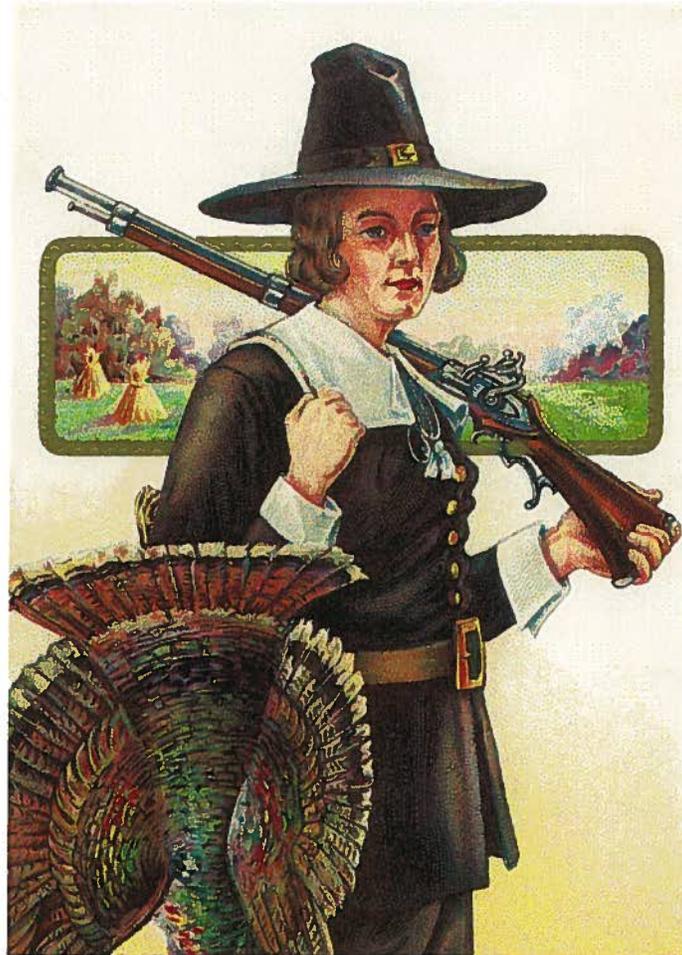


City of Oak Harbor City Council Meeting Agenda for

November 15, 2011
6:00 p.m.



Happy Thanksgiving Day!

Oak Harbor City Council
REGULAR MEETING
Tuesday, November 15, 2011, 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

ROLL CALL

MINUTES 11/1/11 Council Meeting

NON-ACTION COUNCIL ITEMS:

1. Employee Recognition – Officer Cedric Niiro, 20 Years of Service.
2. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

3. Consent Agenda:
 - a. Approval of Accounts Payable Vouchers (Pay Bills).

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4. RFP/RFQ – Professional Services Agreement with Special Benefit Analysis for Dillard's Addition.

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5. Tourism Promotion Agreement Amendment.

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6. Introduction – Property Tax Ordinance for 2012.

7. Executive Session

This language comes from the Open Public Meetings Act.

- a. Pending Litigation.

RCW 42.30.110(1)(i):

The city council will hold an executive session to discuss pending litigation with legal counsel representing the city because public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the city.

- b. Real Estate Site Selection or Acquisition.

RCW 42.30.(110)(1)(b):

The city council will hold an executive session to consider the selection of a site or the acquisition of real estate by lease or purchase since public knowledge regarding such consideration would cause a likelihood of increased price.

8. City Administrator's Comments.

9. Council Members' Comments.

- Standing Committee Reports

10. Mayor's Comments.

ADJOURN

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.

Don't judge each day by the harvest you reap but by the seeds that you plant.
~Robert Louis Stevenson

**City Council Meeting
Tuesday, November 1, 2011, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Mia Wallgren – First Church of Christ Scientist

ROLL CALL

Mayor Jim Slowik	Paul Schmidt, City Administrator
Seven Members of the Council,	Bill Hawkins, Assistant City Attorney
Rick AlMBERG	Doug Merriman, Finance Director
Jim Campbell	Steve Powers, Development Services Director
Scott Dudley	Cathy Rosen, Public Works Director
Beth Munns	Eric Johnston, City Engineer
Danny Paggao, Mayor Pro Tem	Larry Cort, Project Manager
Jim Palmer	Rick Wallace, Chief of Police
Bob Severns	Mark Soptich, Fire Chief
	Mike McIntyre, Senior Services Director
	Renée Recker, Executive Assistant to the Mayor

MINUTES

MOTION: Councilmember Munns moved to approve the 10/18/11 regular meeting minutes. The motion was seconded by Councilmember Campbell and carried unanimously.

NON-ACTION COUNCIL ITEMS

Recognition of Helen-Chatfield Weeks

Mayor Slowik presented a plaque recognizing Ms. Chatfield-Weeks as the City's official cheerleader. Mel Vance led a rousing hip-hip-hooray from everyone in the room.

Proclamation – United Way Month

Councilmember AlMBERG read and presented this proclamation to Bill Weinsheimer and Cathy NiIRO which recognized November 2011 as United Way Month and encouraged all residents to participate in "Live United." Mr. Weinsheimer thanked the Mayor and Council noting that Oak Harbor is a charitable community. United Way is a recipient of that generosity and provides support to people in need.

Public Comments

Paul Brewer, 225 NE Ernst, Oak Harbor. Mr. Brewer commended Chief of Police Rick Wallace, Oak Harbor Police Department detectives, and the Island County Sheriff's Office for their work regarding the purchase of gold, coins, etc., in light of recent burglaries. Mr. Brewer talked about HB 1716 which regulates secondhand dealers who deal with precious metal property.

Mel Vance, PO Box 2882, Oak Harbor. Mr. Vance talked about the first nationwide test of the emergency alert system which will take place on November 9, 2011 at 11:00 a.m. PST. The test will last three minutes.

With no other public comments coming forth, Mayor Slowik closed this portion of the meeting.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Excused Absence Request – Councilmember Beth Munns for the 11/15/11 Meeting
- B. Excused Absence Request – Councilmember Rick Almberg for the 11/15/11 Meeting
- C. Excused Absence Request – Councilmember Danny Paggao for the 12/6/11 Meeting
- D. Excused Absence Request – Councilmember Scott Dudley for the 12/6/11 Meeting
- E. Set Date – Public Hearing on OHMC Revisions – Low Impact Development
- F. Approval of Accounts Payable Vouchers

City Administrator Paul Schmidt suggested that Item E be removed to address the change in date for the public hearing.

MOTION: Councilmember Palmer moved to remove Consent Agenda Item E to change the Public Hearing date from November 15, 2011 to December 6, 2011, and approve as changed. The motion was seconded by Councilmember Munns and carried unanimously.

MOTION: Councilmember Palmer moved to approve Consent Agenda Items A, B, C, D, and F with Item F paying Accounts Payable check numbers 147764 – 147938 in the amount of \$305,607.20, Payroll Check numbers 95088 – 95116 in the amount of \$598,215.22, Payroll Check numbers 95117 – 95145 in the amount of \$45,817.55. The motion was seconded by Councilmember Campbell and carried unanimously.

Public Hearing – Mid-Biennium Budget Review

Finance Director Doug Merriman presented this agenda bill and ordinance to amend the 2011 – 2012 Biennial Budget. The Finance Department has completed their final review of the budgetary requirements for fiscal year 2011. The purpose of the review was to re-examine the current cost of operations, special projects, labor costs, projects needing expenditure authority carried over from 2010, and other City functions that may require a budget amendment due to changes that may have occurred since the 2011 – 2012 budget was originally projected in the fall of 2010. Mr. Merriman gave a PowerPoint presentation which explained the budget adjustment process and is attached to these minutes as Exhibit A. Mr. Merriman also talked about the descriptions of changes in fund balances as presented in the agenda bill attachments.

Mayor Slowik opened the public hearing at 6:20 p.m. but there were no public comments so it was closed.

Council Discussion

Discussion followed about the City's reserve amount and where it was represented on the budget amendment chart (General Fund line, 15% minimum reserve balance is set aside), the Arts Commission and art acquisition line, and compliments to Mr. Merriman on this clear presentation. Discussion continued about the Marina Fund, bond issue, and Marina redevelopment project, and how funds were structured noting that the estimates which included the bond issues needed to be changed. Discussion followed about taxes: the City did not raise taxes for the Marina redevelopment project or the Pioneer Way project. Discussion continued regarding the Pier Project (line 320), design work expenditure for the Flintstone Park upgrade, and the return of grant funds.

MOTION: Councilmember Munns moved to adopt the ordinance, the motion was seconded by Councilmember Campbell, and carried unanimously.

Amendment to the Collective Bargaining Agreement with Oak Harbor Firefighters Local 4505 IAFF

Fire Chief Mark Soptich presented this agenda bill and proposed amendment to the collective bargaining agreement between the City and Oak Harbor Firefighters Local 4505 IAFF for the time period January 1, 2011 through December 31, 2012. The collective bargaining agreement (CBA) contains a provision authorizing a cost of living adjustment (COLA) annually. For 2011, the Firefighters agreed to forego the COLA provided the issue would be "re-opened" for 2012. The City and the Firefighters conducted "re-opener" negotiations on the issue of compensation to be applied in 2012 and the Firefighters agreed to forego their COLA in 2012 as well as in 2011. The negotiation team was introduced and thanked.

Mayor Slowik called for public comments but there were none.

Council Discussion

Council thanked the Firefighters for foregoing the 2012 COLA, their consideration of the City's budget, their sensitivity to the community and those who are unemployed or under-employed, and for keeping all of us safe. At Councilmember Dudley's request, Mr. Merriman will get Mr. Dudley the dollar figure savings to the City. Final discussion concerned the OHFD's excellent response time at four minutes or less. Mayor Slowik also expressed his thanks to the Oak Harbor Fire Department.

MOTION: Councilmember Munns moved to authorize the Mayor to sign an amendment to the January 1, 2011 through December 31, 2012 collective bargaining agreement between the City of Oak Harbor and the Oak Harbor Firefighters Local 4505 IAFF, providing that the COLA provisions of the collective bargaining agreement be suspended for 2011 and 2012. The motion was seconded by Councilmember Palmer and carried unanimously.

Break

Mayor Slowik called for a break at 6:35 p.m. and the meeting reconvened at 6:40 p.m.

2012 Animal Services Agreement with Whidbey Animals' Improvement Foundation (WAIF)

Chief of Police Rick Wallace presented this agenda bill noting that Executive Director Stephen Paysee was also in attendance. The City of Oak Harbor and the WAIF Executive Director, on behalf of the WAIF Board of Directors, tentatively agreed to use the terms and conditions of the existing 2011 agreement for 2012. The current agreement expires December 31, 2011. This proposed contract would expire December 31, 2012. The City shall pay the contractor monthly payments of seven thousand and eighty-three dollars, and thirty-three cents (\$7,083.33) for services under the contract after the month for which the services are rendered. Additionally, the City shall pay \$30.00 per call-out for after hours (before 8:00 a.m. and after 5:00 p.m. or on holidays) for service requests deemed necessary by the Oak Harbor Police Department, upon proper billing by Contractor within 30 days of service. The City shall verify that the contractor has provided the services required under this agreement in a form acceptable to the City. The City of Oak Harbor and Whidbey Animals' Improvement Foundation originally came to the terms of the agreement in 2005 following a request for proposal and contract bidding process and it has been agreed to in one-year increments since then.

Mayor Slowik called for public comments but there were none.

Council Discussion

Council discussion followed about the yearly contract increments and if a longer agreement term had been discussed. Chief Wallace noted these factors: The existing shelter is scheduled to be closed 12/31/2012. Mayor Slowik has talked about this and other issues in ongoing discussions with the Navy, Forest City, and WAIF regarding where the shelter would be located (if located elsewhere), and if shelter services would still be contracted with the City. A yearly agreement increment could also allow for a call for bids. Council asked about the possibility of working with WAIF in reference to their new shelter if WAIF knows, long-term, what the City would be asking of WAIF. Council asked Chief Wallace about the number of animals processed each month (on average, 30 dogs and more cats) with Council noting that, even if it is 50 dogs, costs would be \$141 per animal. Chief Wallace added that the capacity and responsibility of housing from 1 to 150 animals in the shelter is not a per animal type of cost; there is

overall care and feeding as well. Council noted that the yearly cost is \$85,000 and a one-year agreement will allow for some efficiencies with WAIF. With discussion following about where animals are housed, it was noted that the flow of animals from Oak Harbor to the Coupeville facility is at a much greater rate than Coupeville to Oak Harbor (which is rare) since the Coupeville facility is larger. The status of the Navy's participation in sheltering animals has not yet been determined. Mayor Slowik added that discussion is ongoing. The Navy had wanted to terminate this service location but that has been suspended until another course of action can be found. Forest City and the Navy have also met without the City presence. A meeting has been set for November 18th between Mayor Slowik and Forest City and Mayor Slowik will report back to the Council after that date. Council asked about the \$30 call out fee; it has never been used. Mr. Paysee noted that that the City has not been charged for after-hour work. Council also asked about exotic animals (not allowed by OHMC and, beyond reptiles, would be handled by the Department of Fish and Wildlife).

MOTION: Councilmember Severns moved to approve and authorize the Mayor to sign the contract on behalf of the City of Oak Harbor. The motion was seconded by Councilmember Dudley and carried unanimously.

Mayor Slowik commended WAIF for their outstanding work. Mr. Paysee noted that WAIF will be going to a different recordkeeping system allowing a way to classify on the intake side, and also talked about Maddie's Fund and the Asilomar Standards. WAIF has been working toward this for the better part of a year and this will allow WAIF to partner with other organizations and apply for grant assistance toward the animals' care.

Public Works Trust Fund Loan Agreement – 42" Outfall Project

City Engineer Eric Johnston presented this agenda bill which recommended acceptance of a loan contract with the Washington State Public Works Board (PWB) in the amount of \$1,600,000 to finance the 42-Inch Outfall Reconstruction Project. The project to reconstruct the 42-inch outfall began on June 16, 2008 with Council approval of an engineering design services agreement with the firm of Moffatt and Nichol. A design for the replacement outfall has been developed and applications for environmental permits have been made. The current estimate of total project cost is \$1.9 million. In December 2010, staff from Northwest Archaeological Associates, Inc., a cultural resources management firm hired by the City, discovered archaeological resources on the 42-inch outfall project site as part of the site investigation. Archaeologists suggested that an extensive cultural resources survey of Windjammer Park be completed. The survey is warranted as there are a number of scheduled projects and maintenance activities within Windjammer Park which could potentially impact cultural resources (i.e. 42-inch outfall, smokehouse replacement, trail extensions, etc.). The survey results and recommendation of the archaeologists will provide a scoping framework and schedule for projects in and around Windjammer Park, particularly the project to reconstruct the 42-inch outfall. Council authorized submitting a Public Works Trust Fund Construction Loan application to the Public Works Board (PWB) for this loan on May 4, 2010. The 42-Inch Outfall Reconstruction Project qualified for funding and the PWB is offering a loan

contract for the purpose of financing the project. The loan contract is in the amount of \$1,600,000, the term is 20 years, and the interest rate is 0.5%. A 20% match of \$307,437 is required to obtain the 0.5% interest rate. By comparison, an "A" rated Municipal 20-Year Bond would have an approximate 5.0% interest rate. The signed loan contract must be returned to the PWB by November 18, 2011 to accept the offer. The required matching funds as well as the repayment of the loan (both principal and interest) will come from Storm Water Utility Funds.

Mayor Slowik called for public comments.

Larry Eaton, 429 SW Dyer, Oak Harbor. Mr. Eaton asked about the outfall location in Windjammer Park, and runoff to streets. Will runoff water be treated and how far out in the bay will the outfall extend?

Mayor Slowik responded that the water will not be treated but the outfall will extend into the tideland.

Council Discussion

Discussion followed about the dire need for this outfall's reconstruction, and the opportunity to obtain a PWTF loan. City Engineer Johnston noted that this project ranked high on the statewide list and the outfall needs to be repaired. Mr. Johnston talked about separating storm water from waste water which is not a preferred option from an engineering standpoint. Council asked about adding a filter system at a later date (it would be costly) and that preferred treatment is at the source using education on how to eliminate pollutants at the source rather than an end-of-pipe solution. Maribeth Crandell is the City's environmental educator. The pollution of most concern is fecal and pet waste; pet waste needs to be put in the trash rather than washed into the bay. Council asked about the archaeological timeline (there are a number of projects in Windjammer Park) and how long the \$1.6 million can be held (there is time for this project). Discussion continued about the length of the outfall (300 to 400 feet to keep a new outfall submerged), the archaeological survey for Windjammer Park and other area projects, and that archaeological issues are still being worked through at this point. For this outfall, there are two different approaches – removing and replacing, or a retrofit. Discussion followed regarding the fund and the City's match and that the loan is drawn on, as needed; the City is not required to take the full amount of the loan and only draws the required funds for the project. Discussion continued about the contingency percentage 20% or 30% (Mr. Johnston would need to check a 30% contingency amount).

MOTION: Councilmember AlMBERG moved to authorize the Mayor to sign the loan contract with the Washington State Public Works Board in the amount of \$1,600,000. The motion was seconded by Councilmember Munns.

Continued Discussion

Councilmember Dudley asked about the archaeological costs (not currently shown) and Mr. Johnston noted that an \$11,000 line item for historical review would probably increase.

VOTE ON THE

MOTION: The motion carried unanimously.

SR-20 and SE Erie Street Culvert Design Contract Revisions

City Engineer Eric Johnston presented this agenda bill which requested approval for one change order to the C. Johnson Construction contract for cost increases attributable to differing site conditions encountered during the SR-20 and SW Erie Street Culvert Project. On August 3, 2011, the City Council awarded a contract to C. Johnson Construction in the amount of \$31,738.00 for construction of the SR-20 and SW Erie Street Culvert Design Project and at the same meeting, authorization was granted for the City Engineer to administratively approve change orders thereby increasing the maximum contract amount up to an additional \$5,000. The purpose of the project was to divert flow from one storm drain system to another to reduce flooding at the intersection of SR-20 and SE Pioneer Way. The work has been completed in conformance with the contract documents. The total amount of the change order to the contract with C. Johnson Construction is \$8,722.47.

At the onset of construction, several difficulties arose that impacted the work performed by C. Johnson Construction. These included previous unknown utility conflicts, excessively difficult excavation conditions, and steel encasement around the existing storm drain structure. In particular, both gas and power lines in conflict with the improvements were not located by the respective utility companies during the design survey. Consequently, the utility lines were not shown on the contract drawings. In order to avoid damage to the gas and power lines, the work by the contractor took longer than anticipated. There were also impacts to the City's contractor's schedule resulting from a change in the paving schedule work on SR-20. These changes required a different approach to the work. As defined in the contract documents, these types of issues are referred to as differing site conditions. The contractor is entitled to additional compensation for differing site conditions when the change conditions materially differ and cause an increase in the cost or time required to complete any work under the project. If the Engineer investigates and determines that differing site conditions are present, then compensation to the contractor will be made. After following the required notifications and completing the work, the contractor submitted a request for an additional \$8,722.47 for costs of the impacts related to differing site conditions. Staff reviewed the request, negotiated with the contractor on the amount, and completed an independent estimate of the impacts. Staff analysis found that the contractor is entitled to additional compensation for differing site conditions. As the amount requested exceeds the administrative authority, Council approval of the change order is required.

Mayor Slowik called for public comments.

Larry Eaton, 429 SW Dyer, Oak Harbor. Mr. Eaton had an environmentally-related question: In diverting the water to the storm pipe – the 42-inch outfall pipe – the water now drains into Freund Marsh. What kind of toxicity would be added to Freund Marsh?
Paul Brewer, 225 NE Ernst, Oak Harbor. We have two projects, why don't we include treating of storm water at the same time. Oak Harbor Bay is extremely polluted. The City should ask for more funding for this and stop polluting the bay.

There were no other public comments.

Council Discussion

Council asked Mr. Johnston to address Mr. Eaton's question. Mr. Johnston replied that Freund Marsh is purposefully identified as an area for storm water flow diversion and provides a treatment for storm water flow. Currently, discharge runs to the 42-inch outfall and the outfall's degradation causes flooding and back up. There is a fecal problem. This project was designed to help address capacity issues and divert some of the storm water toward Freund Marsh and this can be connected without digging up SR-20 a second time and will provide pollution control through Freund Marsh. Discussion followed about the location of this project, discharge from the shopping area retention pond, development above the shopping area at Bayview Plaza, and mention that the existing grass swale and collection basin for storm water has allowed treatment on these sites for some time. Discussion continued about this contract revision simply representing an additional \$3,000 over the original contingency, and how underground utility locates are not an exact science.

MOTION: Councilmember Palmer moved to direct the City Engineer to execute Change Order No. 1 increasing the contract amount with C. Johnson Construction by \$8,722.47. The motion was seconded by Councilmember Munns and carried unanimously.

Contract Increase – Fakkema and Kingma Surveying, Pioneer Way

Pioneer Way Project Manager Larry Cort presented this agenda bill requesting approval of Amendment No. 1 to the construction surveying agreement for the Pioneer Way Reconstruction Project with Fakkema and Kingma, a Harmsen Company, as approved by the City Council on February 14, 2011. Amendment No. 1 would raise the maximum amount payable from \$103,177.84 to \$130,807.72, or an increase of \$27,629.88. Construction-related surveying by a licensed professional surveyor has been an essential component of the Pioneer Way Reconstruction Project. The surveyor provides services such as staking lines and grades, replacing property corners, setting survey monuments and determining quantities for contractor payments. The City Council, on February 14, 2011, approved a contract with Fakkema and Kingma, a Harmsen Company, for \$94,177.84 with a \$9,000.00 management reserve for a maximum amount payable of \$103,177.84.

Extra Work

Over the course of the contract, the contractor has been asked by the City to perform extra work outside the original scope of the agreement. These requests are summarized as follows:

1. Storefront Elevations – The contractor was asked to survey a number of storefront thresholds to insure that final grades on the sidewalk would match the thresholds and slope away from buildings.
2. Power Easements and Art Locations – The contractor was asked to survey the final locations for the approved artwork and a new easement to bring power and communication services to a new pole at the rear of 721 and 749 SE Pioneer Way.
3. Stairway Topo and Mapping – The contractor was asked to survey the stairs at Serendipity Lane for possible replacement.
4. Dock, Hathaway and Ireland Revisions – The contractor was asked to survey minor changes at these three intersections to avoid conflicts between underground utilities.

Such requests are governed by Section 13 of the Contract General Requirements. Specifically, Subsection B provides for the City to make an equitable adjustment in the maximum amount payable. These adjustments are itemized on Exhibit D-1 to draft Amendment No. 1. As seen in the accompanying table, the total cost of the extra work from these items is \$7,900.56 which will come out of the management reserve already approved by City Council

Re-Staking

In discussing this request with Fakkema and Kingma, they have asserted that the amount of re-staking performed for the Pioneer Way project is in excess of the amount they anticipated in the original scope of work. There is no doubt that Fakkema and Kingma performed the necessary re-staking work for which they are seeking compensation. Likewise, there is no doubt that the work was essential for moving the project forward in a timely manner. Staff and KBA are investigating whether or not some or all of the costs associated with the re-staking work (\$8,468.90) may be the responsibility of the general contractor. Regardless of where this investigation leads, Fakkema and Kingma have a contract with the City of Oak Harbor, they performed work within their scope of work under that contract, and they are therefore seeking to be paid for that work. Fakkema and Kingma have no contract with Strider Construction. Staff recommended that under the terms of the contract, the City should pay Fakkema and Kingma for the additional re-staking work, knowing that the City may decide to pursue direct or in-kind reimbursement from Strider at a later date.

Category	Description	Cost	Percentage of Total Cost Excluding Management & Reimbursables	Attributable Cost
Extras	Storefront elevations	\$ 2,735.13	22%	\$ 7,900.56
	Power easements and art	\$ 360.12		
	Stairway topo	\$ 946.43		
	Dock Hathaway revisions	\$ 3,488.11		
	subtotal	\$ 7,529.79		
Re-staking	Re-staking	\$ 8,071.45	23%	\$ 8,468.90
	subtotal	\$ 8,071.45		
Archaeology	Ilwaco to Midway	\$ 8,809.55	55%	\$ 20,260.41
	Dock to Ireland	\$ 3,357.15		
	Ireland to Ilwaco	\$ 5,059.54		
	Grid elevations (permit)	\$ 2,083.34		
	subtotal	\$ 19,309.59		
N/A	Project management	\$ 1,119.05	N/A	N/A
	Reimbursables	\$ 600.00		
Total		\$ 36,629.88	100%	\$ 36,629.88¹

Archaeology

When the City received the order on June 23, 2011 from the Washington State Department of Archaeology and Historic Preservation to halt all further work on the Pioneer Way Project, Phase 2 was approximately 7 to 10 days away from installing sidewalks to be followed by paving immediately after. Consequently, there were a large number of survey stakes between Dock and Midway. As part of the City's and contractor's efforts to secure the site and make it as safe and accessible as possible for pedestrians during the shutdown, the City authorized the removal of all stakes that constituted a potential hazard. As noted in the scope of work (construction staking), the City is not responsible for any unauthorized removal or vandalism of construction staking. In this case, the removal of the staking during the shutdown was specifically authorized so the costs associated with post shut-down re-staking must be considered as extra work and therefore eligible for equitable adjustment in the maximum amount payable. In addition to the post-shutdown re-staking work, the City also requested Fakkema and Kingma to perform a survey of archaeological grid pins so that the

¹ Total is equal to \$9,000.00 original management reserve plus \$27,629.88 request for Amendment No. 1

archaeologists would know precisely how deep to dig to reach the proper depth to build the street between Ilwaco and Ireland. This information was critical in obtaining the permit allowing the work to proceed. This work constitutes extra work as defined by the contract and is therefore eligible for reimbursement. The total for all extra work associated with archaeology is \$20,260.41.

Mayor Slowik called for public comments.

Larry Eaton, 429 SW Dyer, Oak Harbor. When I was on Council, contracts would come with a stated amount and then back to Council for review. Why should the City be held responsible: two questions, who absorbs the slop in the contract and is there an amount that the City would not have gone to, a ceiling? And, why would the contractor want to give anything and say it is not my fault.

Paul Brewer, 225 NE Ernst, Oak Harbor. I am surprised that an extension could be out to 2012. Are we going to have another contract increase because of the area that is near the archaeological site by Oak Harbor Tavern or is this the end of it?

Sandi Peterson, 964 NW Longview Drive. Let's go ahead and pay this and negotiate later. If you pay me today, and then ask me to do something later, why would I do that? There has been a lot of "fast and loose" in this contract with my money as a taxpayer. We give away our power when we pay up front, hold some back.

Shane Hoffmire. I am withholding my address at the direction of a County Commissioner. At the ribbon cutting, you, Mayor said it would be finished in four weeks, and now it appears to be much longer and more money, what gives.

Mel Vance, P.O. Box 2882, Oak Harbor. There are a lot of "ands, ifs, maybes, and buts." Isn't there language in the contact with the contractor that calls out their responsibility, direct payment or work exchange; can we recover through that language if it is their responsibility?

Martha Yount, 364 NE Ronhaar, Oak Harbor. I can appreciate the hard work that everyone has done. You have to budget, re-adjust, and re-look at budgets. Thank you to those who have worked together to come to a resolution and completion of this project. Halloween brought people out and allowed the merchants association to work together. This successful event was good for the safety of our children. Thanks to all of you.

There were no other public comments.

Council Discussion

Council asked Dr. Cort to address Mr. Eaton's questions. Dr. Cort replied that, first, most every contract includes a contingency and management reserve to allow staff discrepancy as part of the project. We thought \$9,000 would be sufficient. But \$20,260 in costs were attributed to work required of the surveyor for the archaeological site itself and that was unanticipated. Likewise the extras, three were essential to moving ahead with the project. If Council does not want staff to work with the contractor, we could take that direction. Mr. Eaton's second question regarding a contract ceiling and what it would be; is there a ceiling? There is not a ceiling set by law, but at some point the contract amount would change the full scope of work and the

nature of the contract itself. At Council's request, Dr. Cort again described that portion of the survey addressing the archaeological grid pins. These elevations allow the archaeologists to precisely dig down only as much as needed. Discussion continued about the storefront elevations (before the street was laid) and the low grade tolerances on this project. Discussion followed about outlaying funds before work is completed with clarification by Dr. Cort that this survey work has been completed, has been done well, and the surveyor is now seeking compensation for that work. With regard to ADA requirements at the stairs, the sidewalk now matches the top stair grade to lessen a tripping hazard. Council expressed disappointment that the project may take longer, that change is part of a project this size, and that forecasting is difficult. Council remarks noted that Fakkema and Kingma is a highly-respected company and most of what is being requested is what we have asked them to do. Strider Construction has been more than patient and an outstanding company, as well. Council asked Mr. Johnston to describe the contractual relationships between the City, Fakkema and Kingma, Strider Construction, and stake control. Mr. Johnston noted that the City has separate contracts with each firm and there is no contractual relationship between Fakkema and Kingma and Strider Construction. Strider is obligated to build the project. Mr. Johnston also talked about the day-to-day relationships: \$8,468 relates to re-staking, Strider felt it was needed to get the project done which may be attributable to Strider and we are working through that now. Fakkema and Kingma completed this work. Our remedy, if attributable to Strider, would be through the change order process. Negotiations relate to many elements of a project and there is always a "give and take." Discussion continued about the destruction of control points, vertical/horizontal. If Strider destroys a control point, they would be responsible. If the public destroys a control point, Strider would not be responsible. Mr. Johnston noted that the contract with Fakkema and Kingma would hold them responsible for public destruction; there are different levels of responsibility. Mr. Johnston reiterated that, beyond the scope of the original contract, Fakkema and Kingma have also absorbed some costs, they have completed this work, and staff feels confident that the numbers are appropriate. Doug Slager, President of Fakkema and Kingma, also talked about these costs as they related to the needs of this project, the workings of a survey crew, and re-staking efficiencies. Dr. Cort also noted that Fakkema and Kingma will have to set monuments and complete as-builts after construction. Discussion returned to the relationship between the City, Fakkema and Kingma, KBA, payment is between the City and Fakkema and Kingma, further discussion about stake removal, the halt to construction, remobilization, and why the City would look to Strider for compensation if it was out of Strider's control. Was the staking for Strider's convenience or needed to complete the project. Mr. Johnston noted that the work needed to be done and the question is responsibility. Staff has not had the opportunity to discuss this with the contractor. Council still had questions as to why the City would return to Strider. The amended contract amount was discussed, along with the daily documentation process (daily inspection records) which will be reviewed to see if there is an obligation.

MOTION: Councilmember Palmer moved to authorize the Mayor to sign Contract Amendment No. 1 in a form acceptable to the City Attorney with Fakkema and Kingma increasing the maximum amount payable from \$103,177.84 to \$130,807.72. The motion was seconded by Councilmember AlMBERG.

Councilmember Dudley asked about a Pioneer Way Project Update this evening since Pioneer Way was being discussed.

VOTE ON THE

MOTION: The motion carried unanimously.

Dr. Cort gave an update on the Pioneer Way Project:

1. It is working out well that Strider Construction will suspend their work until after Thanksgiving to allow the archaeological work to be completed.
2. Property conversion work is going well for underground service. The first group must connect by 11/28/11; the two later groups by mid-January. There is great cooperation among all of the property owners.
3. Archaeological work is ongoing; work will wrap up on the south lane of Pioneer Way by end of this week.
4. City crew will lay down the geo-textile fabric in the excavated area which will provide material for the driving surface. Still looking at options for the northern portion.
5. Staff will be leaving the Pioneer Way office on 11/18/11 and computers will be disconnected. The last Tuesday coffee hour was this morning, but it will continue at Angelo's Caffé next week.
6. Dr. Cort paid high compliments to the Public Works crew who have been stellar in responding to requests. We are still inching forward without Strider being onsite every day.

City Administrator's Comments

City Administrator Paul Schmidt talked about the 11/3/11 Auditor's entrance meeting, and significant items (Property Tax Ordinance for 2012, Waste Water Treatment Facility Resolution) coming before Council that will need a special meeting with a suggested date of Monday, 11/28/11 for that meeting. With the exception of Councilmember Paggao, all other Council members can attend. Since the WWTP resolution had been tabled, a motion was needed to return it to Council.

MOTION: Councilmember Campbell moved to bring back the Waste Water Treatment Facility resolution at a Special Meeting on November 28, 2011, 6:00 p.m. The motion was seconded by Councilmember Severns.

Councilmember Paggao said he would provide a memo expressing his preferences regarding the WWTP and resolution.

VOTE ON THE

MOTION: The motion carried unanimously.

Council Members' Comments

Council Members gave their standing committee and board reports. Councilmember Paggao asked about the legality of Mr. Hoffmire not giving his address during public comments. Mr. Hawkins will research and inform Council potentially at the next meeting. Councilmember Campbell talked about the Veteran's Day Celebration on November 11, 2011, 11:00 a.m. – Noon, Oak Harbor High School Performing Arts Center. The theme is, "Remembering Pearl Harbor – 70 Years Later." Mr. Campbell also talked about the great work that Sherrye Wyatt, Marketing Director, Island County Tourism Board is doing. The Tourism Board's budget will increase, but the City's contribution is money well-spent. Councilmember Palmer asked about the tabled discussion from Council's last meeting regarding the Port of South Whidbey and economic development on the Seaplane Base. Mayor Slowik responded during his comments below. Mayor Slowik also said, at this point, that he is proud to have been a part of this City Council and moving decisions forward with this Council.

Councilmember Severns participated in the Carnation and Brightwater waste water treatment plant site visits; a great learning experience. Mr. Severns also talked about his and Rhonda Severns' invitation and visit to the Swinomish Tribal Headquarters in La Conner for a dance performance by the children (friendship, love, and healing dances) and dinner. It was a great evening and wonderful learning experience. Councilmember Munns talked about AWC and liquor revenue tax cuts which would affect cities' general funds if lost. Councilmember Almborg also talked about the waste water treatment plant site visits and invited the public to stay involved in public forums on the City's waste water treatment plant project; education is key. Councilmember Dudley asked about the executive session which had been listed on this evening's published summary agenda, but was not held this evening. City Administrator Schmidt replied that two items were intended for an executive session but one was not ready for this evening so the executive session was taken off the agenda. Mr. Dudley also asked about a date for the Auditor's exit meeting, (that date has not been set yet.). The entrance meeting has been posted as a special meeting on November 3, 2011. Mr. Dudley asked that the same be done for the exit meeting when that date is determined.

Mayor's Comments

Mayor Slowik commended the Halloween event on Pioneer Way - \$3,000 was provided by Island Thrift for candy, the downtown merchants put on a great safe trick or treating event and the churches held a terrific trunk or treat event. A wonderful community Halloween evening with an amazing turn-out. Chief of Police Wallace had also noted that it was a safe and quiet Halloween this year. Mayor Slowik talked about the liquor tax as mentioned earlier by Councilmember Munns and that Mike McCarty, AWC CEO, has asked for every mayor to sign a letter he is writing to the Governor expressing disappointment in budget reduction alternatives. Mayor Slowik also talked about Geoff Tapert's (Port of South Whidbey) suggestions and Mayor Slowik has since met with Port Commissioner Curt Gordon, Port Finance Director Ron Rhinehart, and has talked with

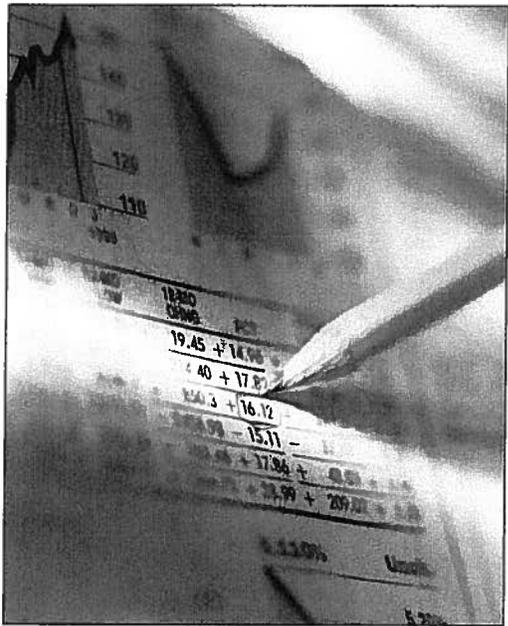
Nichols Brothers CEO, John Collins. Mr. Gordon would support a similar but different plan and Mayor Slowik asked Mr. Rhinehart to contact the Port's attorney about partnerships. Something of substance should be brought forward within the next few weeks. The City will also have another meeting on Friday morning with Swinomish representatives at the Swinomish Indian Tribal Community Headquarters.

ADJOURN

With no other business coming before the Council, the meeting adjourned at 9:00 p.m.

Connie T. Wheeler
City Clerk

Exhibit A



*City of Oak Harbor
Mid-Biennial Budget Amendment
November 1, 2011*



Mid-Biennial Budget Adjustment

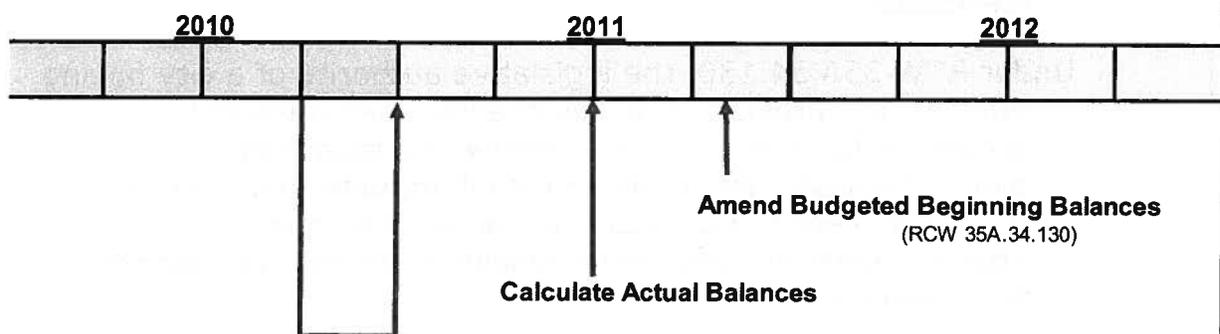
- **Authority**

Under RCW 35A.34.130, the legislative authority of a city having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium

- **Required Amendments:**

1. Adjust 2011 beginning fund balances to actual

Mid-Biennial Budget Adjustment



Estimate January 1, 2011 Balances in September

- 1) Estimates for January 1, 2011 use numbers from Fall of 2008
- 2) Prudent to recalculate ACTUAL balances when known.
- 3) Financial reports and decisions during 2011-2012 are based on actual resources.

Mid-Biennial Budget Adjustment

- **What things make large changes?**
 - Large capital project is delayed until the following year.
 - Proceeds from a loan or bond are not received until the following year.
 - A vacant position is not filled until the following year.
 - A change in policy or accounting regulation.
 - An unexpected revenue source (Award of a grant)
 - An unexpected expenditure (storm damages)

4

Mid-Biennial Budget Adjustment

- **Required action:**

- Hold a public hearing
- Pass Ordinance Amending the 2011 budget

Mid-Biennial Budget Adjustment

Questions ?

6

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

Bill No. 1

Date: November 15, 2011

Subject: Employee Recognition –
Officer Cedric Niiro

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

PURPOSE

To recognize City employees for 10 years of service or more.

AUTHORITY

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

FISCAL IMPACT DESCRIPTION

Funds Required: \$0.00
Appropriation Source: n/a

SUMMARY STATEMENT

The Mayor and City Council will recognize Officer Cedric Niiro of the Oak Harbor Police Department for 20 years of service with the City

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Congratulate Officer Niiro for his 20 years of service.

ATTACHMENTS

None.



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

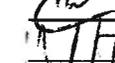
Bill No. 2

Date: NOVEMBER 15, 2011

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

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.



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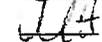
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**City of Oak Harbor
City Council Agenda Bill**

Bill No. 4
Date: November 15, 2011
Subject: Resolution- Special Benefit Analysis RFP

**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

PURPOSE

This agenda bill proposes adoption of a resolution directing staff to proceed with procurement of professional real estate appraisal services to conduct a special benefits analysis.

AUTHORITY

Oak Harbor Municipal Code states:

2.310.050 Professional service contracts.

Contracts for professional services, including contracts for legal and consulting services, are not subject to the bidding requirements of Chapters 2.310 through 2.390 OHMC. The mayor or his/her designee shall promulgate procedures and standards for the approval of such contracts. Contracts for architectural and engineering services shall be awarded in accordance with Chapter 2.350 OHMC and Chapter 39.80 RCW. For purposes of this section, "professional services" are those services involving skill, education and special knowledge and where the work is predominately mental and intellectual, rather than physical and mechanical. The mayor shall establish guidelines and procedures for obtaining professional services. Professional service contracts in excess of \$30,000 shall require approval by the city council. Contracts for professional services under \$30,000 shall be reviewed by the finance director or the city attorney prior to signing to assure compliance with the Oak Harbor biannual budget, provisions of Chapter 2.390 OHMC and purchasing policies promulgated by the mayor. (Ord. 1470 § 2, 2006).

FISCAL IMPACT DESCRIPTION

Funds Required: \$ 1,000

Appropriation Source: Sewer fund No. 40

SUMMARY STATEMENT

At the June 28, 2011 City Council meeting a motion was passed that the City proceed with the development of a preliminary special benefit report in phases:

- Phase 1: An RFQ to identify qualified firms
- Phase 2: A Request for Proposals for Council Consideration and award of Contract

In October of 2011, staff circulated for comment a combined draft request for proposals and qualifications allowing for solicitation of the necessary professional services. The attached draft Request for Proposals sets forth the minimum qualifications for firms interested in performing the work and requires submittal of a proposal to the City in which the qualifications of the respondent are described.

After the submittal date, the proposals and qualifications of the respondents will be reviewed and ranked by staff. If desired, the Council could direct that a committee comprised of staff, Council members and possibly community members be formed for the review and ranking of the proposals. Based on the rankings, the proposal best matching the needs of the City will then be presented to the City Council for consideration and award of a contract.

If so authorized, staff will publish the appropriate notices in the Whidbey News Times and Daily Journal of Commerce making the attached Request for Proposal open for response. The cost of publication of these types of notices is typically around \$1,000. The cost for the publication will be funded through the existing wastewater division budget.

The cost for the special benefits analysis is estimated to range between \$25,000 and \$35,000. Note that this cost is not included in the wastewater fund 2011-2012 budget and that a funds authorization will be required prior to award of a contract.

STANDING COMMITTEE REPORT

This item was presented to the Public Works and Utilities Standing Committee on October 6 and November 3, 2011 and to the Governmental Services Standing Committee on October 11 and November 8, 2011.

RECOMMENDED ACTION

Adopt Resolution 11-17.

ATTACHMENTS

Resolution 11-17.

Draft RFP.

RESOLUTION NO. 11-17

A **RESOLUTION** of the City of Oak Harbor, Washington, relating to the Wastewater Utility; authorizing issuance of a Request for Proposals for professional appraisal services

WHEREAS, the City of Oak Harbor City Council has considered on several occasions the possibility of forming a local improvement district (LID) to install gravity sewers to the area generally referred to as Dillard's Addition; and

WHEREAS, the Council desires to obtain information related to funding sewer improvements using the Local Improvements District method of assessments and that a special benefit analysis is the appropriate mechanism to do so; and

WHEREAS, based on input from legal counsel and the community an analysis of the special benefits is appropriate before initiating the LID formation process; and

WHEREAS, a special benefit analysis requires the use of a qualified professional real estate appraiser experienced with the formation of LID; and

WHEREAS, the City of Oak Harbor Municipal Code Section 2.360.030 requires where reasonably possible, the City to use a competitive solicitation process for purchase of services; and

WHEREAS, a draft of the request for proposals was circulated for public input and presented to Public Works and Utilities Standing Committee on October 6 and November 3, 2011 and presented to the Governmental Services Standing Committee on October 11 and November 8, 2011; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington that the staff is directed to issue a request for proposals to solicit professional real estate appraisal services for a special benefit analysis of the area generally referred to as the Dillard's Addition.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 15th day of November, 2011.

THE CITY OF OAK HARBOR

MAYOR

Attest:

City Clerk

Approved as to Form

City Attorney

The following information is provided for your information. It is not intended to be a substitute for professional advice. Please consult your attorney for more information.

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City of Oak Harbor Request for Proposals

Request for Proposals Information:		Submit Proposals to:	
RFP Number:	RFP # ENG 11-01	Physical Address:	City of Oak Harbor Attn: City Clerk 865 SE Barrington Dr. Oak Harbor, WA 98277
RFP Title	Special Benefit Analysis - Dillard's Sewers	Mailing Address:	City of Oak Harbor Attn: City Clerk 865 SE Barrington Dr. Oak Harbor, WA 98277
Date Issued:			
Contact Person:	Steve Bebee		
Email Address:	sbebee@oakharbor.org		
Proposals Due:	12/31/2011; 2:00 p.m.		

- **NOTICE:** Notice is hereby given that needed proposals will be received by the City of Oak Harbor, Washington, for **RFP # ENG 11-01 Dillard's Sewer LID Formation Special Benefit Analysis** by filing with the City at the above location.
- **PURPOSE:** The City is considering the formation of a Local Improvement District supporting the construction of a gravity sewer system. The purpose of this Request for Proposals is to obtain professional services from a qualified real estate appraiser to conduct a special benefit analysis for consideration in formation of a Local Improvement District supporting the construction of a gravity sewer system.
- **BACKGROUND:** The City of Oak Harbor provides municipal wastewater collection and treatment for approximately 22,000 people. With over 5,000 utility customers the wastewater collection system is comprised of a variety of types of sewer mains and municipal wastewater pumping stations. Connections to the City system consist of both conventional gravity connections and pumped connections

The area under consideration for the proposed LID is comprised of approximately 37 parcels, including single family residences and lots, undeveloped tracts, wetlands and City park/open spaces properties. Located at the south end of SW Beeksma drive and directly adjacent to Oak Harbor bay, the area requires some level of pumping to connect to the City of Oak Harbor wastewater system. The area has a publicly owned low pressure sewer main, installed in 2006, that is currently available for connection for 30 of the 37 lots. Some lots have privately owned and maintained grinder pump connections to the public force main however most remain on private septic systems.

At the request of property owners in the area, the City is exploring the creation of a Local Improvement District (LID) to replace the existing low pressure sewer system with a gravity sewer system and municipal pump station.

The City has retained the services of Gray & Osbourne for preliminary engineering design work and cost estimates related to the project. The City has also retained the services of Mr. Stephen DiJulio, Foster Pepper, PLLC for legal counsel on LID formation proceedings. The City has chosen to complete a special benefit analysis for the proposed LID prior to proceeding with the statutory requirements for formation of the LID. The City Council will review the results of the special benefits analysis prior to proceeding further with LID formation proceedings.

A formal determination of the LID boundary has not been made. And, a complete and formal description of the LID improvements has not been made. It is anticipated that the special benefits analysis will be relied on as the basis for the preliminary estimate of special benefits during the statutory formation process should the City elect to move forward with formation.

If an LID is formed, a second or supplemental study may be commissioned to determine the final assessment roll.

Additional information on the City's wastewater system and the proposed LID can be found in the documents at the web links below:

- [*\[insert link to Map of Area\]*](#)
- [*\[insert link to Table of Affected Parcels\]*](#)
- [*\[insert link to City of Oak Harbor Zoning Map\]*](#)
- [*\[Insert link to City of Oak Harbor Critical Areas Map\]*](#)
- [*\[insert link to Dillard's Addition Gravity Sewer Preliminary Cost Estimate\]*](#)
- [*\[Insert link to City of Oak Harbor Professional Services Agreement\]*](#)

• **ANTICIPATED SCOPE OF SERVICES:**

It is anticipated that the scope of services for the special benefit analysis would include at least the following tasks and categories of work:

Task 1- Project Management and Public Meetings

- The professional service provider shall at a minimum manage the project and all subcontractors in a manner to meet the project schedule(s);
- The professional service provider shall attend at least two City Council or other public meetings, present the findings of the analysis and respond to questions from the City Council;
- The professional service provider shall prepare, schedule, present, and coordinate at least two public meetings with property owners. The first meeting shall be at the start of the project. To explain the process and gather input from property owners. The second upon completion of the project and to present the results. These two meetings shall be in addition to any other contact with property owners normally made by the consultant in the course of completing a special benefit study;
- The professional service provider shall coordinate and meet with city staff on the project on a regular basis. It is assumed that two meetings with city staff in Oak Harbor will be required:

- 1) Provide continuing consultation through oral and written communication on all matters relating to the project; and
- 2) Provide monthly progress reports and detailed billings to the City. Unless the contract is awarded on a fixed fee basis, monthly billings are to detail hours expended by specific consultant personnel by task and subtask. Billing shall include a project s-curve comparing projected expenditures with actual expenditures.

Task 2- Analysis

- The professional service provider shall prepare a special benefit analysis consistent with state law and the Uniform Standards of Professional Appraisal practice for the subject area. Analysis shall be based on the highest and best use of each property. The analysis shall at minimum consider the following for each lot:
 - Value based of properties without further sewer improvements;
 - Change in value (special benefit) with public low pressure sewer system, but with privately owned grinder pump available for connection;
 - Change in value (special benefit) with connection to public low pressure sewer system with publicly owned and maintained grinder pump;
 - Change in value (special benefit) with gravity sewer system available for connection; and
 - The above analysis shall also be applied to compare the special benefit to each parcel of a gravity sewer system with the special benefit to each parcel of a low pressure sewer system (with both publicly owned grinder pumps and privately-owned grinder pumps).

Task 3 – Report

- The professional service provider shall prepare a written report summarizing the results of the analysis and a complete narrative report with summary conclusions. A table comparing the special benefits shall be included with the report as well as the analysis completed, comparisons used and assumptions made for each property. The report shall be prepared consistent with the Uniform Standards of Professional Appraisal Practice.

● QUALIFICATIONS:

The following minimum qualifications are required at the time of submittal:

- Experience working with municipal entities;
- Demonstrated experience with residential and multifamily residential real estate market;
- Demonstrated experience conducting at least 3 LID special benefit analyses with 25 or more parcels;
- Ability to meet required deadlines as demonstrated by prior project history; and
- MAI Certification.

• **RFP SCHEDULE:**

Event	Date
RFP Release	12/01/2011
Proposal Responses Due	12/31/2011
Anticipated Date for Council Consideration of Contract	02/21/2012

• **SUBMITTAL REQUIREMENTS:**

Responses to this RFP must include the following information:

- A cover letter/statement of interest indicating the vendor's interest in offering these services and highlighting its qualifications to perform this project;
- A description of vendor's experience in requested service areas, particularly appraisal of special benefits for Local Improvement Districts;
- A description of vendor's qualifications and how they meet the required minimum qualifications listed above;
- A description of all applicable fees and charges (i.e.: hourly rate and total costs)
- Resumes of key personnel who would be assigned to this contract;
- A statement to the effect that the City Professional Services Agreement is acceptable to the proposer or state exceptions taken;
- Proposed project schedule; and
- A minimum of three (3) references relating to the services being requested with full name, title, address, phone and email addresses or fax numbers. References shall include at least 1 professional consulting civil engineer, 1 attorney and 1 municipal representative who have worked with the Vendor's firm on LID formation proceedings.
- Submittals shall be delivered to the City Clerk in a sealed envelope clearly marked with: **RFP # ENG 11-01 Dillard's Addition Sewer LID Special Benefit Analysis**, by the deadline listed above.

• **EVALUATION CRITERIA:**

Evaluations of submittal packet will be based on the criteria listed below:

Required	Score
Cost proposal	20
Demonstrated experience with residential and multifamily real estate market;	10
Demonstrated experience with LID special benefit analyses with at least 25 affected properties;	25
Expertise and experience of key personnel;	25
Demonstrated ability to deliver required reports in a timely and cost effective manner; and	10
Response of references.	10
Max Possible Score	100

Written submittal will be reviewed and scored by City evaluation team (team has not been selected as of the date of publication). Upon completion of the written proposal ranking,

interviews (telephone or in person) may be held. The City reserves the right to have selection based written proposals alone or on a combination of written proposals, telephone interviews, and/or in-person interviews.

- **QUESTIONS:** Questions regarding this project shall be directed to the RFP coordinator via e-mail at sbebee@oakharbor.org. Unauthorized contact by any firm regarding this RFP with other City employees or representatives may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City. Any questions will be answered in writing and posted on the City's website at [\[insert link\]](#). It is the responsibility of individual firms to check the website for any amendments, revisions or answers to questions related to this RFP.
- **REJECTION OF PROPOSALS:** The City reserves the right to reject any and all Proposals and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the City to pay any costs incurred by respondents in the preparation and submission of their Proposals. Furthermore, the RFP does not obligate the City to accept or contract for any expressed or implied services.
- **CONTRACT AWARD:** The City reserves the right to make an award without further discussion of the submittals. The Vendor selected as the apparently successful Vendor will be expected to enter into a contract with the City. A sample City contract is provided on the City's website at [\[insert link to professional services contract\]](#). Please review this contract prior to submitting a statement of Proposals noting the requirement to submit a statement of affirmation of the contract form. Following consultant selection, the successful Vendor shall prepare a proposal and scope of work for review by the City. Once the City and Vendor have reached an agreement on the scope of services, a final contract will be prepared by the City. The foregoing should not be interpreted to prohibit either party from proposing additional contract terms and conditions during the negotiations of the final Contract. If the selected Vendor fails to sign the Contract within ten (10) business days of delivery of the final Contract, the City may elect to negotiate a Contract with the next-highest ranked Vendor. The City shall not be bound, or in any way obligated, until both parties have executed a Contract. No party may incur any chargeable costs prior to the execution of the final Contract. The City reserves the right to make no award; award multiple contracts to multiple Vendors for this scope of service; and, issue a new RFP for substantially similar services.
- **Non-Discrimination:** The successful Vendor or Vendors must comply with the City of Oak Harbor's equal opportunity requirements. The City of Oak Harbor is committed to a program of equal employment opportunity regardless of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability. It is the City of Oak Harbor's policy to assure that no person shall, on the grounds of race, color, national origin or sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities.
- **NON-COLLUSION:** Submittal and signature of a Proposal swears that the document is genuine and not a sham or collusive, and not made in the interest of any person not named, and that the Vendor has not induced or solicited others to submit a sham offer, or to refrain from proposing.

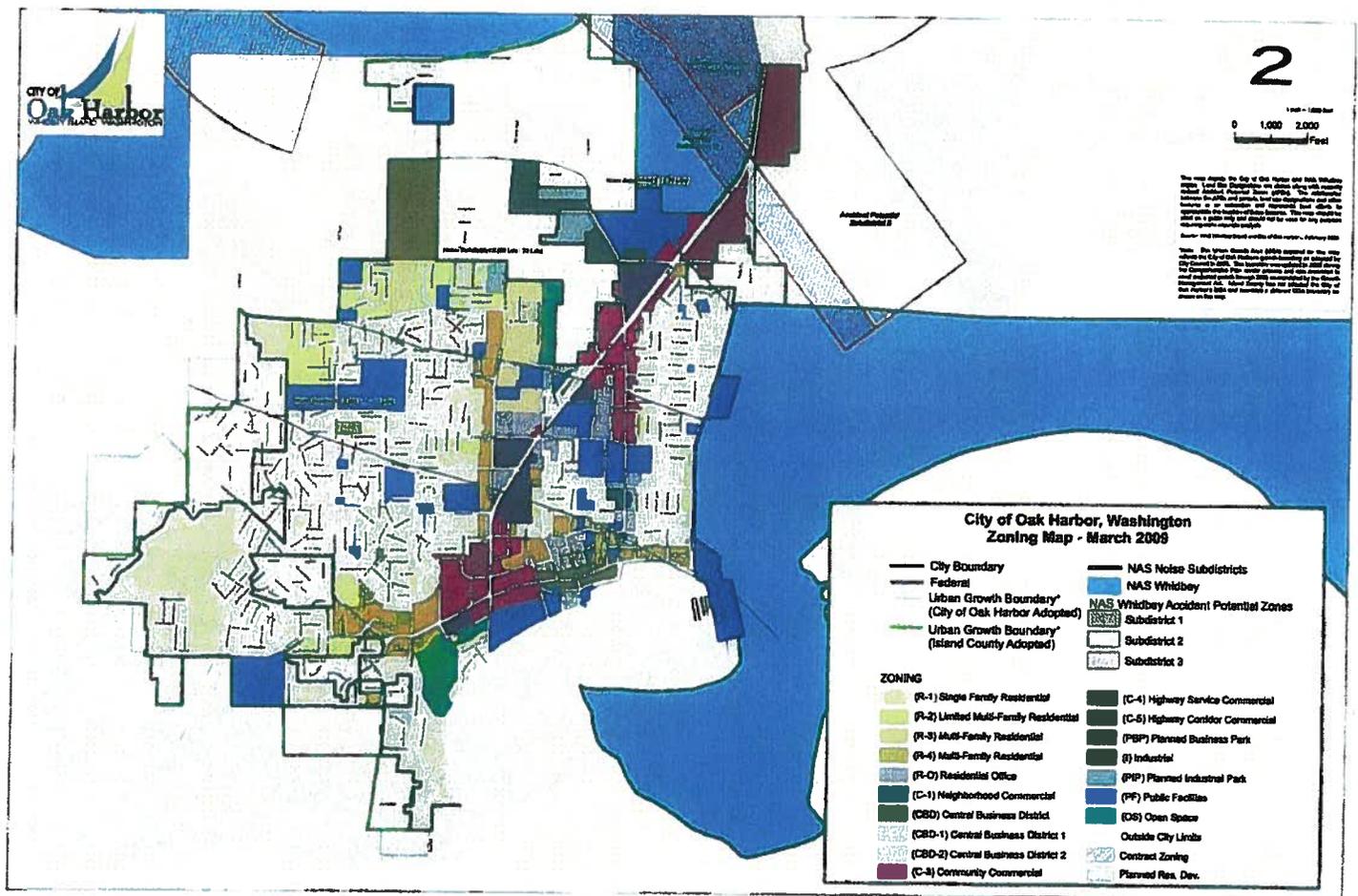
**DRAFT Request for Proposal
Special Benefits Analysis – Dillard’s Sewer**

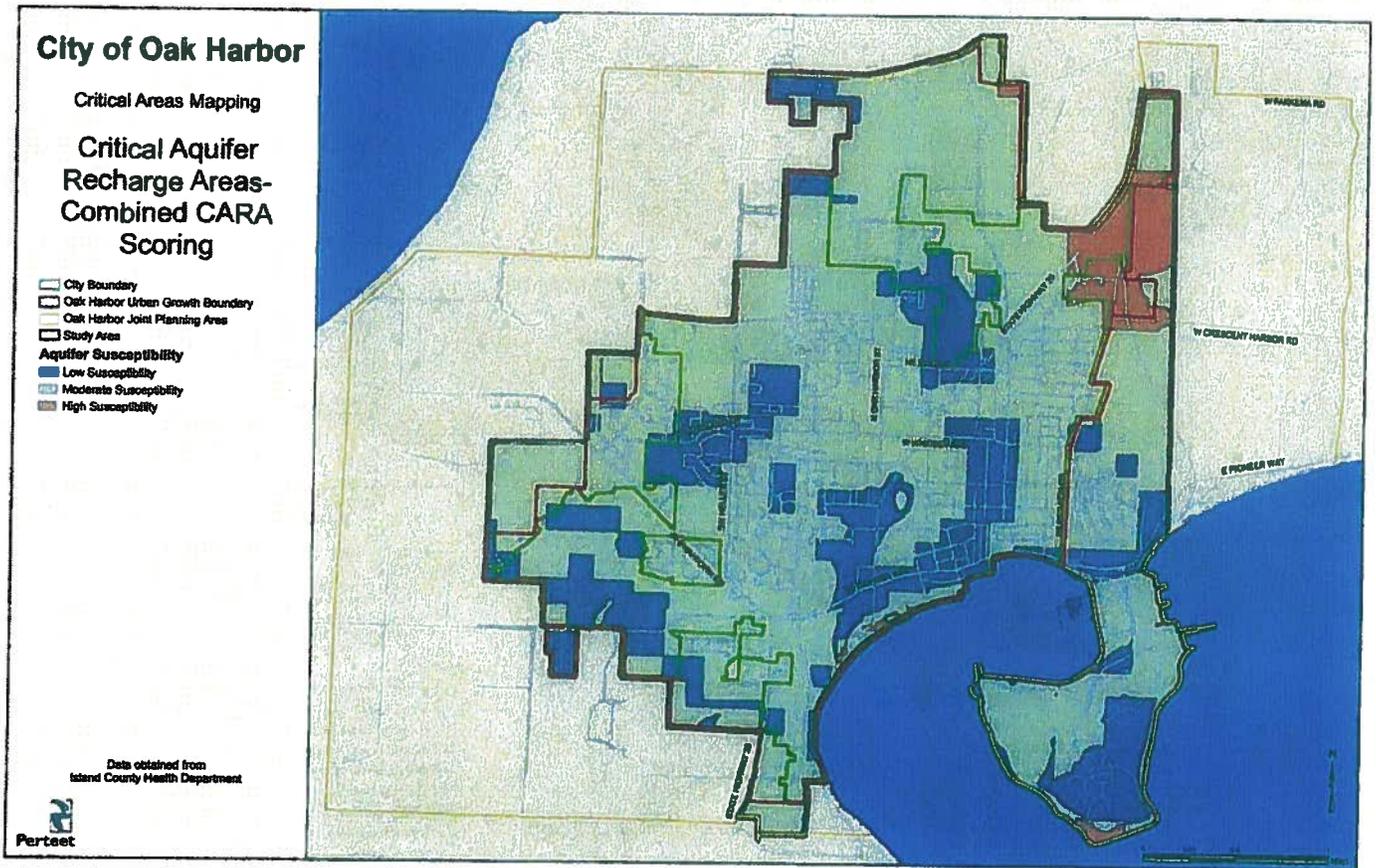
Attachments (will be listed as links in final RFP)

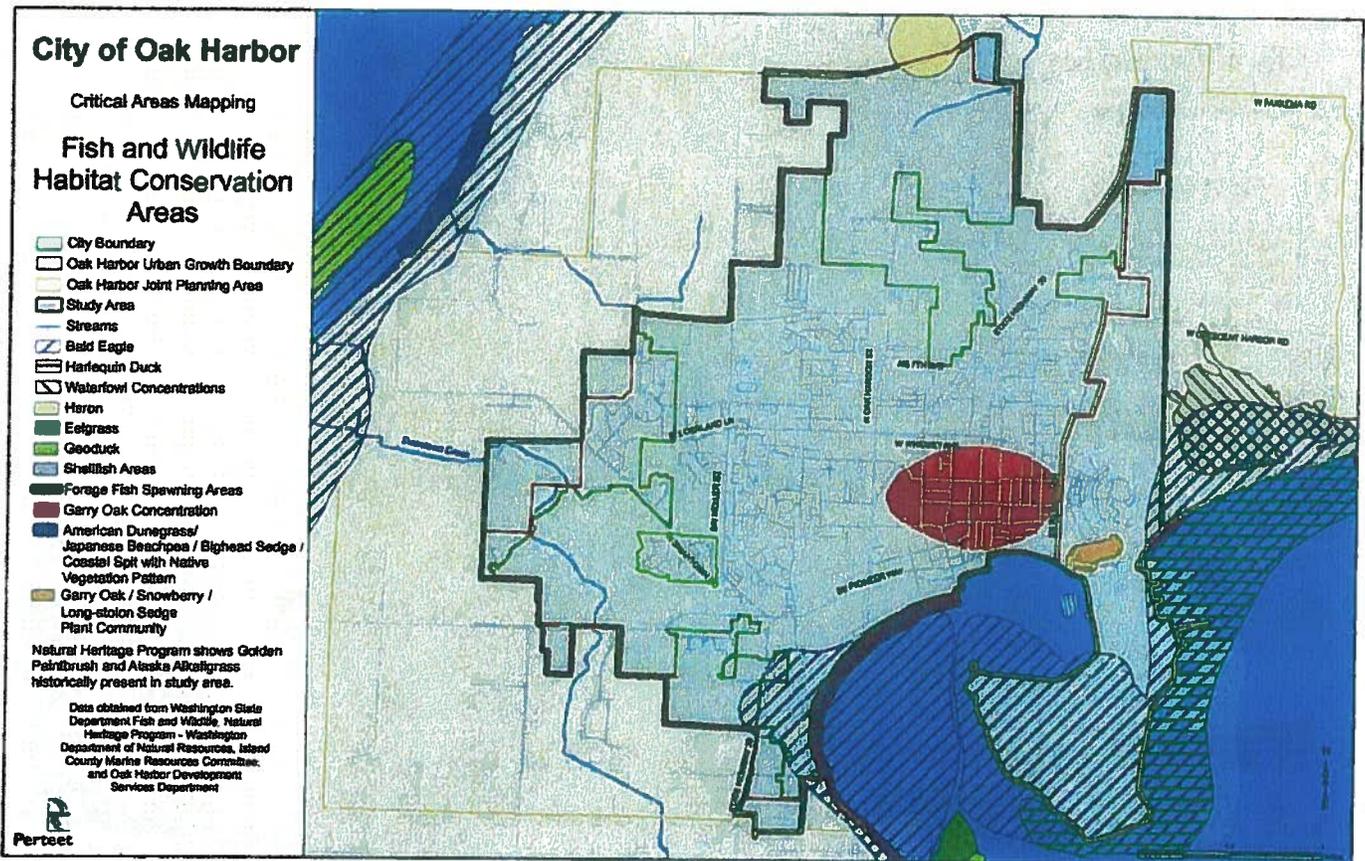
- A. Map of Area**
- B. Table of Affected Parcels**
- C. City of Oak Harbor Zoning Map**
- D. City of Oak Harbor Critical Areas Map**
- E. Dillard’s Addition Gravity Sewer Preliminary Cost Estimate**
- F. City of Oak Harbor Professional Services Agreement**

TABLE OF AFFECTED PARCELS				
	Address	Owner	Parcel No.	Account Number
1	Lot 2 OH-SP 2-97	City of Oak Harbor	R13210-472-4190	
2	Lot 4 OH-SP 2-97	Arnold Freund Trustee	R13210-430-4530	
3	Lot 1 OH-SP 04-00002	Arnold Freund Trustee	R13203-050-4580	
4	Lot 2 OH-SP 04-00002	City of Oak Harbor	R13203-069-5000	
5	Lot 3 OH-SP 04-00002	Arnold Freund Trustee	R13203-033-5100	
6	2151 SW Dillard Lane	Cynthia Brasseur	S6475-00-00001-0	
7	Driftwood Beach S15 of Lot 10	Cynthia Brasseur	S6500-00-00010-1	
8	2141 SW Dillard Lane	Orin G. Kolaitis	S6500-00-00010-2	
9	2121 SW Dillard Lane	Kathleen Steele	S6500-00-00012-0	
10	2101 SW Dillard Lane	Daniel Dillard	S6500-00-00013-0	
11	2093 SW Dillard Lane	David B Glass	S6500-00-00014-0	
12	2046 SW Beeksma Drive	David Cook	S6500-00-00015-0	
13	2075 SW Dillard Lane	Emma Young	S6475-00-00008-0	
14	2043 SW Dillard Lane	John and Kathy Laneville	S6475-00-00011-0	
15	2024 SW Beeksma Drive	Carl Gotcher	S6475-00-00012-0	
16	1974 SW Beeksma Drive	Donna Rollag	S6475-00-00013-0	
17	1946 SW Beeksma Drive	Peter Grubb	S6475-00-00015-0	
18	1928 SW Beeksma Drive	Anna Marie Haven	S6475-00-00016-0	
19	1884 SW Beeksma Drive	Emma Young	S6475-00-00017-0	
20	1858 SW Beeksma Drive	Florence E/Jerry L. Tolliver	S6475-00-00018-0	
21	1812 SW Beeksma Drive	Chris Skinner	S6475-00-00019-0	37-300000-03
22	1802 SW Beeksma Drive	Deborah Skinner	S6475-00-00008-0	37-301000-01
23	1950 SW Dillard Lane	Barbara Saugen	S6475-00-0000A-0	37-451000-00
24	1974 SW Dillard Lane	William P. Morgan	S6475-00-00022-0	37-450000-02
25	2000 SW Dillard Lane	George Moshier	S6475-00-00023-1	
26	2020 SW Dillard Lane	Granite Park Holding Co., LLC	S6475-00-00024-1	37-442000-02
27	2036 SW Dillard Lane	Granite Park Holding Co., LLC	S6475-00-00025-1	
28	2052 SW Dillard Lane	Dennis Faber	S6500-00-00009-0	
29	Driftwood Bch Lot 8	Alvin Peters	S6500-00-00008-0	
30	2094 SW Dillard Lane	Kenneth Manni	S6500-00-00007-0	
31	2116 SW Dillard Lane	Ira Stevens	S6500-00-00006-0	
32	2128 SW Dillard Lane	Henry/Marilyn Koetje	S6500-00-00005-0	37-990063-00
33	2150 SW Dillard Lane	Duane G Dillard	S6500-00-00013-0	
34	2164 SW Dillard Lane	Jan M. Boush/Marc Goetz	S6500-00-00003-0	
35	2188 SW Dillard Lane	Clark Donnell	S6500-00-00002-0	37-430010-00
36	Driftwood Bch Lot 1	Wiggins Trustee, Virginia L	S6500-00-00001-0	
37	Driftwood Beach Tract A	Driftwood Beach Community	S6500-00-0000A-0	

 = Properties Connected to Sewer







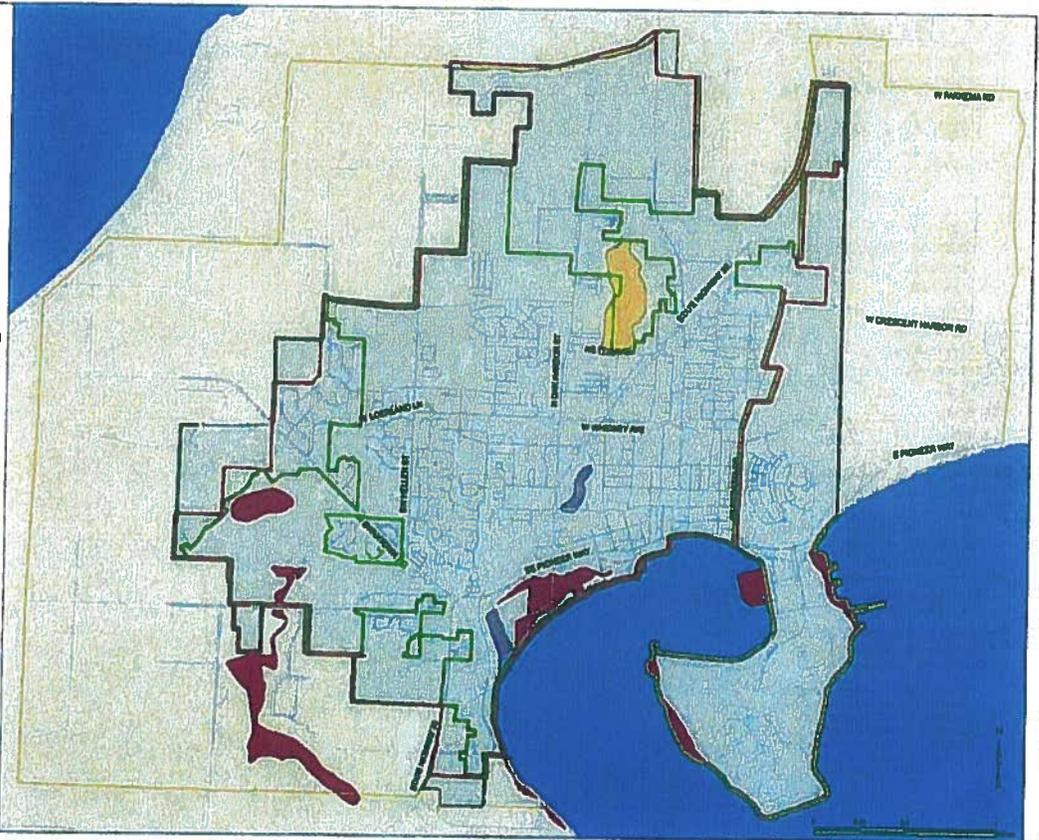
City of Oak Harbor

Critical Areas Mapping

Frequently Flooded Areas

-  City Boundary
-  Oak Harbor Urban Growth Boundary
-  Oak Harbor Joint Planning Area
-  Study Area
- FEMA Classifications**
- Special Flood Hazard Areas Inundated by 100-Year Flood**
-  Zone A: No Base Flood Elevations Determined
-  Zone AE: Base Flood Elevations Determined
- Other Flood Areas**
-  Zone X: Areas of 100-Year Flood with Average Depths of less than One Foot or with Drainage Areas less than One Square Mile

Flood Data obtained from the Federal Emergency Management Agency (FEMA) Countywide FIRM (Flood Insurance Rate Map), August 16, 1995 and from 1996 C3 digital file, 053029a.



City of Oak Harbor

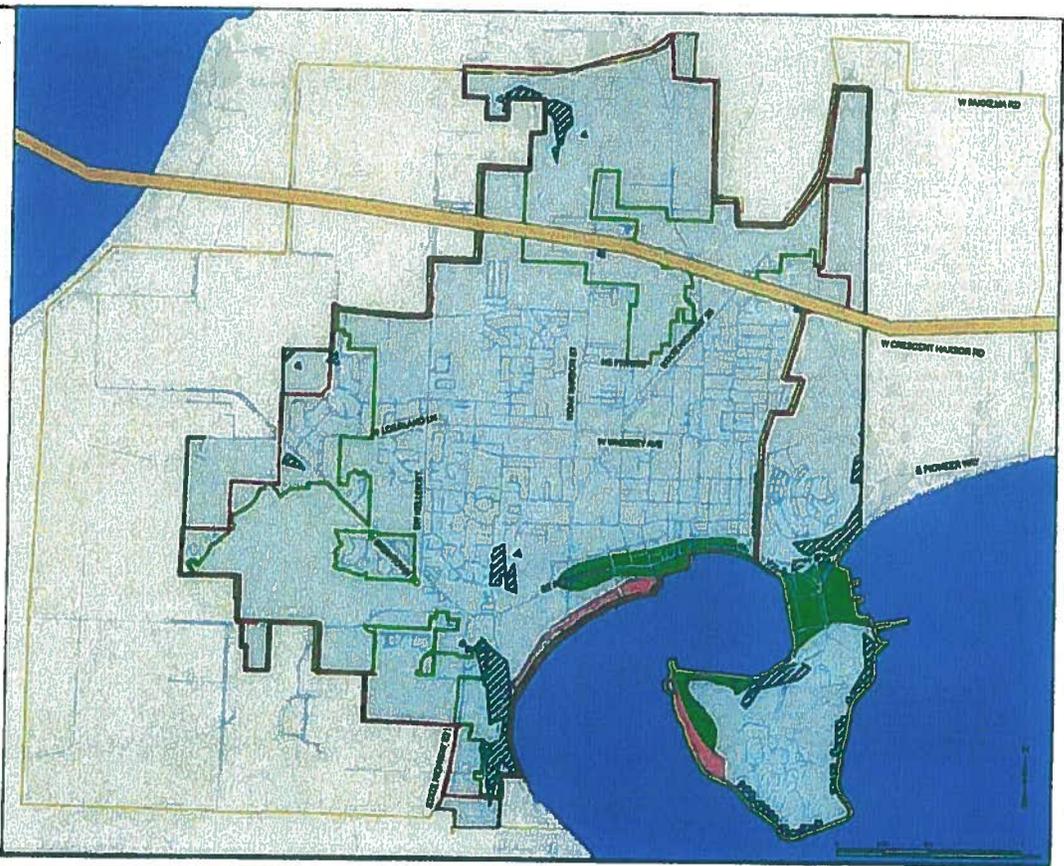
Critical Areas Mapping

Geologically Sensitive Areas

-  City Boundary
-  Oak Harbor Urban Growth Boundary
-  Oak Harbor Joint Planning Area
-  Study Area
-  North Whidbey Fault Approximate Location
- Potential Landslide Areas**
-  15% Slope or Greater*
- Potential Liquefaction Areas**
-  Moderate
-  High

* 15 - 39% slope with groundwater seepage requires geotechnical analysis.
40% slope or greater requires geotechnical analysis.

Data obtained from Washington State Department of Natural Resources, Island County Planning & Community Development, and Pacific Northwest Seismograph Network



ENGINEER'S PRELIMINARY ESTIMATE OF PROBABLE CONSTRUCTION COSTS
Dillard Sewer, June 17, 2010
City of Oak Harbor, WA

Sanitary Sewer System Improvements

NO	ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	Mobilization	1	/LS	\$72,111.60	\$72,111.60
2	Sawcut AC Paving	1	/LF	\$11,000.00	\$11,000.00
3	8" Sewer Main including trench dewatering	1950	/LF	\$70.00	\$136,500.00
4	4" Force Main	1000	/LF	\$25.00	\$25,000.00
5	48" Standard Manhole	11	/EA	\$2,600.00	\$28,600.00
6	Crushed Rock - Bedding	485	/TON	\$28.00	\$13,580.00
7	Trench Backfill (assume 100% new material)	4000	/TON	\$10.00	\$40,000.00
8	Traffic Control	1	/LS	\$10,000.00	\$10,000.00
9	AC Pavement Patch (3") including crushed rock base (4")	1000	/SY	\$32.00	\$32,000.00
10	Discharge Manhole connection to existing sewer system	1	/EA	\$3,000.00	\$3,000.00
11	6" Sewer Service Lateral including restoration	1350	/LF	\$75.00	\$101,250.00
12	Sewer Lift Station	1	/EA	\$150,000.00	\$150,000.00
13	Dewatering Allowance	1	/LS	\$50,000.00	\$50,000.00
SUBTOTAL FOR SEWER SYSTEM IMPROVEMENTS					\$673,041.60
Washington State Sales Tax (8.7%)					\$56,535.49
Construction Contingencies (10%)					\$67,304.16
Engineering, Administration, & Inspection					\$134,608.32
Permits and Fees (Allowance)					\$4,500.00
Total Engineer's Preliminary Estimate of Probable Construction Costs					\$935,989.57

- 1 preliminary design drawings dated January 23, 2006 prepared by R.O. Anderson Engineering
- 2 lift station now located at the west end of SW Beeksma Street in the city owned right of way
- 3 sales tax rate increased from 8.3% to 8.7%
- 4 reviewed unit bids for Scenic Heights and Goldie Road projects
- 5 mobilization, 12% of other bid items
- 6 force main increased from 3" to 4"
- 7 imported trench backfill assumption increased from 25% to 100%
- 8 lift station costs now include S&L wet well mounted pumps, block wall, gate, Bioxide odor control system, generator, transfer switch and dewatering
- 9 engineering, administration & inspection, 20%

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into in duplicate this ____ day of _____, 2008, by and between the CITY OF OAK HARBOR, a Washington municipal corporation, hereinafter referred to as the "CITY" and _____, hereinafter referred to as the "SERVICE PROVIDER".

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

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

1. Scope of Services.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in Exhibit "A" attached hereto and incorporated herein (the "Project").

2. Term.

The Project shall begin on _____, and shall be completed no later than _____, unless sooner terminated according to the provisions herein.

3. Compensation and Method of Payment.

- 3.1 Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.
- 3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.
- 3.3 The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement as follows: _____

4. Reports and Inspections.

- 4.1 The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.
- 4.2 The SERVICE PROVIDER shall at any time during normal business hours and as often as the CITY or State Auditor may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the SERVICE PROVIDER'S activities that relate, directly or indirectly, to this Agreement.

5. Independent Contractor Relationship.

- 5.1 The parties intend that an independent contractor relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.
- 5.2 In the performance of the services herein contemplated, the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. Service Provider Employees/agents.

The CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee(s), agent(s) or servant(s) from employment on this Project. The SERVICE PROVIDER may, however, employ that (those) individual(s) on other non-CITY related projects.

7. Hold Harmless/Indemnification.

- 7.1 SERVICE PROVIDER shall defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the SERVICE PROVIDER in performance of this Agreement, except for injuries and damages caused by the sole negligence of the CITY.
- 7.2 For purposes of this indemnification and hold harmless agreement, the SERVICE PROVIDER waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.
- 7.3 No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. Insurance.

The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, or employees.

- 8.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:
- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The CITY shall be named as an insured under the SERVICE PROVIDER'S Commercial General Liability insurance policy with respect to the work performed for the CITY.
 - c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - d. Professional Liability Insurance appropriate to the SERVICE PROVIDER'S profession.

- 8.2 **Minimum Amounts of Insurance.** SERVICE PROVIDER shall maintain the following insurance limits:
- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.
 - b. Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate.
 - c. Professional Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) policy aggregate limit.
- 8.3 **Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:
- a. The SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the SERVICE PROVIDER'S insurance and shall not contribute with it.
 - b. The SERVICE PROVIDER'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
- 8.4 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- 8.5 **Verification of Coverage.** SERVICE PROVIDER shall furnish the CITY with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the SERVICE PROVIDER before commencement of the work.

9. **Treatment of Assets.**

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement.

10. Compliance with Laws.

- 10.1 The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- 10.2 The SERVICE PROVIDER specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

11. Nondiscrimination.

- 11.1 The CITY is an equal opportunity employer.
- 11.2 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The SERVICE PROVIDER shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.
- 11.3 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.

11.4 If any assignment and/or subcontracting has been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. Assignment/subcontracting.

12.1 The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

12.3 Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. Changes.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. Maintenance and Inspection of Records.

14.1 The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

14.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. Other Provisions.

The following additional terms shall apply: It is agreed between the parties that pursuant to changes in state law necessitating that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement cannot be reached, the CITY may terminate this Agreement no sooner than sixty (60) days thereafter.

16. Termination.

16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by giving thirty (30) days' written notice to the SERVICE PROVIDER. Upon such termination for convenience, the CITY shall pay the SERVICE PROVIDER for all services provided under this Agreement through the date of termination.

16.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this Agreement through the date of termination.

17. Notice.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorneys Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. Jurisdiction and Venue.

19.1 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto

that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Island County, Washington.

20. Severability.

20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

21. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute a material breach of contract and be cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, WA 98277

SERVICE PROVIDER:

[Name and address]

Jim Slowik, Mayor

Attest:

Connie Wheeler, City Clerk

City of Oak Harbor City Council Agenda Bill

Bill No. 5
Date: November 15, 2011
Subject: Tourism Promotion Agreement
Amendment

FROM: Steve Powers *SP*
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill presents an amendment to the existing tourism promotion agreement between Island County, Oak Harbor, Langley and Coupeville.

AUTHORITY

Pursuant to RCW Chapter 39.34 the City Council is authorized to allow the Mayor to enter into cooperative agreements with other public agencies to jointly provide public services. Conversely, these agreements also allow the City Council to consider amendments to their provisions.

FISCAL IMPACT DESCRIPTION

The Island County Joint Tourism Agreement effort is funded with 2% hotel/motel tax proceeds. The draft amendments to the existing agreement do not propose to alter Oak Harbor's contribution level.

Funds Required: \$ n/a

Appropriation Source: n/a

SUMMARY STATEMENT

The original Island County Joint Tourism Agreement was executed by the City of Oak Harbor in September 2000, between Island County, the City of Langley and the Town of Coupeville. This agreement came on the heels of the above noted entities approving imposition of the additional 2% hotel/motel tax authorized by the State Legislature in 1998. This newly authorized amount allowed the County, Cities and Town to impose a total of 4% hotel/motel tax if they wished. The intent of the Joint Tourism Agreement was to impose the additional 2% and pool the funds for the dedicated purpose of a county wide tourism promotion agreement. The agreement, which is an interlocal agreement between the agencies, is sometimes referred to as the "Joint Administration Board Interlocal Agreement."

The agreement has been amended twice before. Amendment No. 1 revised sections of the agreement related to the pooled funds (Section II B) and the basic two-percent lodging tax (Section II D). Amendment No. 2 further revised these same two sections. Please see Attachment A for the original agreement plus the

City of Oak Harbor City Council Agenda Bill

two, approved amendments.

In the summer of 2010, the Island County Council of Governments formed a subcommittee to review the existing agreement and recommend any amendments thought necessary. The subcommittee was comprised of Commissioner Helen Price-Johnson, Mayor Nancy Conard and Steve Powers. Each member of the subcommittee consulted with their own agencies with respect to the effectiveness of the existing agreement and any changes thought necessary. Commissioner Price-Johnson also met with the JAB.

The proposed Amendment 3 (shown in legislative edit format in Attachment B) reflects the work of the subcommittee and revises the agreement in the following ways:

- Section II B: A one percent (1%) minimum allocation is expected from incorporated areas except for Oak Harbor, whose contribution remains at the level set in Amendment No. 2 (\$20,000 per year).
- Section III A: The makeup of the Joint Administration Board is expanded by one voting member and the Director of the Island County Economic Development Council is granted formal status as an ex officio, non-voting board member.
- Section III B: New language establishes that one of the elected officials will be selected as the Chair of the Joint Board.
- Section III D: The Executive Committee, which previously was formed through the Joint Board's by-laws, is formed through the Interlocal Agreement.
- Section IV: Adds administrative and multimedia services to those that will be contracted out by the Joint Board.
- Section V A: Adds certain intellectual property to the list of personal property.
- Section V C: Revises the term of the agreement to be for perpetuity unless terminated by the terms of Section V D.

Amendment 3 to the Interlocal Agreement was approved by the Council of Governments at its September meeting and signed by the Board of County Commissioners on October 3, 2011. Attachment C shows signed version of the amendment without the legislative edits.

STANDING COMMITTEE REPORT

This item was presented to the Governmental Services Standing Committee on November 8, 2011. The Committee had general questions about the scope of the agreement.

RECOMMENDED ACTION

Approve Amendment No. 3 to the Island County, Oak Harbor, Langley and Coupeville Interlocal Agreement (Tourism Promotion Agreement).

ATTACHMENTS

- Attachment A: Original agreement, Amendment No. 1 and Amendment No. 2
Attachment B: Amendment No. 3 (legislative edit)
Attachment C: Amendment No. 3 (as executed by Island County)

JAB
2nd
29.

ISLAND COUNTY, OAK HARBOR, LANGLEY AND COUPEVILLE TOURISM PROMOTION AGREEMENT

THIS AGREEMENT is made and entered into this 5 day of September, 2000, by and between Island County, a political subdivision of the State of Washington, hereinafter called the "County", the City of Oak Harbor, a municipal corporation of the State of Washington, hereinafter called "Oak Harbor", the City of Langley, a municipal corporation of the State of Washington, hereinafter called "Langley", and the Town of Coupeville, a municipal corporation of the State of Washington, hereinafter called "Coupeville",

I. RECITALS

- A. Pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, the parties hereto desire to enter into an agreement with one another for joint and cooperative action to promote tourism in the County, Oak Harbor, Langley and Coupeville.
- B. Pursuant to Chapter 35, Section 1, 1998 Laws of the State, the County, Oak Harbor, Langley and Coupeville are authorized to add an additional two-percent (2%) excise tax on lodging, over the basic two-percent (2%) lodging tax, to be used solely for tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities.
- C. A professional report prepared by Roger Brooks of Chandler & Brooks, Inc., August 3, 1998, recommended that the newly authorized two-percent (2%) lodging tax be implemented and that the funds generated be used to market overnight visitor tourism. The report indicated that these additional tax funds should be considered ^{economic} tourism development funds, investment money that should provide a return on investment by increasing overall tourism expenditures and increasing overnight stays in the properties that must collect the tax.
- D. The County, Oak Harbor, and Coupeville all have authority to add the additional two-percent (2%) excise tax on lodging to generate funds to promote tourism. Langley has already adopted an additional one-percent (1%) excise tax and has authority to add an additional one-percent (1%) excise tax on lodging to promote tourism.

II. GENERAL PROVISIONS

- A. Adoption of Additional Lodging Tax: By December 31, 1999, the County, Oak Harbor, Langley and Coupeville will hold public hearings to consider adoption of the newly authorized two-percent (2%) lodging tax authorized by 1998 Laws, Chapter 35, Section 1 (RCW 67.28.181). The remainder of the terms of this Agreement shall only be effective if all of the parties adopt

ordinances providing for the additional lodging tax at levels of one (1%) or two percent (2%) as each authority determines.

- B. Pooled Fund: Except for Langley, after adoption of the new two-percent (2%) lodging tax the revenues collected for all the parties, plus accrued interest from such tax revenues, shall be pooled in a fund held by the Island County Treasurer to be known as the "County-Cities/Town Tourism Fund." Because Langley has already committed a one-percent (1%) additional lodging tax for new public tourist restroom facilities, Langley will only contribute one-percent (1%) of the new lodging tax to the pooled fund.
- C. Sole Use of Pooled Fund: All funds including any interest earned thereon shall be held in the "County-Cities/Town Tourism Fund," and shall be used solely to market the County, Oak Harbor, Coupeville and Langley as a tourist destination to bring visitors for overnight stays. These additional tax funds should be considered ^{new} economic ^{to} tourism development funds, investment money that should provide a return on investment by increasing overall tourism expenditures and increasing overnight stays in the properties that must collect the tax.
- D. Basic Two-Percent Lodging Tax Not Covered: This Agreement does not cover the use of the basic two-percent (2%) lodging tax authorized by RCW 67.28.180 or the one-percent (1%) of the new lodging tax retained by Langley. The parties will continue to use those funds outside of the terms of this Agreement and any committee, board or other entity whose primary purpose is to promote economic development shall not be involved in any manner with the new fund referenced herein.

III. JOINT ADMINISTRATION BOARD

- A. Joint Board: A new Joint Administration Board is created to administer the terms of this Agreement. The composition of this Board is as follows:
1. Seven (7) representatives from the lodging industry appointed by the respective legislative authorities as follows: three from the Whidbey Island unincorporated area of the County with one (1) selected from the North Whidbey Island, one (1) selected from Central Whidbey Island, and one (1) selected from South Whidbey Island; one (1) from the Camano Island unincorporated area of the County; one (1) from Oak Harbor; one (1) from Coupeville and one (1) from Langley;
 2. Seven (7) representatives from tourism organizations, including chambers of commerce, appointed by the respective legislative authorities as follows: one (1) recommended by the Greater Oak

Harbor Chamber of Commerce and approved by the City of Oak Harbor, one (1) recommended by the Central Whidbey Chamber of Commerce and approved by the Town of Coupeville, one (1) recommended by the Langley Chamber of Commerce and approved by the City of Langley, one (1) recommended by the Freeland Chamber of Commerce and approved by the County of Island, one (1) recommended by the Clinton Chamber of Commerce and approved by the County of Island, and one (1) recommended by the Camano Island Chamber of Commerce and approved by the County of Island; and one (1) recommended and approved by the Board of Island County Commissioners, and

3. Four (4) elected officials of the parties, one appointed by each legislative authority.

B. Board Operation: The Joint Board shall comply with the Open Public Meetings Act, Chapter 42.30 RCW and all the other laws and regulations applicable to operation of the parties. The Board shall adopt Bylaws consistent with the terms of this Agreement and shall make decisions by majority vote of a quorum. A quorum shall consist of a majority of the Joint Board. One of the elected officials shall be selected by the Joint Board as the Chair of the Joint Board.

C. Criteria: The Joint Board, in considering expenditures from the "County-Cities/Town Tourism Fund," shall analyze the extent to which the proposed expenditure will increase tourism and the extent to which the proposal will affect the long-term stability of the fund.

IV. CONTRACTING OUT

To fulfill the purpose of this Agreement to promote overnight tourist visitors to the County, Oak Harbor, Coupeville and Langley, the Joint Board shall contract out, after seeking and obtaining proposals, professional tourism promotion services. The method of soliciting and contracting for services by the Joint Board must meet the procedural requirements applicable to each party. However, the organization that ultimately provides the professional services shall not have a conflict of interest, whether real or in appearance only, with any party to this Agreement. If adherence to this rule only results in applicants whose business residence is "off-island" that is acceptable. The intent of this section is that the organization contracted with shall not give any party and/or geographical area of the island an advantage or perceived advantage, over any other area and/or party.

V. MISCELLANEOUS PROVISIONS

- A. Real and Personal Property: No real or personal property shall be acquired by the parties to fulfill this Agreement, except for the contracted-out services specified above.
- B. Budget and Finance: The Joint Board shall only budget and authorize expenditure of funds in the "County-Cities/Town Tourism Fund." Expenditures from the fund shall be vouchered by the Joint Board for approval by the County legislative authority.
- C. Duration of Agreement: Section II(A). becomes effective upon signature by the authorized representatives of all parties. If the new two-percent (2%) lodging tax is adopted by all the parties, except Langley, and Langley adopts an additional one-percent (1%) of the new lodging tax, the remainder of this Agreement will be in effect in perpetuity unless earlier terminated pursuant to Section V(D) below.
- D. Early Termination: This Agreement may be terminated early by one or more parties giving written notice to the legislative authorities of the other parties at least one (1) year in advance of the effective early termination date.
- E. Amendments: The provisions of this Agreement may be amended by written agreement of all the parties.

ISLAND COUNTY

By: Wm Dowell Date: 9-11-00
Chairman
Board of County Commissioners

Attest:

Margaret Rosenkrantz
Clerk of the Board
BICC 00-579

CITY OF OAK HARBOR

By: Patricia Cohen Date: 9-15-00
Mayor

Attest:

Rosemary Harrison
City Clerk

CITY OF LANGLEY

By: [Signature] Date: 2/2/2000
Mayor

Attest:

Debbie L. Gabbler
City Clerk

TOWN OF COUPEVILLE

By: Darcy Conrad Date: 3/15/00
Mayor

Attest:

Annabelle Connor
Town Clerk



**AMENDMENT NO. 1
ISLAND COUNTY, OAK HARBOR, LANGLEY AND COUPEVILLE
TOURISM PROMOTION AGREEMENT**

THIS AGREEMENT AMENDMENT NO. 1 is made and entered into this 6th day of APRIL, 2005, by and between Island County, a political subdivision of the State of Washington, hereinafter called the "County," the City of Oak Harbor, a municipal corporation of the State of Washington, hereinafter called "Oak Harbor," the City of Langley, a municipal corporation of the State of Washington, hereinafter called "Langley," and the Town of Coupeville, a municipal corporation of the State of Washington, hereinafter called "Coupeville," to amend the original Island County, Oak Harbor, Langley and Coupeville Tourism Promotion Agreement entered into on September 5, 2000.

The following sections shall substitute for the sections of like number/letter of the original agreement.

II. GENERAL PROVISIONS

- B. Pooled fund. Except for Langley and Oak Harbor, after adoption of the new two-percent (2%) lodging tax the revenues collected for all the parties, plus accrued interest from such tax revenues, shall be pooled in a fund held by the Island County Treasurer to be known as the "County-Cities/Town Tourism Fund." Because Langley has already committed a one-percent (1%) additional lodging tax for new public tourist restroom facilities, Langley will only contribute one-percent of the new lodging tax to the pooled fund. Beginning January 1, 2005, Oak Harbor will only contribute one-percent of the new lodging tax to the pooled fund.**
- D. Basic two-percent lodging tax not covered. This agreement does not cover the use of the basic two-percent (2%) lodging tax authorized by RCW 67.28.180 or the one-percent (1%) of the new lodging tax retained by Langley and Oak Harbor. The parties will continue to use those funds outside of the terms of this Agreement and any committee, board or other entity whose primary purpose is to promote economic development shall not be involved in any manner with the new fund referenced herein.**



V. MISCELLANEOUS PROVISIONS

E. Amendment. The provisions of this agreement may be amended by written agreement of all the parties. A party that wishes to negotiate an amendment to the Agreement shall give notice of the proposed amendment at least six (6) months prior to the end of a calendar year to the Joint Board and the legislative authority of each party.

The following section is added to V. MISCELLANEOUS PROVISIONS:

F. Annual Review. The Joint Board shall make an annual review and report on the countywide tourism program funded by this Agreement and the Joint Board shall submit the annual review report to the legislative authority of each party to this Agreement by May 1st of each year.

All other terms of the original Agreement not amended above remain in full force and effect. This Amendment is effective January 1, 2005.

ISLAND COUNTY

Attest:

By: [Signature] Date: 4-25-05
Chairman
Board of County Commissioners

[Signature]
Clerk of the Board

CITY OF OAK HARBOR

Attest:

By: [Signature] Date: 4-16-05
Mayor

[Signature]
City Clerk

CITY OF LANGLEY

Attest:

By: [Signature] Date: 4-15-05
Mayor

[Signature]
City Clerk

TOWN OF COUPEVILLE

Attest:

By: [Signature] Date: 4/1/05
Mayor

[Signature]
Town Clerk

**AMENDMENT NO. 2
ISLAND COUNTY, OAK HARBOR, LANGLEY AND COUPEVILLE
TOURISM PROMOTION AGREEMENT**

The Island County, Oak Harbor, Langley and Coupeville Tourism Promotion Agreement entered between Island County, a political subdivision of the State of Washington, hereinafter called the "County"; the City of Oak Harbor, a municipal corporation of the State of Washington, hereinafter called "Oak Harbor"; the City of Langley, a municipal corporation of the State of Washington, hereinafter called "Langley"; and the Town of Coupeville, a municipal corporation of the State of Washington, hereinafter called "Coupeville", on September 5, 2000 and last amended effective January 1, 2005 ("the Agreement" hereafter) is hereby amended as follows:

Paragraphs B and D of Section II - General Provisions of the Agreement shall be revised to read as follows:

- B. Pooled fund. Except for those new lodging tax revenues generated by Langley and Oak Harbor, the revenues from the new two-percent (2%) lodging tax shall be pooled in a fund held by the Island County Treasurer to be known as the "County/Cities/Town Tourism Fund." Because Langley has already committed a one-percent (1%) additional lodging tax for new public tourism restroom facilities, Langley will only contribute one-percent of the new lodging tax to the pooled fund. Beginning January 1, 2010, Oak Harbor will not contribute a percentage of the new lodging tax revenues generated by Oak Harbor, but instead will contribute a total of Twenty Thousand Dollars (\$20,000) annually from the new lodging tax to the pooled fund.
- D. Basic two-percent lodging tax not covered. This Agreement does not cover the use of the basic two-percent (2%) lodging tax authorized by RCW 67.28.180 or the one-percent (1%) of the new lodging tax retained by Langley or any portion of the new lodging tax accruing to Oak Harbor over and above the Twenty Thousand Dollars (\$20,000) that Oak Harbor agrees to contribute annually. The parties will continue to use those non-covered lodging tax funds outside of the terms of this Agreement.

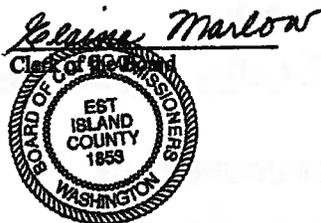
Other than the changes to Paragraphs B and D of Section II as set out above, the terms and conditions of the Agreement shall remain in full force and effect.

ISLAND COUNTY

Attest:

By John Dean
Chairman
Board of County Commissioners

Dated: 8/24/09



Amendment No. 2
Tourism Promotion Agreement
Page 1

ATTACHMENT A
Event Date: Mon, Aug 24, 2009 12:00:00 PDT 2009

CITY OF OAK HARBOR

By [Signature]
Mayor

Dated: JUNE 29, 2009

[Signature]
City Clerk

CITY OF LANGLEY

By [Signature]
Mayor

Dated: 9/1/09

[Signature]
City Clerk

TOWN OF COUPEVILLE

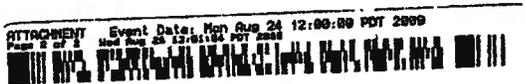
By [Signature]
Mayor

Dated: 8/25/09

[Signature]
Town Clerk

L:\GL\AI\WORK\CIV2009\Joint Tourism Interoctal Amendment 3.doc

Amendment No. 2
Tourism Promotion Agreement
Page 2



**AMENDMENT NO. 3
ISLAND COUNTY, OAK HARBOR, LANGLEY AND COUPEVILLE
INTERLOCAL AGREEMENT**

The Island County, Oak Harbor, Langley and Coupeville Tourism Promotion Agreement entered into between Island County, a political subdivision of the State of Washington (hereinafter referred to as the "County"), the City of Oak Harbor, a municipal corporation of the State of Washington (hereinafter referred to as "Oak Harbor"), the City of Langley, a municipal corporation of the State of Washington (hereinafter referred to as "Langley"), and the Town of Coupeville, a municipal corporation of the State of Washington (hereinafter referred to as "Coupeville") on September 5, 2000 and last amended by Amendment No. 1 effective January 1, 2005 and Amendment No. 2 effective August 24, 2009 (hereinafter referred to as "the Agreement") is hereby amended as follows:

Section II - General Provisions - Paragraph B shall be revised to read as follows:

B. Pooled Fund. Except for those new lodging tax revenues generated by Langley and Oak Harbor, the revenues from the new two-percent (2%) lodging tax shall be pooled in a fund held by the Island County Treasurer to be known as the "County/Cities/Town Tourism Fund." ~~Because Langley has already committed a one percent (1%) additional lodging tax for new public tourism restroom facilities, Langley will only contribute one percent (1%) of the new lodging tax to the pooled fund. Beginning January 1, 2010, Oak Harbor will not contribute a percentage of the new lodging tax revenues generated by Oak Harbor, but instead will contribute a total of Twenty Thousand Dollars (\$20,000) annually from the new lodging tax to the pooled fund. A~~ one percent (1%) minimum allocation is expected from incorporated areas, except as agreed upon through Amendment No. 2 to this agreement.

Section III - Joint Administration Board - shall be revised to read as follows:

A. Joint Board: A new Joint Administration Board is created to administer the terms of this Agreement. The composition of this Board is as follows:

1. Seven (7) representatives from the lodging industry appointed by the respective legislative authorities as follows: three (3) from the Whidbey Island unincorporated area of the County with one (1) selected from ~~the~~ North Whidbey Island, one (1) selected from Central Whidbey Island, and one (1) selected from South Whidbey Island; one (1) from ~~the~~ Camano Island; ~~unincorporated area of the County,~~ and one (1) from Oak Harbor, one (1) from Coupeville, and one (1) from Langley to represent the incorporated areas of the County;
2. Seven (7) representatives from tourism organizations, including chambers of commerce, appointed by the respective legislative authorities as follows: one (1) recommended by the Greater Oak Harbor Chamber of Commerce and approved by the City of Oak Harbor, one (1) recommended by the Central Whidbey Chamber of Commerce and approved by the Town of Coupeville, one (1) recommended by the Langley Chamber of Commerce and approved by the City of Langley, one (1) recommended by the Freeland Chamber of Commerce and

approved by the County of Island, one (1) recommended by the Clinton Chamber of Commerce and approved by the County of Island, and one (1) recommended by the Camano Island Chamber of Commerce and approved by the County of Island, and one (1) recommended and approved by the Board of Island County Commissioners; and

3. Four (4) elected officials of the parties, one appointed by each legislative authority; and

4. The Director of the Island County Economic Development Council shall serve in an ex-officio non-voting capacity.

B. Board Operation: The Joint Board shall comply with the Open Public Meetings Act, Chapter 42.30 RCW and all the other laws and regulations applicable to operation of the parties. The Board shall adopt Bylaws consistent with the terms of this Agreement and shall make decisions by majority vote of a quorum. A quorum shall consist of a majority of the Joint Board. One of the elected officials shall be selected by the Joint Board as the Chair for the Joint Board. ~~A Chair shall be elected annually from the membership of the Joint Board.~~ The Executive Committee as described in Section D below shall serve as a Management Team for the purpose of contract management between monthly meetings of the full Joint Board.

C. Criteria: The Joint Board, in considering expenditures from the "County-Cities/Town Tourism Fund," shall analyze the extent to which the proposed expenditure will increase tourism and the extent to which the proposal will affect the long-term stability of the fund.

D. Executive Committee: The Executive Committee shall consist of the officers of the Joint Board (Chair, Vice-Chair, Treasurer, and Secretary) for the purpose of contract management and will serve as the Management Team for the contractors as outlined in Section IV. The Executive Committee will consist of representatives from the four geographic areas except by special agreement of the JAB members from that area.

Section IV - Contracting Out - shall be revised to read as follows:

To fulfill the purpose of this Agreement to promote overnight tourist visitors to the County, Oak Harbor, Coupeville and Langley, the Joint Board shall contract out, after seeking and obtaining proposals, professional tourism promotion services, administrative services and multimedia services. The method of soliciting and contracting for services by the Joint Board must meet the procedural requirements applicable to each party. ~~However, the organization that ultimately provides the professional services shall not have a conflict of interest, whether real or in appearance only, with any party to this Agreement. If adherence to this rule only results in applicants whose business residence is "off island" that is acceptable.~~ The intent of this section is that the organization

contracted with shall not give any party and/or geographical area of the island an advantage or perceived advantage, over any other area and/or party.

Section V - Miscellaneous Provisions - Paragraphs A and C shall be revised to read as follows:

A. Real and Personal Property: No real or personal property shall be acquired by the parties to fulfill this Agreement, except for the contracted-out services specified above and the following described intellectual property:- By virtue of a Certificate of Registration through the United States Patent and Trademark Office, issued December 30, 2008, the Joint Board holds as personal property a Service Mark held in the name of "Island County (Washington Municipal Corporation), DBA Island County Joint Tourism Committee." The Service Mark is, "THE SHORTEST DISTANCE TO FAR AWAY." Additional property acquired by the parties includes brochures, shelving, and website content, film footage, video, photo and music licenses.

C. Duration of Agreement: ~~Section II(A) becomes effective upon signature by the authorized representatives of all parties. If the new two percent (2%) lodging tax is adopted by all the parties, except Langley, and Langley adopts an additional one percent (1%) of the new lodging tax, the remainder of this Agreement will be in effect in perpetuity unless earlier terminated pursuant to Section V(D) below.~~ The Agreement will be in effect in perpetuity unless earlier terminated pursuant to Section V(D) below.

Other than the changes as set out above, the terms and conditions of the Agreement shall remain in full force and effect.

ISLAND COUNTY

Attest:

Angie Homola, Chair
Board of County Commissioners

Dated: _____

Elaine Marlow
Clerk of the Board

CITY OF OAK HARBOR

Attest:

Jim Slowik, Mayor

Dated: _____

City Clerk

CITY OF LANGLEY

Attest:

Paul Samuelson, Mayor

Dated: _____

City Clerk

TOWN OF COUPEVILLE

Attest:

Nancy Conard, Mayor

Dated: _____

Town Clerk

**AMENDMENT NO. 3
ISLAND COUNTY, OAK HARBOR, LANGLEY AND COUPEVILLE
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2. Seven (7) representatives from tourism organizations, including chambers of commerce, appointed by the respective legislative authorities as follows: one (1) recommended by the Greater Oak Harbor Chamber of Commerce and approved by the City of Oak Harbor, one (1) recommended by the Central Whidbey Chamber of Commerce and approved by the Town of Coupeville, one (1) recommended by the Langley Chamber of Commerce and approved by the City of Langley, one (1) recommended by the Freeland Chamber of Commerce and approved by the County of Island, one (1) recommended by the Clinton Chamber of Commerce and approved by the County of Island, one (1) recommended by the Camano Island Chamber of Commerce and approved by the County of Island, and one (1) recommended and approved by the Board of Island County Commissioners; and

3. Four (4) elected officials of the parties, one appointed by each legislative authority; and

4. The Director of the Island County Economic Development Council shall serve in an ex-officio non-voting capacity.

B. Board Operation: The Joint Board shall comply with the Open Public Meetings Act, Chapter 42.30 RCW, and all the other laws and regulations applicable to operation of the parties. The Board shall adopt Bylaws consistent with the terms of this Agreement and shall make decisions by majority vote of a quorum. A quorum shall consist of a majority of the Joint Board. One of the elected officials shall be selected by the Joint Board as the Chair of the Joint Board. The Executive Committee as described in Section D below shall serve as a Management Team for the purpose of contract management between monthly meetings of the full Joint Board.

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Additional property acquired by the parties includes brochures, shelving, website content, film footage, video, photo and music licenses.

C. Duration of Agreement: The Agreement will be in effect in perpetuity unless earlier terminated pursuant to Section V(D) below.

Other than the changes as set out above, the terms and conditions of the Agreement shall remain in full force and effect.

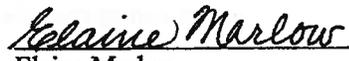
ISLAND COUNTY



Angie Homola, Chair
Board of County Commissioners



Attest:



Elaine Marlow
Clerk of the Board

CITY OF OAK HARBOR

Jim Slowik, Mayor

Dated: _____

Attest:

City Clerk

CITY OF LANGLEY

Paul Samuelson, Mayor

Dated: _____

Attest:

City Clerk

TOWN OF COUPEVILLE

Nancy Conard, Mayor

Dated: _____

Attest:

Town Clerk

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

Bill No. 6
Date: November 15, 2011
Subject: Property tax ordinance for 2012
Introduction.

FROM: **Doug Merriman**
Finance Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Margery Hite, City Attorney, as to form

PURPOSE

An ordinance to increase the 2012 City of Oak Harbor property tax levy by 1%.

AUTHORITY

RCW 84.55.010 provides that a taxing jurisdiction may levy taxes in an amount no more than the limit factor multiplied by the highest levy of the most recent three years plus additional amounts resulting from new construction and improvements to property, newly constructed wind turbines, and any increase in the value of state-assessed utility property.

RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable;

RCW 84.55.005(2)(c), provides the limit factor for the City of Oak Harbor, a taxing jurisdiction with a population of over 10,000, is the lesser of 101 percent or 100 percent plus inflation;

FISCAL IMPACT DESCRIPTION

Funds Required: \$ _____ O _____

Appropriation Source: Not Applicable

The revenue impact of the change in the 2012 property tax levy is \$37,499.98. This increase in the property tax levy is included in the second year of the City's adopted 2011-2012 biennial budget.

SUMMARY STATEMENT

This agenda bill presents the ordinance required to establish the property tax levy rate for the City of Oak Harbor for 2012. Under and RCW 84.55.005(1) and RCW 84.55.005(2)(c), the City may increase the collection of property tax revenues by the lower of 1% or the rate of inflation as set by the Implicit Price

City of Oak Harbor City Council Agenda Bill

Deflator (IPD) as published by the Bureau of Economic Analysis (BEA). The IPD measurement to be utilized for 2012 is 2.755%. Accordingly, the allowed levy adjustment for 2012 is 1%.

STANDING COMMITTEE REPORT

The Finance Standing Committee will review this item at their November 9, 2011 meeting.

RECOMMENDED ACTION

1. Agenda bill is to introduce the ordinance prior to the November 28, 2011 special meeting. No action is required at this time.

ATTACHMENTS

1. Draft Ordinance
2. IPD information (Source: MRSC)
3. Graph of historical inflation data.

ORDINANCE NO. _____

AN ORDINANCE TO INCREASE BY \$37,499.98 THE AMOUNT TO BE RAISED BY AD VALOREM TAXES FOR THE 2012 PROPERTY TAX LEVY WHICH REPRESENTS A 1% INCREASE OVER THE ACTUAL LEVY ASSESSED IN 2011.

WHEREAS, proper public notice of this ordinance and the related public hearing was given in the Whidbey News Times on November 12, 2011, and

WHEREAS, a public hearing was held November 28, 2011, to consider the City of Oak Harbor's Current Expense budget for the Year 2012; and

WHEREAS, RCW 84.55.010 provides that a taxing jurisdiction may levy taxes in an amount no more than the limit factor multiplied by the highest levy of the most recent three years plus additional amounts resulting from new construction and improvements to property, newly constructed wind turbines, any increase in the value of state-assessed utility property, and any annexations that have occurred and refunds made.

WHEREAS, under one provision of RCW 84.55.005(2)(c), the annual inflationary increase limit factor for the City of Oak Harbor, a taxing jurisdiction with a population of over 10,000, is the lesser of 101 percent or 100 percent plus inflation;

WHEREAS, RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable; Inflation as evidenced by the change in the for the twelve month period ending July 2011 as measured by the change in the implicit price deflator (IPD) is 2.755% (percent).

WHEREAS, the City Council of the City of Oak Harbor has met and considered its budget for the calendar year 2012, and after hearing and after duly considering all relevant evidence and testimony presented, has determined that the City of Oak Harbor requires an increase in property tax revenue from the previous year, in order to discharge the expected expenses and obligations of the City of Oak Harbor.

WHEREAS, the City of Oak Harbor's actual levy amount from the previous year was \$3,749,998.64.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do hereby ordain as follows:

Section One: An increase in the regular property tax levy is hereby authorized for the levy to be collected in 2012 tax year. The dollar amount of the increase over the actual levy amount of the previous year shall be \$37,499.98, which is an increase of one percent (1%) from the previous year. This increase is exclusive of any additional revenues resulting from under-utilized levy capacity, from new construction, improvements to property, newly constructed wind turbines, and from any increase in the value of state-assessed property, any annexations that have occurred and refunds made,. The total regular property taxes will be budgeted at \$4,082,568.00 for 2012.

Section Two: The City Clerk shall file a certified copy of this ordinance with the Island County Auditor.

Section Three: 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 Four: Effective Date. This ordinance shall take effect five days after publication as provided by law.

PASSED by the City Council this 28th day of November, 2011.

CITY OF OAK HARBOR

Approved	()	_____
Vetoed	()	Jim Slowik, Mayor

		Date

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

Source: Municipal Research Services Center (MRSC)

What is the maximum amount that a city or county may increase its property tax levy?

In taxing districts with a population of under 10,000, the legislative body may, by a simple majority, vote to increase its levy by a maximum of one percent of the highest levy of the past three years (note [WAC 458-19-065](#) says since 1986 and that is the date that the assessors use) plus the revenue resulting from new construction, increases in assessed value due to construction of electric generation wind turbine facilities classified as personal property, and improvements to property, and any increase in the assessed value of state-assessed property. If the taxing district has a population of 10,000 or more, it can only increase its levy by an amount equal to the increase in the [implicit price deflator \(IPD\)](#) from the prior July or one percent, whichever is less, plus new construction and state-assessed utility revenue. This can be done with a simple majority vote. [RCW 84.55.010](#).

Inflation Measures versus Property Tax Growth

(Bureau of Labor and Statistics)

