Date

ATTEST:

_____
Connie Wheeler, City Clerk

Approved as to Form:

_____
City Attorney

Published: _____

**City of Oak Harbor**
**City Council Agenda Bill**

**Bill No.** 9
**Date:** February 16, 2010
**Subject:** Roadway Maintenance Interlocal Agreement with Island County

**FROM:** Cathy Rosen, Public Works Director
Eric Johnston, City Engineer

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, approved as to form

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**PURPOSE**
The purposed of this agenda bill is to consider renewal of the interlocal agreement with Island County for the maintenance of certain shared roadways along jurisdictional boundaries.

**AUTHORITY**
The authority to enter into agreements for improvements or use of real property is granted to the City of Oak Harbor under 35A.11.020.

**SUMMARY STATEMENT**
The City of Oak Harbor and Island County established an interlocal agreement in 1983 to maintain roadways that have either a jurisdictional boundary along the centerline or where efficiencies in costs and operation are achieved through continuity of maintenance responsibilities.

The attached agreement is a renewal of the agreement last signed in the year 2000. Changes to the agreement reflect the changes in City limits that have occurred during the last ten years. Under this agreement the County will continue to maintain Crescent Harbor Road and Reservation Road. The City agrees to continue maintenance of those portions of NE 16th Avenue, Heller Road, and Regatta Drive that are in the County but are connected to City limits on both ends.

It is recommended that the Council authorize the Mayor to sign the agreement as proposed.

**STANDING COMMITTEE REPORT**
This item was presented to the Public Works and Utilities Committee at the November 2009 meeting.

**RECOMMENDED ACTION**:
A motion authorizing the Mayor to sign an interlocal agreement with Island County for the maintenance of public roadways.

**ATTACHMENTS:**
Interlocal Agreement

**MAYOR'S COMMENTS**:

**After recording send to:**
Island County Public Works
P. O. Box 5000
Coupeville, WA 98239

# INTERLOCAL AGREEMENT BETWEEN ISLAND COUNTY AND THE CITY OF OAK HARBOR FOR ROADWAY MAINTENANCE

**Agreement Number PW - 09XXXX**

WHEREAS, the legislature of the State of Washington has found that use of public roadway centerlines as boundaries of incorporated cities and towns have resulted in the divided jurisdiction over such public ways, causing maintenance inefficiencies; such practice now being prohibited by RCW 35.02.170; and

WHEREAS, Island County and the City of Oak Harbor may enter into interlocal agreements for their mutual advantage; and

WHEREAS, the City of Oak Harbor and Island County are desirous of adopting an interlocal maintenance agreement for those roads which, as a result of past annexations, are affected by irregular jurisdictional boundaries and would be more efficiently maintained relative to their primary function as either city or county rights-of-way; and

WHEREAS, subsequent to the adoption of the Roadway Maintenance Agreement, recorded under Auditor's File #409492 and dated May 9, 1983, the City of Oak Harbor has annexed additional territory;

IN CONSIDERATION of mutual covenants hereinafter contained, Island County and the City of Oak Harbor do by these presents enter into this interlocal agreement pursuant to the Interlocal Cooperation Act of the State of Washington (RCW 39.34) on the terms and conditions as follows:

WITNESSETH:

1. No separate legal or administrative entity is intended to be created hereby. Island County shall administer those portions of this agreement which pertain to it, and the

City of Oak Harbor shall administer those portions which pertain to it. No jointly held property will be acquired and each party will finance and budget for its responsibilities under this agreement.

2. Roadway maintenance, as that term is hereinafter used, shall be defined as road maintenance resurfacing per BARS definition; shoulder, ditch and culvert maintenance; snow removal/sanding operations; traffic control signing; pavement striping; guardrails, and vegetative control. Access control shall be maintained by the government agency and is not road maintenance.

3. For no monetary consideration, Island County agrees to maintain the following list of roadways or portions thereof both inside and outside City of Oak Harbor boundaries pursuant to this agreement:

    a. Crescent Harbor Road; and
    b. Reservation Road.

4. For no monetary consideration, the City of Oak Harbor agrees to maintain the following list of roadways or portions thereof both inside and outside City of Oak Harbor boundaries pursuant to this agreement:

    a. Regatta Drive north of Crescent Harbor Road;
    b. NE 16th Avenue between SR 20 and Regatta Drive; and
    c. Heller Street south of Barrington Drive.

5. Future reconstruction of any of the roadways identified in paragraphs 3 and 4 above and the financing of same shall be accomplished by separate agreement between Island County and the City of Oak Harbor, and so denoted on the Six-Year Road/Street Programs of the agencies.

6. As the City of Oak Harbor annexes each of the roadway sections listed in paragraphs 3 and 4 above, the City of Oak Harbor becomes fully responsible for maintenance and reconstruction of said roads and the County's responsibility shall cease for that road.

7. Both parties agree to review and establish the same speed limits for both sides of those roads in paragraphs 3 and 4 so as to not impair consistent and effective law enforcement.

8. The duration of the agreement shall be ten (10) years; PROVIDED, however, that either of the parties to this agreement may terminate the agreement by giving a one-year notice of termination, unless such period shall be shortened by mutual consent; and furthermore, that this agreement may be amended in writing by mutual consent.

9. Island County shall indemnify, hold harmless and defend the City of Oak Harbor, its appointed and elected officers, and employees from and against any and all claims, liability, losses, cost (including attorney fees), and/or cause of action which may arise from any act or omission of Island County, its agents, servants or employees in the performance of road maintenance services under paragraph 3 of this Agreement.

The City of Oak Harbor shall indemnify, hold harmless and defend Island County, its appointed and elected officers, and employees from any and against any and all claims, liability, losses, cost (including attorney fees), and/or cause of action which may arise from any act or omission of the City of Oak Harbor, its agents, servants or employees in the performance of road maintenance services under paragraph 4 of this Agreement.

This Agreement is subject to RCW 4.24.115. 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 both the City of Oak Harbor and Island County, their officers, officials, employees and volunteers, each party's liability hereunder shall be only to the extent of each party's negligence.

In the event of negligence or other wrongful acts asserted against more than one party in a lawsuit, any damages awarded shall be levied in proportion to the percentage of fault attributable to each party as determined in a separate proceeding with the same trial judge that presided over the main lawsuit. It is further agreed by the parties to reserve their cross-claims until after the main issue(s) of liability has been resolved.

For the purposes of this indemnification and hold harmless agreement, the City of Oak Harbor 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.

For the purposes of this indemnification and hold harmless agreement, Island County 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.

10. Upon the approval and signature of the parties hereto, this agreement shall be in full force and effect when filed with the Auditor of Island County.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

APPROVED this _____ day of _____, 2010.

ISLAND COUNTY

_____
John Dean, Chairman

_____
Helen Price-Johnson, Member

_____
Angie Homola, Member

Attest:

_____
Elaine Marlow

APPROVED this _____ day of _____, 2010.

CITY OF OAK HARBOR

_____
Jim Slowik, Mayor

Attest:

_____
Connie Wheeler, Clerk

L:\LGLA\WORK\Civ2010\Roadway Maintenance Interlocal #1.doc

**City of Oak Harbor**
**City Council Agenda Bill**

**Bill No.** 10
**Date:** February 16, 2010
**Subject:** Amendment to 42-Inch Outfall Design Services Contract Approval

**FROM:** Cathy Rosen, Public Works Director
Eric Johnston, City Engineer

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

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**PURPOSE**

This agenda bill requests approval of an amendment totaling $99,938.00 to the Consultant Agreement with Moffat & Nichol, Inc. for services pertaining to the 42-Inch Outfall Replacement Project. The amendment provides for geotechnical and archeological investigation, design of a new pedestrian path, path lighting design, parking lot design, landscape design, and surveying. The amendment will increase Phase I of the Agreement to a new total of $383,037.00.

**AUTHORITY:**

The authority to enter into agreements for improvements or use of real property is granted to the City of Oak Harbor under 35A.11.020.

**SUMMARY STATEMENT**:

On June 16, 2008, City Council approved an agreement with the engineering firm of Moffat & Nichol for Phases 1 and 2 of an agreement for engineering services related to reconstructing a failing stormwater outfall in Windjammer Park. Phase 1, investigation, surveying, preliminary design and environmental permitting, has been developed and submitted to local, State and Federal agencies. Phase 2 consists of developing final plans, specifications, and estimates for construction of a new outfall.

A Shoreline Substantial Development Permit for the project was submitted to the City of Oak Harbor Development Services Department and was approved by Council on January 19, 2010. The permit contains two significant mitigation measures pertaining to project impacts to Windjammer Park, an extension to the waterfront trail, and reconstruction of the west parking area. Engineering, survey and landscape design for the trail extension and parking reconstruction are outside the scope of services in the existing contract. Incorporating mitigation measures into the project necessitates additional engineering, design services and fees described in the attached contract amendment.

Additional archeological and geotechnical investigations of the project site are also necessary. Archeological and geotechnical investigations of the site were previously conducted in accordance with the original contract. The change to the outfall pipe alignment and addition of the trail extension and parking area reconstruction requires additional investigations in order to adequately address soil and archeological conditions in all the areas in which work will be occurring. These services are also included in the attached contract amendment.

Funding is available in the project budget for the amendment.

**JUSTIFICATION**

Environmental mitigation measures necessary to comply with conditions of approval contained in the Shoreline Substantial Development Permit for the 42-inch outfall reconstruction project require engineering, design and site investigation services beyond the original contract scope.

**STANDING COMMITTEE REVIEW**

This item was presented to the Public Works and Utilities Standing Committee on February 2, 2010.

**RECOMMENDED ACTION**:

Authorize the Mayor to sign an amendment, for $99,938.00, to the agreement with Moffat & Nichol for additional engineering, survey, design, and site investigation services.

**ATTACHMENTS:**

Amendment No. 1 to City of Oak Harbor Contract with Moffat & Nichol.
Amendment No. 2 to City of Oak Harbor Contract with Moffat & Nichol, Scope of Work is attached to this amendment.

**MAYOR'S COMMENTS**:

| | | |
|---|---|---|
| **Consultant Agreement Amendment Number: 1** | Organization and Address<br>City of Oak Harbor<br>865 SE Barrington Drive<br>Oak Harbor, WA 98239<br><br>Phone: (360) 279-4525 | |
| Original Agreement Title: N/A | | |
| Project Number: Eng 06-42 | Execution Date<br>June 16, 2008 | Completion Date<br>None |
| Project Title:<br>42-inch Outfall Reconstruction | New Maximum Amount Payable<br><br>No Change | |
| Description of Work:<br>Engineering services necessary to develop a design, construction plans and environmental permitting for replacement of an existing storm water outfall in Windjammer Park | | |

The Local Agency of City of Oak Harbor desires to supplement the agreement entered into with Moffat & Nichol, Inc. and executed on June 16, 2008 and identified as Agreement City of Oak Harbor Agreement with Moffat & Nichol, Inc.

All provisions in the basic agreement remain in effect except as expressly modified by this supplement

The changes to the agreement are described as follows:

SCOPE OF WORK is hereby changed to read:

N/A

TIME FOR BEGINNING AND COMPLETION IS AMENDED to read:

Completion Date is July 31, 2010

PAYMENT shall be amended as follows:

No Change

If you concur with this amendment and agree to the changes as stated above, please sign in the appropriate spaces and return to this office for final action.

By: _____

Consultant Signature

By: Arnold B. Peterschmidt, P.E.
Project Engineer

Arnold B Peterschmidt

Approving Authority Signature

OCT 16, 2009

Date

| | | |
|---|---|---|
| **Consultant Agreement Amendment Number: 2** | Organization and Address<br>City of Oak Harbor<br>865 SE Barrington Drive<br>Oak Harbor, WA 98239<br><br>Phone: | |
| Original Agreement Title:<br>N/A | | |
| Project Number: ENG 06-42 | Execution Date<br>June 16, 2008 | Completion Date<br>July 31, 2010 |
| Project Title<br>42-Inch Outfall Reconstruction | New Maximum Amount Payable<br>$383,037.00 | |
| Description of Work<br>Surveying, archeological investigation, geological investigation, engineering design, landscape design, plans, specifications and estimates for paved parking reconstruction and trail extension. | | |

The Local Agency of City of Oak Harbor
desires to supplement the agreement entered into with Moffat & Nichol
and executed on June 16, 2008.

All provisions in the basic agreement remain in effect except as expressly modified by this supplement

The changes to the agreement are described as follows:

SCOPE OF WORK is hereby changed to read:
See attachment A to this amendment.

TIME FOR BEGINNING AND COMPLETION IS AMENDED to read: No Changes

SUBCONTRACTING shall be amended as follows: Sub-consultant services detailed in attachments "B" through "G" are added to the Agreement.

PAYMENT shall be amended as follows:
Up to $99,938.00 additional payments for a project total of $383,037.00 is authorized.

If you concur with this amendment and agree to the changes as stated above, please sign in the appropriate spaces and return to this office for final action.

By: _____

_____
Consultant Signature

By: _____

_____
Approving Authority Signature

_____
Date

# ATTACHMENT A

**CONSULTANT AGREEMENT AMENDMENT NO. 2, OAK HARBOR PROJECT ENG 06-42**
**STORMWATER OUTFALL RECONSTRUCTION PROJECT**

Based on a scoping meeting with the City of Oak Harbor (City) on December 15, 2009, and subsequent correspondence with City Staff (A. Peterschmidt), a scope of work that modifies the outfall design and adds the parking lot and extends the trail along Windjammer Park is presented below. The additional scope falls into two general categories, scope required for outfall design, and scope required for parking/stormwater improvements. A scope description and level of effort (See **Exhibit A** for Labor and Expenses) follows below and in the attached supporting documentation.

Members of the Moffatt & Nichol (M&N) team participating in the effort and their corresponding areas of responsibility include:

- GeoEngineers – Geotechnical Engineering
- NW Archaeological Associates Inc. – Archaeology
- Follett Engineering – Electrical Engineering
- BHC Consultants – Hydraulic Engineering
- J.A. Brennan & Associates – Landscape Architecture
- Pacific Geomatic Services - Survey

The following Scope of Work was developed to meet the City's current project goals and commitments. Moffatt and Nichol shall perform the following scope of work pursuant to Consultant Agreement Amendment No. 1, Oak Harbor Project Eng 06-42:

## Outfall Design Scope Modifications

### Task 1: Geotechnical

***Objective:***

During development of the outfall anchoring system, a decision was made to minimize the visual/physical impact of the anchoring system (i.e. no large concrete blocks on the beach). The alternative anchoring system proposed for the project (helical anchors) require additional geotechnical data to support the design.

***Scope of Work:***

a) Perform geotechnical investigation of site to evaluate the existing subsurface conditions and provide recommendations regarding helical anchor design for the new outfall. See attached scope of work for **GeoEngineers (Exhibit B)**.

b) GeoEngineers will be responsible for the drill rig and associated permits for drilling.

# ATTACHMENT A

**CONSULTANT AGREEMENT AMENDMENT NO. 2, OAK HARBOR PROJECT ENG 06-42**
**STORMWATER OUTFALL RECONSTRUCTION PROJECT**

***Deliverable:***

- Geotechnical Recommendation Supplemental Report – two final copies plus CD

**Task 2: Archeological Services**

***Objective:***

The adjusted alignment of the west outfall, which is now intended to be installed adjacent to the existing East outfall, warrants additional archeological test pits for the revised pipe alignment. These pits are recommended to reduce the risk of an archeological find during construction, and allow for the possibility to adjust the pipe alignment prior to construction if material is found.

***Scope of Work:***

a) Perform archaeological investigation of site to evaluate the existing conditions and provide recommendations regarding ways to minimize damage to any historic properties discovered for the new outfall. See attached scope of work for **NW Archaeological Associates (Exhibit C)**.

***Deliverable:***

- Archaeological Recommendation Supplemental Report - two final copies plus CD

## Added Park Improvement Scope

**Task 3: Pedestrian Path**

***Objective:***

A new pedestrian pathway is proposed west of the new outfall adjacent to the top of the shoreline bank. The pathway will be 660 feet long and will match the width of the existing primary path through the park. Use low impact development (LID) design techniques as appropriate to include a pervious pavement surface.

***Scope of Work:***

a) Prepare layout, elevation, and sections of proposed pedestrian pathway. Incorporate into PS&E's package for outfall.

b) Prepare new lighting design along the path with spacing consistent with the existing park pathway lighting and local standards. Incorporate into PS&E's package for outfall. See attached scope of work for additional detail on the proposed lighting, **Follett Engineering (Exhibit D)**.

# ATTACHMENT A

**CONSULTANT AGREEMENT AMENDMENT NO. 2, OAK HARBOR PROJECT ENG 06-42**
**STORMWATER OUTFALL RECONSTRUCTION PROJECT**

***Deliverables:***

- 65% Plan Set, Specification Outline, and Engineers Estimate – Five copies
- 100% Plan Set, Specifications, and Engineers Estimate – Five copies
- Final Bid Document Package – One Mylar drawing set, one reproducible copy

**Task 4: Parking Lot Improvements**

***Objective:***

The existing parking lot for the park will be reconstructed. The intent of the reconstruction is to convert the existing "sea of asphalt" into a functional space that better reflects the park. The new lot will use LID concepts to treat and dispose of the stormwater. These techniques may include pervious pavements and vegetated bio-retention islands.

***Scope of Work:***

a) Prepare plans, specifications, and cost estimates to adjust final grades as required to limit concentrated stormwater flow. See attached scope of work for **BHC Consultant (Exhibit E).**

b) Select vegetation considering the proximity of the marine environment, the public/ park nature of the site, and longevity/ maintenance needs appropriate to the site. Prepare PS&E's for landscaping and irrigation in the parking lot. See attached scope of work for **J. A. Brennan Associates (Exhibit F)**.

c) Provide additional topographic survey to account for expanded pathway and parking lot areas. The existing survey will be extended west to SW Beeksma Drive and the Park property line. See attachment scope of work for **Pacific Geomatic Services (Exhibit G).**

d) Obtain five (5) borings and provide recommendations on subgrade preparation, infiltration considerations, and any other conclusions required for park improvement implementation based on laboratory samples obtained. See attached scope of work for **GeoEngineers (Exhibit B).**

***Deliverables:***

- Topographic Survey – one Mylar plus two half-size copies plus CD
- Geotechnical Recommendation Supplemental Report – two final copies plus CD

# ATTACHMENT A

**CONSULTANT AGREEMENT AMENDMENT NO. 2, OAK HARBOR PROJECT ENG 06-42**
**STORMWATER OUTFALL RECONSTRUCTION PROJECT**

- 65% Plan Set, Specification Outline, and Engineers Estimate – Five copies
- 100% Plan Set, Specifications, and Engineers Estimate – Five copies
- Final Bid Document Package – One Mylar drawing set, one reproducible copy

## Schedule

We understand the importance and need for working closely with the City to complete our efforts in a timely manner. We also understand it is the intent to advertise the project for bid by mid-July 2010. And, the associated additional field work completed by the end of March 2010, allowing for approximately three months to complete design work. We are able to begin work upon receipt of a signed contract and notice to proceed, or other agreeable written authorization. With authorization, we will begin our work and proceed in a timely manner with an anticipated completion of all Tasks within a five (5) month period. This schedule is based on a Notice-to-Proceed date of March 1, 2010 from the City.

## Assumptions

a) Drawings, specifications, and cost estimates for the pathway and parking lot are in addition to the outfall design.

b) Submit plans at the 65% level of completion at half size (11 inch x 17 inch) for review by the City. Plans submitted for review at the 100% level of completion shall be plotted full size (22 inch x 34 inch). Submit full size plans and electronic files, including specifications and cost estimates, to the City at the Final design level.

c) Submit outline technical specifications for review at the 65% level of design. Submit completed, edited, and coordinated technical specifications at the 100% and Final levels of design.

d) City will prepare and be responsible for all boilerplate specifications (e.g. Division 00 and 01).

e) Development of mitigation measures is not included in this fee proposal.

f) We have not included effort to locate buried utilities. We assume that the City will provide record drawings and/or be able to identify areas where known utilities exist.

g) No meetings are included in this scope of work.

h) Field borings will be accomplished in two consecutive days after February 16.

# ATTACHMENT A

**CONSULTANT AGREEMENT AMENDMENT NO. 2, OAK HARBOR PROJECT ENG 06-42**
**STORMWATER OUTFALL RECONSTRUCTION PROJECT**

i) Stormwater collection and conveyance is not anticipated within the lot.

j) Lighting will not be provided for the reconstructed parking lot. Lighting will ONLY be provided along the pathway and only then along the beach.

k) Landscape and irrigation will not be provided for the pathway. Landscape and irrigation will ONLY be provided in the parking lot area.

l) Notice to Proceed date is no later than March 1, 2010.

MOFFATT & NICHOL

# ATTACHMENT A

# LEVEL OF EFFORT AND ASSOCIATED FEE

EXHIBIT A
LABOR AND EXPENSE SUMMARY

***DETAILED COST BREAKDOWN (Park Improvements: Pedestrian Path)***

COMPANY: **Moffatt & Nichol**

**Project: OAK HARBOR OUTFALL**

DATE: 2/5/2010

CONTRACT NO.:

**SUMMARY**

| Task No. | DESCRIPTION | PRINICPAL ENGINEER | PROJECT MANAGER | SENIOR ENGINEER | ENGINEER III | ENGINEER II | ENGINEER I | CADD Technician | TYPIST/ADMIN ASSISTANT | TOTAL HOURS | TOTAL AMOUNT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Geotechnical | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | $400 |
| 2 | Archeological | 0 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | $1,200 |
| 3 | Pedestrian Path | 0 | 6 | 2 | 36 | 0 | 40 | 60 | 10 | 154 | $18,760 |
| 4 | Parking Lot Improvements | 0 | 10 | 0 | 14 | 0 | 0 | 0 | 0 | 24 | $4,450 |
| | TOTAL HOURS | 0 | 24 | 2 | 50 | 0 | 40 | 60 | 10 | 186 | |
| | RATE (2009) | $230.00 | $200.00 | $180.00 | $175.00 | $136.00 | $115.00 | $95.00 | $60.00 | | |
| | DIRECT LABOR AMOUNT | $0 | $4,800 | $360 | $8,750 | $0 | $4,600 | $5,700 | $600 | | $24,810 |
| | TOTAL DIRECT EXPENSES (No Mark up) | | | | | | | | | $500 | |
| | TOTAL SUBCONSULTANT COSTS (10% Mark up) | | | | | | | | | $74,627 | |
| | | | | | | | | | TOTAL PROJECT AMOUNT | | **$99,937** |

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# EXHIBIT A
# LABOR AND EXPENSE SUMMARY

***DETAILED COST BREAKDOWN (Park Improvements: Pedestrian Path)***

| COMPANY: | | DATE: |
|---|---|---|
| **Moffatt & Nichol** | **Project: OAK HARBOR OUTFALL** | 2/5/2010 |
| | | CONTRACT NO.: |

**OTHER DIRECT COST**

| | Qty | Unit | Unit Cost | Total |
|---|---|---|---|---|
| Data & Imagery (Coastal) | | LS | | $0 |
| Meals | | Days | | $0 |
| Mileage | | Miles | | $0 |
| Ferry Fare | | One Way | | $0 |
| Postage | | LS | | $0 |
| Remote Office Setup (Laptop, Phone, Camera) | | LS | | $0 |
| Photocopy/Reproductions | 1 | LS | $500 | $500 |

**TOTAL DIRECT COST** **$500**

**SUBCONSULTANTS**

| | Qty | Unit | Unit Cost | M&N Markup (10%) | Total |
|---|---|---|---|---|---|
| Follett Engineering (Exhibit D ) | 1 | LS | $5,500 | $550 | $6,050 |
| Pacific Geomadic Survey (Exhibit G) | 1 | LS | $4,700 | $470 | $5,170 |
| GeoEngineers (Geotechnical) (Appendix B) | 1 | LS | $8,400 | $840 | $9,240 |
| NW Archaeological Associates (Exhibit C) | 1 | LS | $3,935 | $394 | $4,329 |
| JA Brennan & Associates (Exhibit F) | 1 | LS | $13,405 | $1,341 | $14,746 |
| BHC (Exhibit E) | 1 | LS | $31,903 | $3,190 | $35,093 |

**TOTAL SUBCONSULTANTS** **$74,627**

**TOTAL EXPENSES** **$75,127**

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# ATTACHMENT B

# GEOTECHNICAL SERVICES

# ATTACHMENT "B"

GEOENGINEERS

600 Dupont Street
Bellingham, Washington 98225
360.647.1510

December 18, 2009

City of Oak Harbor
c/o Moffat & Nichol
600 University Street, Suite 601
Seattle, Washington 98101

Attention: Mike Hemphill

Subject: Addendum Scope and Fee Estimate
Geotechnical Engineering Services
Windjammer Park
Oak Harbor, Washington
File No. 2751-011-00

## INTRODUCTION AND SCOPE

GeoEngineers, Inc. is pleased to present this addendum scope and fee estimate for additional geotechnical engineering services for the proposed stormwater improvements at Windjammer Park in Oak Harbor, Washington. We have also included in this document changes to the scope previously agreed upon through e-mails between Aaron McCain and Mike Hemphill on May 13, 2009.

We understand that a new replacement outfall will be relocated to the east of the existing outfall and that the new alignment requires the installation of a new stormline. The project team is evaluating the use of helical tie down anchors to secure the end of the new outfall. The parking lot at the southwest corner of the park will also be improved and the existing trail will be extended around the south and west perimeter of the parking lot as part of the project. Pervious pavers or other pervious surface is being evaluated for the parking lot and the new trail extension.

The purpose of our additional services is to explore subsurface soil and groundwater conditions within the area of proposed improvements as a basis for providing geotechnical engineering recommendations for design and construction of the new project elements. Specifically, we propose the following scope of services:

1. Complete two test pits along the new alignment with a backhoe provided by the City of Oak Harbor. These explorations were completed on March 30, 2009 within the previous budget. However due to the high groundwater and loose sandy conditions, the test pits did not extend to the proposed invert depth.
2. Call in a utility locate, and complete a series of borings with a subcontracted drill rig. All of the borings will be completed landward of the ordinary high water mark. We anticipate that the explorations can be completed in two days. The proposed borings are as follows:

a. One boring near the proposed manhole just upland of the driftwood to provide design parameters for the tie-down anchors and bearing conditions for the manhole. This boring will extend to 30 feet below the ground surface (bgs) or 10 feet into a dense soil layer, whichever occurs first.

b. Four borings along the proposed storm sewer alignment for archeological purposes. These borings will take 18-inch long, large diameter samples at 2.5 inch intervals to a depth of 16 feet.

c. Five borings in the proposed parking and trail area. These borings will extend to 10 feet bgs.

3. Evaluate pertinent physical and engineering characteristics of the soils encountered based on laboratory tests performed on samples obtained from the explorations.
4. Provide conclusions regarding appropriate tie-down anchors and specific design recommendations.
5. Provide recommendations for the pavement subgrade preparation for the pervious pavers in parking and trail areas.
6. Provide infiltration considerations based on the soil conditions, laboratory testing results, and the Washington State Department of Ecology guidelines.
7. Summarize our additional conclusions and recommendations in the geotechnical report for the project.

The site explorations will be performed by one of our geotechnical engineers or engineering geologists on a full-time basis. Our representative will obtain samples of the various soils encountered, classify the materials and maintain a detailed log of each exploration. The soil samples will be sealed and returned to our laboratory for additional examination and laboratory testing, as appropriate.

## TERMS AND BUDGET

We propose to continue our services on a time and expense basis in accordance with the Subconsultant Agreement between Moffat& Nichol and GeoEngineers for the project dated June 27, 2008. Our original budget and proposed budget for the above outlined additional services are as follows:

| DESCRIPTION | FEES |
|---|---|
| Original Budget Amount | $15,310 |
| Additional work related to the tie-down anchors | $ 3,500 |
| Additional work related to the archeological samples | $ 2,500 |
| Additional work related to the parking lot and trail | $ 2,400 |
| **Total** | **$23,710** |

These fees assume that all of the borings can be completed at the same time with one mobilization charge. We will not provide additional services beyond the fees estimated below without your authorization.

Client's oral authorization to continue services shall be considered by both parties as formal acceptance of all terms and conditions of this Agreement unless different terms from those represented in the Agreement are introduced by Client prior to commencement of services.

This proposal is valid for a period of 60 days commencing from the first date listed above and subject to renegotiation by GeoEngineers, Inc., after the expiration date.

We appreciate the opportunity to present this addendum scope and fee estimate and look forward to continuing work with you on this project. Please call if you have questions.

Sincerely,
GeoEngineers, Inc.

Aaron K. McCain
Senior Geotechnical Engineer

J. Robert Gordon. PE
Principal

**AKM:JRG:lms**
**BELL:p:\2\2751011\00\finals\275101100addendumscope.docx**

Two copies submitted

**The scope of services and terms described herein are accepted and GeoEngineers, Inc. is authorized to proceed.**

Moffat and Nichol

ORGANIZATION

* SIGNATURE

DATE

TYPED OR PRINTED NAME

*Individual with contracting authority.

**Disclaimer: Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.**

Please return one signed copy of this agreement for our files. Thank you.

# ATTACHMENT C

# ARCHAEOLOGICAL SERVICES

ATTACHMENT "C"

Scope of Work for

# Additional Cultural Resources Services for the Windjammer Park Outfall Reconstruction Project

Island County, Washington

Prepared for

Moffatt & Nichol
600 University Street, Suite 610
Seattle, Washington
Phone 206 622-0222
Fax 206 622-4764

By

Northwest Archaeological Associates, Inc.
5418 20th Avenue NW, Suite 200
Seattle, Washington 98107

Phone 206 781-1909
Fax 206 781-0154
nwaa@northwestarch.com

May 21, 2009

Northwest Archaeological Associates, Inc.

# NORTHWEST ARCHAEOLOGICAL ASSOCIATES, INC.

## SCOPE OF WORK

Moffat & Nichol has requested a scope of work and cost estimate for the redesigned elements of the City of Oak Harbor's 42-inch Storm Water Outfall Reconstruction project in Oak Harbor, Island County, Washington. The project is in Section 2, T. 32 N., R. 1 E., WM adjacent to Oak Harbor in Windjammer Park. This project was investigated by NWAA, Inc in late 2008. Project changes since that time require the examination of additional areas to assess their sedimentary elements and potential for cultural resources.

Relevant Washington state laws address archaeological sites and Native American burials. The Archaeological Sites and Resources Act [RCW 27.53] prohibits knowingly excavating or disturbing prehistoric and historic archaeological sites on public or private land. The Indian Graves and Records Act [RCW 27.44] prohibits knowingly destroying American Indian graves and provides that inadvertent disturbance through construction or other activity requires re-interment under supervision of the appropriate Indian tribe. The Washington State Environmental Policy Act (SEPA) requires identification and appropriate mitigation of cultural resources as part of the environmental review process. NWAA will aid the project in complying with these various legal requirements by identifying cultural sites on the property through completion of the following tasks:

### Task 1: *Background*

Previous project work will be reviewed and a check of the Washington state site inventory and records at the Department of Archaeology and Historic Preservation (DAHP) will be done to check for information made available since the 2008 study. The Lummi Nation, the Swinomish Indian Tribal Community and the Tulalip Tribes will be contacted about the project to solicit any additional concerns about heritage resources and to inform them when field investigations will take place. This communication is a technical inquiry and does not constitute any formal consultation that may be needed. Supervisory personnel will familiarize themselves with this information along with assembling a crew and equipment for the field work.

### Task 2: *Field Study*

GeoEngineers plans four geotechnical borings along the upland outfall alignment. The archaeological monitoring of these excavations will be conducted by the NWAA geoarchaeologist who will observe the excavation of the four geotechnical test pits and screen selected portions of the sediment through ¼-inch mesh. Any artifacts will be described, photographed and returned to the pit of origin and re-buried. Notes about content and sediments encountered will be kept on a standard data sheet. All boring locations will be recorded with GPS. The field study will verify local conditions and identify heritage properties exposed by the geotechnical testing. An important part of the field work will be to determine the relationship of previously recorded sites to the test pit locations and to document the specific location of any newly discovered cultural resources.

*Assumptions:* No historic buildings or structures will be affected by this project.

### Task 3: *Letter Report Preparation*

The results of these investigations will be presented in a letter report suitable for submission by the client to DAHP, appropriate agencies and other concerned parties. The report will present the results of archival and field investigations and include recommendations for ways to complete the evaluation, if significant potential is identified and suggest ways to avoid or minimize damage to any historic properties discovered. This report can be used to support preparation of SEPA and NEPA documents and contributes to the completion of the identification element of Section 106 of the NHPA. Due to confidentiality requirements for archaeological site location, distribution of the report may be restricted.

*Assumption:* Discovery of an archaeological site may require additional work beyond the present scope to evaluate its significance and arrive at appropriate evaluations of adverse effects and treatment measures.

*Deliverables:* Draft report, 1 hardcopy, 1 PDF version
Final report, 5 hardcopies, 1 PDF version

### Task 4: *Project Management*

NWAA will coordinate with the Moffatt & Nichol to receive project materials, prepare progress reports and invoicing and transmit correspondence. NWAA will maintain project files to include necessary supporting materials as required. The Project Manager will monitor project task performance, schedule, budget, and approve project expenses. The Project Manager will ensure that systems are in place to conduct quality assurance and quality control on deliverables and correspondence.

### Budget

The attachments lists costs to complete the tasks described in this Scope of Work. The spreadsheet identifies the professional classification and personnel assigned to complete each of the tasks, lists the hours of work by task and personnel, and presents the labor cost and expenses for the project.

### Project Materials

Moffatt & Nichol has or will supply or facilitate NWAA's acquisition of the following needed for this project.

- A general location map;
- Preliminary and revised engineering plan maps showing project details;
- Any additional descriptive information and design drawings that show the extent of trenching, grading, and other ground disturbance associated with the project; and
- The results of any geotechnical boring or subsurface testing that may assist monitoring activities

### Schedule

Initiation of project activities will be contingent on the project schedule. The report can be completed within 30 days of completion of field work. Completion dates may be adjusted to meet the project's schedule.

DATE: 4-May-09

**COST ESTIMATE PREPARED FOR**
**Moffat & Nichol**
**Windjammer Park Addendum**

| | Professional Classification | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| TASK | Principal | Project Geo archaeologist | Architectural Historian | Senior Project Archaeologist | GIS/Production Specialist | Graphics | Researcher/ Clerical | Admin. Assist. | TOTAL HOURS | TOTAL LABOR DOLLARS |
| | CJ Miss | B. Rinck | | | J. Shea | E. Anderson | M. Elm | V. Gearing | | |
| | $ 125.04 | $ 58.55 | | | $ 63.70 | $ 46.44 | $ 40.82 | $ 54.25 | | |
| Task 1: Mobilization/Travel/Backgrnd | | 6 | | | | | 8 | | 14 | $ 677.85 |
| Task 2: Field Study | | 16 | | | | | | | 16 | $ 936.79 |
| Task 3: Letter report addendum | | 16 | | | 6 | 4 | | | 26 | $ 1,504.75 |
| Task 4: Management | 2 | | | | | | | 2 | 4 | $ 358.58 |
| | | | | | | | | | 0 | $ - |
| | | | | | | | | | 0 | $ - |
| **SUBTOTAL HOURS** | 2 | 38 | 0 | 0 | 6 | 4 | 8 | 2 | 60 | $ 3,477.97 |
| SUBTOTAL TASK DOLLARS | $ 250.08 | $ 2,224.87 | $ - | $ - | $ 382.20 | $ 185.76 | $ 326.56 | $ 108.50 | | $ 3,477.97 |

| EXPENSES | | | |
|---|---|---|---|
| Illustrations/Reproductions | | $25.00 | $ - |
| Meals /day | 2 | $59.00 | $118.00 |
| Lodging | 1 | $94.00 | $94.00 |
| Mileage | 250 | $0.550 | $137.50 |
| Copying Charges (DAHP rate) | 50 | $0.15 | $7.50 |
| Final Report Volumes | 5 | $15.00 | $75.00 |
| Miscellaneous | | | $ 25.00 |
| **SUBTOTAL EXPENSES** | | | $ 457.00 |

| | |
|---|---|
| **TOTAL PROJECT COSTS** | $ 3,934.97 |

This not-to-exceed budget estimate allows for up to two days of geoarchaeological monitoring of four (4) geotechnical probes to a depth of 14 feet along the upland portion of the new alignment. Locations will be placed at the discretion of the NWAA geoarchaeologist in collaboration with the drillers (to be contracted by Moffat & Nichol). Results with recommendations will be provided in an addendum letter report. Depending on the equipment used, the full two days may not be needed.

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# ATTACHMENT D

# ELECTRICAL DESIGN

# ATTACHMENT "D"


# FOLLETT ENGINEERING, PLLC

ELECTRICAL ENGINEERING & CONSULTING

23316 NE Redmond-Fall City Rd #602
Redmond, WA 98053-8376

Office: 425-836-3333 Mobile: 425-765-6304 Fax: 425-836-5517

E-mail Vince@FollettEngineering.com


**Moffatt & Nichol**
**600 University Street suite 610**
**Seattle, WA 98101**

Date 12-21-09

Attention: Mike Hemphill

**Subject:** **Electrical, Scope for the Oak Harbor – Stormwater Outfall Replacement Project – Lighting Design**

Mike,

In response to your request for electrical engineering services on this project, I have prepared this proposal. My understanding of the scope is as follows:

## SCOPE

### 1 Design Scope

Provide lighting along the trail per the local standards. Coordinate work with the local utility to provide power service. Provide plans and specifications for bid.

Specific Design Tasks:

1. Attend a pre design meeting with the City staff, gather information, visit the site, review the project.
2. Coordinate power service modifications with Utility
3. Assist with site layout
4. Coordinate design standards
5. Produce electrical, drawings for bid
6. Produce division 16 specifications for Bid
7. Provide review sets at, 90%, and 100% design phases.
8. Attend Review meetings
9. Perform multidiscipline design coordination and quality review
10. Provide a final design electrical construction cost estimate

## Services during Construction

1. Services during construction are not included in this fee estimate, but are available upon request at standard rates shown on attached fee estimate.

## COMPENSATION

Work preformed will be charged on an hourly basis with the rates and maximums shown below.

Work preformed will be charged on an hourly basis with the following rates and maximums:

| TASK | HOURS | RATE | TOTAL |
|---|---|---|---|
| DESIGN SERVICES | 50 | $110 | $$5,500 |

Thank you for the opportunity to propose on this project.

Sincerely,

Vince Follett

**Vincent M. Follett P.E.**
**Follett Engineering, PLLC**

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# ATTACHMENT E

# STORMWATER/DRAINAGE DESIGN

# ATTACHMENT "E"

BHC CONSULTANTS

# MEMORANDUM

**Date:** December 29, 2009

**To:** Mike Hemphill, P.E.
Project Manager
Moffatt & Nichol

**From:** Jeff Kreshel, P.E.
Project Manager
BHC Consultants, LLC

**Subject:** Expanded Project/Additional Work
Oak Harbor: Stormwater Outfall Reconstruction Project

---

Per your request, this memorandum is furnished for your review and consideration. It summarizes your and the City's desired expansion of the subject project as well as the proposed additional engineering and related services to be performed/provided by BHC Consultants in support of the expanded project.

Per the City's request, the project is being expanded to include the following: 1) extension to existing trail; and 2) modifications to the existing parking lot with related drainage improvements. Regarding the parking lot and drainage improvements (the work that BHC is intended to be involved with); the City is interested in porous pavement and low impact development BMPs (e.g. rain garden) where practical while conforming to current stormwater regulations and City codes. Although the dimensions and geometry of the parking lot may be modified, it is our understanding that it is the City's intent to have no net new impervious/semi-pervious surface area.

**Proposed Additional Work Scope**

Based on our current understanding of the expanded project, additional (beyond scope) work performed previously, as well as the City and M&N's corresponding needs and requirements (gained through our meeting discussion on 12/15/09), the following additional engineering and related services are proposed to be performed by BHC Consultants, LLC (BHC). More specifically, the purpose of the efforts described below is to provide for the documentation of the hydraulic modeling and analysis including various alternatives as well as final design and preparation of the requisite PS&E for the desired parking lot modifications and related drainage improvements associated with the expanded project. These efforts are supplemental to but in accordance with the original project contract work scope and assumptions (dated 2/4/08).

*Task 1 – Kick-Off Meeting/Field Visit*

- N/A – all original contract work is complete; no additional work is anticipated.

*Task 2 – Data and Information Review*

- N/A – all original contract work is complete; no additional work is anticipated.

*Task 3 – Alternatives Analysis and Hydraulic Modeling*

- All original contract work is complete except for preparing/finalizing a technical memorandum documenting our modeling and analysis of potential outfall replacement alternatives; additional work is described below.
- At your and the City's request (as documented in my 2/18/09 letter), the following additional (beyond scope) work was previously performed. * Please note: only the hours/costs above and beyond the total original contract amount which is not otherwise covered for elsewhere in this proposal are included in the corresponding fee estimate for recovery.
  - development and communication of a recommended stormwater flow monitoring plan and details for data collection of low flow conditions by City personnel
  - additional background and historic system information review associated with a new group of potential replacement alternatives considering changing coastal conditions, potential plugging of the existing "East" outfall, upstream flooding, and possibly a low-head lift station
  - assist M&N with the development and definition associated with the new group of outfall replacement alternatives
  - review and comment on M&N's coastal analysis and initial documentation of the new group of outfall replacement alternatives
  - perform additional hydraulic model setup, modeling, analysis, and initial documentation, etc. associated with the new group of outfall replacement alternatives
- Based on the City and M&N's direction, it is my understanding that no further hydraulic modeling or analysis will be required of the proposed replacement outfall or other alternatives. It is also my understanding that, contrary to that expressed previously – see my 2/18/09 letter, it is the City's desire for us to document the alternatives analysis and hydraulic modeling performed to date for the project as defined in the original contract scope. Given this, the desired documentation will be prepared in accordance with that originally defined.

*Task 4 – Permitting Assistance and Support*

- All original contract work has been performed (by BHC or others) and is complete with the exception of the preparation of an NPDES Construction Stormwater permit application and notice for the project.
- An NPDES Construction Stormwater permit application and notice will be prepared for the project.

*Task 5 – QA/QC*

- All original contract work is complete; additional work is described below.
- Additional quality assurance/quality control associated with the engineering and design of the expanded project.

*Task 6 – Coordination, Meetings, and Project Management*

- All original contract work scope is complete; additional work is described below.
- At your and the City's request (as documented in my 2/18/09 letter) and subsequently, the following additional (beyond scope) work was previously performed. * Please note: only the hours/costs above and beyond the total original contract amount which is not otherwise covered for elsewhere in this proposal are included in the corresponding fee estimate for recovery.

- additional general communication and coordination with M&N staff and others to exchange information, provide assistance, discuss related issues, coordinate efforts, etc. associated with an extended (exceeding 6+ months, beyond the originally anticipated 4 months) project schedule
- preparation for and meeting with City personnel and M&N staff on 1/22/09 to review and discuss additional outfall replacement alternatives, etc.
- additional miscellaneous related project management including staff management, invoicing, etc. associated with the extended project schedule.
- preparation of a proposal for an analyis of the "East" outfall.
- preparation for and meeting with City personnel and M&N staff on 12/15/09 to review and discuss the City's desired expanded project and our related and additional associated efforts, etc.
- preparation of work scope, etc. related to the expanded project and additional work.

• Provide additional general communication, coordination and project management (generally consistent with that defined in the original contract scope) for BHC's efforts associated with the additional work and expanded project (as described in the above defined tasks and per the revised schedule).

- for budgeting purposes, up to three (3) meetings with M&N and/or the City, with one (1) held at the City's office for an average of eight (8) hours and with two (2) held at M&N's office for an average of three (3) hours, including preparation, travel, and attendance are included for the BHC's project manager.
- the budget assumes a four (4) month period for completion of BHC's additional work for the expanded project.

*Task 7 – Supplemental Hydraulic Modeling (Optional)*

• N/A – see Task 3 regarding supplemental hydraulic modeling and related efforts.

*Task 8 (New)– Parking Lot Modifications and Related Drainage Improvements, Design/Prep. of PS&E*

• Perform a conceptual analysis and preliminary design (system sizing and layout) of proposed parking lot modifications and related drainage improvements based on the initial ideas discussed during our 12/15/09 meeting with M&N and the City. Project improvements will be developed and defined sufficiently to evaluate feasibility, configuration, and effectiveness and for the City's consideration and approval. Coordinate with M&N and the City regarding the acceptability of identified elements considering City goals and preferences. Document conceptual analysis and preliminary design in a brief technical memorandum – to be used as the basis for final design. A single version of the technical memorandum will be prepared. The memorandum will address the following:
    - design criteria, constraints and other considerations;
    - description of conceptual analysis;
    - preliminary sizing of major features; and
    - schematic figure illustrating conceptual layout of major features.

• Final design of the parking lot modifications and related drainage improvements (associated with the expanded project) will be developed based on the conceptual analysis and preliminary design (described above); and in accordance with the City's current design standards (as applicable), current applicable codes and regulations, and current, generally accepted industry standards and practices. Plans, specifications, and estimates (PS&E) will be developed for design of the proposed improvements and will be used for agency approval (City permit(s)), bidding, and

construction. Draft PS&E will be prepared at the 65% and 100% level of completion for review by M&N and the City, prior to final documents.

- The fee estimate is based on the following preliminary drawing/sheet list. This drawing list (up to 3 sheets total) represents BHC's best judgment as to the drawings that will be required for design of the project.
  - Parking Lot Demolition Plan & TESC Notes (1 sheet)
  - Parking Lot Grading and Drainage Plan (1 sheet)
  - Miscellaneous Drainage Details (1 sheet)
  - Applicable City or WSDOT Standard Plans or details will be identified and referenced for appending to the specifications.
- Technical or design specifications, based on the 2008 edition of the Washington State Department of Transportation (WSDOT/APWA) Standard Specifications for Road, Bridge, and Municipal Construction, will be developed for the proposed improvements, utilizing any City supplements to the WSDOT Standard Specifications as appropriate for the project.
- A probable construction cost for each of the preliminary design submittals and final documents "issued for bid" will be estimated.

*Task 9 (New) – Services During Bid Period and Construction, Scope Development*

- A scope and associated fee estimate will be developed for BHC's services during the bid period and construction of the project. A budget allowance of approximately $500 has been established for this effort.

***Deliverables:***

- Hydraulic Modeling & Alternatives Analysis Technical Memorandum
- Model Files (electronic)
- NPDES Construction Stormwater Permit Application & Notice
- Preliminary Design/PS&E (65%) and (100%) Review Submittals
- Final PS&E, "Issued for Bid"

**Fee (Additional)**

Based on the attached hour effort estimate and related expenses, we estimate our fee for the proposed effort to be approximately $31,903, which includes approximately $1,227 for related reimbursable expenses (communications, mileage, reproductions, etc.). With M&N and the City's concurrence and approval, we anticipate the execution of an amendment to BHC's original contract to be executed for providing the additional engineering and related services/assistance in support of the expanded project. A current Schedule of Charges (effective as of January 2010) is attached. Specific billing rates for the primary individuals anticipated to be involved with the project are identified in the attached table.

**Schedule (Revised)**

We understand the importance and need for working closely with M&N and the City to complete our efforts in a timely manner. We also understand it is the intent to advertise the project for bid by mid-May 2010. And, the associated additional field work completed by the end of January 2010, allowing for approximately three months to complete design work. We are able to begin work upon receipt of a signed contract and notice to proceed, or other agreeable written authorization. With authorization, we will begin our work and proceed in a timely manner with an

anticipated completion of Tasks 1 through 9 (as defined) within a four (4) month period. This schedule is based on timely input and information from M&N, the City, and others including the collection of requisite information and documentation, related reviews, and input.

I hope this provides you with the desired information. However, if you have any questions or desire additional information, please let me know.

Enclosure(s):

- Attachment - Additional Assumptions
- Exhibit B – Fee Estimate & Schedule of Charges (2010)

## ATTACHEMENT

## ADDITIONAL ASSUMPTION(S)

The described efforts and scope of work as well as the associated fee estimate and schedule are predicated on the following assumptions.

1. The City or M&N will provide the following information to BHC: relevant engineering data, plans, specifications, reports/studies, mapping, as-builts, and/or other pertinent information available about the City's existing or proposed new systems/facilities relevant to the project, applicable City standards, design criteria, requirements, and/or preferences, deemed necessary for BHC's work. Pertinent data and information required for determining and evaluating the existing conditions (capacity and other operating/performance characteristics) as well as potential future needs and requirements will be provided by the City or M&N.
2. Special assumptions regarding design of the project:
   - Porous pavement design will be based on a recommendation by the Project's Geotechnical Engineer.
   - Landscaping restoration and design including irrigation system improvements will be provided by others, if needed.
   - The following are specifically not included as part of BHC's efforts: 1) preparation of a Technical Information Report (TIR), Drainage Report, Stormwater Pollution Prevention Plan (SWPPP), stormwater permitting applications/submittals, or other documentation beyond that specifically identified; 2) an offsite (upstream/downstream) analysis; 3) evaluation of, preliminary engineering, or design of TESC BMPs; 4) inspection and evaluation of the condition of the existing storm system infrastructure features and facilities; and 5) analysis of alternatives.
   - Stormwater detention or flow control facilities, nor upgrading of the existing drainage system except as otherwise specifically identified (and related consultant efforts) are not anticipated nor included as part of the project.
3. M&N will be responsible for preparing the project manual or contract documents, including bid information, contract forms, non-technical and other general, project-wide technical specifications, for bidding and construction of the project. BHC will provide the technical specifications associated with the design of the parking lot modifications and related drainage improvements only. The design specifications for the project developed by M&N will be based on the 2008 edition of the Washington State Department of Transportation (WSDOT/APWA) Standard Specifications for Road, Bridge, and Municipal Construction, as well as the City's specifications that modify or supplement the Standard Specifications.
4. BHC's work will be based on and utilize a base map reflecting current site conditions, including topographic survey and existing facilities (including all surface and subsurface features and utilities with detailed vertical and horizontal information) furnished by M&N or others in an AutoCAD drawing file/format suitable and as necessary for design. BHC's work scope and budget does not include surveying and related services that may be required for the project. Surveying, mapping and related services required for final design of project improvements may include, but are not necessarily limited to, survey information for site topography, rights of way, easements, locations of existing utilities and other structures, facilities or features that may influence design. Locations of existing surface features, subsurface and aerial utilities (water, sewer, storm drain, gas, power, TV, phone and/or fiber optic) must be identified and mapped.

5. All project improvements will be located within existing City property, public right-of-way, and/or existing or new City easements. M&N or others will be responsible for all efforts associated with temporary and/or permanent easements required for the project.
6. Existing utilities infrastructure including pipe sizes and invert elevations must also be identified for utilities within the project site as necessary for design of the project. Field verification, as required, must be performed by M&N or others consistent with standard survey, underground utility locate, and potholing practices. It is assumed that the information furnished by M&N and others regarding the location, etc. of the various existing utilities can be relied upon for purposes of design of the project. Existing utilities that may be in conflict or require adjustment during the construction of this project will be identified. All coordination required for relocating existing utilities (if required) will be done by the City. Utilities that may potentially be affected by the project include, but are not necessarily limited to the following: City of Oak Harbor – water, sewer, stormwater; ComCast Cable, Verizon – phone/fiber optic/TV; Puget Sound Energy – power; and Cascade Natural Gas – natural gas.
7. BHC's work will be based on and utilize the soils data and geotechnical information furnished by the City or others as necessary for design. BHC's work scope and budget does not include geotechnical engineering services that may be required for the project. Geotechnical engineering services related to final design of the project may include, but are not necessarily limited to, soil data, field explorations, geotechnical review, analyses, and recommendations related to project design and construction.
8. Other than for that specifically identified, BHC's work scope and budget does not include time for preparation of permit applications or other environmental review and/or documentation for the project. All other environmental documentation, permitting, and/or associated fees required for the project will be prepared/obtained/provided by M&N, the City or others. City permits that may be required for the project include those for: building, land use, clearing and grading, street opening, and/or utility installation. We understand it to be the City's intention to be responsible for the preparation of any/all information, applications, and/or fees necessary for all City permits required for the project.
9. Drawings will be prepared in accordance with BHC's Drafting Standards. The plans will be 22"x34" drawings with a standard signature block. Drawings will be prepared using AutoCAD 2007 with Land Desktop. From the full size drawings, half-sized drawings will be produced for review copies.
10. Five (5) sets of half-size drawings, and an electronic copy, for each design submittal will be provided to M&N for review. Written comments on preliminary documents or draft submittals will be required for further design development. It is requested that M&N provide one set of written comments for all preliminary submittals. All review comments from M&N will be addressed and incorporated in the revised/final documents.
11. The final submittal shall include documents "issued for bid", signed and stamped by the design engineer responsible for their preparation, and ready for M&N approval signatures (if applicable). An electronic copy on a CD and one set of camera ready, full-size drawings will be provided to M&N (or designated reprographics company) for printing and preparation of the bid/contract documents. The budget assumes that M&N will be responsible for all printing costs. Two (2) copies of final bid/contract documents "Issued for Bid" are requested for BHC's use and record.

Exhibit B

BHC CONSULTANTS

## 2010 Schedule of Charges
***January 2010***

| Billing Title | Hourly Billing Rates |
|---|---|
| Principal Engineer | $180 - $250 |
| Principal Structural Engineer | $185 - $200 |
| Senior Engineer | $150 - $185 |
| Project Engineer | $120 - $150 |
| Staff Engineer | $85 - $115 |
| Planning Director | $160 - $175 |
| Planning Manager | $115 - $125 |
| Senior Planner | $80 - $90 |
| Planner | $75 - $80 |
| GIS Specialist | $70 - $75 |
| Sr. Field Inspector | $95 - $100 |
| Field Inspector | $70 - $85 |
| CAD Manager | $120 - $130 |
| Draftsperson | $75 - $85 |
| Client Relations | $105 - $165 |
| Project Administrator | $75 - $100 |
| Clerical/Word Processor/Project Coordinator | $50 - $70 |

**Professional Reimbursement**
The hourly billing rates include the cost of salaries of the BHC employees, plus sick leave, vacation, holiday, other fringe benefits, indirect overhead and fee. All employees classified as "non-exempt" by the U.S. Department of Labor will be compensated at 1-1/2 times salary, as per State and Federal wage and hour laws. Billing rates will be calculated accordingly for these overtime hours.

**Communication Fee**:
Project Labor times 3.0% which includes telecommunications, faxes, standard U.S. Mail, mobile phones, and internet access and hardware.

**Direct Expenses**
Reimbursement for direct expenses, as listed below, incurred in connection with the work, will be at cost plus ten (10) percent for items such as:

a. Maps, photographs, reproductions, printing, equipment rental and special supplies related to the work.
b. Consultants, soils engineers, surveyors, contractors, and other outside services.
c. Rented vehicles, local public transportation and taxis, travel and subsistence.
d. Specific telecommunications and delivery charges.
e. Special fees, insurance, permits, and licenses applicable to the work.
f. Outside computer processing, computation, and proprietary programs purchased for the work.

Reimbursement for employee-owned vehicles used in connection with the work will be at the current IRS standard mileage rate.

Other in-house charges for prints, reproductions and equipment use, etc. will be at standard company rates.

The foregoing Schedule of Charges is incorporated into the agreement for the services provided, effective January 1, 2010 through December 31, 2010, and will be adjusted thereafter.

BHC CONSULTANTS

## Schedule of Non Labor Charges
***January 1, 2010***

**Direct Expenses**
Reimbursement for direct expenses incurred in connection with the work, will be at cost plus ten (10) percent for items such as:

| Media | Size | Fee |
|---|---|---|
| B&W Print | 8.5" x 11" | $0.15/Copy |
| B&W Print | 11" x 17" | $0.30/Copy |
| B&W Plot (Line Drawings) | up to 6 sq ft. | $2.00/Copy |
| B&W Plot (Line Drawings) | Large Format Plot (> 6 sq. ft.) | $0.33/Sq. Ft. |
| Color Plot (Color Graphics) | up to 6 sq ft. | $12.00/Copy |
| Color Plot (Color Graphics) | Large Format Plot (> 6 sq. ft.) | $2.00/Sq. Ft. |
| Color Print | 8.5" x 11" | $1.00/Copy |
| Color Print | 11" x 17" | $2.00/Copy |
| Mileage | | IRS Rate |
| Parking Validation | | Actual Cost |
| Postage & Courier, Fax | No Charge is 3% Comm. Chg. Included | Actual Cost |

This Schedule of Non Labor Charges Is incorporated into the agreement for the services provided, effective January 1, 2010 through December 31, 2010, and will be adjusted thereafter.

City of Oak Harbor
Stormwater Outfall Reconstruction Project (Expanded Project/Additional Work)
- Engineering Support and Related Services -

Exhibit B
Consultant Fee Determination (12/29/09)

| Task | Task Description | Prin. Engineer $187.00 | | PM/Sr. Engineer *Kreshel* $165.00 | | Sr. Engineer *Harms* $162.00 | | Proj. Engineer *Rogers* $130.00 | | Engineer/Planner *Tokumoto* $98.00 | | Sr. CAD/Mgr *Simon* $127.00 | | CAD Drafter/GIS $85.00 | | Project Admin. $80.00 | | Clerical/WP $70.00 | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost |
| 1.0 | ~~Kick-Off Meeting/Field Visit~~ | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0 |
| 2.0 | ~~Data and Information Review~~ | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0 |
| 3.0 | Alternatives Analysis and Hydraulic Modeling* | 0 | 0 | 17 | 2,805 | 24 | 3,888 | 4 | 520 | 0 | 0 | 2 | 254 | 6 | 510 | 1 | 80 | 2 | 140 | 56 | $8,197 |
| 4.0 | Permitting Assistance and Support | 0 | 0 | 2 | 330 | 0 | 0 | 0 | 0 | 8 | 784 | 0 | 0 | 2 | 170 | 0 | 0 | 0 | 0 | 12 | $1,284 |
| 5.0 | QA/QC | 4 | 748 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | $748 |
| 6.0 | Coordination, Meetings, and Project Management* | 0 | 0 | 30 | 4,950 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 320 | 0 | 0 | 34 | $5,270 |
| 7.0 | ~~Supplemental Hydraulic Modeling (*Optional)~~ | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0 |
| 8.0 | Parking Lot Mods & Drainage Design/Prep. of PS&E | 0 | 0 | 14 | 2,310 | 8 | 1,296 | 0 | 0 | 70 | 6,860 | 8 | 1,016 | 36 | 3,060 | 0 | 0 | 2 | 140 | 138 | $14,682 |
| 9.0 | Services during Bid & Construction, Scope Develop. | 0 | 0 | 3 | 495 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | $495 |
| | Labor Subtotal | 4 | $748 | 66 | $10,890 | 32 | $5,184 | 4 | $520 | 78 | $7,644 | 10 | $1,270 | 44 | $3,740 | 5 | 400 | 4 | 280 | 247 | $30,678 |

* - some or all of these efforts have been performed/completed previously as part of the original work - extra (beyond scope) work.

Total Labor $30,678

**Suconsultants**

N/A

SUBTOTAL - $ -

**Reimbursable Expenses:**

Communications Fee - includes telecommunications, faxes, cellular phones, postage (3% of project labor) $ 920

Other Direct Expenses -- including mileage, reproductions, printing, delivery charges, outsides services, special fees, etc. (assumed 1% of project labor) $ 307

SUBTOTAL $ 1,227

TOTAL FEE $31,903

*Note(s):

1) Billing rates will be dependent on and may vary for actual personnel used.

2) The fee(s) associated with optional Task 7 is not included herein, and is anticipated to be negotiated at a later date, if necessary.

# ATTACHMENT F

# LANDSCAPE ARCHITECTURE

# ATTACHMENT "F"

j.a. brennan
associates PLLC

Landscape Architects & Planners
100 S. King Street, Suite 200, Seattle, WA 98104
t. 206.583-0620 f. 206.583.0623
www.jabrennan.com

December 28, 2009

Mike Hemphill
Moffatt Nichol
3518 Fremont Lane N., #536
Seattle, WA 98103

**Re: City of Oak Harbor**
**Windjammer Park – Stormwater Outfall Replacement**
Parking Lot Landscape Design

Dear Mike,

Thank you for the opportunity to provide design services for the Parking Lot Landscape Design at Windjammer Park in Oak Harbor. Below and attached in Exhibit A you will find our scope of work and related fee. J.A. Brennan Associates, PLLC is committed to providing the highest level of service and collaboration with the design team to create a successful project for the City of Oak Harbor.

**SUMMARY OF WORK:**

J.A. Brennan will provide landscape design services for parking lot improvements proposed at Windjammer Park in Oak Harbor; we will coordinate and collaborate with you for the parking and path layout, and planting and irrigation design for the parking area.

**TASK A: ADMINISTRATION/ COORDINATION**

Project administration will include preparation of invoices, project scheduling and file set-up. Progress reports will be prepared for the client that include an invoice by task, status of project budget and estimates on percent of physical work complete by task.

**TASK B: SITE INVENTORY AND ANALYSIS**

This task will include data review and one site visit to provide a reasonable level of background information to complete the work. It is anticipated the client will provide a site survey in AutoCAD version 2007 or later, showing pavement edges, buildings, one or two foot contours, property boundaries, existing vegetation and all utilities. City of Oak Harbor code research for minimal landscape requirements is also included in this task.

**Products:**

Site Visit
Kick off meeting

**TASK C: 60% PARKING LOT PLANTING AND IRRIGATION DESIGN**

J.A. Brennan will provide input and coordinate with the design team to develop a preferred parking lot and path layout suitable to the park site that meets the City of Oak Harbor's Municipal code. Once a preferred parking layout is determined, J.A. Brennan (JAB) will develop two quick hand drawn planting plan concept options to provide to the client for review.

JAB will prepare a 60% submittal for client review that will include preferred plan and detail drawings, irrigation product cutsheets, table of contents of relevant specifications, and cost estimate. Plan sheets will be drawn at 20 scale. Titleblock will be provided in AutoCAD by the client. This task includes one meeting with the client.

**Products:**

Irrigation Product selection with cutsheets (2 pages)
Irrigation Plan Bubble Diagram (1 sheet 20 Scale)
Planting Plan (1 sheet 20 scale)
Planting details with Plant List (1 sheet)
60% cost estimate

**TASK D: 100% PARKING LOT PLANTING AND IRRIGATION DESIGN**

100% construction documents will be submitted for client review prior to issuing final construction documents. Submittal will include plans, specifications and cost estimate.

**Products:**

Irrigation Plan (1 sheet 20 Scale)
Irrigation Details (1 sheet)
Planting Plan (1 sheet 20 scale)
Planting details with Plant List (1 sheet)
100% cost estimate

**TASK E: FINAL PARKING LOT PLANTING AND IRRIGATION DESIGN**

Final construction documents will be prepared for bidding purposes. Submittal will include final plans, specifications and cost estimate. One bid ready plan set will be plotted on mylar.

**Products:**

Irrigation Plan (1 sheet 20 Scale)
Irrigation Details (1 sheet)
Planting Plan (1 sheet 20 scale)
Planting details with Plant List (1 sheet)
Final cost estimate

**Assumptions:**

1. Complete CAD base mapping provided by others in 2007 AutoCAD format.
2. Sheet set up with title block provided by Prime Consultant (This scope of work assumes plan sheets will be at 20 scale.)
3. Review steps will be based on this scope of work. Additional review steps will require additional fee.
4. 60% Design planting plan may be hand drawn.
5. Final Plans shall be bid ready documents.
6. Irrigation is limited to the parking area landscaping.
7. Parking lot and path layout will be by others. JA Brennan will provide input to design.
8. This scope of work is limited to planting and irrigation design for the new parking lot and the disturbed area along associated path.
9. Planting design anticipates an LID approach to the parking lot and path.
10. Bicycle parking and bicycle rack details and selection by others.
11. Site furniture location and products are not included in this scope of work.

12. Specification sections are limited to planting and irrigation sections. It is assumed specifications will be in CSI format.
13. Irrigation details will not be provided for 60% design.
14. It is assumed no wetlands are within the project limits.
15. Shoreline permit is by others.
16. SEPA checklist has been completed.
17. TESC plan is by others.
18. Bid ready plan set will be plotted on mylar, all other plans and documents will be plotted on bond.
19. Bid support and construction support are not provided.

Thank you,

James A. Brennan
Principal
JA Brennan Associates, PLLC

**Prime Consultant: Moffat & Nichol**
J.A. BRENNAN ASSOCIATES, PLLC
**Project: City of Oak Harbor**
Windjammer Park - Stormwater Outfall Replacement - Parking Lot Landscape Design

December 29, 2009

**Exhibit A**

| WORK ITEM Rate | DESCRIPTION | JB PM $130.00 | TW PLA $100.00 | MP LA $90.00 | DC Designer $80.00 | MER Designer $70.00 | CN Admin $70.00 | Total JAB Hours | Total Labor | Total Expenses | Grand Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| A | **Administration / Coordination** | | | | | | | | | | |
| 1 | Progress reports, invoices, communication | 1 | | | 2 | | 5 | 8 | 640.00 | 0.00 | 640.00 |
| | **Total** | 1 | 0 | 0 | 2 | 0 | 5 | 8 | 640.00 | 0.00 | 640.00 |
| B | **Site Inventory and Analysis, Document Review** | | | | | | | | | | |
| 1 | Site Visit & Analysis | | 3 | | 3 | | | 6 | 540.00 | 100.00 | 640.00 |
| 2 | Review Municipal Code and relevant documents | | 1 | | 2 | 1 | | 4 | 330.00 | | 330.00 |
| 3 | Team Kick-off Meeting (1) | | 3 | | | | | 3 | 300.00 | 20.00 | 320.00 |
| | **Total** | 0 | 7 | 0 | 5 | 1 | 0 | 13 | 1,170.00 | 120.00 | 1,290.00 |
| C | **60% Parking Lot Planting and Irrigation Design** | | | | | | | | | | |
| 1 | Coordination and input to Parking layout and Path layout | | 1 | | 2 | 1 | | 4 | 330.00 | 25.00 | 355.00 |
| 2 | Irrigation Product selection Cutsheets (brief memo up to 2 pages) | | 1 | | 4 | | | 5 | 420.00 | 25.00 | 445.00 |
| 3 | Develop up to two (2) quick sketch options of planting concept for review | | 1 | | 3 | 3 | | 7 | 550.00 | 25.00 | 575.00 |
| 4 | Parking Lot Irrigation Plan (Bubble Diagram, 1 sheet 20 scale) | | | | 2 | 1 | | 3 | 230.00 | 25.00 | 255.00 |
| 5 | Planting Plan (1 sheet 20 scale) | 1 | 1 | | 4 | 2 | | 8 | 690.00 | 25.00 | 715.00 |
| 6 | Planting Details w/ Plant list (1 sheet) | | | | 4 | 6 | | 10 | 740.00 | 25.00 | 765.00 |
| 7 | Cost estimate 60% design | | 1 | | 4 | 2 | | 7 | 560.00 | 20.00 | 580.00 |
| 8 | Specifications (Table of Contents input) | | | | 1 | | | 1 | 80.00 | | 80.00 |
| 9 | Team Meeting (1) | | 3 | | | | | 3 | 300.00 | 25.00 | 325.00 |
| | **Total** | 1 | 8 | 0 | 24 | 15 | 0 | 48 | 3,900.00 | 195.00 | 4,095.00 |
| D | **100% Parking Lot Planting and Irrigation Design** | | | | | | | | | | |
| 1 | Parking Lot Irrigation Plan (1 sheet 20 scale) | | 1 | | 4 | 7 | | 12 | 910.00 | 25.00 | 935.00 |
| 2 | Irrigation Details (1 sheet) | | 1 | | 3 | 5 | | 9 | 690.00 | 25.00 | 715.00 |
| 3 | Parking Lot Planting Plan (1 sheet 20 scale) | 1 | 1 | | 4 | 6 | | 12 | 970.00 | 25.00 | 995.00 |
| 4 | Planting Details w/ Plant list (1 sheet) | | 1 | | 4 | 7 | | 12 | 910.00 | 25.00 | 935.00 |
| 5 | Cost estimate 100% deisgn | | 1 | | 1 | 2 | | 4 | 320.00 | 20.00 | 340.00 |
| 6 | Specifications | | 1 | | 7 | | | 8 | 660.00 | 20.00 | 680.00 |
| | **Total** | 1 | 6 | 0 | 23 | 27 | 0 | 57 | 4,460.00 | 140.00 | 4,600.00 |
| E | **Final Parking Lot Planting and Irrigation Design** | | | | | | | | | | |
| 1 | Parking Lot Irrigation Plan (1 sheet 20 scale) | | | | 2 | 2 | | 4 | 300.00 | 25.00 | 325.00 |
| 2 | Irrigation Details (1 sheet) | | 1 | | 1 | 2 | | 4 | 320.00 | 25.00 | 345.00 |
| 3 | Parking Lot Planting Plan (1 sheet 20 scale) | 1 | 1 | | 2 | 4 | | 8 | 670.00 | 25.00 | 695.00 |
| 4 | Planting Details w/ Plant list (1 sheet) | 1 | 1 | | 2 | 4 | | 8 | 670.00 | 25.00 | 695.00 |
| 5 | Cost estimate Final design | | 1 | | 1 | | | 2 | 180.00 | 20.00 | 200.00 |
| 6 | Specifications | | 1 | | 5 | | | 6 | 500.00 | 20.00 | 520.00 |
| | **Total** | 2 | 5 | 0 | 13 | 12 | 0 | 32 | 2,640.00 | 140.00 | 2,780.00 |
| **Total all Tasks** | | 5 | 26 | 0 | 67 | 55 | 5 | 158 | 12,810.00 | 595.00 | 13,405.00 |

**Assumptions**

Complete CAD base mapping provided by others in 2007 AutoCAD format.
Sheet set up with title block provided by Prime Consultant (This scope of work assumes plan sheets will be at 20 scale.)
It is anticpated three review steps will be provided by the client. Additional review steps will require additional fee.
60% Design planting plan may be hand drawn.
100% Plans shall be bid ready documents.
Irrigation is limited to the parking area landscaping.
Parking lot and path layout by others. JA Brennan will provide input to design.
Bicycle parking and bicycle rack details and selection by others.
Site furniture location and products are not included in this scope of work.
This scope of work is limited to planting and irrigation design for the new parking lot and the disturbed area along associated path.
Specification sections are limited to planting and irrigation sections. It is assumed specifications will be in CSI format.
Irrigation details will not be provided for 60% design.
It is assumed no wetlands are within the project limits.
Shoreline permit is by others.
SEPA checklist has been completed.
TESC plan is by others.
Bid support and construction support are not provided.
Planting design anticipates an LID approach to the parking lot and path
Bid ready plan set will be plotted on mylar, all other plans and documents will be plotted on bond.



120

# ATTACHMENT G

# SURVEYING

# ATTACHMENT "G"

Pacific Geomatic Services, Inc.

PGS, Inc. Quality Service Creative Solutions

December 21, 2009

Mr. Michael Hemphill
Moffatt & Nichol Engineers
600 University Street, Suite 610
Seattle, WA 98101

Dear Mike,

As requested we have prepared a scope and estimate to provide mapping in support of a new trail design at the Oak Harbor Marina. Our understanding of the limits of the mapping is the existing parking area and adjacent features westerly of the existing outfall and boat launch area to the easterly edge of Beeksma Dr. and its extension south. The approximate limits are shown on the attached exhibit.

Accordingly, we proposed to provide the following services:

**Scope of Services:**

PGS, Inc. will provide mapping of the existing parking area westerly of the boat launch feature. The mapping will be of sufficient accuracy and density to provide contours at an interval of two feet. The mapping will encompass an area bounded by mean low water on the south and as otherwise outlined in black on the attached exhibit. The survey will include the following detailed features within the mapping limits:

- buildings and structures
- fences
- trees 8" or greater in size as measured at 4.5' above ground and will include dripline
- break lines on the site (i.e. ditches, banks, ridges, etc.)
- utility access points, i.e., manhole covers, storm drain grates, electrical vault grates, etc.
- power poles
- light standards
- curb and gutter
- sidewalk
- street trees, tree wells, and grates
- traffic signal boxes
- fire hydrants, fire department connections, and post indicator valves

- City of Oak Harbor benchmarks and monuments including those used for control that are not within the project site
- Signs and pedestrian signals, including those mounted on light standards and other types of poles. Show sign type.
- Sidewalk, pathways, ramps and driveways

The new mapping will be compiled together with previous survey work to create a comprehensive map of the project site.

**Datum**

The survey data will be based on and tied into previous mapping performed for the outfall in 2008.

**Deliverables**

- A signed and sealed hard media of the survey at a scale consistent with Moffat and Nichol standards.
- An electronic AutoCAD file with the triangulated irregular network (TIN) of the digital terrain model for the topographic survey and will include a copy of the Land Development Desktop directory with files which make up the surface.

**Drawing standards**

Drawings will be provide in AutoCAD format and shall conform to Moffat and Nichol drafting standards.

**Assumptions**

This proposal is based on the following assumptions and/or receiving the following site-specific information.

3. PGS, Inc. will have unrestricted access to the site and building faces, and free access to gated areas within the project area.

4. Moffatt & Nichol will provide PGS, Inc. with any available data from previous surveys showing datum and tide stations used.

5. PGS, Inc. field crews may need to perform minor brushing with machetes to conduct this survey, and we have Client's permission to do so.

6. Moffatt & Nichol Engineers will provide PGS, Inc. with a detailed list of standards for mapping, which we must have prior to beginning the field survey. These standards include:

- Level or Layering standards
- Symbology and symbol library
- Text standards
- Sheet and drawing standards
- Scaling standards

## Fee

PGS, Inc. proposes to provide the above Scope of Services on a lump sum fee basis. Our fee for this survey service is **$4,700.00**.

## Schedule

PGS, Inc. is prepared to begin this work within one (1) week after receiving a written notice to proceed and would expect to be able to deliver preliminary drawings within three (3) weeks after receiving the written notice to proceed.

## Additional Services

It is understood that any Additional Services beyond those included in this Scope of Services shall be authorized in writing by the Client prior to commencement of the "Additional Service(s)," and the Client shall reimburse PGS, Inc. for said Additional Services monthly according to the work actually accomplished in the preceding month, provided such Additional Services have been approved in writing.

If the foregoing meets with your acceptance, please sign one copy of this letter and return one copy of each for our records and as authorization to proceed under the terms of this agreement.

If you have any questions or need additional information, please call me at (425) 778-5620 or e-mail me at ronh@pacgeoinc.com.

Sincerely,

**Pacific Geomatic Services, Inc.**

**Acknowledgment and Authorization to Proceed:**

The undersigned hereby acknowledges this agreement and authorizes Pacific Geomatic Services, Inc. to proceed accordingly.

Ron Hilliard, P.L.S.
President

By: _____

For: **Moffat & Nichol Engineers**

Date:

**City of Oak Harbor**
**City Council Agenda Bill**

**Bill No.** 11
**Date:** February 16, 2010
**Subject:** North Oak Harbor Street Improvement Project; Contract Award

**FROM:** Cathy Rosen, Public Works Director
Eric Johnston, City Engineer

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, approved as to form

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**PURPOSE**

This agenda bill recommends awarding a contract for construction of the North Oak Harbor Street Improvement Project to G & G Excavation, Inc. in the amount of $1,539,957.58.

**AUTHORITY**

Oak Harbor Municipal Code Chapter 2.330.010 provides for the contracting for Public Works and Improvements as follows:

Except as otherwise authorized by Chapters 39.04 and 39.28 RCW, or RCW 35.22.620, relating to emergency public works, or other applicable general state law, as now enacted or as hereafter amended, all public works and improvements shall be done by contract pursuant to public notice and call for competitive bids in accordance with this chapter whenever the estimated cost of such public work or improvement, including the cost of materials, supplies, equipment and labor, will exceed the sum of $30,000 if more than one craft or trade is involved with the public works project, or in excess of $20,000 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting; provided, the city may use a small works roster pursuant to RCW 35.22.620. It is further provided, that the council may authorize public works construction projects without bid up to the bid limitation in RCW 35.22.620 as now in effect or as hereafter amended.

## SUMMARY STATEMENT

On November 17, 2009 Council authorized staff to solicit bids for construction of the North Oak Harbor Street Improvement Project. This contract will result in the reconstruction of North Oak Harbor Street between Whidbey and Crosby Avenues and widening the street from 2-lane to 3 lanes.

## DISCUSSION

The project was advertised for bidding in the Daily Journal of Commerce and Whidbey New Times.

*Amount of the Contract:* Staff received and opened 12 sealed bids on February 1, 2010. The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

| Contractor | Location | Bid Total |
|---|---|---|
| G&G Excavation, Inc. | Anacortes, WA | $1,539,957.58 |
| Krieg Construction, Inc. | Oak Harbor, WA | $1,622,529.56 |
| Colacurcio Bros. Const., Inc. | Blaine, WA | $1,743,590.70 |
| Marshbank Construction, Inc. | Lake Stevens, WA | $1,760,633.75 |
| Interwest Construction, Inc. | Burlington, WA | $1,768,344.60 |
| Plats Plus, Inc. | Marysville | $1,862,636.93 |
| Precision Earthworks, Inc | Mukilteo, WA | $1,890,737.00 |
| C. Johnson Construction, Inc. | Oak Harbor, WA | $1,892,840.33 |
| Thomco Construction, Inc. | Lake Stevens, WA | $1,982,631.22 |
| Mountain West Const., Inc. | Port Orchard, WA | $2,020,777.71 |
| Construct Company, LLC. | Sumner, WA | $2,040,522.89 |
| Johansen Excavating, Inc. | Buckley, WA | $4,277,741.48 |

| | | |
|---|---|---|
| *Engineer's Estimate* | *Oak Harbor, WA* | *$2,476,911.50* |

Staff reviewed the bid prices and is knowledgeable of the qualifications and experience of the low bidder. It is recommended that a contract in the amount of $1,539,957.58 be awarded to G&G Excavation, Inc, who is the lowest responsible bidder.

*Construction Contingency:* Most construction projects involve change orders and modifications to the contract plans. Delays in processing change order requests can result in costly delay claims against the City. To minimize the possibility of delays and the resulting claims, staff requests that the City Engineer be authorized to administratively approve up to $155,000.00 approximately 10% of the contract amount, for change orders.

Previously when Oak Harbor has contracted for large scale road projects with outside funding source(s), the City has employed a consulting firm to manage the project. The consultant services typically include contract administration, provision of a record of materials, project coordination with the designer, owner, utilities, the contractor and the public, monthly pay estimates to the contractor, leading weekly construction meetings, construction observation, daily construction reports, interactions with adjacent property owners and occupants, field records and documents to assure the Project is administered in accordance with funding agency requirements, photographic record of the project, coordination of field and laboratory testing, development of a punch list of items to be corrected, provide record drawings, project closeout and final documents. The proposal received for these services pertaining to the N. Oak Harbor Street Improvement Project is in the amount of $307,000. Engineering Division staff has elected to perform these duties in-house rather than contract out.

*Funding:* The funding for the project is comprised of a grant from the Transportation Improvement Board, Transportation Impact fees, developer contributions and other City funding.

*Justification:* The project is necessary to provide adequate and safe vehicular, pedestrian, transit and bicycle transportation infrastructure through a key corridor of NE Oak Harbor.

**STANDING COMMITTEE REPORT**

This project was presented to the Public Works and Utilities Committee at the November 5, 2009 meeting.

**RECOMMENDED ACTION**

Authorize the Mayor to sign a contract with G & G Excavation, Inc. in the amount of $1,539,957.58. Authorize the City Engineer to administratively approve changes to the construction contract totaling not more than $155,000.00.

**ATTACHMENTS:**

Bid Tabulation
Contract Form

**MAYOR'S COMMENTS:**

N. Oak Harbor Street Improvement Project, City of Oak Harbor, WA Contract #ENG 06-28 February 2, 2010

| BID SUMMARY | Engineer's Estimate Total Price | G&G Excavation, Inc. Total Price | Krieg Construction, Inc Total Price | Colacurcio Brothers, Inc. Total Price |
|---|---|---|---|---|
| Schedule A: N. Oak Harbor Street Improvements | 2,568,928.84 | 1,492,094.19 | 1,567,348.00 | 1,693,031.70 |
| Schedule B: Water Main Replacement | 113,591.50 | 47,863.39 | 55,181.56 | 50,559.09 |
| **Total Basic Bid Plus Additives 1 and 2** | **2,682,520.34** | **1,539,957.58** | **1,622,529.56** | **1,743,590.79** |

**Bid Tabulation**

| Schedule A: N. Oak Harbor Street Improvements | | Qty | Unit | Engineer's Estimate Unit Price | Engineer's Estimate Total Price | G&G Excavation, Inc. Unit Price | G&G Excavation, Inc. Total Price | Krieg Construction, Inc Unit Price | Krieg Construction, Inc Total Price | Colacurcio Brothers, Inc. Unit Price | Colacurcio Brothers, Inc. Total Price |
|---|---|---|---|---|---|---|---|---|---|---|---|
| A-1 | Mobilization | 1 | LS | 210,000.00 | 210,000.00 | 25,364.23 | 25,364.23 | 48,000.00 | 48,000.00 | 85,000.00 | 85,000.00 |
| A-2 | Project Temporary Traffic Control | 1 | LS | 50,000.00 | 50,000.00 | 62,213.85 | 62,213.85 | 45,000.00 | 45,000.00 | 65,000.00 | 65,000.00 |
| A-3 | Pedestrian Control and Protection | 1 | LS | 5,000.00 | 5,000.00 | 1.02 | 1.02 | 5,000.00 | 5,000.00 | 2,000.00 | 2,000.00 |
| A-4 | Roadway Surveying | 1 | LS | 35,000.00 | 35,000.00 | 14,743.92 | 14,743.92 | 21,000.00 | 21,000.00 | 15,500.00 | 15,500.00 |
| A-5 | Licensed Surveying | EST | DOL | 1.00 | 1,500.00 | 1.00 | 1,500.00 | 1.00 | 1,500.00 | 1.00 | 1,500.00 |
| A-6 | Clearing and Grubbing | 2.7 | AC | 10,000.00 | 27,000.00 | 9,191.86 | 24,818.02 | 8,100.00 | 21,870.00 | 3,500.00 | 9,450.00 |
| A-7 | Removal of Structures and Obstructions | 1 | LS | 10,000.00 | 10,000.00 | 1,279.20 | 1,279.20 | 1,200.00 | 1,200.00 | 3,400.00 | 3,400.00 |
| A-8 | Sawcut Pavement | 8,500 | LF | 3.00 | 25,500.00 | 1.07 | 9,095.00 | 1.00 | 8,500.00 | 1.15 | 9,775.00 |
| A-9 | Planing Bituminous Pavement | 780 | SY | 8.00 | 6,240.00 | 8.14 | 6,349.20 | 10.00 | 7,800.00 | 9.70 | 7,566.00 |
| A-10 | Removing Asphalt Conc. Pavement | 9,460 | SY | 5.00 | 47,300.00 | 1.74 | 16,460.40 | 3.75 | 35,475.00 | 2.55 | 24,123.00 |
| A-11 | Removing Cement Conc. Pavement | 2,440 | SY | 20.00 | 48,800.00 | 1.31 | 3,196.40 | 5.85 | 14,274.00 | 4.30 | 10,492.00 |
| A-12 | Removing Cement Conc. Curb and Gutter | 930 | LF | 6.00 | 5,580.00 | 1.98 | 1,841.40 | 2.50 | 2,325.00 | 3.30 | 3,069.00 |
| A-13 | Removing Extruded Curb | 880 | LF | 6.00 | 5,280.00 | 1.50 | 1,320.00 | 2.00 | 1,760.00 | 2.25 | 1,980.00 |
| A-14 | Removing Existing Pipe | 1,000 | LF | 8.00 | 8,000.00 | 5.53 | 5,530.00 | 4.50 | 4,500.00 | 5.35 | 5,350.00 |
| A-15 | Removing Catch Basin | 9 | EA | 500.00 | 4,500.00 | 306.21 | 2,755.89 | 225.00 | 2,025.00 | 320.00 | 2,880.00 |
| A-16 | Potholing | 25 | EA | 500.00 | 12,500.00 | 262.57 | 6,564.25 | 100.00 | 2,500.00 | 225.00 | 5,625.00 |
| A-17 | Erosion/Water Pollution Control | EST | DOL | 1.00 | 15,000.00 | 1.00 | 15,000.00 | 1.00 | 15,000.00 | 1.00 | 15,000.00 |
| A-18 | ESC Lead | 12 | DAY | 150.00 | 1,800.00 | 88.33 | 1,059.96 | 150.00 | 1,800.00 | 56.00 | 672.00 |
| A-19 | Stormwater Pollution Prevention Plan (SV | 1 | LS | 3,000.00 | 3,000.00 | 367.32 | 367.32 | 1,000.00 | 1,000.00 | 800.00 | 800.00 |
| A-20 | SPCC Plan | 1 | LS | 5,000.00 | 5,000.00 | 621.66 | 621.66 | 1,000.00 | 1,000.00 | 400.00 | 400.00 |
| A-21 | Roadside Cleanup | EST | DOL | 1.00 | 2,000.00 | 1.00 | 2,000.00 | 1.00 | 2,000.00 | 1.00 | 2,000.00 |
| A-22 | Silt Fence | 6,770 | LF | 4.00 | 27,080.00 | 1.37 | 9,274.90 | 2.75 | 18,617.50 | 3.05 | 20,648.50 |
| A-23 | Straw Bale | 18 | EA | 30.00 | 540.00 | 28.18 | 507.24 | 20.00 | 360.00 | 50.00 | 900.00 |
| A-24 | Inlet Protection | 42 | EA | 90.00 | 3,780.00 | 41.93 | 1,761.06 | 45.00 | 1,890.00 | 60.00 | 2,520.00 |
| A-25 | Roadway Excavation Incl. Haul | 2,800 | CY | 16.00 | 44,800.00 | 6.44 | 18,032.00 | 5.45 | 15,260.00 | 8.10 | 22,680.00 |
| A-26 | Embankment Compaction | 3,400 | CY | 2.00 | 6,800.00 | 2.84 | 9,656.00 | 1.25 | 4,250.00 | 2.75 | 9,350.00 |
| A-27 | Gravel Borrow Incl. Haul | 6,300 | TON | 12.00 | 75,600.00 | 4.07 | 25,641.00 | 8.00 | 50,400.00 | 9.30 | 58,590.00 |
| A-28 | Concrete Inlet | 22 | EA | 900.00 | 19,800.00 | 731.85 | 16,100.70 | 740.00 | 16,280.00 | 815.00 | 17,930.00 |
| A-29 | Concrete Inlet with Combination Inlet Frame, Hood, and Grate | 1 | EA | 1,200.00 | 1,200.00 | 833.61 | 833.61 | 900.00 | 900.00 | 1,100.00 | 1,100.00 |
| A-30 | Catch Basin Type 1 | 12 | EA | 1,100.00 | 13,200.00 | 729.70 | 8,756.40 | 790.00 | 9,480.00 | 850.00 | 10,200.00 |
| A-31 | Catch Basin Type 2 (48") | 14 | EA | 2,500.00 | 35,000.00 | 1,213.70 | 16,991.80 | 1,785.00 | 24,990.00 | 1,880.00 | 26,320.00 |
| A-32 | Corrugated Polyethylene Storm Sewer Pipe 12 In. Diam. | 670 | LF | 25.00 | 16,750.00 | 23.36 | 15,651.20 | 28.50 | 19,095.00 | 25.20 | 16,884.00 |
| A-33 | Corrugated Polyethylene Storm Sewer Pipe 18 In. Diam. | 980 | LF | 40.00 | 39,200.00 | 40.23 | 39,425.40 | 35.00 | 34,300.00 | 36.00 | 35,280.00 |
| A-34 | Ductile Iron Sewer Pipe 12 In. Diam. | 810 | LF | 80.00 | 64,800.00 | 35.56 | 28,803.60 | 45.00 | 36,450.00 | 42.00 | 34,020.00 |
| A-35 | Shoring or Extra Excavation Class B | 7,550 | SF | 1.00 | 7,550.00 | 0.15 | 1,132.50 | 0.10 | 755.00 | 0.10 | 755.00 |
| A-36 | Solid Locking Circular Metal Cover and Frame | 8 | EA | 500.00 | 4,000.00 | 242.29 | 1,938.32 | 325.00 | 2,600.00 | 380.00 | 3,040.00 |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| A-37 | Solid Locking Metal Cover and Frame | 27 | EA | 500.00 | 13,500.00 | 211.77 | 5,717.79 | 305.00 | 8,235.00 | 350.00 | 9,450.00 |
| A-38 | ADA Grate | 1 | EA | 500.00 | 500.00 | 167.33 | 167.33 | 180.00 | 180.00 | 190.00 | 190.00 |
| A-39 | Connection to Drainage Structure | 32 | EA | 600.00 | 19,200.00 | 491.66 | 15,733.12 | 145.00 | 4,640.00 | 265.00 | 8,480.00 |
| A-40 | Foam Pad | EST | DOL | 1.00 | 500.00 | 1.00 | 500.00 | 1.00 | 500.00 | 1.00 | 500.00 |
| A-41 | Adjust Catch Basin | 28 | EA | 400.00 | 11,200.00 | 272.81 | 7,638.68 | 200.00 | 5,600.00 | 210.00 | 5,880.00 |
| A-42 | Adjust Catch Basin Manhole | 2 | EA | 450.00 | 900.00 | 348.83 | 697.66 | 300.00 | 600.00 | 330.00 | 660.00 |
| A-43 | Riprap Oufall | 3 | EA | 100.00 | 300.00 | 159.38 | 478.14 | 300.00 | 900.00 | 335.00 | 1,005.00 |
| A-44 | Rock Drain | 3 | EA | 50.00 | 150.00 | 152.60 | 457.80 | 200.00 | 600.00 | 205.00 | 615.00 |
| A-45 | Crushed Surfacing Top Course | 2,720 | TON | 21.00 | 57,120.00 | 14.03 | 38,161.60 | 17.85 | 48,552.00 | 20.20 | 54,944.00 |
| A-46 | Crushed Surfacing Base Course | 4,750 | TON | 19.00 | 90,250.00 | 12.76 | 60,610.00 | 16.85 | 80,037.50 | 18.35 | 87,162.50 |
| A-47 | HMA Cl. 1/2 in PG 64-22 | 4,220 | TON | 85.00 | 358,700.00 | 76.56 | 323,083.20 | 70.00 | 295,400.00 | 77.30 | 326,206.00 |
| A-48 | HMA Cl 1/2 in PG 64-22 for Driveways and Incidentals | 930 | TON | 85.00 | 79,050.00 | 85.97 | 79,952.10 | 80.00 | 74,400.00 | 88.00 | 81,840.00 |
| A-49 | HMA Cl. D | 370 | TON | 105.00 | 38,850.00 | 91.56 | 33,877.20 | 80.00 | 29,600.00 | 95.00 | 35,150.00 |
| A-50 | Job Mix Compliance Price Adjustment | 1 | CALC | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| A-51 | Compaction Price Adjustment | 1 | CALC | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| A-52 | Seeding, Fertilizing and Mulching | 1.1 | AC | 3,000.00 | 3,300.00 | 2,658.97 | 2,924.87 | 1,120.00 | 1,232.00 | 2,650.00 | 2,915.00 |
| A-53 | Topsoil, Type A | 760 | CY | 40.00 | 30,400.00 | 31.84 | 24,198.40 | 25.00 | 19,000.00 | 31.75 | 24,130.00 |
| A-54 | Sod Installation | 3,820 | SY | 6.00 | 22,920.00 | 3.66 | 13,981.20 | 4.90 | 18,718.00 | 3.65 | 13,943.00 |
| A-55 | PSIPE Acer Griseum, 2 In. Diam. | 36 | EA | 400.00 | 14,400.00 | 302.54 | 10,891.44 | 225.00 | 8,100.00 | 300.00 | 10,800.00 |
| A-56 | PSIPE Amelanchier Arborea, 1.5 In. Diam. | 14 | EA | 350.00 | 4,900.00 | 119.51 | 1,673.14 | 225.00 | 3,150.00 | 120.00 | 1,680.00 |
| A-57 | PSIPE Crataegus Lavallei, 2 In. Diam. | 48 | EA | 400.00 | 19,200.00 | 240.53 | 11,545.44 | 225.00 | 10,800.00 | 240.00 | 11,520.00 |
| A-58 | PSIPE Acer Truncatum x. A., 2 In. Diam. | 35 | EA | 400.00 | 14,000.00 | 211.79 | 7,412.65 | 225.00 | 7,875.00 | 210.00 | 7,350.00 |
| A-59 | PSIPE Imperata Cylindrica Rubra, 1 gallon container size | 60 | EA | 30.00 | 1,800.00 | 9.84 | 590.40 | 9.00 | 540.00 | 9.80 | 588.00 |
| A-60 | PSIPE Spirea Arguta, 1 gallon container size | 33 | EA | 30.00 | 990.00 | 9.84 | 324.72 | 9.00 | 297.00 | 9.80 | 323.40 |
| A-61 | PSIPE Vaccinium Ovatum, 1 gallon container size | 57 | EA | 30.00 | 1,710.00 | 9.39 | 535.23 | 9.00 | 513.00 | 9.40 | 535.80 |
| A-62 | PSIPE Achillea Millefolium, 1 gallon container size | 31 | EA | 30.00 | 930.00 | 9.06 | 280.86 | 9.00 | 279.00 | 9.00 | 279.00 |
| A-63 | Irrigation System | 1 | LS | 50,000.00 | 50,000.00 | 45,130.49 | 45,130.49 | 47,700.00 | 47,700.00 | 45,000.00 | 45,000.00 |
| A-64 | Cement Concrete Traffic Curb and Gutter | 8,680 | LF | 12.00 | 104,160.00 | 10.39 | 90,185.20 | 10.95 | 95,046.00 | 12.00 | 104,160.00 |
| A-65 | Cement Concrete Traffic Curb | 1,130 | LF | 20.00 | 22,600.00 | 10.34 | 11,684.20 | 13.00 | 14,690.00 | 12.00 | 13,560.00 |
| A-66 | Extruded Curb | 880 | LF | 6.00 | 5,280.00 | 5.81 | 5,112.80 | 6.50 | 5,720.00 | 6.30 | 5,544.00 |
| A-67 | Wheel Stops | 12 | EA | 75.00 | 900.00 | 71.19 | 854.28 | 40.00 | 480.00 | 56.00 | 672.00 |
| A-68 | Paint Line | 8,160 | LF | 0.30 | 2,448.00 | 0.33 | 2,692.80 | 0.20 | 1,632.00 | 0.20 | 1,632.00 |
| A-69 | Raised Pavement Marker Type 2 | 2 | HUND | 500.00 | 1,000.00 | 505.63 | 1,011.26 | 400.00 | 800.00 | 405.00 | 810.00 |
| A-70 | Plastic Wide Line | 580 | LF | 3.00 | 1,740.00 | 1.22 | 707.60 | 2.00 | 1,160.00 | 2.00 | 1,160.00 |
| A-71 | Plastic Traffic Arrow | 39 | EA | 130.00 | 5,070.00 | 61.04 | 2,380.56 | 60.00 | 2,340.00 | 61.00 | 2,379.00 |
| A-72 | Plastic Traffic Letter | 8 | EA | 100.00 | 800.00 | 61.04 | 488.32 | 30.00 | 240.00 | 30.50 | 244.00 |
| A-73 | Plastic Stop Line | 100 | LF | 10.00 | 1,000.00 | 3.05 | 305.00 | 3.50 | 350.00 | 3.55 | 355.00 |
| A-74 | Plastic Crosswalk Line | 760 | SF | 5.00 | 3,800.00 | 1.73 | 1,314.80 | 2.50 | 1,900.00 | 2.55 | 1,938.00 |
| A-75 | Plastic Access Parking Space Symbol | 1 | EA | 200.00 | 200.00 | 111.91 | 111.91 | 120.00 | 120.00 | 121.50 | 121.50 |
| A-76 | Detectable Warning Pad | 60 | SF | 40.00 | 2,400.00 | 45.78 | 2,746.80 | 30.00 | 1,800.00 | 46.00 | 2,760.00 |
| A-77 | Permanent Signing | 1 | LS | 22,600.00 | 22,600.00 | 7,947.77 | 7,947.77 | 8,500.00 | 8,500.00 | 11,800.00 | 11,800.00 |
| A-78 | Project Sign | 1 | EA | 500.00 | 500.00 | 1,071.27 | 1,071.27 | 850.00 | 850.00 | 900.00 | 900.00 |
| A-79 | Traffic Signal Loop | 3 | EA | 1,000.00 | 3,000.00 | 686.34 | 2,059.02 | 1,350.00 | 4,050.00 | 700.00 | 2,100.00 |
| A-80 | Utility Trench for Illumination System | 4,500 | LF | 25.00 | 112,500.00 | 5.08 | 22,860.00 | 5.75 | 25,875.00 | 5.10 | 22,950.00 |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| A-81 | Street Light Tube Installation | 31 | EA | 300.00 | 9,300.00 | 254.20 | 7,880.20 | 235.00 | 7,285.00 | 255.00 | 7,905.00 |
| A-82 | Rock Wall | 1,700 | SF | 25.00 | 42,500.00 | 12.94 | 21,998.00 | 13.75 | 23,375.00 | 13.75 | 23,375.00 |
| A-83 | Rock Face Cap | 150 | LF | 25.00 | 3,750.00 | 14.24 | 2,136.00 | 20.00 | 3,000.00 | 17.00 | 2,550.00 |
| A-84 | Cement Concrete Sidewalk | 1,950 | SY | 35.00 | 68,250.00 | 26.04 | 50,778.00 | 26.50 | 51,675.00 | 26.00 | 50,700.00 |
| A-85 | Thickened Edge Sidewalk | 100 | SY | 75.00 | 7,500.00 | 51.70 | 5,170.00 | 36.32 | 3,632.00 | 60.00 | 6,000.00 |
| A-86 | Cement Conc. Sidewalk Ramp Type 1A | 2 | EA | 1,200.00 | 2,400.00 | 869.85 | 1,739.70 | 700.00 | 1,400.00 | 750.00 | 1,500.00 |
| A-87 | Cement Conc. Sidewalk Ramp Type 2B | 9 | EA | 1,200.00 | 10,800.00 | 941.06 | 8,469.54 | 945.00 | 8,505.00 | 820.00 | 7,380.00 |
| A-88 | Modified Cement Conc. Sidewalk Ramp Type 2B | 7 | EA | 1,200.00 | 8,400.00 | 915.63 | 6,409.41 | 860.00 | 6,020.00 | 820.00 | 5,740.00 |
| A-89 | Cement Conc. Sidewalk Ramp Type 4B | 2 | EA | 1,200.00 | 2,400.00 | 915.63 | 1,831.26 | 763.00 | 1,526.00 | 820.00 | 1,640.00 |
| A-90 | Modified Cement Conc. Driveway Entrance Type 1 | 1,300 | SY | 50.00 | 65,000.00 | 35.20 | 45,760.00 | 35.80 | 46,540.00 | 38.00 | 49,400.00 |
| A-91 | Modified Cement Conc. Driveway Entrance Type 2 | 160 | SY | 60.00 | 9,600.00 | 35.40 | 5,664.00 | 35.80 | 5,728.00 | 40.00 | 6,400.00 |
| A-92 | Modified Cement Conc. Driveway Entrance Type 3 | 40 | SY | 60.00 | 2,400.00 | 35.40 | 1,416.00 | 35.80 | 1,432.00 | 41.00 | 1,640.00 |
| A-93 | Reset Mailbox | 7 | EA | 300.00 | 2,100.00 | 182.92 | 1,280.44 | 150.00 | 1,050.00 | 165.00 | 1,155.00 |
| A-94 | Bollard | 2 | EA | 1,000.00 | 2,000.00 | 679.84 | 1,359.68 | 600.00 | 1,200.00 | 840.00 | 1,680.00 |
| A-95 | Wood Fence | 280 | LF | 30.00 | 8,400.00 | 25.43 | 7,120.40 | 26.00 | 7,280.00 | 25.25 | 7,070.00 |
| A-96 | Vinyl Coated Chain Link Fence Type 6 | 210 | LF | 30.00 | 6,300.00 | 28.49 | 5,982.90 | 29.00 | 6,090.00 | 28.30 | 5,943.00 |
| A-97 | Moving Existing Hydrants | 4 | EA | 2,200.00 | 8,800.00 | 1,288.04 | 5,152.16 | 1,800.00 | 7,200.00 | 980.00 | 3,920.00 |
| A-98 | Adjust Water Valve | 22 | EA | 300.00 | 6,600.00 | 102.27 | 2,249.94 | 75.00 | 1,650.00 | 180.00 | 3,960.00 |
| A-99 | Adjust Blowoff Valve | 1 | EA | 300.00 | 300.00 | 222.73 | 222.73 | 300.00 | 300.00 | 215.00 | 215.00 |
| A-100 | Adjust Post Indicator Valve | 1 | EA | 350.00 | 350.00 | 613.08 | 613.08 | 300.00 | 300.00 | 180.00 | 180.00 |
| A-101 | Adjust Water Meter | 5 | EA | 350.00 | 1,750.00 | 95.95 | 479.75 | 150.00 | 750.00 | 200.00 | 1,000.00 |
| A-102 | Relocate Water Meter | 11 | EA | 1,500.00 | 16,500.00 | 1,025.35 | 11,278.85 | 900.00 | 9,900.00 | 520.00 | 5,720.00 |
| A-103 | Adjust Sanitary Sewer Manhole | 14 | EA | 450.00 | 6,300.00 | 348.61 | 4,880.54 | 250.00 | 3,500.00 | 330.00 | 4,620.00 |
| A-104 | Adjust Cleanout | 1 | EA | 250.00 | 250.00 | 96.11 | 96.11 | 100.00 | 100.00 | 205.00 | 205.00 |
| A-105 | Adjust Monument Case and Cover | 10 | EA | 250.00 | 2,500.00 | 43.90 | 439.00 | 75.00 | 750.00 | 210.00 | 2,100.00 |
| A-106 | Protection and Restoration of Property | EST | DOL | 1.00 | 40,000.00 | 1.00 | 40,000.00 | 1.00 | 40,000.00 | 1.00 | 40,000.00 |
| A-107 | Minor Changes | EST | DOL | 1.00 | 15,000.00 | 1.00 | 15,000.00 | 1.00 | 15,000.00 | 1.00 | 15,000.00 |
| | **Total Schedule A** | | | | 2,363,320.00 | | 1,492,094.19 | | 1,567,348.00 | | 1,693,031.70 |

| | | | | Engineer's Estimate | | G&G Excavation, Inc. | | Krieg Construction, Inc | | Colacurcio Brothers, Inc. | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Additive Bid 2: Original Parallel Taxiway** | | Qty | Unit | Unit Price | Total Price | Unit Price | Total Price | Unit Price | Total Price | Unit Price | Total Price |
| B-1 | Plugging Existing Pipe | 6 | EA | 500.00 | 3,000.00 | 63.45 | 380.70 | 300.00 | 1,800.00 | 135.00 | 810.00 |
| B-2 | Controlled Density Fill | 10 | CY | 130.00 | 1,300.00 | 94.41 | 944.10 | 90.00 | 900.00 | 140.00 | 1,400.00 |
| B-3 | 10" Tee | 1 | EA | 600.00 | 600.00 | 814.05 | 814.05 | 1,240.00 | 1,240.00 | 620.00 | 620.00 |
| B-4 | 10" x 8" Tee | 2 | EA | 600.00 | 1,200.00 | 717.40 | 1,434.80 | 1,880.00 | 3,760.00 | 560.00 | 1,120.00 |
| B-5 | 45° Bend 8 In. | 2 | EA | 400.00 | 800.00 | 256.97 | 513.94 | 500.00 | 1,000.00 | 240.00 | 480.00 |
| B-6 | 11.25° Bend 10 In. | 1 | EA | 500.00 | 500.00 | 339.40 | 339.40 | 450.00 | 450.00 | 280.00 | 280.00 |
| B-7 | 22.5° Bend 10 In. | 1 | EA | 500.00 | 500.00 | 348.56 | 348.56 | 450.00 | 450.00 | 290.00 | 290.00 |
| B-8 | 45° Bend 10 In. | 4 | EA | 500.00 | 2,000.00 | 304.78 | 1,219.12 | 500.00 | 2,000.00 | 290.00 | 1,160.00 |
| B-9 | Gate Valve 8 In. | 2 | EA | 1,200.00 | 2,400.00 | 938.53 | 1,877.06 | 1,100.00 | 2,200.00 | 1,000.00 | 2,000.00 |
| B-10 | Gate Valve 10 In | 4 | EA | 1,400.00 | 5,600.00 | 1,345.47 | 5,381.88 | 1,550.00 | 6,200.00 | 1,425.00 | 5,700.00 |
| B-11 | PVC Pipe for Water Main 8 In. Diam | 60 | LF | 70.00 | 4,200.00 | 22.53 | 1,351.80 | 23.75 | 1,425.00 | 25.25 | 1,515.00 |
| B-12 | PVC Pipe for Water Main 10 In. Diam | 905 | LF | 80.00 | 72,400.00 | 24.29 | 21,982.45 | 28.00 | 25,340.00 | 27.50 | 24,887.50 |
| B-13 | Connection to Existing Main | 5 | EA | 2,000.00 | 10,000.00 | 1,488.94 | 7,444.70 | 800.00 | 4,000.00 | 1,250.00 | 6,250.00 |
| | **Total Additive Bid 2** | | | | 104,500.00 | | 44,032.56 | | 50,765.00 | | 46,512.50 |
| | **Plus Sales Tax (8.7%)** | | | | 9,091.50 | | 3,830.83 | | 4,416.56 | | 4,046.59 |
| | **Total Schedule B Plus Sales Tax** | | | | 113,591.50 | | 47,863.39 | | 55,181.56 | | 50,559.09 |

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RE: N. OAK HARBOR STREET IMPROVEMENTS

THIS AGREEMENT AND CONTRACT, made this _____ day of _____, 2010, by and between the CITY OF OAK HARBOR, herein called the Owner, and _____hereinafter called the Contractor.

**ARTICLE I. SCOPE OF WORK.** The Contractor shall perform, within the time stipulated, the Contract as herein defined, of which this agreement is a component part, and everything required to be performed, and shall provide and furnish any and all utility and transportation services necessary to perform the contract and complete in a workmanlike manner furnishing materials and installing improvements entitled "N. OAK HARBOR STREET IMPROVEMENTS," CONTRACT #ENG 06-28, in strict conformity with the plans and project manual, including any and all Addenda issued by the Owner, with the other contract documents hereinafter enumerated.

It is agreed that said labor, materials, tools, equipment, and services shall be furnished and the contract performed and completed subject to the approval of the Owner or its authorized representative.

**ARTICLE II. LUMP SUM PRICES.** The Owner shall pay to the Contractor as full consideration for the performance of the contract lump sum tasks, an amount equal to the lump prices as set forth in the bid.

**ARTICLE III. UNIT PRICES.** The Owner shall pay to the Contractor as full consideration for the performance of the contract unit price tasks, an amount computed upon the basis of the quantity of work actually performed at the unit prices set forth in the bid, and, should the quantities be increased or decreased, payment shall be made per 1-04.6 of the Standard Specifications and the Contractor shall make no claim for anticipated profits for any increase or decrease in the quantities. Actual quantities shall be determined upon completion of the work and as described in the bid specifications.

**ARTICLE IV. COMPONENT PARTS OF THIS CONTRACT.** The Contract entered into by the acceptance of the Contractor's bid and the signing of this agreement consists of the following documents all which are component parts of said Contract and as fully a part thereof as if herein set out in full, and if not attached, as if hereto attached.

1. This Agreement and Contract
2. Change Orders
3. Addenda No.s _____
4. Indemnification Addendum
5. Bid Proposal Form
6. Special Provisions
7. Contract Drawings
8. Amendments
9. WSDOT Standard Specifications for Road, Bridge and Municipal Construction (2008)
10. Agency Standard Plans

11. WSDOT Standard Plans
12. Appendices
13. Information for Bidders
14. Bid Solicitation
15. Performance and Payment Bond
16. Notice of Award
17. Notice to Proceed

In the event of any conflict or inconsistency between any of the foregoing documents, the conflict or inconsistency shall be resolved upon the basis of the numerical order. The document or documents assigned the small number or numbers being controlling over any document having a larger number in the numerical order set forth above. Provided, however, although the supplemental conditions incorporates standard specifications by reference, in case of conflict or inconsistency, these standard specifications have a numerical order as shown above.

IN WITNESS WHEREOF, four (4) identical counterparts of this Agreement, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on this day and year first above written.

City of Oak Harbor
OWNER

Corporate Seal:

By: _____

Title: _____

By: _____

Title: _____

_____

_____
CONTRACTOR

Corporate Seal:

By: _____

Title: _____

WITNESS, if individual or partnership

By: _____

By: _____

ATTEST, if Corporation

By: _____

Title: _____

**City of Oak Harbor**
**City Council Agenda Bill**

Bill No. 12
Date: February 16, 2010
Subject: Interlocal Agreement for Court Services for the Period January 1, 2011 through December 31, 2014

**FROM:** Margery Hite, City Attorney

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

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**SUMMARY STATEMENT**:
The City currently contracts with Island County for court services as a municipal department of the Island County District Court, pursuant to Ch. 3.46 RCW. The Legislature repealed Ch. 3.46 RCW in 2008, and the City gave notice of intent to terminate the existing Interlocal Agreement so that other options could be considered and negotiated. When no reduction in costs could be negotiated with Island County; the City gave notice that it would establish a separate municipal court beginning in January of 2011. Since that time, the County has agreed to eliminate the charge for "rent" which totaled almost $36,000 per year. The City and County agree that some overhead costs are attributable to the City's use of the district court facility and settled on a flat rate of $17,200 per year. This represents a reduction of over $18,000 annually. This proposed Interlocal Agreement, therefore, extends the period of the district court operation of the City's municipal court for four years – to December 31, 2014,- leaving the City the option to terminate at that time.

***Purpose***: The purpose of this Interlocal Agreement is to continue the City's municipal department of the Island County District Court for four years. At the end of the four year period, the City will be able to establish its own independent municipal court pursuant to Ch. 3.50 RCW or to seek an extension of the arrangement with the district court.

***Description***: This Interlocal Agreement continues the operation of the municipal department of the District Court as Oak Harbor's municipal court for four years.

The cost to the City will be 22% of the court operational costs plus an annual overhead assessment of $17,200. This represents a reduction of over $18,000 ($18,374.96).

The Interlocal Agreement also designates Judge Peter Strow as the City's municipal judge and provides for transition of cases in the event the City elects to establish its own court in 2014.

***Policy considerations:*** The financial concession by the County provides an inducement for the City to stay at the district court, and also benefits the County by contributing towards the overall costs for operation of the court. The consolidation of City calendars by the district court has helped free up additional attorney time in the City Attorney's Office.

***Budget considerations:*** This Interlocal does not change the existing cost-basis for municipal court services. The City pays a percentage of court operational costs (22%) and, in addition, the City will pay $17,200 annually as court overhead instead of the previous amount of $36,000 paid annually as "rent".

**STANDING COMMITTEE REVIEW:**
The Interlocal was discussed with the Public Safety Committee on November 19, 2009 and the Finance Committee on February 10, 2010.

**RECOMMENDED ACTION:**
Authorize the Mayor to sign the attached Interlocal Agreement.

**ATTACHMENTS:**
Proposed Interlocal Agreement

**MAYOR'S COMMENTS:**

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

## INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement) is between the CITY OF OAK HARBOR, a Washington State municipal corporation, whose business address is 865 SE Barrington Drive, Oak Harbor, Washington 98277, herein referred to as "City", ISLAND COUNTY, a Washington State political subdivision whose business address is NE 6th & Main Street, Coupeville, Washington 98239, herein referred to as "County", and the ISLAND COUNTY DISTRICT COURT, whose business address is 800 SE 8th Avenue, Oak Harbor, Washington 98277, also referred to as "District Court".

WHEREAS, the Municipal Court of Oak Harbor operates as a department of the District Court pursuant to Chapter 3.46 RCW; and

WHEREAS, SSHB 2557 (Ch. 227, Laws of 2008) repeals Ch. 3.46 RCW but allows a city to continue to operate a municipal department in existence prior to July 1, 2008; and

WHEREAS, the City wishes to continue to operate a municipal department in existence prior to July 1, 2008; and

WHEREAS, the extension of the City's Municipal Court as a municipal department of the District Court for four years is in the best interest of both parties; and

WHEREAS, the parties agree that the City *shall utilize a municipal department established pursuant to Ch. 3.46 RCW at the Island County District Court for the term of this Agreement*; and

WHEREAS, the parties desire to enter into an agreement wherein the City agrees to compensate the County for judicial and associated costs of operating its Municipal Court as a municipal department of District Court from *January 1, 2011 through December 31, 2014 in lieu of establishing a physically separate municipal department, to allow both parties to take advantage of the efficiencies of a combined court*; and

WHEREAS, the parties agree that they have fully negotiated the terms of a transfer should the City elect to form its own municipal court at the conclusion of the four-year term of the elected district court judge, *December 31, 2014*;

Now, therefore,

The parties agree as follows:

1. Term. The term of this Agreement shall *begin January 1, 2011 and continue in effect until December 31, 2014*. This Agreement replaces the latest agreement between the parties which was effective beginning January 1, 2009 and concluding December 31, 2010. The City elects to continue the operation of its Municipal Court as a municipal department pursuant to Section 11 of SSHB 2557 (Ch. 227, Laws of 2008) for the term of this Agreement.

2. Performance. The County agrees to continue to operate a municipal department of Island County District Court for the City pursuant to Ch. 3.46 RCW as written prior to the adoption of SSHB 2557 (Ch. 227, Laws of 2008). The municipal department of the District Court shall have jurisdiction over matters arising from violation of the City's ordinances, as provided in RCW 3.46.030, from *January 1, 2011 through December 31, 2014*. Fines, penalties, court costs and other fees imposed by the court shall be distributed by the City as provided by law.

3. *Selection of District Court Judge as Judge of Municipal Department. The City, pursuant to RCW 3.46.060, selects the Honorable Peter H. Strow to serve as the part-time judge of the municipal department of the City of Oak Harbor in the Island County District Court for the term of this Agreement.*

4. Compensation. The City agrees to pay the County *twenty-two percent (22%)* of the District Court annual judicial and associated costs every year for the four year term of this Agreement. This figure represents the percentage of filings in the District Court attributable to the City over the period *2007 – 2009* and is the parties' best estimate of the full and fair value of the cost of operating the Oak Harbor Municipal Court as a municipal department of the District Court for the calendar years 2011 through 2014.

Judicial and associated costs are defined as salaries and benefits for judges and all court employees including as needed extra help and operating expenses including supplies, small tools, professional services, communications, travel, advertising, utility services, repair and maintenance, library and printing. *The City shall also pay a flat annual fee of $17,200 (paid in quarterly installments) as its share of the overhead attributable to the operation of the District Court.* The City will not reimburse the County for any costs of the District Court operating as a Municipal Court for any city other than Oak Harbor.

5. Payment. The City shall pay the County on a quarterly basis within thirty (30) days after approval of the County's written request for payment. Application for payment shall be made to the Oak Harbor Municipal Court Clerk, 800 SE 8th Avenue, Oak Harbor, Washington 98277.

6. In the event that the City elects to terminate this Agreement in accordance with RCW 3.46.150(1) and establish a municipal court pursuant to Ch. 3.50 RCW, the parties agree that the following transfer agreement shall become effective:

Transfer Agreement. In the event a future transfer of the Oak Harbor municipal department established pursuant to Ch. 3.46 RCW to the new Oak Harbor Municipal Court established pursuant to Ch. 3.50 RCW, the following transfer provisions shall apply:

A. All criminal cases and traffic violations occurring in the City of Oak Harbor on or after the effective date of the establishment of the City's municipal court shall be filed in the Oak Harbor Municipal Court rather than in the former municipal department in Island County District Court.

B. The judge of the municipal department of Island County District Court designated by the City as a municipal judge pursuant to RCW 3.46.020 shall determine whether any criminal cases pending before the municipal department at the time of the transfer must remain in the jurisdiction of the District Court for legal reasons. The municipal judge shall issue legal findings in each case for which jurisdiction in the District Court is retained. As to all other pending Oak Harbor municipal department criminal matters, jurisdiction shall be transferred to the new Oak Harbor Municipal Court.

C. For each such case in which the municipal judge determines that jurisdiction must remain in the municipal department of the District Court, the City agrees to pay the County a fee of not less than Fifty Dollars ($50.00). The amount of the fee shall be based upon the actual cost to the County of judicial and associated costs in adjudicating the criminal matter. Should actual costs to the

County exceed the Fifty Dollars ($50.00) per case fee, the parties agree to negotiate in good faith for payment by the City of such actual costs. If the parties are unable to reach an agreement relating to these costs, the matter shall be referred to arbitration.

D. All traffic violations pending before the municipal department at the time of the transfer shall be transferred to the jurisdiction of the new Oak Harbor Municipal Court.

7. Notice. Any notice under this Agreement shall be in writing and either personally served or sent by certified mail, return receipt requested, to the following persons:

| | |
|---|---|
| City of Oak Harbor: | Mayor<br>City of Oak Harbor<br>865 SE Barrington Drive<br>Oak Harbor, Washington 98277 |
| Island County: | Board of County Commissioners<br>Island County Commissioners' Office<br>P O Box 5000<br>Coupeville, Washington 98239 |
| Island County District Court: | The Honorable Peter H. Strow<br>Island County District Court Presiding Judge<br>Island County District Court<br>800 SE 8th Avenue<br>Oak Harbor, Washington 98277 |

8. Municipal Department Schedule. The District Court currently schedules the bulk of the City's criminal matters to be heard weekly on Wednesdays. The District Court agrees to continue this practice or, as needed due to City caseload, to consolidate City calendars into as few days per week as is practicable. The District Court will also consider scheduling City matters in the evenings as "night court" at the request of the City Attorney.

9. Miscellaneous.

A. Non-waiver. No waiver by either party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.

B. Paragraph titles. The paragraph titles herein are inserted for convenience of references only and are not to be deemed part of or to be used in construing this agreement.

C. Modification. No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this agreement.

*10.* Indemnification. The personnel assigned to the Oak Harbor Municipal Court, as a municipal department of the District Court pursuant to Ch. 3.46 RCW, shall be considered the employees of the County.

Each party shall hold harmless, defend and indemnify the other party in any action involving the Oak Harbor Municipal Department activities arising from the first party's sole negligence, including payment of all attorney fees and costs.

In the event of joint negligence of more than one party, each party shall be responsible for its proportionate share of damages and/or other award attributable to that party. In the event of negligence or other wrongful acts asserted against more than one party in a lawsuit, any damages awarded shall be levied in proportion to the percentage of fault attributable to each party as determined in a separate proceeding with the same trial judge that presided over the main lawsuit. It being further agreed by the parties to reserve their cross-claims until after the main issue of liability has been resolved.

In the event of negligence or other wrongful acts asserted against more than one party, which is resolved prior to the commencement of a lawsuit, then, should the parties involved in such claims fail to agree among themselves as to the apportionment of fault, then the parties involved agree to use binding arbitration for a determination of each party's fault, if any, as specified hereinafter (Section 11, Arbitration).

The parties hereby covenant to use their best efforts to maintain a united defense to any claims made against the Municipal Department of Island County District Court (City of Oak Harbor) and District Court (Island County) and to meet and negotiate in good faith as soon as practicable after notice of any claim or action for the purpose of determining how to proceed in such defense. The parties hereto shall select a spokesperson for all information to be released to the public and will determine which party shall provide any necessary legal defense. Reimbursement for costs of legal defense may be as agreed between the parties or may be determined at such time and by the forum which makes the determination of proportionate liability, if applicable.

*11.* Arbitration. Any dispute between the parties concerning the application of or violation of the express terms of this Agreement shall be resolved through arbitration. For purposes of arbitration, each party shall pick its own arbitrator and the two

arbitrators within ten (10) days shall pick a third arbitrator. If the two arbitrators do not agree within ten (10) days to pick a third arbitrator, either party may apply to the Superior Court of Island County to select a third arbitrator. A majority decision of the arbitrators shall be final and conclusive.

Except where expressly provided in this Agreement, the arbitration shall be governed by Ch. 7.04A RCW. The cost of arbitration shall be borne by each party paying for its own arbitrator and its attorney fees and costs. Should all parties participate in an arbitration, those parties' arbitrators shall meet and choose an arbitrator who shall join in deciding the matters in the dispute in the manner set forth above. The arbitrator will be compensated by the parties as follows:

> Each Party shall pay one half the costs of all arbitration including the compensation for the third arbitrator. Each party shall pay the cost for the arbitrator it selects.

*12.* Records. The County shall keep true and auditable records to account for expenses charged the City under this Agreement. The City's authorized representative shall have the right to inspect, at reasonable times and in a reasonable manner, all pertinent County records and to make copies thereof.

*13.* Administration. No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

*14.* Real and Personal Property. All real and personal property used in the performance of this Agreement will be acquired, held, and disposed of by the County under its usual and ordinary procedures.

*15.* Annual Budget. The County agrees to advise the City during the City's yearly regular budget hearings on the proposed budget for District Court services in the coming year.

*16.* Disclaimer. This Agreement is made solely for the purpose of compensating the County for its judicial and associated costs of operating the Oak Harbor Municipal Court as a municipal department of the Island County District Court pursuant to Ch. 3.46 RCW. This Agreement also provides for the transfer of cases upon establishment of a municipal court pursuant to Ch. 3.50 RCW. This Agreement shall not be construed in any manner that would limit either parties' authority or powers under law in any other respect.

*17.* Right to Renegotiate. The parties agree that the City's election to continue its municipal department is within the City's sole discretion. By entering into this Agreement, the parties do not intend to foreclose the City from serving notice to

terminate the municipal department provided such notice is submitted in writing no later than the first of February of the year in which all district court judges are subject to election (2014). *If the City does serve notice to terminate, the agreement to transfer municipal court services pursuant to RCW 3.46.150 and 3.46.015 is embodied herein.*

*18.* Severability.

A. 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.

B. 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.

*19.* 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. 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.

SIGNED by the City of Oak Harbor on _____.

CITY OF OAK HARBOR

By_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

SIGNED by Island County on _____.

BOARD OF COUNTY
COMMISSIONERS

ISLAND COUNTY, WASHINGTON

_____
John Dean, Chairman

_____
Angie Homola, Member

_____
Helen Price Johnson, Member

ATTEST:

_____
Clerk of the Board

SIGNED by Island County District Court on _____.

_____
Judge Peter H. Strow

APPROVED AS TO FORM:

_____
Deputy Prosecuting Attorney

**City of Oak Harbor**
**City Council Agenda Bill**

Bill No. 13
Date: February 16, 2010
Subject: Oak Harbor Police Association Agreements – Commissioned Unit and Oak Harbor Police Association – Non-Commissioned Unit

**FROM:** Rick Wallace, Chief of Police

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney as to form

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## PURPOSE

This agenda bill presents the proposed labor agreements by and between the City of Oak Harbor and the Oak Harbor Police Association – Commissioned Unit, and the Oak Harbor Police Association – Non-Commissioned Unit for City Council consideration and approval.

## AUTHORITY

**Pursuant to 41.56.100 RCW, authority and duty of employer to engage in collective bargaining – limitations – mediation, grievance procedures upon failure to agree:**
A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative…

## SUMMARY STATEMENT

On January 26, 2010, the City of Oak Harbor Mayor's Administration, the Oak Harbor Police Association of Commission Officers, and the Oak Harbor Association of Non-Commission Officers tentatively agreed to a three (3) year collective bargaining agreement(s). The agreements are considered tentative until approved by City Council.

The two agreements are practically the same regarding most terms and conditions, with notable exceptions being salary compensation and work shifts.

Those significant contract items negotiated are as follows:

- Term of Agreement – January 1, 2010 through December 31, 2012.
- Cost of Living Adjustment – 2% for 2010, 90% of CPI for 2011 and 2012, no more than 4% and no less than 2%. (2% for 2010 is within the current budget.)
- Longevity – 15 years = 1% of base salary, 20+ years = 2% of base salary. (Net annual increase of longevity cost is $5,076.)
- One year trial of 9/80 Work Schedule for Records Division (Non-Commission only).
- Definition of Work on Holiday (clarification of language).
- Schedule Adjustment – paid overtime for travel to and from required training (clarification of language).
- Non-Discrimination/Gender – revision to non-discrimination clause.
- Arbitration Clause – clarifying that arbitration is the sole remedy under the collective bargaining agreement.
- This agreement will be retroactive to January 1, 2010.

## STANDING COMMITTEE REPORT

These agreements did not come before the Public Safety Standing Committee since collective bargaining issues are exempt from public meetings and as such came before the entire City Council in a non-public meeting setting.

## RECOMMENDED ACTION

1. Recommend approval and authorization for the Mayor to sign the agreement by and between the City of Oak Harbor and the Oak Harbor Police Association – Commissioned Unit for the term of January 1, 2010 through December 31, 2012.
2. Recommend approval and authorization for the Mayor to sign the agreement by and between the City of Oak Harbor and the Oak Harbor Police Association – Non-Commissioned Unit for the term of January 1, 2010 through December 31, 2012.

## ATTACHMENTS

1. Agreement – Oak Harbor Police Association – Commissioned Unit
2. Agreement – Oak Harbor Police Association – Non-Commissioned Unit

## MAYOR'S COMMENTS

# AGREEMENT

## by and between

## THE CITY OF OAK HARBOR

## and

## OAK HARBOR POLICE ASSOCIATION
## * * COMMISSIONED UNIT * *

## JANUARY 1, 2010 through DECEMBER 31, 2012

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## Article 1 PREAMBLE

1.1 This Agreement is effective January 1, 2010, between the City of Oak Harbor and the Oak Harbor Police Association. The parties recognize that the Mayor, or designee, is the Chief Executive Officer and the Police Chief, or designee, is the official of the day-to-day operations of the Police Department. Accordingly, the term "Employer" or "City shall be used herein and shall apply interchangeably to those officials or their authorized designees. The Oak Harbor Police Association, shall herein be referred to as the "Association" or "Bargaining Unit Members."

1.2 The Employer and the Association recognize the need to provide efficient service to the public and to enhance the quality of service. Further, both parties agree to the need for establishing and maintaining a sound labor-management relationship and mutually agree to continue working toward this goal. Each party had been afforded the opportunity to put forth all its proposals and to bargain in good faith and both parties agree that this Agreement expressed the results of their negotiations.

## Article 2 RECOGNITION, MEMBERSHIP AND PAYROLL DEDUCTION

2.1 Recognition – Employer recognizes the Association as the exclusive bargaining representative for full-time, commissioned law enforcement officers of the Oak Harbor Police Department excluding rank of Lieutenant or above, full-time confidential employees, and all other employees of the Employer not otherwise represented by the Association or any other certified bargaining representative.

2.2 Association Membership - All employees who are, or who hereafter become, members in good standing in the Association on or after the effective date of this Agreement, shall maintain their membership in good standing in the Association as a condition of continued employment. All employees who are not now members in the Association and/or all new employees hereinafter employed shall, within thirty-one (31) days from their first date of hire, or within thirty-one (31) days from the effective date of this Agreement, whichever is later, become and remain members in good standing in the Association as a condition of continued employment, or pay a service fee to the Association not exceeding the amount of regular Association dues and initiation fees and not exceeding the maximum agency fee that may be assessed as a matter of law.

2.3 Payroll Deduction – The Employer shall deduct from the pay of each employee covered by this Agreement, upon their written authorization, the dues and fees of the Association, and shall remit to said Association all such deductions monthly.

The Association shall indemnify, defend and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any check-off of dues and fees for the Association. The Association shall refund to the Employer any amount paid to it in error on account of this check-off provision upon presentation of proper evidence thereof.

## Article 3 NON-DISCRIMINATION/GENDER

3.1 Non-Discrimination – The Employer and the Union shall abide by federal, state and local laws against discrimination towards all individuals with respect to their hiring, compensation and terms and conditions of employment.

Claims of unlawful discrimination shall be pursued privately through State and Administrative agencies or through the courts and are not subject to the grievance procedure.

3.2 Gender – Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

## Article 4 PROBATION, SENIORITY, EMPLOYEE ROSTER

4.1 Initial Probation Period – New employees shall be subject to a probation period for new or inexperienced employees and lateral entry employees commencing with their date of hire and concluding eight (8) months following graduation from or certification by the Washington State Criminal Justice Training Commission Academy, or from date of hire, as it would apply to Lateral Entry new hires. Said initial probationary period may be extended up to an additional four (4) months. During either the initial or extended probationary periods, such employee may be disciplined and/or discharged at the sole discretion of the Employer. For the purposes of pay, the employee's pay step will increase from grid step 0 to grid step 1 on the anniversary of his / her date of hire.

4.2 Promotion Probation Period – A member of the bargaining unit who has been promoted in rank shall serve a six (6) month probationary period commencing with their first work shift. In the event the employee does not satisfactorily complete the probationary period as determined solely by the Employer, said employee shall be returned to their former position and pay if such is available or to a comparable position and pay.

4.3 Seniority – An employee's seniority, as it applies to this agreement, shall be defined as that period from the employee's date of hire or promotion within the bargaining unit within classification.

4.4 Employee Roster – The Employer shall provide the Association annually a roster of all current employees in the bargaining unit with their respective seniority dates effective each July 1st during the term of this Agreement.

4.5 Termination - An employee shall lose all seniority in the event of discharge or voluntary termination.

## Article 5 ASSOCIATION BUSINESS

**5.1** Association Officials Time Off – Association officials who are employees in the Bargaining Unit shall be granted reasonable time off with pay while conducting contract negotiations or grievance resolution on behalf of the employees in the Bargaining Unit; provided that the Employer is able to properly staff the employees' job duties during the time off, and without any additional expense to the Employer. The Association Negotiations Committee shall consist of not more than four (4) Association members.

**5.2** Bulletin Boards – The Employer shall provide space for a bulletin board at each station which may be used by the Association.

**5.3** Access to Office Equipment – The employer shall allow Association access to the telephone, photocopiers and computers for purposes of administering this contract; provided reasonable reimbursement is made for the use of materials and services, by providing their own paper and paying .02 cents per page for each copy as well as paying any actual long distance charges for any phone calls made. The OHPA will coordinate payment details with the departments Administrative Assistant.

**5.4** Association Investigative and Visitation Privileges – The Labor Representative of the Association may visit the work location of employees covered by this Agreement at any reasonable time for purpose of investigating grievances. Such representative shall coordinate his/her visitation in advance with the Chief of Police or designee for a mutually agreed-upon time and shall limit his/her activities during such investigations to matters relating to this Agreement. Employer work hours shall not be used by employees or Association Representatives for the promotion of Association affairs other than stated in this Article 5.1. The Association may utilize Employer Facilities for meetings, subject to availability, and with the prior approval by the Chief of Police or designee

**5.5** Reservation of Rights – The Chief of Police or designee reserves the right to determine the total amount of specific hours of official time which will be approved for Association officials to conduct other Association business on duty time, not addressed in Article 5.1.

## Article 6 WORK PERIOD

6.1 Work Period – Defined – Employees will be assigned to a work period under Section 7(k) of the Fair Labor Standards Act, 29 U.S.C., 207(k), based on their schedule.

6.1.2 3/12 Schedule – For employees working a schedule of three (3) twelve-hour days, followed by three (3) days off, the work period will consist of twenty-four (24) consecutive days.

6.1.3 5/8 or 4/10 Schedule – For employees working a schedule of five (5) eight-hour days followed by two (2) days off, or four (4) ten-hour days followed by three (3) days off, the work period will consist of twenty-eight consecutive days.

## Article 7 HOURS OF WORK OVERTIME, CALLBACK, STANDBY, AND COURT TIME

7.1 Overtime - Overtime pay shall be paid for any work authorized and performed in excess of that provided by these provisions. All such work shall be paid at the rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay.

7.1.1 Definition - "Overtime" as used in this Agreement shall mean that time an employee works in excess of the regularly established hours of work. Shifts which commence within eight (8) hours of the end of the preceding shift shall constitute an overtime shift.

7.1.2 Rate - Overtime shall be paid at the rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay; provided however, with the mutual agreement of the employee and the employer, the employee may elect to receive compensatory time off at the rate of one and one-half (1-1/2) times the time worked, in lieu of paid overtime. Overtime shall be paid on the check for the time period in which it is earned; unless such overtime is earned after the deadline for payroll preparation, in which case it will be paid on the following month's check.

7.2 Callback - Employees ordered to report back to duty after going home from their regular shift, or called in on their day off, shall be guaranteed two (2) hours at the time and one half (1½) rate.

7.2.1 Court Time Time spent in court, including time spent enroute to and from court, may be taken as compensatory time, if mutually agreed between employee and the Chief of Police. All officers subpoenaed to appear in court will call their OHPD Voice Mail service, between 1600 and 1700 the day before the court date, (or the Friday before if the court date is a Monday), to see if their court appearance has been cancelled. Employees who are not notified that they need not respond to scheduled court appearances before the end of the prior business day shall receive three (3) hours minimum at the time and one half (1/2) rate.

7.2.2 Vacation Call Back - Any employee called back to duty for any reason once vacation has been approved, and the affected employee has incurred expenses in planning for the same, shall be reimbursed for costs involved in returning for duty, or any other non-refundable expenses incurred. Reimbursement for travel shall be made on the same basis as the original mode of transportation. If applicable, mileage shall be paid at the approved City rate. Vacation approval shall not unreasonably be withheld to frustrate the intent of this section. For purposes of the Vacation Call Back section, all vacations will have been previously approved according to Department procedures, and will have been for a block of 5 days minimum. Employee shall suffer no loss of vacation time.

7.3 Department Meetings - The Chief of Police may require employees to attend department meetings upon one (1) week's advance notice; time spent by employees at such meetings will be governed by the appropriate overtime policy.

7.4 Time of Effect for Overtime - Overtime pay will come into effect after fifteen (15) minutes of the employee's regular shift and he/she will be paid for the one (1) hour's overtime until he/she is at one hour and fifteen minutes past his/her shift, at which time he/she will be paid for two (2) hours, etc., until his/her duties are completed or he/she is relieved, at the rate of one and one-half (1½) his/her regular hourly rate.

7.5 Overtime Earned At Department Mandated Training – Any overtime that is earned while at Department mandated training will be computed using the above described process, ( Articles 7.1 – 7.6).

7.6 Compensatory Time Accumulation - Any compensatory time given, in excess of eighty (80) hours, in lieu of paid overtime, will be by mutual agreement between the Department and the employee. A maximum of eighty (80) hours of payable comp time or 120 non-payable comp time hours can be carried over from one month to the next. Any additional hours in excess of eighty (80) payable hours at the end of the month will be paid to the employee at his/her regular pay rate. Any additional non-payable hours in excess of 120 hours will be carried for one month with notification that the employee has that period of time to use the non-payable comp time. The department reserves the right to schedule this time off if at the end of a reasonable period of time, (within the one month period), the employee fails to schedule the excess time. Upon termination or retirement, unused compensatory time will be paid to the employee at the regular rate of pay. An employee may request to carry over more than 120 hours, for a specific amount of time, and for a specific period and purpose, upon approval by the Chief of Police.

7.7 No Loss - No compensatory time shall be deducted from that accrued to the employee unless the employee actually used that compensatory time, or was paid for same or agreed to having it removed for disciplinary purposes.

7.8 Death - Upon the death of any employee in active service within the bargaining unit, his estate shall be paid any accrued but unused payable comp time. An employee is deemed on active service for purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of payable hours accumulated.

7.9 Time Chits in Duplicate - Time chits recording overtime shall be made in duplicate, with the employee retaining a copy.

7.10 Approval of Overtime - All overtime work performed must be requested and/or approved by the Department.

## HOURS OF WORK

7.11 Three-12 Hour Shifts: Employees who work a twelve-hour shift, shall not exceed three consecutive days in a week (excluding overtime). All employees on this plan are entitled to nine (9) "Kelly" days per year. "Kelly" days shall be taken as time off, and cannot be paid. Any employee who does not use his/her Kelly Day within a 6-week period may be assigned a day off by management. The shifts will rotate from AM (days) to PM (nights) every sixty (60) days. Employees assigned to the Patrol Division work the three 12-hour shift.

7.11.1 The Employer may have the Dayshift teams designate one of the Dayshift Officers to a mandatory cover shift, (for the purposes of this section, cover shift will be designated as a dayshift team assignment).

7.11.2 Officers working the cover shift are to be assigned as part of the dayshift team for scheduling purposes. (If the cover shift is to be filled on a rotating basis within each dayshift team, it will have a priority to be filled).

7.11.3 Shift Rotation; The employer may implement a once yearly squad rotation for one (1) team member per squad. The designated patrol team member will rotate from one squad to another, (days to nights and nights to days). The rotation for these officers will occur using a two (2) shift on two (2) shift off schedule until the rotation is complete, (to be completed with in two (2) work shift cycles). This rotation will be coordinated by the Patrol Supervisors. The Employees agree that additional days worked, (with in the two work/ week cycles), as a result of the rotations, will not be considered overtime. The Employer agrees that days not worked as a result of the rotation will not place the employee under any obligation to make up for time not worked.

7.11.4 Employees assigned to the Patrol Division work the 12-hour shift working three (3) consecutive days and having three (3) consecutive days off.

7.12 Five-8 Hour Shifts: Employees who work eight (8) hour shifts shall work five (5) consecutive days and have two (2) consecutive days off. Any hours worked in excess of the above will be compensated at the overtime rate. The High School Resource Officer will work the 5-8 shift.

7.13 Four-10 Hour Shifts: Employees who work the ten (10) hour shift shall work four (4) consecutive days and have three (3) consecutive days off. Any hours worked in excess of the above shall be compensated at the overtime rate. Employees assigned to the Detective and Special Operations Division work the 4-10 hour shift.

7.14 Changing Hours of Work - An employee's hours of work can be changed if mutually agreed upon by the Oak Harbor Police Association and the Employer.

7.15 Breaks - For employees who work the three (3) twelve (12) hour shift plan, the workday shall include one (1) 40-minute lunch break, and three (3) 20-minute rest breaks. For employees who work the five (5) eight (8) hour shift plan, and the four (4) ten (10) hour shift plan, the workday shall include at least one (1) 40-minute lunch break and two (2) 20-minute rest breaks. All employees shall be subject to immediate call during rest and lunch breaks at no cost to the Employer. Management reserves the right to schedule breaks and lunches.

7.16 Alteration of Schedules - With Employer approval, work schedules may be altered upon written request of the employee. The Employer shall post a monthly work schedule. Schedules shall be posted not less than three (3) days in advance of a change. Any shifts changed with less than three (3) days notice shall be compensated at the overtime rate. In the event of planned schedule changes, i.e., training, vacations, special events, extended illness or injury, etc., and with 3 days notice, those employees working the 4-10 shift may have their schedules adjusted to maintain shift coverage. Days off and shift hours may be changed to reflect a 5-8 schedule to cover shifts, at no cost to the Employer.

7.17 Offers of Overtime - The employer shall offer employees to volunteer for overtime shifts, on a seniority basis and within job classification, before they are assigned.

7.18 Extra Work - Additional consecutive days worked after a regular shift, due to shift or scheduled work changes required by the employer, will be paid overtime at the rate of one and one-half (1½) times the hourly rate of pay.

7.19 Shift Changes - Employees agree that additional days worked as a result of monthly shift schedule changes will not be considered overtime. Employer agrees that days not worked as a result of quarterly shift schedule changes will not place employee under any obligation to "make up" for time not worked. This same policy will apply to hours worked or not worked due to changes from Standard to Daylight Savings Time.

7.20 Use of Reserves to Circumvent Overtime - The employer will in no event use police reserves to do normal work of Association members or to circumvent the holiday overtime and/or any other provisions of this Agreement.

7.21 Normal Police Use of Reserves in Functions - Reserve officers shall not be regularly assigned to perform police functions normally performed by a sworn officer working in a paid status. It is understood that Reserve officers may be used by the Department to supplement police services, such as for additional staffing for special projects, (i.e., Community Oriented functions, civic activities, monitoring city parks, surveillance by reserves and citizens); in emergencies, for traffic or crowd control, or in other short-term circumstances. If the Association believes that reserve officers are being utilized inappropriately, it may meet with the Chief of Police or his or her designee to discuss such disputes or disagreements, and to attempt to resolve any disputes or disagreements. Disputes regarding the utilization of reserve officers shall be subject to grievance procedure.

## Article 8 MAINTENANCE OF STANDARDS

**8.1** No Reductions – No employee shall suffer any reduction of wages or less favorable working conditions or any loss of vacation benefits through the adoption or operation of this Agreement, except as negotiated.

## Article 9 HOLIDAYS

9.1 Holidays Identified – the following shall be considered Holidays:

| | | |
|---|---|---|
| January 1st | Labor Day | Thanksgiving Day |
| President's Day | July 4th | Day after Thanksgiving |
| Memorial Day | Veteran's Day | Floating Holiday (1) |
| Martin Luther King Day | Christmas Day | |

9.2 Pay for Holidays – Employees shall receive pay for Holidays listed herein, regardless of which day of the week on which the Holiday falls. Employees shall be paid for such Holidays, if no work is performed, at the hourly rate of the employee's regularly scheduled work shift for their classification.

9.3 Additional Compensation – If an employee works on any of the above Holidays, on a regular work day, he/she shall receive pay at one (1) times the regular rate performed, in addition to Holiday Pay. The employee may elect to add the Holiday Pay to the compensatory time bank.

9.4 Regular Day Off – If a Holiday falls on the employee's regular work day off, he/she will not receive any extra pay for that day. The employee shall receive compensatory time in the amount of the employee's regularly scheduled work shift, which must be taken as such. Holidays which occur during the employee's vacation or sick leave shall not be charged against such leave. This compensatory time may be carried over from month to month and will be drawn on first.

9.5 Called in on Holidays – If an employee is called in to work on a Holiday, on his/her regular day off, he/she will receive overtime pay (1-1/2) pay for the number of hours worked; and he/she will receive compensatory time in the amount equal to the employee's regularly scheduled work shift, which must be taken as such.

9.6 Definition of Work on a Holiday – In the event an employee works the bulk of his shift hours on a given date, that date is the one for which he will be considered paid, regardless of the date upon which the shift commenced.

9.7 Treatment on Vacation or Sick Leave – Holidays which occur during the employee's vacation or sick leave shall not be charged against such leave.

9.8 50% Rule – For purposes of this Article, employees are entitled to holiday benefits for any holiday on which not less than fifty percent (50%) of their shift occurs.

## Article 10 WAGES

10.1 Wage Schedule – Wages effective January 1, 2010 through December 31, 2012 are listed on the attached Classification Schedule, as Addendum A to this Agreement

10.2 Out-of-Class Pay/Supervisor Pay – An employee assigned to perform in a higher paid job classification shall receive the base rate of pay for the higher classification for the duration of such assignment.

## Article 11 LEAVES OTHER THAN VACATION

11.1 Sick Leave – All full-time Employees shall receive sick leave benefits in accordance with the following:

11.2 Accrual – Each Employee shall accrue eight (8) hours sick leave for each calendar month from their date of hire as a full-time employee. All sick leave accrued by the current policy of the Employer shall be included with all future accumulation. The total accumulation shall be limited to one-hundred eighty (180) days, as it pertains to "Payment Upon Separation" as outlined in Article 11.8, but shall continue to accrue for sick leave usage.

11.3 Authorization – Sick leave shall be taken as needed up to the limit of accrual on occurrence of the following conditions:

11.3.1 Personal Illness – Personal illness or physical incapacity which renders the employee unable to perform the duties of his position.

11.3.2 Quarantine – Enforced quarantine in accordance with health regulations.

11.3.3 Medical Appointments, etc. – Medical, Dental, or optical appointments; or

11.3.4 Family Care Sick Leave – Sick leave days of absence from the job shall be granted to an employee due to a requirement to care for immediate family members, as defined in Article 11.13. Written or verbal verification for family care sick leave may be required from an attending physician by the Chief or his/her designee. The Employer will comply with the Family Medical Leave Act of 1993.

11.3.5 Sick Leave as Supplement to State Industrial Insurance – Sick leave may be used to supplement partial benefits received from State Industrial Insurance, provided that in no event shall an Employee receive more than otherwise would have been received in base salary. In the event that State Industrial benefits are later received for a period for which an Employee has already received payment through sick leave benefits, the Employee shall pay the partial benefit back to the Employer and the sick leave shall be reinstated.

11.4 Verification – After three (3) days of sick leave, the Employer may require a doctor's certificate.

11.5 Accounting – Sick leave shall be computed exclusive of holidays and vacations.

11.6 Family Leave – An employee may use up to twelve (12) weeks of Family Leave per year, to care for a newborn, adopted or foster child, or seriously ill child, parent or spouse, or because of the employee's own serious illness. The employee may choose to use accrued sick leave and other paid leave time, or take unpaid leave time. The employee may use a combination of paid and unpaid leave. The Employer shall agree to continue health and dental benefits only to employees while on unpaid leave. Any additional related costs shall be borne entirely by the Employee.

11.7 Transfers and Rehires – Employees transferring from one department or office to another shall retain all accrued and unused sick leave benefits. Any employee rehired within one (1) year after termination who, within sixty (60) days after rehire, reimburses the Employer for any lump sum sick leave settlement paid him/her shall retain all accrued and unused sick leave benefits.

11.8 Payment Upon Separation – Upon retirement, or termination, unused sick leave shall be paid according to the following schedule:

| After: | | | | | |
|---|---|---|---|---|---|
| 5 years of service | | | 10% of accumulated sick leave. | | |
| 10 | " | " | 25% | " | " |
| 15 | " | " | 35% | " | " |
| 20 | " | " | 45% | " | " |
| 25 | " | " | 50% | " | " |
| 30 | " | " | 60% | " | " |

11.9 Death – Upon the death of any Bargaining Unit employee, his estate shall be paid accrued but unused sick leave in accordance with Section 11.8. An employee is deemed on active service for the purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of days provided for in this Article.

11.10 Sick Leave Bank – Effective his/her date of employment with the Employer, a new employee will be credited with twelve (12) days of sick leave. This initial bank will be reduced at the rate of one (1) day per month for the first twelve (12) months of employment.

11.11 Light Duty Assignments – The Chief of Police or designee will evaluate and determine whether or not a departmental need exists that would warrant the use of an employee in a light duty capacity. The prior approval of a medical doctor may be required.

11.12 Compassionate Leave – In the event of a death in the "immediate family" of an employee, the Chief of Police or designee shall, upon request, grant the employee compassionate leave with pay. The maximum number of consecutive work hours granted shall be forty (40); provided however, if necessary for health or travel, an amount up to an additional (40 hours) leave can be charged to the employee's sick leave, upon approval of the Chief of Police or designee.

11.13 Definition of Family – The term "immediate family" shall include:

- Spouse and children, including step-children and foster children of the employee;
- Mother, Father, Brother, Sister of the employee or spouse;
- Any relative living in the immediate household of the employee;
- Any individual for whom the employee is legally responsible.
- Step Parents

11.14 Maternity Leave – Disabilities caused or contributed to by pregnancy, miscarriage, childbirth and recovery there from, are, for all job-related purposes, to be considered temporary disabilities. Accrued sick leave, annual leave and Family Leave may be used for childbearing or related circumstance (i.e., miscarriage, or recovery there from). The Employer shall continue health and dental benefits only to employees while on unpaid leave. Any additional related costs shall be borne entirely by the employee. If the period of disability because of childbirth or related circumstances extends beyond the employee's accrued sick leave, Family Leave and Maternity Leave, then she may take a leave of absence not to exceed one year without pay and fringe benefits, unless the employee reimburses the employer the cost of such benefits. When the above occurs, the employee must work out the conditions of the leave of absence with the Chief of Police or designee. Eligibility for sick leave benefits due to childbearing or related circumstances require that an employee provide the Employer thirty (30) days notice, if possible, of the anticipated date of departure and date of intention to return to active employment.

Employees shall not be categorically denied the opportunity to work during the entire period of pregnancy, and may continue to work as long as the individual and her physician concur in her ability to work, and the demands of the job are satisfied. Proof of the physician's concurrence shall be submitted at regular intervals during the employee's pregnancy, when requested by the Employer.

Upon return from disability leave, if related to pregnancy, childbirth or related circumstances, an employee shall return to her same job and pay.

11.14.1 Adoption – The above Article 11.14 shall also apply in cases of adoption by an employee.

11.14.2 Equal Rights – Male employees shall be entitled to use up to two (2) weeks of sick leave, vacation, or comp time upon the birth or adoption of a child.

11.14.3 Maternity Leave of Absence – A Maternity Leave of Absence without pay may be Granted to the employee, upon written request, for a defined period of time, upon approval of the Chief of Police or designee.

11.15 Military Leave In the event an employee covered by the Agreement is a member of the Washington National Guard or a Federal Military Reserve unit who is called to temporary or full-time active duty or is called or volunteers for service with the Armed Services of the United States or Washington National Guard, such employee shall be entitled to the applicable provisions of R.C.W. 38.40.060 and/or the Uniformed Services Employment and Reemployment Rights Act (USERRA).

11.16 Jury Leave – Employee shall be granted leave with pay except as herein limited while required to perform jury service; or required to appear before a court or other public body on any matter related to his work. In order to receive such leave, employees must surrender to the City all fees connected with their court service or appearance.

11.17 Political Leave – Employees elected or appointed to a political or legislative position which is incompatible with the employee's employment, may, upon request, be granted leave of absence without pay. The period of leave may be for up to one (1) year. Requests for political leave renewals shall be granted at the discretion of the Chief of Police or designee.

11.18 Education Leave – Employees may request a leave of absence without pay for educational purposes to attend accredited institution. The period of leave may be for up to one (1) year. Requests for educational leave and educational leave renewals shall be granted at the discretion of the Chief of Police or designee.

11.19 Leave of Absence – Leave of absence without pay may be granted to the employee upon written request, which shall specify the reason for the request and the requested period of time for the leave. Such requests shall be granted at the discretion of the Chief of Police or designee.

## Article 12 VACATION

12.1 Vacation Leave – Employees shall accrue annual leave with pay for the number of working days corresponding to the following schedule:

| CONTINUOUS YEARS OF SERVICE | VACATION ACCRUED PER YEAR | |
|---|---|---|
| 0-5 years | 12 days | 96 hours |
| 6-10 years | 15 days | 120 hours |
| 11-15 years | 20 days | 160 hours |
| 16-20 years | 22.5 days | 180 hours |
| 21 + years | 25 days | 200 hours |

12.2 Prior Vacation Accumulation – All vacation accrued under a prior policy of the Employer shall be included with all future accumulation.

12.3 Annual Leave / Maximum Accrual – Except when approved by the Chief of Police or designee for good cause shown, an employee's accrued unused annual leave may not exceed the amount of the annual accrual at the end of two calendar years. Annual leave accrued and unused in excess of that permitted by this Section shall be forfeited.

12.4 No Deduction of Vacation - Except as provided in Section 12.3, no annual leave shall be deducted from that accrued until it has actually been used; or the employee has agreed to the deduction in lieu of other discipline; or there has been a lump sum settlement.

12.5 Termination – Upon termination from all City employment, the employee shall be paid a lump sum settlement for the number of days of annual leave accrued and not previously used.

12.6 Transfers, Leave of Absence and Termination – Employees transferring from one department or office to another or granted a leave of absence for more than one (1) month or rehired within one (1) year after layoff for lack of funds shall accrue annual leave benefits based on the total time of active employment with the Employer which, in the case of lay-off, was not separated by more than one (1) year. In the event of a transfer, leave of absence for more than a month, or lay-off for a time less than one (1) year, the employment anniversary date shall be adjusted to reflect the actual period of active duty employment.

Employees rehired after lay-off for more than one (1) year shall accrue leave benefits on the same basis as provided for lateral transfer employees under Section 11.10. Employees re-hired after layoff for more than one (1) year shall have their employment anniversary

date adjusted to reflect the actual period of active duty employment. An individual on sick leave or disability leave shall for purposes of this Section be deemed to be on active duty employment.

12.7 Seniority / Scheduling – Vacation periods shall be selected by seniority. Vacation requests shall be submitted in writing by March 1st for proper scheduling. Vacation requests submitted prior to March 1st shall be responded to by the Chief of Police or designee within two (2) weeks following submittal. After the said March 1 date any vacation requests shall be subject to availability.

12.7.1 Right to Request – The above sections do not serve to bar the employee from submitting vacation requests later than the relevant dates, but sets forth deadlines for those who wish to have priority pursuant to seniority provisions. Late requests will be granted to the extent consistent with staffing needs and approval will not be unreasonably withheld.

12.8 Leave - Leave shall be at a time when it shall not impair the efficiency of the Department or section; and, if the nature of the work is such that no employees or a limited number of employees may be on vacation at a given time, the Employer may establish non-leave period and priority list for assigning the order in which leaves may be taken.

12.9 Military Leave - During the term of this Agreement, employees who serve in the military reserve or National Guard shall provide the Chief of Police or designee with their individual training dates in writing for that calendar year on or before each January 15. The Employer shall block out such training dates in determining the number of employees that may be scheduled off, other than the employee's annual vacation, consistent with the current minimum staffing standard. The Employer shall not incur overtime expense as a direct result of scheduled military or National Guard training.

12.10 Lateral Transfer Employees – Employees who laterally transfer from an agency outside the City of Oak Harbor into the Department shall be considered to have seniority for vacation purpose as is reflected by their actual period of employment with the Employer.

12.11 Death – Upon death of any employee in active service within the Bargaining Unit, his estate shall be paid any accrued unused vacation time. An employee is deemed on active service for purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of hours accumulated.

## Article 13 DISTANCE FROM RESIDENCE

13.1 Distance from Residence – Due to emergency nature of the Police function, employees recognize a responsibility to be available and ready to perform assigned functions in a proper and effective manner. To accomplish these assigned functions, employees will reside at a residence that will allow them to be present at the Department in an elapsed time of no more than (90) minutes travel time under normal travel conditions. Full-service tactical team members will be available and ready for assignment within thirty (30) minutes.

## Article 14 UNIFORMS, CLOTHING ALLOWANCE AND CLEANING ALLOWANCE

14.1 Fair Wear and Tear – Uniform and equipment items in need of replacement shall be reviewed by the Chief of Police or designee for approval. In the event that a replacement has been denied, the employee will take the item to the Chief of Police or designee in the form of a grievance as described in article 15.

14.2 Standard Uniform Items:

| | |
|---|---|
| Shirts | 3 winter/3 summer |
| Trousers | 4 3 pair |
| Utility Jacket | 1 |
| Ties | 2 |
| Tie Bar | 1 |
| Soft Body Armor | 1 |
| Collar Devices | 1 pair |
| Uniform Shoe | 1 pair |
| Dress Shoe/Patrol | 1 pair |
| Dress Shoe/Detective | 2 pair |
| Uniform Boots | 1 pair |
| Baseball Hat | 1 |
| Rain gear | 1set |
| Jumpsuit | 1 |

14.3 Standard Weapon, Weapon Items & Equipment:

| | |
|---|---|
| Service Weapon | 1 (new employee only) |
| Chemical Irritant | 1 |
| Hinged & Chained Handcuffs | 1 pair each |
| Flashlights | 1 |
| Night Stick | 1 |
| Portable Radios | 1 |
| Portable Radios Holder | 1 |

14.4 Standard Leather Gear Items:

Gun Belt.....1
Uniform Pan Belt.....1
Gun Holster.....1
Chemical Irritant Holster.....1
Handcuff Cases.....2
Bullet Pouches.....2
Riot Helmet.....1 (optional)
Keepers.....4
Night Stick Ring/Flashlight Ring..... 1
Badge Holder or Badge Wallet..... 1
Ammo Pouch (Detective).....1
Key Holder.....1
Trouser Belts.....1
Glove.....1 pair
Wristwatch.....1 (replacement only)
(Wristwatch value not to exceed $40)

14.5 Standard Miscellaneous Items:

Briefcase.....1

14.6 Standard Special Department Uniforms/Accessories:

Detective Raid Jacket.....1
K-9 Boots.....1
K-9 Jumpsuits.....4
Motorcycle Boots.....1
Motorcycle Uniform Pants.....3
Motorcycle Gloves.....2
Motorcycle Helmet.....1

14.7 Miscellaneous Special Team Equipment – Required SWAT, Dive, Motorcycle and K-9 Uniform and miscellaneous items will be furnished by the Employer.

14.8 BASIC Academy Uniform/Supplies – Uniforms and supplies required for an officer's attendance at the Basic Police Academy will be furnished by the Employer.

14.9 Required Uniform Attachments – All required patches, cloth badges, name emblems, service bars or any such items will be provided and affixed to all such uniform items issued to employees, at Employer cost.

14.10 Uniform Maintenance – All reasonable uniform maintenance, alterations and repairs shall be provided by the Employer.

Body Armor Replacement – Soft body armor shall be replaced by the Employer based on the Manufacturer's replacement recommendation.

14.11 Uniform Accountability – The employee shall be held accountable for all uniforms, weapons and leather gear which is issued to the employee by the Employer. Items which become worn out and/or items which become lost or destroyed as a direct result of the performance of the employee's duties, or as a result of an occurrence not due to the employee's intentional act or willful negligence, shall be replaced by the Employer. Accountable items of clothing or protective devices assigned to an employee which are lost are mutilated as a direct result of that particular employee's willful negligence shall be replaced by the employee.

14.12 Plainclothes officers – Plainclothes officers, upon entering the Investigative Unit, shall receive a clothing allowance of $500 and, after six (6) months of satisfactory service, may receive $400 additional allowance, for a maximum of $900 during the first twelve (12) months in the Unit. Employees with more than one year's service in the Investigative Unit shall receive $600 maximum per budget year, effective on the 1st of January each year while in the Investigative Unit. Employees may request advance funding for purchases under this section using existing advance funding requisition procedures.

14.13 Cleaning Allowance – The Employer shall pay all cleaning costs.

14.14 Property of Employer – All uniforms and equipment issued by the Employer to each employee shall remain the property of the Employer.

## Article 15 GRIEVANCE PROCEDURE

15.1 Grievance Defined – A "grievance" is defined as a claim, allegation or dispute, with respect to the interpretation or application of the provisions of this agreement, by an employee or group of employees or the Association on behalf of a member of the bargaining unit.

15.2 Grievance Process – The procedure shall be as follows:

15.2.1 Step1 – An employee or group of employees, or their delegated representative, who consider they have a grievance, may present such grievance within ten (10) working days of its alleged occurrence, or knowledge of its alleged occurrence to the employee's immediate supervisor or designee, who shall attempt to resolve it within ten (10) working days after it is presented.

15.2.2 Step 2 – If the employee is not satisfied with the solution by the immediate supervisor or designee, the employee may present the grievance within ten (10) working days, in writing together with all other pertinent material, to the Chief of Police or designee, who shall attempt to resolve the grievance within (10) working days. The Chief or designee shall make his decision in writing and a copy of such decision will be given to the employee.

15.2.3 Step 3 – If the employee is not satisfied with the decision of the Chief of Police or designee, may present the grievance to the President of the Association, or his designee. Upon receipt of such grievance, the President shall call for a meeting of the Association Executive Board, who will review all of the pertinent facts. The Executive Board shall attempt to resolve the grievance within ten (10) working days, and shall make their decision in writing, with a copy given to the employee.

15.2.4 Step 4 – If the grievance is not resolved, the matter may be submitted by the signatory parties to this agreement to final and binding grievance arbitration. Arbitration shall be the exclusive method of appeal of a grievance not resolved in step 3. Either party may submit a demand for arbitration to the other party within ten (10) working days of the step 3 decision. The parties may attempt to agree on an arbitrator to hear the dispute. The arbitrator shall have no authority to alter, modify, vacate or amend any terms of this agreement. If the employer and the association are unable to agree upon an arbitrator within ten (10) working days after receipt of the demand for arbitration, either party may request a list of nine (9) arbitrators from the Federal Mediation and Conciliation Service, (also known as the FMCS). Determination of payment shall be made based on existing law governing grievance arbitration payment.

15.3 Association Right to Grievance – None of the foregoing is intended to mean that the Association itself cannot lodge a grievance and process the same through the various steps, in accordance with and subject to the provision thereof. The right of the Association to so lodge and process a grievance is expressly confirmed. No settlement of a grievance with an employee or the Association shall be contrary to the terms of this Agreement.

15.4 Time limits may be modified by mutual agreement of the parties.

15.5 Working days shall be defined as Monday through Friday and shall exclude Saturday, Sunday and holidays.

## Article 16 MANAGEMENT RIGHTS

16.1 Recognition by Association - The Association recognizes the prerogative of the Employer to operate and manage its affairs in all respects, in accordance with its responsibilities and power of authority.

16.2 Scheduling Work - Subject to the provisions of this Agreement, the Employer has the right to schedule work as required in a manner most advantageous to the Department and consistent with requirements of municipal employment and public safety.

16.3 Job Description - It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described.

16.4 Rights Reserved to Management - Subject to the provisions of this Agreement, the Employer reserves the right to:

16.4.1 Recruiting and Promotions - Recruit, assign, transfer, or promote members to positions within the Department.

16.4.2 Discipline - Suspend, demote, discharge, or take other disciplinary action against members for just cause.

16.4.3 Levels and Methods of Service - Determine methods, means and personnel necessary for departmental operations.

16.4.4 Budget Control - Control the departmental budget.

16.4.5 Emergencies - Take whatever actions necessary in emergencies in order to assure the proper functioning of the Department. Emergencies may include unforeseen budget issues and shortfalls, which adversely impact the levels of service to the community, and which would cause a hardship to the Department.

## Article 17 LIABILITY INSURANCE PROTECTION

17.1 Employer Contributions – The Employer will purchase insurance coverage in the following amounts, on behalf of employees covered by this Agreement against false arrest and detention, malicious prosecution, assault and battery, negligent or wrongful act, errors and omission, with the following limits: $2,000,000 each person, $2,000,000 each occurrence; $2,000,000 total aggregate.

17.2 The policy will provide for the payment of judgment against any member of the bargaining unit within its coverage, and will provide for the legal defense of the member, based upon a lawful act performed in the course of his/her duty.

17.3 Judgment and Legal Defense – The Employer shall provide legal counsel or reasonable attorney's fees for representation and defense, settlement or monetary judgments from such actions, claims, or proceedings arising out of or incident to acts and/or omissions occurring while the employee was acting in good faith in the performance or purported failure of performance of his official duties or employment and provided further that the employee was not engaging in criminal or malicious misconduct. A criminal conviction shall be deemed conclusive but not exclusive proof of criminal misconduct for the purposes of this Section. If the Employer elects to pay reasonable attorney's fees hereunder, no claim for such payment may be made by an employee prior to the conclusion of a criminal lawsuit.

## Article 17(B) SEPARATION

17(B).1 Separation Payment – Upon an employee's separation for any reason, the City shall not be required to pay additional monies to cover any increased pension benefits, due to compensation for accrued Vacation, Holidays or Sick Leave.

## Article 18 HEALTH AND WELFARE

18.1 Eligibility and continued employee and dependent participation in any group insurance or other financially based group benefit plan provided through the Employer shall be in accordance with the applicable Group Insurance Plan Document or Master Plan Agreement.

18.2 The Employer will provide an IRS Code Section 125, Flexibility Benefits Plan for enrolled members of the bargaining unit and their enrolled dependents shall be consistent with the provisions of this Article 18.

18.3 The Employer shall provide eligible enrolled employees a group medical and group dental plan at no cost to the employee during the term of this Agreement. In the event of extraordinary increases in group insurance premiums imposed by the group insurance carrier(s), the Employer and the Association agree to reopen this Article 18 for renegotiation.

18.4 The Employer shall provide eligible enrolled employee only group long term disability and basic group term life insurance benefits at no cost to the employee. Enrolled employees shall have the option at their expense to purchase additional group term life insurance as well as participate in other group benefit plans as may be offered by the Employer's group benefit carrier(s) with payments by payroll deduction.

18.5 The Employer shall pay seventy-five percent (75%) of premium amount required to provide eligible enrolled dependents of enrolled employee covered by this Agreement with group medical and group dental insurance coverage.

18.6 The Employer shall reimburse those members of the bargaining unit who have been continuously employed by the Employer as of December 31, 2000 or before, forty percent (40%) of the group medical and group dental premium amounts unused by the employee shall be paid to the employee subject to the following conditions. For any change in benefit selections, or for persons hired after January 1, 2001, the reimbursement rate for the above unused premiums will be at 25%.

## Article 19 MISCELLANEOUS

19.1 Training – When any employee is required to attend law enforcement training courses, unless otherwise paid for, the entire cost shall be borne by the Employer by making arrangements to be billed by the school in advance for tuition and actual expenses incurred, by reimbursement, or by a combination of these methods. Whenever permitted by State Law, the Employer shall make every effort to obtain authorization for payment of expenses in advance to ensure the employee shall not be required, to the extent possible, to attend such schools under a "pay out of your own pocket and be reimbursed" arrangement.

19.1.1 Schedule Adjustment – The schedule of an employee attending full day or longer training courses shall be adjusted to conform to the hours of the training program and to exclude breaks and meal periods from the work day. Employees will be paid for travel time to and from training at the overtime rate except for employees attending Basic Academy. Employees attending Basic Academy will be paid travel time at the outset of training and upon completion of training.

19.1.2 Mileage Reimbursement – In the event an Employer vehicle is not available and an employee travels to required training in his personal vehicle, he shall be reimbursed for mileage at the approved IRS rate.

19.2 Performance of Duty – All employees covered by this Agreement shall present themselves on time for their duty schedules in proper working uniform, ready to perform their assigned duties. There shall be no strikes, slow-downs, stoppage of work or any interference with the efficient management of the Police Department.

19.3 Special Sick Leave – All LEOFF II, PERS I, PERS II and PERS III employees who have been employed through Civil Service examination shall be provided with fifteen (15) days special sick leave, which shall be used only to supplement the employee's industrial insurance benefit should the employee be injured on the job during his or her first calendar year on the job. The special sick leave shall not be used until regular sick leave has been exhausted, and will be reimbursed by the employee should he/she leave City employment before having earned enough regular sick leave to pay back any Special Sick Leave used.

## Article 20 DISCIPLINE

20.1 Discipline and Discharge – The Employer reserves the right to suspend, demote, discharge, or take disciplinary action against an employee covered by this Agreement for just cause.

## Article 21 EMPLOYEE RIGHTS

21.1 Preamble – Because of the ever increasing responsibilities and duties required of law enforcement officers in the performance of their job duties which of necessity increase their contact with the general public and could lead to misunderstandings and questions surrounding the activities of employees covered by this Agreement, it is mutually required, therefore, that procedures be established in order to provide for full investigation of any questions arising from contacts and relations with the public and also to provide for safeguards in order to protect the police officer in these investigations so that the matters can be dealt with in fairness and in an expeditious manner, the following guidelines are set forth. The following provisions shall apply anytime the employer is conducting any investigation, (including those that did not arise from contacts or relations with the public), where the agent of the Department who is conducting the investigation or questioning an employee knows, (or reasonably should know), that the questioning could reasonably result in the employee being suspended, demoted or terminated as opposed to a routine inquiry.

21.2 Notice in Writing – An employee shall be advised in writing of the particular nature of the investigation and as to whether he/she is a witness or suspect. This information shall be provided 24 hours prior to the interrogation of the employee and should include names and addresses or other information which shall reasonably inform him/her of the allegations against the said members of the bargaining unit.

21.3 Interrogation – Interrogations of said employee shall be at a reasonable hour; preference for such time of interrogations shall be when the individual is on duty and/or during the daytime; provided, however, that the gravity and exigencies of the investigation in all cases control the time of said interrogation.

21.4 Location of Interrogation – All interrogations shall be held at the Employer's Police Station facility except when this would be impractical. The employee shall be afforded an opportunity and the necessary facilities to contact an attorney and/or Association representative prior to commencement of the interrogation. The employee's attorney and/or the Association representative may be present during the interrogation, but said attorney and/or Association Representative shall not be permitted to participate in the interrogation. Nothing herein shall in any way restrict the rights of the attorney and/or the Association representative to consult with the employee during the process of the interrogation.

21.5 Expeditious Handling – The interrogation shall be conducted in the most expeditious manner consistent with the scope and gravity of the subject matter of the interrogation and the employee shall at all times be given reasonable periods to attend to personal activities, such as meals, telephone calls to his/her private attorney and rest periods. Employees shall be granted up to three (3) hours to contact an attorney or Association representative in administrative matters. No employee shall be compelled to waive his/her constitutional rights in criminal matters.

21.6 Disposition of Investigation – The employee shall be advised of the results of the investigation and any future action which the Employer has decided to take on the incident.

21.7 When the Investigation Results in Departmental Charges Being Filed – After the investigation is complete, the employee will be furnished with a copy of the reports of the investigation which will contain all known material facts of the matter to include any tape recording at no cost. The employee will also be furnished with the names of all witnesses and complaints known to the Employer, who will appear against him or her and/or whose statements will be used against him or her. This obligation shall continue after charges have been filed against the employee. Under no circumstances shall said employee, or representative, attempt to intimidate or harass any witness and/or complainant or other individual who provides information regarding an investigation of misconduct.

21.8 No Abuse – The employee shall not be subject to any profane language nor threatened with dismissal, transfer or other disciplinary punishment as a guise to obtain the resignation of said employee nor shall the employee be subjected to intimidation in any manner during the process of interrogation. No promises or rewards shall be made to the said employee as an inducement to answer questions.

21.9 Taping of Interrogation –Upon mutual agreement and at no cost to the employee, the interrogation shall be recorded on tape and the tape(s) shall be immediately turned over to a third (3rd) party (i.e., City Clerk) who shall be responsible for their safekeeping.

21.10 Lie Detector Test – An employee covered by this Agreement shall not be required to take or be subjected to any lie detector tests or similar tests as a condition of continued employment within the Police Department.

21.11 No Limitation on Chief's Authority – Nothing contained in any of the above provisions shall restrict and/or limit the authority of the Chief of Police or designee in the performance of his duties and responsibilities as the Chief Administrator of the Police Department.

21.12 Use of Force Situations – Employees involved in the use of force where deadly force or force resulting in serious bodily injury shall be advised of their rights to and allowed to consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of force. In such cases no statement will be

mandatorily required by the employer for twenty-four (24) hours after the incident. In all other incidents where the use of any force occurred the employee would have three (3) hours, (or within a reasonable proximity of three (3) hours), after having been informed of the above mentioned rights to consult with an attorney or an OHPA representative or both.

Note: It shall not be considered a violation of this article, if, based on the information known at the time, there was no information available that would lead a reasonable person to believe that excessive use of force occurred.

## Article 22 DRUG TESTING

22.1 General Rule – The employer and the Association jointly recognize the need for a drug free workplace and the appropriate use of drug testing. Tests are permitted when probable cause of unlawful drug use exists.

22.2 Testing Mechanisms – The following testing mechanism shall be used for any drug test performed on member of the Association:

22.2.1 Screening Test – Any screening test shall be performed using the Immunoassay (IA) method.

22.2.2 Positive Results – Any positive results on the initial screening test shall be confirmed through the use of Gas Chromatography/Mass Spectrometry (GC/MS).

22.3 Procedures to be Used When the Sample is Given – The testing procedure shall be used whenever an employee is required to give a urine sample.

22.3.1 Listing of Drugs Taken – Prior to testing, the employee will be requested to list all drugs currently being used by the employee on a form to be supplied by the testing facility.

22.3.2 Sampling – A urine sample will be taken of the employee. The test shall be given in such a manner as to protect the authenticity and reliability of the sample and the privacy of the individual.

22.3.3 Tests – The sample will first be tested using the screening procedure set forth in Section 22.2.1. If the sample tests are positive for any prohibited drug, the confirmatory test specified in Section 21.2.2 will be employed.

22.3.4 Procedure After Positive Results – If the confirmatory test is positive for the presence of an illegal drug, the employee will be notified of the positive result, and will be provided with copies of all documents pertinent to the test sent to or from the employer by the laboratory. The employee will then have the option of having the untested sample submitted to NIDA Certified lab of the employee's own choosing, to be tested at the employee's cost. If the retest results in a negative, the employer will reimburse the employee for all costs. The employer and employee will be given a copy of the results.

22.3.5 Documentation – Each step in collecting and processing of urine specimens shall be documented to establish procedural integrity and a chain of evidence.

22.3.6 Right of Access – The employer and any employee who test positive shall be given access to all written documentation available from the testing laboratory which verifies the accuracy of the equipment used in the testing process, the chain of custody of the specimen and the accuracy rate of the laboratory.

22.4 Limitation or Action "First Offense" – Any action taken by the employer for a "first offense" shall be rehabilitative in nature (i.e., counseling referral, treatment.), except when the employee is involved in criminal activity.

22.5 Second Offense – Second or more offenses by an employee shall be subject disciplinary action, up to and including dismissal.

22.6 Informing Employees about Drug and Alcohol Testing – All employees shall be fully informed of the Employer's drug and alcohol testing policy. Employees will be provided with information concerning the impact of the use of alcohol and drugs on job performance. In addition, the Employer shall inform the employees on how the tests are conducted, what the test can determine and the consequence of testing positive for drug use. All newly hired employees will be provided with this information on their initial date of hire. No employee shall be tested before this information is provided to him/her. Employees who voluntarily come forward and ask for assistance to deal with the drug or alcohol problem shall not be disciplined by the Employer for doing so. No disciplinary action will be taken against an employee unless he/she refuses the opportunity for rehabilitation, fails to complete a rehabilitation program successfully, or again tests positive for drugs after completing an appropriate program.

22.7 Employee Testing – Employees shall not be subjected to random medical testing involving urine or blood analysis or other similar or related tests for the purpose of discovering possible drug or alcohol abuse. If, however, objective evidence exists establishing probable cause to believe an employee's work performance is impaired due to drug or alcohol abuse, the Employer will require the employee to undergo a medical test consistent with the conditions as set forth in the Policy.

22.7.1 In the event an employee is involved in an accident with serious injury requiring off-site medical treatment, or shooting incident, the employee may be ordered to submit to drug testing where surrounding circumstances provide an articulate suspicion that the employee is impaired.

22.7.2 "For Cause" (also known as "Reasonable Cause") is defined as work-related performance, behaviors and actions that a reasonable and prudent person would believe constitute a potential hazard, either to oneself or others which could indicate that an employee may be under the influence of an illegal drug, or may be abusing a prescription or over the counter (OTC) drug, or alcohol.

22.8 Sample Collection – The collection and testing of the samples shall be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results. The laboratory performing the test shall be one that is certified by the National Institute of Drug Abuse (NIDA). The laboratory chosen must be agreed to between the Association and the Employer. The laboratory used shall also be one whose procedures are periodically tested by NIDA where they analyze unknown samples sent to an independent party. The results of the employee tests shall be made available to the Medical Review Physician.

Collection of blood or urine samples shall be conducted in a manner which provides the highest degree of security for the sample and freedom from adulteration. Recognized strict chain of custody procedures must be followed for all samples as set by NIDA. The Association and the Employer agree that security of the biological urine and blood samples is absolutely necessary; therefore, the Employer agrees that if the security of the sample is compromised in any way, any positive test shall be invalid and may not be used for any purpose.

Blood or urine sample will be submitted as per NIDA Standards. Employees have the right for Association or legal counsel representatives, whichever is more readily accessible, to be present during the submission of the sample. Employees shall not be witnessed while submitting a urine specimen. Prior to submitting a urine or blood sample, the employee will be required to sign a consent and release form (as attached to this Policy).

A portion of the original sample will be separated by the lab in all cases for an independent analysis in the event of a positive test result. All samples must be stored in a scientific acceptable preserved manner as established by NIDA. All positive confirmed samples and related paperwork must be retained by the laboratory for at least twelve (12) months or for the duration of any grievance disciplinary action or legal proceedings, whichever is longer. At the conclusion of this period, the paperwork and specimen shall be destroyed. Tests shall be conducted in a manner as to ensure that an employee's legal drug use and diet does not affect the test results.

22.9 Drug Testing – The laboratory shall test for only the substances and within the limits as follows for the initials and confirmation test as provided within NIDA standards. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for drugs or classes of drugs.

**INITIAL TESTING**

| | |
|---|---|
| Marihuana metabolites | 100ng/ml |
| Cocaine metabolites | 300ng/ml |
| Opiate metabolites | 300ng/ml |
| Phencyclidine | 25ng/ml |
| Amphetamines | 1,000ng/ml |
| Barbiturates: | |
| Secobarbital | 300ng/ml |
| Phenobarbital | 1,000-3,000ng/ml |
| Butalbital | 1,000ng/ml |
| Benzodiazepines: | |
| Oxazepam | 300ng/ml |
| Chlordiazepoxide | 3,000ng/ml |
| Diazepam | 2,000ng/ml |
| Methadone | 300ng/ml |
| Methaqualone | 300ng/ml |
| Propoxyphene | 300ng/ml |
| Ethanol | 0.03g/dl |

(1) if immunoassay is specific for free morphine, the initial test level is 25ng/ml. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the employee's file. Only specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the following listed cutoff values:

(2) CONFIRMATORY TESTING

| | |
|---|---|
| Marihuana metabolites (1) | 15ng/ml |
| Cocaine metabolites (2) | 150ng/ml |
| Opiates | |
| Morphine | 300ng/ml |
| Codeine | 300ng/ml |
| Phencyclidine | 25ng/ml |
| Amphetamines | |
| Amphetamine | 500ng/ml |
| Methamphetamine | 500ng/ml |
| Barbiturates | 200ng/ml |
| Benzodiazepines | 200ng/ml |
| Methadone | 100ng/ml |
| Methaqualone | 300ng/ml |
| Propoxyphene | 100ng/ml |
| Ethanol | 0.03g/dl |

(1) *Delta-9-tetrahydrocannabinol-9-carboxylic acid*
(2) *Benzoylecgonine*
If confirmatory testing results are negative, all samples shall be destroyed and record of the testing expunged from the employee's file.

22.9.1 Alcohol Consumption Disclosure – An employee who has consumed any alcoholic beverage and who is called in on off-duty time will advise his/her supervisor of that consumption.

22.10 Medical Review Physician – The Medical Review Physician shall be chosen and agreed upon between the Association and the Employer and must be a licensed physician with a knowledge of substance abuse disorders. The Medical Review Physician shall be familiar with the characteristics of test (sensitivity, specificity and predictive value), the laboratories running the tests and the medical conditions and work exposures of the employee.

The role of the Medical Review Physician will be to review and interpret the positive test results. He must examine the alternate medical explanations for any positive test results. This action shall include conducting a medical review of any other relevant biomedical factors. The Medical Review Physician must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication.

22.11 Laboratory Results – The laboratory will advise only the employee and the Medical Review Physician of the positive results. The results of a positive drug or alcohol test can only be released to the Employer by the Medical Review Physician once he has completed his review and analysis of the laboratory's test. The Employer will be required to keep the results confidential and it shall not be released to the general public.

22.12 Testing Program Costs – The Employer shall pay for all costs involving drug and alcohol testing as well as the expenses involved with the Medical Review Physician. The Employer shall also reimburse each employee for their time and expenses including travel incurred involved in the testing procedure only, if outside normal shift schedule.

22.13 Association Held Harmless – This drug and alcohol testing program was initiated at the request of the Employer. The Employer assumes the sole responsibility for the administration of this Policy and shall be solely liable for any legal obligations and costs arising out of the provisions and/or application of this collective bargaining agreement relating to drug and alcohol testing. The Association shall be held harmless for the violation of any employee rights arising from the administration of the drug and alcohol testing programs.

22.14 Changes in Testing Procedures – The parties recognize that during the life of this Agreement, there may be improvements in the technology of testing procedures which provide more accurate testing. In that event, the parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree on the amendments they will be submitted to dispute resolution procedures as agreed upon in this contract.

22.15 Conflict with other Laws – This Article is in no way intended to supersede or waive any constitutional or other rights that the employee may be entitled to, or legal rights and obligations that the Employer may have, under Federal, State or local statutes.

## *ARTICLE 22*

## DRUG TESTING

CONSENT/RELEASE

I consent to the collection of a urine sample by _____, and its analysis by _____, for those drugs specified in the Collective Bargaining Agreement.

The laboratory administering the tests will be allowed to release the results to my Employer only after the laboratory's results have been reviewed and interpreted by the Medical Review Physician. The information provided to the Employer shall be only whether the tests were confirmed positive or were negative and not any other results of the test without my written consent.

The laboratory is not authorized to release the results of this test to any other person without my written consent.

I understand that I have the right to my complete test results and that the laboratory will preserve the sample for at least twelve months. I have the right to have this sample separated at the lab and a portion tested at my expense at a second NIDA Certified laboratory of my choice, in the event the test results are confirmed positive.

I understand that the Employer is requiring me to submit to this testing as a condition of my employment and that alteration of the sample or failure to reasonably cooperate with the collection of a urine sample may result in disciplinary action by the Employer.

I understand that a confirmed positive test may result in a requirement that I undergo rehabilitation.

By signing this consent form, I am not waiving any of my rights under any federal, state, or local law, statute, constitution, ordinance, administrative rule or regulation or common law provision. I understand that I have the right to challenge any confirmed positive test results and any Employer action based thereon, by filing a grievance under the Collective Bargaining Agreement.

Date_____ Employee_____

## *CITY OF OAK HARBOR*

Confidential Reinstatement Agreement
Oak Harbor Police Association

I, _____, request reinstatement to my former position with the City of Oak Harbor. I understand that my reinstatement to employment is conditional, subject to the following terms:

1. I have successfully completed an approved rehabilitation program at a licensed, approved facility and will actively comply with any and all follow-up requirements as stated by the program mandates

2. I understand that any future violation of the substance abuse policy, or failure to comply with and complete the follow-up terms of the approved treatment program will result in my immediate termination of employment.

3. I understand and recognize the importance of involving, (if applicable) my spouse, family or the significant other person in my life in the process of my recovery program.

4. I understand and agree that, as a condition to reinstatement, I am expected to meet all established requirements of the policies and procedures and that I will continue to be subject to established procedures for failure to comply with these standards.

5. I understand that my past conduct and my recovery program require that I comply with random drug screening requests during the period of this Agreement. My failure to comply with this section may result in my immediate termination.

6. I understand that I will be subject to the terms of this Reinstatement Agreement for a period of twelve (12) months from the date of my reinstatement. Upon completion of this twelve (12) month period, I will receive a formal, written review of my work performance and recovery progress during such period. This evaluation will determine if the terms of this Agreement have been met, require modification or, if special detailed circumstances warrant, should be extended.

ACKNOWLEDGEMENT

I understand and agree that my reinstatement and continued employment are conditioned upon my satisfactory compliance with the terms listed above. I have discussed these terms with my supervisor(s) and understand that, should I fail to comply with the terms of those sections specifically cited or in all other sections not so noted, I will be subject to further disciplinary action, up to and including termination of employment with the City of Oak Harbor.

Date:_____ _____
Employee Signature

Copy received and acknowledged: _____
Print Name of Employee

Initials_____

## Article 23 WHISTLEBLOWER ACT

23.1 The following principles are to be followed with regard to the City of Oak Harbor Whistleblower regulations:

23.1.1 The provisions of the Whistleblowers policy are a "safe harbor" protection for employees. Thus, an employee following the provisions of the "Whistleblowers" policy and/or acting in good faith are protected from discipline. Conversely, failing to follow the designated procedures is not a "rule of discipline

23.1.2 Failure to follow these procedures, depending on the circumstances, may be a relevant evidence as to (1) whether the violation of applicable rules of conduct has occurred; (2) whether the violation, if it has occurred, was done maliciously or with other bad motive; or (3) whether serious discipline, if any, is appropriate.

## Article 24 SEPARABILITY AND SAVINGS

24.1 Compliance – It is the intention of the parties hereto to comply with all applicable provisions of the State or Federal Law, and they believe that each and every part of this Agreement is lawful. All provisions of this Agreement shall be complied with unless any of such provisions shall be declared invalid or inoperative by final judgment of a Court of competent jurisdiction. In such event upon request, the parties shall meet for renegotiation of such invalid provisions for the purpose of adequate and lawful replacement thereof.

## Article 25 ENTIRE AGREEMENT

25.1 This Agreement and all of its Articles and/or Appendices constitute the entire Agreement between the parties and no oral statement shall add to nor supersede any of its provisions. Each party to this Agreement agrees that it has had the unlimited right to make proposals that are proper subjects for collective bargaining and waives the right to oblige the other party to negotiate any matters to become effective until the expiration of this Agreement.

## Article 26 TERM OF AGREEMENT

This Agreement shall be effective January 01, 2010, unless otherwise provided for herein, and shall remain in full force and effect through December 31, 2012, and year to year thereafter, unless written notice is given by the Employer to the Association or the Association to the Employer not later than September 01, 2012, to the effect that the Employer or the Association wishes to terminate or modify the Agreement.

SIGNED THIS _____ DAY OF _____, 20_____.

BY: _____ BY: _____
Mayor, City of Oak Harbor Oak Harbor Police Association

BY: _____ BY: _____
Chief of Police Oak Harbor Police Association

**APPENDIX A**

**TO THE**

**AGREEMENT**

**by and between**

**THE CITY OF OAK HARBOR**

**and**

**OAK HARBOR POLICE ASSOCATION**

**COMMISSIONED UNIT**

**January 1, 2010 through December 31, 2012**

---

A.1 Effective January 01, 2010, the monthly rates of pay for employees covered by this Agreement shall be as follows, (2% increase).

**POLICE OFFICER**

| GRID | 80% | 84% | 88% | 92% | 96% | 100% | |
|---|---|---|---|---|---|---|---|
| Step | 0 | 1 | 2 | 3 | 4 | 5 | |
| Jan-10 | $4,570 | $4,798 | $5,027 | $5,255 | $5,484 | $5,712 | *2.00%* |

**SERGEANT (Years as Sergeant)**

| GRID | 10% | 12% | 14% | *Percent over 5-yr officer* |
|---|---|---|---|---|
| Year | 1 | 2 | 3 | |
| Months | 0-12 | 13-24 | 25+ | |
| Jan-10 | $6,283 | $6,397 | $6,512 | *2.00%* |

**LEOFF I SERGEANT**
**Not eligible for Education Incentive/EMT Pay**

| GRID | |
|---|---|
| Jan-10 | N/A |

A.2 Effective January 01, 2011 the wage rates will reflect a cost of living increase that is ninety percent (90%) of the Seattle Consumer Price Index for the period between July 2009 and June 2010. However, the rate will be no lower than two percent (2%) and no higher than four percent (4%).

A.3 Effective January 01, 2012 the wage rates will reflect ninety percent (90%) of the Seattle Consumer Price Index for the period between July 2010 and June 2011. However, the rate will be no lower than two percent (2%) and no higher than four percent (4%).

A.4 Wage Step Increases – Any wage STEP increase shall become effective the first of the month coincident with or next following the employee's anniversary date of employment.

A.5 In the event an employee covered by this Agreement is on disciplinary status and becomes otherwise eligible for a wage increase in accordance with Section A.1, such increase shall not be granted until the employee has been removed from such status by the Chief of Police or designee. There shall be no retroactive pay adjustment under such circumstance.

A.6 Wage Step Placement – The Union recognizes the Employer may find it necessary to hire individuals with current or prior law enforcement experience in the classification of Police Officer. Such lateral entry placement may be assigned to any step in the Police Officer Classification wage rate structure in Section A.1 at the sole discretion of the Chief of Police or designee.

Education Incentive Pay

A.7 Employees covered by this agreement with 45 college credits from an accredited institution shall receive one hundred and one half percent (101.5%) of the applicable wage rate in section A or as amended.

A.8 Employees covered by this Agreement with an Associate Arts or Science degree from an accredited institution shall receive one hundred three percent (103%) of the applicable wage rate in Section A or as amended.

A.9 Employees covered by this Agreement with an Associate Arts or Science degree in the Criminal Justice, Behavioral Science(s), or Public Administration from an accredited institution shall receive one hundred four and one half percent (104.5%) of the applicable wage rate in Section A or as amended.

A.10 Employees covered by this Agreement with a Bachelor of Arts or Science degree in the Criminal Justice, Behavioral Science(s), or Public Administration from an accredited institution subject to the approval of the Police Chief or designee shall receive one hundred six percent (106%) of the applicable wage rate in Section A or as amended.

A.11 It is understood that the Education Pay in articles A.8, A.9 and A.10 shall only be awarded when an actual degree from an accredited college or university is presented by the applicant for the applicable incentive increase.

A.12 Any employee who is currently receiving Education Incentive pay, as agreed to under a previous contract, who was assigned to an incentive pay rate based on an appeal to award

them the greater rate of pay based on comparable training or a comparable life's experience, shall remain at that level of pay as outlined below in section A.11.1. There will be no loss of pay to those employees.

*2010-2012* *EDUCATION INCENTIVE PAY PLAN:*

A.12.1 45 COLLEGE CREDITS.....ADD $50.00/MO TO GRID

AA DEGREE.....ADD $100.00/MO TO GRID

LEAA/90 CREDITS.....ADD $150.00/MO TO GRID

BA/BALE/180 CREDITS.....ADD $200.00/MO TO GRID

A.13 Longevity will be paid to employees as follows based on base wage:

Fifteen (15) years.....One percent (1%)

Twenty-plus (20+) years.....Two percent (2%)

Longevity percentages are not compounded

A.14 Any employee who is also a member of the LEOFF 1 retirement plan may, on a one time voluntary basis, convert their education incentive pay to their base pay. They will not receive future incentive pay percentage increases and would no longer be eligible for education incentive pay in any future collective bargaining agreement.

A.15 2010 Retroactive checks to be issued within fifteen days after signing of contract.

# AGREEMENT

## by and between

## THE CITY OF OAK HARBOR

## and

## OAK HARBOR POLICE ASSOCIATION

## * * NON-COMMISSIONED UNIT * *

## JANUARY 1, 2010 through DECEMBER 31, 2012

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## Article 1 PREAMBLE

1.1 This Agreement is effective this 1st day of January, 2010, between the City of Oak Harbor and the Oak Harbor Police Association. The parties recognize that the Mayor, or designee, is the Chief Executive Officer and the Police Chief, or designee, is the official of the date-to-day operations of the Police Department. Accordingly, the term "Employer" or "City" shall be used herein and shall apply interchangeably to those officials or their authorized designees. The Oak Harbor Police Association shall herein be referred to as the "Association" or "Bargaining Unit Members."

1.2 The Employer and the Association recognize the need to provide efficient service to the public and to enhance the quality of service. Further, both parties agree to the need for establishing and maintaining a sound labor-management relationship and mutually agree to continue working toward this goal. Each party had been afforded the opportunity to put forth all its proposals and to bargain in good faith and both parties agree that this Agreement expressed the results of their negotiations.

## Article 2 RECOGNITION, MEMBERSHIP AND PAYROLL DEDUCTION

2.1 Recognition – Employer recognizes the Association as the exclusive bargaining representative for the non-commissioned regular employees of the Oak Harbor Police Department, excluding full-time confidential employees, and all other employees of the Employer not otherwise represented by the Association or any other certified bargaining representative.

2.2 Association Membership - All employees who are, or who hereafter become, members in good standing in the Association on or after the effective date of this Agreement, shall maintain their membership in good standing in the Association as a condition of continued employment. All employees who are not now members in the Association and/or all new employees hereinafter employed shall, within thirty-one (31) days from their first date of hire, or within thirty-one (31) days from the effective date of this Agreement, whichever is later, become and remain members in good standing in the Association as a condition of continued employment, or pay a service fee to the Association not exceeding the amount of regular Association dues and initiation fees and not exceeding the maximum agency fee that may be assessed as a matter of law.

2.3 Payroll Deduction – The Employer shall deduct from the pay of each employee covered by this Agreement, upon their written authorization, the dues and fees of the Association, and shall remit to said Association all such deductions monthly.

The Association shall indemnify, defend and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any check-off of dues and fees for the Association. The Association shall refund to the Employer any amount paid to it in error on account of this check-off provision upon presentation of proper evidence thereof.

## Article 3 NON-DISCRIMINATION/GENDER

3.1 Non-Discrimination – The Employer and the Union shall abide by federal, state and local laws against discrimination towards all individuals with respect to their hiring, compensation and terms and conditions of employment.

Claims of unlawful discrimination shall be pursued privately through State and Administrative agencies or through the courts and are not subject to the grievance procedure.

3.2 Gender – Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

## Article 4 PROBATION, SENIORITY, EMPLOYEE ROSTER

4.1 Initial Probation Period – New employees shall be subject to a probation period for new or inexperienced employees and lateral entry employees commencing with their date hire and concluding after six (6) months. Said initial probationary period may be extended up to an additional six (6) months. During either the initial or extended probationary periods, such employee may be disciplined and/or discharged at the sole discretion of the Employer.

4.2 Promotion Probation Period – A member of the bargaining unit who has been promoted in rank shall serve a six (6) month probationary period commencing with their first work shift. In the event the employee does not satisfactorily complete the probationary period as determined solely by the Employer, said employee shall be returned to their former position and pay if such is available or to a comparable position and pay.

4.3 Seniority – An employee's seniority, as it applies to this agreement, shall be defined as that period from the employee's date of hire or promotion within the bargaining unit within classification.

4.4 Employee Roster – The Employer shall provide the Association annually a roster of all current employees in the bargaining unit with their respective seniority dates effective each July 1st during the term of this Agreement.

4.5 Termination - An employee shall lose all seniority in the event of discharge or voluntary termination.

## Article 5 ASSOCIATION BUSINESS

5.1 Association Officials Time Off – Association officials who are employees in the Bargaining Unit shall be granted reasonable time off with pay while conducting contract negotiations or grievance resolution on behalf of the employees in the Bargaining Unit; provided that the Employer is able to properly staff the employees' job duties during the time off, and without any additional expense to the Employer. The Association Negotiations Committee shall consist of not more than four (4) Association members.

5.2 Bulletin Boards – The Employer shall provide space for a bulletin board at each station which may be used by the Association.

5.3 Access to Office Equipment – The employer shall allow Association access to the telephone, photocopiers and computers for purposes of administering this contract; provided reasonable reimbursement is made for the use of materials and services, by providing their own paper and paying .02 cents per page for each copy as well as paying any actual long distance charges for any phone calls made. The OHPA will coordinate payment details with the departments Administrative Assistant.

5.4 Association Investigative and Visitation Privileges – The Labor Representative of the Association may visit the work location of employees covered by this Agreement at any reasonable time for purpose of investigating grievances. Such representative shall coordinate his/her visitation in advance with the Chief of Police or designee for a mutually agreed-upon time and shall limit his/her activities during such investigations to matters relating to this Agreement. Employer work hours shall not be used by employees or Association Representatives for the promotion of Association affairs other than stated in this Article 5. The Association may utilize Employer Facilities for meetings, subject to availability, and with the prior approval by the Chief of Police or designee.

5.5 Reservation of Rights – The Chief of Police or designee reserves the right to determine the total amount of specific hours of official time which will be approved for Association officials to conduct other Association business on duty time, not addressed in Article 5.1.

## Article 6 WORK DAY, WORK WEEK AND WORK CYCLE

6.1 Hours of Work – Defined – The Section 7(k) work period under the Fair Labor Standards Act, 29 U.S.C., 207(k) for those employees eligible for such exemption shall consist of twenty-eight (28) consecutive days. Otherwise, the work period shall consist of seven (7) consecutive days. The work day, work week and work month are defined as follows:

6.1.1 Work Day – A work day shall be one (1) eight (8) hour work shift in a twenty-four (24) hour period. The work day commences at midnight and runs through 11:59 P.M. the same day.

6.1.2 Work Week – A work week shall be five (5) consecutive work days followed by two (2) consecutive days off.

6.1.3 Twenty-Eight Day Cycle – A twenty-eight (28) day cycle of four (4) of the above work weeks.

## Article 7 HOURS OF WORK, OVERTIME, CALLBACK, STANDBY, AND COURT TIME

7.1 Overtime - Overtime pay shall be paid for any work authorized and performed in excess of that provided by these provisions. All such work shall be paid at the rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay.

7.1.1 Definition - "Overtime" as used in this Agreement shall mean that time an employee works in excess of the regularly established hours of work. Shifts which commence within eight (8) hours of the end of the preceding shift shall constitute an overtime shift.

7.1.2 Rate - Overtime shall be paid at the rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay; provided however, with the mutual agreement of the employee and the employer, the employee may elect to receive compensatory time off at the rate of one and one-half (1-1/2) times the time worked, in lieu of paid overtime. Overtime shall be paid on the check for the time period in which it is earned; unless such overtime is earned after the deadline for payroll preparation, in which case it will be paid on the following month's check.

7.2 Callback - Employees ordered to report back to duty after going home from their regular shift, or called in on their day off, shall be guaranteed two (2) hours at the time and one half (1½) rate.

7.2.1 Court Time - Time spent in court, including time spent enroute to and from court, may be taken as compensatory time, if mutually agreed between employee and the Chief of Police. All officers subpoenaed to appear in court will call their OHPD Voice Mail service, after 1530 the day before the court date, (or the Friday before if the court date is a Monday), to see if their court appearance has been cancelled. Employees who are not notified on their voicemail that they need not respond to scheduled court appearances before the end of the prior business day shall receive three (3) hours minimum at the time and one half (1/2) rate.

7.2.2 Vacation Call Back - Any employee called back to duty for any reason once vacation has been approved, and the affected employee has incurred expenses in planning for the same, shall be reimbursed for costs involved in returning for duty, or any other non-refundable expenses incurred. Reimbursement for travel shall be made on the same basis as the original mode of transportation. If applicable, mileage shall be paid at the approved City rate. Vacation approval shall not unreasonably be withheld to frustrate the intent of this section. For purposes of the Vacation Call Back section, all vacations will have been previously approved according to Department procedures, and will have been for a block of 5 days minimum. Employee shall suffer no loss of vacation time.

7.3 Department Meetings - The Chief of Police may require employees to attend department meetings upon one (1) week's advance notice; time spent by employees at such meetings will be governed by the appropriate overtime policy.

7.4 Time of Effect for Overtime - Overtime pay will come into effect after fifteen (15) minutes of the employee's regular shift and he/she will be paid for the one (1) hour's overtime until he/she is at one hour and fifteen minutes past his/her shift, at which time he/she will be paid for two (2) hours, etc., until his/her duties are completed or he/she is relieved, at the rate of one and one-half (1½) his/her regular hourly rate.

7.5 Overtime Earned At Department Mandated Training – Any overtime that is earned while at Department mandated training will be computed using the above described process, (Articles 7.1 – 7.6), but will only be accumulated and/or taken as Non-Payable Comp-Time. Accumulation and required usage is described in Article 7.6.

Additional Language, (As agreed to in the MOU of November 2004);

Exceptions to Article 7.5 – Specific "In-House" training listed below, provided by departmental instructors, is eligible for compensation at the regular rate of overtime/compensatory time as outlined in article 7.1.2;

(1) Firearms qualifications

(2) Defensive Tactics Training

(3) EVOC Training

(4) TASER Annual Training and Requalification

(5) In House Spillman / Access Training

In addition, the Chief of Police reserves the right to schedule additional training as the need or opportunity arises. Such training would be eligible for compensation as outlined in Article 7.1.2. This language does not negate a supervisor's responsibility to schedule training while an employee is on-duty, but is designed to allow flexibility when such scheduling is not possible. It is also understood that the language modification does not change the status of training and travel time in conjunction with collateral/promotional or specialty positions of training that is provided outside of our agency.

7.6 Compensatory Time Accumulation - Any compensatory time given, in excess of eighty (80) hours, in lieu of paid overtime, will be by mutual agreement between the Department and the employee. A maximum of eighty (80) hours of payable comp time or 120 non-payable comp time hours can be carried over from one month to the next. Any additional hours in excess of eighty (80) payable hours at the end of the month will be paid to the employee at his/her regular pay rate. Any additional non-payable hours in excess of 120 hours will be carried for one month with notification that the employee has that period of time to use the non-payable comp time. The department reserves the right to schedule this time off if at the end of a reasonable period of time, (within the one month period), the employee fails to schedule the excess time. Upon termination or retirement, unused compensatory time will be paid to the employee at the regular rate of pay. An employee may request to carry over more than 120 hours, for a specific amount of time, and for a specific period and purpose, upon approval by the Chief of Police.

7.7 No Loss - No compensatory time shall be deducted from that accrued to the employee unless the employee actually used that compensatory time, or was paid for same or agreed to having it removed for disciplinary purposes.

7.8 Death - Upon the death of any employee in active service within the bargaining unit, his estate shall be paid any accrued but unused payable comp time. An employee is deemed on active service for purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of payable hours accumulated.

7.9 Time Chits in Duplicate - Time chits recording overtime shall be made in duplicate, with the employee retaining a copy.

7.10 Approval of Overtime - All overtime work performed must be requested and/or approved by the Department.

## HOURS OF WORK

7.11 Three-12 Hour Shifts: Employees who work a twelve-hour shift shall not exceed three (3) consecutive days in a week (excluding overtime). All employees on this plan are entitled to nine (9) "Kelly" days per year. "Kelly" days shall be taken as time off, and cannot be paid. Any employee who does not use his/her Kelly Day within a 6-week period may be assigned a day off by management. The shifts will rotate from AM (days) to Cover to PM (nights) every sixty (60) days. Employees work three (3) consecutive days on and have three (3) consecutive days off. Employees assigned to the Jail Division work the three 12-hour shifts.

7.12 Five-8 Hour Shifts: Employees who work eight (8) hour shifts shall work five (5) consecutive days and have two (2) consecutive days off. Any hours worked in excess of the above will be compensated at the overtime rate. Employees assigned to the Records Division work the Five-8 shift.

7.12.1 Nine-Eighty Shifts: Employees who work the nine (9) eighty (80) shift shall work four (4) nine (9) hour shifts and one (1) eight hour shift in the first week, followed by two (2) consecutive days off and then four (4) nine (9) shifts in the second week followed by three (3) consecutive days off. This will be for a one (1) year (2010) interim period and at any time can revert to a 5-8 schedule at the sole discretion of the Chief of Police. After the one (1) year (2010) interim period, any schedule change must be agreed upon by mutual agreement between the Oak Harbor Police Association and the Chief of Police. The Support Services Supervisor, Records Information Specialists and the Receptionist will work this schedule.

7.13 Four-10 Shift: Employees who work the ten (10) hour shifts shall work four (4) consecutive days and have three (3) consecutive days off. Any hours worked in excess of the above will be compensated at the overtime rate. Employees assigned to the ID Division and the Jail Supervisor will work the Four-10 shift.

7.14 Changing Hours of Work - An employee's hours of work can be changed if mutually agreed upon by the Oak Harbor Police Association and the Employer. Not withstanding the department's ability to set and adjust the hours of work, as needed, during any properly posted shift schedule change.

7.15 Breaks - All non-commissioned employees, who work the five (5) eight (8) hour shift plan, have a one hour lunch break, (not included in the shift), and two (2) 20 minute rest breaks, (included in the shift). Employees assigned to the Nine-80 shift shall be entitled to one (1) thirty minute lunch break, (not included in the shift), and two (2) twenty minute rest breaks, (included in the shift). Employees assigned to the Four-10 shift shall be entitled to one (1) 40 minute lunch break and two (2) 20- minute rest breaks to be included within their shift. Employees assigned to the Three-12 shift shall be entitled to one (1) 40 minute lunch break and three (3) twenty minute rest breaks to be included in their shift. All Jail and ID employees shall be subject to immediate call during rest and lunch breaks at no cost to the Employer. Management reserves the right to schedule breaks and lunches.

7.16 Alteration of Schedules - With Employer approval, work schedules may be altered upon written request of the employee. The Employer shall post a monthly work schedule. Schedules shall be posted not less than three (3) days in advance of a change. Any shifts changed with less than three (3) days notice shall be compensated at the overtime rate. In the event of planned schedule changes, i.e., training, vacations, special events, extended illness or injury, etc., and with 3 days notice, any employee may have their schedules adjusted to maintain shift coverage. Days off and shift hours may be changed to cover shifts, at no cost to the Employer.

7.17 Offers of Overtime - The employer shall offer employees to volunteer for overtime shifts before they are assigned. Offers of overtime shall be based on seniority and shall be offered within the assigned division. If, in the opinion of the supervisor needing to fill the slot, the slot can adequately be filled by someone outside the division **if** unable to fill it from within the division. In addition, supervisors will be included in the offer of overtime when the overtime is necessitated to maintain minimum staffing and no supervisory personnel are on duty. Under these circumstances, seniority is calculated by date of hire and not date of promotion.

7.18 Extra Work - Additional consecutive days worked after a regular shift, due to shift or scheduled work changes, not subject to article 7.17, but required by the employer, will be paid overtime at the rate of one and one-half (1½) times the hourly rate of pay.

7.19 Shift Changes - Employees agree that additional days worked as a result of monthly shift schedule changes will not be considered overtime. Employer agrees that days not worked as a result of quarterly shift schedule changes will not place employee under any obligation to "make up" for time not worked. This same policy will apply to hours worked or not worked due to changes from Standard to Daylight Savings Time.

7.20 Use of Volunteers to Circumvent Overtime - The employer will in no event use volunteers to do normal work of Association members or to circumvent the holiday overtime and/or any other provisions of this Agreement.

7.21 Use of Volunteers in Normal Police Functions - Volunteers shall not be regularly assigned to perform functions normally performed by a regular employee working in a paid status. It is understood that volunteers may be used by the Department to supplement services, such as for additional staffing for special projects, (i.e., Community Oriented functions, civic activities, monitoring city parks, surveillance by reserves and citizens); in emergencies, or in other short-term circumstances. If the Association believes that volunteers are being utilized inappropriately, it may meet with the Chief of Police or his or her designee to discuss such disputes or disagreements, and to attempt to resolve any disputes or disagreements. Disputes regarding the utilization of volunteers shall be subject to grievance procedure.

## Article 8 MAINTENANCE OF STANDARDS

8.1 No Reductions – No employee shall suffer any reduction of wages or less favorable working conditions or any loss of vacation benefits through the adoption or operation of this Agreement, except as negotiated.

## Article 9 HOLIDAYS

9.1 Holidays Identified – the following shall be considered Holidays:

| | | |
|---|---|---|
| January 1st | Labor Day | Thanksgiving Day |
| President's Day | July 4th | Day after Thanksgiving |
| Memorial Day | Veteran's Day | Floating Holiday (1) |
| Martin Luther King Day | Christmas Day | |

9.2 Pay for Holidays – Employees shall receive pay for Holidays listed herein, regardless of which day of the week on which the Holiday falls. Employees shall be paid for such Holidays, if no work is performed, at the hourly rate of the employee's regularly scheduled work shift for their classification.

9.3 Additional Compensation – If an employee works on any of the above Holidays, on a regular work day, he/she shall receive pay at one (1) times the regular rate performed, in addition to Holiday Pay. The employee may elect to add the Holiday Pay to the compensatory time bank.

9.4 Regular Day Off – If a Holiday falls on the employee's regular work day off, he/she will not receive any extra pay for that day. The employee shall receive compensatory time in the amount of the employee's regularly scheduled work shift, which must be taken as such. Holidays which occur during the employee's vacation or sick leave shall not be charged against such leave. This compensatory time may be carried over from month to month and will be drawn on first.

9.5 Called in on Holidays – If an employee is called in to work on a Holiday, on his/her regular day off, he/she will receive overtime pay (1-1/2) pay for the number of hours worked; and he/she will receive compensatory time in the amount equal to the employee's regularly scheduled work shift, which must be taken as such.

9.6 Definition of Work on a Holiday – In the event an employee works the bulk of his shift hours on a given date, that date is the one for which he will be considered paid, regardless of the date upon which the shift commenced.

9.7 Treatment on Vacation or Sick Leave – Holidays which occur during the employee's vacation or sick leave shall not be charged against such leave.

9.8 50% Rule – For purposes of this Article, employees are entitled to holiday benefits for any holiday on which not less than fifty percent (50%) of their shift occurs.

## Article 10 WAGES

10.1 Wage Schedule – Wages effective January 1, 2010 through December 31, 2012 are listed on the attached Classification Schedule, as Addendum A to this Agreement

10.2 Out-of-Class Pay/Supervisor Pay – An employee assigned to perform in a higher paid job classification for an entire shift or more shall receive the base rate of pay for the higher classification for the duration of such assignment.

## Article 11 LEAVES OTHER THAN VACATION

11.1 Sick Leave – All full-time Employees shall receive sick leave benefits in accordance with the following:

11.2 Accrual – Each Employee shall accrue eight (8) hours sick leave for each calendar month from their date of hire as a full-time employee. All sick leave accrued by the current policy of the Employer shall be included with all future accumulation. The total accumulation shall be limited to one-hundred eighty (180) days as it pertains to "Payment Upon Separation" as outlined in Article 11.8, but shall continue to accrue for sick leave usage.

11.3 Authorization – Sick leave shall be taken as needed up to the limit of accrual on occurrence of the following conditions:

11.3.1 Personal Illness – Personal illness or physical incapacity which renders the employee unable to perform the duties of his position.

11.3.2 Quarantine – Enforced quarantine in accordance with health regulations.

11.3.3 Medical Appointments, etc. – Medical, Dental, or optical appointments; or

11.3.4 Family Care Sick Leave – Sick leave days of absence from the job shall be granted to an employee due to a requirement to care for immediate family members, as defined in Article 11.13. Written or verbal verification for family care sick leave may be required from an attending physician by the Chief or his/her designee. The Employer will comply with the Family Medical Leave Act of 1993.

11.3.5 Sick Leave as Supplement to State Industrial Insurance – Sick leave may be used to supplement partial benefits received from State Industrial Insurance, provided that in no event shall an Employee receive more than otherwise would have been received in base salary. In the event that State Industrial benefits are later received for a period for which an Employee has already received payment through sick leave benefits, the Employee shall pay the partial benefit back to the Employer and the sick leave shall be reinstated.

11.4 Verification – After three (3) days of sick leave, the Employer may require a doctor's certificate.

11.5 Accounting – Sick leave shall be computed exclusive of holidays and vacations.

11.6 Family Leave – An employee may use up to twelve (12) weeks of Family Leave per year, to care for a newborn, adopted or foster child, or seriously ill child, parent or spouse, or because of the employee's own serious illness. The employee may choose to use accrued sick leave and other paid leave time, or take unpaid leave time. The employee may use a combination of paid and unpaid leave. The Employer shall agree to continue health and dental benefits only to employees while on unpaid leave. Any additional related costs shall be borne entirely by the Employee.

11.7 Transfers and Rehires – Employees transferring from one department or office to another shall retain all accrued and unused sick leave benefits. Any employee rehired within one (1) year after termination who, within sixty (60) days after rehire, reimburses the Employer for any lump sum sick leave settlement paid him/her shall retain all accrued and unused sick leave benefits.

11.8 Payment Upon Separation – Upon retirement, or termination, unused sick leave shall be paid according to the following schedule:

| After: | | | | | |
|---|---|---|---|---|---|
| 5 years | of service | | 10% | of accumulated | sick leave. |
| 10 | " | " | 25% | " | " |
| 15 | " | " | 35% | " | " |
| 20 | " | " | 45% | " | " |
| 25 | " | " | 50% | " | " |
| 30 | " | " | 60% | " | " |

11.9 Death – Upon the death of any Bargaining Unit employee, his estate shall be paid accrued but unused sick leave in accordance with Section 11.8. An employee is deemed on active service for the purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of days provided for in this Article.

11.10 Sick Leave Bank – Effective his/her date of employment with the Employer, a new employee will be credited with twelve (12) days of sick leave. This initial bank will be reduced at the rate of one (1) day per month for the first twelve (12) months of employment.

11.11 Light Duty Assignments – The Chief of Police or designee will evaluate and determine whether or not a departmental need exists that would warrant the use of an employee in a light duty capacity. The prior approval of a medical doctor may be required.

11.12 Compassionate Leave – In the event of a death in the "immediate family" of an employee, the Chief of Police or designee shall, upon request, grant the employee compassionate leave with pay. The maximum number of consecutive work hours granted shall be forty (40); provided however, if necessary for health or travel, an amount up to an additional 40 (40 hours) leave can be charged to the employee's sick leave, upon approval of the Chief of Police or designee.

11.13 Definition of Family – The term "immediate family" shall include:

- Spouse and children, including step-children and foster children of the employee;
- Mother, Father, Brother, Sister of the employee or spouse;
- Any relative living in the immediate household of the employee;
- Any individual for whom the employee is legally responsible.
- Step Parents (or step parents) of the employee or spouse.

11.14 Maternity Leave – Disabilities caused or contributed to by pregnancy, miscarriage, childbirth and recovery there from, are, for all job-related purposes, to be considered temporary disabilities. Accrued sick leave, annual leave and Family Leave may be used for childbearing or related circumstance (i.e., miscarriage, or recovery there from). The Employer shall continue health and dental benefits only to employees while on unpaid leave. Any additional related costs shall be borne entirely by the employee. If the period of disability because of childbirth or related circumstances extends beyond the employee's accrued sick leave, Family Leave and Maternity Leave, then she may take a leave of absence not to exceed one year without pay and fringe benefits, unless the employee reimburses the employer the cost of such benefits. When the above occurs, the employee must work out the conditions of the leave of absence with the Chief of Police or designee. Eligibility for sick leave benefits due to childbearing or related circumstances require that an employee provide the Employer thirty (30) days notice, if possible, of the anticipated date of departure and date of intention to return to active employment.

Employees shall not be categorically denied the opportunity to work during the entire period of pregnancy, and may continue to work as long as the individual and her physician concur in her ability to work, and the demands of the job are satisfied. Proof of the physician's concurrence shall be submitted at regular intervals during the employee's pregnancy, when requested by the Employer.

Upon return from disability leave, if related to pregnancy, childbirth or related circumstances, an employee shall return to her same job and pay.

11.14.1 Adoption – The above Article 11.14 shall also apply in cases of adoption by an employee.

11.14.2 Equal Rights – Male employees shall be entitled to use up to two (2) weeks of sick leave, vacation, or comp time upon the birth or adoption of a child.

11.14.3 Maternity Leave of Absence – A Maternity Leave of Absence without pay may be Granted to the employee, upon written request, for a defined period of time, upon approval of the Chief of Police or designee.

11.15 Military Leave - In the event an employee covered by the Agreement is a member of the Washington National Guard or a Federal Military Reserve unit who is called to temporary or full-time active duty or is called or volunteers for service with the Armed Services of the United States or Washington National Guard, such employee shall be entitled to the applicable provisions of R.C.W. 38.40.060 and/or the Uniformed Services Employment and Reemployment Rights Act (USERRA).

11.16 Jury Leave – Employee shall be granted leave with pay except as herein limited while required to perform jury service; or required to appear before a court or other public body on any matter related to his work. In order to receive such leave, employees must surrender to the City all fees connected with their court service or appearance.

11.17 Political Leave – Employees elected or appointed to a political or legislative position which is incompatible with the employee's employment, may, upon request, be granted leave of absence without pay. The period of leave may be for up to one (1) year. Requests for political leave renewals shall be granted at the discretion of the Chief of Police or designee.

11.18 Education Leave – Employees may request a leave of absence without pay for educational purposes to attend accredited institution. The period of leave may be for up to one (1) year. Requests for educational leave and educational leave renewals shall be granted at the discretion of the Chief of Police or designee.

11.19 Leave of Absence – Leave of absence without pay may be granted to the employee upon written request, which shall specify the reason for the request and the requested period of time for the leave. Such requests shall be granted at the discretion of the Chief of Police or designee.

## Article 12 VACATION

12.1 Vacation Leave – Employees shall accrue annual leave with pay for the number of working days corresponding to the following schedule:

| CONTINUOUS YEARS OF SERVICE | VACATION ACCRUED PER YEAR | |
|---|---|---|
| 0-5 years | 12 days | 96 hours |
| 6-10 years | 15 days | 120 hours |
| 11-15 years | 20 days | 160 hours |
| 16-20 years | 22.5 days | 180 hours |
| 21 + years | 25 days | 200 hours |

12.2 Prior Vacation Accumulation – All vacation accrued under a prior policy of the Employer shall be included with all future accumulation.

12.3 Annual Leave / Maximum Accrual – Except when approved by the Chief of Police or designee for good cause shown, an employee's accrued unused annual leave may not exceed the amount of the annual accrual at the end of the two calendar years. Annual leave accrued and unused in excess of that permitted by this Section shall be forfeited.

12.4 No Deduction of Vacation - Except as provided in Section 12.3, no annual leave shall be deducted from that accrued until it has actually been used; or the employee has agreed to the deduction in lieu of other discipline; or there has been a lump sum settlement.

12.5 Termination – Upon termination from all City employment, the employee shall be paid a lump sum settlement for the number of days of annual leave accrued and not previously used.

12.6 Transfers, Leave of Absence and Termination – Employees transferring from one department or office to another or granted a leave of absence for more than one (1) month or rehired within one (1) year after layoff for lack of funds shall accrue annual leave benefits based on the total time of active employment with the Employer which, in the case of lay-off, was not separated by more than one (1) year. In the event of a transfer, leave of absence for more than a month, or lay-off for a time less than one (1) year, the employment anniversary date shall be adjusted to reflect the actual period of active duty employment.

Employees rehired after lay-off for more than one (1) year shall accrue leave benefits on the same basis as provided for lateral transfer employees under Section 11.10. Employees re-hired after layoff for more than one (1) year shall have their employment anniversary date adjusted to reflect the actual period of active duty employment. An individual on sick leave or disability leave shall for purposes of this Section be deemed to be on active duty employment.

12.7 Seniority / Scheduling – Vacation periods shall be selected by seniority. Vacation requests shall be submitted in writing by March 1st for proper scheduling. Vacation requests submitted prior to March 1st shall be responded to by the Chief of Police or designee within two (2) weeks following submittal. After the said March 1 date any vacation requests shall be subject to availability.

12.7.1 Right to Request – The above sections do not serve to bar the employee from submitting vacation requests later than the relevant date, but sets forth deadlines for those who wish to have priority pursuant to seniority provisions. Late requests will be granted to the extent consistent with staffing needs and approval will not be unreasonably withheld.

12.8 Leave - Leave shall be at a time when it shall not impair the efficiency of the Department or section; and, if the nature of the work is such that no employees or a limited number of employees may be on vacation at a given time, the Employer may establish non-leave period and priority list for assigning the order in which leaves may be taken.

12.9 Military Leave - During the term of this Agreement, employees who serve in the military reserve or National Guard shall provide the Chief of Police or designee with their individual training dates in writing for that calendar year on or before each January 15. The Employer shall block out such training dates in determining the number of employees that may be scheduled off, other than the employee's annual vacation, consistent with the current minimum staffing standard. The Employer shall not incur overtime expense as a direct result of scheduled military or National Guard training.

12.10 Lateral Transfer Employees – Employees who laterally transfer from an agency outside the City of Oak Harbor into the Department shall be considered to have seniority for vacation purpose as is reflected by their actual period of employment with the Employer.

12.11 Death – Upon death of any employee in active service within the Bargaining Unit, his estate shall be paid any accrued but unused vacation time. An employee is deemed on active service for purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of hours accumulated.

## Article 13 DISTANCE FROM RESIDENCE

13.1 Distance from Residence – There will be no residency requirement for non-commissioned employees; however, in the event of callback, the employee will not be compensated for any travel time prior to arrival at the work site.

## Article 14 UNIFORMS, CLOTHING ALLOWANCE AND CLEANING ALLOWANCE

14.1 Fair Wear and Tear – Uniform and equipment items in need of replacement shall be reviewed by the Chief of Police or designee for approval. In the event that a replacement has been denied, the employee will take the item to the Chief of Police or designee in the form of a grievance as described in article 15.

14.2 Standard Uniform Items/Jailer:

| | |
|---|---|
| Shirts | 3 winter / 3 summer |
| Trousers | 3 pair |
| Utility Jacket | 1 |
| Ties | 2 |
| Tie Bar | 1 |
| Soft Body Armor | 1 |
| Collar Devices | 1 pair |
| Uniform Shoe | 1 pair |
| Uniform Boots | 1 pair (And ID Technician) |
| Baseball Hat | 1 (And ID Technician) |
| Rain gear | 1 set |
| Jumpsuit | 1 (And ID Technician) |

14.3 Standard Uniform Items/All Other Non-Commissioned:

| | |
|---|---|
| Shirts | 3 winter/3 summer |
| Trousers and/or Skirts | 4 pair |
| Blazer | 1 |
| Cardigan or Pullover Sweater | 2 |
| Collar Devices | 1 pair |
| Shoes | 3 pair (combination of pumps, walking shoe and tennis shoe style boot) |
| Utility Jacket | 1 |
| Raid Jacket | 1 (ID Technician Only) |

14.4 Weapon, Weapon Items & Equipment/Jailer:

| | |
|---|---|
| Service Weapon | 1 (new jail employee only) |
| Chemical Irritant | 1 (And ID Technician) |
| Hinged & Chain Handcuffs | 1 pair each |
| Flashlight | 1 |
| Night Stick | 1 |
| Portable Radios | 1 |
| Portable Radio Holder | 1 |

14.5 Leather Gear Items/Jailer:

| | |
|---|---|
| Gun Belt | 1 |
| Uniform Pant Belt | 1 |
| Gun Holster | 1 |
| Chemical Irritant Holster | 1 |
| Handcuff Cases | 2 |
| Bullet Pouches | 2 |
| Riot Helmet | 1 (optional) |
| Keepers | 4 |
| Night Stick Ring/Flashlight Ring | 1 |
| Badge Holder or Badge Wallet | 1 (And ID Technician) |
| Key Holder | 1 |
| Trouser belts | 1 |
| Gloves | 1 pair (And ID Technician) |
| Wristwatch | 1 (And ID Technician) (Up to $40 / replacement only) |

14.6 BASIC Corrections Academy Uniforms/Supplies - Uniforms and supplies required for an employee's attendance at the Basic Corrections Academy will be furnished by the Department.

14.7 Required Uniform Attachments - All required patches, cloth badges, name emblems, service bars or any such items will be provided and affixed to all such uniform items issued to employees, at Department cost.

14.8 Uniform Maintenance - All reasonable uniform maintenance, alterations and repairs shall be provided by the Employer.

14.9 Body Armor Replacement - Soft body armor shall be replaced by the Department based on the manufacturer's replacement recommendation.

14.10 Uniform Accountability - The employee shall be held accountable for all uniforms, weapons and leather gear which is issued to the employee by the Employer. Items which become worn out and/or items which become lost or destroyed as a direct result of the performance of the employee's duties, or as a result of an occurrence not due to the employee's intentional act or willful negligence, shall be replaced by the Employer. Accountable items of clothing or protective devices assigned to an employee which are lost or mutilated as a direct result of that particular employee's willful negligence shall be replaced by the employee.

14.11 Cleaning Allowance - The Employer shall pay all cleaning costs.

14.12 Property of Employer - All uniforms and equipment issued by the Employer to each employee shall remain the property of the Employer.

## Article 15 GRIEVANCE PROCEDURE

15.1 Grievance Defined – A "grievance" is defined as a claim, allegation or dispute, with respect to the interpretation or application of the provisions of this agreement, by an employee or group of employees or the Association on behalf of a member of the bargaining unit.

15.2 Grievance Process – The procedure shall be as follows:

15.2.1 Step1 – An employee or group of employees, or their delegated representative, who consider they have a grievance, may present such grievance within ten (10) working days of its alleged occurrence, or knowledge of its alleged occurrence to the employee's immediate supervisor or designee, who shall attempt to resolve it within ten (10) working days after it is presented.

15.2.2 Step 2 – If the employee is not satisfied with the solution by the immediate supervisor or designee, the employee may present the grievance within ten (10) working days, in writing together with all other pertinent material, to the Chief of Police or designee, who shall attempt to resolve the grievance within (10) working days. The Chief or designee shall make his decision in writing and a copy of such decision will be given to the employee.

15.2.3 Step 3 – If the employee is not satisfied with the decision of the Chief of Police or designee, may present the grievance to the President of the Association, or his designee. Upon receipt of such grievance, the President shall call for a meeting of the Association Executive Board, who will review all of the pertinent facts. The Executive Board shall attempt to resolve the grievance within ten (10) working days, and shall make their decision in writing, with a copy given to the employee.

15.2.4 Step 4 – If the grievance is not resolved, the matter may be submitted by the signatory parties to this agreement to final and binding grievance arbitration. Arbitration shall be the exclusive method of appeal of grievance not resolved in step 3. Either party may submit a demand for arbitration to the other party within ten (10) working days of the step 3 decision. The parties may attempt to agree on an arbitrator to hear the dispute. The arbitrator shall have no authority to alter, modify, vacate or amend any terms of this agreement. If the employer and the association are unable to agree upon an arbitrator within ten (10) working days after receipt of the demand for arbitration, either party may request a list of nine (9) arbitrators from the Federal Mediation and Conciliation Service, (also known as the FMCS). Determination of payment shall be made based on existing law governing grievance arbitration payment.

15.3 Association Right to Grievance – None of the foregoing is intended to mean that the Association itself cannot lodge a grievance and process the same through the various steps, in accordance with and subject to the provision thereof. The right of the Association to so lodge and process a grievance is expressly confirmed. No settlement of a grievance with an employee or the Association shall be contrary to the terms of this Agreement.

15.4 Time limits may be modified by mutual agreement of the parties.

15.5 Working days shall be defined as Monday through Friday and shall exclude Saturday, Sunday and holidays.

## Article 16 MANAGEMENT RIGHTS

16.1 Recognition by Association - The Association recognizes the prerogative of the Employer to operate and manage its affairs in all respects, in accordance with its responsibilities and power of authority.

16.2 Scheduling Work - Subject to the provisions of this Agreement, the Employer has the right to schedule work as required in a manner most advantageous to the Department and consistent with requirements of municipal employment and public safety.

16.3 Job Description - It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described.

16.4 Rights Reserved to Management - Subject to the provisions of this Agreement, the Employer reserves the right to:

16.4.1 Recruiting and Promotions - Recruit, assign, transfer, or promote members to positions within the Department.

16.4.2 Discipline - Suspend, demote, discharge, or take other disciplinary action against members for just cause.

16.4.3 Levels and Methods of Service - Determine methods, means and personnel necessary for departmental operations.

16.4.4 Budget Control - Control the departmental budget.

16.4.5 Emergencies - Take whatever actions necessary in emergencies in order to assure the proper functioning of the Department. Emergencies may include unforeseen budget issues and shortfalls, which adversely impact the levels of service to the community, and which would cause a hardship to the Department.

## Article 17 LIABILITY INSURANCE PROTECTION

17.1 Employer Contributions – The Employer will purchase insurance coverage in the following amounts, on behalf of employees covered by this Agreement against false arrest and detention, malicious prosecution, assault and battery, negligent or wrongful act, errors and omission, with the following limits: $2,000,000 each person, $2,000,000 each occurrence; $2,000,000 total aggregate.

The policy will provide for the payment of judgment against any member of the bargaining unit within its coverage, and will provide for the legal defense of the member, based upon a lawful act performed in the course of his/her duty.

17.2 Judgment and Legal Defense – The Employer shall provide legal counsel or reasonable attorney's fees for representation and defense, settlement or monetary judgments from such actions, claims, or proceedings arising out of or incident to acts and/or omissions occurring while the employee was acting in good faith in the performance or purported failure of performance of his official duties or employment and provided further that the employee was not engaging in criminal or malicious misconduct. A criminal conviction shall be deemed conclusive but not exclusive proof of criminal misconduct for the purposes of this Section. If the Employer elects to pay reasonable attorney's fees hereunder, no claim for such payment may be made by an employee prior to the conclusion of a criminal lawsuit.

## Article 17 (B) SEPARATION

17(B).1 Separation Payment – Upon an employee's separation for any reason, the City shall not be required to pay additional monies to cover any increased pension benefits, due to compensation for accrued Vacation, Holidays or Sick Leave.

## Article 18 HEALTH AND WELFARE

18.1 Eligibility and continued employee and dependent participation in any group insurance or other financially based group benefit plan provided through the Employer shall be in accordance with the applicable Group Insurance Plan Document or Master Plan Agreement.

18.2 The Employer will provide an IRS Code Section 125, Flexibility Benefits Plan for enrolled members of the bargaining unit and their enrolled dependents shall be consistent with the provisions of this Article 18.

18.3 The Employer shall provide eligible enrolled employees a group medical and group dental plan at no cost to the employee during the term of this Agreement. In the event of extraordinary increases in group insurance premiums imposed by the group insurance carrier(s), the Employer and the Association agree to reopen this Article 18 for renegotiation.

18.4 The Employer shall provide eligible enrolled employee only group long term disability and basic group term life insurance benefits at no cost to the employee. Enrolled employees shall have the option at their expense to purchase additional group term life insurance as well as participate in other group benefit plans as may be offered by the Employer's group benefit carrier(s) with payments by payroll deduction.

18.5 The Employer shall pay seventy-five percent (75%) of premium amount required to provide eligible enrolled dependents of enrolled employee covered by this Agreement with group medical and group dental insurance coverage.

18.6 The Employer shall reimburse those members of the bargaining unit who have been continuously employed by the Employer as of December 31, 2000 or before, forty percent (40%) of the group medical and group dental premium amounts unused by the employee shall be paid to the employee subject to the following conditions. For any change in benefit selections, or for persons hired after January 1, 2001, the reimbursement rate for the above unused premiums will be at 25%.

## Article 19 MISCELLANEOUS

19.1 Training – When any employee is required to attend law enforcement training courses, unless otherwise paid for, the entire cost shall be borne by the Employer by making arrangements to be billed by the school in advance for tuition and actual expenses incurred, by reimbursement, or by a combination of these methods. Whenever permitted by State Law, the Employer shall make every effort to obtain authorization for payment of expenses in advance to ensure the employee shall not be required, to the extent possible, to attend such schools under a "pay out of your own pocket and be reimbursed" arrangement.

19.1.1 Training – An employee who, by attending any training on the employee's normally scheduled time off, shall be credited paid overtime or compensatory time, agreed to in the MOU on this issue dated November 4, 2004, except for Basic Academy training. Those attending Basic Academy will be compensated for travel time at the outset of the Academy and upon completion of the Academy only.

19.1.2 Schedule Adjustment – The schedule of an employee attending full day or longer training courses shall be adjusted to conform to the hours of the training program and to exclude breaks and meal periods from the work day.

19.1.3 Mileage Reimbursement – In the event an Employer vehicle is not available and an employee travels to required training in his personal vehicle, he shall be reimbursed for mileage at the approved IRS rate.

19.2 Performance of Duty – All employees covered by this Agreement shall present themselves on time for their duty schedules in proper working uniform, ready to perform their assigned duties. There shall be no strikes, slow-downs, stoppage of work or any interference with the efficient management of the Police Department.

19.3 Special Sick Leave – All LEOFF II, PERS I, PERS II and PERS III employees who have been employed through Civil Service examination shall be provided with fifteen (15) days special sick leave, which shall be used only to supplement the employee's industrial insurance benefit should the employee be injured on the job during his or her first calendar year on the job. The special sick leave shall not be used until regular sick leave has been exhausted, and will be reimbursed by the employee should he/~~she~~ leave City employment before having earned enough regular sick leave to pay back any Special Sick Leave used.

## Article 20 DISCIPLINE

20.1 Discipline and Discharge – The Employer reserves the right to suspend, demote, discharge, or take disciplinary action against an employee covered by this Agreement for just cause.

## Article 21 EMPLOYEE RIGHTS

21.1 Preamble – Because of the ever increasing responsibilities and duties required of law enforcement officers in the performance of their job duties which of necessity increase their contact with the general public and could lead to misunderstandings and questions surrounding the activities of employees covered by this Agreement, it is mutually required, therefore, that procedures be established in order to provide for full investigation of any questions arising from contacts and relations with the public and also to provide for safeguards in order to protect the police officer in these investigations so that the matters can be dealt with in fairness and in an expeditious manner, the following guidelines are set forth. The following provisions shall apply anytime the employer is conducting any investigation, (including those that did not arise from contacts or relations with the public), where the agent of the Department who is conducting the investigation or questioning an employee knows, (or reasonably should know), that the questioning could reasonably result in the employee being suspended, demoted or terminated as opposed to a routine inquiry.

21.2 Notice in Writing – An employee shall be advised in writing of the particular nature of the investigation and as to whether he/she is a witness or suspect. This information shall be provided 24 hours prior to the interrogation of the employee and should include names and addresses or other information which shall reasonably inform him/her of the allegations against the said members of the bargaining unit.

21.3 Interrogation – Interrogations of said employee shall be at a reasonable hour; preference for such time of interrogations shall be when the individual is on duty and/or during the daytime; provided, however, that the gravity and exigencies of the investigation in all cases control the time of said interrogation.

21.4 Location of Interrogation – All interrogations shall be held at the Employer's Police Station facility except when this would be impractical. The employee shall be afforded an opportunity and the necessary facilities to contact an attorney and/or Association representative prior to commencement of the interrogation. The employee's attorney and/or the Association representative may be present during the interrogation, but said attorney and/or Association Representative shall not be permitted to participate in the interrogation. Nothing herein shall in any way restrict the rights of the attorney and/or the Association representative to consult with the employee during the process of the interrogation.

21.5 Expeditious Handling – The interrogation shall be conducted in the most expeditious manner consistent with the scope and gravity of the subject matter of the interrogation and the employee shall at all times be given reasonable periods to attend to personal activities, such as meals, telephone calls to his/her private attorney and rest periods. Employees shall be granted up to three (3) hours to contact an attorney or Association representative in administrative matters. No employee shall be compelled to waive his/her constitutional rights in criminal matters.

21.6 Disposition of Investigation – The employee shall be advised of the results of the investigation and any future action which the Employer has decided to take on the incident.

21.7 When the Investigation Results in Departmental Charges Being Filed – After the investigation is complete, the employee will be furnished with a copy of the reports of the investigation which will contain all known material facts of the matter to include any tape recording at no cost. The employee will also be furnished with the names of all witnesses and complaints known to the Employer, who will appear against him or her and/or whose statements will be used against him or her. This obligation shall continue after charges have been filed against the employee. Under no circumstances shall said employee, or representative, attempt to intimidate or harass any witness and/or complainant or other individual who provides information regarding an investigation of misconduct.

21.8 No Abuse – The employee shall not be subject to any profane language nor threatened with dismissal, transfer or other disciplinary punishment as a guise to obtain the resignation of said employee nor shall the employee be subjected to intimidation in any manner during the process of interrogation. No promises or rewards shall be made to the said employee as an inducement to answer questions.

21.9 Taping of Interrogation – Upon mutual agreement, and at no cost to the employee, the interrogation shall be recorded on tape and the tape(s) shall be immediately turned over to a third (3rd) party (i.e., City Clerk) who shall be responsible for their safekeeping.

21.10 Lie Detector Test – An employee covered by this Agreement shall not be required to take or be subjected to any lie detector tests or similar tests as a condition of continued employment within the Police Department.

21.11 No Limitation on Chief's Authority – Nothing contained in any of the above provisions shall restrict and/or limit the authority of the Chief of Police or designee in the performance of his duties and responsibilities as the Chief Administrator of the Police Department.

21.12 Use of Force Situations – Employees involved in the use of deadly force or force resulting in serious bodily injury shall be advised of their rights to and allowed to consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of force. In such cases no statement will be mandatorily required by the employer for (24) twenty-four hours after the incident.

In all other incidents where force was used the employee will have (3) three hours, (or a reasonable proximity to three hours), to consult with an OHPA representative or an attorney prior to mandatorily giving a statement about the use of force incident.

NOTE: It shall not be considered a violation of this agreement, if, based on the information known at the time of the use of force, there was no information available that would lead a reasonable person to believe that excessive force was used.

## Article 22 DRUG TESTING

22.1 General Rule – The employer and the Association jointly recognize the need for a drug free workplace and the appropriate use of drug testing. Tests are permitted when probable cause of unlawful drug use exists.

22.2 Testing Mechanisms – The following testing mechanism shall be used for any drug test performed on member of the Association:

22.2.1 Screening Test – Any screening test shall be performed using the Immunoassay (IA) method.

22.2.2 Positive Results – Any positive results on the initial screening test shall be confirmed through the use of Gas Chromatography/Mass Spectrometry (GC/MS).

22.3 Procedures to be Used When the Sample is Given – The testing procedure shall be used whenever an employee is required to give a urine sample.

22.3.1 Listing of Drugs Taken – Prior to testing, the employee will be requested to list all drugs currently being used by the employee on a form to be supplied by the testing facility.

22.3.2 Sampling – A urine sample will be taken of the employee. The test shall be given in such a manner as to protect the authenticity and reliability of the sample and the privacy of the individual.

22.3.3 Tests – The sample will first be tested using the screening procedure set forth in Section 22.2.1. If the sample tests are positive for any prohibited drug, the confirmatory test specified in Section 21.2.2 will be employed.

22.3.4 Procedure After Positive Results – If the confirmatory test is positive for the presence of an illegal drug, the employee will be notified of the positive result, and will be provided with copies of all documents pertinent to the test sent to or from the employer by the laboratory. The employee will then have the option of having the untested sample submitted to NIDA Certified lab of the employee's own choosing, to be tested at the employee's cost. If the retest results in a negative, the employer will reimburse the employee for all costs. The employer and employee will be given a copy of the results.

22.3.5 Documentation – Each step in collecting and processing of urine specimens shall be documented to establish procedural integrity and a chain of evidence.

22.3.6 Right of Access – The employer and any employee who test positive shall be given access to all written documentation available from the testing laboratory which verifies the accuracy of the equipment used in the testing process, the chain of custody of the specimen and the accuracy rate of the laboratory.

22.4 Limitation or Action "First Offense" – Any action taken by the employer for a "first offense" shall be rehabilitative in nature (i.e., counseling referral, treatment.), except when the employee is involved in criminal activity.

22.5 Second Offense – Second or more offenses by an employee shall be subject disciplinary action, up to and including dismissal.

22.6 Informing Employees about Drug and Alcohol Testing – All employees shall be fully informed of the Employer's drug and alcohol testing policy. Employees will be provided with information concerning the impact of the use of alcohol and drugs on job performance. In addition, the Employer shall inform the employees on how the tests are conducted, what the test can determine and the consequence of testing positive for drug use. All newly hired employees will be provided with this information on their initial date of hire. No employee shall be tested before this information is provided to him/her. Employees who voluntarily come forward and ask for assistance to deal with the drug or alcohol problem shall not be disciplined by the Employer for doing so. No disciplinary action will be taken against an employee unless he/she refuses the opportunity for rehabilitation, fails to complete a rehabilitation program successfully, or again tests positive for drugs after completing an appropriate program.

22.7 Employee Testing – Employees shall not be subjected to random medical testing involving urine or blood analysis or other similar or related tests for the purpose of discovering possible drug or alcohol abuse. If, however, objective evidence exists establishing probable cause to believe an employee's work performance is impaired due to drug or alcohol abuse, the Employer will require the employee to undergo a medical test consistent with the conditions as set forth in the Policy.

22.7.1 In the event an employee is involved in an accident with serious injury requiring off-site medical treatment, or shooting incident, the employee may be ordered to submit to drug testing where surrounding circumstances provide an articulate suspicion that the employee is impaired.

22.7.2 "For Cause" (also known as "Reasonable Cause") is defined as work-related performance, behaviors and actions that a reasonable and prudent person would believe constitute a potential hazard, either to oneself or others which could indicate that an employee may be under the influence of an illegal drug, or may be abusing a prescription or over the counter (OTC) drug, or alcohol.

22.8 Sample Collection – The collection and testing of the samples shall be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results. The laboratory performing the test shall be one that is certified by the National Institute of Drug Abuse (NIDA). The laboratory chosen must be agreed to between the Association and the Employer. The laboratory used shall also be one whose procedures are periodically tested by NIDA where they analyze unknown samples sent to an independent party. The results of the employee tests shall be made available to the Medical Review Physician.

Collection of blood or urine samples shall be conducted in a manner which provides the highest degree of security for the sample and freedom from adulteration. Recognized strict chain of custody procedures must be followed for all samples as set by NIDA. The Association and the Employer agree that security of the biological urine and blood samples is absolutely necessary; therefore, the Employer agrees that if the security of sample is compromised in any way, any positive test shall be invalid and may not be used for any purpose.

Blood or urine sample will be submitted as per NIDA Standards. Employees have the right for Association or legal counsel representatives, whichever is more readily accessible, to be present during the submission of the sample. Employees shall not be witnessed while submitting a urine specimen. Prior to submitting a urine or blood sample, the employee will be required to sign a consent and release form (as attached to this Policy).

A portion of the original sample will be separated by the lab in all cases for an independent analysis in the event of a positive test result. All samples must be stored in a scientific acceptable preserved manner as established by NIDA. All positive confirmed samples and related paperwork must be retained by the laboratory for at least twelve (12) months or for the duration of any grievance disciplinary action or legal proceedings, whichever is longer. At the conclusion of this period, the paperwork and specimen shall be destroyed. Tests shall be conducted in a manner as to ensure that an employee's legal drug use and diet does not affect the test results.

22.9 Drug Testing – The laboratory shall test for only the substances and within the limits as follows for the initials and confirmation test as provided within NIDA standards. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for drugs or classes of drugs.

**INITIAL TESTING**

| | |
|---|---|
| Marihuana metabolites | 100ng/ml |
| Cocaine metabolites | 300ng/ml |
| Opiate metabolites | 300ng/ml |
| Phencyclidine | 25ng/ml |
| Amphetamines | 1,000ng/ml |
| Barbiturates: | |
| Secobarbital | 300ng/ml |
| Phenobarbital | 1,000-3,000ng/ml |
| Butalbital | 1,000ng/ml |
| Benzodiazepines: | |
| Oxazepam | 300ng/ml |
| Chlordiazepoxide | 3,000ng/ml |
| Diazepam | 2,000ng/ml |
| Methadone | 300ng/ml |
| Methaqualone | 300ng/ml |
| Propoxyphene | 300ng/ml |
| Ethanol | 0.03g/dl |

(1) if immunoassay is specific for free morphine, the initial test level is 25ng/ml. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the employee's file. Only specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the following listed cutoff values:

**CONFIRMATORY TESTING**

| | |
|---|---|
| Marihuana metabolites (1) | 15ng/ml |
| Cocaine metabolites (2) | 150ng/ml |
| Opiates | |
| Morphine | 300ng/ml |
| Codeine | 300ng/ml |
| Phencyclidine | 25ng/ml |
| Amphetamines | |
| Amphetamine | 500ng/ml |
| Methamphetamine | 500ng/ml |
| Barbiturates | 200ng/ml |
| Benzodiazepines | 200ng/ml |
| Methadone | 100ng/ml |
| Methaqualone | 300ng/ml |
| Propoxyphene | 100ng/ml |
| Ethanol | 0.03g/dl |

(1) *Delta-9-tetrahydrocannabinol-9-carboxylic acid*
(2) *Benzoylecgonine*

If confirmatory testing results are negative, all samples shall be destroyed and record of the testing expunged from the employee's file.

22.9.1 Alcohol Consumption Disclosure – An employee who has consumed any alcoholic beverage and who is called in on off-duty time will advise his/her supervisor of that consumption.

22.10 Medical Review Physician – The Medical Review Physician shall be chosen and agreed upon between the Association and the Employer and must be a licensed physician with a knowledge of substance abuse disorders. The Medical Review Physician shall be familiar with the characteristics of test (sensitivity, specificity and predictive value), the laboratories running the tests and the medical conditions and work exposures of the employee.

The role of the Medical Review Physician will be to review and interpret the positive test results. He must examine the alternate medical explanations for any positive test results. This action shall include conducting a medical review of any other relevant biomedical factors. The Medical Review Physician must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication.

22.11 Laboratory Results – The laboratory will advise only the employee and the Medical Review Physician of the positive results. The results of a positive drug or alcohol test can only be released to the Employer by the Medical Review Physician once he has completed his review and analysis of the laboratory's test. The Employer will be required to keep the results confidential and it shall not be released to the general public.

22.12 Testing Program Costs – The Employer shall pay for all costs involving drug and alcohol testing as well as the expenses involved with the Medical Review Physician. The Employer shall also reimburse each employee for their time and expenses including travel incurred involved in the testing procedure only, if outside normal shift schedule.

22.13 Association Held Harmless – This drug and alcohol testing program was initiated at the request of the Employer. The Employer assumes the sole responsibility for the administration of this Policy and shall be solely liable for any legal obligations and costs arising out of the provisions and/or application of this collective bargaining agreement relating to drug and alcohol testing. The Association shall be held harmless for the violation of any employee rights arising from the administration of the drug and alcohol testing programs.

22.14 Changes in Testing Procedures – The parties recognize that during the life of this Agreement, there may be improvements in the technology of testing procedures which provide more accurate testing. In that event, the parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree on the amendments they will be submitted to dispute resolution procedures as agreed upon in this contract.

22.15 Conflict with other Laws – This Article is in no way intended to supersede or waive any constitutional or other rights that the employee may be entitled to, or legal rights and obligations that the Employer may have, under Federal, State or local statutes.

## ARTICLE 22

## DRUG TESTING

## CONSENT/RELEASE

I consent to the collection of a urine sample by _____, and its analysis by _____, for those drugs specified in the Collective Bargaining Agreement.

The laboratory administering the tests will be allowed to release the results to my Employer only after the laboratory's results have been reviewed and interpreted by the Medical Review Physician. The information provided to the Employer shall be only whether the tests were confirmed positive or were negative and not any other results of the test without my written consent.

The laboratory is not authorized to release the results of this test to any other person without my written consent.

I understand that I have the right to my complete test results and that the laboratory will preserve the sample for at least twelve months. I have the right to have this sample separated at the lab and a portion tested at my expense at a second NIDA Certified laboratory of my choice, in the event the test results are confirmed positive.

I understand that the Employer is requiring me to submit to this testing as a condition of my employment and that alteration of the sample or failure to reasonably cooperate with the collection of a urine sample may result in disciplinary action by the Employer.

I understand that a confirmed positive test may result in a requirement that I undergo rehabilitation.

By signing this consent form, I am not waiving any of my rights under any federal, state, or local law, statute, constitution, ordinance, administrative rule or regulation or common law provision. I understand that I have the right to challenge any confirmed positive test results and any Employer action based thereon, by filing a grievance under the Collective Bargaining Agreement.

Date_____ Employee_____

**CITY OF OAK HARBOR**

Confidential Reinstatement Agreement
Oak Harbor Police Association

I, _____, request reinstatement to my former position with the City of Oak Harbor. I understand that my reinstatement to employment is conditional, subject to the following terms:

1. I have successfully completed an approved rehabilitation program at a licensed, approved facility and will actively comply with any and all follow-up requirements as stated by the program mandates

2. I understand that any future violation of the substance abuse policy, or failure to comply with and complete the follow-up terms of the approved treatment program will result in my immediate termination of employment.

3. I understand and recognize the importance of involving, (if applicable) my spouse, family or the significant other person in my life in the process of my recovery program.

4. I understand and agree that, as a condition to reinstatement, I am expected to meet all established requirements of the policies and procedures and that I will continue to be subject to established procedures for failure to comply with these standards.

5. I understand that my past conduct and my recovery program require that I comply with random drug screening requests during the period of this Agreement. My failure to comply with this section may result in my immediate termination.

6. I understand that I will be subject to the terms of this Reinstatement Agreement for a period of twelve (12) months from the date of my reinstatement. Upon completion of this twelve (12) month period, I will receive a formal, written review of my work performance and recovery progress during such period. This evaluation will determine if the terms of this Agreement have been met, require modification or, if special detailed circumstances warrant, should be extended.

ACKNOWLEDGEMENT

I understand and agree that my reinstatement and continued employment are conditioned upon my satisfactory compliance with the terms listed above. I have discussed these terms with my supervisor(s) and understand that, should I fail to comply with the terms of those sections specifically cited or in all other sections not so noted, I will be subject to further disciplinary action, up to and including termination of employment with the City of Oak Harbor.

Date:_____ _____
Employee Signature

Copy received and acknowledged: _____
Print Name of Employee

Initials_____

## Article 23 WHISTLEBLOWER ACT

23.1 The following principles are to be followed with regard to the City of Oak Harbor Whistleblower regulations:

23.1.1 The provisions of the Whistleblowers policy are a "safe harbor" protection for employees. Thus, an employee following the provisions of the "Whistleblowers" policy and/or acting in good faith are protected from discipline. Conversely, failing to follow the designated procedures is not a "rule of discipline

23.1.2 Failure to follow these procedures, depending on the circumstances, may be a relevant evidence as to (1) whether the violation of applicable rules of conduct has occurred; (2) whether the violation, if it has occurred, was done maliciously or with other bad motive; or (3) whether serious discipline, if any, is appropriate.

## Article 24 SEPARABILITY AND SAVINGS

24.1 Compliance – It is the intention of the parties hereto to comply with all applicable provisions of the State or Federal Law, and they believe that each and every part of this Agreement is lawful. All provisions of this Agreement shall be complied with unless any of such provisions shall be declared invalid or inoperative by final judgment of a Court of competent jurisdiction. In such event upon request, the parties shall meet for renegotiation of such invalid provisions for the purpose of adequate and lawful replacement thereof.

## Article 25 ENTIRE AGREEMENT

25.1 This Agreement and all of its Articles and/or Appendices constitute the entire Agreement between the parties and no oral statement shall add to nor supersede any of its provisions. Each party to this Agreement agrees that it has had the unlimited right to make proposals that are proper subjects for collective bargaining and waives the right to oblige the other party to negotiate any matters to become effective until the expiration of this Agreement.

## Article 26 TERM OF AGREEMENT

This Agreement shall be effective January 01, 2010, unless otherwise provided for herein, and shall remain in full force and effect through December 31, 2012, and year to year thereafter, unless written notice is given by the Employer to the Association or the Association to the Employer not later than September 01, 2012, to the effect that the Employer or the Association wishes to terminate or modify the Agreement.

SIGNED THIS _____ DAY OF _____, 20_____.

BY: _____
Mayor, City of Oak Harbor

BY: _____
Oak Harbor Police Association

BY: _____
Chief of Police

BY: _____
Oak Harbor Police Association

**APPENDIX A**
**TO THE**
**AGREEMENT**
**by and between**
**THE CITY OF OAK HARBOR**
**and**
**OAK HARBOR POLICE ASSOCATION**
**NON-COMMISSIONED UNIT**
**January 1, 2010 through December 31, 2012**

A.1 Effective January 01, 2010, the monthly rates of pay for employees covered by this Agreement shall be as follows, (2% increase).

**RECORDS INFORMATION SPECIALIST/POLICE SECRETARY** **GROUP 1**

| GRID | 80% | 84% | 88% | 92% | 96% | 100% |
|---|---|---|---|---|---|---|
| Step | 0 | 1 | 2 | 3 | 4 | 5 |
| Jan-2010 | $3,279 | $3,443 | $3,607 | $3,771 | $3,935 | $4,099 |

**SUPERVISOR** **GROUP 2**

| GRID | 80% | 84% | 88% | 92% | 96% | 100% |
|---|---|---|---|---|---|---|
| Step | 0 | 1 | 2 | 3 | 4 | 5 |
| Jan-2010 | $3,853 | $4,045 | $4,238 | $4,431 | $4,623 | $4,816 |

**JAIL SUPERVISOR (Years as Supervisor)** **GROUP 3**

| GRID | 10% | 12% | 14% |
|---|---|---|---|
| Year | 0 | 1 | 2 |
| Jan-2010 | $5,184 | $5,279 | $5,373 |

*(% over 5-yr Jailer)*

**JAILER** **GROUP 4**

| GRID | 80% | 84% | 88% | 92% | 96% | 100% |
|---|---|---|---|---|---|---|
| Step | 0 | 1 | 2 | 3 | 4 | 5 |
| Jan-2010 | $3,770 | $3,959 | $4,147 | $4,336 | $4,524 | $4,713 |

**ID TECH/ JAILER** **GROUP 5**

| GRID | 80% | 84% | 88% | 92% | 96% | 100% |
|---|---|---|---|---|---|---|
| Step | 0 | 1 | 2 | 3 | 4 | 5 |
| Jan-2010 | $3,806 | $3,996 | $4,186 | $4,376 | $4,567 | $4,757 |

**POLICE RECEPTIONIST** **GROUP 6**

| GRID | 80% | 84% | 88% | 92% | 96% | 100% |
|---|---|---|---|---|---|---|
| Step | 0 | 1 | 2 | 3 | 4 | 5 |
| Jan-2010 | $2,869 | $3,012 | $3,156 | $3,299 | $3,443 | $3,586 |

A.2 Effective January 01, 2011 the wage rates will reflect a cost of living increase that is ninety percent (90%) of the Seattle Consumer Price Index for the period between July 2009 and June 2010. However, the rate will be no lower than two percent (2%) and no higher than four percent (4%).

A.3 Effective January 01, 2012 the wage rates will reflect ninety percent (90%) of the Seattle Consumer Price Index for the period between July 2010 and June 2011. However, the rate will be no lower than two percent (2%) and no higher than four percent (4%).

A.4 Wage Step Increases – Any wage STEP increase shall become effective the first of the month coincident with or next following the employee's anniversary date of employment.

A.5 In the event an employee covered by this Agreement is on disciplinary status becomes otherwise eligible for a wage increase in accordance with Section A.1, such increase shall not be granted until the employee has been removed from such status by the Chief of Police or designee. There shall be no retroactive pay adjustment under such circumstance.

A.6 Wage Step Placement – The Union recognizes the Employer may find it necessary to hire individuals with current or prior law enforcement experience in the classification of Police Officer. Such lateral entry placement may be assigned to any step in the Police Officer Classification wage rate structure in Section A.1 at the sole discretion of the Chief of Police or designee.

Education Incentive Pay

A.7 Employees covered by this agreement with 45 college credits from an accredited institution shall receive one hundred and one half percent (101.5%) of the applicable wage rate in section A or as amended.

A.8 Employees covered by this Agreement with an Associate Arts or Science degree from an accredited institution shall receive one hundred three percent (103%) of the applicable wage rate in Section A or as amended.

A.9 Employees covered by this Agreement with an Associate Arts or Science degree in the Criminal Justice Behavioral Science(s), or Public Administration from an accredited institution shall receive one hundred four and one half percent (104.5%) of the applicable wage rate in Section A or as amended.

A.10 Employees covered by this Agreement with a Bachelor of Arts or Science degree in the Criminal Justice, Behavioral Science(s), or Public Administration from an accredited institution shall receive one hundred six percent (106%) of the applicable wage rate in Section A or as amended.

A.11 It is understood that the Education Pay in articles A.8, A.9 and A.10 shall only be awarded when an actual degree from an accredited college or university, as recognized by the U.S. Department of Education, is presented by the applicant for the applicable incentive increase.

A.12 Any employee who is currently receiving Education Incentive pay, as agreed to under a previous contract, who was assigned to an incentive pay rate based on an appeal to award them the greater rate of pay based on comparable training or a comparable life's experience, shall remain at that level of pay as outlined below in section A.11.1. There will be no loss of pay to those employees.

*1999-2002* *EDUCATION INCENTIVE PAY PLAN:*

A.12.1 45 COLLEGE CREDITS.....ADD $50.00/MO TO GRID
AA DEGREE.....ADD $100.00/MO TO GRID
LEAA/90 CREDITS.....ADD $150.00/MO TO GRID
BA/BALE/180 CREDITS.....ADD $200.00/MO TO GRID

A.13 Longevity will be paid to employees as follows based on base wage:
Fifteen (15) years.....One percent (1%)
Twenty-plus (20+) years.....Two percent (2%)
Longevity percentages are not compounded.

A.14 2010 Retroactive checks will be issued fifteen days after signing of the contract.