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City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is between the CITY OF OAK HARBOR, a Washington State municipal corporation, whose business address is 865 SE Barrington Drive, Oak Harbor, Washington 98277, herein referred to as "City", ISLAND COUNTY, a Washington State political subdivision whose business address is NE 6th & Main Street, Coupeville, Washington 98239, herein referred to as "County", and the ISLAND COUNTY DISTRICT COURT, whose business address is 800 SE 8th Avenue, Oak Harbor, Washington 98277, also referred to as "District Court".

WHEREAS, the Municipal Court of Oak Harbor operates as a department of the District Court pursuant to Chapter 3.46 RCW; and

WHEREAS, SSHB 2557 (Ch. 227, Laws of 2008) repeals Ch. 3.46 RCW but allows a city to continue to operate a municipal department in existence prior to July 1, 2008; and

WHEREAS, the City wishes to continue to operate a municipal department in existence prior to July 1, 2008; and

WHEREAS, the extension of the City's Municipal Court as a municipal department of the District Court for four years is in the best interest of both parties; and

WHEREAS, the parties agree that the City shall utilize a municipal department established pursuant to Ch. 3.46 RCW at the Island County District Court for the term of this Agreement; and

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WHEREAS, the parties desire to enter into an agreement wherein the City agrees to compensate the County for judicial and associated costs of operating its Municipal Court as a municipal department of District Court from January 1, 2011 through December 31, 2014 in lieu of establishing a physically separate municipal department, to allow both parties to take advantage of the efficiencies of a combined court; and

WHEREAS, the parties agree that they have fully negotiated the terms of a transfer should the City elect to form its own municipal court at the conclusion of the four-year term of the elected district court judge, December 31, 2014;

Now, therefore,

The parties agree as follows:

1. Term. The term of this Agreement shall begin January 1, 2011 and continue in effect until December 31, 2014. This Agreement replaces the latest agreement between the parties which was effective beginning January 1, 2009 and concluding December 31, 2010. The City elects to continue the operation of its Municipal Court as a municipal department pursuant to Section 11 of SSHB 2557 (Ch. 227, Laws of 2008) for the term of this Agreement.
2. Performance. The County agrees to continue to operate a municipal department of Island County District Court for the City pursuant to Ch. 3.46 RCW as written prior to the adoption of SSHB 2557 (Ch. 227, Laws of 2008). The municipal department of the District Court shall have jurisdiction over matters arising from violation of the City's ordinances, as provided in RCW 3.46.030, from January 1, 2011 through December 31, 2014. Fines, penalties, court costs and other fees imposed by the court shall be distributed by the City as provided by law.
3. Selection of District Court Judge as Judge of Municipal Department. The City, pursuant to RCW 3.46.060, selects the Honorable Peter H. Strow to serve as the part-time judge of the municipal department of the City of Oak Harbor in the Island County District Court for the term of this Agreement.
4. Compensation. The City agrees to pay the County twenty-two percent (22%) of the District Court annual judicial and associated costs every year for the four year term of this Agreement. This figure represents the percentage of filings in the District Court attributable to the City over the period 2007 – 2009 and is the parties' best estimate of the full and fair value of the cost of operating the Oak Harbor Municipal Court as a municipal department of the District Court for the calendar years 2011 through 2014.

Judicial and associated costs are defined as salaries and benefits for judges and all court employees including as needed extra help and operating expenses including supplies, small tools, professional services, communications, travel, advertising, utility services, repair and maintenance, library and printing. The City shall also pay a flat annual fee of \$17,200 (paid in quarterly installments) as its share of the overhead attributable to the operation of the District Court. The City will not reimburse the County for any costs of the District Court operating as a Municipal Court for any city other than Oak Harbor.

5. Payment. The City shall pay the County on a quarterly basis within thirty (30) days after approval of the County's written request for payment. Application for payment shall be made to the Oak Harbor Municipal Court Clerk, 800 SE 8th Avenue, Oak Harbor, Washington 98277.
6. In the event that the City elects to terminate this Agreement in accordance with RCW 3.46.150(1) and establish a municipal court pursuant to Ch. 3.50 RCW, the parties agree that the following transfer agreement shall become effective:

Transfer Agreement. In the event a future transfer of the Oak Harbor municipal department established pursuant to Ch. 3.46 RCW to the new Oak Harbor Municipal Court established pursuant to Ch. 3.50 RCW, the following transfer provisions shall apply:

- A. All criminal cases and traffic violations occurring in the City of Oak Harbor on or after the effective date of the establishment of the City's municipal court shall be filed in the Oak Harbor Municipal Court rather than in the former municipal department in Island County District Court.
- B. The judge of the municipal department of Island County District Court designated by the City as a municipal judge pursuant to RCW 3.46.020 shall determine whether any criminal cases pending before the municipal department at the time of the transfer must remain in the jurisdiction of the District Court for legal reasons. The municipal judge shall issue legal findings in each case for which jurisdiction in the District Court is retained. As to all other pending Oak Harbor municipal department criminal matters, jurisdiction shall be transferred to the new Oak Harbor Municipal Court.
- C. For each such case in which the municipal judge determines that jurisdiction must remain in the municipal department of the District Court, the City agrees to pay the County a fee of not less than Fifty Dollars (\$50.00). The amount of the fee shall be based upon the actual cost to the County of judicial and associated costs in adjudicating the criminal matter. Should actual costs to the

County exceed the Fifty Dollars (\$50.00) per case fee, the parties agree to negotiate in good faith for payment by the City of such actual costs. If the parties are unable to reach an agreement relating to these costs, the matter shall be referred to arbitration.

D. All traffic violations pending before the municipal department at the time of the transfer shall be transferred to the jurisdiction of the new Oak Harbor Municipal Court.

7. Notice. Any notice under this Agreement shall be in writing and either personally served or sent by certified mail, return receipt requested, to the following persons:

City of Oak Harbor: Mayor
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, Washington 98277

Island County: Board of County Commissioners
Island County Commissioners' Office
P O Box 5000
Coupeville, Washington 98239

Island County District Court: The Honorable Peter H. Strow
Island County District Court Presiding Judge
Island County District Court
800 SE 8th Avenue
Oak Harbor, Washington 98277

8. Municipal Department Schedule. The District Court currently schedules the bulk of the City's criminal matters to be heard weekly on Wednesdays. The District Court agrees to continue this practice or, as needed due to City caseload, to consolidate City calendars into as few days per week as is practicable. The District Court will also consider scheduling City matters in the evenings as "night court" at the request of the City Attorney.

9. Miscellaneous.

A. Non-waiver. No waiver by either party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.

B. Paragraph titles. The paragraph titles herein are inserted for convenience of references only and are not to be deemed part of or to be used in construing this agreement.

C. Modification. No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this agreement.

10. Indemnification. The personnel assigned to the Oak Harbor Municipal Court, as a municipal department of the District Court pursuant to Ch. 3.46 RCW, shall be considered the employees of the County.

Each party shall hold harmless, defend and indemnify the other party in any action involving the Oak Harbor Municipal Department activities arising from the first party's sole negligence, including payment of all attorney fees and costs.

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

In the event of negligence or other wrongful acts asserted against more than one party, which is resolved prior to the commencement of a lawsuit, then, should the parties involved in such claims fail to agree among themselves as to the apportionment of fault, then the parties involved agree to use binding arbitration for a determination of each party's fault, if any, as specified hereinafter (Section 11, Arbitration).

The parties hereby covenant to use their best efforts to maintain a united defense to any claims made against the Municipal Department of Island County District Court (City of Oak Harbor) and District Court (Island County) and to meet and negotiate in good faith as soon as practicable after notice of any claim or action for the purpose of determining how to proceed in such defense. The parties hereto shall select a spokesperson for all information to be released to the public and will determine which party shall provide any necessary legal defense. Reimbursement for costs of legal defense may be as agreed between the parties or may be determined at such time and by the forum which makes the determination of proportionate liability, if applicable.

11. Arbitration. Any dispute between the parties concerning the application of or violation of the express terms of this Agreement shall be resolved through arbitration. For purposes of arbitration, each party shall pick its own arbitrator and the two

arbitrators within ten (10) days shall pick a third arbitrator. If the two arbitrators do not agree within ten (10) days to pick a third arbitrator, either party may apply to the Superior Court of Island County to select a third arbitrator. A majority decision of the arbitrators shall be final and conclusive.

Except where expressly provided in this Agreement, the arbitration shall be governed by Ch. 7.04A RCW. The cost of arbitration shall be borne by each party paying for its own arbitrator and its attorney fees and costs. Should all parties participate in an arbitration, those parties' arbitrators shall meet and choose an arbitrator who shall join in deciding the matters in the dispute in the manner set forth above. The arbitrator will be compensated by the parties as follows:

Each Party shall pay one half the costs of all arbitration including the compensation for the third arbitrator. Each party shall pay the cost for the arbitrator it selects.

12. Records. The County shall keep true and auditable records to account for expenses charged the City under this Agreement. The City's authorized representative shall have the right to inspect, at reasonable times and in a reasonable manner, all pertinent County records and to make copies thereof.
13. Administration. No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
14. Real and Personal Property. All real and personal property used in the performance of this Agreement will be acquired, held, and disposed of by the County under its usual and ordinary procedures.
15. Annual Budget. The County agrees to advise the City during the City's yearly regular budget hearings on the proposed budget for District Court services in the coming year.
16. Disclaimer. This Agreement is made solely for the purpose of compensating the County for its judicial and associated costs of operating the Oak Harbor Municipal Court as a municipal department of the Island County District Court pursuant to Ch. 3.46 RCW. This Agreement also provides for the transfer of cases upon establishment of a municipal court pursuant to Ch. 3.50 RCW. This Agreement shall not be construed in any manner that would limit either parties' authority or powers under law in any other respect.
17. Right to Renegotiate. The parties agree that the City's election to continue its municipal department is within the City's sole discretion. By entering into this Agreement, the parties do not intend to foreclose the City from serving notice to

terminate the municipal department provided such notice is submitted in writing no later than the first of February of the year in which all district court judges are subject to election (2014). If the City does serve notice to terminate, the agreement to transfer municipal court services pursuant to RCW 3.46.150 and 3.46.015 is embodied herein.

18. Severability.

- A. If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

19. Entire Agreement. The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

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

SIGNED by the City of Oak Harbor on 2-25-10.

CITY OF OAK HARBOR

By _____

Mayor

ATTEST:



City Clerk

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APPROVED AS TO FORM:

Margery White
City Attorney

SIGNED by Island County on MARCH 1, 2010.

BOARD OF COUNTY
COMMISSIONERS



ISLAND COUNTY, WASHINGTON

Helen Price Johnson
Helen Price Johnson, Chairman

Angie Homola
Angie Homola, Member

John Dean
John Dean, Member

ATTEST:

Releine Marlow
Clerk of the Board

SIGNED by Island County District Court on March 9, 2010.

P.H. Strow
Judge Peter H. Strow