



Council Chambers, 865 SE Barrington Drive

May 21, 2024

6:00 PM

CALL TO ORDER

Invocation - Led by Reverend Greg Steible, Whidbey Presbyterian Church

Pledge of Allegiance - Led by Mayor Wright

Excuse Absent Councilmembers

1. APPROVAL OF AGENDA

2. PRESENTATIONS

- a. Proclamations
 - i. Proclamation: National Public Works Week
- b. Honors & Recognitions
- c. Community Presentations

3. CITIZEN COMMENT PERIOD

Citizens may comment on subjects of interest not listed on the agenda or items listed on the Consent Agenda. To ensure comments are recorded properly, state your name clearly into the microphone. Please limit comments to three (3) minutes to ensure all citizens have sufficient time to speak.

4. CONSENT AGENDA

Items on the Consent Agenda are considered to be routine by the Council and will be enacted with one motion unless separate discussion is requested. Approval of the Consent Agenda authorizes the Mayor to implement each item in accordance with staff recommendations.

Consent Items

- a. Approval of Minutes: City Council Meeting of May 7, 2024
- b. Approval of Payroll and Accounts Payable Vouchers
- c. Interlocal Agreement - Acceptance of Washington State Military Dept. Homeland Security Grant (#E24-327)
- d. Law Enforcement Vehicle Pursuit Tech Grant Round 2 Approval
- e. Resolution 24-18 Approving Department of Justice COPS Hiring Grant Application

5. MAYOR, COUNCIL & STAFF COMMENTS

- a. Mayor
- b. Councilmembers

6. PUBLIC HEARINGS & MEETINGS

To speak during a scheduled public hearing or meeting, please sign-in on the sheet provided in the Council Chambers. To ensure comments are recorded properly, state your name clearly into the microphone. Please limit comments to three (3) minutes to ensure all citizens have sufficient time to speak.

- a. Annexation Request from Oak Town Property, LLC for parcels R13326-274-1130, R13326-291-1130, and R13326-281-0850, located on Oak Harbor Rd., approximately 5 acres
- b. Ordinance No. 1993: Amending OHMC Sections 19.66.080, 19.67.060, and 19.20.095 pertaining to appeals of land use decisions.
- c. Ordinance 1998: Adoption of a Business & Occupation Tax
- d. Ordinance No. 1999: Update to Oak Harbor Municipal Code Section 1.30.010 Requirements for sale or other disposition of city real property
- e. Ordinance 2000: Creating OHMC Chapter 3.99, pertaining to administrative provisions for the regulation of City taxes

7. CONTRACTS & AGREEMENTS

- a. Staff Report for Contracts & Agreements Items b., c., and d. related to the Department of Ecology Integrated Planning Grant
- b. Professional Services Agreement with Farallon Consulting for Remedial Investigation Study of Pioneer Way Property - monitoring wells not to exceed \$107,000.
- c. Professional Services Agreement - with Dahlin Group for Integrated Planning for Central Development Area and City Property not to exceed \$68,000.
- d. Professional Services Agreement with the Center for Creative Land Recycling (CCLR) for Vision to Action Plan, not to exceed \$10,000.
- e. WAIF Licensing Agreement

8. ORDINANCES & RESOLUTIONS

- a. Ordinance No. 1997: Amending Chapter 2.50, OHMC relating to the Police Community Advisory Board (CAB)
- b. Resolution 24-11 Adopting Revised Bylaws for Police Community Advisory Board (CAB)
- c. Resolution No 24-20: Repealing Reso. No 24-14 regarding the creation of a North Whidbey Pool, Park, and Recreation Metropolitan District

9. OTHER ITEMS FOR CONSIDERATION

- a. Appointment: Community Police Advisory Board, Position 5 - Martin Malloy

10. REPORTS & DISCUSSION ITEMS

- a. Transportation Benefit District Annual Report

11. EXECUTIVE SESSION

- a. None

ADJOURN

City of Oak Harbor
City Council Agenda Bill

Bill No. 2.i.
Date: May 21, 2024
Subject: Proclamation: National Public
Works Week

FROM: Steve Schuller, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

A proclamation of the Mayor for Public Works Week, May 19-25, 2024, "Adding Quality of Life for All"

BACKGROUND / SUMMARY INFORMATION

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [Proclamation - National Public Works Week](#)

City of Oak Harbor

OFFICE OF THE MAYOR
RONNIE WRIGHT
MAYOR

PROCLAMATION

Whereas, public works professionals focus on infrastructure, facilities, and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life, and well-being of the people of the City of Oak Harbor; and,

Whereas, these infrastructure, facilities, and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving, and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

Whereas, it is in the public interest for the citizens, civic leaders, and children in Oak Harbor to gain knowledge of and maintain an ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and,

Whereas, the year 2024 marks the 64th annual National Public Works Week, sponsored by the American Public Works Association.

Now Therefore, We, Mayor Ronnie Wright and Councilmembers of the City of Oak Harbor do hereby proclaim the week of May 19-25, 2024, as

National Public Works Week

We urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events, and ceremonies designed to pay tribute to our public works professionals, engineers, managers, and employees and to recognize the substantial contributions they make to protecting our national health, safety, and advancing quality of life for all.

Signed the 21st day of May 2024

Ronnie Wright, Mayor

City of Oak Harbor
City Council Agenda Bill

Bill No. 4.a.
Date: May 21, 2024
Subject: Approval of Minutes: City
Council Meeting of May 7,
2024

FROM: Julie Nester, City Clerk

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Approval of the minutes of the City Council meeting of May 7, 2024.

BACKGROUND / SUMMARY INFORMATION

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [Minutes of May 7, 2024](#)

Oak Harbor City Council
Regular Meeting Minutes
May 7, 2024

This was both a physical meeting location and a virtual meeting. Meeting was viewable live via YouTube at www.youtube.com/cityofoakharbor, on Facebook, and on Cable Channel 10/HD 1090 following the meeting

CALL TO ORDER

Call To Order and Native Lands Acknowledgement - Mayor Wright called the meeting to order at 6:00 p.m. He included the acknowledgement that the meeting was being held on the ancestral lands of the Coast Salish people and paid respect to those past and present.

Invocation – Pastor David Parker, First United Methodist Church

Pledge of Allegiance – Led by Mayor Wright

ROLL CALL

City Council Present:

Mayor Ronnie Wright
Mayor Pro Tem Tara Hizon
Councilmember Jim Woessner
Councilmember Bryan Stucky
Councilmember Shane Hoffmire
Councilmember Eric Marshall
Councilmember Christopher Wiegenstein
Councilmember Barbara Armes

Staff Present/Videoconference

Interim City Administrator Sabrina Combs
Deputy City Administrator David Goldman
Development Services Director David Kuhl
Public Works Director Steve Schuller
Parks and Recreation Director Brian Smith
Police Chief Tony Slowik
Interim Fire Chief Gordon Olson
Principal Planner Cac Kamak
Parks Supervisor Brandon Cable
Project Manager Phillip Esqueda
Central Services Manager Sandra Place
Financial Planning & Operations Mgr. Chas Webster
Finance Accounting Manager Askley Ramos
Grants Administrator Wendy Horn
Executive Assistant Macalle Finkle
City Clerk Julie Nester

Also in attendance: City Attorney
Hillary Evans of Kenyon Disend, PLLC

EXCUSE ABSENT COUNCILMEMBERS

Mayor Wright welcomed all in attendance. He noted Councilmember Woessner was participating remotely.

1. APPROVAL OF AGENDA

Mayor Wright requested changes to the agenda. He noted Staff has requested to move item 8.C. Employment Agreement: Oak Harbor City Administrator – Sabrina Combs to later in the meeting, after item 11. Executive Session.

Hearing no other changes, he called for a motion to approve the agenda as amended.

Motion: Councilmember Wiegenstein moved to approve the agenda as amended. Seconded by Councilmember Marshall. The motion carried unanimously.

2. PRESENTATIONS

a. Proclamations –

i. National Police Week Proclamation

Police Chief Slowik reviewed and read the proclamation citing May 12-18, 2024 as National Police Week in the City of Oak Harbor. Issuance of the proclamation is to recognize National Police Week 2024 and to honor the service and sacrifice of those law enforcement officers killed in the line of duty while protecting our communities and safeguarding our democracy.

ii. American Water Works Association Drinking Water Week Proclamation

Public Works Director Schuller reviewed the proclamation. For more than forty years the American Water Works Association (AWWA) and its members have used Drinking Water Week as a unique opportunity for both water professionals and the communities they serve to recognize the vital role water plays in our daily lives. The City of Oak Harbor is a proud member of the AWWA.

The Public Works Water Division, led by Water Manager Chris Price and staffed with five full time water operators, provides four hundred million gallons of drinking water to the City and Naval Air Station Whidbey Island. 99% of this water comes from the Skagit River via the City of Anacortes Water Treatment Plant in Mount Vernon. The Water Division maintains over 50 miles of water mains and service pipes, three pumping stations, four water reservoirs, three wells, and over 900 fire hydrants.

Mayor Wright requested that Councilmember Stucky read the Arbor Day Proclamation, citing May 5-11, 2024 as Drinking Water Week in the City of Oak Harbor.

b. Honors & Recognitions – None

c. Community Presentations

i. Island County Emergency Services Communication Center – (I-COM)

Sofia Kohfield, Executive Director of I-COM reviewed the purpose and services provided. I-COM is the countywide 911 emergency communications and dispatch center, serving emergency responders and county citizens. I-COM 911 is a separate public entity from Island County, City of Oak Harbor and is a special district. Its actual facility is located in Oak Harbor I-COM 911 serves all the cities, towns, police, fire districts, EMS and unincorporated areas within Island County, inclusive of Whidbey and Camano Islands. I-Com was created via an interlocal agreement which consolidated operations. The call center is staffed twenty-four hours a day, 365 days per year. 93,000 calls were received in the past year. Prior to its creation, each agency had a different means of communication and dispatch. Executive Director Kohfield noted this year marks the 56th birthday of the 911 emergency call line. I-COM is funded primarily by user agency fees, state contract funding, phone line fees, rental income from towers, and from grants. Information on tours is available on their website.

Mayor Pro Tem Hizon and Councilmembers Hoffmire and Stucky provided their respective questions and comments.

3. CITIZEN COMMENT PERIOD

Mayor Wright noted citizens may comment on Consent Agenda items or subjects of interest not listed on the agenda at this time and that citizens would have the opportunity to comment on the remaining Agenda items during the meeting as appropriate.

Citizens can also visit the City's website prior to meetings for methods to submit public comment, or contact the City Clerk, Julie Nester by phone or email. When submitting comments, please include your name and address. Public comments sent anonymously will be shared with the Mayor and Council but will not be displayed.

The City received two new public comments since the last regular meeting, one from TJ Ewen of Oak Harbor and one from Marisa Brandhorst of Oak Harbor, both in support of pickleball. In addition, the Parks and Recreation Department was copied in on several letters sent in support of grant funding for pickleball courts to the Washington Recreation and Conservation Office (RCO). These letters from Marc DeJong of Oak Harbor, Scott and Melissa Bader of Oak Harbor, Charles Calvert of Oak Harbor, and Marsha Kallander of Oak Harbor, were displayed.

Mayor Wright opened the floor for public comment on items not on the agenda or items on the consent agenda.

1. John Lovick, of Mill Creek, addressed the Council. Senator Lovik noted he is the proud father of Interim City Administrator Sabrina Combs. In greeting the Council, he praised the work of I-COM, noting his 31-year history as a Washington State Trooper. Senator Lovik noted he sponsored legislation for pickleball. He presented the Mayor with a book, "Pickleball for All" and a pickleball set and noted he would be happy to challenge the Mayor or Councilmembers to a match.
2. Michelle Hines, Executive Director of Spin Café in Oak Harbor, addressed the Council. She noted Spin Café's recent move to SW Barlow Street in November of last year. She indicated she had seen a number of comments regarding Spin Café on social media. Ms. Hines thanked the Oak Harbor Police Department, I-Com, Whidbey Health, Semar, Sunrise, and other agencies who work with this population.
3. Amber Burgess, who identified herself as a public health professional and a concerned parent, addressed the Council, noting what she termed a situation at the pool. She noted she had been informed that there is an agreement and/or short-term solution for individuals from Spin Café to use pool facilities and she wanted to know if this had been looked at by the health department. Mayor Wright noted that the City was not affiliated with the North Whidbey Pool, Park, and Recreation District that manages the pool, but would pass along her comments.

Hearing no one with a desire to address the Council, the public comment period was closed.

4. CONSENT AGENDA

Consent Items

- a. Approval of Minutes: City Council Meeting of April 16, 2024. City Council Special Workshop of April 23, 2024, and City Council Workshop of April 24, 2024
- b. Approval of Payroll and Accounts Payable Vouchers
- c. Professional Services Agreement: PFM Financial Advisor Services
- d. Professional Services Agreement: Foster Garvey PC for Bond Counsel Services

- e. Resolution 24-16: Authorizing the Auction of 3 Vessels for non-payment of Marina charges
- f. West Whidbey Replacement Project Approval of Final Contract Voucher Certificate
- g. Appointment: Lodging Tax Advisory Committee, Receiver 1 Position – Allenda Jenkins
- h. Appointment: Salary Commission, Position 1 – Jason McFadyen
- i. Appointment: Salary Commission, Position 3 - Tiffany Scribner
- j. Appointment: Salary Commission, Position 2 – Melissa McCumber
- k. Appointment: Salary Commission, Position 4 – Mary Himes

Mayor Wright called for any changes to the consent agenda. Hearing none, the consent agenda was approved as presented.

5. MAYOR, COUNCIL & STAFF COMMENTS

a. Mayor's Comments

Mayor Wright provided the following comments:

- Arbor Day: Parks and Recreation received this thank you from Christina Merritt, Principal of Oak Harbor Elementary:
"Brian and Liz, Please extend our gratitude to your team for planning such a great event today! Our kids had a blast, and your team made it so easy for us to participate. Thanks for helping us make memories for our little Eagles!"
- Kudos for Students: Oak Harbor High School Sophomore Ramona Southwick recently received acceptance into the Do-It Scholars Program through the University of Washington, a comprehensive program that empowers students with disabilities to succeed in challenging fields of study and employment. Ramona is one of only 20 students across the state to receive acceptance into the program this year. Congratulations!
- Boards & Commissions: Thank you to the response for our request to fill many of our Boards and Commissions positions. The City still has volunteer positions to fill. Please see our website to apply.
- Still Hiring: The City has openings for employment in several areas. See our website for a complete listing.
- Upcoming Special Workshop: The City Council will hold a special workshop on May 15th from 1-5 p.m. in Council Chambers. The purpose of the special workshop is for the Council to review and discuss their priorities. The meeting will be open to the public, but no public comments will be taken.
- Local Events: There are several terrific special events happening in our area, many of which are displayed on the screen.

b. Councilmembers

Councilmembers Stucky and Wiegenstein provided their respective comments. Councilmember Stucky thanked all who wrote about Pickleball. He noted that while social media is a great start, it was more effective for citizens to make comments via an email to the City Council or in-person at a Council meeting. Councilmember Wiegenstein reported on an upcoming Community Cares mental health event, and also on the Arts Commission and Citizens Advisory Board, both of which he serves on.

6. PUBLIC HEARINGS & MEETINGS

- a. Continuance of Public Hearing - Ordinance No. 1994: 2023 Comprehensive Plan Amendments – 2024-2029 Capital Improvements Plan

Principal Planner Cac Kamak reviewed the ordinance background and information. This agenda bill presents the 2024 – 2029 Capital Improvements Plan (CIP), which is moving forward as the only amendment to the Comprehensive Plan this year. All other items will remain on the docket and will continue

into 2024 and will likely be considered in June 2025 as part of the State mandated Major Update. Background

The City Council approved the docket for the 2023 Comprehensive Plan Amendment on March 7, 2023. The approved 2023 docket amendments included:

Housing Action Plan – currently under implementation
Land Use Changes PIP, PBP to I – comprehensive plan amendment is complete. The zoning change is being considered in February for action
JPA/UGA – will be rolled into the 2025 updates
Capital Improvements Plan – for action this year
Active Transportation Plan – For adoption in April. It will be considered as a sub-element of the Transportation Plan. Alternate Street Connection Plan – in progress
Downtown/Marina Plan aka Central Development Area – in progress
As noted above, some of these items will be incorporated into the 2025 Major Update to Comprehensive Plan.

The action to consider for this year is: Capital Improvements Plan 2024-2029

The CIP is a planning tool and in conjunction with the budget implements projects for the City. Updates pertaining to 2024 will be included in the upcoming budget amendment. Principal Planner Kamak reviewed the CIP updates and their status:

- CERB Broadband Study Scope – revisit scope and intent – change in next plan
 - Pickle Ball court scope, budget, and location - updated
 - Smith Park – Council priority funds - ARPA funding allocation – Combined Playground and Native vegetation project – change in approach due to fire hazard
 - Traffic Calming – reflect council interest
 - Marina – soft shore armoring – error and removed
 - Marina Breakwater – updated
- Consider adding a feasibility study for a Recreation Center - next update

The Planning Commission conducted a hearing at its January 23, 2024 meeting and unanimously recommended approval. The process also included a SEPA review and 60-day notification to the Department of Commerce. During the comment period, the City received comments from Washington Department of Transportation informing the City of the need for collaboration on projects that are slated for the highway or intersect with the highway.

Mayor Wright opened the Public Hearing. He confirmed no public comments had been received and requested any public comments from those gathered. Hearing none, the Public Hearing was closed.

Councilmember Marshall provided his respective comments.

Motion: Councilmember Marshall moved to approve Ordinance No. 1994: Adopting the 2024-2029 Capital Improvements Plan and amending the 2023 Comprehensive Plan. Councilmember Hoffmire seconded the motion which passed unanimously.

7. ORDINANCES & RESOLUTIONS

None

8. CONTRACTS & AGREEMENTS

a. Bid Award: Windjammer Park Baseball Field Renovations

Parks Supervisor Brandon Cable presented the item. The 2023-2024 biennial budget includes a project titled "Athletic Field Renovation" with a budget amount of \$300,000.00. However, the revenue source was unsecured when the budget was adopted. This project aimed to improve the baseball, football, and soccer fields in Oak Harbor by creating positive and safe places to play. It has been two years since the infield mix was installed. The fields have experienced erosion, creating "lips" around the infield edges.

In 2023, a Washington State Recreation and Conservation Office (RCO) grant was applied for, but unfortunately not awarded. This would have subsidized additional renovations for the fields. The City is seeking approval in 2024 for a similar grant that would be used for field improvements. The first phase of this project is to renovate the ballfields at Windjammer Park. Discussions were held with North Whidbey Little League, and a scope of work was developed, considering that this limited scope was to create safer fields first and foremost. This scope of work was included in the bid for Council's review.

Supervisor Cable reviewed the current project scope of work.

Field A & B

- Remove existing vegetation from the infield
- Check the orientation of bases
- Re-establish the correct infield radius
- Install 4", compacted Diamond Dust 4 in 1
- Laser set grades for positive drainage

Field C

Skin infield and haul off spoils

- Reinstall home plate, pitcher mound, and baselines/foul poles using laser for positive drainage
- Establish a new infield radius
- Install 4" compacted Diamond Dust 4 in 1

Diamond Dust 4 in 1 is made up of ground pumice and features low dust and moisture control. It can be used as a top-dressing and was specifically requested by the Little League.

Staff began soliciting formal bids for this project on January 17, 2024, utilizing the Whidbey News-Times, Seattle Daily Journal of Commerce, and the city's website. Several site visits were conducted, and a question-and-answer guide was created, distributed to those on the plan holders list, and added to the City's website. Staff received two (2) bids by the deadline of February 9, 2024.

Matia Contractors, Inc. \$163,091.25

Chupa, Inc. \$229,445.00

Staff has reviewed the bids and determined that Matia Contractors Inc. is the lowest, most responsible bidder.

An update was provided to the Parks and Recreation Commission on February 13, 2024.

On March 18th, city staff met with North Whidbey Little League, which expressed concern about the removal of non-safety-related items. The city expressed concerns about the project's cost and that this was just the beginning. At this time, North Whidbey Little League offered to pay for the warning track material to cut down on the cost. North Whidbey Little League and Parks staff met with the contractor to discuss a change in the scope, which would create a change order. Matia Contractors, Inc. provided a cost with the revised scope of work requested. The additional cost is well above the 20% deviation from the original bid, creating a change in scope that would need to be rebid.

Staff's intent is to proceed with the bid award for the original scope of work at this time, with a 10% change order contingency: \$163,091.25 with \$16,309.00 as a 10% contingency = \$179,400.25.

If grants are not received, funding for the project is available in the Windjammer Park Improvement Fund.

Mayor Wright confirmed no public comments had been received and requested any public comments from those gathered. Hearing none, he requested Council comments.

Councilmembers Hoffmire, Woessner, Marshall and Wiegenstein provided their respective questions and comments.

Motion: Councilmember Wiegenstein moved to award the bid for the Windjammer Park baseball field renovations to Matia Contractors, Inc, for \$163,091.25 and authorize the Parks and Recreation Director to sign change orders up to an amount of \$16,309,00 for a total not to exceed \$179,400.25. Councilmember Hoffmire seconded the motion, which passed unanimously.

b. Bid Award: NE 7th Avenue Reconstruction

Project Manager Phillip Esqueda reviewed the item. The NE 7th Avenue Reconstruction Project is a federal (USDOT FHWA), state (WA TIB), and local funded project that will reconstruct the roadway, replace the existing waterline, and construct corridor improvements including new sidewalk on the north side of the road, various bicycle facilities, street lighting and storm drainage from N Oak Harbor Street to SR-20. Bids were publicly opened at City Hall on April 2, 2024 at 2:00pm. The results of the bid opening are as follows:

Engineer's Estimate \$2,254,245.69
SRV Construction, Inc. \$2,011,565.77
Interwest Construction, Inc. \$2,232,145.74
In Depth Excavation \$2,386,802.52

It is recommended that SRV Construction, Inc. be awarded the contract for this project as they are the lowest responsive and responsible bidder. The Washington State Department of Transportation (WSDOT) is the City of Oak Harbor's Certified Agent (CA) for transportation capital projects utilizing federal dollars. Part of WSDOT's role is to review and approve these projects at every step. Staff received an award concurrence from WSDOT on April 10, 2024. Per Oak Harbor's Purchasing Policy Manual, change order allowance shall be 20% of the original contract awarded or an accumulated total of \$100,000.00, whichever is less administered by the Department Director. For this project, staff recommends the change order allowance be increased and be set at 20% (\$400,000) due to the constraints of the project; adjacent wetland, vicinity to SR-20, narrow right-of-way, and geotechnical conditions. It is anticipated construction will begin in June 2024.

Mayor Wright confirmed no public comments had been received and requested any public comments from those gathered. Hearing none, he requested Council comments.

Councilmembers Hoffmire, Stucky, and Woessner provided their respective questions and comments.

Motion: Councilmember Woessner moved to award the contract for the NE 7th Avenue Reconstruction Project to the low bidder SRV Construction Inc. in the amount of \$2,011,565.77 and authorize the Public Works Director to sign change orders up to an amount of \$402,313.15 in total. Councilmember Marshall seconded the motion. Mayor Pro Tem Hizon provided additional comments. The vote on the motion passed unanimously.

- c. Employment Agreement: Oak Harbor City Administrator – Sabrina Combs

Mayor Wright noted that staff had requested this item be moved in the agenda to after item 11. Executive Session.

9. OTHER ITEMS FOR CONSIDERATION

- a. Washington State & Local Cybersecurity Grant. Application

Grants Administrator Horn and Police Chief Slowik presented the item. So far in 2024, there have been 74 ransomware attacks in Washington State

Washington State submitted a statewide strategic cybersecurity plan to the US Department of Homeland Security last year. After it was approved, the state received approximately \$14 million to distribute as grants to local agencies for cybersecurity projects. The goals of the program are to:

- Improve the cybersecurity posture of all local governments in Washington state.
- Increase cybersecurity and privacy capacity at the state and local level.
- Develop enduring partnerships to support cyber resilience across the State of Washington.
- Effectively use existing funds and identify sustainable funding options.

One cyber event can cost an organization thousands of dollars and disrupt services for days or weeks at a time. In the last few years, several Washington cities and school districts have been attacked. Oak Harbor is especially vulnerable because of its proximity to NASWI as well as its proximity to the Canadian border.

The FBI Criminal Justice Information Services (CJIS) sets federal policy requirements for law enforcement agencies to follow regarding information security. Washington State Patrol further refines information security policies for Washington state agencies. These policy requirements are continually modified, and the Police Department is audited regularly. The most recent version impacts the City by no longer allowing consultants, contractors or vendors to represent the City in CJIS meetings, trainings or audits. Additionally, Washington Cities Insurance Association expects cities to safeguard its digital infrastructure. Not doing so can increase rates. The City presently has NeoGov, Barracuda, Microsoft 360, and utilizes Ninjio training, but does not have any dedicated staff to monitor cybersecurity.

The application will include funding for a full-time Cybersecurity Administrator responsible for leading the City's efforts in safeguarding its digital infrastructure from cyber threats. The role will involve maintaining, implementing, and upgrading security measures. The request will also include funding for new equipment and security software licensing. The grant is for a period of 18-24 months. Funding for a full-time Cybersecurity Administrator is not budgeted. If the City is awarded the grant, a budget amendment of approximately \$250,000 will be brought to the City Council for consideration.

Mayor Wright confirmed no public comments had been received and requested any public comments from those gathered. Hearing none, he requested Council comments.

Councilmember Stucky provided his respective questions and comments. Police Chief Slowik also responded to questions.

Motion: Mayor Pro Tem Hizon moved to approve the Mayor's signing of a letter to the Washington Military Department in support of a City application for the Washington State and Local Cybersecurity Grant Program. Councilmember Wiegenstein seconded the motion, which passed unanimously.

Break – Mayor Wright called for a short break from 7:24-7:29 p.m.

10. REPORTS & DISCUSSION ITEMS

a. City Council Financial Primer Part 2 – Property & Sales Tax

Deputy City Administrator and Finance Director Goldman presented the second in a series of budget primers for Council information. This included an abridged review of all budgeted funds, their make-up, and percentages. The General Fund comprises about one-fifth of the budget • Enterprise Funds comprise about half of the budget • Remaining Funds comprise about one-third of the budget.

GENERAL FUND

Public Safety comprises about half of the Budget.

- Development Svs. comprises about 10%.
- Parks & Rec. (GF) 8%
- Finance & Utility Billing 7%
- Law & Judicial 6%
- Legislative & Admin. 5%.
- General Government 5%
- Human Resources 2%
- Misc. (Transfers) 2%

GENERAL FUND OPERATING BUDGET

- Salaries and Benefits comprises 65% of the budget.
- Operating Expenses comprises 24% of the budget.
- Transfers & Interfund Charges comprise 11% of the budget.
- Capital expenses comprise less than 1% of the budget.

SOURCES OF REVENUE*

- Charges for Goods & Services
- Taxes
- Grants
- Bond Proceeds (Fire Bond)
- Intergovernmental Payments
- Licenses and Permits
- Investment Earnings
- Miscellaneous

TAXES COLLECTED BY OAK HARBOR

- Sales Tax
- Property Tax*
- Utility Tax
- TBD Tax
- Real Estate Excise Tax (Capital Projects)
- Lodging Tax
- Miscellaneous

PROPERTY TAX

- City's largest source of General Fund revenue and second largest

source of revenue overall
• \$16.3 million projected (2023-2024)

Property Tax Formula:
Assessed Value x Levy Rate = Levy Amount

Deputy City Administrator Goldman also reviewed how property taxes are calculated and utilized.

Councilmember Stucky provided his respective questions and comments.

11. EXECUTIVE SESSION

Mayor Wright announced the Council would take a short break and then move into executive session to consider the selection of a site or the acquisition of real estate by lease or purchase as pertains to price per RCW 42.30.110 (1) (b), and or to discuss with legal counsel litigation or potential litigation per RCW 42.30.110 (1) (i).

Mayor Wright noted the anticipated duration of the executive session was 20 minutes. He noted action might or might not be taken upon return to the open session. Executive Sessions are not open to the public.

The Council entered into executive session at 7:50 p.m.

At 8:10 p.m. the Council announced they would extend the executive session for ten additional minutes to 8:20 p.m.

At 8:20 p.m. the Council announced they would extend the executive session for an additional five minutes to 8:25 p.m.

At 8:25 p.m., the Council came out of the executive session and resumed the open session of the meeting.

Mayor Wright requested any discussion or Council comments regarding the real estate matter discussed. Mayor Pro Tem Hizon asked for clarification of the suggested motion.

Motion: Mayor Pro Tem Hizon moved to authorize the Mayor to sign the purchase and Sale Agreement(s) for three properties adjacent to /city-owned Freund Marsh, which are identified by their Island County Tax Parcel Numbers: R13203-047-4190, R13202-050-4580, and R13210-430-4530. Councilmember Hoffmire seconded the motion, which passed 5-2 with Councilmembers Armes, Woessner, Stucky, Hoffmire and Mayor Pro Tem Hizon in favor, and Councilmembers Wiegenstein and Marshall opposed.

8. c. Employment Agreement: Oak Harbor City Administrator – Sabrina Combs

Mayor Wright noted this Agreement had been moved to this point from earlier in the meeting.

Mayor Wright stated he had asked Sabrina Combs to take on the pivotal role of City Administrator. In her four years at the City, she has been continually promoted, with good reason. Sabrina brings a valuable combination of analytical, practical, and inter-personal skills to every circumstance and opportunity. She is a leader and a team-builder who tackles the tasks at hand and looks forward to anticipate future needs. Sabrina brings both public and private sector experience to operations, budgeting, and personnel management. In my 20 years of leadership experience, Mayor Wright noted he had only encountered one individual that possesses the communication skills that Sabrina demonstrates on a daily basis.

Communication is vital in leadership, and stated he had all the confidence in the world in Sabrina and that she had his full support for this position as soon as it is available.

Mayor Wright confirmed no public comments had been received. and requested any additional public comments from those gathered.

Tony Slowik, speaking as a private citizen, spoke in support of appointing Sabrina as City Administrator. He noted Sabrina's servant leadership, which he believed was best for the City. He also cited her involvement with the staff, taking action, and addressing challenges.

Mayor Wright called upon the Council for their questions and comments.

Councilmembers Armes, Woessner, Stucky, Hoffmire, Marshall, Wiegenstein and Mayor Pro Tem Hizon provided their respective questions and comments.

Motion: Councilmember Marshall moved to confirm the Mayor's appointment of Sabrina Combs as City Administrator for the City of Oak Harbor and authorize the Mayor to sign the Employment Agreement as soon as the position becomes available. Councilmember Wiegenstein seconded the motion, which passed 4-3 with Mayor Pro Tem Hizon, and Councilmembers Armes, Wiegenstein, and Marshall in favor, and Councilmembers Woessner, Hoffmire, and Stucky opposed.

All members of Council congratulated Interim Administrator Combs following the vote.

Adjourn

Motion: There being no further business, Mayor Wright called for a motion to adjourn. Councilmember Marshall moved to adjourn, seconded by Mayor Pro Tem Hizon. The motion was approved by a unanimous vote, therefore the meeting adjourned at 8:49 p.m.

Certified by Julie Nester, City Clerk

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

Bill No. 4.b.

Date: May 21, 2024

Subject: Approval of Payroll and
Accounts Payable Vouchers

FROM: Finance - Accounts Payable, and Human Resources - Payroll

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Approval of Accounts Payable Vouchers and Payroll Checks - See Voucher numbers listed in attachments and Check numbers listed on the agenda bill. Oak Harbor Municipal Code Chapter 3.72 establishes procedures for claims (Vouchers) payment. The determination that supports the signature coversheets is attached. Claim coversheets will be provided prior to the City Council meeting for appropriate signatures.

BACKGROUND / SUMMARY INFORMATION

Accounts Payable

May 10, 2024

Checks #196488-196600 \$833,180.01 (Voucher List 5a)

May 6, 2024

Check #125 \$1,066.00 (Voucher List 5 - CPL)

May 2, 2024

Check #122 \$14,194.75 (Voucher List 13 - TIB)

May 1, 2024

Check #124 \$37,405.90 (Voucher List Q1 Leasehold)

April 26, 2024

Check #123 \$67,015.00 (Voucher List 4 - Excise Tax)

Payroll

Semi

Direct Deposit: #68233-68399 \$406,439.81

Checks #103364-103369 \$101,474.72

EFT #: 1729-1732 \$147,780.33

\$655,694.86

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [Voucher List 4 - Excise Tax](#)
2. [Voucher List Q1 Leasehold](#)
3. [Voucher List 13 - TBI](#)
4. [Voucher List 5 - CPL](#)
5. [Voucher List 5a](#)

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount		
123	4/26/2024	0000960 REVENUE, WASHINGTON STATE DEPT OF	3/31/2024		EXCISE TAX	67,015.00		
						Total :	67,015.00	
1 Vouchers for bank code :		bank					Bank total :	67,015.00
1 Vouchers in this report						Total vouchers :	67,015.00	

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount	
124	5/1/2024	0000965 REVENUE, WASHINGTON STATE DEPT OF	1Q 2024		Q1 2024 LEASEHOLD TAX	37,405.90	
Total :						37,405.90	
1 Vouchers for bank code :		bank				Bank total :	37,405.90
1 Vouchers in this report					Total vouchers :	37,405.90	

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount	
122	5/2/2024	0011376	WASHINGTON STATE, TRANS. IMPROVEMEN	3-W-157(001)-1	REFUND OVERPAYMENT BY TIB	14,194.75	
Total :						14,194.75	
1 Vouchers for bank code :		bank				Bank total :	14,194.75
1 Vouchers in this report						Total vouchers :	14,194.75

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
125	5/6/2024	0000950 LICENSING, WASHINGTON STATE DEPT OF	050624		CONCEALED PISTOL LICENSE	1,066.00
					Total :	1,066.00
		1 Vouchers for bank code :	bank			Bank total : 1,066.00
		1 Vouchers in this report				Total vouchers : 1,066.00

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196488	4/30/2024	0008737 NAVIA BENEFIT SOLUTIONS	04302024		NAVIA PROF SERV FEES - APRIL 2024	200.00
					Total :	200.00
196489	5/10/2024	0000004 A+ AUTO GLASS & RADIATOR	359		WINDSHIELD & HEADLIGHT RESTORE	531.93
					Total :	531.93
196490	5/10/2024	0000424 ALL BATTERY SALES AND SERVICE	72271440		SCHOOL ZONE FLASHING BATTERY	429.28
					Total :	429.28
196491	5/10/2024	0011377 ALL TRAFFIC SOLUTIONS INC.	SIN039914		RADAR SPEED TRAILER	37,497.71
					Total :	37,497.71
196492	5/10/2024	0000033 ALPINE PRODUCTS	TM-223389		PAINTING MARKING SUPPLIES	28,442.31
					Total :	28,442.31
196493	5/10/2024	0009090 AMAZON CAPITAL SERVICES, INC	11NW-RPVK-NKT1		OFFICE & EVENT SUPPLIES	460.75
			131Q-G6KF-QHQP		4TB EXTERNAL HARD DRIVE QTY 4	435.96
			13LR-P33G-P31T		HIVIS SAFETY JACKET	118.09
			13XH-J3GX-PFYG		HAND CLEANSER X6	231.66
			16G3-1XCQ-PQNM		MINUTE BOOK, LEDGER SHEETS	1,246.05
			16MW-CXH7-LYDQ		2 HEIGHT ADJ. STANDING DESKS	645.26
			16N4-D7L7-NQWP		PLUG IN DUPLEXOR ALTERNATING RE	131.36
			17VP-RPT1-P6WF		WEIGHTS, LABEL MAKER, CLEANING S	167.28
			1D1R-1PN7-MVXX		FIRST AID KIT SUPPLY, SOCKS	102.08
			1DVH-LN9D-YM3K		OFFICE & EVENT SUPPLIES	326.41
			1GJQ-D7P1-KL7Y		8TB INTERNAL HARD DRIVE QTY 12	2,375.85
			1JDR-NJCX-P34J		USB C HUB, USB ADAPTOR, WATER FII	108.85
			1KDM-14TD-MH3N		5TB EXTERNAL HARD DRIVE	130.79
			1LDG-WDF7-NWGP		EXMARK PUMP IDLER LAZER	175.17
			1LP9-GJNG-LLDR		HAND CLEANSER, SANITARY SUPPLIE	196.98
			1LP9-GJNG-M1YV		COFFEE, HOT CHOCOLATE, BATTERIE	236.28
			1LXG-FXKN-NTQH		2 PRINTERS	1,154.64
			1LYL-JJFQ-P1T9		DESK TRAY ORGANIZER	21.35
			1MQG-TCG1-PFFM		FRAME FOR MAP AT WELCOME CENTE	34.27
			1R47-LYVV-NFF1		3 WIRELESS TRACKBALL LOGITECH M	120.96
			1TP1-YGRT-QWV6		PUSH-ON HOSE FOR PUSH-LOK FITTIN	18.58

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196493	5/10/2024	0009090 AMAZON CAPITAL SERVICES, INC	(Continued) 1WCG-G34K-NH9P 1Y6J-73D7-QGVP 1YPV-RF7Q-PGGH		SELF-INKING STAMP DESKTOP SCANNER FOR HR ASST. EDUCATIONAL TOYS & GAMES	16.34 752.09 208.43 Total : 9,415.48
196494	5/10/2024	0011380 AQUATIC SPECIALTY SERVICES INC	24636		INSTALL VORTEX EQUIP AT SPRAY PAF	15,871.03 Total : 15,871.03
196495	5/10/2024	0007839 ASHLEY'S DESIGN & LETTERMAN	103298		2 EMBROIDERED ITEMS BECKY V	99.19 Total : 99.19
196496	5/10/2024	0004019 ASSOCIATED PETROLEUM PRODUCTS	24-079282 24-085442		FUEL FUEL	10,947.00 7,578.87 Total : 18,525.87
196497	5/10/2024	0010881 ASTOUND BUSINESS SOLUTIONS	128008701-0010797 128947501-0010797		INTERNET INTERNET	808.04 807.84 Total : 1,615.88
196498	5/10/2024	0000159 AT&T MOBILITY	287249477751X0424202		CURRENT WIRELESS CHARGES	92.78 Total : 92.78
196499	5/10/2024	0001489 ATCO INTERNATIONAL	10628241		PURE & SIMPLE LUBRICANT	236.65 Total : 236.65
196500	5/10/2024	0004733 BARRON HEATING & AIR COND, INC	218245704		AC/HEATING MAINTENANCE	4,011.20 Total : 4,011.20
196501	5/10/2024	0000103 BLADE CHEVROLET, INC	814002		CONTROL ASSEMBLY	174.01 Total : 174.01
196502	5/10/2024	0007807 BLIND ENTERPRISES	6953		MERROW-VELCRO	37.50 Total : 37.50
196503	5/10/2024	0001558 BOUND TREE MEDICAL, LLC	85318681 85331766		TRAUMA BAG SOFT PACK BVM, GLUTOSE, AIRWAY SUPPLIES	246.33 221.35

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196503	5/10/2024	0001558 0001558 BOUND TREE MEDICAL, LLC	(Continued)			Total : 467.68
196504	5/10/2024	0000157 CDW GOVERNMENT, INC	QQ55490		MICROSOFT SURFACE - WRIGHT	1,778.14
						Total : 1,778.14
196505	5/10/2024	0001563 CHICAGO TITLE OF WASHINGTON	245463433 245463434 245463435		PSA R13210-430-4530 EARNEST DEPO: PSA R13203-047-4190 EARNEST DEPO: PSA R13203-050-4580 EARNEST DEPO:	5,800.00 100.00 1,100.00
						Total : 7,000.00
196506	5/10/2024	0003125 COMMERCE, DEPARTMENT OF	PWTF-266162 PWTF-422683 PWTFNT-297371		SR 20 QUIET COVE WATER TRANSMIS: SR 20 QUIET COVE WATER TRANSMIS: 42-INC OUTFALL RECONSTRUCTION P	23,210.96 28,788.60 59,756.45
						Total : 111,756.01
196507	5/10/2024	0009039 COURTER, JACK	04262024		MOORAGE REFUND	75.35
						Total : 75.35
196508	5/10/2024	0010821 CRIMINAL JUSTICE TRAINING COMM, WASH	201139553		BLEA TRAINING: ROTH	3,183.00
						Total : 3,183.00
196509	5/10/2024	0010638 CYEMPTIVE TECHNOLOGIES, INC	ATG-49534 ATG-49535		IT MANAGED CARE SERVICES NINJIO DOJO AWARE LICENSE	16,066.60 457.80
						Total : 16,524.40
196510	5/10/2024	0000225 DAILY JOURNAL OF COMMERCE	3399130		CITY NOTICES: PRJT ENG-10-02	1,950.75
						Total : 1,950.75
196511	5/10/2024	0010919 DARBONNIER TACTICAL SUPPLY LLC	26336		FLIGHT SUITS	164.88
						Total : 164.88
196512	5/10/2024	0006724 DIEKMAN POLYGRAPH SERVICES	24-23		PRE-EMPLOYMENT POLYGRAPH	550.00
						Total : 550.00
196513	5/10/2024	0000273 EDGE ANALYTICAL, INC	24-10945 24-11504 24-11783 24-11822		EFFLUENT, TOTAL ORGANIC CARBON CHROMOGENIC SUBSTRATE TESTING FLOURIDE ANALYSIS: AULT FIELD PUM CWF TESTING	88.81 150.00 33.00 99.00

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196513	5/10/2024	0000273 EDGE ANALYTICAL, INC	(Continued) 24-12259 MEB0048 MED0080		CHROMOGENIC SUBSTRATE TESTING CWF TESTING CWF TESTING	168.00 67.00 67.00
						Total :
						672.81
196514	5/10/2024	0000279 EMPLOYMENT SECURITY, WASHINGTON ST. 000-945052-10-7			BENEFIT CHARGE Q1 2024	1,683.00
						Total :
						1,683.00
196515	5/10/2024	0011285 FACET, INC.	0054475		EAST STORMWATER OUTFALL REPLAC	4,394.75
						Total :
						4,394.75
196516	5/10/2024	0000314 FISHERIES SUPPLY COMPANY	6821554		BIOBOR DIESEL BIOCIDES, GRY LEADLI	319.33
						Total :
						319.33
196517	5/10/2024	0008880 FIZZ EVENTS, LLC	202407 202428 202429 202429-1		RACE MANAGEMENT FEE - APRIL MARATHON REIMBURSEMENT #1 MARATHON REIMBURSEMENT #3 MARATHON REIMBURSEMENT #2	4,050.00 19,196.55 23,370.76 15,640.43
						Total :
						62,257.74
196518	5/10/2024	0008122 FRONDOZO, KEVIN	04222024		ROPE TECHNICAL COURSE TRAVEL RI	19.00
						Total :
						19.00
196519	5/10/2024	0000325 FRONTIER FORD	147897		P2 COVER	199.58
						Total :
						199.58
196520	5/10/2024	0000329 GALLS	027628006 027671101 027671216 027671281		BRASS NAME PLATE BRASS NAME PLATE BRASS NAME PLATE BRASS NAME PLATES	17.19 11.74 17.19 40.67
						Total :
						86.79
196521	5/10/2024	0002767 GATEWAY CONTROLS, INC	2024734		REPAIR BATTERY CONNECTOR DOCK	428.37
						Total :
						428.37
196522	5/10/2024	0011199 GEOENGINEERS, INC.	0195142 0195771		FLINTSTONE PARK SCULPTURE SVCS FLINTSTONE PARK SCULPTURE SVCS	436.25 454.00

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196522	5/10/2024	0011199 0011199 GEOENGINEERS, INC.			(Continued)	Total : 890.25
196523	5/10/2024	0011379 GONZO BOAT WORKS LLC	000054		REMOVE DERELICT BOAT - DVRRP TO R	8,400.00
					Total :	8,400.00
196524	5/10/2024	0000349 GRAINGER	9083990573		RETURN PAPER TOWEL DISPENSER	-46.41
			9086667814		TORQUE STICK EXTENTION SET	76.30
			9089824677		O RINGS	1.10
			9091465832		O RINGS	4.35
			9096225090		DIN RAIL RECEPT, 1PK	82.85
			9099603574		O RINGS	201.83
					Total :	320.02
196525	5/10/2024	0000345 GREATER OAK HBR CHAMBER OF COM	30519		VISITOR CENTER OPERATIONS GRAN	9,208.33
			8908		2024 CLASSIC MEMBERSHIP	700.00
					Total :	9,908.33
196526	5/10/2024	0002747 GUARDIAN SECURITY	1491581		FIRE SYSTEM INSTALLATION	9,000.21
					Total :	9,000.21
196527	5/10/2024	0006590 HAFFNER, OTTO	04262024		2024 PNW FIRE INVESTIGATOR TRAINI	161.50
					Total :	161.50
196528	5/10/2024	0000323 HD FOWLER COMPANY	16680770		1" FLARE COPPER COUPLING	52.85
			16681123		FIP BALL VALVE, COPPER COUPLING, :	541.75
			16692069		COUPLERS, JOINTS, VALVES, MISC. SU	4,263.11
					Total :	4,857.71
196529	5/10/2024	0008578 HOSKENS, TERI	05012024		APRIL SITE MANAGING SERVICES	40.00
					Total :	40.00
196530	5/10/2024	0007078 HUMPHREY SIGN CO.	24244		3 BANNERS, 2 SIGNS	679.99
			24245		PD TRUCK WRAPPED	1,340.70
			24246		GRAPHIC WORK FOR VEHICLES	490.50
					Total :	2,511.19
196531	5/10/2024	0005884 ISLAND COUNTY HUMAN SERVICES	1st Qtr 2024		1ST QTR 2024 EXCISE & PROFIT LIQUC	1,829.04

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196531	5/10/2024	0005884 0005884 ISLAND COUNTY HUMAN SERVICES	(Continued)			Total : 1,829.04
196532	5/10/2024	0004410 ISLAND COUNTY PUBLIC HEALTH	LE2019-003		SPLASH PARK LICENSE RENEWAL	273.00
						Total : 273.00
196533	5/10/2024	0000415 ISLAND DISPOSAL	8070921S144		RECYCLING CHARGES - APRIL	14,371.46
						Total : 14,371.46
196534	5/10/2024	0010418 ISLAND ELECTRIC & SIGN, LLC	2921		INSTALL 220V FOR NEW ICE MACHINE	1,994.70
						Total : 1,994.70
196535	5/10/2024	0009632 JENNINGS EQUIPMENT, INC	52688P		LEVER, BLADE, LYNCH PIN	530.95
						Total : 530.95
196536	5/10/2024	0008346 JENSEN, CYNDY	05012024		CLOGGING CLASS APRIL FEES	73.95
						Total : 73.95
196537	5/10/2024	0010958 JONES, JAY	04262024		BASIC SWAT TRAINING - JONES	259.50
						Total : 259.50
196538	5/10/2024	0011375 JUHL, JOHN	04242024 050724		CDL TRAINING FUEL REIMBURSEMENT CDL LICENSE FEE REIMB.	20.00 43.25
						Total : 63.25
196539	5/10/2024	0009092 KELLEY CONNECT CO.	5606726 5702286		COPIER LEASE 020-0090527-003 COPIER LEASE 020-0090527-006	173.09 321.56
						Total : 494.65
196540	5/10/2024	0000476 KERR, JACK	04-24		PUBLIC DEFENSE SCREENING - APRIL	1,600.00
						Total : 1,600.00
196541	5/10/2024	0000485 KRIEG CONSTRUCTION	ENG-16-08 Release ENG-22-07 Release		FAKKEMA ACCESS RETAINAGE RELEA 2023 HMA OVERLAY RETAINAGE RELE.	5,603.53 47,047.31
						Total : 52,650.84
196542	5/10/2024	0000494 LAKESIDE INDUSTRIES	267160		ASPHALT	415.07
						Total : 415.07

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196543	5/10/2024	0011372 LANGCO NW, INC.	284110		SERENDIPITY LN PED. WALKWAY	54,478.20
Total :						54,478.20
196544	5/10/2024	0007406 LAW ENFORCEMENT SEMINARS, LLC	2028100		BACKGROUND INVESTIGATIONS 2 SG	850.00
Total :						850.00
196545	5/10/2024	0000979 LES SCHWAB	41400720535		BACK COUNTRY AT2 QTY 2	684.32
			41400721140		2017 FORD TRANIST VAN TIRES	947.86
			41400721166		2019 FORD F250 ALIGNMENT	125.34
			41400721430		SOLID WASTE RETREAD 5 TIRES	1,759.65
			41400721742		MOWER FLAT REPAIR	39.23
Total :						3,556.40
196546	5/10/2024	0000221 LN CURTIS & SONS	CM41967		RETURN UNIFORM PANTS	-196.18
			INV809833		UNIFORMS	519.58
			INV810411		NAME PATCH WITH VELCRO	19.57
			INV816039		UNIFORMS	182.80
			INV816777		UNIFORMS	259.03
			INV817224		UNIFORM PANTS	81.89
Total :						866.69
196547	5/10/2024	0006072 MASTER'S TOUCH, LLC	90645		MAILING SERVICES: LATE NOTICE	399.54
			90646		MAILING SERVICES: REG STMTS	1,951.94
			90890		MAILING SERVICES: SHUT-OFF NOTICI	348.61
			P90645		MAILING SERVICES: LATE NOTICE	542.09
			P90646		MAILING SERVICES: REG STMTS	3,148.41
			P90890		MAILING SERVICES: SHUT-OFF NOTICI	255.36
Total :						6,645.95
196548	5/10/2024	0008347 MCGEE, MARIA	05062024		APRIL YOGA CLASSES	1,127.10
Total :						1,127.10
196549	5/10/2024	0002288 MCMaster-CARR SUPPLY CO	26104742		SS SOCKET HEAD SCREWS	75.87
Total :						75.87
196550	5/10/2024	0000197 MILES SAND & GRAVEL COMPANY	2024004		IN HOUSE STORM DRAIN/SIDEWALK	1,793.02
Total :						1,793.02

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196551	5/10/2024	0011374 NATIONAL CHILD ID PROGRAM	4210		CHILD ID KITS QTY 500	122.50
Total :						122.50
196552	5/10/2024	0003176 NATIONAL SAFETY, INC	0722467-IN 0722726-IN		HIVIS JACKET & BIBS GLOVES	317.37 140.79
Total :						458.16
196553	5/10/2024	0000612 NELSON PETROLEUM	0861686-IN		MEGAFLOW AW HYD, DEF FLUID, 0W20	877.82
Total :						877.82
196554	5/10/2024	0000610 NORTH CENTRAL LABORATORIES	503088		M-FC BROTH W/O ROSOLIC	563.09
Total :						563.09
196555	5/10/2024	0007653 NORTH ISLAND MEDICAL	12542		PREVENTIVE MEDICINE FOR PATIENT#	150.00
Total :						150.00
196556	5/10/2024	0000647 NORTHWEST MARINE TRADE ASSOC	240767		ANNUAL DUES	660.00
Total :						660.00
196557	5/10/2024	0006855 NORTHWEST YACHTING MAGAZINE	81565		1/4 PAGE AD MAY	777.00
Total :						777.00
196558	5/10/2024	0000672 OAK HARBOR ACE	361481 361551 361589 361629 361655 361657 361661 361675 361683 361730 361733 361791 361792 361823 361824 361835		RAIN-X, TIRE CLEANER, HOSE CLAMP AUGER BIT, RED GRNT HMR BIT ROYAL WS REPAIR KIT RETURN AUGER BIT PAINTING SUPPLIES PW REPAIR BAR & CHAIN OIL WOODCUTTER NUTS & BOLTS DAWN DISH SOAP YELLOW PAINT MARKER CARTIRDGE RC-EZ PAINT SPRAY VARNISH GLOSS, PAINT BRUSH RC-EZ CARTRIDGE RC-EZ CARTRIDGE UNIVERSAL TOILET FLAPPER	35.48 68.65 34.87 -32.69 11.27 15.24 22.88 18.51 5.44 18.28 21.79 38.08 23.52 65.37 21.79 9.80

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196558	5/10/2024	0000672 OAK HARBOR ACE	(Continued)			
			361840		INSULAT SEALANT	12.37
			361859		UNIVERSIAL HOSE, COUPLERS, PIPE S	77.08
			361860		CABLE TIE, PLASTIC CLAMP	8.70
			361873		CLAMPS AND ADAPTORS	66.30
			361874		REFILL STRP WHT MED. FOAM	6.09
			361904		NUTS AND BOLTS	13.57
			361915		WWC SINK SUPPLIES	35.96
					Total :	598.35
196559	5/10/2024	0000676 OAK HARBOR POLICE DEPARTMENT	043024		PHOTOS PRINTED	41.27
					Total :	41.27
196560	5/10/2024	0010760 O'MAHONY, PATTI	04222024		WSAPT TRAVEL REIMBURSEMENT	218.42
					Total :	218.42
196561	5/10/2024	0006007 O'REILLY AUTO PARTS	2532-421908		HYDRAULIC FILTER	45.18
			2532-422762		POWER STEERING FILTER	14.99
			2532-422770		TRANSMISSION FLUID	111.05
					Total :	171.22
196562	5/10/2024	0011345 PACIFIC DIVE SERVICES, LLC	0009		HULL CLEANING X4	654.00
					Total :	654.00
196563	5/10/2024	0000710 PLATT ELECTRIC SUPPLY, INC	5A92287		STATION LED LIGHTBULBS	147.55
					Total :	147.55
196564	5/10/2024	0011308 PROCOM LLC	108297		PRE-EMPLOYMENT DRUG TESTING	390.00
					Total :	390.00
196565	5/10/2024	0006866 PROTHMAN	2024-8664		INTERIM FIRE CHIEF 4/13-4/26/24	7,680.00
					Total :	7,680.00
196566	5/10/2024	0009968 PRUSHA, CORY	04222024		WASTEWATER 3 & 4 EXAM PER DIEM	208.00
			04222024 - Hotel		HOTEL CHARGE ON PERSONAL CC RE	252.14
					Total :	460.14
196567	5/10/2024	0002038 PVP COMMUNICATIONS, INC	134657		MOTORCYCLE HELMET W/ RADIO SYS	1,942.45

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196567	5/10/2024	0002038 0002038 PVP COMMUNICATIONS, INC	(Continued)			Total : 1,942.45
196568	5/10/2024	0002729 QUADIENT LEASING USA, INC	7900044080696382		FINANCE CHARGE	0.41
						Total : 0.41
196569	5/10/2024	0010722 RAY, DEVRI	05062024		APRIL ENHANCE FITNESS CLASSES	450.00
						Total : 450.00
196570	5/10/2024	0008133 RHOMAR INDUSTRIES, INC	106105		LUBRA-SEAL, NEUTRO-WASH	714.90
						Total : 714.90
196571	5/10/2024	0000822 SHRED-IT USA, INC	8006992095		SHREDDING SERVICES - CITY HALL 10	165.25
						Total : 165.25
196572	5/10/2024	0004487 SIEMENS INDUSTRY, INC	5609516747 5609526408 5609531809		SUBMERSIBLE CA TERMINATION KIT UNIVERSAL SENSORS SPACE BARS, MOUNTING SUPPLIES	129.71 1,870.44 310.65
						Total : 2,310.80
196573	5/10/2024	0000846 SOUND PUBLISHING, INC	WNT992987 WNT993165 WNT993184 WNT993836 WNT994194 WNT994521 WNT994530 WNT994738		CITY NOTICES: RESOLUTION 24-08 CITY NOTICES: NOA CHURCH CUP CITY NOTICES: NOA WHITE OAK REZO CITY NOTICES: PUBLIC HEARING ATP CITY NOTICES: PUBLIC HEARING APPE CITY NOTICES - CUP HEARINGS CITY NOTICES - DNS 82 UNIT HOUSINC CITY NOTICES: PRJT ENG-10-02	75.00 145.50 156.00 75.00 66.00 118.50 64.50 1,399.50
						Total : 2,100.00
196574	5/10/2024	0000860 STANDARD INSURANCE COMPANY	006070620001		INSURANCE PREMIUMS	120.63
						Total : 120.63
196575	5/10/2024	0003883 STAPLES BUSINESS ADVANTAGE	6001287385 6001696304		TONER TONER	369.30 453.11
						Total : 822.41
196576	5/10/2024	0011260 STOWE DEVELOPMENT & STRATEGIES	OakHarbor CDA 003		SERVICES DEC, JAN, FEB	1,060.00

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196576	5/10/2024	0011260	0011260 STOWE DEVELOPMENT & STRATEGIES (Continued)			Total : 1,060.00
196577	5/10/2024	0005786	STOWES SHOES & CLOTHING		CLOTHING-CABLE	200.00
					CLOTHING-HANNAN	163.11
					CLOTHING-SMALLS	166.11
					CLOTHING-ROBINSON	179.96
					CLOTHING-RIVERS	250.53
					CLOTHING-RIVERS	48.85
					Total :	1,008.56
196578	5/10/2024	0005272	SUBLET, CHRISTOPHER	04242024	DOCKWA REP LUNCH	82.81
					Total :	82.81
196579	5/10/2024	0000874	SURETY PEST CONTROL		PEST CONTROL - 75 SE JEROME	43.60
					PEST CONTROL - 75 SE JEROME	43.60
					PEST EXTERMINATION - MONTHLY - PA	142.78
					PEST CONTROL - 1301 SE CATALINA	53.40
					PEST EXTERMINATION - 855 E WHIDBE	90.46
					PEST CONTROL - 75 SE JEROME	50.13
					PEST EXTERMINATION - MONTHLY - PA	142.78
					PEST EXTERMINATION - 855 E WHIDBE	90.46
					PEST CONTROL - PD	163.49
					PEST EXTERMINATION: CITY BEACH S	58.85
					PEST EXTERMINATION: 1600 SW BEEK	77.38
					PEST CONTROL - 1301 SE CATALINA	53.40
					PEST EXTERMINATION: 1600 SW BEEK	75.20
					PEST EXTERMINATION - 1401 SE CATA	59.94
					PEST EXTERMINATION - 917 E WHIDBE	93.73
					PEST CONTROL - CITY HALL	95.91
					PEST CONTROL - 75 SE JEROME	50.13
					PEST CONTROL - 1375 CITY BEACH	74.11
					PEST CONTROL - CITY HALL	95.91
					Total :	1,555.26
196580	5/10/2024	0007736	SYSTEMS FOR PUBLIC SAFETY, INC	47112	REPAIR LIGHTBAR P-17B	1,342.82
					Total :	1,342.82

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196581	5/10/2024	0010226 THE WANDERLUST GROUP, INC.	11515		DOCKWA MODULE 5/24-12/24	1,077.23
Total :						1,077.23
196582	5/10/2024	0009169 THOMAS, GERI	05012024		SITE MANAGING SERVICES APRIL 2024	40.00
Total :						40.00
196583	5/10/2024	0011378 THORSON, JENNIFER	04252024		REFUND ROOM RENTAL	90.00
Total :						90.00
196584	5/10/2024	0000986 TRANSPORTATION, WASHINGTON STATE DE	UF-NW-2024-010C UF-NW-2024-011C		FRANCHISE CONSOLIDATION (ISLAND FRANCHISE CONSOLIDATION (SKAGIT	300.00 300.00
Total :						600.00
196585	5/10/2024	0006331 ULINE	177183386 177536743		NITRILE GLOVES DOG WASTE BAGS, AIR FRESHNER	136.65 378.86
Total :						515.51
196586	5/10/2024	0000922 UNUM LIFE INSURANCE COMPANY	0220603-0256		LONG TERM CARE - MAY	493.98
Total :						493.98
196587	5/10/2024	0000926 USABUEBOOK	INV00334941 INV00343486		DIAMETER TAPE, FLOURIDE 30' FLOAT SWITCH FOR LIFT STATION	89.55 357.30
Total :						446.85
196588	5/10/2024	0011344 USIQ, INC.	26795363-1		TRIJICON RED DOT SIGHT QTY 5	2,381.60
Total :						2,381.60
196589	5/10/2024	0011373 VESTIS SERVICES, LLC	6560370598 6560370599 6560370600 6560370601 6560370602 6560370603 6560370604 6560370625 6560371890 6560374134 6560374135		UNIFORM RENTAL UNIFORM RENTAL UNIFORM RENTAL UNIFORM RENTAL UNIFORM RENTAL UNIFORM RENTAL UNIFORM RENTAL UNIFORM RENTAL MAT NYLON/RUBBER UNIFORM RENTAL UNIFORM RENTAL	30.28 35.12 46.21 16.34 35.24 16.34 18.93 94.61 23.54 27.30 35.12

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196589	5/10/2024	0011373 VESTIS SERVICES, LLC	(Continued)			
			6560374136		UNIFORM RENTAL	46.21
			6560374137		UNIFORM RENTAL	16.34
			6560374138		UNIFORM RENTAL	35.24
			6560374139		UNIFORM RENTAL	16.34
			6560374140		UNIFORM RENTAL	18.93
			6560374160		UNIFORM RENTAL	94.61
					Total :	606.70
196590	5/10/2024	0010918 VETTESE, REBECCA J.	05062024		APRIL ENHANCE FITNESS CLASSES	300.00
			05062024TC		APRIL TAI CHI CLASSES	270.00
					Total :	570.00
196591	5/10/2024	0003067 WAIF	1434		APRIL 2024 CITY CONTRACT W/ WAIF	4,791.67
					Total :	4,791.67
196592	5/10/2024	0000971 WALMART COMMUNITY	1655160950		CREDIT CARD PURCHASES	328.57
					Total :	328.57
196593	5/10/2024	0001052 WASHINGTON STATE PATROL	I2405996		BACKGROUND CHECKS - APRIL	206.50
					Total :	206.50
196594	5/10/2024	0007094 WESTERN EQUIPMENT, INC	INV013229		KUBOTA SLOPE MOWER 24.8HP DIESE	71,559.59
					Total :	71,559.59
196595	5/10/2024	0001039 WESTERN TRUCK CENTER	026P55954		VALVE-PRESSURE PROTECTION	67.84
			026P56560		ELEMENT FUEL & FILTERS	673.72
			PRF118623-M1Final		GARBAGE TRUCK PURCHASE	207,080.96
					Total :	207,822.52
196596	5/10/2024	0000816 WEX BANK	96978093		FUEL PURCHASE & REACTIVATION FEI	281.61
					Total :	281.61
196597	5/10/2024	0001000 WHIDBEY AUTO PARTS, INC.	1557-546353		OIL FILTER	5.42
			1557-546653		EMER SERVICE ROTORS, DISC BREAK	314.68
			1557-546678		HARNES	16.34
			1557-546787		OIL FILTER	5.42
			1557-546836		OIL FILTER	13.83

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
196597	5/10/2024	0001000 WHIDBEY AUTO PARTS, INC.	(Continued) 1557-546870 1557-547133		15W40 OIL AIR FILTER	21.79 9.29 Total : 386.77
196598	5/10/2024	0004185 WHIDBEY SEATAC SHUTTLE	WSSC-24-0012		SHUTTLE SERVICE - SHEN YUN	1,532.63 Total : 1,532.63
196599	5/10/2024	0001010 WHIDBEY TELECOM	996-100-1001		ALARM COM & FIRE ALARM MONITORI	43.60 Total : 43.60
196600	5/10/2024	0000355 ZIPLY FIBER	360-240-0603 360-279-9874 360-675-1447 360-675-1568 360-675-1669 360-679-1651 360-679-4609		CURRENT PHONE CHARGES CURRENT PHONE CHARGES CURRENT PHONE CHARGES CURRENT PHONE CHARGES CURRENT PHONE CHARGES CURRENT PHONE CHARGES CURRENT PHONE CHARGES	78.97 124.66 276.37 314.42 77.11 77.11 78.97 Total : 1,027.61
113 Vouchers for bank code : bank						Bank total : 833,180.01
113 Vouchers in this report						Total vouchers : 833,180.01

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

Bill No. 4.c.
Date: May 21, 2024
Subject: Interlocal Agreement -
Acceptance of Washington State
Military Dept. Homeland
Security Grant (#E24-327)

FROM: Police Department and Grants Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Authorize the Mayor to sign the Interlocal agreement accepting the Washington State Military Dept. Homeland Security Grant award for the City of Oak Harbor Police Department in the amount of \$8,141.60.

BACKGROUND / SUMMARY INFORMATION

The Island County Sheriff's office is the primary grant recipient and, as such, is responsible for management of the grant and all reporting requirements. The Oak Harbor Police Department is a sub-recipient of the grant.

Oak Harbor Police Department has been awarded \$8,141.60. The Cost Summary is: \$6,789.00 of that total must be spent on police overtime; \$1,221.60 has been allocated for "fringe" expenses related to benefits and \$131.00 for mileage.

The funds will be dedicated to the police patrol function on shoreline, waterfront and / or Marina areas to comply with grant requirements. All funding must be expended by 07/30/2026.

The grant program is more commonly known as the "Stonegarden" grant program. The total amount of the grant is \$97,500.00 and is scheduled to be approved by the Board of Island County Commissioners in June, 2024.

The requirement for this grant is met through our normal operational commitments specific to patrol of our shoreline and Marina areas.

LEGAL AUTHORITY

FISCAL IMPACT

None.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

Council approved acceptance of E23-236 award \$8,685.00 under this program on July 11, 2023.

ATTACHMENTS

1. [Interlocal Agreement](#)

INTERLOCAL AGREEMENT BETWEEN
ISLAND COUNTY SHERIFF'S DEPARTMENT AND OAK HARBOR POLICE DEPARTMENT

This AGREEMENT is entered into by and between the ISLAND COUNTY SHERIFF'S DEPARTMENT and the OAK HARBOR POLICE DEPARTMENT.

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. Award Recipient Name and Address
Oak Harbor Police Department</p> <p>3. Project Title:
Homeland Security Grant</p> <p>5. Grant No.
E24-327</p> <p>7. Amount approved:
\$8,141.60</p> | <p>2. Contact: Tony Slowik
Title: Chief
Telephone: 360-279-4601</p> <p>4. Award Period:
09/01/2023-7/31/2026</p> <p>6. Funding Authority
Washington State Military Department</p> <p>8. Service Area:
City of Oak Harbor</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Oak Harbor Police Department – Partner Recipient Cost Summary = \$8,141.60									
Cost Categories	Overtime	Fringe	Equipment	Fuel	Maint.	Mileage	Travel	M&A	Total
Agency Cost	\$6,789	\$1221.60	\$0.00	\$0.00	\$0.00	\$131.00	\$0.00	\$0.00	\$8,141.60

FUNDING SOURCE

Funding for this AGREEMENT is provided to the ISLAND COUNTY SHERIFF'S DEPARTMENT from the Washington State Military Department for the intended purposes/use as defined in the Homeland Security Grant No. E24-327, which is incorporated by reference. Funding awarded to the RECIPIENT shall not exceed \$8,141.60.

SCOPE OF SERVICES

The RECIPIENT shall use the funds awarded to meet the requirements identified in the Grant Agreement E24-327, which is incorporated herein. The required quarterly report will be submitted within ten days of the end of the quarter. Funds will be disbursed once the Island County Sheriff's Department has been reimbursed by Washington State Military Department. Delays in report submittal or project related activities may result in a delay of disbursement of funds.

INDEMINIFICATION

Each party agrees to be responsible and assumes liability for its own wrongful and/or negligent acts or omissions in the performance of this Agreement or those of their officials, officer, agents or employees to the fullest extent required by law, and further agrees to save indemnify, defend and hold the other party harmless from any such liability. No joint venture or partnership is formed as a result of this AGREEMENT.

INTERLOCAL AGREEMENT BETWEEN
ISLAND COUNTY SHERIFF'S DEPARTMENT AND OAK HARBOR POLICE DEPARTMENT

IN WITNESS WHEREOF, ISLAND COUNTY SHERIFF'S DEPARTMENT and RECIPIENT acknowledge and accept the terms of this AGREEMENT and attachments hereto, and in witness whereof have executed this AGREEMENT as of the date and year written below. The rights and obligations of both parties to this AGREEMENT are governed by the information on this Award Sheet and Letter and other documents incorporated herein.

ISLAND COUNTY SHERIFF'S DEPARTMENT

OAK HARBOR POLICE DEPARTMENT

Name: Rick Felici
SHERIFF

Name: Tony Slowik
CHIEF

Date: _____

Date: _____

ISLAND COUNTY COMMISSIONER

CITY OF OAK HARBOR

Jill Johnson, Chair
Board of Island County Commissioners

Ronnie Wright
Mayor, City of Oak Harbor

Date: _____

Date: _____

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

Bill No. 4.d.
Date: May 21, 2024
Subject: Law Enforcement Vehicle
Pursuit Tech Grant Round 2
Approval

FROM: Wendy Horn, Grants Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion approving the Mayor to sign a letter of submittal for the Department of Commerce Law Enforcement Pursuit Technology Grant Program, Round 2.

BACKGROUND / SUMMARY INFORMATION

The Department of Commerce has released a second round of Request for Proposals to law enforcement agencies to provide funding to purchase modern vehicle pursuit technology, provide training for officer to use the technology, and enhance data sharing between agencies and other third parties. Up to \$50,000 is available for agencies with 1-50 law enforcement officers. The Police Department submitted an application in the first round in November 2023, but was not awarded that grant.

The Oak Harbor Police Department currently has 29 sworn officers. The Department would like to request funding to purchase vehicle pursuit technology that is not currently included in its budget. Training for officers to safely and appropriately use the technology will be included in the grant request.

The purpose of using modern technology is to provide tools and alternatives to high-speed pursuits, thus enhancing the safety for all involved in pursuits, including bystanders.

LEGAL AUTHORITY

FISCAL IMPACT

The Oak Harbor Police Department will receive up to \$50,000 in funding from the Department of Commerce for technology and training currently not in the department's budget. If awarded the grant, staff will seek City Council approval for a budget amendment,

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

On October 3, 2023, the Police Department presented information about the Law Enforcement Vehicle Pursuit grant program and requesting City Council approval to submit the application along with a signed letter of submittal from the Mayor. The City Council approved the request. The Police Department submitted the application, but was not awarded the grant in the first round.

ATTACHMENTS

1. [Mayor Wright Letter of Submittal](#)
2. [OHPD Vehicle Pursuit Tech Grant PowerPoint](#)

City of Oak Harbor

OFFICE OF THE MAYOR
RONNIE WRIGHT
MAYOR

May 21, 2024

Kaitin Jones, RFP Coordinator
Department of Commerce

RFP NO. S25-34444-LETECH
Law Enforcement Pursuit Technology Grant Program

Letter of Submittal

Ms. Jones,

The City of Oak Harbor Police Department intends to apply for the Law Enforcement Pursuit Technology Grant. As Mayor, I fully support this effort and applaud every attempt to make vehicle pursuit safer for all involved, including pedestrians and bystanders.

The City of Oak Harbor was incorporated in 1915 as a municipal government within the state of Washington. The City operates under the Mayor-Council form of government. The Mayor acts as the Chief Executive Officer and is responsible for the development of budgets and related financial plans, and the overall operation of the City. The City Council is made up of seven elected positions who are responsible for policy decisions for the City. A complete list of current council members with addresses, phone numbers and emails is attached to this Letter of Submittal.

The City's Federal Employer Tax Identification is 91-6001476.

The City's Uniform Business Identification is 153-000-005.

The activities of this grant will take place in the City of Oak Harbor.

Regarding conflicts of interest, prior state employees currently employed by the City of Oak Harbor include the City Engineer and Lead Parks Specialist. The City Engineer is responsible for City infrastructure projects and the Lead Parks Specialist is responsible for day-to-day and other projects related to City-owned parks.

Regards,

Ronnie Wright, Mayor

Oak Harbor City Council

Tara Hizon

Title: Mayor Pro Tempore, Position 1

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: 360-279-4561

thizon@oakharbor.org

Christopher Wiegenstein

Title: Councilmember, Position 2

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: 360-279-4564

cwiegenstein@oakharbor.org

Eric Marshall

Title: Councilmember, Position 3

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: n/a

emarshall@oakharbor.org

Barbara Armes

Title: Councilmember, Position 4

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: n/a

barmes@oakharbor.org

Shane Hoffmire

Title: Councilmember, Position 5

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: 360-279-4565

shoffmire@oakharbor.org

Jim Woessner

Title: Councilmember, Position 6

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: 360-929-2302

jwoessner@oakharbor.org

Bryan Stucky

Title: Councilmember, Position 7

865 SE Barrington Drive, Oak Harbor, WA 98277

Phone: 360-279-4648

bstucky@oakharbor.org

**CITY OF OAK HARBOR
DEPARTMENT OF
COMMERCE
LAW ENFORCEMENT
PURSUIT TECHNOLOGY
GRANT PROGRAM**



**City Council Meeting
05/21/2024**

ROUND 2 PURPOSE

- Provide Law Enforcement Agencies with modern technology & training
- Improve communication between agencies
- Improve safety for all involved in vehicular pursuits



MODERN PURSUIT TECHNOLOGY



- Includes, but not limited to:
 - Tracking
 - Plate reading
 - Drones
 - Vehicle immobilization

OHPD REQUEST

- \$50,000
- Opportunity to expand PD tools
- Not in current budget
- Match not required



MOTION

Move to approve authorizing the Mayor to sign a Letter of Submittal to the Washington State Department of Commerce for the Law Enforcement Pursuit Technology Grant Program, Round 2.

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

Bill No. 4.e.
Date: May 21, 2024
Subject: Resolution 24-18 Approving
Department of Justice COPS
Hiring Grant Application

FROM: Wendy Horn, Grants Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion approving the Mayor sign Resolution 24-18 and review the application to the US Department of Justice COPS Hiring Grant Program.

BACKGROUND / SUMMARY INFORMATION

The US Department of Justice Community Oriented Policing Services (COPS) Hiring Program provides grant funding to law enforcement agencies. The program provides partial funding for police department new positions over a three-year period. Each position can be awarded up to \$125,000 per position over those three years. The receiving agency must fund the remainder of the position as well as guarantee each funded position continues through a fourth year, at a minimum.

The Oak Harbor Police Department presented staffing information to the City Council in February 2024. Chief Slowik presented staffing models on a per-capita versus a proactive time model. On a per capita model, Oak Harbor is below the comparable cities average, the state and nation average as well. In a proactive time model, Oak Harbor is at 24.6% of an officer time. Ideally that percentage, based on national data, should be 40%.

Chief Slowik presented a recommended staffing model for the council's consideration. It would add four patrol officers, one drug detective and one part-time receptionist. The department offered funding options for these positions, one of which is the COPS Hiring grant.

Funding from this grant is meant to supplement, not supplant any existing funds.

LEGAL AUTHORITY

FISCAL IMPACT

The Oak Harbor Police Department does not have funding in its budget for five additional positions. If awarded the grant, staff will bring this item back to the City Council for consideration of a budget amendment and consideration for approval of five new police department positions.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

On February 28, 2024, at the regularly scheduled workshop, Chief of Police Slowik presented a Departmental Staffing Update. It reviewed the current and future staffing and operational needs of the Police Department.

In October 2023, the City Council approved a 29th Commissioned Officer position to be funded in 2024. The City Council requested an update at a future meeting on the current and future police staffing.

ATTACHMENTS

1. [COPS Hiring Grant PowerPoint](#)
2. [Resolution 24 - 18](#)

**CITY OF OAK HARBOR
DEPARTMENT OF JUSTICE
COPS HIRING GRANT
PROGRAM**



CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

City Council Meeting
10/03/2023

DOJ GRANTS

- US Department of Justice
- Office of Community Oriented Policing Services (COPS)
- Hiring Program
- Supplement not Supplant



PURPOSE

- Hire or rehire additional officers to increase community policing capacity and crime preventions efforts
- Increase engagement with community groups and residents in general



OHPD STAFFING



- Council approved 29th sworn officer for 2024
- Staffing below comparable cities, state & national levels
- Below recommended proactive time model

OHPD RECOMMENDATION

- Four patrol officers
- One drug detective
- One PT receptionist
- Funding
 - COPS grant (partial)
 - Opioid funds
 - B & O tax (potential)



OHPD COPS REQUEST

- \$625,000 (over 3 years)
- Five (5) NEW officers

- Not in current budget
- Match not required

QUESTIONS?

COPS APPLICATION PROCESS

- Dept of Justice
- Grant making system
- JustGrants.gov
- Electronic Signatures
 - Mayor
 - Police Chief
- June 12, 2024 deadline to apply



JUSTgrants
JUSTICE GRANTS SYSTEM

RECOMMENDED MOTION

Move approving the Mayor sign Resolution 24- XX and review the application to the US DOJ COPS Hiring Grant Program.

RESOLUTION 24 - 18

**A RESOLUTION OF THE CITY OF OAK HARBOR AUTHORIZING
ITS POLICE DEPARTMENT TO APPLY FOR DEPARTMENT OF JUSTICE COPS
HIRING GRANT PROGRAM**

WHEREAS, the Oak Harbor Police Department proposes the City apply for a grant offered by the US Department of Justice Community Oriented Policing Services (COPS) Hiring Grant Program; and

WHEREAS, the COPS Hiring Grant funds one police department position at \$125,000 over three years; and

WHEREAS, the Police Department wishes to apply for a \$625,000 grant to fund five new police department positions; and

WHEREAS, there are resources available to fund the remaining portion of each position; and

WHEREAS, the Police Department will then retain all five positions for a minimum of one year following the end of the grant period; and

WHEREAS, the City Council finds it is in the best interest of the City to apply for this DOJ COPS Hiring Grant to support community policing;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor that the Mayor is authorized to execute all documents necessary to apply for the US Department of Justice Community Oriented Policing Services (COPS) Hiring Grant Program.

PASSED by the City Council and approved by its Mayor this 21st day of May, 2024.

CITY OF OAK HARBOR

Ronnie Wright, Mayor

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

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

Bill No. 6.a.
Date: May 21, 2024
Subject: Annexation Request from Oak
Town Property, LLC for parcels
R13326-274-1130, R13326-
291-1130, and R13326-281-
0850, located on Oak Harbor
Rd., approximately 5 acres

FROM: Cac Kamak, AICP, Principal Planner, Development Services

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

- Conduct a meeting with the applicant.
- Move to accept the area for annexation as proposed and authorize the annexation petition process for signatories representing not less than sixty percent of the assessed value, require the adoption of I, Industrial zoning, and require the annexed properties to share City indebtedness.

BACKGROUND / SUMMARY INFORMATION

Oak Town Properties LLC, owner of the following three parcels: R13326-274-1130, R13326-291-1130, and R13326-281-0850, has submitted a request to annex (Attachment 1) into the City. The properties are located on N. Oak Harbor Road and encompass approximately 5 acres (see Map Attachment 2).

The properties are contiguous to the City to the south.

RCW 35A.14.120 requires the City Council to convene a meeting with the initiating party within 60 days after the filing of the notice of intent (the notice was received March 29, 2024). The City Council must decide at this meeting: 1) whether it will accept, reject, or geographically modify the proposed annexation; 2) whether it will require adoption of zoning simultaneously with annexation; and, 3) whether it will require annexed properties to share City indebtedness.

The decision of the Council, whether to move forward with the proposed annexation, is entirely within its discretion. By accepting a proposed intent to annex at this stage, the Council is not committing itself to ultimately annexing the territory proposed. This acceptance authorizes the

proponent to circulate a petition for signatories representing not less than sixty percent of the assessed value of the proposed annexation area. If the Council rejects the proposed annexation at this stage, the initiating parties have no right of appeal.

1. Whether to accept, reject, or geographically modify the proposed annexation

Guidance for this is provided in the goals and policies adopted in the Urban Growth Element of the City's Comprehensive Plan. It addresses such issues as maintaining adopted levels of service, ensuring public services can be provided to the annexed area, funding of these services, potential future obligations by property owners, and confirming the annexation is a logical extension of the City's municipal limits (please see Attachment 3 for these goals and policies).

The Property is designated as Industrial in the City's Comprehensive Plan Land Use Map. One of the properties currently has a structure on it and the other two properties are vacant.

Utilities

The property is currently served by City water. A water connection agreement in 2001 was signed when the property was subdivided. The properties are not connected to the City's wastewater system. On Oak Harbor Road, the closest connection is approximately half a mile away to the south in the vicinity of Crosby Avenue. To the east, there is a sewer currently serving W Erin Park Road that connects to Goldie Road, however, connection to this system has several issues since there are no public easements that allow for the connection. Connections to the sewer system will be challenging in either direction. The City's comprehensive sewer plan calls for a gravity sewer along Oak Harbor Road to serve properties west of Oak Harbor Road, and a combination of lift stations and forced mains along the low areas between Oak Harbor Road and Goldie Road will serve the properties located there. The City's current Capital Improvements Plan has \$250,000 in 2027/28 for the design of this sewer system, however the funding source for project construction has not been identified. The timing of the sewer connection to these properties will determine the full potential of the properties, however the property can still accommodate some limited development within its current capacity with uses such as storage/mini warehouses which requires minimum wastewater facilities, and the existing on-site system is in working order to accommodate the proposed development. Any other kind of substantial development will be dependent on the city sewer connections.

If annexed, stormwater management facilities will need to be provided with development proposals and will be required to meet the City's adopted standards. The properties drain eastward and southward with the water eventually flowing into the NE 7th Avenue wetlands.

Emergency Services

The Level of Service (LOS) impacts for Police and Fire are minimal at this time. However, if annexed and developed, will add to the City's inventory of property to serve. As the City grows, these services must be evaluated to determine if LOS levels are maintained.

Transportation

The Transportation Plan indicates several future road connections (see Attachment 4) in this area to increase connectivity between Heller Road and Goldie Road. One such connection is indicated along NE 24th Avenue/W Erin Park Road and Oak Harbor to Heller Road. This future connection runs along the southern edge of the annexation property. Development of this property will require half street dedication and improvements. Although sanitary sewer is currently not available to the property, the property is within the City's Urban Growth Area (UGA), contiguous to the city limits, benefits from an existing City water connection and should therefore be considered for annexation.

2. Whether it will require adoption of zoning simultaneously with annexation

The property should be designated as Industrial when annexed in accordance with the Comprehensive Plan Land Use Map

3. Whether it will require annexed properties to share City indebtedness

City indebtedness refers to existing or future bonds, the cost of which is shared by City taxpayers. It is logical for the City to require that properties in the proposed annexation to share in City indebtedness.

LEGAL AUTHORITY

Legal authority for municipal annexations is established under RCW 35A.14.010.

FISCAL IMPACT

The above discussion reveals some challenges to serving the property with a sanitary sewer. The City's current Capital Improvements Plan (CIP) does include designing sewer improvement in this area. Street connections in this area will depend on properties being developed to provide access. The CIP also does not have any street projects in this area for the next six years. Substantial private and public investments in infrastructure will be required for this area to develop within the City.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

The City Council considered a similar request to annex these properties in 2019 but the property owner did not follow through with the annexation.

ATTACHMENTS

1. [Intent to Annex](#)
2. [Location Map](#)
3. [Urban Growth Element - Goal 4 and related policies](#)
4. [Transportation Plan - Future Roads map](#)
5. [Presentation](#)

March 29, 2024

VIA HAND DELIVERY

The Honorable Mayor Ronnie Wright
and Members of the City Council
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor WA 98277



NOTICE OF INTENTION TO COMMENCE ANNEXATION PROCEEDINGS

Dear Mayor Wright and Councilmembers:

The undersigned Member of Oak Town Property LLC, a Washington company who owns not less than 10% of the acreage for which annexation is sought by this Notice of Intention to Commence Annexation Proceedings, hereby advises the City Council of the City of Oak Harbor that it is the desire of Oak Town Property LLC to commence annexation proceedings of the following acreage:

The property herein referred to is legally described on Exhibit "A" attached hereto and is geographically depicted on an Island County Assessor's parcel map on Exhibit "B" further attached hereto.

It is requested that the City Council of the City of Oak Harbor set a date, not later than sixty (60) days after the filing of this request, for a meeting with the undersigned to determine:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Oak Harbor; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

This page is one of a group of pages containing identical text material and is intended by the signers of the Notice of Intention to Commence Annexation Proceedings to be presented and considered as one Notice of Intention to Commence Annexation Proceedings and may be filed with other pages containing additional signatures which cumulatively may be considered as a single Notice of Intention to Commence Annexation Proceedings.

Respectfully,

A handwritten signature in black ink, appearing to read "Jack Ng".

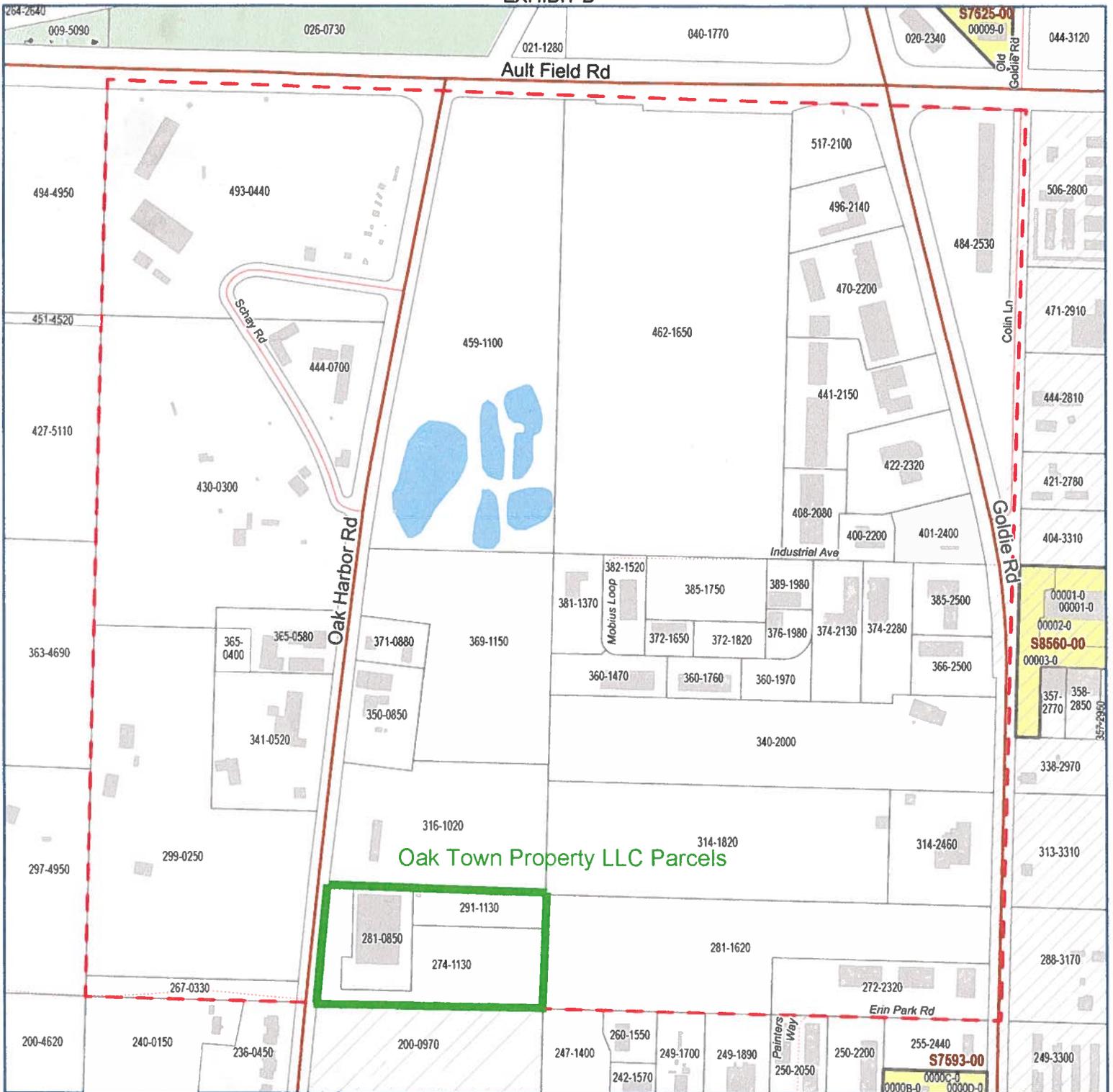
Kwok Yang "Jack" Ng, Majority and Managing Member
Oak Town Property LLC

Enclosures

EXHIBIT A

Legal: Lots 1, 2 and 3 of ISLAND COUNTY SHORT PLAT NO. SHP 363/0.1R13326-281-1020 as approved January 3, 2003 and recorded January 3, 2003 in Volume 3 of Short Plats, pages 467 and 468 under Auditor's File No. 4042980, records of Island County, Washington; being a portion of the Southwest Quarter of the Northwest Quarter of Section 26, Township 33 North, Range 1 East of the Willamette Meridian. Situate in Island County, Washington.

Tax Account No(s): R13326-281-0850, R13326-274-1130 and R13326-291-113



Map ID: 232

NW 1/4 Sec.26 Twp.33 R.1E

26-33-1E

Island County Assessor's Office



Current Quarter Section

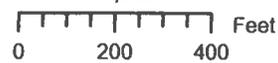
Parcels

Plats

City Limits

Military Owned

1:4,800



For more information, visit www.islandcountywa.gov

Abbreviated parcel numbers are listed. To get the full number:

Metes and bounds parcels (e.g. "R01234-567-8910")

Add the letter "R" followed by the Range (R), Township (Twp), and Section (Sec) number and a dash to the front of the labeled parcel number
Example: R + (R, Twp, S) 01234- + (labeled parcel #) 567-8910

Parcels in plats (e.g. "S1234-00-56789-0")

Add the "S" number of the plat and a dash to the front of the labeled parcel number in the plat
Example: (labeled plat #) S1234-00- + (labeled parcel #) 56789-0

DO NOT USE AS A LEGAL DOCUMENT

These maps were created from available public records and existing map sources, and from different surveyors and their surveys. Map features from all sources have been acquired to achieve a "best fit" registration to the Ownership parcels. While great care was taken in the process, maps from different sources rarely agree as to the precise location of geographic features. The relative positioning of map features to one another results from combining different map sources without field "ground truthing."



9/14/2022

232



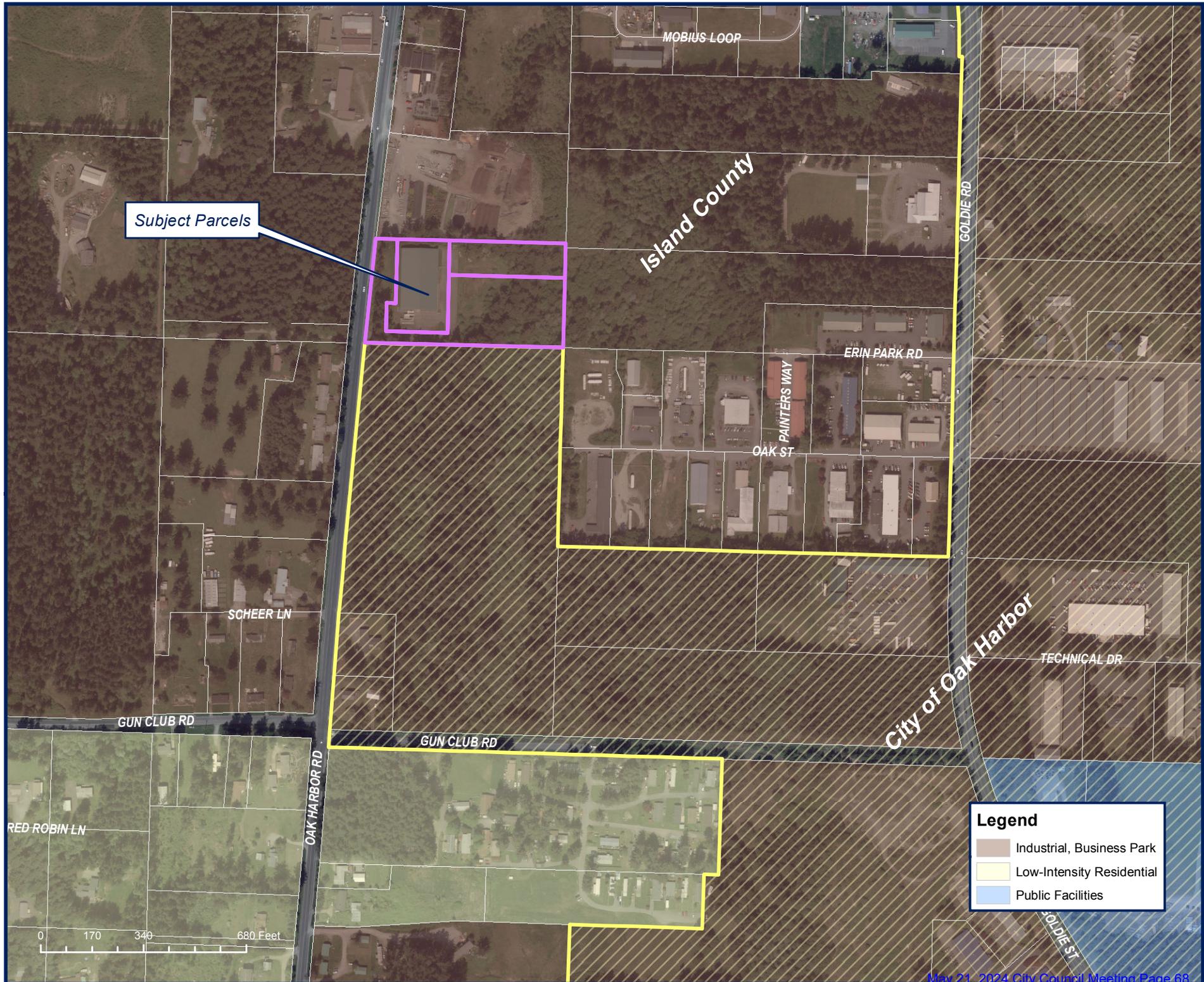
Subject Parcels

Island County

City of Oak Harbor

Legend

- Industrial, Business Park
- Low-Intensity Residential
- Public Facilities



City of Oak Harbor Comprehensive Plan (June 2016) Urban Growth Area Element Goals/Policies

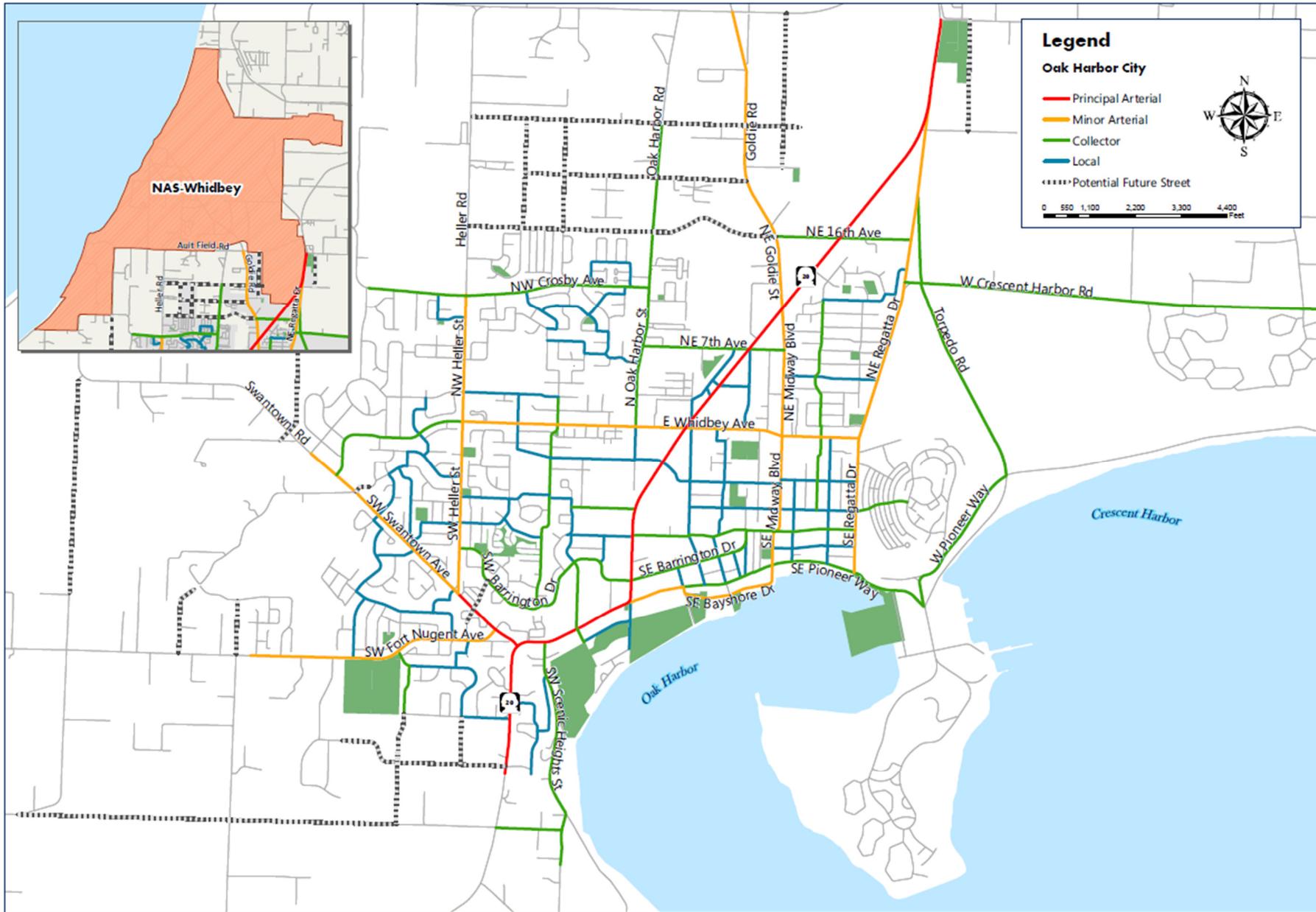
Goal 4 - Annexations to the City will occur in compliance with the Washington State Growth Management Act and the following policies:

- 4.a. Land to be annexed should include only areas seen as logical extensions of the City, located adjacent to existing urban development.
- 4.b. The City should avoid annexations that would result in unincorporated enclaves within the UGA.
- 4.c. Annexations to the City should be based on evidence that public facilities and service capacities already exist or are planned for and can be efficiently, economically, and practically provided by either public or private sources.
- 4.d. Annexations should not diminish the present LOS or create an excessive financial burden to existing and prospective property owners in the City.
- 4.e. Ensure property owners within an annexing area are aware of foreseeable obligations or requirements that may be imposed upon them by the City at the time of annexation.
- 4.f. Require existing buildings, within annexed areas, to meet the City's fire and safety requirements.
- 4.g. Assure that the City's fire rating is not reduced because of annexation.
- 4.h. Maintain the existing level of police service when annexing new areas.
- 4.i. Annexation proposals should describe the method and level of funding for capital facilities needed to serve the annexed area.
- 4.j. Proponents of annexation in developed or partially developed areas should pay their fair share of the costs of urban services and public improvements required to meet the City's LOS standards.
- 4.k. The City may require the preparation of a fiscal impact study which addresses long and short-term economic impacts to the City.
- 4.l. Annex, when possible, areas of sufficient size that square off City boundaries and enhance circulation.
- 4.m. Proposed annexations shall not result in the long-term reduction of the City's established LOS standards.

Goal 5 - New neighborhoods annexed into the City should contribute in a positive manner to sustain and enhance the quality of life for all Whidbey Island citizens while promoting a strong sense of place for Oak Harbor.

- 5.a Annexation agreements should include a preliminary plan for a transportation network that emphasizes connections to existing neighborhoods, streets and pedestrian facilities.
- 5.b Where topography allows, new annexation areas should develop in the traditional lot and block grid pattern that typified early Oak Harbor development and enhances the provision of public facilities and services.
- 5.c The City should consider the desirability of acquiring potential new public facilities, such as trails, parks or open space lands, during the annexation review process with the cooperation of the petitioners.
- 5.d In annexation requests where the surrounding land uses could be significantly affected by the potential land uses in the annexing area, the City should require a greenbelt designation of an appropriate width to ameliorate the negative impacts.
- 5.e The City should adopt standards that support the Comprehensive Plan annexation policies.

Figure 3. Roadway Functional Classifications



Roadway Classification



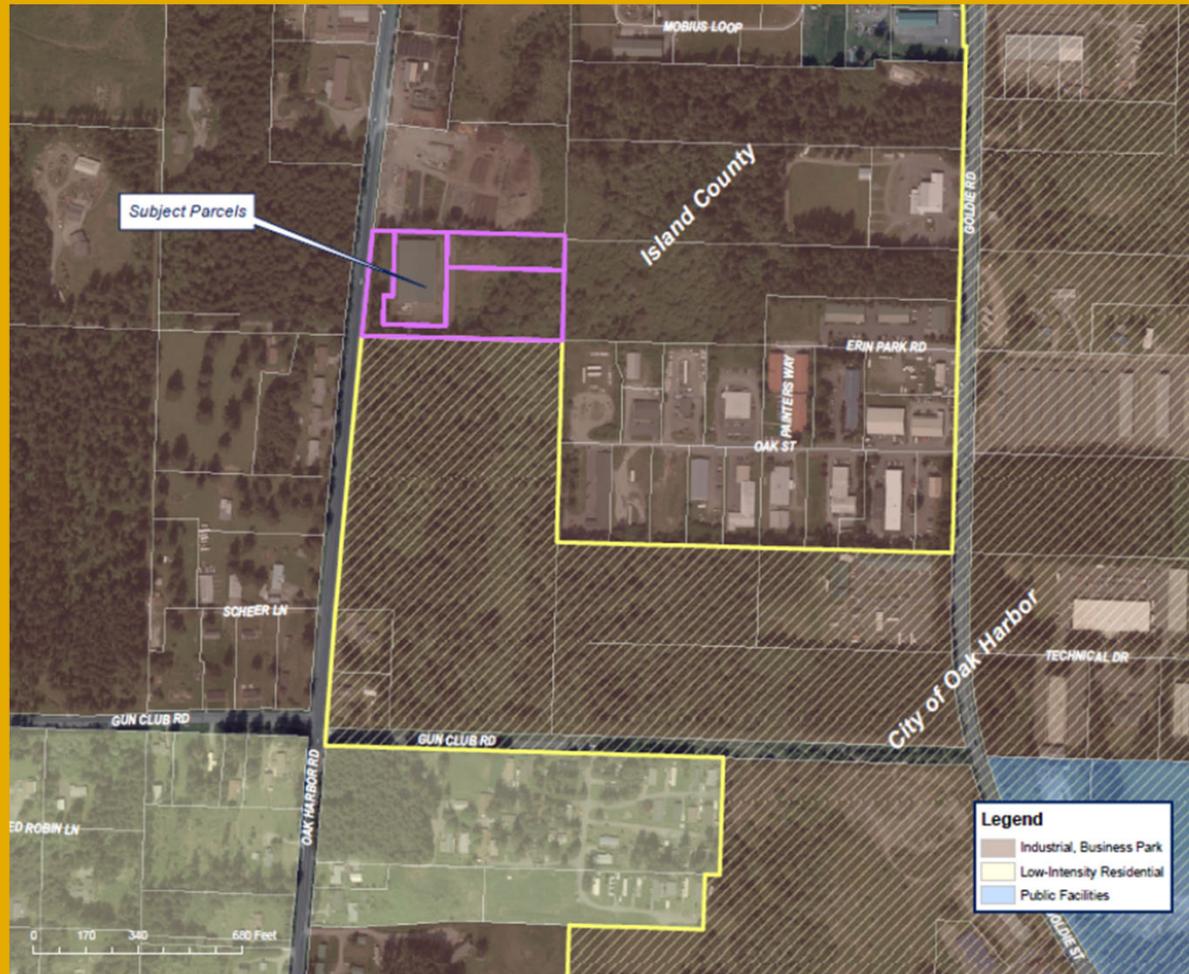


ANNEXATION REQUEST

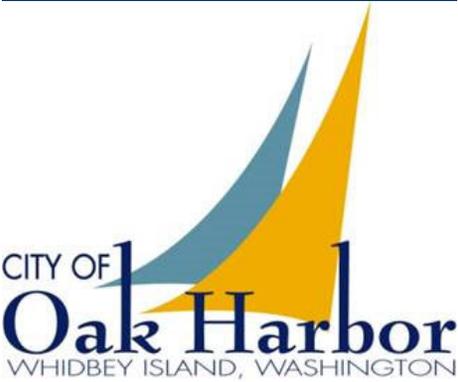
OAK TOWN PROPERTIES LLC

City Council

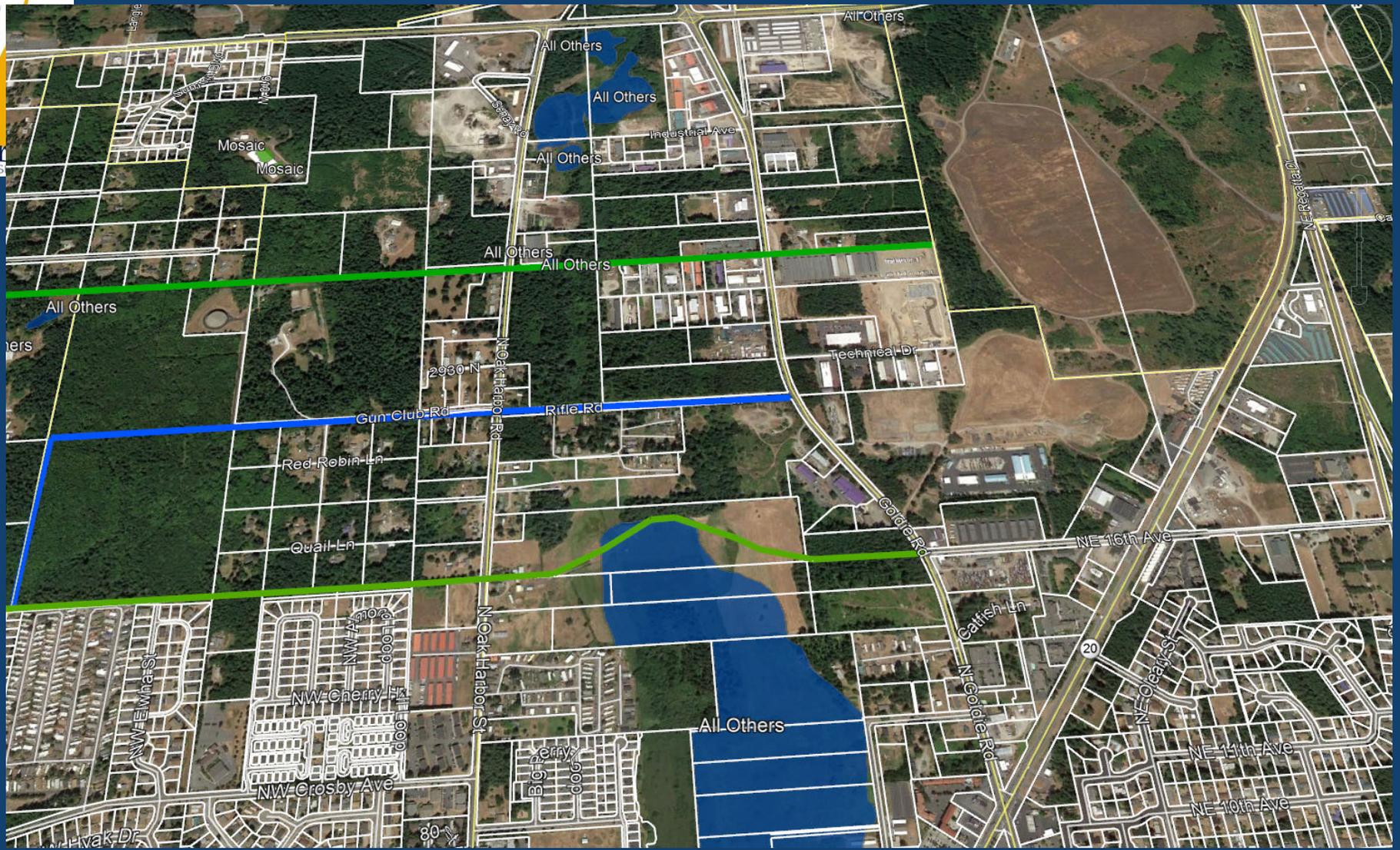
5/21/2024



Location







ANNEXATION PROCESS

- Letter of intent to annex
- Meeting with the applicant within 60 days
- Discretionary decision
 - 1) whether it will accept, reject, or geographically modify the proposed annexation;
 - 2) whether it will require adoption of zoning simultaneously with annexation;
 - 3) whether it will require annexed properties to share City indebtedness.

- **Conduct meeting with the Applicant**
- **Move to commence annexation proceedings for Oak Town Properties**



**RECOMMENDED
ACTION**

City Council

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

Bill No. 6.b.
Date: May 21, 2024
Subject: Ordinance No. 1993: Amending
OHMC Sections 19.66.080,
19.67.060, and 19.20.095
pertaining to appeals of land use
decisions.

FROM: Nolan Grunski, Assistant Planner, Development Services

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Adopt Ordinance No. 1993: Amending Oak Harbor Municipal Code Sections 19.66.080, 19.67.060, and 19.20.095, pertaining to appeals of land use decisions.

BACKGROUND / SUMMARY INFORMATION

The City's Hearing Examiner noted that during a recent hearing, the stated appeal period in the applicable section of the code did not comply with the provisions of the Land Use Petition Act (LUPA), Chapter 36.70C RCW.

After a comprehensive review of the Oak Harbor Municipal Code, the City determined that multiple sections of the code should be amended to clear up any potential internal conflicts or inconsistencies, and to ensure that all appeals of land use decisions that are subject to the land use petition act (LUPA) are clearly provided with accurate appeal periods in the city code.

There are three (3) sections of code that are being updated relating to appeals:

OHMC 19.66.080
OHMC 19.67.060
OHMC 19.20.095

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

The Planning Commission reviewed the proposed amendments at its April 23, 2024 meeting. The Planning Commission's comments are summarized below:

- OHMC sections 19.20.595 and 19.20.720 (since removed from amendment proposal) need not be amended because these sections were recently removed from the OHMC entirely.

The proposed amendments presented to the Planning Commission included five (5) sections of code, rather than the current three (3). The two sections since removed from the proposal were located within the code for the PIP and PBP zones, which were recently removed from the OHMC, but not before the code sections had been audited for compliance with LUPA pursuant to composing the current proposed amendments.

The Planning Commission moved to recommend the City Council approve an amendment to sections 19.66.080 and 19.67.060 of the Oak Harbor Municipal Code ("OHMC"), along with portions of OHMC Chapter 19.20, pertaining to appeals of land use decisions.

ATTACHMENTS

1. [Ordinance No. 1993 - Redlined version](#)
2. [Ordinance No. 1993 - Final](#)
3. [Presentation](#)

ORDINANCE NO. 1993

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING OAK HARBOR MUNICIPAL CODE (OHMC) SECTIONS 19.66.080, 19.67.060, AND 19.20.095, PERTAINING TO APPEALS OF LAND USE DECISIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, as various parts of the Oak Harbor Municipal Code have been amended over time, newer code amendments have not always remained in harmony with older code provisions, leading to vestigial references and potential conflicts between competing provisions; and

WHEREAS, during the course of a recent land use hearing, the City's Hearing Examiner noted that the stated appeal period in the applicable section of the code did not comply with the provisions of the Land Use Petition Act (LUPA), Chapter 36.70C RCW; and

WHEREAS, after a comprehensive review of the Oak Harbor Municipal Code, the City determined that multiple sections of the code should be amended to clear up any potential internal conflicts or inconsistencies, and to ensure that all appeals of land use decisions that are subject to LUPA are clearly provided with accurate appeal periods in the city code;

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

Section One. OHMC 19.66.080, Amended. Section 19.66.080 of the Oak Harbor Municipal Code is hereby amended to read as follows:

19.66.080 Time decision is effective.

The decision of the hearing examiner granting or denying a variance shall ~~not~~ become final as provided in OHMC 19.110.020 until the expiration of 10 days from the date of action by the hearing officer, unless the officer shall find that the making of the decision effective immediately is necessary for the preservation of property or personal rights and shall so certify on the record of the request for a conditional use permit. If a building permit and/or occupancy permit is not obtained for the subject property within six months from the date of the hearing officer's decision, the variance shall be canceled and automatically become null and void. ~~The decision of the hearing examiner shall be final, subject to review by the superior court.~~

Section Two. OHMC 19.67.060, Amended. Section 19.67.060 of the Oak Harbor Municipal Code is hereby amended to read as follows:

19.67.060 Time decision is effective.

The decision of the hearing examiner granting or denying a conditional use permit is shall become final as provided in OHMC 19.110.020 10 days after the date of action by the hearing officer. ~~The decision of the hearing examiner shall be final unless appealed to superior court within 10 days from the date of action.~~

Section Three. OHMC 19.20.095, Amended. Section 19.20.095 of the Oak Harbor Municipal Code is hereby amended to read as follows:

19.20.095 Judicial review.

Any legal action to review a decision of the city council or planning commission under this ~~title Article I that constitutes a final land use decision, not subject to further administrative appeal,~~ shall be filed in Island County superior court within ~~30~~ 21 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision.

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

ADOPTED by the City Council this _____ day of _____, _____.

THE CITY OF OAK HARBOR

By: _____
Ronnie Wright, Mayor

Dated: _____

ATTEST/AUTHENTICATED:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

ORDINANCE NO. 1993

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING OAK HARBOR MUNICIPAL CODE (OHMC) SECTIONS 19.66.080, 19.67.060, AND 19.20.095, PERTAINING TO APPEALS OF LAND USE DECISIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, as various parts of the Oak Harbor Municipal Code have been amended over time, newer code amendments have not always remained in harmony with older code provisions, leading to vestigial references and potential conflicts between competing provisions; and

WHEREAS, during the course of a recent land use hearing, the City's Hearing Examiner noted that the stated appeal period in the applicable section of the code did not comply with the provisions of the Land Use Petition Act (LUPA), Chapter 36.70C RCW; and

WHEREAS, after a comprehensive review of the Oak Harbor Municipal Code, the City determined that multiple sections of the code should be amended to clear up any potential internal conflicts or inconsistencies, and to ensure that all appeals of land use decisions that are subject to LUPA are clearly provided with accurate appeal periods in the city code;

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

Section One. OHMC 19.66.080, Amended. Section 19.66.080 of the Oak Harbor Municipal Code is hereby amended to read as follows:

19.66.080 Time decision is effective.

The decision of the hearing examiner granting or denying a variance shall become final as provided in OHMC 19.110.020. If a building permit and/or occupancy permit is not obtained for the subject property within six months from the date of the hearing officer's decision, the variance shall be canceled and automatically become null and void.

Section Two. OHMC 19.67.060, Amended. Section 19.67.060 of the Oak Harbor Municipal Code is hereby amended to read as follows:

19.67.060 Time decision is effective.

The decision of the hearing examiner granting or denying a conditional use permit shall become final as provided in OHMC 19.110.020.

Section Three. OHMC 19.20.095, Amended. Section 19.20.095 of the Oak Harbor Municipal Code is hereby amended to read as follows:

19.20.095 Judicial review.

Any legal action to review a decision of the city council or planning commission under this Article I that constitutes a final land use decision, not subject to further administrative appeal, shall be filed in Island County superior court within 21 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision.

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

ADOPTED by the City Council this _____ day of _____, _____.

THE CITY OF OAK HARBOR

By: _____
Ronnie Wright, Mayor

Dated: _____

ATTEST/AUTHENTICATED:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

OHMC Sections 19.66.080, 19.67.060, and 19.20.095 Amendment
Ordinance No. 1993 - 2



OHMC APPEALS TIMELINE AMENDMENTS

City Council

5/21/2024

COMPLIANCE WITH LUPA

- Conflicts created by outdated references to appeals timelines in the OHMC superseded by the Land Use Petition Act (LUPA), Chapter 36.70C RCW
- Conflict was noted by the City's Hearing Examiner in a recent land use hearing
- Update intended to correct inconsistencies for clarity and accuracy
- Three (3) sections of Chapter 19 of the OHMC proposed to be amended

PROPOSED AMENDMENTS

- Three (3) sections of Chapter 19 of the OHMC proposed to be amended
 - OHMC 19.66.080
 - OHMC 19.67.060
 - OHMC 19.20.095



RECOMMENDED ACTION

Move to approve amendments to Oak Harbor Municipal Code Sections 19.66.080, 19.67.060, and 19.20.095, pertaining to appeals of land use decisions.

QUESTIONS/DISCUSSION

City Council



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

Bill No. 6.c.
Date: May 21, 2024
Subject: Ordinance 1998: Adoption of a
Business & Occupation Tax

FROM: David Goldman, Deputy City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Ordinance 1998 and 2000 to be presented together.

Open Public Hearing.

Motion to approve Ordinance 1998, Amending Title 3 of the Oak Harbor Municipal Code to add a new Chapter 3.98, pertaining to the adoption of a business & occupation tax effective July 1, 2024

BACKGROUND / SUMMARY INFORMATION

At the March 27, 2024 City Council Workshop, Deputy City Administrator Goldman presented both temporary and permanent funding options regarding the police staffing needs that Police Chief Slowik presented to City Council at their February 28, 2024 Workshop. The funding options were presented in light of the City's financial policies and best practices that state that recurring revenues are required to fund recurring expenditures. The police staffing needs presented included four police officers, one drug enforcement detective, ½-time receptionist. The creation of these positions would cost approximately \$625,000 in the first year (assuming positions are hired at beginning STEPs). Due to current and estimated future STEP and COLA salary increases, the cost for these positions would run approximately \$950,000 by the eighth year. Based on Council deliberations and State law requirements (see MRSC City Business and Occupation (B&O) Taxes <https://mrsc.org/explore-topics/business-regulation/licensing/business-and-occupation-taxes>), staff has developed two ordinances: 1) adopting a business and occupation tax at 0.002 tax rate for all business categories with a \$1,000,000 gross receipts exemption (which can be changed depending on City Council direction) and 2) administrative rules regarding taxes.

Per the RCW and proposed Code, the following is exempt from this tax:

- Amounts derived from activities subject to the city's utility tax.
- Money earned from investments, unless the investments are part of a larger banking or finance business. Dividends that a company receives from its subsidiaries are also exempt.

- Insurance agents (brokers are subject to tax).
- Employees are not directly subject to the tax, but independent contractors generally are.
- Sale of real estate, or rental income if the lease is for 30 days or more. However, no exemption is allowed for amounts received as commissions on real estate sales.
- Funds held in trust by a mortgage broker.
- Producing or selling motor vehicle fuel.
- Producing or selling liquor.
- Casual and isolated sales, such as an accountant selling his or her office furniture.
- Accommodation sales, such as an automobile dealer selling a vehicle at cost to another dealer to fill an existing order.
- Taxes collected as trust funds, such as when a business collects sales tax from a customer to be remitted to the state.
- Nonprofit organizations, except for any retail sales they make.
- Activities already subject to the City's gambling tax.
- Church daycare programs.
- All federal, state, and local government agencies.
- All sports teams, except for any retail sales they make.

Temporary Funding Options Explored

As covered in the March 27, 2024 City Council Workshop, the City is planning on applying for the Department of Justice COPS hiring grant. This would provide a maximum of \$125,000 per officer or detective. Based on the assumption that the positions are hired at the beginning STEPs, this would cover 37% of salary and benefit costs in the first year dropping to 31% by the third year.

The City will be receiving the Johnson & Johnson opioid settlement funds in the next few months. This will provide approximately \$1,200,000 and should be able to cover eight years of salary and benefit costs for the drug enforcement detective.

Other Permanent Funding Options Explored

According to the MRSC (Revenue Guide for Washington Cities and Towns, Nov. 2023 edition), there are four major general revenue sources that are provided to cities by the state legislatures (meaning they can be used for the provision of general governmental services with either no or minor restrictions): 1) Property Tax, 2) Sales Tax, 3) Utility Tax, 4) Business & Occupation Tax (B&O Tax).

Property Tax

Unlike what is found in most other States, property taxes in Washington are budget based. This means that property tax growth is limited to what was levied in the prior year plus inflation and new construction. Furthermore, inflation growth is limited to a maximum growth of 1% per year. Using economic data available from the Federal Reserve Economic Research Office, the Median Consumer Price Index (inflation rate) over the last 41 years has averaged 3.08% (Source: <https://fred.stlouisfed.org/series/MEDCPIM158SFRBCLE#>) which translates into increased costs for City staffing, operating, and maintenance costs. One option available to increase property tax levies greater than 1% is to ask the voters for a levy lid lift. Levy lid lifts require a simple majority

to pass. The City recently asked the voters for a levy lid for fire response time improvements which passed with 61.23% of the vote.

Sales Tax

The sales tax rate in the City is currently 9.0%. Of that amount, the City receives approximately 1.0%. As presented at the March 27, 2024 Council Workshop, the City of County can ask the voters through a ballot proposition to adopt a Public Safety Sales Tax. A Public Safety Sales Tax at a 0.1% rate adopted by the voters of either the City or County would generate approximately \$500,000 per year for Oak Harbor (and grow by a maximum of 1% per year).

Utility Tax

The City currently applies utility taxes per the table below. Water, Sewer, and Solid Waste (including Island Disposal) have an extra 0.25% tax that goes toward funding “creative arts”. That amount is not included in the calculations shown in the table below. State law requires that voters approve any utility tax rate over 6.0% for telephones/cell phones, gas, or electricity. There is no limit prescribed by state or federal law for water, sewer, solid waste, or storm drain utility tax rates. Per the latest Association of Washington Cities (AWC) utility tax survey (attached), the average utility tax rates statewide are as follows:

- Water 10.46%
- Sewer 10.10%
- Solid Waste 9.23%
- Storm Drain 8.69%

Oak Harbor Utility Tax Rates and Revenue

	Tax Rate*	2023-24 Annual Avg. (rounded)**	Each 1%**	Method of Increase
Water	6.25%*	\$ 375,000	\$ 62,500	Council
Sewer	6.25%*	\$ 750,000	\$ 125,000	Council
Solid Waste	6.25%*	\$ 250,000	\$ 41,700	Council
Storm Drain	6.00%	\$ 115,000	\$ 19,200	Council
Island Disposal	6.25%*	\$ 25,000	\$ 4,200	Council
Phones/Cell***	6.00%	\$ 200,000	\$ 33,300	Voters
Gas***	6.00%	\$ 325,000	\$ 54,200	Voters
Electricity***	6.00%	\$ 850,000	\$ 141,700	Voters

* 0.25% toward Creative Arts Fund

** Annual Average does not include the 0.25% that goes toward Creative Arts

*** RCW 35.21.870 – Establishes 6% maximum utility tax rate for electricity, natural gas, steam, and telephone utilities, unless higher rate is approved by voters

Business & Occupation Tax

As presented at the March 27, 2024 Council Workshop, About 50 cities in Washington State use a local B&O Tax (See attachment). The maximum tax rate that may be newly implemented by a City through their legislative body (City Council) is 0.002 multiplied by gross annual receipts (0.002 is equivalent to 1/5 of 1%). There are a handful of cities with higher rates than that, but those were generally grandfathered-in prior to 1982. A minimum tax threshold of \$20,000 must be implemented as part of any new B&O Tax; meaning that the first \$20,000 of gross annual receipts must be exempt from the tax. For the 50 cities that have a local B&O Tax, the annual tax thresholds range from \$20,000 to \$1,000,000. Further details regarding the B&O Tax can be found in the MRSC Revenue Guide or at RCW 35A.82.020 & 35.21.710.

Per City Council deliberation at the March 27, 2024 Workshop, staff is proposing that Option 2 be pursued as a source of revenue for police staffing with an effective date of July 1, 2024.

	Option 1	Option 2	Option 3
Business Tax Threshold (gross annual receipts)	\$ 5,000,000	\$ 1,000,000	\$ 100,000
Number of Business Applicable	27	178	555
Percent of all Oak Harbor Business Applicable	1.2%	8.2%	26%
Tax Rate	0.002	0.002	0.002
Gross Annual Receipts over Minimum	\$396,550,958	\$668,847,419	\$939,085,520
Annual Revenue Generated	\$ 793,102	\$ 1,337,695	\$ 1,878,171
Maximum	\$ 132,665	\$ 140,665	\$ 142,465
Minimum	\$ 163	\$ 55	\$ 1
Median	\$ 11,121	\$ 1,664	\$ 800

Proposed Uses of Funds

In addition to utilizing the funding for public safety officers, detectives, and staff, City staff has identified the following areas as *potentially* (depending on City Council action) needing future recurring sources of funding:

- Public Safety officers, detectives and staff (Year 1 - \$625,000, Year 8 - \$950,000)
- Annual Indigent Defense expenses (\$215,000 to \$250,000).
- Business and Occupation tax implementation, operations, and auditing costs. (Equal to or less than 5% of revenues).
- Debt service expense related to future parks and recreation facilities (recreation center) and Marina dredging.
- Debt service expense related to future police station/city hall replacements.
- Technological enhancements.
- Cyber Security Personnel.
- Parks Administrative Assistant.
- Grants Accountant.

- Potential form of government changes.
- Economic Development program elements.
- Low-income resident assistance.
- Internship program for local students.
- Unplanned infrastructure repairs (e.g., City Hall roof).

Implementation & Maintenance

Unlike some of the City’s major sources of revenues which are calculated and collected by the State or County (property, sales, and utility tax), the Business & Occupation tax must be collected directly by the City, similar to utility rates, development permits, and parks and recreation fees. This will require that staff set up a process and forms for collection, be trained to handle taxes, and retain auditing services, which we are expected to be less than 5% of the revenues generated. Luckily, there are on-line methods already established to handle payments and receipts to the City which we can contract with. However, we will still be required to create and make paper forms available.

Aspects of Tax

- Tax Rate = 0.002 of quarterly gross receipts (1/5 of 1%)
- Tax Threshold = Pending City Council decision. Tax Threshold will be divided by 4 to accommodate quarterly returns.
- Tax Implementation = **July 1, 2024**. Due date for initial period will be January 31, 2025.
- Due Date = Quarterly returns due by the end of the following month.
- Late Fees and Interest = Varies. Per RCW 82.32.050 and 82.32.090.

LEGAL AUTHORITY

Washington Constitution Article XI, Sec. 12

RCW Sections 35A.82.020 and 35A.11.020

FISCAL IMPACT

Maximum of approximately \$1.3 million of recurring revenue to be raised through Business and Occupation Taxes in 2025 for general government purposes. Amount depends on Gross Receipts and exemptions and deductions reported.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

Summarized in Background / Summary section.

ATTACHMENTS

1. [Ordinance 1998 B&O Tax](#)
2. [2024 B&O Tax Rate List Washington Cities](#)
3. [B&O Tax \(ORD 1998\) and Admin Rules \(ORD 2000\) Presentation](#)

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING TITLE 3 OF THE OAK HARBOR MUNICIPAL CODE TO ADD A NEW CHAPTER 3.98, PERTAINING TO THE ADOPTION OF A BUSINESS AND OCCUPATION TAX; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Washington Constitution Article XI, Sec. 12 vests the power to assess and collect taxes for municipal purposes in counties, cities, towns, and other municipal corporations; and

WHEREAS, Section 35A.82.020 of the Revised Code of Washington (“RCW”) permits a code city to exercise its authority to impose excises for revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions, and any other lawful activity; and

WHEREAS, RCW 35A.11.020 grants the legislative bodies of code cities within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the State; and

WHEREAS, the City’s Comprehensive Financial Management Policy requires a well-diversified and stable revenue system to be maintained to shelter public services from short-run fluctuations in any particular revenue source; and

WHEREAS, the City’s Comprehensive Financial Management Policy requires current revenue to be sufficient to support current expenditures; and

WHEREAS, the Municipal Research and Services Center (MRSC) publication, *Revenue Guide for Washington Cities and Towns*, indicates that the four main unrestricted revenue sources provided to cities by the state legislature are property taxes, sales taxes, utility taxes, and business and occupation taxes; and

WHEREAS, the three main unrestricted revenue sources that the City of Oak Harbor has implemented do not meet the aforementioned requirements of the City’s Comprehensive Financial Management Policy due to the property tax councilmanic increase limit of 1% per annum, arrested growth and economic uncertainty of sales tax, and utility taxes’ dependance on the City owned utility rates, which have not increased to keep up with inflation; and

WHEREAS, the Oak Harbor City Council is desirous of providing for diversification of the City’s unrestricted general revenue stream and having sufficient revenue to fund current expenditures;

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

Section One. Title 3 Amended. Title 3 of the Oak Harbor Municipal Code is hereby amended by adding a new Chapter 3.98, entitled “Business and Occupation Tax,” as follows:

**CHAPTER 3.98
BUSINESS AND OCCUPATION TAX**

Sections:

- 3.98.010 Purpose.
- 3.98.020 Exercise of revenue license power.
- 3.98.028 Administrative provisions.
- 3.98.030 Definitions.
- 3.98.050 Imposition of the tax – tax or fee levied.
- 3.98.070 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.
- 3.98.075 Deductions to prevent multiple taxation of certain manufacturing activities involving more than one city with an eligible gross receipts tax.
- 3.98.076 Assignment of gross income derived from intangibles.
- 3.98.077 Allocation and apportionment of income when activities take place in more than one jurisdiction.
- 3.98.078 Allocation and apportionment of printing and publishing income when activities take place in more than one jurisdiction.
- 3.98.090 Exemptions.
- 3.98.100 Deductions.
- 3.98.120 Tax part of overhead.
- 3.98.130 Severability.

3.98.010 Purpose. The purpose of this chapter is to implement the authority of the city to license for revenue pursuant to Article XI, Section 12 of the Washington Constitution and RCW 35A.82.020 and 35A.11.020. In the absence of a legal or constitutional prohibition, the city possesses the power to define taxation categories as it sees fit in order to respond to the unique concerns and responsibilities of local government.

3.98.020 Exercise of revenue license power. The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue. The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the city code.

3.98.028 Administrative Provisions. The administrative provisions contained in Chapter 3.99 OHMC shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

3.98.030 Definitions. In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

(1) **“Business.”** “Business” includes all activities engaged in with the object of gain, benefit,

or advantage to the taxpayer or to another person or class, directly or indirectly.

- (2) **“Business and occupation tax.”** “Business and occupation tax” or “gross receipts tax” means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.
- (3) **“Commercial or industrial use.”** “Commercial or industrial use” means the following uses of products, including by-products, by the extractor or manufacturer thereof:
 - (a) Any use as a consumer; and
 - (b) The manufacturing of articles, substances or commodities;
- (4) **“Delivery”** means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer’s own purposes. It means the buyer or the buyer’s representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer’s representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer’s representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.
- (5) **“Digital automated service,” “digital code,” and “digital goods”** have the same meaning as in RCW 82.04.192.
- (6) **“Digital products”** means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(c).
- (7) **“Eligible gross receipts tax.”** The term “eligible gross receipts tax” means a tax which:
 - (a) Is imposed on the act or privilege of engaging in business activities within OHMC 3.98.050; and
 - (b) Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and
 - (c) Is not, pursuant to law or custom, separately stated from the sales price; and
 - (d) Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax

measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and

- (e) Is a tax imposed by a local jurisdiction, whether within or without the state of Washington, and not by a country, state, province, or any other non-local jurisdiction above the county level.

(8) “Engaging in business.”

- (a) The term “engaging in business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- (b) This section sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the city without having to register and obtain a business license or pay city business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection (a), above. If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.
- (c) Without being all inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.
 1. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the city.
 2. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the city.
 3. Soliciting sales.
 4. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
 5. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
 6. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
 7. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 8. Collecting current or delinquent accounts.
 9. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 10. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

11. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, and veterinarians.
 12. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 13. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.
 14. Investigating, resolving, or otherwise assisting in resolving customer complaints.
 15. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 16. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
- (d) If a person, or their employee, agent, representative, independent contractor, broker, or another acting on the person's behalf, engages in no other activities in or with the city but the following, then that person need not register and obtain a city business license and pay tax.
1. Meeting with suppliers of goods and services as a customer.
 2. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 3. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
 4. Renting tangible or intangible property as a customer when the property is not used in the city.
 5. Attending, but not participating in a "trade show" or "multiple vendor events." Persons participating at a trade show shall review the city's trade show or multiple vendor event ordinances.
 6. Conducting advertising through the mail.
 7. Soliciting sales by phone from a location outside the city.
- (e) A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the city. Such activities do not include those in subsection (d), above.

The city expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

- (9) **“Extracting.”** “Extracting” is the activity engaged in by an extractor and is reportable under the extracting classification.
- (10) **“Extractor.”** “Extractor” means every person who from the person’s own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. “Extractor” does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer pursuant to RCW 82.04.213.
- (11) **“Extractor for hire.”** “Extractor for hire” means a person who performs under contract necessary labor or mechanical services for an extractor.
- (12) **“Gross income of the business.”** “Gross income of the business” means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- (13) **“Gross proceeds of sales.”** “Gross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- (14) **“Manufacturing.”** “Manufacturing” means the activity conducted by a manufacturer and is reported under the manufacturing classification.
- (15) **“Manufacturer,” “to manufacture.”**
(a) “Manufacturer” means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person’s own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than twenty percent (20%) of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire, and not a manufacturer. A business not located in this city that is the owner of

materials or ingredients processed for it in this city by a processor for hire shall be deemed to be engaged in business as a manufacturer in this city.

- (b) “To manufacture” means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:
1. The production of special-made or custom-made articles;
 2. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
 3. Crushing and/or blending of rock, sand, stone, gravel, or ore; and
 4. The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

“To manufacture” shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(16) “Nonprofit corporation or nonprofit organization.” “Nonprofit corporation or nonprofit organization” means a corporation or organization in which no part of the income can be distributed to its members, directors, or officers and that holds a current tax exempt status as provided under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended, or is specifically exempted from the requirement to apply for its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended. Where the term “nonprofit organization” is used, it is meant to include a nonprofit corporation.

(17) “Person.” “Person” means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or any instrumentality thereof.

(18) “Retailing.” “Retailing” means the activity of engaging in making sales at retail and is reported under the retailing classification.

(19) “Retail Service.” “Retail service” shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

- (a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. “Amusement and recreation services” also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term “amusement and recreation services” does not include instructional lessons to learn a particular activity, such as tennis lessons, swimming lessons, or archery lessons;
- (b) Abstract, title insurance, and escrow services;
- (c) Credit bureau services;
- (d) Automobile parking and storage garage services;
- (e) Landscape maintenance and horticultural services, but excluding: (i) horticultural services provided to farmers; and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;
- (f) Service charges associated with tickets to professional sporting events; and
- (g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.
- (h) The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

(20) “Sale,” “casual or isolated sale.”

- (a) “Sale” means any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a “sale at retail,” “retail sale,” or “retail service.” It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.
- (b) “Casual or isolated sale” means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

(21) “Sale at retail,” “retail sale.”

- (a) “Sale at retail” or “retail sale” means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:
 1. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or
 2. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes

- an ingredient or component of such real or personal property without intervening use by such person; or
3. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or
 4. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or
 5. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a “sale at retail” or “retail sale” even though such property is resold or utilized as provided in subsections (1), (2), (3), (4), or (5) of this Section 3.98.030(20)(a) following such use.
 6. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (g) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.
- (b) “Sale at retail” or “retail sale” also means every sale of tangible personal property to persons engaged in any business activity which is taxable under OHMC 3.98.050(1)(g).
- (c) “Sale at retail” or “retail sale” shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:
1. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;
 2. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;
 3. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to

the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

4. The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term “janitorial services” shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term “janitorial services” does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;
 5. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;
 6. The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;
 7. The installing, repairing, altering, or improving of digital goods for consumers;
 8. The sale of or charge made for tangible personal property, labor and services to persons taxable under subsections (1), (2), (3), (4), (5), (6), and (7) of this Section 3.98.030(20)(c) when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a “sale at retail” or “retail sale” even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify OHMC 3.98.030(20)(a) and nothing contained in OHMC 3.98.030(20)(a) shall be construed to modify this subsection.
- (d) “Sale at retail” or “retail sale” shall also include the providing of competitive telephone service to consumers.
- (e) “Sale at retail” or “retail sale”
1. “Sale at retail” or “retail sale” shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For purposes of this subsection (e)(1) the sale of the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten

computer software, regardless of how the sale may be characterized by the vendor or by the purchaser. The term “sale at retail” or “retail sale” does not include the sale of or charge made for:

- (i) Custom software; or
- (ii) The customization of prewritten software.

2. (i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii) (a) The service described in (2)(i) of this subsection (e) includes the right to access and use prewritten software to perform data processing.

(b) For purposes of this subsection (2)(ii), “data processing” means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

- (f) “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, by the state of Washington, or by the United States, and which is used or is to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.
- (g) “Sale at retail” or “retail sale” shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, “extended warranty” means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term “extended warranty” does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement.
- (h) “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation.
- (i) “Sale at retail” or “retail sale” shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or

its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

- (j) “Sale at retail” or “retail sale” shall not include the sale of or charge made for labor and services rendered for environmental remedial action.
- (k) “Sale at retail” or “retail sale” shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:
 1. Sales in which the seller has granted the purchaser the right of permanent use;
 2. Sales in which the seller has granted the purchaser a right of use that is less than permanent;
 3. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and
 4. Sales in which the purchaser is obligated to make continued payment as a condition of the sale. A retail sale of digital goods, digital codes, or digital automated services under this Subsection 3.98.030(20)(k) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services. For purposes of this subsection, “permanent” means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.
- (l) “Sale at retail” or “retail sale” shall also include the installing, repairing, altering, or improving of digital goods for consumers.

(22) “Sale at wholesale,” “wholesale sale.” “Sale at wholesale” or “wholesale sale” means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in OHMC 3.98.030(20)(e)(2)(ii), which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

(23) “Services.” “Services includes those activities that do not fall within one of the other tax classifications used in this chapter.

(24) “Taxpayer.” “Taxpayer” means any “person”, as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

(25) “Value proceeding or accruing.” “Value proceeding or accruing” means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term

shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

(26) “Value of products.”

- (a) The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.
- (b) Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the city, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The finance director may prescribe rules for the purpose of ascertaining such values.
- (c) Notwithstanding subsection (25)(b) above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to:
 - 1. the retail selling price of such new or improved product when first offered for sale; or
 - 2. the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(27) “Wholesaling.” “Wholesaling” means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

3.98.050 Imposition of the tax - tax or fee levied.

- (1) Except as provided in subsection (2) of this section, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the city, whether the person’s office or place of business be within or without the city. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:
 - (a) Upon every person engaging within the city in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the city for sale or for commercial or industrial use, multiplied by the rate of two-tenths of one percent

- (0.002). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the city.
- (b) Upon every person engaging within the city in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the city, multiplied by the rate of two-tenths of one percent (0.002). The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the city.
 - (c) Upon every person engaging within the city in the business of making sales at wholesale; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two-tenths of one percent (0.002).
 - (d) Upon every person engaging within the city in the business of making sales at retail; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two-tenths of one percent (0.002).
 - (e) Upon every person engaging within the city in the business of: (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two-tenths of one percent (0.002).
 - (f) Upon every person engaging within the city in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of two-tenths of one percent (0.002).
 - (g) Upon every other person engaging within the city in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of two-tenths of one percent (0.002). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.
- (2) The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the city during any calendar year is equal to or less than \$1,000,000, or is equal to or less than \$250,000 during any quarter if on a quarterly reporting basis.

3.98.070 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.

- (1) Persons who engage in business activities that are within the purview of two or more subsections of OHMC 3.98.050 shall be taxable under each applicable subsection.
- (2) Notwithstanding anything to the contrary herein, if imposition of the city's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the city's tax, and still apply the city tax to as much of the taxpayer's activities as may be subject to the city's taxing authority.
- (3) To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.
- (4) Credit for Persons That Sell in the City Products That They Extract or Manufacture. Persons taxable under the retailing or wholesaling classification with respect to selling products in this city shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (a) with respect to the manufacturing of the products sold in the city, and (b) with respect to the extracting of the products, or the ingredients used in the products, sold in the city. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.
- (5) Credit for Persons That Manufacture Products in the City Using Ingredients They Extract. Persons taxable under the manufacturing classification with respect to manufacturing products in this city shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the city. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.
- (6) Credit for Persons That Sell Within the City Products That They Print, or Publish and Print. Persons taxable under the retailing or wholesaling classification with respect to selling products in this city shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and publishing, of the products sold within the city. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

3.98.075 Deductions to prevent multiple taxation of certain manufacturing activities involving more than one city with an eligible gross receipts tax.

A person manufacturing products within the city using products manufactured by the same person outside the city may deduct from the measure of the manufacturing tax the value of products manufactured outside the city and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

3.98.076 Assignment of gross income derived from intangibles.

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

3.98.077 Allocation and apportionment of income when activities take place in more than one jurisdiction.

Gross income, other than persons subject to the provisions of chapter 82.14A RCW, shall be allocated and apportioned as follows:

- (1) Gross income derived from all activities other than those taxed as service or royalties under OHMC 3.98.050(1)(g) shall be allocated to the location where the activity takes place.
- (2) In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.
- (3) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:
 - (a) The seller's place of business if the purchaser receives the digital product at the seller's place of business;
 - (b) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;
 - (c) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;
 - (d) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and
 - (e) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(c) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.
- (4) If none of the methods in subsection 3.98.077(3) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in subsections 3.98.077(3)(a) through 3.98.077(3)(e), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection 3.98.077(4). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in subsections 3.98.077(3)(a) through 3.98.077(3)(e) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.
- (5) For purposes of subsections 3.98.077(3)(a) through 3.98.077(3)(e), the following definitions apply:
 - (a) "Digital automated services," "digital codes," and "digital goods" have the same meaning as in RCW 82.04.192;
 - (b) "Digital products" means digital goods, digital codes, digital automated services,

- and the services described in RCW 82.04.050 (2)(g) and (6)(c); and
- (c) “Receive” has the same meaning as in RCW 82.32.730.
- (6) Gross income derived from activities taxed as services and other activities taxed under 3.98.050(1)(g) shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.
- (a) The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:
- (i) The individual is primarily assigned within the city;
 - (ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of their services for the tax period in the city; or
 - (iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of their services in any city, and the employee resides in the city.
- (b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if the customer location is in the city.
- (c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable under subsection (6)(b) of this Section 3.98.077 to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of this subsection (6)(c), “not taxable” means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.
- (d) If the allocation and apportionment provisions of this subsection (6) do not fairly represent the extent of the taxpayer's business activity in the city, the taxpayer may petition for or the tax administrators may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
- (i) Separate accounting;
 - (ii) The exclusion of any one or more of the factors;
 - (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
 - (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer’s income.
- (e) The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer’s income pursuant to subsection (d) of this Section 3.98.077(6) must prove by a

preponderance of the evidence:

- (i) That the allocation and apportionment provisions of this Section 3.98.077(6) do not fairly represent the extent of the taxpayer's business activity in the city; and
- (ii) That the alternative to such provisions is reasonable.
The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.
- (f) If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this Section 3.98.077(6).
- (g) A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.
- (7) The definitions in this subsection apply throughout this section.
 - (a) **"Apportionable income"** means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.
 - (b) **"Business activities tax"** means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.
 - (c) **"Compensation"** means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.
 - (d) **"Customer"** means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.
 - (e) **"Customer location"** means the following:
 - (i) For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.
 - (ii) For a customer not engaged in business, if the service does not require the customer to be physically present:
 - (A) The customer's residence; or
 - (B) If the customer's residence is not known, the customer's billing/ mailing address.

- (iii) For a customer engaged in business:
 - (A) Where the services are ordered from;
 - (B) At the customer’s billing/mailling address if the location from which the services are ordered is not known; or
 - (C) At the customer’s commercial domicile if none of the above are known.
- (f) **“Individual”** means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.
- (g) **“Primarily assigned”** means the business location of the taxpayer where the individual performs their duties.
- (h) **“Service-taxable income”** or **“service income”** means gross income of the business subject to tax under either the service or royalty classification.
- (i) **“Tax period”** means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.
- (8) Assignment or apportionment of revenue under this section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

3.98.078 Allocation and apportionment of printing and publishing income when activities take place in more than one jurisdiction.

Notwithstanding RCW 35.102.130, gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, shall be allocated to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspaper and periodicals or magazines are those activities to which the exemption in RCW 82.04.759 and the tax rate in RCW 82.04.280(1)(a) apply.

3.98.090 Exemptions.

- (1) **Public utilities.** This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of Chapter 3.71 OHMC.
- (2) **Investments - dividends from subsidiary corporations.** This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.
- (3) **Insurance business.** This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

- (4) **Employees.**
- (a) This chapter shall not apply to any person in respect to the person’s employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended.
- (b) A booth renter is an independent contractor for purposes of this chapter.
- (5) **Amounts derived from sale of real estate.** This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of 30 days or longer.
- (6) **Mortgage brokers’ third-party provider services trust accounts.** This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.
- (7) **Amounts derived from manufacturing, selling or distributing motor vehicle fuel.** This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term “motor vehicle fuel” is defined in RCW 82.38.020 and exempt under RCW 82.38.280, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.
- (8) **Amounts derived from liquor, and the sale or distribution of liquor.** This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.
- (9) **Casual and isolated sales.** This chapter shall not apply to the gross proceeds derived from casual or isolated sales.
- (10) **Accommodation sales.** This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.
- (11) **Taxes collected as trust funds.** This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.
- (12) **Nonprofit corporations or nonprofit organizations.** This chapter shall not apply to nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, except with respect to retail sales of such persons.
- (13) **Gambling activities.** This chapter shall not apply to the business activity of any person to which tax liability is specifically imposed under the provisions of Chapter 3.56 OHMC, Gambling Tax.
- (14) **Daycare provided by churches.** This chapter shall not apply to amounts derived by a church that is exempt from property tax under RCW 84.36.020 from the provision of care for children for periods of less than 24 consecutive hours.

- (15) **United States, Washington State governmental entities.** This chapter shall not apply to gross income received by the United States or any instrumentality thereof and by the state of Washington or any municipal subdivision thereof.
- (16) **Sports teams.** This chapter shall not apply to professional, semi-professional, or amateur sports teams or clubs primarily engaged in the participation of live sporting events, such as baseball, basketball, football, hockey, and soccer, except with respect to retail sales of such persons.

3.98.100 Deductions.

In computing the license fee or tax, there may be deducted from the measure of tax the following items:

- (1) **Receipts from tangible personal property delivered outside the State.** In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered by the seller to the buyer or the buyer's representative at a location outside the state of Washington.
- (2) **Cash discount taken by purchaser.** In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the "value of product" provisions.
- (3) **Credit losses of accrual basis taxpayers.** In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.
- (4) **Constitutional prohibitions.** In computing tax, there may be deducted from the measure of the tax amounts derived from business which the city is prohibited from taxing under the Constitution of the state of Washington or the Constitution of the United States.
- (5) **Receipts from the sale of tangible personal property and retail services delivered outside the city but within Washington.** Amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the city but within the state of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.
- (6) **Professional employer services.** In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.
- (7) **Interest on investments or loans secured by mortgages or deeds of trust.** In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial

businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

3.98.120 Tax part of overhead.

It is not the intention of this chapter that the taxes or fees herein levied upon persons engaging in business be construed as taxes or fees upon the purchasers or customer, but that such taxes or fees shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the cost of doing business of such persons.

3.98.130 Severability clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

Section Two. Petition for referendum. This ordinance shall be subject to a referendum procedure in accordance with Chapter 3.05 OHMC. Such procedure shall be the exclusive method of referendum for this ordinance and shall supersede the procedures provided under chapters 35.17 and 35A.11 RCW and all other statutory or other provisions for initiative or referendum that might otherwise apply.

Section Three. Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this ordinance and that remaining portion shall maintain its full force and effect.

Section Four. Effective Date. This ordinance shall take effect and be in force beginning July 1, 2024, which is at least 30 days from and after its passage and publication, as provided by law.

ADOPTED by the City Council this ___ day of _____, 2024.

THE CITY OF OAK HARBOR

By _____
Ronnie Wright, Mayor

Dated: _____

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

Local business & occupation (B&O) tax rates^
Effective January 1, 2024

City	Phone #	Manufacturing rate	Retail rate	Services rate	Wholesale rate	Tax Threshold^^	
						Quarterly	Annual
Aberdeen	(360) 533-4100	0.002	0.003 e	0.0037 e	0.003 e	\$5,000	\$20,000
Algona	(253) 833-2897	0.00045	0.00045	0.00045	0.00045	\$10,000	\$40,000
Auburn****	(253) 392-6496	0.001	0.0005	0.001	0.0018		\$500,000
Bainbridge Island	(206) 780-8668	0.001	0.001	0.001	0.001		\$150,000
Bellevue	(425) 452-6851	0.001596	0.001596	0.001596	0.001596		\$205,000
Bellingham	(360) 778-8010	0.0017	0.0017	0.0044 e	0.0017	\$5,000	\$20,000
Blaine	(360) 332-8311	0.002			0.002		\$250,000
Bremerton	(360) 473-5311	0.0016	0.00125	0.002	0.0016		\$1,000,000
Burien	(206) 241-4647	0.001	0.001	0.001	0.001		\$200,000
Burlington	(360) 755-0531		0.001				\$1,000,000
Cosmopolis	(360) 532-9230	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Darrington	(360) 436-1131	0.00075	0.00075	0.00075	0.00075		\$20,000
Des Moines	(206) 878-4595	0.002	0.002	0.002	0.002		\$50,000
DuPont	(253) 964-8121	0.001	0.001	0.001	0.001	\$5,000	\$20,000
Everett***	(425) 257-8610	0.001	0.001	0.001	0.001	\$5,000	\$20,000
Everson	(360) 966-3411	0.002			0.002		\$1,000,000
Granite Falls**	(360) 691-6441					\$5,000	\$20,000
Hoquiam	(360) 532-5700	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Ilwaco	(360) 642-3145	0.002	0.002	0.002	0.002		\$20,000
Issaquah	(425) 837-3054	0.0012	0.0012	0.0015	0.0012	\$25,000	\$100,000
Kelso	(360) 423-0900	0.001	0.001	0.002	0.001		\$20,000
Kenmore	(425) 398-8900	0.002 *				\$5,000	
Kent	(253) 856-6266	0.001	0.001	0.002	0.002	\$62,500	\$250,000
Lacey	(360) 491-3214		0.001	0.002		\$5,000	\$20,000
Lake Forest Park	(206) 368-5440	0.002	0.002	0.002	0.002	\$5,000	
Long Beach	(360) 642-4421	0.002	0.002	0.002	0.002	\$5,000	
Longview	(360) 442-5040	0.001	0.001	0.002	0.001		\$20,000
Lyman	(360) 826-3033	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Mercer Island	(206) 275-7783	0.001	0.001	0.001	0.001		\$150,000
North Bend	(425) 888-1211	0.002	0.002	0.002	0.002	\$5,000	
Ocean Shores	(360) 289-2488	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Olympia	(360) 753-8327	0.001	0.001	0.002	0.001	\$5,000	\$20,000
Pacific	(253) 929-1100	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Port Townsend	(360) 385-2700	0.002	0.002	0.002	0.002	\$0	\$100,000
Rainier	(360) 446-2265	0.002	0.002	0.002	0.002	\$5,000	
Raymond	(360) 942-3451	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Renton	(425) 430-6400	0.00121	0.0007	0.00121	0.00121		\$500,000
Roy	(253) 843-1113	0.001	0.002	0.002	0.001	\$5,000	\$20,000
Ruston	(253) 759-3544	0.0011	0.00153	0.002	0.00102	\$5,000	\$20,000
Seattle	(206) 684-8484	0.00222 v	0.00222 v	0.00427 v	0.00222 v		\$100,000
Shelton	(360) 426-4491	0.001	0.001	0.001	0.001	\$5,000	\$20,000
Shoreline	(206) 801-2324	0.001	0.001	0.002	0.001	\$125,000	\$500,000
Snoqualmie	(425) 888-1555	0.0015	0.0015	0.0015	0.0015	\$5,000	
South Bend	(360) 875-5571	0.001	0.002	0.002	0.002	\$5,000	
Tacoma	(253) 591-5252	0.0011	0.00153	0.004 e	0.00102		\$250,000
Tenino	(360) 264-2368	0.002	0.002	0.002	0.002	\$5,000	\$20,000
Tukwila*^	(206) 433-1835	0.00085	0.0005	0.00085	0.00085		\$750,000
Tumwater	(360) 754-5855	0.001	0.001	0.002	0.001	\$5,000	\$20,000
Westport	(360) 268-0131	0.0025 e	0.005 e	0.005 e	0.0025 e	\$5,000	
Yelm	(360) 458-3244	0.001	0.002	0.002	0.001	\$5,000	

(v) = voter approved increase above statutory limit

(e) = rate higher than statutory limit because rate was effective prior to January 1, 1982 (i.e., grandfathered).

*Kenmore's B&O tax applies to heavy manufacturing only.

**Granite Falls repealed its B&O tax for all businesses other than extracting.

***For manufacturing gross receipts over \$8 billion, the B&O rate drops to 0.00025.

****Auburn adopted a B&O tax effective January 1, 2022.

^ Tukwila adopted a B&O tax effective January 1, 2024.

NOTE: Tax rates may apply to businesses categories other than those above. Thresholds are subject to change. Exemptions, deductions, or other exceptions may apply in certain circumstances. Contact the city finance department for more information.

^ Tax rates are provided for cities with general local B&O taxes as of the date listed. If a city is not listed, they have not reported to AWC that they have a local B&O tax. Contact the city directly for specific information or other business licenses or taxes that may apply.

^^Thresholds listed are related to when tax is due to a city. License and registration thresholds may be different and vary by city. Please contact the city finance department to learn about their requirements.

ADOPTION OF A BUSINESS & OCCUPATION TAX



City Council Workshop
May 21, 2024



TEMPORARY FUNDING OPTIONS FOR POLICE OFFICERS

- DOJ COPS Grant – Will fund a total of \$125,000 per position spread out over three years. \$41,666 per year translates to 37% of entry level officer first year and decreasing percentage from there.
- J&J Opioid Settlement – Will provide about \$1,200,000. Would fund 1 entry-level Drug Detective for about 8 years.

Cost of Public Safety officers, detectives and staff

- Year 1 - \$625,000
- Year 8 - \$950,000



OTHER ITEMS REQUIRING RECURRING REVENUES

- Annual Indigent Defense expenses (\$215,000 to \$250,000) contract previously approved by Council.
- Debt service expense related to future parks and recreation facilities (recreation center) and Marina dredging.
- Debt service expense related to future police station/city hall replacements.
- Technological enhancements.
- Cyber Security Personnel (CJIS).

OTHER ITEMS AND POTENTIAL ITEMS REQUIRING RECURRING REVENUES

- Parks Administrative Assistant.
- Grants Accountant.
- Potential form of government changes.
- Economic Development program elements.
- Low-income resident assistance.
- Internship program for local students.
- Unplanned infrastructure repairs (e.g., City Hall roof). (fund reserve for replacement).



PERMANENT FUNDING SOLUTIONS

Business and Occupation Tax (B&O Tax)

- **MRSC – There are four major general revenue sources available for cities:**
 - **Property Tax – Limited to 1% plus new construction or requires levy lid lift vote.**
 - **Sales Tax – Growth has leveled off.**
 - **Public Safety Sales Tax available. Would raise about \$500K - \$550K per year for police officers. Majority vote of the electorate required.**
 - **Utility Tax – Decreased due to lowering of utility rate.**
 - **B&O Tax – Available.**
- **About 50 cities use B&O Tax.**

BUSINESS & OCCUPATION TAX

Details of B&O Tax

- Council approval.
- Maximum tax rate is 0.002 x gross annual receipts. 0.002 = 1/5 of 1%.
- Handful of cities have higher grandfathered-in rates.
- Minimum tax threshold = \$20,000 gross annual receipts (exempt from tax).
- Tax thresholds range from \$20,000 to \$1,000,000.
- See 2023 MRSC Revenue Guide for Cities for more details.



Local business & occupation (B&O) tax rates^
Effective January 1, 2023

City	Phone #	Manufacturing rate	Retail rate	Services rate	Wholesale rate	Tax Threshold^^	
						Quarterly	Annual
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Bellevue	(425) 452-6851	0.001596	0.001596	0.001596	0.001596		\$195,000
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BUSINESS & OCCUPATION TAX

<u>Business Tax</u>	Option 1	Option 2	Option 3
Calculations			
Business Tax Threshold (gross annual receipts)	\$ 5,000,000	\$ 1,000,000	\$ 100,000
Number of Business Applicable	27	178	555
Percent of all Oak Harbor Business Applicable	1.2%	8.2%	26%
Tax Rate	0.002	0.002	0.002
Gross Annual Receipts over Minimum	\$ 396,550,958	\$ 668,847,419	\$ 939,085,520
Annual Revenue Generated	\$ 793,102	\$ 1,337,695	\$ 1,878,171
Maximum	\$ 132,665	\$ 140,665	\$ 142,465
Minimum	\$ 163	\$ 55	\$ 1
Median	\$ 11,121	\$ 1,664	\$ 800

BUSINESS & OCCUPATION TAX

Ordinance 1998 Business & Occupation Tax and Ordinance 2000 B&O Administrative Rules (required by RCW 35.102.04) Option 2 Features:

- **Tax Rate = 0.002 of quarterly gross receipts (1/5 of 1%)**
- **Tax Threshold = \$250,000 per quarter (\$1 million annually).**
- **Various exemptions and deductions listed in the agenda bill and Ord. 1998 per State law and the OHMC.**
- **Tax Implementation Effective Date = July 1, 2024. Tax due date for initial period will be January 31, 2025.**
- **Minimum 30-day notice required.**

BUSINESS & OCCUPATION TAX

- **Due Date = Quarterly returns due by the end of the following month.**
- **Late Fees, unpayment, and Interest = Varies. Per RCW 82.32.050 and 82.32.090.**
- **Electronic payments preferred.**
- **Business under the threshold can submit an exemption from filing form which will reduce paperwork on both staff and the business owners.**
- **Administrative appeal process included.**

BUSINESS & OCCUPATION TAX

- **City Council discussion.**
- **Suggested motions on next slides.**

SUGGESTED MOTION

Open public hearing on Ordinance 1998

Motion to approve Ordinance 1998, Amending Title 3 of the Oak Harbor Municipal Code to add a new Chapter 3.98, pertaining to the adoption of a business & occupation tax.

SUGGESTED MOTION

Open public hearing on Ordinance 2000

Motion to approve Ordinance 2000, Amending Title 3 of the Oak Harbor Municipal Code to add a new Chapter 3.99, pertaining to administrative provisions for the city's business & occupation tax.

THANK YOU!



City of Oak Harbor
City Council Agenda Bill

Bill No. 6.d.
Date: May 21, 2024
Subject: Ordinance No. 1999: Update to
Oak Harbor Municipal Code
Section 1.30.010 Requirements
for sale or other disposition of
city real property

FROM: Ray Lindenburg, AICP, Senior Planner, Development Services

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright Mayor
- Sabrina Combs, Intgerim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

- Conduct Public Hearing
- Move to approve Ordinance 1999 adopting changes to OHMC 1.30.010 Requirements for sale or other disposition of city real property (Attachment 1)

BACKGROUND / SUMMARY INFORMATION

This agenda bill presents to the Council draft changes to Section 1.30.010 (see Attachment 2 – existing language) of the Oak Harbor Municipal Code (OHMC) describing the process by which certain City-owned properties may be sold or exchanged.

Background

Recently, City legal staff became aware of a potential impediment in code section 1.30.010 that would require the city to hold an election to sell, exchange or otherwise dispose of property owned by the City that was considered a public park, specifically in OHMC 1.30.010(1):

“Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.”

and the aforementioned subsection (2) – OHMC 1.30.010(2):

“No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park

property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable."

Analysis

Consultation with the City's legal team indicated that the requirement to hold an election to sell or exchange property is unique among Washington jurisdictions. City Attorney Hillary Evans stated, "I've never encountered another city requiring a vote to approve the sale of park property. I'd recommend eliminating that provision." She noted that after the original code section was adopted in 1997 (Ordinance 1110, see Attachment 3), relocated in the code in 2010 (Ordinance 1578, see Attachment 4), a revision was made in 2015 (Ordinance 1728, see Attachment 5).

The 2015 ordinance adopting the that most recent change recognized that, "*legislative intent behind this code when it was first adopted in 1997 was to ensure that developed park property would not be sold or transferred to private parties for private use or economic gain.*" Notably, that stated intent could be circumvented by having an election per that same code.

Further whereas statements for that ordinance included, "*from time to time developed park property, or portions of such park property, are required for necessary public purposes such as water, sewer or roadway improvements... and the requirement for citizen approval in such circumstances has the potential to impede or hinder accomplishment of necessary public purposes.*"

City staff believes "necessary public purposes" includes not only the important utility infrastructure mentioned in the code section above, but the economic development of the community as a whole.

The remaining sections within OHMC 1.30 allow for the following protections:

- the ability to hold a publicly-noticed hearing, where the presentation of staff analysis and testimony from citizens will allow the Council to make an informed determination of the need for such an exchange and the appropriate return for said exchange.
- A SEPA review is required by the code. This review may include but is not limited to aesthetic considerations, neighborhood access to park lands and environmental conditions.

Additionally, RCW 35.22.280(11) provides additional requirements for the disposal of park property including, when applicable, the consent of the dedicator or donor. City Attorney Evans notes that State Law includes standards by which transactions are handled, and most cities utilize those standards without further restrictions. Accordingly, she provided the revision to OHMC 1.30.010 found in Attachment 6.

Staff feels that these changes would allow the City to be more nimble in decision making when discussing the sale of property – including those designated as parks or recreation lands. This ability can impact economic development efforts City-wide through increased costs and time. Staff is confident in the ability of the City Council, with appropriate protections built into the OHMC and state statutes to make decisions that have the potential to affect necessary public purposes including the provision of utilities, safety concerns and economic development of the City as a whole.

The elimination of the election requirement may also reduce the influence of interest groups either as a proponent or opponent in such a decision. Placing the final determination in the hands of the Council allows direct citizen participation in a public hearing.

Conclusion

City staff believes that “necessary public purposes” includes the economic development of the community. That growth often pays for the infrastructure needs specified in the 2015 code amendment that authorized the City Council to make a decision on those specific transfers.

In essence, requiring an election for the transfer of park designated properties could constitute a barrier to economic development, either by stifling potential development through uncertainty of outcomes, opening important decisions to outside influences or simple denial of a potential transfer.

Because of those reasons, the fact that Oak Harbor is an outlier in the requirement, and the guardrails that exist in City Council consideration of transfer of lands, Staff recommends approval of Ordinance 1999, amending OHMC 1.30.010.

Process

Because this is not considered a development regulation, the City Council is presented with the proposed ordinance amendment without Planning Commission recommendation. Notice was given of this hearing per the standards found in the OHMC.

The process also included 10-day expedited review notification to the Department of Commerce. The City has received no comments from this process. As it is not a development regulation, this ordinance change did not require SEPA review.

LEGAL AUTHORITY

Legal authority for ordinance approval is provided by RCW 35.23.440.

FISCAL IMPACT

Removal of the election requirement would save the city costs associated with holding a special election in case of desired exchange or sale of park property.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

A staff presentation was given to the City Council at the April 24, 2024 workshop meeting. A presentation was given to the Oak Harbor Parks and Recreation Advisory Commission on May 6, 2024.

ATTACHMENTS

1. [Ordinance No. 1999](#)
2. [Existing language OHMC 1.30.010](#)
3. [Ordinance No. 1110](#)
4. [Ordinance No. 1578](#)
5. [Ordinance No. 1728](#)
6. [Redline changes to OHMC 1.30.010](#)
7. [Presentation](#)

ORDINANCE NO. 1999

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING SECTION 1.30.010 OF THE OAK HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Chapter 1.30 of the Oak Harbor Municipal Code (“OHMC”), entitled “Sale or Exchange of Real Property” was adopted by Ordinance 1578 in 2010 and modified in Ordinance 1728 in 2015 with the intent of requiring voter approval by way of election prior to disposal of certain City property; and

WHEREAS, the requirement for voter approval has the potential to hinder or impede accomplishment of necessary public purposes; and

WHEREAS, the City Council wishes to remove the requirement for voter approval prior to disposal of developed park property to streamline the process and facilitate City transactions when it comes to disposal of developed city parks property;

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

Section One. OHMC 1.30.010, Amended. Section 1.30.010 of the OHMC, entitled Requirements for sale or disposition of city real property, is hereby amended to read as follows:

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city’s official newspaper at least 10 days prior to the hearing.

(2) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(3) A State Environmental Policy Act (SEPA) analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(4) The Mayor shall forward to the City Council a report on alternatives to the proposed action with the agenda.

(5) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

(6) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina, done in the normal course of business for storage.

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

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

ADOPTED by the City Council this _____ day of _____, 2024.

THE CITY OF OAK HARBOR

By: _____
Ronnie Wright, Mayor

Dated: _____

ATTEST/AUTHENTICATED:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

Ordinance No. 1999 - 2

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least 10 days prior to the hearing. Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.

(2) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage. (Ord. 1728 § 1, 2015; Ord. 1578 § 6, 2010).

original

AN ORDINANCE PROVIDING FOR A PUBLIC HEARING PRIOR TO THE SALE OR EXCHANGE OF REAL PROPERTY OWNED BY THE CITY. THIS ORDINANCE IS TO BE CODIFIED IN TITLE ONE OF THE OAK HARBOR MUNICIPAL CODE.

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

Section One. There is hereby added a new Section 1.04.030 entitled "Sale or exchange of real property" to Oak Harbor Municipal Code Title One to read as follows:

Section 1.04.030 Sale or exchange of real property.

- (1) No real property of the City shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the City Council after public hearing. Notice of such public hearing shall be given by publication of the notice in the City's official newspaper at least ten days prior to the hearing. Developed City park property shall not be disposed of in any manner without citizen approval in an election.
- (2) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.
- (3) A SEPA analysis shall be done on such proposed action and available for public review at least ten days prior to the hearing.
- (4) The Mayor shall forward to the City Council a report on alternatives to the proposed action with the agenda.
- (5) Nothing herein shall be construed as preventing the City from holding an executive session in accordance with RCW 42.17 as now in effect or hereafter amended.
- (6) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the Marina done in the normal course of business for storage.

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

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

PASSED by the City Council and approved by its Mayor this 21st day of October, 1997.

THE CITY OF OAK HARBOR



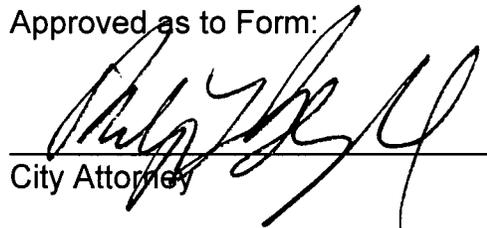
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

Published: October 25, 1997

C:\work\res-ord8\sale of property ord#1

Sale of Real Property
Ordinance - 2

ORDINANCE NO. 1578

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 1.04 ENTITLED "COUNCIL MEETINGS" TO ESTABLISH STANDING COMMITTEES OF THE COUNCIL, TO SET OUT PROCEDURES FOR STANDING COMMITTEE MEETINGS, TO AMEND THE NOTICE PROVISIONS, TO PROVIDE THAT COUNCIL-INITIATED AGENDA ITEMS SHALL BE STATED IN THE FORM OF A PROPOSED ACTION ITEM, REPEALING OHMC SECTION 1.04.030 AND READOPTING IT AS CHAPTER 1.30 OHMC

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

Section One. The table of contents of Oak Harbor Municipal Code Chapter 1.04 entitled "Council Meetings", last amended by Ord. 1559 in 2009, is hereby amended to read as follows:

**CHAPTER 1.04
COUNCIL MEETINGS**

Sections:

- 1.04.010 Time and place of full council meetings.
- 1.04.015 Standing Committees.
- 1.04.020 Public notice for full council agenda - Introduction of action.

Section Two. Oak Harbor Municipal Code Section 1.04.010 last amended by Ord. 1559 §1 in 2009 is hereby amended to read as follows:

1.04.010 Time and place of full council meetings.

- (1) The full council of the city of Oak Harbor shall meet on the first Tuesday of each month. There shall be a second regular full council meeting each month, except in the months of July and August, on the second Tuesday following the first monthly council meeting.
- (2) If the date of any of the full council meetings above scheduled falls on an official holiday, as set forth in the statutes of the state of Washington, or on a day on which a general election or a primary for a general election is to be conducted or on National Night Out, the regular full council meeting shall be held at the same time on the following day.
- (3) Regular full council meetings will be held at City Hall in the city of Oak Harbor and shall start at 6:00 p.m.

Section Three. A new section 1.04.015 entitled "Standing Committees" is hereby added to Ch. 1.04 OHMC to read as follows:

1.04.015 Standing Committees.

- (1) To facilitate the legislative functions of the city council, there shall be four standing committees of the Oak Harbor City Council:

- (a) Finance;
 - (b) Governmental Services;
 - (c) Public Safety; and
 - (d) Public Works.
- (2) Each standing committee shall meet in a regular open public meeting of the city council pursuant to the Open Public Meetings Act. The standing committees shall meet on the following dates and times and at the following locations:
- (a) Finance -- On the second Wednesday of the month at City Hall at 3:30 p.m.;
 - (b) Governmental Services -- On the second Tuesday of the month at City Hall at 8:00 a.m.;
 - (c) Public Safety -- On the third Thursday of the month at the Fire Department at 7:00 a.m.; and
 - (d) Public Works -- On the first Thursday of the month at the Public Works Department at 7:00 a.m.
- (3) Upon recommendation of the mayor, the city council shall assign a chair and two members of the city council to have primary responsibility for each committee annually.
- (4) Any city councilmember may attend any standing committee meeting and there shall be no quorum requirement for standing committee meetings.
- (5) Councilmembers assigned to standing committees are requested but not required to attend standing committee meetings. All councilmember absences from standing committee meetings are excused.
- (6) The purpose of the standing committees is to receive information for educational purposes or for preparation of matters to come before the city council. No final action shall be taken at a standing committee meeting
- (7) Meetings of standing committees should be conducted with a prepared agenda which should be posted on the City's website at least two (2) business days prior to the meeting.
- (8) The committee chair may cancel a standing committee meeting at any time. In the event that a regular meeting of a standing committee is cancelled, cancellation shall be posted on the door of the location set by this section prior to the regular time of the meeting.

Section Four. Oak Harbor Municipal Code Section 1.04.020, last amended by Ord. 1115 §1 in 1997 is hereby amended to read as follows:

1.04.020 Public notice for full council agenda – Introduction of action.

- (1) It is directed that:
 - (a) The list of agenda items with abbreviated descriptions shall be completed and available by Thursday at 12:00 noon the week preceding a regular full council meeting. Additionally, this list shall be mailed by U.S. mail or electronic mail or faxed to newspapers, radio stations and television stations which request notice of public meetings.
 - (b) The full agenda shall be available by noon on the Thursday before a regular full council meeting.

Nothing in this subsection shall be construed as requiring that only the items identified on the lists described in this subsection may be heard at the full council meeting or that agenda items cannot be deleted from the list. Thus, for example, but not as limitation, emergency matters, parade permit applications, amendments to the budget, and approval of contracts may be added to the agenda after preparation of the agenda is complete.

- (2) An ordinance other than an emergency ordinance, budget amendment, moratorium ordinance or ordinance to be passed after a public hearing shall be introduced at least one full council meeting prior to the one it is considered for passage. After introduction and consideration, the ordinance shall then be continued to a scheduled subsequent full council meeting for additional consideration and for action such as passage, rejection or continuance to another hearing date.

The ordinance may be amended at any time prior to passage including at the time of introduction before the council. Amendment of a proposed ordinance shall not mandate delay of passage of the ordinance.

- (3) Matters introduced by a councilmember which are seconded by another councilmember and not on the agenda shall be set over to another full council meeting for consideration and action, if any. Every councilmember-initiated agenda item shall be stated by the initiating councilmember for the agenda in the form of a proposed action item such as council discussion, a motion, resolution or ordinance. As an exception to the provision of this subsection, the following matters after motion and second may be considered and acted upon during the same meeting they are introduced:
 - (a) Matters declared an emergency;
 - (b) Directions to staff to prepare documents or reports or both for consideration; or
 - (c) Scheduling of meetings.

Section Five. Oak Harbor Municipal Code Section 1.04.030, adopted by Ordinance 1110 §1 in 1997, is hereby repealed.

Section Six. A new Chapter 1.30 entitled "Sale or Exchange of Real Property" is hereby added to the Oak Harbor Municipal Code to read as follows:

CHAPTER 1.30

SALE OR EXCHANGE OF REAL PROPERTY

Sections:

1.30.010 Requirements for sale or other disposition of City real property.

1.30.010 Requirements for sale or other disposition of City real property.

- (1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least ten (10) days prior to the hearing. Developed city park property shall not be disposed of in any manner without citizen approval in an election.
- (2) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.
- (3) A SEPA analysis shall be done on such proposed action and available for public review at least ten (10) days prior to the hearing.
- (4) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.
- (5) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.
- (6) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

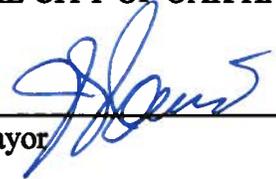
Section Seven. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Eight. Effective Date. This Ordinance shall be in full force and effect five days after publication.

PASSED by the City Council this 15th day of JUNE, 2010.

APPROVED by its Mayor this 21ST day of JUNE, 2010.

THE CITY OF OAK HARBOR



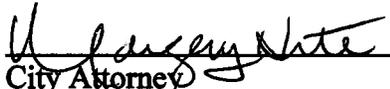
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

Published: JUNE 19, 2010

ORDINANCE NO. 1728

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 1.30 ENTITLED "SALE OR EXCHANGE OF REAL PROPERTY" AND PROVIDING FOR COUNCIL APPROVAL OF TRANSFER OF DEVELOPED PARK PROPERTY WITHOUT CITIZEN APPROVAL AT AN ELECTION WHEN DETERMINED TO BE REQUIRED FOR A NECESSARY PUBLIC IMPROVEMENT

WHEREAS, Chapter 1.30 of the Oak Harbor Municipal Code entitled "Sale or Exchange of Real Property" was adopted by Ord. 1578 (2010); and

WHEREAS, OHMC 1.30.010(1) provides that developed city park property shall not be disposed of in any manner without citizen approval in an election; and

WHEREAS, the legislative intent behind this code when it was first adopted in 1997 was to ensure that developed park property would not be sold or transferred to private parties for private use or economic gain; and

WHEREAS, from time to time developed park property, or portions of such park property, are required for necessary public purposes such as water, sewer or roadway improvements; and

WHEREAS, the requirement for citizen approval in such circumstances has the potential to impede or hinder accomplishment of necessary public purposes; and

WHEREAS, RCW 35.22.280(11) provides additional requirements for the disposal of park property including, when applicable, the consent of the dedicator or donor, and the use of the proceeds for acquisition of replacement park property; and

WHEREAS, RCW 43.09.210 provides that all property transferred from one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same; and

WHEREAS, it would promote the public health, safety and welfare to eliminate the requirement of citizen approval at an election of the transfer of developed park property to another city department for public purposes including, but not limited to, water, sewer or roadway improvements; NOW, THEREFORE,

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

Section One. Oak Harbor Municipal Code Chapter 1.30 entitled "Sale or Exchange of Real Property" is hereby amended to read as follows:

Chapter 1.30
SALE OR EXCHANGE OF REAL PROPERTY

Sections:

1.30.010 Requirements for sale or other disposition of city real property.

1.30.010 Requirements for sale or other disposition of city real property.

- (1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least ten (10) days prior to the hearing. Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.
- (2) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.
- (3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.
- (4) A SEPA analysis shall be done on such proposed action and available for public review at least ten (10) days prior to the hearing.
- (5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

- (6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.
- (7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

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

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

PASSED by the City Council this 5th day of May, 2015.

Veto ()
 Approve (✓)

THE CITY OF OAK HARBOR

By Danny Pappas
 for: Scott Dudley, Mayor
 Dated: 5/5/2015

Attest:

Anna Thompson
 Anna Thompson, City Clerk

Approved as to Form:

Nikki Esparza
 Nikki Esparza, City Attorney

Published: _____

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least 10 days prior to the hearing. ~~Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.~~

~~(2) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.~~

~~(3)~~(2) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

~~(4)~~(3) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

~~(5)~~(4) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

~~(6)~~(5) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

~~(7)~~(6) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage. (Ord. 1728 § 1, 2015; Ord. 1578 § 6, 2010).

ORDINANCE 1999 SALE OF CITY PROPERTY



City Council

May 21, 2024

BACKGROUND

- City staff identified a potential impediment to transfer of city-owned properties
- OHMC 1.30.010 (1) and (2) reference a need for an election to transfer park properties specifically

BACKGROUND

- “Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.”
- “No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city’s accounts from the acquiring department’s fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.”

ANALYSIS

- Legal staff is not aware of an election requirement in any other Washington jurisdiction

ANALYSIS

- From 2015 Ordinance:
 - *“legislative intent behind this code when it was first adopted in 1997 was to ensure that developed park property would not be sold or transferred to private parties for private use or economic gain”*
 - However, that intent could be circumvented by an election

ANALYSIS

- From 2015 Ordinance:
 - *“from time-to-time developed park property, or portions of such park property, are required for necessary public purposes such as water, sewer or roadway improvements... and the requirement for citizen approval in such circumstances has the potential to impede or hinder accomplishment of necessary public purposes.”*
 - City staff believes that city-wide economic development is a “necessary public purpose”

ANALYSIS

- **Guardrails already built in:**
 - Staff analysis of proposal – including all relevant department input
 - Public hearing with notice and public comment
 - SEPA review – considers aesthetics, access to park lands and environmental conditions
 - RCW standards

ANALYSIS

- **More nimble decision-making**
 - Requiring an election would significantly increase the amount of time to come to a decision
- **Cost of election would be borne by city**
 - Election would be required for any transfer, including those that would be an equal value proposition, or of benefit to the city
- **Potential influence of special interests short-circuiting expertise of City staff and decision-makers**

RECOMMENDATION

- **City staff believes that “necessary public purposes” includes the economic development of the community. That growth often pays for the infrastructure needs specified in the 2015 code amendment that authorized the City Council to make a decision on those specific transfers.**

RECOMMENDATION

- In essence, requiring an election for the transfer of park designated properties could constitute a barrier to economic development, either by stifling potential development through uncertainty of outcomes, opening important decisions to outside influences or simple denial of a potential transfer.

RECOMMENDATION

- Because of those reasons, the fact that Oak Harbor is an outlier in the requirement, and the guardrails that exist in City Council consideration of transfer of lands, Staff recommends approval of Ordinance 1999, amending OHMC 1.30.010.

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

Bill No. 6.e.
Date: May 21, 2024
Subject: Ordinance 2000: Creating
OHMC Chapter 3.99, pertaining
to administrative provisions for
the regulation of City taxes

FROM: David Goldman, Deputy City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⊙ Ronnie Wright, Mayor
- ⊙ Sabrina Combs, Interim City Administrator
- ⊙ David Goldman, Finance Director
- ⊙ Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Ordinance 1998 and 2000 to be presented together.

Open Public Hearing.

Motion to approve Ordinance 2000, Amending Title 3 of the Oak Harbor Municipal Code to add a new Chapter 3.99, pertaining to administrative provisions for the city's business & occupation tax.

BACKGROUND / SUMMARY INFORMATION

The creation of administrative rules regarding local Business & Occupation Taxes is mandated by the State. These administrative provisions codify items such as:

- When the tax is due and payable - Tax is due quarterly and is payable on the last day of the month following the quarter. Exception: First payment of initial period is due on January 31, 2025.
- Payment methods - Electronic preferred.
- Exemption from filing - Businesses that won't exceed the \$1,000,000 threshold annually may contact the city to request an active non-reporting status that we will keep on file. This will reduce paperwork on both staff and the business owners.
- Late filings and payments of taxes - Must follow State law.
 - 1 day to 1 month - 9%
 - 1 month to 2 months - 19%
 - Over 2 months - 29%
- Underpayment penalty (if at least 80% of payment due is made on time) - Currently about 6% per annum.
- Administrative appeal processes.

LEGAL AUTHORITY

Washington Constitution Article XI, Sec. 12

RCW Sections 35A.82.020 and 35A.11.020

FISCAL IMPACT

No fiscal impact related to the administrative provisions.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

February 28, 2024 City Council Workshop.

March 27, 2024 City Council Workshop.

Previously in this Workshop.

ATTACHMENTS

1. [Ord 2000: B&O Tax Admin Rules](#)

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING TITLE 3 OF THE OAK HARBOR MUNICIPAL CODE TO ADD A NEW CHAPTER 3.99, PERTAINING TO ADMINISTRATIVE PROVISIONS FOR THE CITY'S BUSINESS AND OCCUPATION TAX; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Washington Constitution Article XI, Sec. 12 vests the power to assess and collect taxes for municipal purposes in counties, cities, towns, and other municipal corporations; and

WHEREAS, Section 35A.82.020 of the Revised Code of Washington ("RCW") permits a code city to exercise its authority to impose excises for revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions, and any other lawful activity; and

WHEREAS, RCW 35A.11.020 grants the legislative bodies of code cities within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the State; and

WHEREAS, the City's Comprehensive Financial Management Policy requires a well-diversified and stable revenue system to be maintained to shelter public services from short-run fluctuations in any particular revenue source; and

WHEREAS, the City's Comprehensive Financial Management Policy requires current revenue to be sufficient to support current expenditures; and

WHEREAS, the Municipal Research and Services Center (MRSC) publication, *Revenue Guide for Washington Cities and Towns*, indicates that the four main unrestricted revenue sources provided to cities by the state legislature are property taxes, sales taxes, utility taxes, and business and occupation taxes; and

WHEREAS, the three main unrestricted revenue sources that the City of Oak Harbor has implemented do not meet the aforementioned requirements of the City's Comprehensive Financial Management Policy due to the property tax councilmanic increase limit of 1% per annum, arrested growth and economic uncertainty of sales tax, and utility taxes' dependance on the City owned utility rates, which have not increased to keep up with inflation; and

WHEREAS, the Oak Harbor City Council is desirous of providing for diversification of the City's unrestricted general revenue stream and having sufficient revenue to fund current expenditures; and

WHEREAS, RCW 35.102.040 requires that every city that imposes a business and occupation tax follow the model ordinance as developed by the Association of Washington Cities, which includes certain mandatory provisions related to the administration of the tax that are designed to ensure uniformity among jurisdictions and prevent instances of double taxation;

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

Section One. Title 3 Amended. Title 3 of the Oak Harbor Municipal Code is hereby amended by adding a new Chapter 3.99, entitled “Administration of Business and Occupation Tax,” as follows:

Chapter 3.29
ADMINISTRATION OF BUSINESS AND OCCUPATION TAX

Sections:

- 3.99.010 Purpose.
- 3.99.015 Application of chapter stated.
- 3.99.020 Definitions.
- 3.99.021 Definitions – References to Chapter 82.32 RCW.
- 3.99.025 License requirements.
- 3.99.040 When due and payable – Reporting periods – Monthly, quarterly, and annual returns – Threshold provisions or relief from filing requirements – Computing time periods – Failure to file returns.
- 3.99.050 Payment methods – Filing of returns or remittances – Time extension – Deposits – Recording payments – Payment must accompany return – NSF checks.
- 3.99.060 Records to be preserved – Examination – Estoppel to question assessment.
- 3.99.070 Accounting methods.
- 3.99.080 Public work contracts – Payment of fee and tax before final payment for work.
- 3.99.090 Underpayment of tax, interest, or penalty – Interest.
- 3.99.095 Time in which assessment may be made.
- 3.99.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.
- 3.99.110 Late payment – Disregard of written instructions – Evasion – Penalties.
- 3.99.120 Cancellation of penalties.
- 3.99.130 Taxpayer quitting business – Liability of successor.
- 3.99.140 Administrative appeal.
- 3.99.150 Judicial review of director’s determination.
- 3.99.160 Director to make rules.
- 3.99.170 Ancillary allocation authority of director.
- 3.99.180 Mailing of notices.
- 3.99.190 Tax declared additional.
- 3.99.200 Public disclosure – Confidentiality – Information sharing.
- 3.99.210 Tax constitutes debt.
- 3.99.220 Unlawful actions – Violation – Penalties.
- 3.99.230 Suspension or revocation of business license.
- 3.99.250 Charge-off of uncollectible taxes.

3.99.010 Purpose. The purpose of this chapter is to provide administrative guidelines and provisions to implement, administer, and enforce the city’s business and occupation tax.

3.99.015 Application of chapter stated. The provisions of this chapter shall apply with respect to the taxes imposed under Chapter 3.98 OHMC, Business and Occupation Tax, and any other titles,

chapters, and sections in such manner and to such extent as expressly indicated in each such title, chapter, or section.

3.99.020 Definitions. For purposes of this chapter, the definitions contained in Chapter 3.98 OHMC shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply:

- (1) **“Director.”** “Director” means the finance director of the city of Oak Harbor or the director’s designee.
- (2) **“Reporting period.”** “Reporting period” means:
 - (a) A one-month period beginning the first day of each calendar month (monthly); or
 - (b) A three-month period beginning the first day of January, April, July, or October of each year (quarterly); or
 - (c) A 12-month period beginning the first day of January of each year (annual).
- (3) **“Return.”** “Return” means any document a person is required by the city to file to satisfy or establish a tax or fee obligation that is administered or collected by the city and that has a statutorily defined due date.
- (4) **“Successor.”** “Successor” means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer’s business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.
- (5) **“Tax year,” “taxable year.”** “Tax year” or “taxable year” means the calendar year.

3.99.021 Definitions – References to Chapter 82.32 RCW.

Where provisions of Chapter 82.32 RCW are incorporated in OHMC 3.98.090, “department” as used in the RCW shall refer to the “director” as defined in OHMC 3.99.020 and “warrant” as used in the RCW shall mean “citation or criminal complaint.”

3.99.025 License requirements. No person shall engage in any business or conduct any business activity without first obtaining a valid current business license as required by Chapter 5.01 OHMC, whether or not the person is subject to the tax imposed by Chapter 3.98 OHMC.

3.99.040 When due and payable – Reporting periods – Monthly, quarterly, and annual returns – Threshold provisions or relief from filing requirements – Computing time periods – Failure to file returns.

- (1) (a) The tax imposed by Chapter 3.98 OHMC shall be due and payable in quarterly installments. At the director’s discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Except as provided in subsection (b), tax payments are due on or before the time as provided in RCW 82.32.045(1), (2), and (3).
 - (b) For the quarterly period ending on September 30, 2024, the tax imposed by Chapter 3.98 OHMC shall be due and payable, along with the return required by OHMC 3.99.040(2), by January 31, 2025.

- (2) Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the director, which return shall be filed as provided in OHMC 3.99.050(2). The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.
- (3) Tax returns must be filed and returned by the due date whether or not any tax is owed.
- (4) For purposes of the tax imposed by Chapter 3.98 OHMC, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than \$250,000 in the current quarter, shall file a return, declare no tax due on their return, and submit the return to the director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.
- (5) A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.
- (6) Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or city or federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, nor city or federal legal holiday.
- (7) If any taxpayer fails, neglects, or refuses to make a return as and when required in this chapter, the director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the city by the taxpayer. The director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.99.050 Payment methods – Filing of returns or remittances – Time extension – Deposits – Recording payments – Payment must accompany return – NSF checks.

- (1) Taxes shall be paid to the director in United States currency. Payment of the tax may be made by electronic funds transfer, as defined in RCW 82.32.085, or by another form of electronic payment, such as payment by credit card, as may be authorized by the director, or by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer. If the payment is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the director shall not discharge the tax or fee due unless the amount paid is the full amount due.
- (2) Returns may be filed electronically using the city's online tax filing service or such other method of electronic reporting as the director may authorize. A return or remittance which is transmitted to the city electronically shall be deemed filed or received according to procedures set forth by the director. A return that is transmitted to the city by United States mail shall be

deemed filed or received on the date shown by the cancellation mark stamped by the Post Office upon the envelope containing it.

- (3) If a written request is received prior to the due date, the director, for good cause, may grant, in writing, additional time within which to make and file returns.
- (4) The director shall keep full and accurate records of all funds received or refunded. The director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.
- (5) For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.
- (6) Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a “nonsufficient funds” (NSF) charge, in an amount set per the master fee schedule adopted by resolution of the city council, has been received by the director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the director. No license shall be reissued until the payment, including the NSF charge, is received.
- (7) Tax return forms shall be made available electronically by the finance department. The director is not required to mail tax return forms to taxpayers. Failure of the taxpayer to obtain any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

3.99.060 Records to be preserved – Examination – Estoppel to question assessment.

Every person liable for any fee or tax imposed by Chapter 3.98 OHMC shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable, which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the director or the director’s duly authorized agent. Every person’s business premises shall be open for inspection or examination by the director or a duly authorized agent.

- (1) If a person does not keep the necessary books and records within the city, it shall be sufficient if such person (a) produces within the city such books and records as may be required by the director, or (b) bears the cost of examination by the director’s agent at the place where such books and records are kept; provided, that the person electing to bear such cost shall pay in advance to the director the estimated amount thereof including round-trip fare, lodging, meals, and incidental expenses, subject to adjustment upon completion of the examination.
- (2) Any person who fails to provide or make available any business records, or who refuses a department request to review such records or to inspect or examine the business premises, shall be forever barred from questioning in any court action the correctness of any assessment of taxes made by the city for any period for which such records have not been provided, made available, or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The director is authorized to determine the amount of the

tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the city by the taxpayer. The director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.99.070 Accounting methods.

- (1) A taxpayer may file tax returns in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.
- (2) The taxes imposed and the returns required hereunder shall be upon a calendar year basis.

3.99.080 Public work contracts – Payment of fee and tax before final payment for work.

The director may, before issuing any final payment to any person performing any public work contract for the city, require such person to pay in full all license fees or taxes due under this title from such person on account of such contract or otherwise, and may require such taxpayer to file with the director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

3.99.090 Underpayment of tax, interest, or penalty – Interest.

- (1) If, upon examination of any returns, or from other information obtained by the director, it appears that a tax or penalty less than that properly due has been paid, the director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The director shall notify the person by mail of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the director may provide in writing.
- (2) (a) The director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.
(b) If subsection (2)(a) of this Section 3.99.090 is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

3.99.095 Time in which assessment may be made.

The director shall not assess, or correct an assessment for, additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except that the director may issue an assessment:

- (1) Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the director;
- (2) Against a person that has committed fraud or who misrepresented a material fact; or
- (3) Against a person that has executed a written waiver of such limitations.

3.99.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.

- (1) If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection (2) of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.
- (2) The execution of a written waiver shall extend the time for applying for or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the director discovers that a refund or credit is due.
- (3) Refunds shall be made by means of vouchers approved by the director and by the issuance of a city check or warrants drawn upon and payable from such funds as the city may provide.
- (4) Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the director a certified copy of the order or judgment of the court.
- (5) (a) The director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with RCW 82.32.060 as it now exists or as it may be amended.
(b) If subsection (2)(a) of this Section 3.99.100 is held to be invalid, then the provisions of RCW 82.32.060 existing at the effective date of this ordinance shall apply.

3.99.110 Late payment – Disregard of written instructions – Evasion – Penalties.

- (1) If payment of any tax due on a return to be filed by a taxpayer is not received by the director by the due date, the director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.
- (2) If the director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.
- (3) If a citation or criminal complaint is issued by the director for the collection of taxes, fees, assessments, interest, or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.
- (4) If the director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not a city business license as required by OHMC 3.99.025 and Chapter 5.01 OHMC, the director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under this subsection (4) if the person who has engaged in business without a business license obtains a business license prior to being notified by the director of the need to be licensed.

- (5) If the director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.
- (6) If the director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the director shall assess a penalty in accordance with RCW 82.32.090(7), as it now exists or as it may be amended.
- (7) The penalties imposed under subsections (1) through (5) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.
- (8) The director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.
- (9) For the purposes of this section, "return" means any document a person is required by the city to file to satisfy or establish a tax or fee obligation that is administered or collected by the city, and that has a statutorily defined due date.
- (10) If incorporation of future changes to RCW 82.32.090 into the Oak Harbor Municipal Code is deemed invalid, then the provisions of RCW 82.32.090 existing at the effective date of this ordinance shall apply.

3.99.120 Cancellation of penalties.

- (1) The director may cancel any penalties imposed under OHMC 3.99.110(1) if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer's control, unable to file or pay by the due date. The director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection (3) of this Section 3.99.120.
- (2) A request for cancellation of penalties must be received by the director within 30 days after the date the department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.
- (3) The director may cancel the penalties in OHMC 3.99.110(1) one time if a person:
 - (a) Is not currently licensed and filing returns;
 - (b) Was unaware of its responsibility to file and pay tax; and
 - (c) Obtained a city business license and filed past due tax returns within 30 days after being notified by the director.
- (4) The director shall not cancel any interest charged upon amounts due.

3.99.130 Taxpayer quitting business – Liability of successor.

- (1) Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of their business or their stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within 10 days thereafter, make a return and pay the tax due.
- (2) Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the city from the taxpayer until such time as: (a) the taxpayer shall produce a receipt from the city

showing payment in full of any tax due or a certificate that no tax is due, or (b) more than six months have passed since the successor notified the director of the acquisition and the director has not issued and notified the successor of an assessment.

- (3) Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.
- (4) Notwithstanding the above, if a successor gives written notice to the director of the acquisition, and the director does not issue an assessment against the taxpayer and mail a copy of that assessment to the successor within six months of the date the director actually receives the written notice from the successor, then the successor shall not be liable for the tax.

3.99.140 Administrative appeal.

Any person, except one who is estopped pursuant to OHMC 3.99.060(2), aggrieved by the amount of any fee, tax, interest, or penalty determined by the director to be due under the provisions of this chapter, or of Chapter 3.98 OHMC, Business and Occupation Tax, may, upon full payment of the amount assessed, appeal such determination pursuant to the following procedures:

- (1) Form of Appeal. Any appeal must be in writing and must contain the following:
 - (a) The name and address of the taxpayer;
 - (b) A statement identifying the determination of the director from which the appeal is taken;
 - (c) A statement setting forth the grounds upon which the appeal is taken and identifying specific errors the director is alleged to have made in making the determination; and
 - (d) A statement identifying the requested relief from the determination being appealed.
- (2) Time and Place to Appeal. The appeal shall be filed with the office of the city clerk with a copy to the director no later than 21 days following the date on which the determination of the director was mailed to the taxpayer. A filing fee, in the amount as established by the master fee schedule adopted by resolution of the city council for hearings by the hearing examiner, shall be submitted with the appeal, which filing fee is required to process the appeal. If no appeal is filed within the time period provided herein, the assessment covered by such notice shall become final and immediately due and payable. No refund request may be made for the audit period covered in that assessment. Failure to follow the appeal procedures in this section shall preclude the taxpayer's right to appeal.
- (3) Appeal Hearing. The city's hearing examiner shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The hearing shall be conducted in accordance with the provisions of Chapter 1.24 OHMC and procedures developed by the hearing examiner, at which time the appellant taxpayer and the director shall have the opportunity to be heard and to introduce evidence relevant to the subject of the appeal.
- (4) Burden of Proof. The appellant taxpayer shall have the burden of proving by a preponderance of the evidence that the determination of the director is erroneous.
- (5) Hearing Record. The hearing examiner shall make an electronic sound recording of each appeal unless the hearing is conducted solely in writing. The hearing examiner may, by subpoena, require the attendance of any person at the hearing, and may also require them to produce pertinent books and records. Any person served with such a subpoena shall appear at the time

and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the hearing examiner as to any matter required of them pertinent to the appeal; and it shall be unlawful for such person to fail or refuse to do so. The city attorney shall seek enforcement of a hearing examiner subpoena in an appropriate court.

- (6) Decision of the Hearing Examiner. Following the hearing, the hearing examiner shall enter a decision on the appeal, supported by written findings and conclusions in support thereof. A copy of the findings, conclusions, and decision shall be mailed to the appellant taxpayer and to the director. The decision shall state the correct amount of the fee, tax, interest, or penalty owing.
- (7) Interest Accrual or Payment. Interest and/or penalties shall continue to accrue on all unpaid amounts, in accordance with OHMC 3.99.090 and OHMC 3.99.110, notwithstanding the fact that an appeal has been filed. If the hearing examiner determines that the taxpayer is owed a refund, such refund amount shall be paid to the taxpayer in accordance with OHMC 3.99.100.

3.99.150 Judicial review of administrative appeal decision.

The taxpayer or the city may obtain judicial review of the hearing examiner's administrative decision by applying for a writ of review in the Island County superior court, in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law, and court rules, within 21 calendar days following the date that the decision of the hearing examiner was transmitted electronically or sent by first class mail to the parties. The city shall have the same right of review from the administrative decision as does a taxpayer.

3.99.160 Director to make rules.

The director shall have the power, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this chapter or with other applicable law for the purpose of carrying out the provisions of this chapter, and it shall be unlawful to violate, or fail to comply with, any such rule or regulation.

3.99.170 Ancillary allocation authority of director.

The director is authorized to enter into agreements with other Washington cities which impose an "eligible gross receipts tax":

- (1) To conduct an audit or joint audit of a taxpayer by using an auditor employed by the city of Oak Harbor, another city, or a contract auditor; provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;
- (2) To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city; or
- (3) To apply the city's tax prospectively where a taxpayer has no office or place of business within the city and has paid tax on all gross income to another Washington city where the taxpayer is located; provided, that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the city.

3.99.180 Mailing of notices.

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of the director. Failure of the taxpayer or licensee to receive any such mailed notice shall not release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. It is the responsibility of the taxpayer to inform the director in writing about a change in the taxpayer's address.

3.99.190 Tax declared additional.

The tax and any applicable fee herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the city of Oak Harbor except as herein otherwise expressly provided.

3.99.200 Public disclosure – Confidentiality – Information sharing.

(1) For purposes of this section, defined terms shall be as set forth in OHMC 3.99.020:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information.

(b) "Tax information" means:

(i) A taxpayer's identity;

(ii) The nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over-assessments, or tax payments, whether taken from the taxpayer's books and records or any other source;

(iii) Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or

(iv) Other data received by, recorded by, prepared by, or provided to the city with respect to the determination or the existence, or possible existence, of liability, or the amount thereof, of a person under Chapter 3.98 OHMC for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure.

(c) "City agency" means every city office, department, division, bureau, board, commission, or other city agency.

(d) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the director nor any other person may disclose any return or tax information.

(3) This section does not prohibit the director from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

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- (i) In respect of any tax imposed under Chapter 3.98 OHMC if the taxpayer or its officer or other person liable under this title is a party in the proceeding; or
 - (ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;
- (b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to OHMC 3.99.160, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;
- (c) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;
- (d) Disclosing such return or tax information, for official purposes only, to the mayor or city attorney, or to any city agency, or to any member of the city council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry, or the professions;
- (e) Permitting the city's records to be audited and examined by the proper state officer, their agents, and employees;
- (f) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this section;
- (g) Disclosing any such return or tax information to the proper officer of the Internal Revenue Service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the city;
- (h) Disclosing any such return or tax information to the United States Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Defense, the Immigration and Customs Enforcement and the Customs and Border Protection Agencies of the United States Department of Homeland Security, the United States Coast

Guard, the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, and the United States Department of Transportation, or any authorized representative of these federal agencies or their successors, for official purposes;

(i) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(j) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American Industry Classification System or Standard Industrial Classification code of a taxpayer, and the dates of opening and closing of business. Except that this subsection may not be construed as giving authority to the city or any recipient to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(k) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of Chapter 42.56 RCW or that is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(l) Disclosing such return or tax information to the United States Department of Agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;

(m) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the city for a filed tax warrant, judgment, or lien against the real property;

(n) Disclosing to a person, against whom the director has asserted liability as a successor under OHMC 3.99.130, return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(o) Disclosing real estate excise tax affidavit forms filed under Chapter 3.62 OHMC in the possession of the city, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(p) Disclosing such return or tax information to the court or hearing examiner in respect to the city's application for a subpoena if there is probable cause to believe that the records in possession of a third party will aid the director in connection with its official duties under this title or a civil or criminal investigation.

- (4) (a) The director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the director's official duties under OHMC Title 3, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The director may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the director may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial

statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The director may not disclose any tax return or tax information under this subsection (4) until the time period allowed in subsection (4)(c) of this Section 3.99.200 has expired or until the court has ruled on any challenge brought under subsection (4)(c) of this Section 3.99.200.

(c) The person in possession of the data, materials, or documents to be disclosed by the director has 20 days from the receipt of the written correspondence required under subsection (4)(b) of this Section 3.99.200 to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the director if the court determines that:

- (i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;
- (ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the director, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or
- (iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under subsection (4)(b) of this Section 3.99.200 that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued by the court or by the hearing examiner pursuant to OHMC 3.99.140(5) does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the court or by the hearing examiner may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of their employment with the city and any person acquiring knowledge of any return or tax information as provided under subsections (3)(d), (e), (f), (g), (h), (i), or (k) of this Section 3.99.200, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the city, such person must forfeit such office or employment and is incapable of holding any public office or employment in this city for a period of two years thereafter.

3.99.210 Tax constitutes debt.

Any applicable fee or tax due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to the city of Oak Harbor and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

3.99.220 Unlawful actions – Violation – Penalties.

- (1) It shall be unlawful for any person liable for taxes or fees this chapter:
 - (a) To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the director;
 - (b) To make any false statement on any license application or tax return;
 - (c) To aid or abet any person in any attempt to evade payment of a license, or fee, or tax;
 - (d) To fail to appear or testify in response to a subpoena issued pursuant to OHMC 3.99.140(5);
 - (e) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter.
- (2) Violation of any of the provisions of this chapter is a gross misdemeanor. Any person convicted of a violation of this chapter may be punished by a fine not to exceed \$1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.
- (3) Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a business license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed \$5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

3.99.230 Suspension or revocation of business license.

- (1) The director, or the director’s designee, shall have the power and authority to suspend or revoke any business license issued under OHMC Title 5 for the reasons described herein. The director, or their designee, shall notify such licensee in writing by certified mail of the suspension or revocation of their business license and the grounds therefor. Any business license issued under OHMC Title 5 may be suspended or revoked based on one or more of the following grounds:
 - (a) The license was procured by fraud or false representation of fact.
 - (b) The licensee has failed to comply with any provisions of Chapter 3.98 OHMC or this chapter.
 - (c) The licensee has failed to comply with any other provisions of the Oak Harbor Municipal Code.
 - (d) The licensee is in default of any payment of any license fee or tax under Chapter 3.98 OHMC or this chapter.
 - (e) The licensee, or an employee thereof, has been convicted of a crime involving the business.
- (2) Any licensee may, within 30 days from the date that the suspension or revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing a written notice of appeal (“petition”) setting forth the grounds therefor with the director. A copy of the petition must be provided by the licensee to the director and the city attorney on or before the date the petition is filed with the city clerk. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in Chapter 1.24 OHMC. The hearing examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of

the hearing. After the hearing thereon the hearing examiner shall, after appropriate findings of fact, and conclusions of law, affirm, modify, or overrule the suspension or revocation and reinstate the business license, and may impose any terms upon the continuance of the business license.

- (3) No suspension or revocation of a business license that is made pursuant to the provisions of subsection (1) of this Section 3.99.230 shall take effect until 30 days after the mailing of the notice thereof by the director, and if appeal is taken as herein prescribed, the suspension or revocation shall be stayed pending final action on the appeal. All business licenses that are suspended or revoked shall be surrendered to the city on the effective date of such suspension or revocation.
- (4) The decision of the hearing examiner shall be final. The director or the licensee may seek review of the decision by the superior court of Washington in and for Island County. If review is sought as herein prescribed, the suspension or revocation shall be stayed pending final action by the superior court.
- (5) Nothing in this section is intended to limit the authority of the director to suspend or revoke a business license pursuant to any other provision of city code, including, but not limited to, OHMC 5.01.170.

3.99.250 Charge-off of uncollectible taxes.

The director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer.

Section Two. Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this ordinance and that remaining portion shall maintain its full force and effect.

Section Three. Effective Date. This ordinance shall take effect and be in force beginning July 1, 2024, which is at least 30 days from and after its passage and publication, as provided by law.

ADOPTED by the City Council this ___ day of _____, 2024.

THE CITY OF OAK HARBOR

By _____

Ronnie Wright, Mayor

Dated: _____

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

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

Bill No. 7.a.
Date: May 21, 2024
Subject: Staff Report for Contracts & Agreements Items b., c., and d. related to the Department of Ecology Integrated Planning Grant

FROM: Steven Schuller, Public Works Director and David Kuhl, Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Staff will present an overview of the three related Professional Services Agreements that follow on the agenda for environmental cleanup of the City owned property located at 1081 and 1091 Pioneer Way.

BACKGROUND / SUMMARY INFORMATION

Staff will provide a summary report of the following related agenda items:

- b. Professional Services Agreement with Farallon Consulting for Remedial Investigation/Feasibility Study of Pioneer Way Property, not to exceed \$107,000.
- c. Professional Services Agreement with Dahlin Group for Integrated Planning for Central Development Area and City Property, not to exceed \$68,000.
- d. Professional Services Agreement with the Center for Creative Land Recycling (CLLR) for Vision to Action Plan, not to exceed \$10,000.

All three Agreements are related to the City's environmental cleanup for property owned by the City at 1081 and 1091 Pioneer Way.

Each Agreement will be presented separately for Council consideration and action.

At the Council Workshop on January 24 (link provided below), the next steps were outlined for environmental restoration and redevelopment of the City owned parcels at 1081 and 1091 SW Pioneer Way, as well as for the surrounding Central Development Area (CDA). To help further address these needs, the City was recently awarded an Integrated Planning grant from the

Washington State Department of Ecology (Ecology) for \$200,000. which requires a zero (0%) match from the City.

Since the Workshop, staff has also been working with the nonprofit CCLR (pronounced “see-clear”) on an additional funding award of approximately \$100,000 to complete economic analysis/market feasibility, three public workshops, and community visioning. The CCLR’s scope of work requires a 10% contribution from the City (about \$10,000). Both the Ecology and CCLR funded tasks are further detailed below.

The work related to tonight’s action items can be divided into five areas:

1) Remedial Investigation/Feasibility Study: Farallon Consulting (<https://www.farallonconsulting.com/>) will work with the City to complete a remedial investigation and feasibility study for environmental contamination under the City owned parcels at 1081 and 1091 SW Pioneer Way. Farallon will install up to four new groundwater monitoring wells and one boring to a depth of approximately 15 feet below ground surface. Farallon was selected from the non-profit Municipal Research and Services Center (MRSCs) Public Agency Roster and Farallon also completed the Phase 1 and Phase 2 Environmental Due Diligence Reports when the parcels were purchased in January 2023 by the City. Total costs are not to exceed \$107,000 and are funded 100% by the Ecology grant. Please see the scope of work, attached to the Farallon Consulting action item, for full details.

2) Integrated Planning: Dahlin Group (<https://www.dahlingroup.com/>) will work with the City to complete integrated planning and architectural renderings to envision future redevelopment that is both environmentally and fiscally sustainable, and that enhances and strengthens business viability, creates new housing opportunities, and fosters a livable and beautiful city center. Dahlin Group was selected from the MRSC Roster, and ranked number one after interviews by a City team from Public Works and Planning. Total costs are not to exceed \$68,000 and are funded 100% by the Ecology grant. The estimated schedule includes draft renderings and analysis for stakeholder review this summer. Public workshops and community visioning (See section #3 below) will be no sooner than the fall, pending the status of work on the 2025 Comprehensive Plan. The scope of work will focus on three zones; please see scope attached to the Dahlin action item for details:

a. The Site – City Owned Waterfront Property

- About 1.1 Acres
- Five-Story Renderings (Current zoning allow 55-foot heights)
- Parking Requirement Comparison
- Analysis of Public and Retail Connection to the Waterfront
- Alternatives Based on Environmental Remediation Options

b. The Neighborhood – Downtown Waterfront Master Plan

- About 80 acres
- City Owned Properties as a Catalyst
- 3D Rendering of Waterfront District

- Parking Requirement Analysis

c. The Redevelopment Zone –CDA

- About 500 acres
- Focus on Renderings and Analysis for “Chimes Corner” (i.e. Whidbey Avenue and Midway Boulevard Intersection), which may include the School Bus Barn, and Current Park and Recreation Areas.
- Renderings for Pedestrian-Focused Street and Transportation Connections from the CDA to the Downtown Waterfront

3) **Economic/Market Analysis and Public Workshops:** The nonprofit *CCLR* (<https://www.cclr.org/>) will complete approximately \$100,000 in work including economic analysis and market feasibility of redevelopment options and three public workshops and community visioning exercises that will inform the City properties as well as the CDA. CCLR will also assist the City in engaging federal and state agencies on a long-term action plan. CCLR serves as U.S. Environmental Protection Agency's (EPA's) Technical Assistance to Brownfield Communities provider in several states, including Washington. The agreement with CCLR has a not to exceed amount of \$10,000 (10% City contribution) and is attached under the CCLR action item.

4) **Grant and Project Administration:** The Ecology grant also includes up to \$20,000 to reimburse City staff time for grant and project management.

5) **Building Hazardous Materials:** A firm was hired to conduct a building hazardous material investigation for asbestos at the two City owned buildings. The investigation is funded 100% by the Ecology grant. This work is currently proceeding under the Mayor's authority; no Council action is required tonight. Total costs for the investigation are estimated to be under \$5,000. Removal of the asbestos materials at a later date is the responsibility of the City and not funded by the Ecology grant.

The total cost for both the Ecology grant and the CCLR scope of work is about **\$300,000**. The City's contribution is staff time, mostly from Planning and Public Works, and approximately \$10,000.

RELATION TO 2025 COMPREHENSIVE PLAN: Staff discussed how this project relates to the major undertaking, and community outreach over the next year, for the 2025 Comprehensive Plan. It was concluded that the completion of tonight's Integrated Planning project for redevelopment of CDA will generally come after (that is, follow) the analysis and conclusions of the 2025 Comprehensive Plan. Any Oak Harbor Municipal Code (OHMC) changes or subarea plans within the CDA will take place in 2025 or later, largely after the 2025 Comprehensive Plan is finished.

RELATION TO THE MARINA REDEVELOPMENT PLAN: At this time, it is recommended that any Marina land use redevelopment plan be included in a future (Phase 2) planning project, which is currently unfunded. The Marina is presently conducting preliminary design and cost estimations for dredging underneath the existing Marina docks. Future planning

will also include alternatives for replacement of the existing docks and power systems, replacement of the breakwater, and dredging of the harbor channel leading out from the Marina. Any property (uplands) redevelopment or upzone of the City's Marina property or the current residential areas east of Maylor Street should be included in a separate planning project. Further complexities include an analysis of the Navy's underlying rights to the Marina properties as well as the role of the Washington State Department of Natural Resources (DNR).

DECISION TO DEMOLISH THE EXISTING TWO BUILDINGS: The City purchased the two parcels almost 1.5 years ago. Based on their age and poor condition, it is recommended that both buildings be demolished in preparation for redevelopment. Removal of the asbestos will cost approximately \$13,000. City staff can perform the building demolition in-house with a fee to Island County and a concrete recycle company for disposal of construction materials. A very rough estimate for construction material disposal fees is about \$25,000.

LEGAL AUTHORITY

FISCAL IMPACT

Staff time and \$10,000 from the General Fund, with up to \$20,000 of staff time reimbursed by Ecology grant. The 2023/2024 Budget has \$50,000 allocated from the General Fund for "*EDA Marina Downtown Expansion Study*" to analyze redevelopment.

Fiscal impacts for each item will also be included with that item.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [Powerpoint Presentation](#)

**INTEGRATED PLANNING GRANT
FOR
REDEVELOPMENT OF THE
CENTRAL DEVELOPMENT AREA**



**A TOP GOAL FOR
CITY COUNCIL**



CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

**Council
Meeting**

**May 21,
2024**

RELATION TO 2025 COMPREHENSIVE PLAN

- **Tonight's Integrated Planning project for redevelopment of CDA will generally come after (that is, follow) the analysis and conclusions of the 2025 Comprehensive Plan.**
- **Any Oak Harbor Municipal Code (OHMC) changes or subarea plans within the CDA will take place in 2025 or later, largely after 2025 Plan is finished. Some work will be started earlier to help inform the Comprehensive Plan.**

CDA

- **Central Development Area (CDA) potential upzones will follow the buildable lands analysis to be performed through Kimley-Horn (Comprehensive Plan)**
- **With this land analysis we will be able to see where additional density can be accommodated**
- **The Comp Plan map will change land uses, after that the CDA will guide zoning changes on parcels recommended in the buildable lands analysis**

COMP PLAN AND HOUSING UNITS

- The Department of Commerce is requiring an affordable housing component to the allowable housing allocation numbers.
- It is estimated that the city will need to add up to 5,500 additional housing units (in agreement with the county)
- There are new requirements that affordable housing will need to be established in many of these new units

MULTIFAMILY TAX EXEMPTION (MFTE)

- The MFTE program may be explored to see if the affordable housing requirement can be addressed using this tool
- We might be able to add density through the CDA in certain areas and include an affordable housing component
- The MFTE consultant we have is still on board through October this year

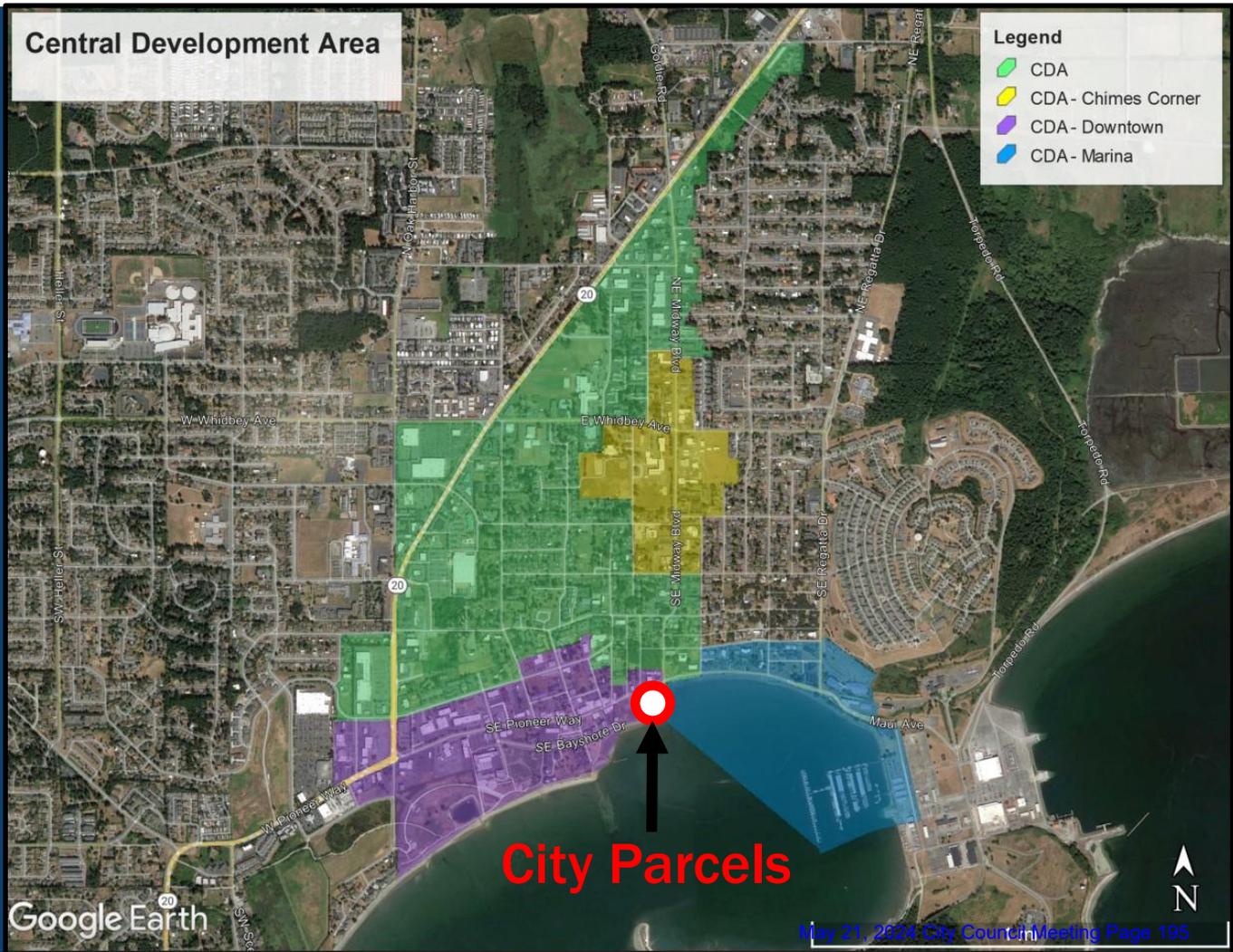
SCHEDULE

- **2025 Comprehensive Plan Buildable Lands Report**
Spring and Summer 2024

- **Integrated Planning Public Workshops**
No sooner the fall 2024

Central Development Area

- Legend**
- CDA
 - CDA - Chimes Corner
 - CDA - Downtown
 - CDA - Marina



Google Earth

City Parcels

RELATION TO THE MARINA REDEVELOPMENT PLAN

- At this time, recommended that any Marina land use redevelopment plan be included in a future (Phase 2) planning project, which is currently unfunded.
- The Marina is presently conducting preliminary design and cost estimations for dredging underneath the existing Marina docks. Future planning will also include alternatives for replacement of the existing docks and power systems, replacement of the breakwater, and dredging of the harbor channel leading out from the Marina.
- Any property (uplands) redevelopment or upzone of the City's Marina property or the current residential areas east of Maylor Street should be included in a separate planning project. Further complexities include an analysis of the Navy's underlying rights to the Marina properties as well as the role of the Washington State Department of Natural Resources (DNR).

TONIGHT'S RECOMMENDED ACTIONS

One report, but separate actions on three agreements:

1. Remedial Invest./Study	Farallon Consulting	\$107,000
2. Integrated Planning	Dahlin Group	\$68,000
3. Vision to Action	CCLR*	\$10,000

* Center for Creative Land Recycling

FUNDING REVENUE

Jan. 2024 \$200,000
Ecology State Grant!

March 2024 \$100,000 (U.S. EPA)
Non-profit CCLR!!

TOTAL \$300,000



CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON



FIVE AREAS OF EFFORT

1.	Remedial Investigation & Feasibility Study	\$107,000
2.	Integrated Planning	\$ 68,000
3.	Economic/Market Analysis & Public Workshops	\$100,000
4.	Grant and Project Administration	\$ 20,000
5.	Building Hazardous Materials	\$ 5,000

ESTIMATED TOTAL **\$300,000**
(City Share **\$ 10,000)**



City owned
parcels

About
1.1 acres

Google Earth

Image © 2024 Airbus

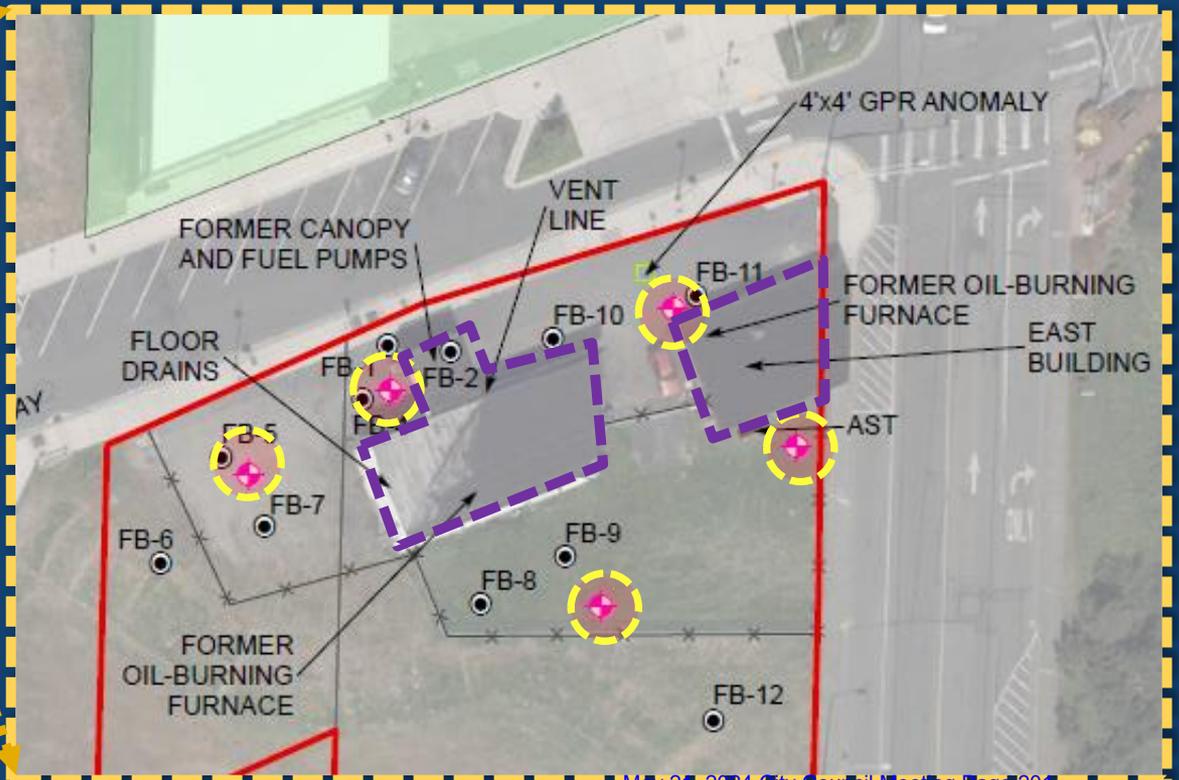
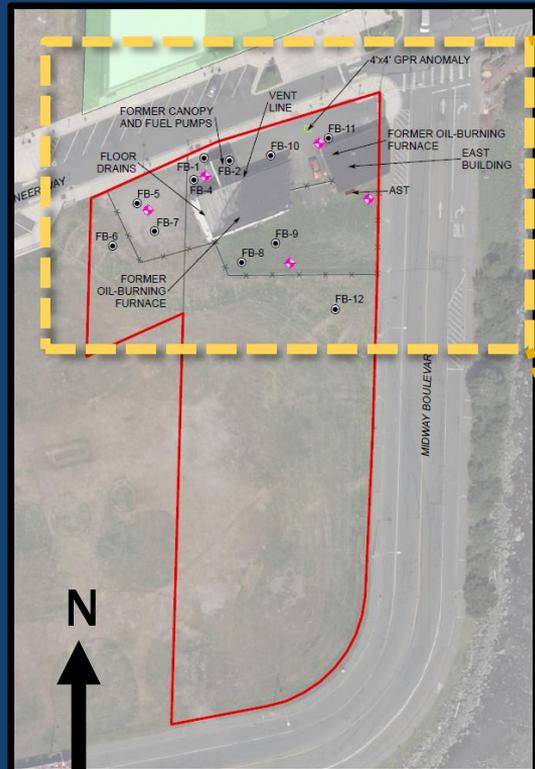
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May 21

2024 City Council Meeting Page 200

1. Remedial Investigation & Feasibility Study



2.

INTEGRATED PLANNING

The Site – City Owned Waterfront Property

- About 1.1 Acres
- Five-Story Renderings (Current zoning 55-foot heights)
- Parking Requirement Comparison
- Analysis of Public and Retail Connection to the Waterfront
- Alternatives Based on Environmental Remediation Options

INTEGRATED PLANNING (CONT'D)

The Neighborhood – Downtown Waterfront Master Plan

- About 80 acres
- City Owned Properties as a Catalyst
- 3D Rendering of Waterfront District
- Parking Requirement Analysis

The Redevelopment Zone –CDA

- About 500 acres
- Focus on Renderings and Analysis for “Chimes Corner” and
- Pedestrian-Focused Street from CDA to Downtown Waterfront

3.

ECONOMIC/MARKET ANALYSIS AND PUBLIC WORKSHOPS

- The nonprofit *CCLR* will complete approximately \$100,000 in work
- Economic analysis and market feasibility of redevelopment options
- Three public workshops and community visioning exercises
- Engaging federal and state agencies on a long-term action plan
- \$10,000 (About 10%) is City contribution

4. GRANT AND PROJECT ADMINISTRATION

Ecology grant

\$20,000 to reimburse City staff time for grant and project management

5. TWO BUILDINGS – DEMOLISH?

- The City purchased two parcels about 1.5 years ago.
- Based on age and poor condition, recommend both buildings be demolished in preparation for redevelopment.
- Asbestos removal is approximately \$13,000.
- City can perform demolition using in-house staff
- Fees for disposal of construction materials, roughly \$25,000 (?)

LAND DEVELOPMENT COMES IN THREE COLORS?

Greenfield Site

- Undeveloped land such as forests and farms

Greyfield Site

- Previously developed but underutilized
- For example, large parking lot and old strip mall

✓ **Brownfield Site** (*Tonight's State & Federal Grant Funded Work*)

- Developed or abandoned land available for new building(s)
- Contamination may halt development due to uncertainty about pollution amounts and cost of clean-up

Community Vision

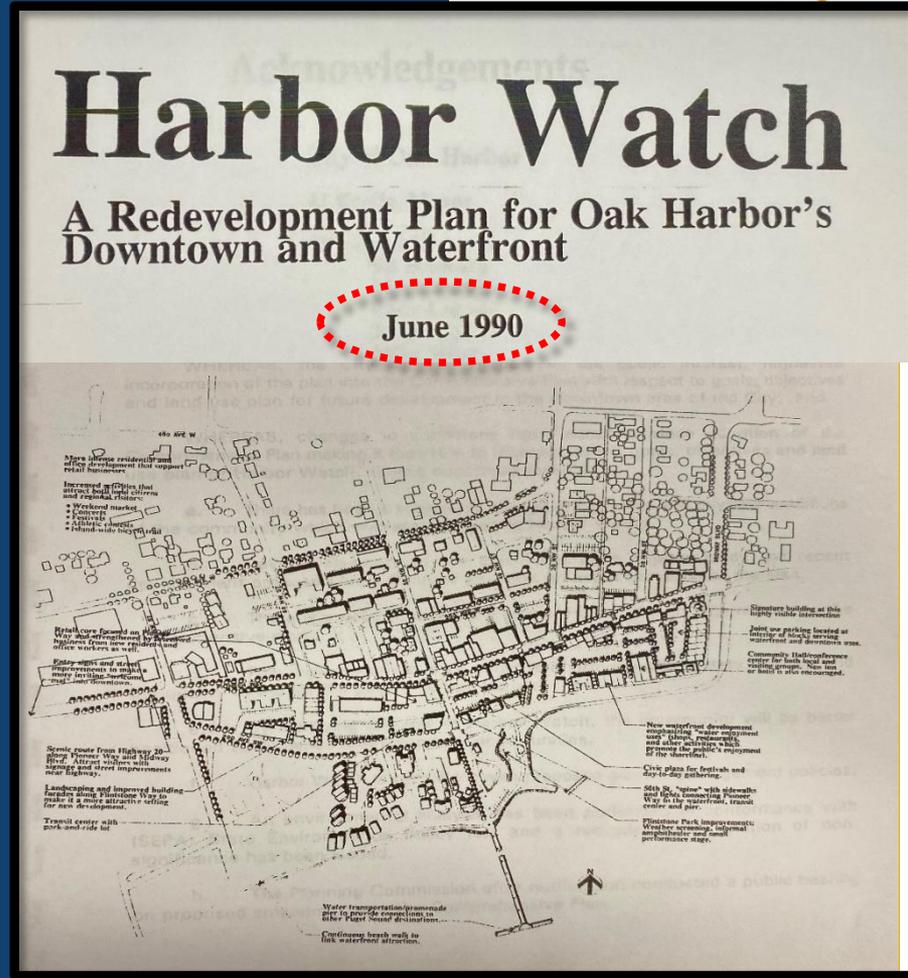
1990's → REDEVELOP

2000's → REDEVELOP

2010's → REDEVELOP

2024/2025

\$300,000 in grants to help lead community toward shared action



INGREDIENTS FOR SUCCESS

- Long Haul – Remain Priority for City for Years
- Community Wide Vision
- Creativity/Foresight
- Collaboration



RECOMMENDED ACTIONS

One staff report, but three separate action items/motions:

1. Motion to authorize the Mayor to approve a professional service agreement for Remedial Investigation/Feasibility Study by Farallon Consulting not to exceed \$107,000.
2. Motion to authorize the Mayor to approve a professional service agreement for Integrated Planning by Dahlin Group not to exceed \$68,000.
3. Motion to authorize the Mayor to approve a professional service agreement for Vision to Action Plan by the Center for Creative Land Recycling not to exceed \$10,000.

City of Oak Harbor
City Council Agenda Bill

Bill No. 7.b.
Date: May 21, 2024
Subject: Professional Services
Agreement with Farallon
Consulting for Remedial
Investigation Study of Pioneer
Way Property - monitoring
wells not to exceed \$107,000.

FROM: Steven Schuller, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion to authorize the Mayor to approve a professional service agreement for Remedial Investigation/Feasibility Study by Farallon Consulting not to exceed \$107,000.

BACKGROUND / SUMMARY INFORMATION

See staff report located in previous item a.

LEGAL AUTHORITY

FISCAL IMPACT

The \$107,000 is funded 100% from the Ecology grant. No local (City) match is required.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [PSA and Scope for Farallon](#)

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF OAK HARBOR, WASHINGTON
AND FARALLON CONSULTING, L.L.C.
FOR CONSULTANT SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the City of Oak Harbor, Washington, a Washington State municipal corporation (“City”), and Farallon Consulting, L.L.C., a Washington Limited Liability Company ("Consultant").

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

ARTICLE I. PURPOSE

The purpose of this Agreement is to provide the City with consultant services regarding the Remedial Investigation/Feasibility Study as listed in the Scope of Services as described in Article II. The general terms and conditions of the relationship between the City and the Consultant are specified in this Agreement.

ARTICLE II. SCOPE OF SERVICES

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

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

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

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

III.2 **WORK PRODUCT AND DOCUMENTS.** The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

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

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

III.3 **TERM.** The term of this Agreement shall commence on May 22, 2024 and shall terminate at midnight on June 1, 2025. The parties may extend the term of this Agreement by written mutual agreement.

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

III.5 **EMPLOYMENT.**

- a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employees of the of the Consultant.
- b. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.
- c. Consultant represents, unless otherwise indicated below, that all employees of Consultant that will provide any of the work under this Agreement have not ever been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State

Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please indicate No or Yes below)*

 X No employees supplying work have ever been retired from a Washington State retirement system.

 Yes employees supplying work have been retired from a Washington State retirement system.

In the event the Consultant indicates “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, Consultant hereby agrees to save, indemnify, defend and hold City harmless from and against all expenses and costs, including reasonable attorney’s fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event Consultant affirms that an employee providing work has ever retired from a Washington State retirement system, said employee shall be identified by Consultant, and such retirees shall provide City with all information required by City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

III.6 INDEMNITY.

- a. **Indemnification/Hold Harmless.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
- b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.
- c. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant’s waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.
- d. **Public Records Requests.** In addition to Paragraph IV.3b., when the City provides the Consultant with notice of a public records request per Paragraph

IV.3b., Consultant agrees to save, hold harmless, indemnify and defend the City its officers, agents, employees and elected officials from and against all claims, lawsuits, fees, penalties and costs resulting from the consultants violation of the Public Records Act RCW 42.56, or consultant's failure to produce public records as required under the Public Records Act.

- e. The provisions of this section III.6 shall survive the expiration or termination of this Agreement.

III.7 INSURANCE.

- a. **Insurance Term.** The Consultant shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Consultant's work through the term of the Agreement and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein
- b. **No Limitation.** Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- c. **Minimum Scope of Insurance - Consultant shall obtain insurance of the types described below:**
 - (1) 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.
 - (2) Commercial General Liability insurance shall be written at least as broad on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured Agreement. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
 - (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

- (4) Professional Liability insurance appropriate to the Consultant's profession.
- d. **Consultant shall maintain the following minimum insurance limits:**
- (1) Comprehensive General Liability. Insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
 - (2) Automobile Liability. \$1,000,000 combined single limit per accident for bodily injury and property damage.
 - (3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington.
 - (4) Professional Liability/Consultant's Errors and Omissions Liability. \$1,000,000 per claim and \$1,000,000 as an annual aggregate.
- e. **Notice of Cancellation.** In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.
- f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- g. **Verification of Coverage.** In signing this Agreement, the Consultant is acknowledging and representing that required insurance is active and current. Consultant 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 Consultant before commencement of the work. Further, throughout the term of this Agreement, the Consultant shall provide the City with proof of insurance upon request by the City.
- h. **Insurance shall be Primary - Other Insurance Provision.** The Consultant's insurance coverage shall be primary insurance with respect to the City. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contribute with it.
- i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of Agreement, upon which the City may, after giving five (5) business days' notice to the Consultant

to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

- j. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.
- k. **Subconsultant's Insurance.** The Consultant shall cause each and every Subconsultant to provide insurance coverage that complies with all applicable requirements of the Consultant-provided insurance as set forth herein, except the Consultant shall have sole responsibility for determining the limits of coverage required to be obtained by Subconsultants. The Consultant shall ensure that the City is an additional insured on each and every Subconsultant's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

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

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

III.10 **LEGAL RELATIONS.** The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this Agreement. The

Consultant represents that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this Agreement are fully qualified and properly licensed to perform the work to which they will be assigned. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any litigation commenced relating to this Agreement shall be in Island County Superior Court.

III.11 **INDEPENDENT CONTRACTOR.**

- a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants and agrees that its status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall claim any related employment benefits, social security, and/or retirement benefits.
- b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.
- c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.
- d. Prior to commencement of work, the Consultant shall obtain a business license from the City.

III.12 **CONFLICTS OF INTEREST.** The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant's client base and shall obtain written permission from the City prior to providing services to third parties where a conflict or potential conflict of interest is apparent. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

III.13 **CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

III.14 SUBCONSULTANTS.

- a. The Consultant shall be responsible for all work performed by subconsultants pursuant to the terms of this Agreement.
- b. The Consultant must verify that any subconsultants they directly hire meet the responsibility criteria for the project. Verification that a subconsultant has proper license and bonding, if required by statute, must be included in the verification process. The Consultant will use the following subconsultants or as set forth in Exhibit ____:

- c. The Consultant may not substitute or add subconsultants without the written approval of the City.
- d. All subconsultants shall have the same insurance coverages and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS.

- a. The Consultant shall be paid by the City for services rendered under this Agreement as described in the Scope of Services and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed One Hundred and Seven Thousand Dollars (\$107,000) without the written agreement of the Consultant and the City. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount.
- b. The Consultant shall submit a monthly invoice to the City for services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.
- c. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the

approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the Scope of Services and City requirements.

IV.3 MAINTENANCE/INSPECTION OF RECORDS.

- a. The Consultant shall maintain all books, records, documents and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

- b. **Public Records.** The parties agree that this Agreement and records related to the performance of the Agreement are with limited exception, public records subject to disclosure under the Public Records Act RCW 42.56. Further, in the event of a Public Records Request to the City, the City may provide the Consultant with a copy of the Records Request and the Consultant shall provide copies of any City records in Consultant's possession, necessary to fulfill that Public Records Request. If the Public Records Request is large the Consultant will provide the City with an estimate of reasonable time needed to fulfill the records request.

ARTICLE V. GENERAL

V.1 **NOTICES.** Notices to the City shall be sent to the following address:

City of Oak Harbor
Public Works Director
865 SE Barrington Dr
Oak Harbor, WA 98277

Notices to the Consultant shall be sent to the following address:

Farallon Building
Contracts
975 5th Avenue Northwest
Issaquah, WA 98027

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this Agreement in whole or in part at any time upon ten (10) calendar days' written notice to the Consultant.

If this Agreement is terminated in its entirety by the City for its convenience, the City shall pay the Consultant for satisfactory services performed through the date of termination in accordance with payment provisions of Section IV.1.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **EXTENT OF AGREEMENT/MODIFICATION.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

V.5 **SEVERABILITY.**

a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

V.6 **NONWAIVER.** A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

- V.7 **FAIR MEANING.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.
- V.8 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.
- V.9 **VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Island County, Washington.
- V.10 **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.
- V.11 **AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth below.

DATED this _____ day of _____, 20____.

CITY OF OAK HARBOR

FARALLON CONSULTING, L.L.C.

By _____
Ronnie Wright, Mayor

DocuSigned by:
By Eric Buer
Eric Buer, Principal Hydrogeologist

Approved as to form:

Hillary Evans, City Attorney

L:\LG\LA\FORMS\CONTRACTS\PSA for Consultant Services (4-12-21 template).docx

Exhibit A
Scope of Services



March 8, 2024

Steve Schuller
City of Oak Harbor
865 Southeast Barrington Drive
Oak Harbor, Washington 98277

**RE: SCOPE OF WORK AND COST ESTIMATE FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY
1081 AND 1091 SOUTHEAST PIONEER WAY
OAK HARBOR, WASHINGTON
FARALLON PN: 522-003**

Dear Steve Schuller:

Farallon Consulting, L.L.C. (Farallon) has prepared this letter for the City of Oak Harbor to present a scope of work and cost estimate for a Remedial Investigation/Feasibility Study (RI/FS) for the property at 1081 and 1091 Southeast Pioneer Way in Oak Harbor, Washington (herein referred to as the Property) (Figure 1). This letter presents a brief description of Farallon's understanding of the work, a discussion of the scope of work to be completed, and the cost estimate and schedule to conduct the work.

BACKGROUND

The Property consists of Island County Parcel Nos. S7585-00-00057-0 and S7585-00-00058-0, which total approximately 1.38 acres of land developed with a one-story 1,638-square-foot commercial building constructed in 1945 with a 210-square-foot canopy (West Building), and a one-story 800-square-foot commercial building constructed in 1958 (East Building). The Property buildings are currently vacant. Farallon previously prepared the *Phase I Environmental Site Assessment Report, 1081 and 1091 Southeast Pioneer Way, Oak Harbor, Washington* dated August 17, 2021, which identified the following recognized environmental conditions for the Property:

- Potential release of hazardous substances associated with historical gasoline service station operations on the Property from approximately the 1950s through the late 1990s; and
- The potential migration of hazardous substances to the Property from historical gasoline service station and/or dry cleaning facilities north-adjointing the Property.



In September 2021, Farallon conducted a subsurface investigation at the Property, which included advancing 11 borings to a maximum depth of 11.5 feet below ground surface (bgs) for collection of soil and reconnaissance groundwater samples for laboratory analysis and conducting a ground-penetrating radar survey. The results of the subsurface investigation identified the presence of total carcinogenic polycyclic aromatic hydrocarbons; total petroleum hydrocarbons (TPH) as diesel-, oil-, and gasoline-range organics (DRO, ORO, and GRO, respectively); tetrachloroethene; and/or metals in soil and reconnaissance groundwater.

The City of Oak Harbor has indicated that the Property is part of a plan to redevelop and revitalize the waterfront and has secured funding through the Washington State Department of Ecology (Ecology) Toxics Cleanup Program to further evaluate releases on the Property and identify a practicable cleanup alternative by performing a Washington State Model Toxics Control Act Cleanup Regulation (MTCA)-compliant Remedial Investigation (RI) and Feasibility Study (FS) and preparing an RI/FS Report.

SCOPE OF WORK

The scope of work will be conducted under the following tasks:

- Task 1: Project Management and Communications
- Task 2: Remedial Investigation Work Plan
- Task 3: Remedial Investigation;
- Task 4: Groundwater Monitoring;
- Task 5: RI and Quarterly Report Preparation; and
- Task 6: FS Report Preparation.

A description of work under each task is provided below.

TASK 1: PROJECT MANAGEMENT AND COMMUNICATIONS

Task 1 includes project management duties such as budgeting, scoping, allocating personnel resources, meetings, subcontracting, progress reporting, and communications with the City of Oak Harbor and subcontractors as appropriate; and documentation management, including reporting, invoicing, and other administrative duties.



TASK 2: REMEDIAL INVESTIGATION WORK PLAN

Task 2 consists of the labor and other direct costs to prepare an MTCA-compliant RI Work Plan with a preliminary conceptual site model; an attached Sampling, Analysis, and Quality Assurance Project Plan; Inadvertent Discovery Plan and cultural resource consultation documentation as appropriate; and site-specific Health and Safety Plan for the field work in accordance with the U.S. Occupational Safety and Health Administration and Part 1910.120 of Title 29 of the Code of Federal Regulations. The cost of RI Work Plan preparation includes incorporation of existing analytical data previously collected at the Property by Farallon.

TASK 3: REMEDIAL INVESTIGATION

Task 3 consists of the labor and other direct costs to perform the RI, as described in the RI Work Plan to further characterize releases to soil and groundwater at the Property.

Utility Locate and Clearing

Prior to conducting subsurface investigation activities, Farallon will retain public and private utility locating services to clear the proposed boring locations and provide additional information pertaining to the locations of subsurface utilities at the Property. A vacuum truck will be used to clear the initial depth of 5 feet bgs for utilities, as practicable. Final boring locations may be modified as necessary due to access limitations, the presence of utilities or equipment, and surface conditions at the Property.

Soil Sampling

Farallon will install up to four new monitoring wells and one boring to a depth of approximately 15 feet bgs using a combination track-mounted hollow-stem auger/direct-push drill rig (Figure 2). The one boring may be converted to a fifth monitoring well, pending technical justification and funding availability. A Farallon Scientist will observe subsurface conditions and retain soil samples for potential laboratory analysis, based on field indications of potential contamination, observed changes in subsurface lithology, and/or the presence of first-encountered groundwater. Field observations, including classification of soil samples in accordance with the Unified Soil Classification System, visual and olfactory indications of contamination, and volatile organic vapor concentrations as measured using a photoionization detector, will be recorded on field forms and boring logs. Samples collected for volatile organic compounds (VOCs) will be collected first in accordance with U.S. Environmental Protection Agency (EPA) Method 5035.



Monitoring Well Installation

Monitoring wells will be constructed of 2-inch-diameter Schedule 40 polyvinyl chloride casing and 0.010-inch slotted screens to a total depth of approximately 15 feet bgs or at least 5 feet into first-encountered groundwater, whichever is deeper. The monitoring wells will be completed in flush-mounted steel monuments and developed immediately following installation. Following the development of the wells, the wells will be surveyed for position coordinates and elevation by a professional land surveyor registered in Washington State using Washington State Plane North coordinates and the North American Vertical Datum of 1988 in units of U.S. survey feet.

Laboratory Analysis

Soil samples will be placed on ice in a cooler and submitted to a certified laboratory under standard chain-of-custody protocols. Soil samples will be submitted to an Ecology-accredited laboratory for one or more of the following analyses:

- DRO and ORO by Northwest Method NWTPH-Dx;
- GRO by Northwest Method NWTPH-Gx;
- Full suite of VOCs, including benzene, toluene, ethylbenzene, and xylenes, by EPA Method 8260;
- Polycyclic aromatic hydrocarbons by EPA Method 8270; and
- Resource Conservation and Recovery Act 8 metals by EPA Method Series 200/6000/7000.

The cost estimate assumes up to two soil samples from each boring (10 soil samples) will be submitted for laboratory analysis. Additional soil samples may be analyzed as warranted, based on field evidence of potential contamination and information obtained following receipt of preliminary analytical results. Additional samples will not be submitted for laboratory analysis without authorization from the City of Oak Harbor.

TASK 4: GROUNDWATER MONITORING

Groundwater monitoring will be completed quarterly for four quarters following monitoring well installation to evaluate groundwater flow conditions and quality. Ecology requires a minimum of three monitoring wells to establish groundwater flow direction and gradient.



Groundwater Monitoring

To perform the groundwater monitoring and sampling, Farallon field personnel will remove the locking well cap from each monitoring well, and groundwater levels will be allowed to equilibrate to atmospheric pressure for at least 15 minutes. The depth to groundwater will be measured in each monitoring well to the nearest 0.01 foot using an electronic water-level measuring device to the top of the well casing. The total depth of each monitoring well will be measured to evaluate siltation of the well-screen interval and to calculate the submerged well-casing volume. Reusable equipment will be decontaminated between uses at each location.

Each monitoring well will be purged at a low-flow rate ranging from 100 to 300 milliliters per minute using a peristaltic or bladder pump and dedicated tubing. Temperature, pH, specific conductance, dissolved oxygen, and oxidation-reduction potential will be monitored during purging to determine when stabilization of these parameters occurs. Following stabilization of the parameters, groundwater samples will be collected directly from the low-flow pump outlet. If low-flow sampling methods are not practicable due to low yield and subsequent dewatering of the monitoring well, the monitoring well will be allowed to recharge for no more than 2 hours from cessation of purging, after which groundwater will be sampled.

Laboratory-prepared sample containers will be filled directly from the pump outlet, with care taken to minimize turbulence and not handle the seal or lid of the container when the samples are placed into the containers. The samples will be placed on ice in a cooler under standard chain-of-custody protocols.

Laboratory Analysis

Groundwater samples will be submitted to an Ecology-accredited laboratory under standard chain-of-custody protocols for analysis of one or more of the following:

- DRO and ORO by Northwest Method NWTPH-Dx;
- GRO by Northwest Method NWTPH-Gx;
- VOCs, including benzene, toluene, ethylbenzene, and xylenes, by EPA Method 8260;
- Polycyclic aromatic hydrocarbons by EPA Method 8270; and
- Resource Conservation and Recovery Act 8 metals by EPA Method Series 200/6000/7000.



TASK 5: RI AND QUARTERLY REPORT PREPARATION

Farallon will prepare an RI Report consistent with the requirements of Section 350 of Chapter 173-340 of the Washington Administrative Code (WAC 173-340-350) and the checklists published by Ecology¹ that will be the substantial equivalent of reporting supervised by Ecology. The RI will describe the general site information, field investigation, and analytical results in sufficient detail to prepare a conceptual site model and identify applicable cleanup standards for the “site” as defined under MTCA and to develop cleanup action alternatives in the FS. Additional information will include summary analytical results tables, Property and/or site figures drawn to an approximate scale with relevant features and environmental information, and geologic cross sections and other investigation information including laboratory reports and boring logs.

Farallon will prepare quarterly groundwater monitoring reports following each of the four quarterly groundwater monitoring events for submittal to Ecology. The quarterly reports will include a summary of field activities and data collected during the reporting period.

Farallon will provide a draft copy of the RI Report and quarterly groundwater monitoring reports to the City of Oak Harbor for review and comment. After receiving comments from the City of Oak Harbor and incorporating revisions, Farallon will produce the final report for submittal to Ecology.

TASK 6: FS REPORT PREPARATION

Farallon will prepare an FS Report consistent with the requirements of WAC 173-340-351 and the checklists published by Ecology² that will be the substantial equivalent of reporting supervised by Ecology. The RI will describe the general site information, field investigation, and analytical results in sufficient detail to prepare a conceptual site model and identify applicable cleanup standards for the “site” as defined under MTCA and to develop cleanup action alternatives in the FS.

The FS will identify threshold and other requirements and cleanup standards, and evaluate cleanup alternatives with a disproportionate cost analysis in accordance with WAC 173-340-351 and 173-340-360, as applicable, to identify a preferred cleanup alternative that is

¹ Ecology. 2016. *Remedial Investigation Checklist*. Publication No. 16-09-006. Revised June 2020. May.

² Ecology. 2016. *Feasibility Study Checklist*. Publication No. 16-09-007. May.



permanent to the maximum extent practicable and is protective of human health and the environment.

Farallon will provide a draft copy of the FS Report to the City of Oak Harbor for review and comment. After receiving comments from the City of Oak Harbor and incorporating revisions, Farallon will produce the final report for submittal to Ecology.

INVESTIGATION-DERIVED WASTE

Soil cuttings, decontamination water, purge water, and other wastewater generated during field activities will be temporarily contained in 55-gallon U.S. Department of Transportation-approved steel drums with locking lids pending receipt of laboratory analytical results. Upon receipt of the laboratory analytical results for soil and groundwater samples, Farallon will provide options for selecting a qualified waste disposal contractor to the City of Oak Harbor to complete the waste profiling, generate the appropriate waste manifests, and identify appropriate disposal options. The City of Oak Harbor may choose to contract directly for waste disposal or authorize Farallon to coordinate waste profiling and disposal through a separate work order.

COST ESTIMATE

The estimated time and material cost to conduct the scope of work is \$107,000. Estimated costs are detailed in Table 1 in accordance with Farallon's *2023-2024 Schedule of Charges I*, subject to periodic adjustment. The cost estimate is valid for 90 days from the date of this letter.

The estimated cost is based on project conditions and the scope of work described herein. Variations in the scope of work and/or project schedule may require modification of the fee, project schedule, and/or respective report contents. No change in the scope of work defined herein will be initiated without authorization from the City of Oak Harbor.

Farallon will conduct the scope of work described herein in accordance with the terms and conditions in *Professional Services Agreement Between The City of Oak Harbor, Washington and Farallon Consulting, L.L.C. for Consultant Services* dated October 19, 2022. To proceed with the scope of work described herein, please provide the appropriate contractual documents for Farallon's review and signature. Farallon will proceed with the work upon receipt of written authorization. Additional work conducted at the Property will be authorized by preparation of specific proposals.



SCHEDULE

Farallon will initiate the proposed scope of work immediately upon receiving written authorization to proceed.

CLOSING

Farallon appreciates the opportunity to provide environmental consulting services to the City of Oak Harbor. Please contact either of the undersigned at (425) 295-0800 if you have questions or comments regarding this scope of work and cost estimate.

Sincerely,

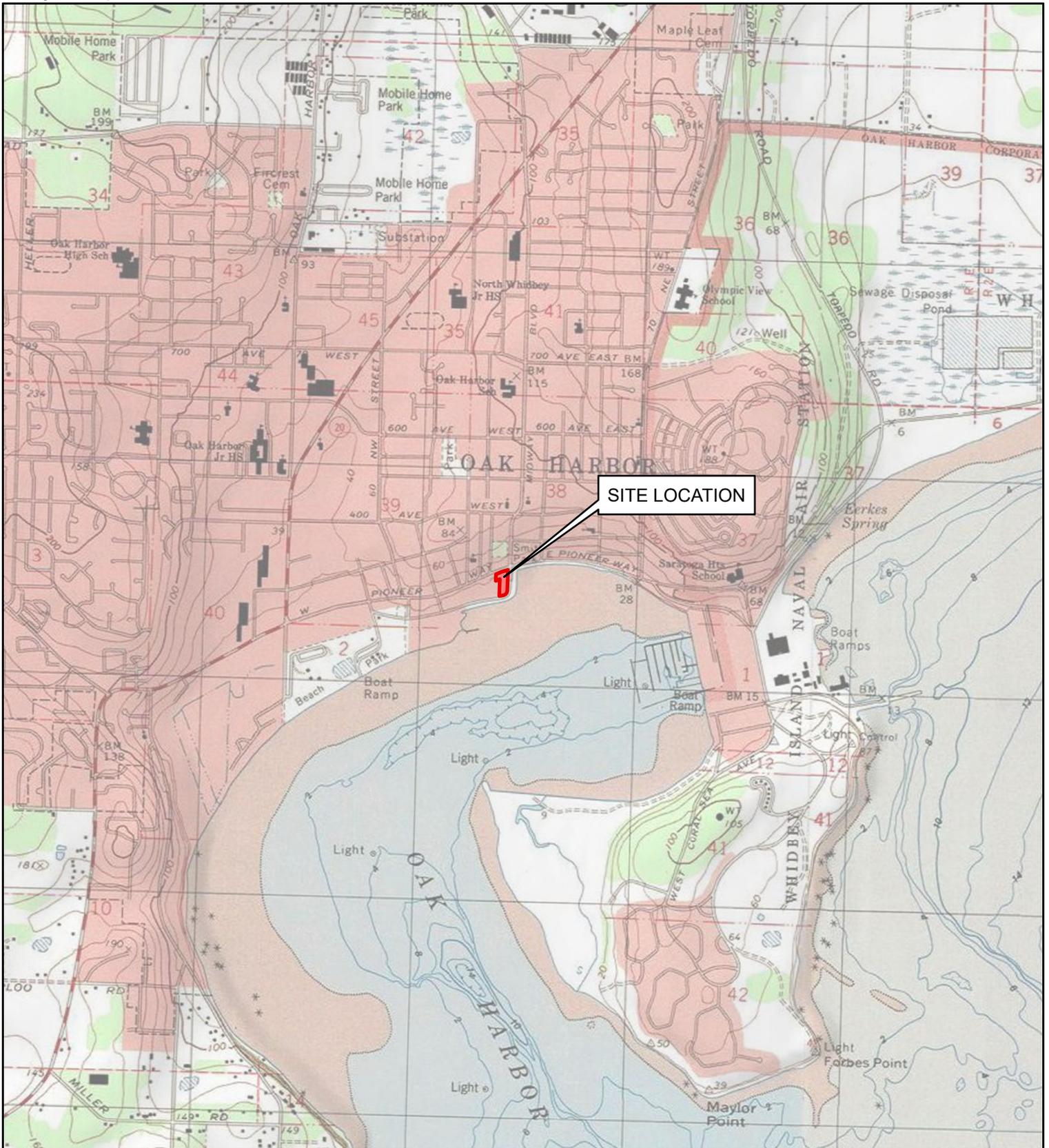
Farallon Consulting, L.L.C.

Elsa Ticken, P.E.
Senior Engineer

Eric F. Buer, L.G., L.H.G.
Principal Hydrogeologist

Attachments: Figure 1, *Subject Property Vicinity Map*
Figure 2, *Subject Property Exploration Plan*
Table 1, *Cost Estimate for Remedial Investigation/Feasibility Study*
2023-2024 Schedule of Charges I

ET/EB:sw



REFERENCE: 7.5 MINUTE USGS QUADRANGLE OAK HARBOR, WASHINGTON, DATED 2013



OAK HARBOR



SCALE IN FEET



FARALLON
CONSULTING

Your Challenges. Our Priority. | farallonconsulting.com

Washington
Issaquah | Bellingham | Seattle

Oregon
Portland | Baker City

California
Oakland | Irvine

Drawn By: aguse

Checked By: SH

Date: 11/11/2022

Disc Reference:

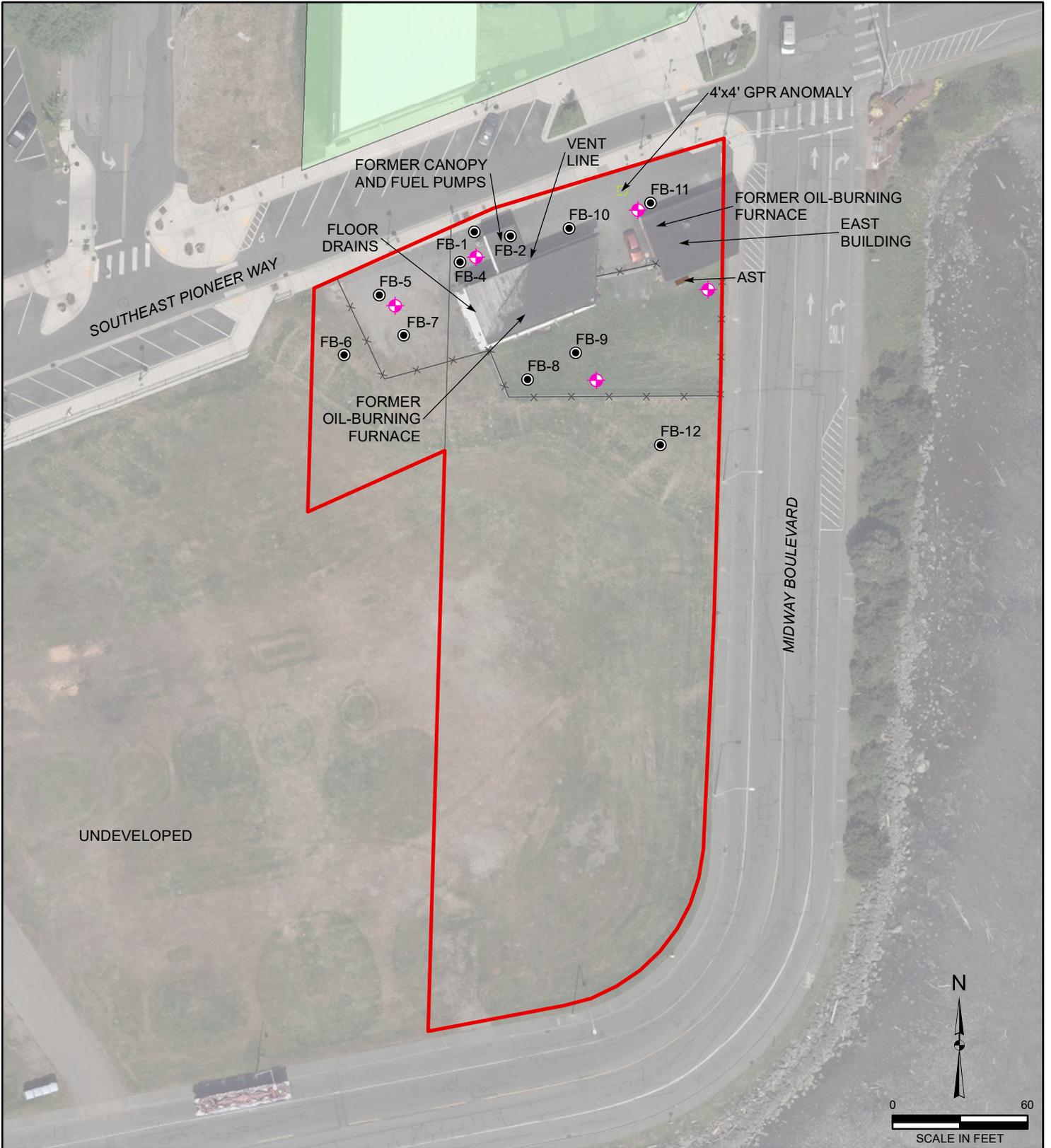
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May 21, 2024 City Council Meeting Page 233

FIGURE 1

SUBJECT PROPERTY VICINITY MAP
1081 AND 1091
SOUTHEAST PIONEER WAY
OAK HARBOR, WASHINGTON

FARALLON PN: 522-003



LEGEND

- PROPOSED BORING/MONITORING WELL LOCATION (FARALLON, 2024)
 - BORING LOCATION
 - CHAIN LINK FENCING
 - PROPERTY BOUNDARY
 - VICINITY OF FORMER USTs AND DRY CLEANER FACILITY
 - ISLAND COUNTY PARCEL BOUNDARY
- AST = ABOVEGROUND STORAGE TANK
UST = UNDERGROUND STORAGE TANK

NOTES:

1. ALL LOCATIONS ARE APPROXIMATE
2. FIGURES WERE PRODUCED IN COLOR. GRAYSCALE COPIES MAY NOT REPRODUCE ALL ORIGINAL INFORMATION.



FARALLON
CONSULTING

Your Challenges. Our Priority. | farallonconsulting.com

Washington
Issaquah | Bellingham | Seattle

Oregon
Portland | Baker City

California
Oakland | Irvine

FIGURE 2

SUBJECT PROPERTY EXPLORATION PLAN
1081 AND 1091
SOUTHEAST PIONEER WAY
OAK HARBOR, WASHINGTON

FARALLON PN: 522-003

Drawn By: chartman

Checked By: ET

Date: 2/23/2024

Disc Reference:

Path: Q:\Projects\522 City of Oak Harbor\Mapfiles\003\Figure-02_ProposedBorings.mxd

Table 1
Cost Estimate for Remedial Investigation/Feasibility Study
1081 and 1091 Southeast Pioneer Way
Oak Harbor, Washington
Farallon PN: 522-003

Task	Description	Labor	ODCs	Total
Task 1	Project Management and Communications	\$ 3,400	\$ -	\$ 3,400
Task 2	Remedial Investigation Work Plan	\$ 8,600	\$ -	\$ 8,600
Task 3	Remedial Investigation	\$ 10,700	\$ 29,400	\$ 40,100
Task 4	Groundwater Monitoring	\$ 12,100	\$ 13,600	\$ 25,700
Task 5	RI and Quarterly Report Preparation	\$ 14,200	\$ -	\$ 14,200
Task 6	FS Report Preparation	\$ 15,000	\$ -	\$ 15,000
Subtotal:		\$ 64,000	\$ 43,000	\$ 107,000

NOTES:

FS = Feasibility Study

ODCs = Other direct costs including travel, per diem, laboratory analysis, and other subcontractors.

RI = Remedial Investigation



2023-2024 SCHEDULE OF CHARGES I

Effective November 1, 2023

PERSONNEL

Technician	\$120 /hour
Staff II	\$149 /hour
Staff I	\$161 /hour
Project II	\$182 /hour
Project I	\$193 /hour
Associate II	\$201 /hour
Associate I	\$218 /hour
Senior II	\$239 /hour
Senior I	\$250 /hour
Principal II	\$278 /hour
Principal I	\$307 /hour
Principal	\$335 /hour
Staff Analyst	\$162 /hour
Project Analyst	\$173 /hour
Associate Analyst	\$195 /hour
Senior Analyst	\$239 /hour
GIS Analyst	\$196 /hour
GIS Technician	\$162 /hour
Senior CAD Technician	\$162 /hour
CAD/Graphics Technician	\$145 /hour
Technical Editor	\$139 /hour
Project Assistant	\$122 /hour
Clerical/Support	\$99 /hour
Legal Testimony and Deposition	50% premium on labor

EXPENSES

Subcontractors (Labor and Services)	Cost + 15%
Direct Expenses	Cost + 15%
Lodging/Meals Per Diem	Cost + 15% OR \$250/day
Report Production Expenses	Cost + 15%
Vehicle Mileage	IRS rate per mile + 15%

Unless otherwise agreed, Farallon Consulting, L.L.C. reserves the right to make reasonable adjustments to rates herein.



<u>FIELD INSTRUMENTS AND EQUIPMENT</u>	<u>DAILY RATE</u>	<u>WEEKLY RATE</u>
4-Gas Meter	\$65 /day	\$260 /week
Air Gauge/Sensor Kit	\$55 /day	\$220 /week
AS/SVE/SSD Pilot Test Kit	\$405 /day	\$1,620 /week
Bladder Pump	\$185 /day	\$740 /week
EOS Field Data Collection Unit	\$130 /day	\$520 /week
Field Tool Kit, H.D.	\$30 /day	\$120 /week
Field Truck	\$90 + \$.75 per mile	\$360 + \$.75 per mile
Fluorometer/DO Meter	\$60 /day	\$240 /week
Gastec System	\$25 /day	\$100 /week
GPS Unit	\$230 /day	\$920 /week
Hand Auger and Extensions	\$60 /day	\$240 /week
Helium Detector	\$130 /day	\$520 /week
Level C PPE	\$90 /day	\$360 /week
Level D PPE	\$25 /day	\$100 /week
Magnetic Locator	\$90 /day	\$360 /week
Mini Air Pump	\$45 /day	\$180 /week
Peristaltic Pump	\$75 /day	\$300 /week
Pipe Camera	\$190 /day	\$760 /week
pH Meter	\$20 /day	\$80 /week
Photoionization Detector	\$105 /day	\$420 /week
Rotary Hammer	\$65 /day	\$260 /week
Sampling/Decon Kit	\$60 /day	\$240 /week
Whale Pump	\$50 /day	\$200 /week
Surveying Equipment	\$90 /day	\$360 /week
Swing Sampler	\$15 /day	\$60 /week
Turbidity Meter	\$35 /day	\$140 /week
Unmanned Aircraft System	\$290 /day	\$1,160 /week
Unmanned Aircraft System and Hi-Resolution GPS	\$690 /day	\$2,760 /week
Vapor Intrusion Sampling Kit	\$60 /day	\$240 /week
Water Level Meter	\$30 /day	\$120 /week
Water Quality Test Kit	\$25 /day	\$100 /week
YSI/Horiba Multiparameter Meter	\$150 /day	\$600 /week

<u>CONSUMABLE FIELD SUPPLIES</u>	<u>UNIT</u>
Bladders	\$25 /each
Disposable Bailers	\$20 /each
Gastec Detection Tubes	\$25 /each
Padlocks	\$20 /each
Tedlar Bags	\$20 /each
Tyvek Suits	\$15 /each
Vapor Pin	\$140 /each
Waste Disposal Drum	\$105 /each
Water Sample Field Filter	\$25 /each
Well Caps	\$20 /each

City of Oak Harbor
City Council Agenda Bill

Bill No. 7.c.
Date: May 21, 2024
Subject: Professional Services
Agreement - with Dahlin Group
for Integrated Planning for
Central Development Area and
City Property not to exceed
\$68,000.

FROM: Steven Schuller, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion to authorize the Mayor to approve a professional service agreement for Integrated Planning by Dahlin Group not to exceed \$68,000.

BACKGROUND / SUMMARY INFORMATION

See staff report located in previous item a.

LEGAL AUTHORITY

FISCAL IMPACT

The \$68,000 is funded 100% from the Ecology grant. No local (City) match is required.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [Dahlin Group, Inc PSA and Scope of Work](#)

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF OAK HARBOR, WASHINGTON
AND DAHLIN GROUP, INC
FOR CONSULTANT SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the City of Oak Harbor, Washington, a Washington State municipal corporation (“City”), and Dahlin Group, Inc, a California Corporation (“Consultant”).

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

ARTICLE I. PURPOSE

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

ARTICLE II. SCOPE OF SERVICES

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

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

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

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

III.2 **WORK PRODUCT AND DOCUMENTS.** The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the work, and payment received by the Consultant for the work, shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

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

Consultant will not be held liable for reuse of documents produced under this Agreement or modifications thereof for any purpose other than those authorized under this Agreement.

III.3 **TERM.** The term of this Agreement shall commence on May 22, 2024 and shall terminate at midnight on June 1, 2025. The parties may extend the term of this Agreement by written mutual agreement.

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

III.5 **EMPLOYMENT.**

- a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employees of the Consultant.
- b. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.
- c. Consultant represents, unless otherwise indicated below, that all employees of Consultant that will provide any of the work under this Agreement have not ever been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State

Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please indicate No or Yes below)*

 ^{DS}
ElB No employees supplying work have ever been retired from a Washington State retirement system.

 Yes employees supplying work have been retired from a Washington State retirement system.

In the event the Consultant indicates “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, Consultant hereby agrees to save, indemnify, defend and hold City harmless from and against all expenses and costs, including reasonable attorney’s fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event Consultant affirms that an employee providing work has ever retired from a Washington State retirement system, said employee shall be identified by Consultant, and such retirees shall provide City with all information required by City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

III.6 INDEMNITY.

- a. **Indemnification/Hold Harmless.** Consultant shall 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 in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
- b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.
- c. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant’s waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.
- d. **Public Records Requests.** In addition to Paragraph IV.3b., when the City provides the Consultant with notice of a public records request per Paragraph

IV.3b., Consultant agrees to save, hold harmless, indemnify and defend the City its officers, agents, employees and elected officials from and against all claims, lawsuits, fees, penalties and costs resulting from the consultants violation of the Public Records Act RCW 42.56, or consultant's failure to produce public records as required under the Public Records Act.

- e. The provisions of this section III.6 shall survive the expiration or termination of this Agreement.

III.7 INSURANCE.

- a. **Insurance Term.** The Consultant shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Consultant's work through the term of the Agreement and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein
- b. **No Limitation.** Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- c. **Minimum Scope of Insurance - Consultant shall obtain insurance of the types described below:**
 - (1) 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.
 - (2) Commercial General Liability insurance shall be written at least as broad on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured Agreement. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
 - (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

- (4) Professional Liability insurance appropriate to the Consultant's profession.
- d. **Consultant shall maintain the following minimum insurance limits:**
 - (1) Comprehensive General Liability. Insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
 - (2) Automobile Liability. \$1,000,000 combined single limit per accident for bodily injury and property damage.
 - (3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington.
 - (4) Professional Liability/Consultant's Errors and Omissions Liability. \$1,000,000 per claim and \$1,000,000 as an annual aggregate.
- e. **Notice of Cancellation.** In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.
- f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- g. **Verification of Coverage.** In signing this Agreement, the Consultant is acknowledging and representing that required insurance is active and current. Consultant 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 Consultant before commencement of the work. Further, throughout the term of this Agreement, the Consultant shall provide the City with proof of insurance upon request by the City.
- h. **Insurance shall be Primary - Other Insurance Provision.** The Consultant's insurance coverage shall be primary insurance with respect to the City. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contribute with it.
- i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of Agreement, upon which the City may, after giving five (5) business days' notice to the Consultant

to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

- j. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.
- k. **Subconsultant's Insurance.** The Consultant shall cause each and every Subconsultant to provide insurance coverage that complies with all applicable requirements of the Consultant-provided insurance as set forth herein, except the Consultant shall have sole responsibility for determining the limits of coverage required to be obtained by Subconsultants. The Consultant shall ensure that the City is an additional insured on each and every Subconsultant's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

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

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

III.10 **LEGAL RELATIONS.** The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this Agreement. The

Consultant represents that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this Agreement are fully qualified and properly licensed to perform the work to which they will be assigned. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any litigation commenced relating to this Agreement shall be in Island County Superior Court.

III.11 **INDEPENDENT CONTRACTOR.**

- a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants and agrees that its status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall claim any related employment benefits, social security, and/or retirement benefits.
- b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.
- c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.
- d. Prior to commencement of work, the Consultant shall obtain a business license from the City.

III.12 **CONFLICTS OF INTEREST.** The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant's client base and shall obtain written permission from the City prior to providing services to third parties where a conflict or potential conflict of interest is apparent. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

III.13 **CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

III.14 SUBCONSULTANTS.

- a. The Consultant shall be responsible for all work performed by subconsultants pursuant to the terms of this Agreement.
- b. The Consultant must verify that any subconsultants they directly hire meet the responsibility criteria for the project. Verification that a subconsultant has proper license and bonding, if required by statute, must be included in the verification process. The Consultant will use the following subconsultants or as set forth in Exhibit ____:

- c. The Consultant may not substitute or add subconsultants without the written approval of the City.
- d. All subconsultants shall have the same insurance coverages and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS.

- a. The Consultant shall be paid by the City for services rendered under this Agreement as described in the Scope of Services and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed sixty-eight thousand dollars (\$68,000) without the written agreement of the Consultant and the City. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount.
- b. The Consultant shall submit a monthly invoice to the City for services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.
- c. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the

approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the Scope of Services and City requirements.

IV.3 MAINTENANCE/INSPECTION OF RECORDS.

- a. The Consultant shall maintain all books, records, documents and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

- b. **Public Records.** The parties agree that this Agreement and records related to the performance of the Agreement are with limited exception, public records subject to disclosure under the Public Records Act RCW 42.56. Further, in the event of a Public Records Request to the City, the City may provide the Consultant with a copy of the Records Request and the Consultant shall provide copies of any City records in Consultant’s possession, necessary to fulfill that Public Records Request. If the Public Records Request is large the Consultant will provide the City with an estimate of reasonable time needed to fulfill the records request.

ARTICLE V. GENERAL

V.1 **NOTICES.** Notices to the City shall be sent to the following address:

**City of Oak Harbor
Public Works Director
865 SE Barrington Dr
Oak Harbor, WA 98277**

Notices to the Consultant shall be sent to the following address:

**Dahlin Group, Inc
5865 Owens Drive
Pleasanton, CA 94588**

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this Agreement in whole or in part at any time upon ten (10) calendar days' written notice to the Consultant.

If this Agreement is terminated in its entirety by the City for its convenience, the City shall pay the Consultant for satisfactory services performed through the date of termination in accordance with payment provisions of Section IV.1.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **EXTENT OF AGREEMENT/MODIFICATION.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

V.5 **SEVERABILITY.**

- a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

V.6 **NONWAIVER.** A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

V.7 **FAIR MEANING.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

V.8 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

V.9 **VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Island County, Washington.

V.10 **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

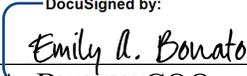
V.11 **AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth below.

DATED this _____ day of _____, 20____.

CITY OF OAK HARBOR

DAHLIN GROUP, INC

By _____
Ronnie Wright, Mayor

By  _____
Emily A. Bonato, COO

Approved as to form:

Hillary Evans, City Attorney

Exhibit A
Scope of Services



March 19, 2024

Steve Schuller, P.E.
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

RE: Proposed DAHLIN Scope of Work – Ecology Brownfield Grant

City of Oak Harbor | Downtown Waterfront Scope Summary

TASK 1: THE SITE

A detailed site plan of the 1.1 acre City-owned site at 1091 SE Pioneer Way will be created to show how this site can be a catalyst for new development Downtown. This will help achieve the goal of **“stimulating new businesses to move to the area, strengthening current businesses, and ultimately creating a vibrant waterfront economy”** as stated in the Department of Ecology planning grant agreement.

A few options will be explored to analyze potential outcomes with varied parking requirements and retail requirements. These options may also consider various site remediation possibilities that may not be known at the time of this exercise. The site plans will also take into account sea level rise, king tides, and climate change with input from the Center for Creative Land Recycling (CCLR).

SITE ANALYSIS:

A review of existing zoning and relevant planning documents will be conducted to inform design decisions. A base map will be created using data provided by the City, showing site boundary, easements, road rights of way, input from CCLR, and other constraints.

SITE PLAN CONCEPTS:

Two site plan concepts will be explored showing proposed building footprints, parking scenarios, ground floor uses, upper floor plan ideas, vehicular circulation of the site, pedestrian circulation and access points, and proposed surrounding street sections including the idea of a pedestrian promenade and/or woonerf on Bayshore Drive.

Each site plan concept will be accompanied with supporting statistics and photographic examples to further illustrate the concepts. At least one of the site plans will reflect current zoning requirements, such as the 55' height limit, however, these concepts will also examine and discuss where current zoning may need to be adjusted to achieve a desired outcome and attract potential developers.

SITE RENDERINGS:

Renderings of the site at various vantage points will be created to show the scale and proportion of the project as it relates to the site. Though architecture will not be designed as part of this effort, enough building form and detail will be shown to represent the overall design concept.

Deliverables: site plan concepts, site renderings
Fixed Fee: \$18,000

TASK 2: THE DOWNTOWN

The Downtown waterfront area of about 80 acres will be studied to begin to craft a vision and action plan for Downtown. This master plan will build off the information gained in the waterfront property site concepts in Task 1 to help determine possible development potential for the entire waterfront area.

SITE ANALYSIS:

A review of existing zoning and relevant planning documents, along with input from CCLR will be conducted to determine impact on future development. Existing vehicular and pedestrian circulation, topography, land use, and other physical features of the Downtown Waterfront area will be mapped using data provided by the City, showing site boundary, easements, road rights of way, and other constraints.

DOWNTOWN VISION:

Discussions with City staff and stakeholders will help determine items that are non-negotiable, those that have room for adjustment, and those that can absolutely change. Examples of this could include parking ratios, building heights, land use changes, and infrastructure requirements.

Understanding these parameters will help craft the vision and action plan that will **“drive the revitalization efforts and spur new economic development in the area and throughout the downtown waterfront”** as stated in the Department of Ecology planning grant agreement.

This will set the stage for a future Downtown Code to be developed that will help achieve the City’s vision and goals, while creating a viable option for developers to have success in bringing new development to Oak Harbor, producing a win-win scenario for both City and developers.

DOWNTOWN PLAN:

A birds-eye view site rendering of the Downtown area will be created to illustrate the future vision of Downtown. This graphic will showcase what the ultimate buildout potential of the Downtown waterfront area could be given adjustments to the current code as identified during the visioning process.

Deliverables: Downtown Vision and Action Plan, birds-eye illustrative
Fixed Fee: \$21,500

TASK 3: THE COMMUNITY

The 500-acre area that encompasses the Downtown will be analyzed to initiate an overall master plan concept that ties the core of the City with the Downtown. The focus of this effort will be the Chimes Corner intersection at E Whidbey Avenue and NE Midway Boulevard which is an important geographic node in the City with its east/west connection to surrounding neighborhoods and its north/south connection directly into the Downtown waterfront core. This will take the vision and action plan from the Downtown Waterfront Revitalization Project and extend it to other parts of the City, further driving economic development to the Downtown Waterfront.

The extensive City-owned parcels at Chimes Corner will be re-imagined integrating a new recreation center and athletic field complex with the existing school and pool facilities, to create a thoughtful collection of City amenities in one dynamic area. Proposed mixed use buildings will also be explored to bring vibrancy and critical mass to this important corner within the City.

The connection from Chimes Corner to the Downtown waterfront has the potential to be a significant link within the City, encouraging a direct bond between the community core and the Downtown. A rendering of the recommended streetscape design of this portion of NE Midway Boulevard will be created to show the enhanced experience for pedestrians, cyclists, and vehicles.

Deliverables: site plan and renderings of Chimes Corner node, Midway pedestrian street connection
Fixed Fee: \$16,500

TASK 4: MEETINGS

Regular team meetings are an important part of the design process to keep everyone on the same page throughout the duration of the project. For the purposes of this scope summary we are anticipating virtual bi-weekly meetings with two members of the DAHLIN team to be held during the four core months of the project, along with two in-person meetings when necessary.

Fixed Fee: \$12,000

City of Oak Harbor
City Council Agenda Bill

Bill No. 7.d.
Date: May 21, 2024
Subject: Professional Services
Agreement with the Center for
Creative Land Recycling
(CCLR) for
Vision to Action Plan, not to
exceed \$10,000.

FROM: Steven Schuller, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion to authorize the Mayor to approve a professional service agreement for Vision to Action Plan by the Center for Creative Land Recycling not to exceed \$10,000.

BACKGROUND / SUMMARY INFORMATION

See staff report located in previous item a.

LEGAL AUTHORITY

FISCAL IMPACT

The scope of work by CCLR is approximately \$100,000 in work. The City match is not to exceed \$10,000 (or about 10%) and will be included in a future budget amendment.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [PSA with Creative Land Recycling for Integrated Planning](#)

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF OAK HARBOR, WASHINGTON
AND CENTER FOR CREATIVE LAND RECYCLING
FOR CONSULTANT SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the City of Oak Harbor, Washington, a Washington State municipal corporation (“City”), and Center for Creative Land Recycling, a California Nonprofit Corporation (“Consultant”).

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

ARTICLE I. PURPOSE

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

ARTICLE II. SCOPE OF SERVICES

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

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

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

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

III.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

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

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

III.3 TERM. The term of this Agreement shall commence on May 22nd, 2024 and shall terminate at midnight on June 1st, 2025. The parties may extend the term of this Agreement by written mutual agreement.

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

III.5 EMPLOYMENT.

- a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employees of the Consultant.
- b. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.
- c. Consultant represents, unless otherwise indicated below, that all employees of Consultant that will provide any of the work under this Agreement have not ever been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State

Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please indicate No or Yes below)*

JK No employees supplying work have ever been retired from a Washington State retirement system.

_____ Yes employees supplying work have been retired from a Washington State retirement system.

In the event the Consultant indicates “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, Consultant hereby agrees to save, indemnify, defend and hold City harmless from and against all expenses and costs, including reasonable attorney’s fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event Consultant affirms that an employee providing work has ever retired from a Washington State retirement system, said employee shall be identified by Consultant, and such retirees shall provide City with all information required by City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

III.6 INDEMNITY.

- a. **Indemnification/Hold Harmless.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
- b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.
- c. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant’s waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.
- d. **Public Records Requests.** In addition to Paragraph IV.3b., when the City provides the Consultant with notice of a public records request per Paragraph

IV.3b., Consultant agrees to save, hold harmless, indemnify and defend the City its officers, agents, employees and elected officials from and against all claims, lawsuits, fees, penalties and costs resulting from the consultants violation of the Public Records Act RCW 42.56, or consultant's failure to produce public records as required under the Public Records Act.

- e. The provisions of this section III.6 shall survive the expiration or termination of this Agreement.

III.7 INSURANCE.

- a. **Insurance Term.** The Consultant shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Consultant's work through the term of the Agreement and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein
- b. **No Limitation.** Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- c. **Minimum Scope of Insurance - Consultant shall obtain insurance of the types described below:**
 - (1) 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.
 - (2) Commercial General Liability insurance shall be written at least as broad on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured Agreement. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
 - (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

- (4) Professional Liability insurance appropriate to the Consultant's profession.
- d. **Consultant shall maintain the following minimum insurance limits:**
- (1) **Comprehensive General Liability.** Insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
 - (2) **Automobile Liability.** \$1,000,000 combined single limit per accident for bodily injury and property damage.
 - (3) **Workers' Compensation.** Workers' compensation limits as required by the Workers' Compensation Act of Washington.
 - (4) **Professional Liability/Consultant's Errors and Omissions Liability.** \$1,000,000 per claim and \$1,000,000 as an annual aggregate.
- e. **Notice of Cancellation.** In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.
- f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- g. **Verification of Coverage.** In signing this Agreement, the Consultant is acknowledging and representing that required insurance is active and current. Consultant 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 Consultant before commencement of the work. Further, throughout the term of this Agreement, the Consultant shall provide the City with proof of insurance upon request by the City.
- h. **Insurance shall be Primary - Other Insurance Provision.** The Consultant's insurance coverage shall be primary insurance with respect to the City. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contribute with it.
- i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of Agreement, upon which the City may, after giving five (5) business days' notice to the Consultant

to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

- j. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.
- k. **Subconsultant's Insurance.** The Consultant shall cause each and every Subconsultant to provide insurance coverage that complies with all applicable requirements of the Consultant-provided insurance as set forth herein, except the Consultant shall have sole responsibility for determining the limits of coverage required to be obtained by Subconsultants. The Consultant shall ensure that the City is an additional insured on each and every Subconsultant's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

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

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

III.10 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this Agreement. The

Consultant represents that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this Agreement are fully qualified and properly licensed to perform the work to which they will be assigned. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any litigation commenced relating to this Agreement shall be in Island County Superior Court.

III.11 INDEPENDENT CONTRACTOR.

- a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants and agrees that its status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall claim any related employment benefits, social security, and/or retirement benefits.
- b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.
- c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.
- d. Prior to commencement of work, the Consultant shall obtain a business license from the City.

III.12 CONFLICTS OF INTEREST. The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant's client base and shall obtain written permission from the City prior to providing services to third parties where a conflict or potential conflict of interest is apparent. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

III.13 SUBCONSULTANTS.

- a. The Consultant shall be responsible for all work performed by subconsultants pursuant to the terms of this Agreement.

- b. The Consultant must verify that any subconsultants they directly hire meet the responsibility criteria for the project. Verification that a subconsultant has proper license and bonding, if required by statute, must be included in the verification process. The Consultant will use the following subconsultants or as set forth in Exhibit ____ :

- c. The Consultant may not substitute or add subconsultants without the written approval of the City.
- d. All subconsultants shall have the same insurance coverages and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS.

- a. The Consultant shall be paid by the City for services rendered under this Agreement as described in the Summary of clients role and contributions in Exhibit A and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed ten thousand dollars (~~\$10,000~~) without the written agreement of the Consultant and the City. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount.
- b. The City will pay Consultant in two lump sum payments of five thousand dollars (\$5,000) each, (i) upon completion of the first workshop, and (ii) upon delivery of the final report.
- c. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the Scope of Services and City requirements.

IV.3 MAINTENANCE/INSPECTION OF RECORDS.

- a. The Consultant shall maintain all books, records, documents and other evidence pertaining to the costs and expenses allowable under this Agreement in

accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

- b. **Public Records.** The parties agree that this Agreement and records related to the performance of the Agreement are with limited exception, public records subject to disclosure under the Public Records Act RCW 42.56. Further, in the event of a Public Records Request to the City, the City may provide the Consultant with a copy of the Records Request and the Consultant shall provide copies of any City records in Consultant's possession, necessary to fulfill that Public Records Request. If the Public Records Request is large the Consultant will provide the City with an estimate of reasonable time needed to fulfill the records request.

ARTICLE V. GENERAL

- V.1 **NOTICES.** Notices to the City shall be sent to the following address:

**City of Oak Harbor
Public Works Director
865 SE Barrington Dr
Oak Harbor, WA 98277**

Notices to the Consultant shall be sent to the following address:

**CCLR
2342 Shattuck Ave, Box 506
Berkeley, CA 94704**

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

- V.2 **TERMINATION.** The right is reserved by the City to terminate this Agreement in whole or in part at any time upon ten (10) calendar days' written notice to the Consultant.

If this Agreement is terminated in its entirety by the City for its convenience, the City shall pay the Consultant for satisfactory services performed through the date of termination in accordance with payment provisions of Section IV.1.

- V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.
- V.4 **EXTENT OF AGREEMENT/MODIFICATION.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.
- V.5 **SEVERABILITY.**
- a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
 - b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.
- V.6 **NONWAIVER.** A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.
- V.7 **FAIR MEANING.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.
- V.8 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.
- V.9 **VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Island County, Washington.
- V.10 **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

V.11 **AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth below.

DATED this _____ day of _____, 20____.

CITY OF OAK HARBOR

CENTER FOR CREATIVE LAND RECYCLING

By _____
Ronnie Wright, Mayor

By  _____
Jean Hamerman, Executive Director

Approved as to form:

Hilary Evans, City Attorney

Exhibit A
Scope of Services

Scope of Work

City of Oak Harbor, Washington



Executive Summary

Site Name: 1091 Pioneer Way, Oak Harbor Washington

Projected start and end dates:

The project will begin in June and is expected to conclude within a 7-month timeframe.

Core Project Goals:

To engage the community to envision "what could be" at the properties, which also serve as the east gateway to the Historic Downtown area, as well as to inform and align cleanup with the envisioned end use. The visioning will include the greater waterfront redevelopment plan, and establish a redevelopment strategy that stimulates investment, strengthens area businesses, and creates a vibrant waterfront.

Other Leveraged Funding:

The City has secured a \$200,000 WA Department of Ecology Integrated Planning Grant (Ecology IPG), effective 12/23 to 6/25.

Summary of client roles and contributions

To provide the full scope of services, including project management and identifying and hiring consultants and subcontractors to deliver the services, CCLR requests a \$10,000 program fee to support administrative and operational expenses and ensure the City's commitment to fulfilling its obligations under this project. The fee is substantially less than the typical amount that would be charged in this scope. CCLR estimates the total costs to be up to \$100,000; those costs will be covered by the EPA's Technical Assistance to Brownfields program.

Project Team (including contractors)

The project team includes two third-party providers and one subcontractor to CCLR. The third-party providers include an architecture services firm and an environmental engineering firm, who will be contracted by the City and be paid through its Ecology IPG grant. The subcontractor to CCLR is an economic analytics firm.

Project Goals

Based on the Ecology IPG grant, the project's goals are as follows:

1. Advance and expedite the clean-up and redevelopment of the target site
2. Engage the community in a manner that creates a meaningful first step in the broader Downtown Waterfront Revitalization Project
3. Create a redevelopment strategy for the site and surrounding area that:
 - a. Stimulates new businesses to move to the area
 - b. Strengthens current businesses
 - c. Creates a vibrant waterfront economy from the marina east of downtown to Windjammer Park west of downtown

Project Opportunities

The site has tremendous potential. It is perfectly located to serve as a gateway to the district (despite opposing one-way traffic) and has strong catalytic possibilities. Likewise, the unobstructed coastline views make it a viable option for many types of uses, from commercial to residential or a mix of the two.



Oblique satellite image of the site facing southwest from the intersection of Pioneer Way and Midway Boulevard.

As a focal point for the broader planning and visioning effort, the site also gives participants something tangible to consider in the private realm while also weighing any public realm needs (i.e., streetscaping, traffic management, parks and open space).

With the right plan, the broader subject area has the potential to attract further grant funds. The proximity to disadvantaged census tracts, plus the possibility of providing sustainable development, plus the need for resilience improvements against climate change, plus the existing remediation needs on the greater Whidbey Island region, all combine to make the area a prime candidate for continued investment. The needs are significant and the Ecology IPG grant is an excellent indicator that agencies can, and will, recognize this. Thus, maximizing this particular grant is essential to gaining additional funding.

Remediation challenges are expected to be relatively moderate, though nothing is certain yet. If this is the case, reuse options will expand and create more chances for success.

Project Needs

Efficient Use of Grant Funds.

The grant carries forward a bold scope for the entire waterfront redevelopment area. Admirably so. The grant budget provides approximately \$68,000 for planning, geospatial analysis, architecture and design, and economic analysis. It is highly likely that the funding is not sufficient for covering all aspects with the highest possible quality. The CCLR V2A service can address this with the integrated approach provided below.

Near- and Mid-term Market Feasibility.

The city's character and position on the waterfront would compel anyone to want to "dream big". Such dreams will certainly be welcome but some gentle parameters will be necessary in order to keep the conversation grounded in near-term realities. The most important guardrail will be a **near- and mid-term market feasibility**. Initial conversations with Oak Harbor's Steve McCaslin indicate that commercial rents range from \$0.70 to \$2.00 per square foot. There may be a possibility for new development to attract rents that are higher than baseline but sound economic analysis will be needed in order to verify. Whatever the analysis yields, those findings will be combined with the emerging discoveries of the remedial investigation to give the City a clear sense of its costs and potential benefits. The feasibility analysis should be written in a manner that makes it presentable and usable for any and all future developers for the area and, especially, for the site.

Meaningful, Inclusive Community Engagement.

Given the visibility of the site, the potential of the area, and the community's priorities, there is a strong likelihood for active participation from the community. All are welcome but the grant mentions a particular need to involve the adjacent neighborhoods that are located within disadvantaged census tracts. Again, all are welcome but the project should make an emphasis on engaging those adjacent to the area that might otherwise be under-represented.

Conceptual Visioning That Is Responsive and Flexible.

Because assessments and remediation strategies will be conducted parallel to the visioning process, a conceptual vision should contemplate several alternatives, including a low, medium, and high-cost remediation need. For example, if the community vision is for a high-cost redevelopment project (e.g., multi-story mixed use) and site investigations determine a high-cost remediation need (e.g., soil excavation), the vision will be rendered useless for the near- and mid-term. Scenario planning techniques will be vital to generating ideas, visions, and concepts that help the community understand the challenges ahead. Workshops will need to elicit multifaceted strategies based on various situations and conditions that could emerge. Coincidentally, this "higher level" of visioning is often much more engaging to community members.

Strategies That Position The City for Further Success.

As a Vision to Action service, the project should deliver a set of actions and approaches that the City can carry forward within months of completion. This can include deliverables that augment future grant applications, policy recommendations that make development more feasible, immediate placemaking strategies for "quick wins" on the street level, and much more. These strategies should be cast over a near-, mid-, and long-term horizon and sorted by low-, mid-, and high-cost actions that range from administrative actions, policy actions, and capital improvements.

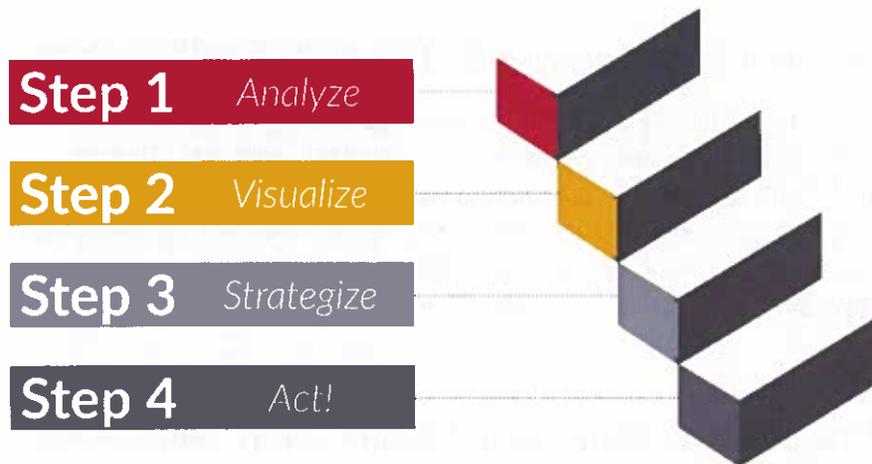
Project Approach

The Vision to Action service is composed of four major stages shown below. Though the project is focused on the subject site, a brownfield at 1091 Pioneer Way, the surrounding area will be analyzed and incorporated into the consideration of the final plan. The intent is to plan the reuse of the site in a way that **drives the revitalization efforts and spur new economic development in the area and throughout the downtown waterfront**. To that end, we start at a “high level” with analysis of the site and surrounding area to get a deeper sense of the strength, needs, and opportunities.

Next, we zoom in on the subject area more closely (in this case, the downtown waterfront revitalization area) to begin engagements with the community. This starts with a workshop that identifies and clarifies the community needs and preferences. That information is incorporated into a visioning workshop and a scenario planning workshop that formalizes a redevelopment strategy for the site.

With analysis complete and a vision developed, we begin to strategize with the community and city leadership in order to create a feasible action plan. The final content is ultimately decided by the City (as they are the ones responsible for the work) and, once complete, we enter the “Action” phase.

Please note that Step 4, Act!, is where CCLR continues to provide its technical assistance for as long as Oak Harbor needs it. In other words, as your technical assistance provider, CCLR will assist you with future grant applications, procedural needs, information needs, and any additional consulting service we can offer.



Within this general framework, CCLR has tailored the following approach for your consideration. The approach responds to each of the project needs identified earlier.

Objective #1 - Leverage Technical Assistance for More Efficient Use of Grant Funds

CCLR's expertise can be utilized in all phases of the project. Doing so allows you to "stretch" your grant dollars as much as possible. The selected architecture and planning firm can develop multiple concept renderings during the "Visualize" stage for the variety of scenarios that may occur. This gives Oak Harbor an excellent opportunity to integrate the selected firm into the broader planning process that CCLR can provide. CCLR can, and will, provide maps and basic visualizations where community engagement may need it but we will do so in a way that does not supersede or overshadow the designs your chosen firm provides.

Likewise, CCLR will deliver scenario planning services to study the costs and feasibility of developing the site in a variety of ways, particularly as a 5-story mixed use development. Scenarios will assume a low-, medium-, and high-cost condition for environmental remediation. Such exercises will provide the City a better understanding of how clean-up costs could impact the feasibility of their reuse vision.

Because economic feasibility is important, we will also provide a pre-selected consulting firm that can deliver the economic analyses necessary for the project's success. The analyses will provide all deliverables highlighted in the grant award. More importantly, it will be delivered in-tandem with the Vision to Action process so that findings can be utilized in future visioning workshops. High quality analyses will likely be expensive. To stretch your grant dollars, CCLR can onboard a consulting firm from our "bench" of prequalified providers. Wherever possible, CCLR will consult with you before selecting the provider and ensure that the scope and deliverables meet your needs.

Objective #2 - Meet Your Analysis Needs Beyond The IPG Scope

Fashion the economic analysis to not only provide the deliverables highlighted in the IPG grant, but also "shovel ready" pro forma analysis mixed with consumer market research. Utilizing industry standard providers, CCLR can provide illuminating reports that showcase your consumer market trends for future business recruitment efforts. When mixed with grant-specific analysis (i.e., economic impact research and conceptual modeling), and the potential for pro forma analysis of specific site designs, the City could have a much richer understanding of what's possible for the area.

Objective #3 - Utilize Staff Resources In Conjunction With CCLR for Effective Outreach

Create an engagement strategy that empowers City staff to take the lead on outreach, advertising, messaging, general communication duties.

By developing a community engagement plan that is fully incorporated into the broader project plan, the City and CCLR can create a cohesive strategy that keeps the community engaged and informed through the process. With the City taking the lead on this item, the project will elevate the community's trust and understanding. Finally, with sufficient planning, CCLR can make its staff available to provide content for marketing and promotion.

Objective #4 - Deliver High Quality Workshop Experiences

Develop three distinct workshops that allow the community to (1) get focused on the situation and what they want, (2) get clear on a set of visions to deliver those things, and (3) get moving on a plan to bring those visions into reality.

Community workshops are the heart of the Vision To Action process. Once the "Analyze" stage is complete, these workshops will be scheduled over the course of 9-12 weeks. CCLR and City staff will lead the workshops together. CCLR will rely on the City to secure meeting spaces and materials. City staff will also lead as many of the exercises as they wish to build further trust and relationship with the community.

Workshops are currently structured as follows:

Workshop #1 - Where We Are Today (existing conditions analysis reports, community feedback, trend analysis, preference and sentiment analysis)

Workshop #2 - Where We Want To Be Tomorrow (visual preference polling, urban design exercises, scenario planning)

Workshop #3 - Final Visioning (scenario results, open house forum, preference ranking for concept plans, final revisions established, economic analysis for the final site design). This workshop may be conducted remotely.

CCLR recognizes that the nature and scope of these workshops may change over time. We will refine these action items as-needed in the months ahead as this project proceeds in parallel with other planning efforts in the City.

Objective #5 - Set An Achievable Course For Future Action

The final action plan will contain a basic set of critical path action items that can position Oak Harbor for further success. The details of such a plan will emerge over the course of the project. There will be much work ahead. After all, creating the plan is just "Step 1" in a transformation like this. CCLR will continue to provide assistance as needed.

Deliverables and Expected Project Costs

As your technical assistance provider, CCLR is uniquely positioned to offer its Vision to Action services at a very low cost to its client communities. In this particular project, CCLR would provide the following services:

1. Existing conditions analysis (demographic, socioeconomic, and consumer market data)
2. Stakeholder interviews
3. A community engagement plan
4. Communication materials as-needed
5. Basic conceptual planning visualizations, particularly for the subject area
6. General GIS mapping and analysis
7. Three community workshops
8. An action plan for continued implementation including development and funding strategies, regulatory assessments, and policy recommendations
9. Technical assistance in all aspects of grant management, brownfield programs, remedial investigations, and more

To provide the full scope of services detailed in Exhibit A, including project management and identifying and hiring consultants and subcontractors to deliver the services, CCLR requests a \$10,000 program fee to support administrative and operational expenses and ensure the City's commitment to fulfilling its obligations under this project.

Also, CCLR requests an in-kind contribution of dedicated staff time—approximately 40 hours over a four to six month period. The majority of staff time will be dedicated to community outreach with some time spent on project planning. Staff should include employees with first-hand knowledge and decision making authority.

Additional services would be provided through the Integrated Planning Activities of the IPG grant. As of now, CCLR understands that these services will include:

1. Architectural services by a selected firm, funded fully by the grant
2. Economic impact research, evaluations, and modeling funded partly by the grant, partly by CCLR's TAB services
3. Materials for workshops (supplies, printing services, refreshments, minor equipment)
4. Any additional services outside the scope of this project plan

Additional Service Providers

The Vision To Action plan is part of a broader project funded by a Washington Department of Ecology Integrated Planning Grant. The grant provides funding for several services and providers. At the current moment, CCLR is aware of two providers and proposes a third that can be added as a subcontractor to CCLR. Subcontractors are selected from a "bench" of providers

that CCLR has developed through a prequalification process. CCLR will ensure that Oak Harbor is consulted in the selection process prior to the plan's finalization.

Third-Parties Procured By the City of Oak Harbor

- An architectural firm providing services for building reuse and/or new design builds
- An environmental engineering firm providing remedial investigations, feasibility analysis, monitoring, and general environmental "cleanup" services for the site.

Subcontractors Proposed By (and procured by) CCLR

- A firm from the CCLR "bench" that specializes in economic modeling and impact analysis.

Project Deliverables by Stage

Under this project plan, the known deliverables include the following for each stage of the project:

Stage 1 - Analyze

- Existing conditions report including demographic, socioeconomic, and consumer market data
- Trend analysis of existing conditions
- Commercial real estate market conditions report
- Conceptual economic impact model
- Any remedial site investigation reviews and educational information regarding contaminants (provided as-needed)

Stage 2 - Visualize

- Promotional material for each workshop
- Workshop 1 materials, such as area mapping, visualizations, community preference feedback, sentiment feedback, and a presentation on existing conditions, trend analysis, and project steps.
- A summary report of Workshop #1.

- Workshop 2 materials, such as visual preference polling, urban design exercises, scenario planning presentations, and general concept artwork.
- A summary report of Workshop #2.
- Any remedial site investigation reviews and educational information regarding contaminants (provided as-needed)

Stage 3 - Strategize

- Economic impact evaluations for each concept
- Promotional material for the workshop
- Workshop 3 materials, such as final scenario concepts, community feedbacks, preference rankings, comments and planned revisions for final concept delivery.

- A summary report of Workshop #3.
- Any remedial site investigation reviews and educational information regarding contaminants (provided as-needed)

Stage 4 - Act

A final planning document and implementation plan for the selected concepts. The plan will include

- Economic feasibility analysis
- Impact model results
- Pro forma information
- Development and funding strategies
- Regulatory assessments
- Policy recommendations
- Short-, mid-, and long-term actions

Project Timeline

Important Note: Community Workshops are expected to start no sooner than the Fall of 2024.

Month 1 (July)

Visit Oak Harbor to conduct site analysis and stakeholder interviews

Month 2 (August)

Complete analysis of existing conditions
Develop commercial real estate market conditions report
Develop conceptual economic impact model
Provide existing conditions report

Month 3 (Fall 2024)

Host first workshop - Where We Are
Present analysis and discuss community concerns and needs to establish direction
Deliver workshop report with guidance for conceptual design

Month 4

Establish remediation scenarios (low-, mid-, and high cost)
Coordination with Dahlin on conceptual designs
Host second workshop - Where We Want To Be
Present conceptual designs from Dahlin
Work through remediation scenarios to gather community feedback
Deliver workshop reports highlighting community comments, revisions for refinement

Month 5

Conduct economic feasibility analysis of selected design options
Deliver report

Month 6

Host third workshop - Final Visioning and Next Steps

Deliver economic analysis reports and refined concept designs

Deliver workshop report with final notes from community participants

Month 7

Conduct policy analysis for actualizing the vision

Develop funding and development strategies

Establish short-, mid-, and long-term actions

Deliver implementation plan

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

Bill No. 7.e.

Date: May 21, 2024

Subject: WAIF Licensing Agreement

FROM: Chas Webster, Finance Manager

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⦿ Ronnie Wright, Mayor
- ⦿ Sabrina Combs, Interim City Administrator
- ⦿ David Goldman, Deputy City Administrator
- ⦿ Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion to authorize the Mayor to sign agreement with Whidbey Animals' Improvement Foundation (WAIF) for Animal Licensing Services.

BACKGROUND / SUMMARY INFORMATION

This agreement allows Whidbey Animals' Improvement Foundation (WAIF) to administer the City's animal licensing code per established ordinances, provide community outreach, public education, and maintain a master database for animal licensing without a fee to the city.

The public will receive a 30-day advance notification of this change via mailing, social media, and website messaging with a tentative start date of July 1.

Key benefits of the contract:

1. WAIF will administer the animal licensing service on behalf of the City.
2. The City will purchase the animal tags each year.
3. The contract terms are concurrent with the WAIF Impound Agreement for a 4-year term.
4. WAIF to remit revenue and reconciliation reports weekly.
5. WAIF to maintain animal license database through Animal Shelter Manager.
6. ACO and OHPD will have access to the database on demand.
7. No increased cost to the City.
8. Increased convenience for the Public.
9. Increased compliance.

Both the City's Police and Finance Departments are supportive of this initiative.

LEGAL AUTHORITY

Oak Harbor Municipal Code 7.12

FISCAL IMPACT

No fiscal impact.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

Council Workshop, February 28, 2024

ATTACHMENTS

1. [WAIF Licensing Agreement](#)
2. [WAIF Licensing Agreement Presentation](#)
3. [WAIF Licensing Presentation - Workshop 2-28-24](#)

ANIMAL LICENSING SERVICES AGREEMENT
BETWEEN CITY OF OAK HARBOR AND
WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION

THIS Agreement is between City of Oak Harbor, a municipal corporation, a political subdivision of the State of Washington, hereinafter referred to as the "City", and Whidbey Animals' Improvement Foundation, a Washington non-profit corporation, hereinafter referred to as "Contractor." The City and Contractor shall be jointly referred to as the "Parties."

WHEREAS, the City is authorized by law to license dogs and cats under Oak Harbor Municipal Code Chapter 7.12 within the City's incorporated area and the City's animal control authority is exercised by the City of Oak Harbor Animal Control Officer; and

WHEREAS, the City selected Contractor based upon Contractor's experience, expertise and qualifications to administer the City's animal licensing code; and

WHEREAS, Contractor has agreed to administer the City's animal licensing code per established City ordinances, provide community outreach and public education, maintain a master database for dog licenses without a fee to the City; and

WHEREAS, the City has a need for a community outreach and education program focusing on increasing compliance with dog licensing, leash laws, and responsible dog ownership within the City's incorporated area.

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PURPOSE: The City and Contractor enter into this Agreement for Contractor to administer animal licensing services for dogs and cats within City's incorporated area.
2. SERVICES:
 - A. Dog License Database: Maintain administrative management of the sale of animal licenses for City of Oak Harbor, including a master database for dog and cat licenses that can be used to assist in reuniting dogs with their owners and local animal control officers.
 - B. Education: Provide community outreach and educational programs promoting the benefits of animal licensing and responsible dog ownership, including but not limited to, developing and distributing promotional materials, use of social media, booths at public events and fanners markets, etc.
 - C. Reunification: Contractor shall use owner information from the animal license database, the City, or other sources to promptly attempt to give notice to the owner by way of personal contact, telephone or mail that the animal is being held at the shelter facility. Contractor will use social media to assist in the reunion of owners with their pets. The shelter will be equipped with universal scanner(s) to

check for the presence of a microchip to aid identification.

3. HOURS OF OPERATION: Contractor's animal control shelter facility hours of operation are:
 - a. Intake, redemption and general business 9:00 a.m. to 4:00 p.m. Monday through Sunday, except when closed for holidays as provided below.
 - b. Adoption and viewing 12:00 p.m. to 4:00 p.m. Wednesday through Sunday, except when closed for holidays as provided below.
 - c. Closed on the following holidays: New Year's Day, Easter Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. The shelter will close early on Christmas Eve and New Year's Eve.
 - d. Contractor shall notify Animal Control of schedule changes prior to becoming effective. Any material reduction in shelter hours open to the public for redemption or intake of dogs must be mutually agreed upon by both parties hereto.
4. CITIZEN COMPLAINTS: All citizen complaints regarding dogs shall be referred to the City of Oak Harbor Animal Control Officer upon receipt.
5. TREATMENT OF PUBLIC: Contractor shall treat the public fairly and courteously in carrying out services required under this Agreement.
6. NO COMPENSATION: The Contractor agrees to receive no compensation for services performed under this Agreement.
7. FEES: Contractor shall collect and account for license fees, fines or penalties arising out of violation of the City of Oak Harbor Municipal Code Chapter 7.12. as now enacted or hereafter amended.

Said fees shall be turned into the City Finance Department by Contractor within seven (7) days of receipt, and Contractor shall keep records of these fees in a form acceptable to the City Finance Department, including use of preprinted serially numbered receipts. The City will provide license tags and receipt books to Contractor.

8. REPORTING: Contractor shall submit to the City Council each year by April 30 a written report including statistical information on the services performed under this Agreement during the previous year.
9. INDEPENDENT CONTRACTOR: Contractor acknowledges that it is an independent Contractor and that it is not a City of Oak Harbor agency or the agent of a City of Oak Harbor officer and agrees not to represent itself as such. All volunteers and any paid staff are volunteers and staff of Contractor and not of the City of Oak Harbor. Any uniforms or insignia used by Contractor shall not use the words "City of Oak Harbor," or other words identifying Contractor as a City of Oak

Harbor agency. Contractor shall be responsible for payment of taxes applicable to its operations, including but not limited to business and occupation tax, sales tax, excise tax, income tax, employer's social security tax, employer's industrial insurance premium, and employer's unemployment compensation premium. Contractor shall be solely responsible to collect and transmit to the correct government office any employee taxes, assessments, or contributions which an employer is required to collect from employees and transmit, including but not limited to, social security and income tax withholding.

10. **TERM:** This Agreement shall commence on June 1, 2024, and end on December 31, 2028. Either party may terminate this Agreement earlier without cause by providing one hundred eighty (180) days advance written notice. This Agreement shall be deemed automatically renewed for an additional four-year period unless one party gives one hundred eighty (180) days advance written notice of non-renewal to the other party. The City reserves the right to immediately terminate this Agreement without hearing or notice in the event of material default by Contractor. Contractor reserves the right to immediately terminate this Agreement without hearing or notice in the event of material default by the City.

11. **INDEMNIFICATION:** Contractor shall act in a non-negligent manner and not expose the City of Oak Harbor to unnecessary liability. To the fullest extent permitted by law, each party (Contractor and City) shall indemnify, defend and hold harmless the other party, its agents, volunteers, officials, and employees, from and against all claims arising out of or resulting from the performance of this Agreement. "Claim" as used in this Agreement means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. Each party (Contractor and City) expressly agrees to indemnify, defend, and hold harmless the other party for any claim arising out of or incident to the respective parties or any of its subcontractor's performance or failure to perform the Agreement. Each party's obligation to indemnify, defend, and hold harmless the other party shall not be eliminated or reduced by any actual or alleged concurrent negligence of the other party or its agents, volunteers, employees and officials.

12. **INSURANCE:** Prior to commencement of services under this Agreement, Contractor shall submit to City of Oak Harbor certificates of insurance or certified copies of insurance policies and endorsements, if requested by the City of Oak Harbor, for the coverage required below and shall maintain the same type and amount of coverage as is currently in effect for the life of this Agreement. Each insurance certificate shall provide that coverage will not be canceled or reduced below the contractual amounts stated herein without sixty (60) days written prior notice to the City of Oak Harbor. Contractor shall maintain at Contractor's sole expense unless otherwise stipulated, the following insurance coverages, insuring Contractor, Contractor's employees, agents, designees and indemnities as required herein:
 - A. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this paragraph and such insurance has been approved by the City. All insurance policies shall be issued by companies

authorized to do business under the laws of the State of Washington and have a Best's rating of at least A-VII. All insurance, other than Professional Liability and Workmen's Compensation to be maintained by Contractor shall specifically include the City as an "Additional Insured" and shall not be reduced or canceled without sixty (60) days written prior notice to the City. Contractor's insurance coverage shall be primary insurance as respect to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute to it.

- B. Contractor shall maintain, during the life of the Agreement, Industry Standard Occurrence-Based Commercial General Liability Policy Form (CG0001) or equivalent, including Premises/ Operations, Products/ Completed Operations, Blanket Contractual Liability and Personal Injury Coverage, to protect Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this Agreement whether such operations be by Contractor or by anyone directly employed by or contracting with Contractor.

Specific limits required \$2,000,000

General Aggregate \$1,000,000

Products/ Completed Operations Aggregate \$1,000,000

Personal Injury and Advertising Injury \$1,000,000

Each Occurrence

The Commercial General Liability Policy will contain an endorsement naming the City as Additional Insured (CG2010) and an endorsement that specifically states Contractor's General Liability shall be primary, and not contributory, with any other insurance maintained by the City .

The policy shall be endorsed to include stop gap employer's liability coverage with minimum limits as follows:

\$1,000,000	Each Accident
\$1,000,000	Policy Limit for Disease
\$1,000,000	Each Employee for Disease

Commercial General Liability insurance shall be endorsed to include a "cross liability," indicating essentially that except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

- C. Contractor shall maintain, during the life of this Agreement, Business Automobile Liability Insurance (CA0001) or equivalent in the amount of \$1,000,000 Bodily Injury and Property Damage per combined single limit to protect Contractor from claims which may arise from the performance of the Agreement, whether such operations be by Contractor or by anyone directly or indirectly employed by Contractor. Covered auto shall be designated as "Symbol 1" any auto.
- D. All Liability coverages, except Professional Liability, shall be written on an Occurrence-based policy form. If coverage can only be attained on a Claims Made basis, the Retroactive Date shall be prior to or coincident with the date of

the parties' first Agreement, and the policy shall state that coverage is Claims Made, and state the Retroactive Date. Should Claims Made be the only option, a minimum of a three (3) year tail coverage shall be maintained after the expiration of the Agreement.

- E. Contractor shall secure its liability for industrial injury to its employees in accordance with the provision of Title 51 of the Revised Code of Washington. Contractor shall submit a copy of its certificate of coverage from the Department of Labor and Industries prior to the commencement of work.
 - F. Industrial Insurance Waiver- With respect to the performance of the Agreement and as to claims against the City , its officers, agents and employees, Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of Contractor against the City . However, Contractor's waiver of immunity by the provisions of this paragraph extend only to claims against Contractor by City and does not include or extend to claims by Contractor's employees directly against Contractor. This waiver is mutually negotiated by the parties to this Agreement.
 - G. Subcontractors - Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontracts shall be subject to all of the requirements stated herein.
13. REGULATIONS: The performance of this Agreement shall be subject to all laws, rules and regulations of the United States of America and the State of Washington, and applicable political subdivisions of the State of Washington.
14. NONDISCRIMINATION: During the performance of this Agreement, Contractor shall not discriminate on the basis of race, color, sex, religion, nationality, creed, sexual orientation, marital status, age, or the presence of any sensory, mental or physical handicap in employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.
15. GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, including any regulation, ordinance or other requirements of any governmental agency or asserting jurisdiction over the services provided hereunder.
16. VENUE: In the event that any dispute arises over this Agreement, the venue for any legal action shall be Island County, Washington.
17. SEVERABILITY: If any term or condition of this Agreement is held invalid, such invalidity shall not affect other terms, conditions or applications, which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of the Agreement are declared severable.

18. WAIVER: Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this Agreement shall be held to be waived, modified or deleted except by an instrument in writing, signed by the parties hereto.

19. NOTICES: Any notices to the City of Oak Harbor shall be sent to the City of Oak Harbor Finance Department at the following address:

City of Oak Harbor
Attn: Finance Department
865 SE Barrington Dr,
Oak Harbor, WA 98277
(360)279-4500

Any notices to be sent to Contractor shall be sent to the following address:

Whidbey Animals' Improvement Foundation
Attn: Executive Director
P.O. Box 1108
Coupeville WA 98239
(360) 678-5816

20. ENTIRE AGREEMENT: This written Agreement represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

21. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided that no party hereto may assign this Agreement without the prior consent of the other party, which consent shall not be unreasonably delayed or withheld.

IN WITNESS WHEREOF the parties hereto have executed this Agreement this
__ day of __, 2024.

CITY OF OAK HARBOR

Ronnie Wright, Mayor

City of Oak Harbor Attorney

Attest:

WHIDBEY ANIMAL IMPROVEMENT
FOUNDATION

CV Hudgins

Cinnamon Hudgins, Executive Director

City Clerk

Approved as to Form:



WAIF ANIMAL LICENSING AGREEMENT

ANIMAL LICENSING – WAIF

5/21/2024

Workshop Topics Feb 28, 2024

- Review of Licensing Code
- Current Process
- Why Change the Process
- Vendor Pricing comparisons
- Public – City Advantages
- Gained Efficiencies, Effectiveness, and Economy



WORKSHOP
REVIEW

WAIF LICENSING AGREEMENT

- WAIF will administer the animal licensing service on behalf of the City.
- The City will purchase the animal tags each year.
- The contract terms are concurrent with the WAIF Impound Agreement for a 4-year term.
- WAIF to remit revenue and reconciliation reports weekly.
- WAIF to maintain animal license database through Animal Shelter Manager.
- Animal Control Officer (ACO) and Police Officers will have access to the database on demand
- No increased costs to the City

COUNCIL QUESTIONS AND COMMENTS

- With the use of microchips, why continue with animal licensing at all?
 1. Licensing helps to control over-population with discounts for spay or neuter and limits the number of pets within a household.
 2. Licensing is one mechanism for rabies control with rabies vaccinations required by State law. (WAC 246-100-197, OHMC 7.16)
 3. Annual license have current information.
 4. Licensing is less expensive than paying late fees, penalties, impound fees, along with room and board.

COUNCIL QUESTIONS AND COMMENTS

- Assume I don't register my pet. What is the fine? Maybe licensing should be optional rather than mandatory.

- 1. Pet licensing and rabies vaccination are mandated under OHMC Title 7.
- 2. Failure to license is a Class II Civil Infraction of \$125 each.
- 3. Pet owner would pay the license fee (\$10 or \$40), late fee of \$5, and fine of \$25.
- 4. Impound fees may apply as well.

COUNCIL QUESTIONS AND COMMENTS

2023		
Type	# of Pet Owners	Total \$
Late Fees \$5	134	\$670
Penalties \$25	20	\$500
Licenses \$10/\$40	426	\$6,033



COUNCIL QUESTIONS AND COMMENTS

- For the Animal Control Officer (ACO), what are the pros and cons?
 1. Access to cloud-based shelter database (Animal Shelter Manager) with real-time information on demand with access out in the field and after hours.
 2. Increase pet reunification lessening stress for pets and families and keeps kennel space open for true pet emergencies.
 3. Assist with animal cruelty complaints

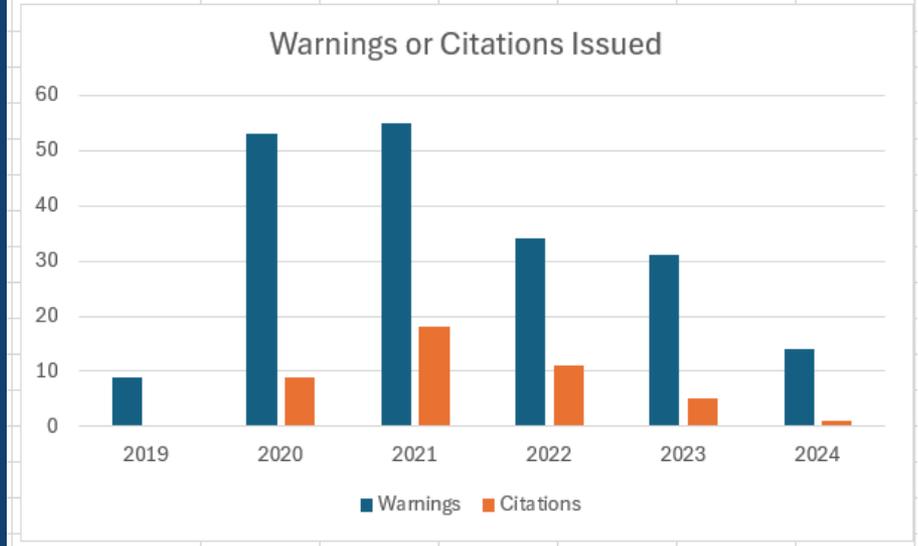


COUNCIL QUESTIONS AND COMMENTS

■ What is our average citations written to people?

13 declared Dangerous or Potentially Dangerous Dogs since 2022.

	2019	2020	2021	2022	2023	2024
Warnings	9	53	55	34	31	14
Citations	0	9	18	11	5	1



PUBLIC & CITY ADVANTAGES

Public

- Convenient 24/7 online licensing
- Renewal reminders
- Two locations to serve
- Convenient licensing at time of adoption or impound
- No increase to City licensing fee
- Lost/Found Pet Reunification

City

- Increased compliance
- Increased Animal Control Officer (ACO) communications
- Increased public, health, and welfare
- Increased staff availability for additional projects/tasks
- Lowers the cost of administration

EFFICIENCIES, EFFECTIVENESS, & ECONOMY

- **Partnering with WAIF**
 - Additional service locations
 - Strong local and web presence (used by Island County)
 - Community Outreach
 - Convenient 24/7 online access to licensing
 - Licensing at time of adoption or impound
 - Animal Control Officer (ACO) has mobile access to shelter management software
 - No start up costs, monthly costs, subscription costs, or additional fees, other than \$2.95 per license for online licenses paid by the pet owner.
 - Altered pet = \$10
 - Non-Altered pet = \$40
 - Lowers the cost of administration of the pet licenses for the City
 - Increases the staff's availability for administrative support for other projects/tasks
 - Ease of switch between County and City locations upon owner move

INCREASED PUBLIC AWARENESS

- WAIF estimates 5,763 owned dogs and 4,289 owned cats are residing in households in City limits

With the new service delivery from WAIF, in addition to added convenience to the pet owner and overall improved functionality for the Animal Control Officer (ACO) and Police Officers, partnership with WAIF will increase public awareness of the benefits of licensing which will increase public safety and welfare for our community.

MOTION

- **Motion to authorize the Mayor to sign the Agreement with Whidbey Animals' Improvement Foundation (WAIF) for Animal Licensing Services.**



ANIMAL LICENSING - WAIF

ANIMAL LICENSING – WAIF

2/28/2024

Topics

- Review of Licensing Code
- Current Process
- Why Change the Process
- Vendor Pricing comparisons
- Public – City Advantages
- Gained Efficiencies, Effectiveness, and Economy



TOPICS

BRIEF OVERVIEW OF ANIMAL LICENSING CODE 7.12 & 7.32

- License cats and dogs over 4 months of age
- License application must include current rabies certificate and proof of spay/neuter for discount
- Annual license is by calendar date expiring at the end of the year
- Dangerous and Potentially Dangerous dogs must be registered and licensed
- Failure to obtain a license is subject to Class 2 infraction defined in Chapter 1.28

CURRENT PROCESS

- Pet owner – Online form
- Pet owner – In Person
- Processed during normal business hours (No weekends, holidays, or before/after work)
- No dedicated online payment portal
- Purchase 700 regular tags, 100 special tags
- Destroy 200-300 regular tags, 80 special tags
- EDEN Licensing is not cloud based, nor does it have mobile access for ACO
- ACO can access EDEN database while on the network or by calling Utilities staff
- Not sending reminder renewals

WHY CHANGE THE PROCESS?

- Opportunity to increase convenience to the public
- Opportunity to increase compliance
- Opportunity to utilize vendor software efficiencies
- Increase communications for ACO
- Recommended by Finance and Police Departments and City Administration
- Administrative relief to City staff
- Cost savings to City
- Additional point of service location
- Partner with a local agency specializing in licensing

VENDOR PRICING COMPARISONS

Activity	PetData	DocuPet	GovPilot	ClearForm	WAIF
Startup Costs	\$1,000	\$4,999	\$0.00	\$7,200	\$0
Service fee per license	\$4.30	2.65% of license fee, plus \$.25 for each transaction	\$0	\$0	\$2.95 Per online license only
Monthly Service Fee	\$500	\$0	\$0	\$0	\$0
Credit Card Fees	2.99%	2.99%	\$0	\$0	\$0
Annual Subscription	\$0	\$0	\$9,900	\$7,500	\$0
Revenue Remittance Schedule	MONTHLY	MONTHLY	MONTHLY	MONTHLY	WEEKLY

PUBLIC & CITY ADVANTAGES

Public

- Convenient 24/7 online licensing
- Renewal reminders
- Two locations to serve
- Convenient licensing at time of adoption or impound
- No increase to City licensing fee
- Lost/Found Pet Reunification

City

- Increased compliance
- Increased ACO communications
- Increased public, health, and welfare
- Increased staff availability for additional projects/tasks
- Lowers the cost of administration

EFFICIENCIES, EFFECTIVENESS, & ECONOMY

■ Partnering with WAIF

- Additional service locations
- Strong local and web presence (used by Island County)
- Community Outreach
- Convenient 24/7 online access to licensing
- Licensing at time of adoption or impound
- ACO has mobile access to shelter management software
- No start up costs, monthly costs, subscription costs, or additional fees, other than \$2.95 per license for online licenses paid by the pet owner.
 - Altered pet = \$10
 - Non-Altered pet = \$40
- Lowers the cost of administration of the pet licenses for the City
- Increases the staff's availability for administrative support for other projects/tasks
- Ease of switch between County and City locations upon owner move

NEXT STEPS

- Present WAIF contract for council consideration and approval for Mayor's signature, meeting date to be determined.
- Any questions?
- Thank you!

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

Bill No. 8.a.
Date: May 21, 2024
Subject: Ordinance No. 1997: Amending Chapter 2.50, OHMC relating to the Police Community Advisory Board (CAB)

FROM: Macalle Finkle, Executive Services Coordinator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⊙ Ronnie Wright, Mayor
- ⊙ Sabrina Combs, Interim City Administrator
- ⊙ David Goldman, Deputy City Administrator
- ⊙ Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion to approve Ordinance No. 1997, repealing Oak Harbor Municipal Code Chapter 2.50, “Community Police Advisory Board,” and adopting a new Chapter 2.50, “Police Community Advisory Board.”

BACKGROUND / SUMMARY INFORMATION

The City has been working to improve transparency and consistency for advisory boards by providing public meeting videos, consistent templates for agendas and meeting minutes, and increased notifications of meetings with agenda details. On December 5, 2023, the City Council adopted Ordinance No. 1984: Uniform Policies for Boards, Commissions, and Committees and also updated a number of advisory board ordinances and bylaws.

The Police Department recently reestablished the Community Advisory Board (CAB), and the proposed amendments will update the code provisions for CAB. Some of the key changes include the number of members, residency requirements, term limits, service requirements, ex-officio and student participation, and processes.

LEGAL AUTHORITY

Chapter 2.50, OHMC

FISCAL IMPACT

n/a

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

Ordinance No. 1984: Uniform Policies for Boards, Commissions, and Committees was adopted on December 5, 2023.

After review and discussion at their April 9, 2024 meeting, the CAB recommended the amendments proposed herein.

ATTACHMENTS

1. [Ordinance No, 1997](#)

ORDINANCE NO. 1997

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, REPEALING AND REPLACING OAK HARBOR MUNICIPAL CODE CHAPTER 2.50 “COMMUNITY POLICE ADVISORY BOARD”; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Ordinance No. 897 passed by City Council on September 17, 1991, created the Community Police Advisory Board, provided for the membership thereof, and established the duties of the Board; and

WHEREAS, Ordinance No. 1037 passed by City Council on March 5, 1996, changed the quorum for the Community Police Advisory Board from five to three; and

WHEREAS, Ordinance No. 1310 passed by City Council on June 4, 2002, removed the residency requirement for the high school student member and added that the member be a high school student; and

WHEREAS, it is prudent to review the bylaws, duties, processes, and procedures of all boards, commissions, and committees and provide updates to assist in their service to the City to reflect both their intent and current practices.

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

Section One. Repealing and Replacing OHMC 2.50. Oak Harbor Municipal Code Chapter 2.50 relating to the Police Community Advisory Board is hereby repealed in its entirety and replaced to read as follows:

**CHAPTER 2.50
POLICE COMMUNITY ADVISORY BOARD**

Sections:

- 2.50.010 Creation.
- 2.50.020 Powers and duties.
- 2.50.030 Membership – Appointments, attendance, vacancies, and officers.
- 2.50.040 Meetings.
- 2.50.050 Conflict of interest.

2.50.010 Creation.

There is established for the city of Oak Harbor a community advisory board to be known as the “police community advisory board” or “CAB”. This Board was created in 1991 by the mayor and city council with the goal of establishing a close relationship between the Oak Harbor Police

Ordinance No. 1997 repealing Ch. 2.50 OHMC titled “Community Police Advisory Board” and creating a new Ch. 2.50 OHMC titled “Police Community Advisory Board” - 1

Department (OHPD) and the community and promoting public awareness of the city's police services and programs.

2.50.020 Powers and duties.

- (1) The duties of the board shall include, but not be limited to, the following:
 - (a) Advise and make recommendations to the mayor, city council, and the chief of police concerning the provision of police protection and services within the city.
 - (b) Enhance police-community relations.
 - (c) Promote public awareness of the city's police services.
 - (d) Hold monthly public meetings to solicit public input regarding police services and programs.
 - (e) Serve as liaison between the police department and the community.
 - (f) Apprise the mayor, city council, and the chief of police of the community's needs for police services.
 - (g) Review and make recommendations concerning such other and further matters as may be referred to the board, from time to time, by the mayor, city council, or the chief of police.
- (2) Notwithstanding the broad powers of the board under subsection (1) of this section, the board shall have no power or authority to investigate, review, or otherwise participate in matters involving specific police personnel or specific police-related incidents.

2.50.030 Membership – Appointments, attendance, vacancies, and officers.

The police community advisory board shall follow the membership requirements in Chapter 2.65 OHMC. The following items are specific to the police community advisory board:

- (1) Appointments. In appointing members and filling vacancies, the mayor and city council should endeavor to obtain a diverse cross-section and appoint members having an interest in the city of Oak Harbor, the police department, and establishing a close relationship with the community.
 - (a) Police community advisory board members shall be appointed, and terms of office shall be as provided in Chapter 2.65 OHMC.

- (b) The police community advisory board consists of seven (7) members appointed by the mayor and confirmed by the city council:
 - (i) Four (4) members shall reside in the city limits or Navy housing.
 - (ii) Three (3) members shall reside or work within the 98277 or 98278 zip code areas.
 - (iii) There shall be one (1) ex-officio councilmember appointed to the police community advisory board. This will be a non-voting position and their attendance does not count towards a quorum.
 - (iv) There shall be one (1) student representative from the local high school. This will be a non-voting position and their attendance does not count towards a quorum.

2.50.040 Meetings.

- (1) Meeting schedule. In January of each year, the police community advisory board shall establish their meeting schedule and set the time and location for each meeting. Any changes must be added to the meeting agenda and approved by a majority of the police community advisory board members. Special meetings of the board may be called at any time by the chairperson or by a quorum of the members of the board upon personal notice being given to all members of the board. If personal notice cannot be given, written notice must be received by such members at least twenty-four (24) hours prior to said meeting.
- (2) Meeting agenda – Notice. The police community advisory board agenda and meeting notice shall be sent to the police community advisory board members and posted as required twenty-four (24) hours prior to said meeting.
- (3) Quorum. A quorum for the transaction of official business shall consist of a majority of the appointed members of the board. If a quorum is not present within fifteen (15) minutes of the meeting time, the chairperson needs to call the meeting to order, indicate that there is no quorum, and close the meeting. The Ex-officio and student representatives do not count towards a quorum.

2.50.050 Conflict of interest.

Police community advisory board members shall recuse themselves from discussing and voting on contracts in which that member or a member of that person’s immediate family has a direct or remote financial interest. The definitions of contracts, financial interests, remote interests, and direct interests are set forth in RCW 42.23.020 and .030 and board members are encouraged to contact the city attorney in advance of the deliberation or vote on a contract in which the board member may have a financial interest for a recommendation regarding how to proceed.

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

Section Three. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as provided by law.

PASSED by the City Council this _____ day of _____, 2024.

THE CITY OF OAK HARBOR

By _____
Ronnie Wright, Mayor

Dated: _____

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

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

Bill No. 8.b.
Date: May 21, 2024
Subject: Resolution 24-11 Adopting
Revised Bylaws for Police
Community Advisory Board
(CAB)

FROM: Macalle Finkle, Executive Service Coordinator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⦿ Ronnie Wright, Mayor
- ⦿ Sabrina Combs, Interim City Administrator
- ⦿ David Goldman, Deputy City Administrator
- ⦿ Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Approve Resolution 24-11: Amending the Bylaws of the Police Community Advisory Board.

BACKGROUND / SUMMARY INFORMATION

The bylaws for the CAB are being updated to be consistent with Ordinance No. 1997 and the adopted uniform policies for boards, commissions, and committees.

LEGAL AUTHORITY

Chapter 2.50 OHMC, Police Community Advisory Board

FISCAL IMPACT

n/a

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

Ordinance No. 1984: Uniform Policies for Boards, Commissions, and Committees was adopted on December 5, 2023.

After review and discussion at their April 9, 2024 meeting, the CAB recommended the amendments proposed herein.

ATTACHMENTS

1. [Resolution 24-11 with Exhibit A](#)

RESOLUTION NO. 24-11

A RESOLUTION OF THE CITY OF OAK HARBOR AMENDING THE BYLAWS OF THE POLICE COMMUNITY ADVISORY BOARD

WHEREAS, the Police Community Advisory Board was created by Ordinance No. 897 (September 17, 1991) as an advisory board to the Mayor and the City Council with the goal of establishing a close relationship between the Oak Harbor Police Department and the community and promoting public awareness of the City’s police services and programs; and

WHEREAS, as part of the City’s plan to organize its boards, commissions, and committees for consistency, the Police Community Advisory Board Bylaws were amended; and

WHEREAS, the Bylaws were reviewed by the Police Community Advisory Board at their regular monthly meeting on May 1, 2024; and

WHEREAS, a copy of the Bylaws is attached hereto as Exhibit “A”.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. Adoption of the Police Community Advisory Board Bylaws. The City hereby adopts by reference and incorporates herein the attached Police Community Advisory Board Bylaws. These Bylaws replace previous versions on file with the City Clerk.
2. Severability. If any provision of this Resolution or its application to any person or circumstances is held invalid, the remainder of the Resolution or the application of the provision to other persons or circumstances is not affected.
3. Effective Date. This Resolution shall be in full force and effect five (5) days after publication as provided by law.

PASSED by the City Council and approved by its Mayor this ____ day of _____, 2024.

CITY OF OAK HARBOR

By _____
Ronnie Wright, Mayor

Attest:

Julie Nester, City Clerk

Approved as to form:

Hillary J. Evans, City Attorney

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Resolution No. 24-11 adopting the Police
Community Advisory Board Bylaws - 2

EXHIBIT “A”

POLICE COMMUNITY ADVISORY BOARD BYLAWS

Police Community Advisory Board Bylaws and Rules of Procedure

City of Oak Harbor Ordinance No. 897 (Section 2.50.010 OHMC) approved September 17, 1991, and codified as Chapter 2.50 OHMC, created the Community Police Advisory Board.

1. Name. The official name shall be “police community advisory board” and may be referred to as “CAB”. The police community advisory board shall report directly to the mayor or his/her designee.
2. Purpose. The police community advisory board is charged with the following functions:
 - a. Advise and make recommendations to the mayor, city council, and the chief of police concerning the provision of police protection and services within the city.
 - b. Enhance police-community relations.
 - c. Promote public awareness of the city’s police services.
 - d. Hold monthly public meetings to solicit public input regarding police services and programs.
 - e. Serve as liaison between the police department and the community.
 - f. Apprise the mayor, city council, and the chief of police of the community’s needs for police services.
 - g. Review and make recommendations concerning such other and further matters as may be referred to the board, from time to time, by the mayor, city council, or the chief of police.
3. Membership, attendance, and vacancies.
 - a. Appointment.
 - i. Police community advisory board members shall be appointed, and terms of office shall be as provided in Chapter 2.65 OHMC.
 - ii. The police community advisory board consists of seven (7) members appointed by the mayor and confirmed by the city council.
 - iii. Four (4) members shall reside in the city limits or Navy housing.
 - iv. Three (3) members shall reside or work within the 98277 or 98278 zip code areas.
 - v. There shall be one (1) ex-officio councilmember appointed to the police community advisory board. This will be a non-voting position and their attendance does not count towards a quorum.

- vi. There shall be one (1) student representative from the local high school. This will be a non-voting position and their attendance does not count towards a quorum.
- vii. The mayor, or designee, shall appoint a primary staff liaison, staff support, and a recording secretary to this board.

b. Attendance.

- i. Attendance at all meetings is expected of all police community advisory board members. Any member anticipating an absence from a meeting shall notify the chairperson, staff liaison, and board secretary at least two (2) business days prior to the meeting.
- ii. The police community advisory board shall comply with attendance policies per Chapter 2.65 OHMC.
- iii. It is the desire of the city that members attend meetings in person. If members have to attend the meeting virtually, they must be able to hear and be heard in order for their attendance to count and to be able to vote.
- iv. If a member misses twenty-five percent (25%) of the meetings in a rolling twelve (12) month period, the chair shall discuss participation with the member and notify the mayor.
- v. If a member chooses to resign during their current term, they need to send a letter to the mayor's office indicating that they will be resigning from the advisory board and the effective date of the resignation.

c. Vacancies. The police community advisory board shall comply with membership vacancy requirements per Chapter 2.65 OHMC.

4. Officers, elections, and duties. At the first regular meeting in January of each year, the police community advisory board members shall elect from the entire board a chairperson and a vice-chairperson who shall hold office for one (1) year. It is the desire of the city to rotate these positions/duties. Duties of each officer are described as follows:

a. Chairperson. The chairperson shall:

- i. run the meeting;
- ii. be a spokesperson for the police community advisory board;
- iii. ask for volunteers or may appoint people to lead sub-committees; and
- iv. perform other duties as assigned by the police community advisory board.

b. Vice-chairperson. The vice-chairperson shall:

- i. run the meeting in the absence of the chairperson;
- ii. perform the duties of the chairperson in their absence; and

- iii. perform other duties as assigned by the police community advisory board.
5. Meetings. In January of each year, the police community advisory board shall establish their meeting schedule and set the time and location for each meeting. Any changes must be added to the meeting agenda and approved by a majority of the police community advisory board members.
- a. Date, time, and location. The police community advisory board shall meet regularly on the first Wednesday of each month at 4:15 p.m. at Oak Harbor City Hall Council Chambers, unless otherwise directed by the chairperson. The time, date, and location of a regular meeting may be changed by motion approved at a prior meeting.
 - b. Special meetings. Special meetings of the police community advisory board may be called at any time by the chairperson or by a quorum of the members of the police community advisory board upon personal notice being given to all members of the police community advisory board.
 - c. Work session and site visits. Advisory boards may meet informally in a work session or site visit (open to the public) to do concentrated planning, receive program reports on current programs or projects, or receive other similar information from city staff, provided that all discussions and conclusions thereon shall be informal. An advisory board shall make no disposition of any item at a work session meeting or site visit. Public comment is not taken at a work session meeting or site visit unless participation is requested by the advisory board.
 - d. Open to the public. All meetings shall be open to the public and all persons shall be permitted to attend any meeting. Meetings shall be conducted in accordance with Chapter 42.30 RCW and Robert's Rules of Order (Newly Revised).
 - e. Regular meeting agenda. The agenda meets the requirements of Chapter 42.30 RCW – Open Public Meetings Act (OPMA). The police community advisory board shall provide reasonable notice of meetings to any individual specifically requesting such in writing. No other notice to the media is required. An agenda for each public meeting shall be prepared by the staff support person and shall be forwarded to each police community advisory board member with a reminder of the next regular meeting. The agenda shall be posted on the city website and bulletin boards at city hall.
 - i. Additional agenda items may be proposed by any member of the police community advisory board when submitted to the chairperson, staff liaison, and board secretary at least two (2) weeks prior to the regular monthly meeting. The staff liaison has the discretion to decline adding the proposed agenda item to an upcoming police community advisory board meeting and shall provide the proponent of the proposed agenda item a brief explanation for declining to schedule the item. Should the staff

liaison place the proposed agenda item on an upcoming police community advisory board agenda, the police community advisory board may decline to discuss the newly added agenda item by a vote of a majority of the members present.

ii. A typical agenda may consist of:

- Call to Order/Roll Call
- Approval of Agenda
- Approval of Minutes
- Public Comment
- Discussions/Action/Presentation/Report Items
- Member Comments
- Determination of Future Agenda Items
- Adjournment

f. Quorum. A quorum for the transaction of official business shall consist of a majority of the appointed members of the police community advisory board. If a quorum is not present within fifteen (15) minutes of the meeting time, the chairperson needs to call the meeting to order, indicate there is no quorum, and close the meeting. Ex-officio members and student representatives do not count towards a quorum.

g. Serial meetings. A serial meeting occurs when a majority of the police community advisory board members have a series of small gatherings or communications that result in a majority of the board collectively taking action even if a majority is never part of any one communication. Such a meeting violates the OPMA because it amounts to taking “action” – as defined in RCW 42.30.020(3) – outside an open meeting. Serial meetings can occur with or without technology, but the range of communication options available nowadays to members of the board increases the risk. This is why members should not “reply all” on emails.

h. Conflict of interest. Police community advisory board members shall recuse themselves from discussing and voting on contracts in which that member or a member of that person’s immediate family has a direct or remote financial interest. The definitions of contracts, financial interests, remote interests, and direct interests are set forth in RCW 42.23.020 and .030 and board members are encouraged to contact the city attorney in advance of the deliberation or vote on a contract in which the board member may have a financial interest for a recommendation regarding how to proceed.

i. Voting. Decisions requiring a vote of the police community advisory board shall be made by an affirmative vote of a majority of the members present. Board members who have a conflict of interest with a motion should state their conflict and abstain from voting on that motion.

- j. Meeting minutes. A staff member shall be appointed to take meeting minutes. Meeting minutes shall consist primarily of a record of action taken and shall be framed generally in accordance with Robert’s Rules of Order (Newly Revised). Minutes of each meeting shall be subject to approval by the police community advisory board.
 - k. Video recording. The city’s practice is to record meetings. A staff person shall be assigned the responsibility of recording the meeting and providing the video to the appropriate staff to be published on the city communication channels. If a meeting is booked in the council chambers, it is the responsibility of the staff liaison to book the videographer to manage the recording and post it to appropriate communication channels.
6. Annual report to council. The police community advisory board shall provide a work plan or update to the mayor and council annually that describes the activities of the police community advisory board during the current calendar year.
 7. Communication subject to the Public Records Act (PRA). All communications by the police community advisory board members on behalf of the police community advisory board are subject to the PRA. This includes, but is not limited to, text messages, emails, paper documents, social media posts, and voicemails. Members shall not use social media channels for conducting city business.
 8. Annual training required. The police community advisory board should add required training to their January agenda to complete required training as a group. Otherwise, within ninety (90) days of initial appointment and every four (4) years thereafter, police community advisory board members shall be required to complete required training assigned by the mayor, or designee, including, but not limited to, the following training and provide their Certificate of Training to the police community advisory board secretary:
 - a. Public Records Act (PRA) training (RCW 42.56). Online training: WA State Attorney General’s Office PRA training video.
 - b. Open Public Meetings Act (OPMA) training (RCW 42.30). Online training: WA State Attorney General’s Office OPMA training video.
 9. Bylaws and amendment of bylaws.
 - a. The foregoing bylaws are intended to govern the conduct of the affairs of the police community advisory board and to prescribe the conduct of its officers.
 - b. All bylaw amendments shall be submitted for consideration at a regular police community advisory board meeting but shall not be voted upon until the following month’s meeting.
 - c. Amendments to these bylaws are subject to review and approval by the city attorney.

- d. These bylaws may be amended by a resolution passed by an affirmative vote of the city council.

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

Bill No. 8.c.
Date: May 21, 2024
Subject: Resolution No 24-20: Repealing
Reso. No 24-14 regarding the
creation of a North Whidbey
Pool, Park, and Recreation
Metropolitan District

FROM: Hillary Evans, City Attorney with David Goldman, Deputy City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Either

- 1) Motion to approve Resolution No. 24-20, repealing Resolution No. 24-14 or
- 2) Alternate resolution with different ballot language
- 3) No action

BACKGROUND / SUMMARY INFORMATION

See Agenda Bill attached.

It is our understanding (at the time of drafting this agenda bill) that the Island County Board of Commissioners will be considering repealing the resolution(s) they adopted for the formation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) at their May 19, 2024 meeting.

LEGAL AUTHORITY

RCW 35.61.020

FISCAL IMPACT

None.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

March 19, 2024

April 2, 2024

ATTACHMENTS

1. [MPD Agenda Bill](#)
2. [Resolution 24-20](#)
3. [NWPPRD Presentation - 3-19-24 - Page](#)
4. [Resolution 24-14](#)
5. [Island County Original Reso C-22-24](#)
6. [Island County Amended Resolution C-25-24](#)
7. [2023-24 Certification of Levies Report \(Page 6\)](#)

A. History:

The North Whidbey Parks & Recreation District (NWPPRD) is seeking support to place the formation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) on the August ballot. The maximum levy would be \$0.75 per \$1,000 Assessed Value (AV).

On March 19, 2024, the NWPPRD came to the regularly scheduled City Council meeting and presented the issue with a proposed resolution for approval. The City Council discussed the request at length; a primary theme of the discussion was that Councilmembers did not necessarily support the creation of the MPD but did wish to allow the voters to decide the issue. Discussion contemplated the levy amount being requested was \$0.25 per \$1,000 AV. Comments from the City Council included:

- 'As a representative of the Council I would be in support of allowing it to go to the voters.'
- 'I am not a big fan of this initial MPD not being a 60% (requiring a 60% vote)'
- 'I'm uncomfortable with the timing' 'I have so many questions. I personally would like some time to get those questions answered.'
- 'We are not telling people how to vote, we are simply saying you have a right to vote on this.'
- 'We are just saying that the people can vote on it, it's not an actual endorsement.'
- 'This governing body, I don't think that is necessarily in our best interest (to endorse), we are just putting it to the people.'
- 'We are not being asked to endorse anything, or make anything happen tonight, other than send it to the voters and see what they say.'

The resolution proposed by NWPPRD included ballot language, which stated:

“Island County Ordinance No. _____ and City of Oak Harbor Resolution No. _____ jointly propose the creation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District. If approved, this proposition would create a metropolitan park district with all the powers provided in chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed seventy-five cents per thousand dollars of assessed valuation. The District shall be governed by a five member board of commissioners to be elected at large.” (Two areas underlined for focus).

For the formation of a metropolitan park district to be governed by a Five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

The City Council voted on and approved the proposed resolution as written: five in favor, one opposed, and 1 abstention. The City Council then approved Resolution 24-14, which included the proposed language, in the consent agenda on its regularly scheduled April 2, 2024 meeting.

The Island County Board of Commissioners approved a similar resolution C-22-24 on April 16, 2024.

B. Ballot Preparation for the August Election:

Per RCW 29A.36.071, the Island County Prosecuting Attorney must prepare a concise statement/ description (ballot language). Thus, the Island County Prosecuting Attorney drafted the following language and sent it to our City Attorney for review on April 23, 2024:

“Island County Resolution No. 22-24 and City of Oak Harbor Resolution 24-14 jointly propose to create the North Whidbey Pool, Park and Recreation Metropolitan District. If approved, this proposition would create a new metropolitan park district coterminous with the North Whidbey Pool, Park, and Recreation District, with the powers provided in Chapter 35.61 RCW, including the authority to levy a general tax on property not to exceed seventy-five cents per thousand dollars of assessed value, and governed by a five-member board of commissioners elected at large.” (Two areas underlined for focus).

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

While the discussion of Council may have indicated that the Council did “not propose to create” the MPD, nor did it necessarily support seeking the maximum of \$0.75 per \$1000 AV, the City’s resolution did approve this language, and the language as written was finalized and provided to the County Auditor for the ballot. No challenge was timely received.

C. NWPPRD’s Push for \$0.25.

Despite the approval of the resolutions and the submission of the ballot language, on May 2, 2024, the NWPPRD sent out an email to their mailing list to let everyone know about the progress made toward the creation of a new MPD, including this updated ballot language as follows:

“Island County Resolution No. 22-24 and City of Oak Harbor Resolution 24-14 requests for the voters to decide whether or not to create the North Whidbey Pool, Park and Recreation Metropolitan District. If approved, this proposition would create a new metropolitan park district coterminous with the North Whidbey Pool, Park, and Recreation District, with the powers provided in Chapter 35.61 RCW, including the authority to levy a general tax on property not to exceed twenty-five cents per thousand dollars of assessed value, and governed by a five-member board of commissioners elected at large.” (Two areas underlined for focus).

That language was clearly distinct from what the County Auditor had been provided in two important regards.

D. Amendments to the County’s Resolution, Amending Terms.

On May 7, 2024, the Island County Board of Commissioners amended their position, approving resolution C-25-24, as follows:

“Island County Resolution No. 25-24 and City of Oak Harbor Resolution 24-14 each proposed to create the North Whidbey Pool, Park and Recreation Metropolitan District. If approved, this proposition would create a new metropolitan park district with the same boundaries as the existing North Whidbey Pool, Park, and Recreation District. The new metropolitan park district would have the powers provided in Chapter 35.61 RCW, including the authority to levy general taxes on property not to exceed twenty-five cents per thousand dollars of assessed value, and would be governed by a five-member board of commissioners elected at large.” (Two areas underlined for focus).

[] For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

[] Against the formation of a metropolitan park district.

The County’s approval of this resolution casts uncertainty on the efficacy of their prior approval for the ballot measure. It is further untimely to prompt an

amendment to the approved ballot language that was previously submitted to the County Auditor.

E. City's Path Forward.

Given the uncertainty related to the proposed levy amount and the other language in the different resolutions and communications, the City Council may wish to repeal its approval of Resolution 24-14 and seek to remove the levy from the ballot unless and until a consensus to the levy limit can be reached and a new resolution may be passed by this Council. The likely result is that there will be no measure on the August ballot; however, should NWPPRD move quickly, there is time for both the City and County to reconsider and adopt resolutions to place this on the general election ballot.

F. Supplemental Background.

1) Presentation by the MWPPRD on March 19, 2024:

Per the presentation by the NWPPRD, the boundaries of the new MPD will be coterminous with the boundaries of the NWPPRD. Slide 3 of the presentation provided by NWPPRD on March 19, 2024 states 'Levy up to \$0.75 per \$1,000 AV - NWPPRD is asking for \$0.25 per \$1,000 AV'. NWPPRD staff expressed that they are structuring it most familiar with what the voters have already seen. When asked by the City Council 'How much can you tack on to the voter without their approval?' NWPPRD staff responded 'with the IPD (Implicit Price Deflator); currently it's that 1% of the IPD'.

2) Island County Prosecuting Attorney ballot language review:

The ballot language was sent to the Municipal Research and Services Center (MRSC) for review. The MRSC informed us that their understanding of the ballot measure is that the new MPD Board can set the initial levy at any amount up to \$0.75 per \$1,000 of assessed value which, as stated before, could raise \$5,166,000. If the Board chooses to set the levy below that rate, then this would leave the MPD with 'Banked Capacity'. Per the Washington Department of Revenue, Banked Capacity could permit the MPD Board to raise the levy up to the amount that could have been raised based on voter approval (estimated \$5,166,000) of the ballot measure (a.k.a. Highest Lawful Levy) **without having to go back to the voters.**

3) MPD Property Tax Analysis:

According to the Island County Certification of Levies Report, the current NWPPRD levy rate is \$0.1372100148 per \$1,000 of assessed value which could generate \$945,738.51 in property tax revenues in 2024. A home at the average 2024 taxable value of \$445,954 (City of Oak Harbor value) could pay \$61.19 in property taxes to the NWPPRD in 2024. Holding everything equal, increasing the tax rate to \$0.25 per \$1,000 of assessed value could

generate \$1,723,000 in taxes for the NWPPRD and could cost the average home \$111.49 per year in taxes in 2024. Under the same scenario, increasing the tax rate to \$0.75 per \$1,000 of assessed value (the maximum permitted in the ballot proposition) could generate \$5,169,000 in taxes for the NWPPRD and could cost the average home \$334.47 per year in taxes in 2024.

Table 1

Levy Rate (per \$1,000 of Assessed Value)	Property Tax Levy (Estimated/Rounded)	Difference from 2024 Island County Certification of Levies Report	Percent Difference from 2024 (Rounded)
\$0.1372100148	\$ 945,739		
\$0.2500000000	\$1,723,000	\$777,261	+82%
\$0.7500000000	\$5,169,000	\$4,223,261	+447%

Table 2

Taxing Jurisdiction	2024 Rate
Oak Harbor School District	1.8130855878
State Schools	2.3382614817
City of Oak Harbor	2.4923423218
Island County	0.7036729684
Sno-Isle Library	0.3243030872
Hospital	0.5814109423
North Whidbey Parks & Rec	0.1372100148
Conservation Futures	0.0320173310
Cemetary	0.0040577009
Total	8.4263614359

Table 3

Taxing Jurisdiction	2024 Average Amount	Percentage
Oak Harbor School District	\$ 808.55	22%
State Schools	\$ 1,042.76	28%
City of Oak Harbor	\$ 1,111.47	30%
Island County	\$ 313.81	8%
Sno-Isle Library	\$ 144.62	4%
Hospital	\$ 259.28	7%
North Whidbey Parks & Rec	\$ 61.19	2%
Conservation Futures	\$ 14.28	0%
Cemetary	\$ 1.81	0%
Total	\$ 3,757.77	100%

4) NWPPRD Board Meeting Research:

Staff tried to independently ascertain the details of the NWPPRD Board meeting discussions regarding the MPD but were unable to find recordings of their meetings nor detailed agenda item documents on their website. However, staff were able to find their 1 to 2 page meeting agenda table of contents and meeting minutes. Per the minutes of the January 25, 2024 NWPPRD Board meeting, a motion was made and passed that the levy rate of the proposed MPD be \$0.25/1000. Per the minutes of the February 22, 2024 NWPPRD Board meeting, a presentation was given on the resolution that was drafted for the Oak Harbor City Council meeting regarding the MPD and one of the action item/review listed was to ensure the Executive Director submitted a draft of the MPD resolution to all commissioners.

RESOLUTION NO. 24-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAK HARBOR,
WASHINGTON, REPEALING RESOLUTION NO. 24-14

WHEREAS, the North Whidbey Pool, Park, and Recreation District (“NWPPRD”) was formed in 1977; and

WHEREAS, Chapter 35.61 Revised Code of Washington (“RCW”) allows the formation of Metropolitan Park Districts (“MPD”) in territory located in portions or all of a city; and

WHEREAS, RCW 35.61.010 provides that “[a] metropolitan park district may be created for the management, control, improvement, maintenance, and the acquisition of parks, parkways, boulevards, and recreational facilities”; and

WHEREAS, on March 19, 2024, NWPPRD appeared at the City Council’s regularly scheduled meeting and sought approval from the Oak Harbor City Council to establish a MPD, making a presentation that identified the levy up to \$0.75 per \$1000 assessed valuation (“AV”) but indicating they would ask only \$0.25 per \$1,000 AV and providing a proposed resolution which contained ballot language setting the levy limit at \$0.75 per \$1000 AV and that Island County and the City jointly propose the creation of the MPD; and

WHEREAS, the City Council discussed the \$0.25 per \$1000 AV rate, and many Councilmembers stated they did not necessarily support the creation of the MPD but did wish to allow the voters to decide the issue; and

WHEREAS, the City of Oak Harbor lies within the boundary of the proposed MPD; and

WHEREAS, the City Council voted to approve the proposed resolution, as proposed, by a vote of five in favor, one opposed, and one abstention; and

WHEREAS, at the April 2, 2024 regularly scheduled City Council Meeting, Resolution 24-14 Supporting the North Whidbey Pool, Park and Recreation District request to place the formation of a Metropolitan Park District on an Island County Special Election Ballot was approved as a part of the consent agenda; and

WHEREAS, Island County passed a similar resolution, approving Resolution C-22-24 on April 16, 2024; and

WHEREAS, the ballot language contained in Resolution 24-14 and Resolution C-22-24 was submitted to the County Auditor on April 24, 2024 and no challenge to the language was received; and

WHEREAS, on May 7, 2024, the Island County Board of Commissioners amended their position, approving Resolution C-25-24, which lowered the levy amount from \$0.75 per \$1000

AV to \$0.25 per \$1000 AV and replaced “jointly propose to create the” with “each proposed to create the”; and

WHEREAS, given the uncertainty related to the proposed levy amount, the City wishes to repeal its approval of Resolution 24-14 and seek to remove the levy from the ballot unless and until a consensus to the levy limit can be reached and a new resolution may be passed by this Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON:

Resolution 24-14 is hereby repealed in its entirety. The City Council further directs City staff to work with the County Auditor to remove the item from the August ballot.

Passed by the City Council and approved by its Mayor this ___ day of _____ 2024.

THE CITY OF OAK HARBOR

Veto ()
Approve ()

By _____
Ronnie Wright, Mayor

Dated: _____

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary Evans, City Attorney

Published: _____

Advantages of an MPD



Boundary is Flexible

- May include both City and County jurisdictions

Governance can be collaborative

- City Council, County Council, Elected Commissioners, or combination may govern the MPD

Simple majority vote (50% + 1)

Levy up to \$0.75 per \$1,000 AV- NWPPRD is asking for \$0.25 per \$1,000

Further up the list of junior taxing districts

Stable Funding!

City of Oak Harbor
City Council Agenda Bill

Bill No. e. _____

Date: April 2, 2024

Subject: Resolution 24-14 Supporting the North Whidbey Pool, Park and Recreation District request to place the formation of a Metropolitan Park District on an Island County Special Election Ballot

FROM: Administration

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Bob Severns, Mayor
- Blaine Oborn, City Administrator
- David Goldman, Finance Director
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Motion to approve Resolution 24-24 Supporting the North Whidbey Pool, Park, and Recreation District request to place the formation of a Metropolitan Park District on an Island County special election ballot.

BACKGROUND / SUMMARY INFORMATION

The Board Chair and the Executive Director of the North Whidbey Pool, Park, and Recreation District (NWPPRD) requested time for and gave a presentation of the formation of a Metropolitan Park District (MPD) at the City Council meeting of March 19, 2024.

The NWPPRD submitted a draft resolution seeking the City's approval to form a Metropolitan Park District (MPD).

To place this item on the ballot without a petition of registered voters, NWPPRD needs approval by the Oak Harbor City Council via the attached resolution and approval from the Island County Board of County Commissioners. Approval to place the MPD on the ballot can also be done by petition of 15% of the voters. An MPD only requires approval by a simple majority of voters, after which the MPD's legislative body may impose permanent property taxes. By comparison, NWPPRD only imposes property tax levies for six years at a time, subject to 60% voter approval. An MPD will have more powers and taxing authority than the current NWPPRD.

At the March 19, 2024 meeting, members of the City Council voiced support for a resolution to be placed on an upcoming ballot. Staff has drafted a resolution of support for Council approval.

LEGAL AUTHORITY

FISCAL IMPACT

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

City Council meeting of March 19, 2024

ATTACHMENTS

1. [Resolution 24-14](#)

RESOLUTION 24-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAK HARBOR,
WASHINGTON, SUPPORTING THE NORTH WHIDBEY POOL, PARK, AND
RECREATION DISTRICT REQUEST TO PLACE THE FORMATION OF A
METROPOLITAN PARK DISTRICT ON AN ISLAND COUNTY
SPECIAL ELECTION BALLOT

WHEREAS, the North Whidbey Pool, Park, and Recreation District (NWPPRD) was formed by the citizens of the District in 1977; and

WHEREAS, Chapter 35.61 Revised Code of Washington (RCW) allows the formation of Metropolitan Park Districts (MPD) in territory located in portions or all of a city; and

WHEREAS, RCW 35.61.010 provides that "[a] metropolitan park district may be created for the management, control, improvement, maintenance, and the acquisition of parks, parkways, boulevards, and recreational facilities; and

WHEREAS, the Board Chair and Executive Director of the NWPPRD addressed the Oak Harbor City Council on their proposal to establish a Metropolitan Park District (MPD) and, in doing so, establish stable, long-term funding to ensure the continued maintenance and operation of the John Vanderzicht Memorial Pool and Clover Valley Park, as well as the continued development of long-term recreational programs, facilities, and parks for residents of North Whidbey; and

WHEREAS, the City of Oak Harbor lies within the boundary of the proposed MPD; and

WHEREAS, the City of Oak Harbor is dedicated to collaborating with various organizations to ensure the provision of park and recreational programs and facilities for its residents, while being mindful of equitable distribution of financial responsibilities among all stakeholders.

WHEREAS, the City of Oak Harbor supports presenting the question of formation to the voters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Request for Special Election. The City of Oak Harbor, Washington, hereby requests the Island County Council, through the Department of Records and Elections, call a special election to run in conjunction with the August 2024 Primary Election, for the purpose of placing on the ballot the following proposition regarding the formation of a Metropolitan Park District:

Proposition ____ : Island County Ordinance No. ____ and City of Oak Harbor Resolution 24-14 jointly propose the creation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District. If approved, this proposition would create a metropolitan park district with all the powers provided in Chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed seventy-five cents per thousand dollars of assessed valuation. The District shall be governed by a five member board of commissioners to be elected at large.

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

Section 2. Boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District. The boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District Metropolitan Park District shall encompass the City of Oak Harbor and North Whidbey Fire Protection District No. 2, as fully described in Attachment A, attached hereto and incorporated by reference.

PASSED BY THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS _____ DAY OF _____, 2024.

Veto
Approve

THE CITY OF OAK HARBOR

By: _____

Ronnie Wright, Mayor

Dated: _____

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary Evans, City Attorney

ATTACHMENT A

Legal Description for the proposed North Whidbey Pool, Park, and Recreation Metropolitan District, the boundaries of which are coterminous with the North Whidbey Pool, Park, and Recreation District.

Beginning at the Northwest corner of Section 24, Township 32 North, Range 1 West, W.M., Which is also the shoreline at Whidbey Island and Straits of Juan de Fuca. Thence East along the North Line of Section 24 to the Northwest Corner of the Powers Donation Land Claim; Thence South along the West Line of Powers Donation Land Claim to the Southwest Corner of the Donation Land Claim, which is also the Southwest Corner of Section 19, Township 32 North, Range 1 East, W.M.; Thence Easterly, Northerly, and Easterly along the South Line of the Powers Donation Land Claim and the North Line of the Lans Hale Donation Land Claim to the West Line of the Holbrook Donation Land Claim, which is the Center Line of a County Road known As Zylstra Road; Thence Northerly along the Center Line of Zylstra Road to the South Line of Section 18, Township 32 North, Range 1 East, W.M.; Thence, Easterly along the South Line of Sections 18, 17, and 16, Township 32 North, Range 1 East, W.M. to a point on the South Line of Section 16 and the East Line of the Jacob Smith Donation Land Claim projected Northerly Meet; Thence, South to the Northeast Corner of the Jacob Smith Donation Land Claim; Thence South along the East Line of the Jacob Smith Donation Land Claim to the East West Center Line of Section 2, Township 32 North, Range 1 East, W.M. Thence Easterly along the Center Line of Section 21, to the West Boundary of the J. Condra Donation Land Claim; Thence South along the West Line of the J. Condra Donation Land Claim to the Center of Penn Cove. Thence North- easterly along the Center of Penn Cove to the Center of Saratoga Passage; Thence Northerly along the Center of Saratoga Passage and Skagit Bay to a point where the Center of Skagit Bay and the Channel of Deception Pass meet. Thence Westerly following the Channel of Deception Pass to the North-South Center Line of the Straits of Juan de Fuca. Thence South along the Center Line of the Strait of Juan de Fuca to the North Line of Section 24, Township 32 North, Range 1 West, W.M. projected Westerly; Thence East to the Point of Beginning.



ISLAND COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA BILL

MEETING DATE: 1/16/24

Agenda Item No 2

- CONSENT AGENDA
- REGULAR AGENDA
- PUBLIC HEARING/MTG

Resolution/Ordinance No:

C-22-24

DEPARTMENT:	COMMISSIONERS
STAFF CONTACT:	Jennifer Roll
AGENDA SUBJECT:	Approval of Resolution C-22 -24 Supporting the North Whidbey Pool, Park, and Recreation District Request to Place the Formation of a Metropolitan Park District on an Island County Special Election Ballot.
BACKGROUND/SUMMARY:	WORK SESSION DATE: <i>(If applicable)</i> 4/10/2024
<p>The North Whidbey Pool, Park, and Recreation District met with the Board at Work Session to request support to form a metropolitan park district on the ballot for the August 2024 Primary Election. The City of Oak Harbor supported the formation by passing Resolution 24-14, proposing the joint creation of the Metropolitan Park District (MPD) as provided in RCW 35.61.</p>	
FISCAL IMPACT/FUNDING SOURCE:	N/A
RECOMMENDED ACTION:	<input checked="" type="checkbox"/> Approve/Adopt <input type="checkbox"/> Schedule Public Hearing/Meeting <input type="checkbox"/> Continue Public Hearing/Meeting <input type="checkbox"/> Information/Discussion <input type="checkbox"/> Other <i>(describe)</i> _____
SUGGESTED MOTION:	

[BELOW TO BE COMPLETED BY CLERK OF BOARD]

BOCC ACTION:

- APPROVED
- DENIED
- TABLED/DEFERRED/NO ACTION TAKEN
- CONTINUED TO DATE: ____/____/____ TIME: _____
- OTHER _____

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF SUPPORTING THE
NORTH WHIDBEY POOL, PARK, AND
RECREATION DISTRICT REQUEST TO
PLACE THE FORMATION OF A
METROPOLITAN PARK DISTRICT ON AN
ISLAND COUNTY SPECIAL ELECTION
BALLOT**

RESOLUTION NO. C-22-24

WHEREAS, the North Whidbey Pool, Park, and Recreation District (NWPPRD) was formed by the citizens of the District in 1977; and

WHEREAS, Chapter 35.61 Revised Code of Washington (RCW) allows the formation of Metropolitan Park Districts (MPD) in territory located in portions or all of a city; and

WHEREAS, RCW 35.61.010 provides that "[a] metropolitan park district may be created for the management, control, improvement, maintenance, and the acquisition of parks, parkways, boulevards, and recreational facilities; and

WHEREAS, the John Vanderzicht Memorial Pool and Clover Valley Park provides a benefit to the citizens of Island County; and

WHEREAS, the City of Oak Harbor adopted Resolution 24-14 on April 2, 2024, stating their intent for the operation of the Metropolitan Park District (MPD); and

WHEREAS, the Board of County Commissioners supports presenting the question of formation to the voters; **NOW THEREFORE, BE IT RESOLVED**

Section 1. The Board of County Commissioners hereby requests the Department of Records and Elections call a special election to run in conjunction with the August 2024 Primary Election for the purpose of placing on the ballot the following proposition regarding the formation of a Metropolitan Park District:

Proposition: Island County Ordinance No. C- #- 24 and City of Oak Harbor Resolution 24-14 jointly propose the creation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park, and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District. If approved, this proposition would create a metropolitan park district with all the powers provided in Chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed seventy-five cents per thousand dollars of assessed valuation. The district shall be governed by a five-member board of commissioners who will be elected at large.

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

Resolution No. C-22-24
Matter of Supporting the North Whidbey
Pool, Park, and Recreation District

Section 2. Boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District. The boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District Metropolitan Park District shall encompass the City of Oak Harbor and North Whidbey Fire Protection District No. 2, as fully described in Attachment A, attached hereto and incorporated by reference.

ADOPTED this April 16th, 2024.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY WASHINGTON**

Jill Johnson, Chair

Melanie Bacon, Member

Janet St. Clair, Member

ATTEST:

Jennifer Roll, Clerk of the Board



ISLAND COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA BILL

MEETING DATE: 5/7/24

Agenda Item No 2

CONSENT AGENDA

REGULAR AGENDA

PUBLIC HEARING/MTG

Resolution/Ordinance No:

C-25-24

DEPARTMENT: COMMISSIONERS

STAFF CONTACT: Jennifer Roll

AGENDA SUBJECT:

Approval of Resolution C-25-24 Amending the North Whidbey Pool, Park, and Recreation District request to place the formation of a metropolitan park district on an Island County Special Election Ballot.

BACKGROUND/SUMMARY: WORK SESSION DATE: (If applicable) 4/10/2024

The North Whidbey Pool, Park, and Recreation District met with the Board at Work Session to request support to form a metropolitan park district on the ballot for the August 2024 Primary Election. The City of Oak Harbor supported the formation by passing Resolution 24-14, proposing the joint creation of the Metropolitan Park District (MPD) as provided in RCW 35.61.

On April 16, 2024, the Board approved Resolution C-22-24, supporting North Whidbey Pool, Park, and Recreation District request to place the formation of a metropolitan park district on an Island County Special Election Ballot.

The North Whidbey Pool, Park, and Recreation District has requested the proposition be amended to state,

1. Island County Ordinance No. C 25-24 and City of Oak Harbor Resolution 24-14 ~~jointly propose to create~~ requests the voters to decide whether or not to create the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park, and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District
2. " This proposition would create a metropolitan park district with all the powers provided in Chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed ~~seventy-five~~ twenty-five cents per thousand dollars of assessed valuation.

FISCAL IMPACT/FUNDING SOURCE:

N/A

RECOMMENDED ACTION:

- Approve/Adopt
- Information/Discussion
- Other (describe) _____

[BELOW TO BE COMPLETED BY CLERK OF BOARD]

BOCC ACTION:

- APPROVED
- DENIED
- CONTINUED TO DATE: ____/____/____ TIME: _____
- OTHER _____

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF AMENDING THE
NORTH WHIDBEY POOL, PARK, AND
RECREATION DISTRICT REQUEST TO
PLACE THE FORMATION OF A
METROPOLITAN PARK DISTRICT ON
AN ISLAND COUNTY SPECIAL ELECTION
BALLOT**

RESOLUTION NO. C-25-24

WHEREAS, the Board of County Commissioners adopted C-22-24, supporting North Whidbey Pool, Park, and Recreation District to place the formation of a metropolitan park district on an Island County Special Election ballot on April 14, 2024; and

WHEREAS, the Board of County Commissioner wishes to amend the proposition in Resolution C-22-24, stating the authority to levy a general tax on all property located in the District each year not to exceed twenty-five cents per thousand dollars of assessed valuation

WHEREAS, the Board of County Commissioners supports presenting the question of formation to the voters; ***NOW THEREFORE, BE IT RESOLVED***

Section 1. The Board of County Commissioners hereby requests the Department of Records and Elections call a special election to run in conjunction with the August 2024 Primary Election to place on the ballot the following proposition regarding the formation of a Metropolitan Park District:

Proposition: Island County Resolution No. 25-24 and City of Oak Harbor Resolution 24-14 each proposed to create the North Whidbey Pool, Park and Recreation Metropolitan District. If approved, this proposition would create a new metropolitan park district with the same boundaries as the existing North Whidbey Pool, Park, and Recreation District. The new metropolitan park district would have the powers provided in Chapter 35.61 RCW, including the authority to levy general taxes on property not to exceed ~~seventy-five~~ twenty-five cents per thousand dollars of assessed value, and would be governed by a five-member board of commissioners elected at large.

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

Section 2. Boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District. The boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District Metropolitan Park District shall encompass the City of Oak Harbor and North Whidbey Fire Protection District No. 2, as fully described in Attachment A, attached hereto and incorporated by reference.

ADOPTED this May 7th, 2024.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY WASHINGTON**

Jill Johnson, Chair

Melanie Bacon, Member

Janet St. Clair, Member

ATTEST:

Jennifer Roll, Clerk of the Board

RESOLUTION 24-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAK HARBOR,
WASHINGTON, SUPPORTING THE NORTH WHIDBEY POOL, PARK, AND
RECREATION DISTRICT REQUEST TO PLACE THE FORMATION OF A
METROPOLITAN PARK DISTRICT ON AN ISLAND COUNTY
SPECIAL ELECTION BALLOT

WHEREAS, the North Whidbey Pool, Park, and Recreation District (NWPPRD) was formed by the citizens of the District in 1977; and

WHEREAS, Chapter 35.61 Revised Code of Washington (RCW) allows the formation of Metropolitan Park Districts (MPD) in territory located in portions or all of a city; and

WHEREAS, RCW 35.61.010 provides that "[a] metropolitan park district may be created for the management, control, improvement, maintenance, and the acquisition of parks, parkways, boulevards, and recreational facilities; and

WHEREAS, the Board Chair and Executive Director of the NWPPRD addressed the Oak Harbor City Council on their proposal to establish a Metropolitan Park District (MPD) and, in doing so, establish stable, long-term funding to ensure the continued maintenance and operation of the John Vanderzicht Memorial Pool and Clover Valley Park, as well as the continued development of long-term recreational programs, facilities, and parks for residents of North Whidbey; and

WHEREAS, the City of Oak Harbor lies within the boundary of the proposed MPD; and

WHEREAS, the City of Oak Harbor is dedicated to collaborating with various organizations to ensure the provision of park and recreational programs and facilities for its residents, while being mindful of equitable distribution of financial responsibilities among all stakeholders.

WHEREAS, the City of Oak Harbor supports presenting the question of formation to the voters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Request for Special Election. The City of Oak Harbor, Washington, hereby requests the Island County Council, through the Department of Records and Elections, call a special election to run in conjunction with the August 2024 Primary Election, for the purpose of placing on the ballot the following proposition regarding the formation of a Metropolitan Park District:

Proposition ____: Island County Ordinance No. ____ and City of Oak Harbor Resolution 24-14 jointly propose the creation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District. If approved, this proposition would create a metropolitan park district with all the powers provided in Chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed seventy-five cents per thousand dollars of assessed valuation. The District shall be governed by a five member board of commissioners to be elected at large.

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

Section 2. Boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District. The boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District Metropolitan Park District shall encompass the City of Oak Harbor and North Whidbey Fire Protection District No. 2, as fully described in Attachment A, attached hereto and incorporated by reference.

PASSED BY THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON,
AT A REGULAR MEETING THEREOF, THIS _____ DAY OF _____, 2024.

Veto
Approve

THE CITY OF OAK HARBOR

By: _____

Ronnie Wright, Mayor

Dated: _____

Attest:

Julie Nester, City Clerk

Approved as to Form:

Hillary Evans, City Attorney

ATTACHMENT A

Legal Description for the proposed North Whidbey Pool, Park, and Recreation Metropolitan District, the boundaries of which are coterminous with the North Whidbey Pool, Park, and Recreation District.

Beginning: at the Northwest corner of Section 24, Township 32 North, Range 1 West, W.M., Which is also the shoreline at Whidbey Island and Straits of Juan de Fuca. Thence East along the North Line of Section 24 to the Northwest Corner of the Powers Donation Land Claim; Thence South along the West Line of Powers Donation Land Claim to the Southwest Corner of the Donation Land Claim, which is also the Southwest Corner of Section 19, Township 32 North, Range 1 East, W.M.; Thence Easterly, Northerly, and Easterly along the South Line of the Powers Donation Land Claim and the North Line of the Lans Hale Donation Land Claim to the West Line of the Holbrook Donation Land Claim, which is the Center Line of a County Road known As Zylstra Road; Thence Northerly along the Center Line of Zylstra Road to the South Line of Section 18, Township 32 North, Range 1 East, W.M.; Thence, Easterly along the South Line of Sections 18, 17, and 16, Township 32 North, Range 1 East, W.M. to a point on the South Line of Section 16 and the East Line of the Jacob Smith Donation Land Claim projected Northerly Meet; Thence, South to the Northeast Corner of the Jacob Smith Donation Land Claim; Thence South along the East Line of the Jacob Smith Donation Land Claim to the East West Center Line of Section 2, Township 32 North, Range 1 East, W.M. Thence Easterly along the Center Line of Section 21, to the West Boundary of the J. Condra Donation Land Claim; Thence South along the West Line of the J. Condra Donation Land Claim to the Center of Penn Cove. Thence North- easterly along the Center of Penn Cove to the Center of Saratoga Passage; Thence Northerly along the Center of Saratoga Passage and Skagit Bay to a point where the Center of Skagit Bay and the Channel of Deception Pass meet. Thence Westerly following the Channel of Deception Pass to the North-South Center Line of the Straits of Juan de Fuca. Thence South along the Center Line of the Strait of Juan de Fuca to the North Line of Section 24, Township 32 North, Range 1 West, W.M. projected Westerly; Thence East to the Point of Beginning.

Certification of Levies Report

for 2023/2024

Tax District Type:	ST (State)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
State School					
State School		0000000014	25,666,456,820	1.5818082046	40,599,411.98
State School Part 2		0000000103	25,462,164,794	0.7564532771	19,260,938.00
	Sub-total:		25,666,456,820	2.3382614817	59,860,349.98
State School					
		REG AV:	25,666,456,820	2.3382614817	59,860,349.98
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:					
	ST (State)	REG AV:	25,666,456,820	2.3382614817	59,860,349.98
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	CO (County)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Island County General Fund					
County Current Expense		0000000015	25,669,683,984	0.3724427666	9,560,488.12
Island County General Fund		REG AV:	25,669,683,984	0.3724427666	9,560,488.12
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:		REG AV:	25,669,683,984	0.3724427666	9,560,488.12
CO (County)		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	CNTY RD (County Road)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Island County Roads					
County Roads		0000000021	21,428,612,074	0.4600155052	9,857,493.81
Island County Roads		REG AV:	21,428,612,074	0.4600155052	9,857,493.81
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:		REG AV:	21,428,612,074	0.4600155052	9,857,493.81
CNTY RD (County Road)		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	CI (City)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
City of Langley					
	City of Langley	0000000040	475,484,646	1.0003389258	475,645.80
	City of Langley BOND	0000000106	471,425,737	0.3646161532	171,889.44
	City of Langley BOND TAV		7,765	0.3646161532	2.83
	Sub-total:		475,484,646	1.3649550790	647,538.07
City of Langley					
		REG AV:	475,484,646	1.0003389258	475,645.80
		EXCESS AV:	471,425,737	0.3646161532	171,889.44
		FULL TAV:	7,765	0.3646161532	2.83
		HALF TAV:	0	0.0000000000	0.00
City of Oak Harbor					
	City of Oak Harbor	0000000013	3,257,665,371	2.3114764785	7,530,016.88
	City of Oak Harbor BOND	0000000109	3,240,153,576	0.1808658433	586,033.11
	City of Oak Harbor BOND TAV		9,135	0.1808658433	1.65
	Sub-total:		3,257,665,371	2.4923423218	8,116,051.64
City of Oak Harbor					
		REG AV:	3,257,665,371	2.3114764785	7,530,016.88
		EXCESS AV:	3,240,153,576	0.1808658433	586,033.11
		FULL TAV:	9,135	0.1808658433	1.65
		HALF TAV:	0	0.0000000000	0.00
City: Town of Coupeville					
	City: Town of Coupeville	0000000025	507,921,893	0.8452080249	429,299.66
City: Town of Coupeville					
		REG AV:	507,921,893	0.8452080249	429,299.66
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:					
		REG AV:	4,241,071,910	4.1570234292	8,434,962.34
	CI (City)	EXCESS AV:	3,711,579,313	0.5454819965	757,922.55
		FULL TAV:	16,900	0.5454819965	4.48
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	PO (Port District)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Port of Coupeville					
Port of Coupeville GEN		0000000026	4,007,057,449	0.1100988782	441,172.53
Port of Coupeville IDD		0000000108	4,007,057,449	0.3465703868	1,388,727.45
	Sub-total:		4,007,057,449	0.4566692650	1,829,899.98
Port of Coupeville					
	REG AV:		4,007,057,449	0.1100988782	441,172.53
	EXCESS AV:		0	0.3465703868	1,388,727.45
	FULL TAV:		0	0.0000000000	0.00
	HALF TAV:		0	0.0000000000	0.00
Port of South Whidbey					
Port of S Whidbey GEN		0000000031	7,872,171,268	0.1098760597	864,963.16
Port of South Whidbey					
	REG AV:		7,872,171,268	0.1098760597	864,963.16
	EXCESS AV:		0	0.0000000000	0.00
	FULL TAV:		0	0.0000000000	0.00
	HALF TAV:		0	0.0000000000	0.00
Total for Tax District Type:					
PO (Port District)	REG AV:		11,879,228,717	0.2199749379	1,306,135.69
	EXCESS AV:		0	0.3465703868	1,388,727.45
	FULL TAV:		0	0.0000000000	0.00
	HALF TAV:		0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	PARK (Park)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Park & Recreation North Whidbey					
	P & R N Whidbey GEN	0000000048	6,892,634,704	0.1372100148	945,738.51
Park & Recreation North Whidbey	REG AV:		0	0.0000000000	0.00
	EXCESS AV:		0	0.1372100148	945,738.51
	FULL TAV:		0	0.0000000000	0.00
	HALF TAV:		0	0.0000000000	0.00
Park & Recreation South Whidbey					
	P & R S Whidbey BOND	0000000069	7,804,990,928	0.0150620535	117,559.19
	P & R S Whidbey BOND TAV		4,369,215	0.0150620535	65.81
	P & R S Whidbey BOND3	0000000111	7,804,990,928	0.1466189264	1,144,359.39
	P & R S Whidbey BOND3 TAV		4,369,215	0.1466189264	640.61
	P & R S Whidbey GEN	0000000053	7,872,171,268	0.2061148474	1,622,571.38
	Sub-total:		7,872,171,268	0.3677958273	2,885,196.38
Park & Recreation South Whidbey	REG AV:		0	0.0000000000	0.00
	EXCESS AV:		7,804,990,928	0.3677958273	2,884,489.96
	FULL TAV:		4,369,215	0.1616809799	706.42
	HALF TAV:		0	0.0000000000	0.00
Total for Tax District Type:	REG AV:		0	0.0000000000	0.00
PARK (Park)	EXCESS AV:		7,804,990,928	0.5050058421	3,830,228.47
	FULL TAV:		4,369,215	0.1616809799	706.42
	HALF TAV:		0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	SD (School)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
School 201 Oak Harbor					
School 201 Enrichment		0000000071	6,838,323,939	1.8130855878	12,398,466.58
School 201 Enrichment TAV			352,345	1.8130855878	638.83
School 201 Oak Harbor		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	6,838,323,939	1.8130855878	12,398,466.58
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	352,345	1.8130855878	638.83
School 204 Coupeville					
School 204 CP (TECH)		0000000062	3,979,109,920	0.7545480007	3,002,429.43
School 204 CP (TECH) TAV			1,794,459	0.7545480007	1,354.01
School 204 BOND		0000000061	3,979,109,920	0.1258491067	500,767.43
School 204 BOND TAV			1,794,459	0.1258491067	225.83
School 204 Enrichment		0000000060	3,979,109,920	0.6796387365	2,704,357.24
School 204 Enrichment TAV			897,229	0.6796387365	609.79
	Sub-total:		3,980,904,379	1.5600358439	6,209,743.73
School 204 Coupeville		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	3,979,109,920	1.5600358439	6,207,554.10
		FULL TAV:	1,794,459	0.8803971074	1,579.84
		HALF TAV:	897,229	0.6796387365	609.79
School 205-401 Stanwood-Camano					
School 205-401 Enrichment		0000000037	6,842,967,171	1.2800557232	8,759,379.29
School 205-401 Enrichment TAV			706,414	1.2800557232	904.25
School 205-401 BOND		0000000105	6,842,967,171	0.9591886230	6,563,696.26
School 205-401 BOND TAV			1,412,829	0.9591886230	1,355.17
	Sub-total:		6,844,380,000	2.2392443462	15,325,334.97
School 205-401 Stanwood-Camano		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	6,842,967,171	2.2392443462	15,323,075.55
		FULL TAV:	1,412,829	0.9591886230	1,355.17
		HALF TAV:	706,414	1.2800557232	904.25
School 206 South Whidbey					
School 206 CP		0000000073	7,804,990,928	0.2887184019	2,253,444.51
School 206 CP TAV			4,369,215	0.2887184019	1,261.47
School 206 Enrichment		0000000039	7,804,990,928	0.4492263654	3,506,207.71
School 206 Enrichment TAV			2,184,608	0.4492263654	981.38
	Sub-total:		7,809,360,143	0.7379447673	5,761,895.07
School 206 South Whidbey		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	7,804,990,928	0.7379447673	5,759,652.22
		FULL TAV:	4,369,215	0.2887184019	1,261.47
		HALF TAV:	2,184,608	0.4492263654	981.38
Total for Tax District Type:		REG AV:	0	0.0000000000	0.00
SD (School)		EXCESS AV:	25,465,391,958	6.3503105452	39,688,748.45
		FULL TAV:	7,576,503	2.1283041323	4,196.48
		HALF TAV:	4,140,596	4.2220064129	3,134.25

Certification of Levies Report

for 2023/2024

Tax District Type:	CE (Cemetery)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Cemetery #1 North Whidbey					
Cemetery #1		0000000016	6,892,634,704	0.0040577009	27,968.25
Cemetery #1 North Whidbey		REG AV:	6,892,634,704	0.0040577009	27,968.25
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Cemetery #2 Central Whidbey					
Cemetery #2		0000000027	4,007,057,449	0.0095718917	38,355.12
Cemetery #2 Central Whidbey		REG AV:	4,007,057,449	0.0095718917	38,355.12
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:		REG AV:	10,899,692,153	0.0136295926	66,323.37
CE (Cemetery)		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	FI (Fire District)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Fire & Rescue Dist #1 Camano					
Fire & Rescue Dist #1 Camano GEN (EMS)		0000000038	6,897,820,563	0.3681963407	2,539,752.29
Fire & Rescue Dist #1 Camano GEN		0000000036	6,677,874,372	1.2500000000	8,347,342.97
Fire & Rescue Dist #1 Camano BOND		0000000041	6,623,020,980	0.1532035747	1,014,670.49
Fire & Rescue Dist #1 Camano BOND TAV			1,412,829	0.1532035747	216.45
		Sub-total:	6,897,820,563	1.7713999154	11,901,982.20
Fire & Rescue Dist #1 Camano					
		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	6,623,020,980	1.7713999154	11,901,765.75
		FULL TAV:	1,412,829	0.1532035747	216.45
		HALF TAV:	0	0.0000000000	0.00
Fire & Rescue Dist #2 North Whidbey					
Fire & Rescue Dist #2 N Whidbey GEN		0000000023	4,060,401,885	0.5515998868	2,239,717.22
Fire & Rescue Dist #2 North Whidbey					
		REG AV:	4,060,401,885	0.5515998868	2,239,717.22
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Fire & Rescue Dist #3 South Whidbey					
Fire & Rescue Dist #3 S Whidbey GEN		0000000035	7,534,394,770	0.8139398714	6,132,544.31
Fire & Rescue Dist #3 South Whidbey					
		REG AV:	7,534,394,770	0.8139398714	6,132,544.31
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Fire & Rescue Dist #5 Central Whidbey					
Fire & Rescue Dist #5 C Whidbey GEN		0000000030	3,262,921,536	1.1800000000	3,850,247.41
Fire & Rescue Dist #5 C Whidbey BOND		0000000104	3,233,931,894	0.1369874260	443,008.01
Fire & Rescue Dist #5 C Whidbey BOND TA			438,390	0.1369874260	60.05
		Sub-total:	3,262,921,536	1.3169874260	4,293,315.47
Fire & Rescue Dist #5 Central Whidbey					
		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	3,233,931,894	1.3169874260	4,293,255.42
		FULL TAV:	438,390	0.1369874260	60.05
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:					
FI (Fire District)		REG AV:	11,594,796,655	1.3655397582	8,372,261.53
		EXCESS AV:	9,856,952,874	3.0883873414	16,195,021.17
		FULL TAV:	1,851,219	0.2901910007	276.50
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	LI (Library)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Library Sno-Isle Regional					
	Library Sno-Isle BOND (Camano Island)	0000000101	6,842,967,171	0.0396325772	271,204.42
	Library Sno-Isle BOND (Camano Island) TAV		8,281,192	0.0396325772	328.20
	Library Sno-Isle GEN	0000000022	25,669,683,984	0.3243030872	8,324,757.76
	Library Sno-Isle BOND (Cap Fac Imp Area)	0000000096	3,979,109,920	0.0546529987	217,470.29
	Library Sno-Isle BOND (Cap Fac Imp Area)		4,369,215	0.0546529987	238.79
	Sub-total:		25,669,683,984	0.4185886631	8,813,999.46
Library Sno-Isle Regional					
		REG AV:	0	0.0000000000	0.00
		EXCESS AV:	6,842,967,171	0.4185886631	8,813,432.47
		FULL TAV:	12,650,407	0.0942855759	566.99
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:					
		REG AV:	0	0.0000000000	0.00
	LI (Library)	EXCESS AV:	6,842,967,171	0.4185886631	8,813,432.47
		FULL TAV:	12,650,407	0.0942855759	566.99
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	EMS (Emergency Medical Services)			
	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Whidbey Health EMS Island County				
Hospital GEN (EMS)	0000000047	18,771,863,421	0.3312302018	6,217,808.11
Whidbey Health EMS Island County	REG AV:	0	0.0000000000	0.00
	EXCESS AV:	0	0.3312302018	6,217,808.11
	FULL TAV:	0	0.0000000000	0.00
	HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:	REG AV:	0	0.0000000000	0.00
EMS (Emergency Medical Se	EXCESS AV:	0	0.3312302018	6,217,808.11
	FULL TAV:	0	0.0000000000	0.00
	HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report for 2023/2024

Tax District Type:	HOSP (Hospital District)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Whidbey Health					
Hospital BOND		0000000018	18,622,424,787	0.1899917765	3,538,107.57
Hospital BOND TAV			6,868,364	0.1899917765	1,304.93
Hospital GEN		0000000017	18,771,863,421	0.3914191658	7,347,667.12
	Sub-total:		18,771,863,421	0.5814109423	10,887,079.62
Whidbey Health		REG AV:	18,771,863,421	0.3914191658	7,347,667.12
		EXCESS AV:	18,622,424,787	0.1899917765	3,538,107.57
		FULL TAV:	6,868,364	0.1899917765	1,304.93
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:		REG AV:	18,771,863,421	0.3914191658	7,347,667.12
HOSP (Hospital District)		EXCESS AV:	18,622,424,787	0.1899917765	3,538,107.57
		FULL TAV:	6,868,364	0.1899917765	1,304.93
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report

for 2023/2024

Tax District Type:	CNSV (Conservation)	Fund #	Total Taxable Value	Levy Rate	Total Taxes
Island County Conservation Futures					
Conservation Futures		0000000019	25,669,683,984	0.0320173310	821,874.77
Island County Conservation Futures					
		REG AV:	25,669,683,984	0.0320173310	821,874.77
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00
Total for Tax District Type:					
CNSV (Conservation)		REG AV:	25,669,683,984	0.0320173310	821,874.77
		EXCESS AV:	0	0.0000000000	0.00
		FULL TAV:	0	0.0000000000	0.00
		HALF TAV:	0	0.0000000000	0.00

Certification of Levies Report
for 2023/2024

Grand Totals

REG AV:	155,821,089,718	105,627,556.73
EXCESS AV:	72,304,307,031	80,429,996.24
FULL TAV:	33,332,608	7,055.80
HALF TAV:	4,140,596	3,134.25

City of Oak Harbor
City Council Agenda Bill

Bill No. 9.a.
Date: May 21, 2024
Subject: Appointment: Community
Police Advisory Board, Position
5 - Martin Malloy

FROM: Ronnie Wright, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

Approve the mayoral appointment of Martin Malloy to Community Police Advisory Board Position 5 for the term May 21, 2024, through December 31, 2025.

BACKGROUND / SUMMARY INFORMATION

Three vacancies currently exist on the Community Police Advisory Board. This appointment will fill Position 5 through December 31, 2025, consistent with the uniform policies for advisory boards and the CAB bylaws.

LEGAL AUTHORITY

Chapter 2.50, OHMC

FISCAL IMPACT

n/a

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

n/a

ATTACHMENTS

1. [Martin Malloy Application](#)

From: noreply@civicplus.com
To: [Julie Nester](#); [Macalle Finkle](#); [Christopher Sublet](#); [Meg Massey](#); [Tony Slowik](#)
Subject: Online Form Submission #38536 for Advisory Board Application
Date: Thursday, April 4, 2024 8:48:16 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Advisory Board Application

Thank you for your interest in serving on a City advisory board. Submitted applications will be kept on file for six (6) months and reviewed as vacancies occur.

Please be advised that the application and all communications with the City of Oak Harbor are public records, and the information may be subject to disclosure upon request.

First Name	Martin
Last Name	Malloy
E-mail Address	[REDACTED]
Primary Phone Number	[REDACTED]
Address	1866 Boon Road
City, State and Zip	Oak Harbor, WA 98277
Resident in Oak Harbor City limits?	No
Are you a business owner?	Yes
Are you a marina tenant	Yes
Which Board, Commission or Committee would you like to serve on?	Marina Advisory Commission, Police Community Advisory Board
Are you related to anyone employed by the City (including as a contractor or vendor) or serving on City Council or another	No

board/commission/committee?

If yes, please explain: *Field not completed.*

Current / Former Occupation & Work Experience US Navy Retired

Resume *Field not completed.*

Education / Special Qualifications / Interests / Activities I have a civil engineering degree. Associates in Electronic Design Technology

Community Involvement Past President of the Elks Lodge, Past Police Community Advisory Board Chairman, Past Citizen Patrol Captain for OHPD

Other General Comments *Field not completed.*

Email not displaying correctly? [View it in your browser.](#)

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

Bill No. 10.a.
Date: May 21, 2024
Subject: Transportation Benefit District
Annual Report

FROM: David Goldman, Deputy City Administrator; Presented by Chas Webster, Finance Manager and Alex Warner, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Ronnie Wright, Mayor
- Sabrina Combs, Interim City Administrator
- David Goldman, Deputy City Administrator
- Hillary J. Evans, City Attorney, as to form

RECOMMENDED ACTION

This is an informational item only.

BACKGROUND / SUMMARY INFORMATION

In May 2018, City Council adopted Ordinance No. 1835 which created the Oak Harbor Transportation Benefit District (OHTBD) Number One. City Council assumed the duties of the OHTBD via Ordinance Number 1865 (Attachment A). This ordinance requires that an annual report be issued to the public and to newspapers of record in the City.

On July 24, 2019, City Council passed Resolution 19-16, calling for an initiative on the November 2019 Ballot asking the citizens to adopt a 0.2% sales tax (Taxable Retail Sales only) for an initial period of 10 years to fund local road improvements to preserve and maintain the City's transportation infrastructure.

This ballot measure was approved by the voters in the November 2019 General Election. Following the example of other comparable Washington Cities, we will publish the notice to the newspapers in the form of Attachment B and we will publish the 2023 Annual Report in the form of Attachment C.

LEGAL AUTHORITY

Oak Harbor Ordinance 1865 and RCW 36.73.160(2)

FISCAL IMPACT

No Fiscal Impact

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

ATTACHMENTS

1. [Attachment A - Ordinance 1865](#)
2. [Attachment B - Official Notice to the Newspaper](#)
3. [Attachment C - 2023 TBD Annual Report](#)

ORDINANCE NO. 1865

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 11.34 ENTITLED "OAK HARBOR TRANSPORTATION BENEFIT DISTRICT NO. 1"

WHEREAS, the City Council of the City of Oak Harbor adopted Ordinance No. 1835 on May 15, 2018, creating the Oak Harbor Transportation Benefit District No. 1 (OHTBD) with the same boundaries as the City limits;

WHEREAS, the OHTBD No. 1 does not have any assets, funding, indebtedness, committed projects or contracts; and

WHEREAS, the 2015 Washington Legislature adopted Second Engrossed Substitute Senate Bill ("2ESSB") 5987, codified as Chapter 36.74 RCW, the majority of which became effective July 15, 2015; and

WHEREAS, RCW 36.74.010 authorizes any city in which a transportation benefit district ("TBD") has been established pursuant to Chapter 36.73 RCW with boundaries that coincide with the boundaries of the city to assume the rights, powers, functions, and obligations of the TBD by adoption of an ordinance or resolution of the city legislative authority; and

WHEREAS, RCW 36.74.020(2) requires any city wishing to assume the rights, powers, functions, and obligations of the TBD to set a public hearing by ordinance or resolution at which all interested parties may appear and be heard and at which the city considers the proposed assumption of rights, powers, functions, and obligations of the TBD; and

WHEREAS, on February 5, 2019, the Oak Harbor City Council adopted Resolution 19-06, which declared the City Council's intention to consider the assumption of the rights, powers, functions, and obligations of the Oak Harbor TBD No. 1, and set a public hearing for March 19, 2019; and

WHEREAS, the Resolution of Intention (Resolution 19-06), was published two times during the two weeks preceding the scheduled hearing on March 19, 2019, in newspapers of daily general circulation printed or published in the city in which the transportation benefit district is located; and

WHEREAS, on March 19, 2019, the City Council held a public hearing at which all interested parties were invited to appear and be heard at the City of Oak Harbor Council Chambers located at 865 SE Barrington Drive, Oak Harbor, WA 98277; and

Ordinance No. 1865: TBD Assumption Ordinance, amending
OHMC Chapter 11.34 entitled "Oak Harbor Transportation
Benefit District No. 1"
Page 1 of 5

WHEREAS, following the conclusion of the public hearing, the City Council determined that the public interest and welfare would be satisfied by the City's assumption of the rights, powers, functions, and Obligations of the OHTBD No. 1, because such assumption would provide for more efficient administration of transportation maintenance and improvement funds previously authorized to be collected and expended by the OHTBD No. 1;

NOW, THEREFORE,

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

Section One. Oak Harbor Municipal Code Chapter 11.34 entitled "Oak Harbor Transportation Benefit District No. 1", last amended by Ordinance No. 1835 (2018), is hereby amended to read as follows:

**OHMC 11.34
OAK HARBOR TRANSPORTATION BENEFIT DISTRICT NO. 1**

Sections:

- 11.34.010 Formation of a transportation benefit district.
- 11.34.020 Establishment of the Oak Harbor transportation benefit district – General authority.
- 11.34.025 Assumption of OHTBD No. 1.
- 11.34.030 Powers and operations.
- 11.34.040 Governing body.
- 11.34.050 Transportation improvements funded.
- 11.34.060 Annual report to public.

11.34.010 Formation of a transportation benefit district. The city, pursuant to RCW [35.21.225](#) and Chapter [36.73](#) RCW, hereby establishes and creates a TBD to be known and referred to as Oak Harbor Transportation Benefit District No. 1 (“OHTBD No. 1”).

11.34.020 Establishment of the Oak Harbor transportation benefit district – General authority. There is hereby created OHTBD No. 1 with geographical boundaries comprised of the corporate limits of the city, as those boundaries may be adjusted in the future. OHTBD No. 1 shall be a quasi-municipal corporation and an independent taxing “authority” within the meaning of Article VII, Section 1 of the Washington State Constitution, and a “taxing district” within the meaning of Article VII, Section 2 of the Washington State Constitution. OHTBD No. 1 shall constitute a body corporate and possess all the usual powers of a corporation for public purposes as well as all powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to

acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the city of Oak Harbor shall apply to the district.

11.34.025 Assumption of OHTBD No. 1. From and after the effective date of this ordinance, the City of Oak Harbor (City) assumes all the rights, powers, immunities, functions, and obligations of the Oak Harbor Transportation Benefit District No. 1 previously established in this chapter, and the City is hereby vested with each and every right, power, immunity, function, and obligation granted to or possessed by the Oak Harbor Transportation Benefit District No. 1 under chapter 36.73 RCW, this Chapter, and/or any other applicable law as of the effective date of this ordinance. The rights, powers, functions and obligations previously exercised and/or performed by the governing body of the Oak Harbor Transportation Benefit District pursuant to Section 11.34.030 of this chapter are hereby assumed by and transferred to the Oak Harbor City Council.

11.34.030 Powers and operations.

- (1) The city council shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter [36.73](#) RCW, including, without limitation, the power to request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW [82.14.0455](#), or a vehicle license fee in excess of \$20.00 up to \$100.00 as allowed by RCW [82.80.140](#). The city may impose an ad valorem tax pursuant to RCW [36.73.060](#), issue general obligation and/or revenue bonds and form a local improvement district and impose assessments therefor, take those actions allowed, and subject to the limitations of, RCW [36.73.0810](#), contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the city and accept and use gifts and grants.
- (2) Consistent with RCW [36.73.020](#)(4), the secretary/treasurer shall be the city finance director. As such, the finance director shall establish those funds and accounts on behalf of the city council as required and shall disburse funds and pay claims as approved by the city council and prepare and maintain such accounts as are appropriate and/or required by state or federal law.

11.34.040 Governing body.

- (1) The Oak Harbor city council shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this chapter.
- (2) To carry out the purposes of this chapter, and subject to the provisions of RCW [36.73.065](#), the city is authorized to impose the following taxes, fees, charges, and tolls:

- (a) A sales and use tax in accordance with RCW [82.14.0455](#);
 - (b) A vehicle license fee in accordance with RCW [82.80.140](#);
 - (c) A fee or charge on the construction or reconstruction of commercial buildings, industrial buildings, or on any other commercial or industrial building or building space or appurtenance, or on the development, subdivision, classification, or reclassification of land for commercial purposes, only if done in accordance with Chapter [39.92](#) RCW;
 - (d) Vehicle tolls on state routes, city streets, or county roads, within the boundaries of the district, in accordance with RCW [36.73.040](#); and
 - (e) An ad valorem property tax as provided in RCW [36.73.060](#).
- (3) The city may authorize and issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW [36.73.070](#).
 - (4) The city may form a local improvement district and impose assessments therefor and take those actions allowed, and subject to the limitations of RCW [36.73.0810](#).
 - (5) As required by RCW [36.73.160](#)(1), as the same may be amended from time to time, the city shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan for funding and implementing the projects.

11.34.050 Transportation improvements funded. The funds generated by exercise of the powers granted in Section 3.70.040 and/or Chapter 36. 73 RCW shall be used for the transportation projects described in this chapter as those found in the city’s six-year Capital Improvement Plan (2019-2024, or as hereafter amended) and 2018 Streetsaver Pavement Management System Plan and/or allowed by state law. The projects may be amended in accordance with the material change policy described in OHMC 11.34.040(5) and in accordance with the notice, hearing and other procedures described in Chapter [36.73](#) RCW, including RCW [36.73.050](#)(2)(b), as the same may be amended from time to time.

11.34.060 Annual report to public. As required by RCW [36.73.160](#)(2), as the same may be amended from time to time, the city council shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the city.

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

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

PASSED by the City Council this 19th day of March, 2019.

THE CITY OF OAK HARBOR

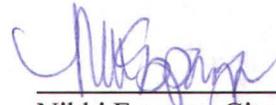
By 
Robert Severns, Mayor

Dated: March 21, 2019

Attest:


Carla Brown, City Clerk

Approved as to Form:


Nikki Esparza, City Attorney

Published: March 21, 2019

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Ordinance No. 1865: TBD Assumption Ordinance, amending
OHMC Chapter 11.34 entitled "Oak Harbor Transportation
Benefit District No. 1"
Page 5 of 5



**OAK HARBOR TRANSPORTATION BENEFIT
DISTRICT #1
OFFICIAL NOTICE OF 2023 ANNUAL REPORT**

NOTICE IS HEREBY GIVEN that the City Council is issuing the Oak Harbor Transportation Benefit District 2023 Annual Report to the City of Oak Harbor residents.

The Oak Harbor Transportation Benefit District (OHTBD) was created in May 2018. In November 2019, the citizens of Oak Harbor approved a ballot measure authorizing the OHTBD to collect two tenths of one percent sales tax for a period of 10 years. Revenues from this tax are to be used to fund local road improvements to preserve and maintain the City’s transportation infrastructure.

The OHTBD is governed by the City of Oak Harbor Council. The OHTBD began receiving sales tax receipts in April 2020.

2023 Report Summary:

Beginning Balance at 01/01/2023:	\$ 1,492,528.38
2023 Revenues Collected:	\$ 1,212,731.61
2023 Expenditures:	<u>\$ 1,145,349.57</u>
Ending Balance at 12/31/2023:	<u>\$ 1,559,910.42</u>

CITY OF OAK HARBOR

David Goldman, Finance Director

Transportation Benefit District (TBD) 2023 Annual Report



In May 2018, City Council adopted Ordinance No. 1835 which created the Oak Harbor Transportation Benefit District (OHTBD) Number One. City Council assumed the duties of the OHTBD via Ordinance Number 1865.

On July 24, 2019, City Council passed Resolution 19-16, calling for an initiative on the November 2019 Ballot asking the citizens to adopt a 0.2% sales tax (Taxable Retail Sales only) to fund local road improvements to preserve and maintain the City's transportation infrastructure. This ballot measure was approved by the voters in the November 2019 General Election.



On April 1, 2020, the City of Oak Harbor's local sales tax rate increased from 8.7% to 8.9% for a period of 10 years. The revenue from the 0.2% sales tax increase is estimated to generate approximately \$987,000 per year over a 10-year period towards TBD designated projects with 5 years remaining. Due to its success, Staff will recommend Council extend the program beyond the initial 10-year period. Note the unrelated Island County sales tax increase of one-tenth of one percent effective July 1, 2022, to 9.0%, is used for housing and related services.

Funding from the Oak Harbor Transportation Benefit District (TBD) Funds Provides

Improvements of "local" streets within the City limits. Other sources of funding are available to improve major and minor arterials and collectors, but local streets do not currently have a funding source.

There are approximately 148 lane miles of streets in the city limits, 103 lane miles are local streets. The Street Saver Management Plan analyzed the existing conditions of Oak Harbor's roadways and generated a list of deficient roads and appropriate levels of preservation (chip seal, asphalt overlay, and reconstruction).

To review a list of projects and see potential impacts to neighborhood streets, visit www.oakharbor.org/tbd.

TBD Oversight

The Oak Harbor City Council oversees the Oak Harbor Transportation Benefit District.

TBD Business is conducted with regular City Council business at City Council meetings held on the first and third Tuesday of each month at 6:00 p.m. Meetings can be viewed via the City's Youtube page at www.youtube.com/CityofOakHarbor.

The 2023 City Council

Mayor Robert Severns

Councilmembers

- Mayor Pro-Tempore Tara Hizon
- Councilmember Beth Munns
- Councilmember Eric Marshall
- Councilmember Dan Evans
- Councilmember Shane Hoffmire
- Councilmember Jim Woessner
- Councilmember Bryan Stucky

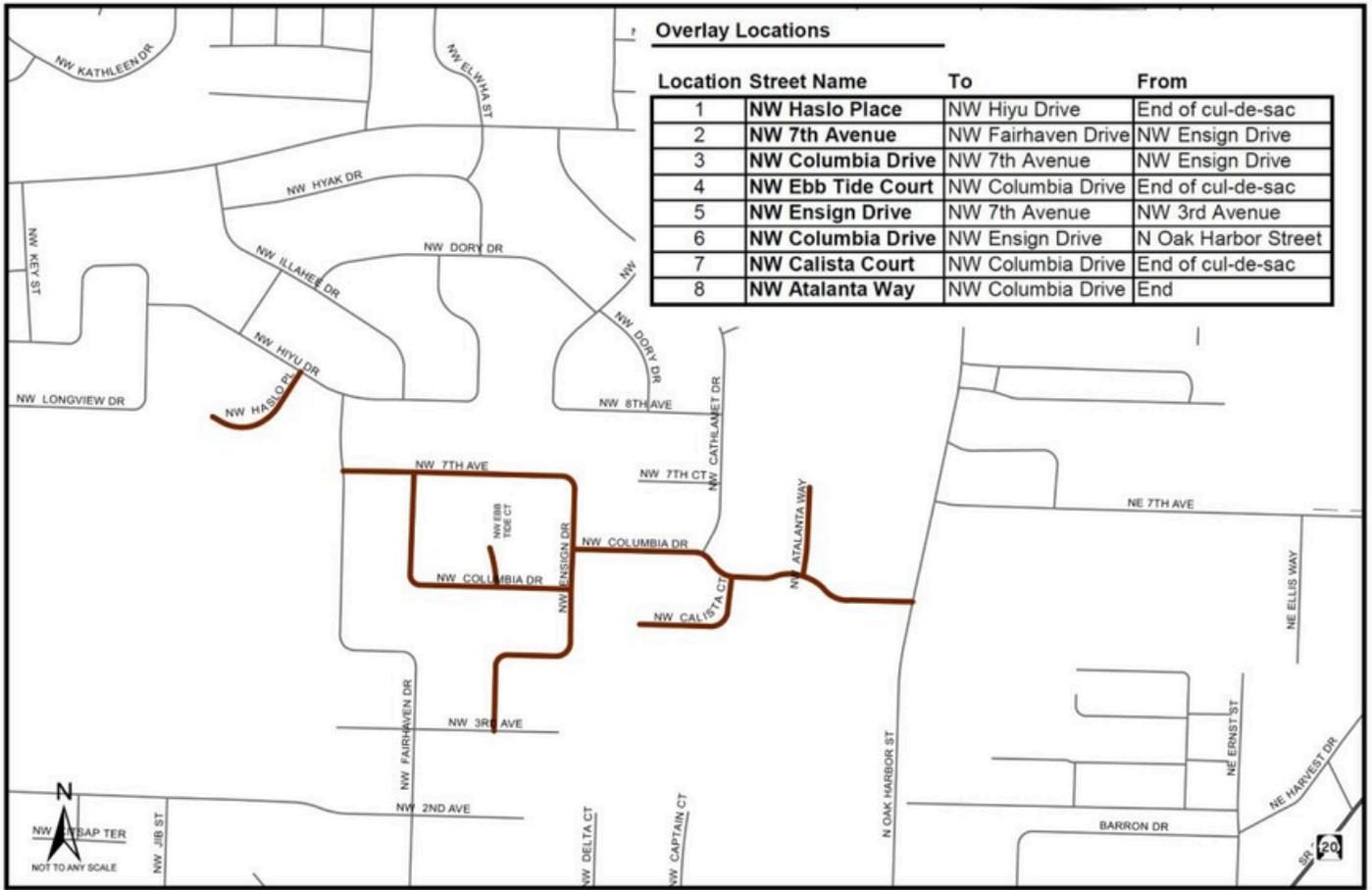
Questions or Comments

Please contact the City of Oak Harbor by phone at (360) 279-4500 or email at info@oakharbor.org.

Financial Summary

Beginning Balance at 01/01/2023	\$ 1,492,528.38
2023 Revenues Collected	\$ 1,212,731.61
2023 Expenditures	<u>\$ 1,145,349.57</u>
Ending Balance at 12/31/2023	\$ 1,559,910.42

2023 TBD Overlay Locations



2023 PAVEMENT PRESERVATION PROJECT

TBD OVERLAY



2023 TBD Overlay and Chip Seal Projects

The 2023 TBD Rehabilitation Project included asphalt overlaying of the streets listed below. This work involved paving approximately 2.3 lane miles of residential streets with 2,493 tons of asphalt in the NW section of the city.

Total Project Cost: \$940,946.05

Street Overlay Locations

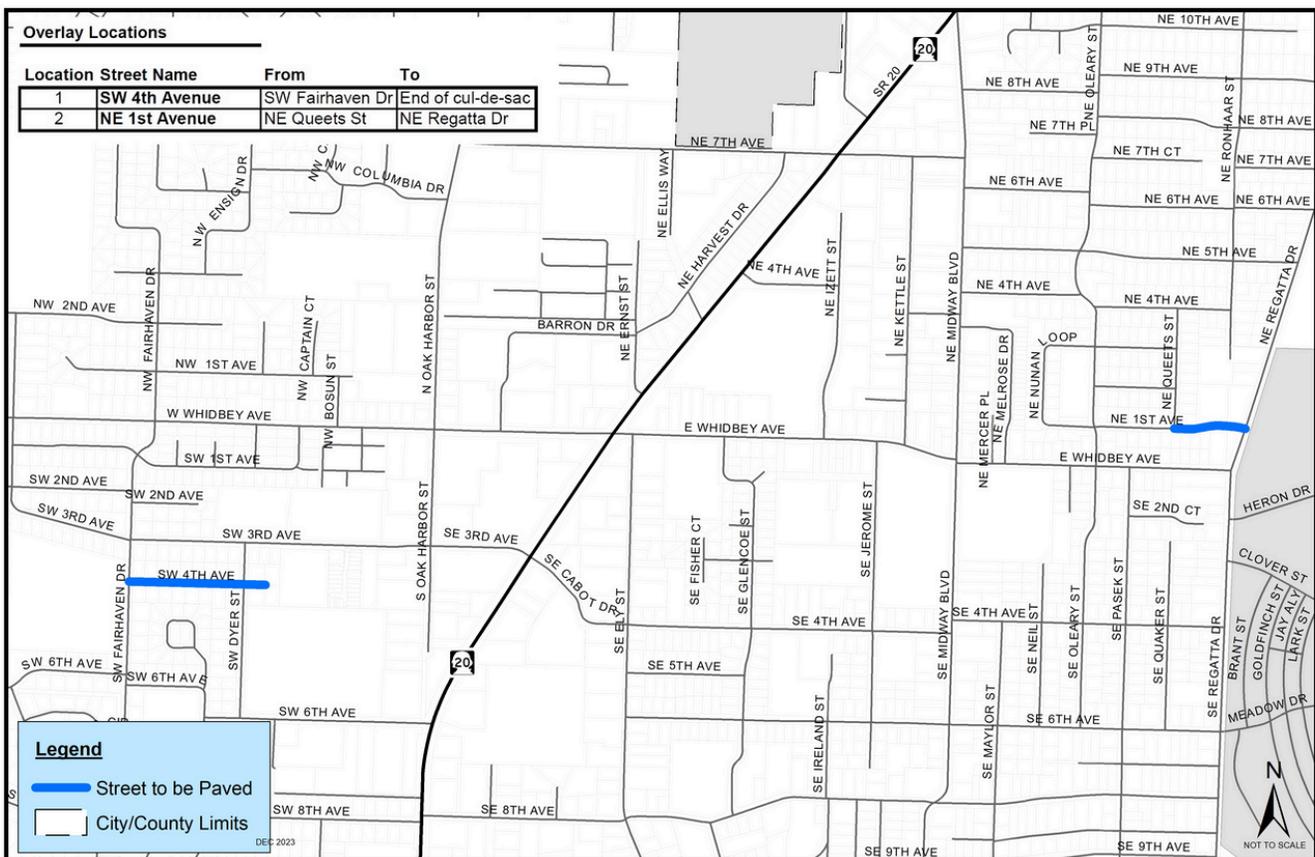
- NW Haslo Place
- NW 7th Avenue
- NW Columbia Drive
- NW Ebb Tide Court
- NW Ensign Drive
- NW Columbia Drive
- NW Calista Court
- NW Atalanta Way



Upcoming 2024 TBD Projects

As part of the 2024 Waterman Replacement Project, SW 4th Ave and a portion of NE 1st Ave are the only streets that will be paved using TBD funds this year.

There will be no chip sealing this year. Island County, who the city partners with for this work, is skipping their chip sealing project for 2024.



2024 PAVEMENT PRESERVATION PROJECT

TBD Overlay

