

City of Oak Harbor
City Council Agenda Bill

Bill No. 7. a.
Date: September 18, 2018
Subject: Resolution 18-22 Authorizing
Reimbursement from the General
Fund to the Clean Water Facility

FROM: Patricia Soule, Finance Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⊙ Bob Severns, Mayor
- ⊙ Blaine Oborn, City Administrator
- ⊙ Patricia Soule, Finance Director
- ⊙ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Approve Resolution 18-22 to reimburse The Wastewater Project Fund from the from the General Fund in the amount of \$220,689.26.

BACKGROUND / SUMMARY INFORMATION

Resolution 14-43 was signed on January 6, 2015, authorizing Hoffman Construction to maintain and store equipment and materials at the Staysail RV Park to allow cost savings to the project. The City agreed to compensate the general fund for lost revenue due to the closure of the Staysail RV Park in an amount equal to the pro-rated value of the net loss in revenue as compared to the last three years.

The construction was delayed and Resolution 15-22 was signed on July 7, 2015 amending Resolution 14-43 to authorize closure of Staysail RV Park at the beginning of the deep excavation of the Clean Water Facility. On September 8, 2015 the north section of the Staysail RV Park was closed but the southwest portion remained open and continued to generate revenue that was posted to the General Fund. On July 7, 2015 the City passed Resolution 15-24 that executed and conveyed a temporary access lease agreement between the General Fund and the Wastewater Project Fund. The agreement was for \$132,000 per year to be paid to the General Fund for consideration of lost revenues due to the construction of the Clean Water Facility.

The Staysail RV Park stayed open until October 2017 and generated \$286,689.26 between July 2015 and October 2017. The Wastewater Project Fund lease total for July 2015 - July 2018 per contract was \$396,000, and they paid \$330,000 of that.

The difference between what was received by the General Fund for that period of \$616,689.26 and the lease value of \$396,000 is \$220,689.26.

Based on the language in Resolution 15-24 the General Fund owes the Wastewater Project Fund \$220,689.26

LEGAL AUTHORITY

The lease terms dictate the repayment of the excess revenue collection by the General Fund

FISCAL IMPACT

\$220,689.26 will be transferred out of the General Fund and into the Wastewater Project Fund.

This will decrease the General Fund balance and increase the Wastewater Project Fund balance.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

January 6, 2015 Resolution 14-43; July 7, 2015 Resolution 15-22; and July 7, 2015 Resolution 15-24

ATTACHMENTS

1. [Resolution 15-24](#)
2. [Resolution 15-22](#)
3. [Resolution 14-43](#)
4. [Recap of Revenues for Staysail RV Park](#)
5. [Resolution 18-22](#)

RESOLUTION NO. 15-24

A RESOLUTION RELATING TO CITY-OWNED PROPERTY; AUTHORIZING THE EXECUTION AND CONVEYANCE OF A TEMPORARY ACCESS LEASE AGREEMENT MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" (THE "TEMPORARY ACCESS LEASE PREMISES"), ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

WHEREAS, this temporary access lease agreement granted by and between the City of Oak Harbor General Fund #001 (the "Grantor"), and the City of Oak Harbor Wastewater Fund #402 (the "Grantee"), both of whose mailing address is 865 SE Barrington Drive, Oak Harbor, WA 98277, and

WHEREAS, that Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to the Grantee, its successors, contractors, agents, and assigns, a Temporary Access Lease, more particularly described in Exhibit "A" (the "Temporary Access Lease Premises"), attached hereto and incorporated herein by reference, and

WHEREAS, the Grantee will give to the Grantor, in fair consideration of the granting of a temporary access lease, an annual payment in the amount of \$132,000, representing the forgone revenue to have been earned by the General Fund #001 as calculated by the actual receipt of campground receipt fees received from the temporary lease premises during calendar year 2014, and

WHEREAS, the temporary lease agreement shall be used by the Grantee for the purpose of access to and construction of public utility improvements. This temporary lease agreement shall expire three years from the date of execution or upon completion of the public utility construction, whichever occurs first.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Oak Harbor that:

Section 1. A temporary access lease agreement is hereby authorized between the Grantor and Grantee for a period of three years from the date of execution or upon completion of the public utility construction, whichever comes first.

Section 2. In consideration for the granting of the temporary lease agreement, the Grantee will pay the Grantor the annual rate amount of \$132,000 per year. Annual rate amount shall be prorated should lease term expire prior to the end of any one year period.

Section 3. This resolution shall become effective upon its passage and approval.

PASSED and approved by the City Council this 7th day of July, 2015.

THE CITY OF OAK HARBOR


SCOTT DUDLEY, MAYOR

ATTEST:



Anna Thompson, City Clerk

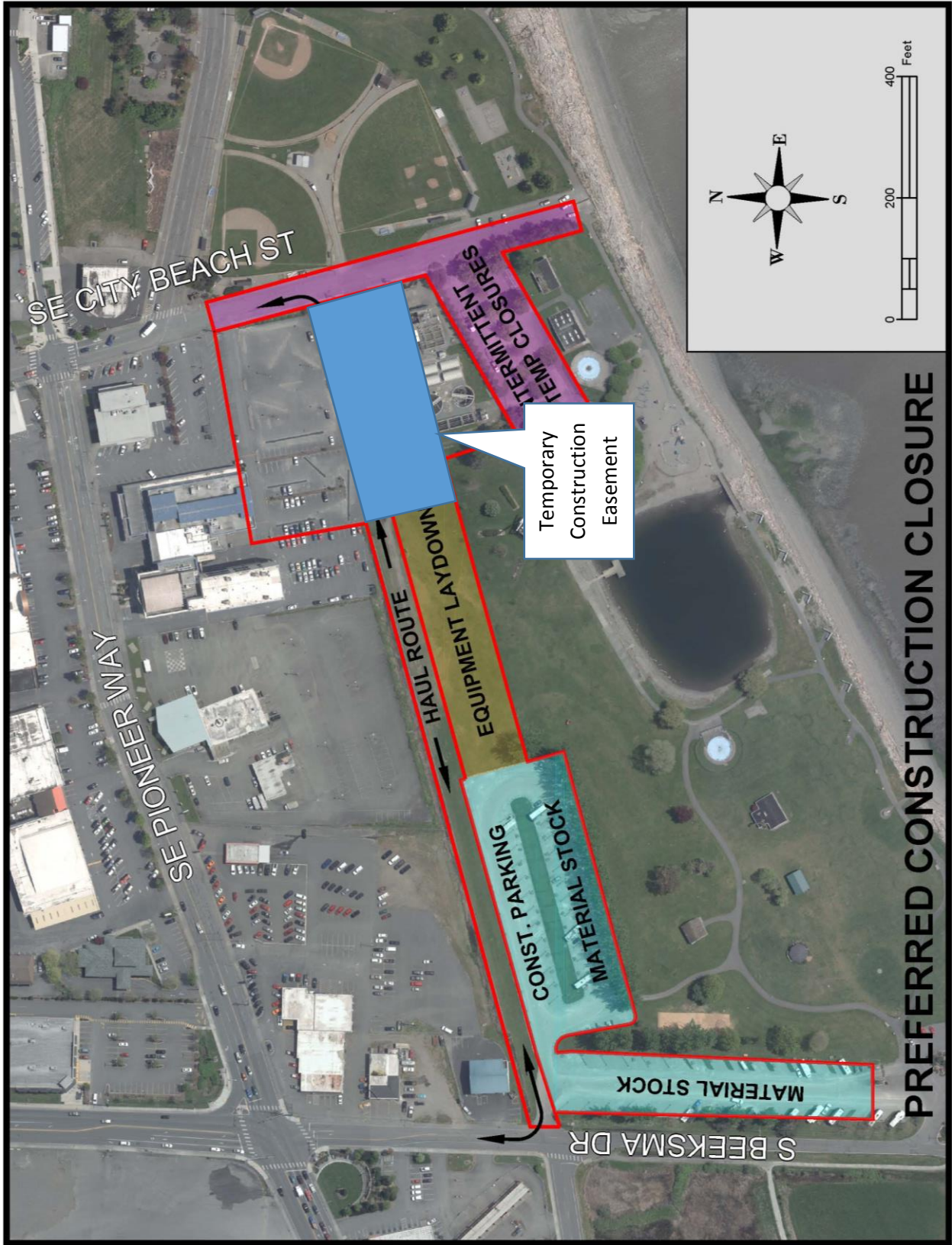
APPROVED AS TO FORM:



Nikki Esparza, City Attorney

Introduction:
Adopted:
Published:

EXHIBIT "A"



PREFERRED CONSTRUCTION CLOSURE

Exhibit A

RESOLUTION NO. 15-22

A RESOLUTION AMENDING RESOLUTION NO. 14-43 TO DELAY THE CLOSING DATE OF THE STAYSAIL RV PARK FROM FEBRUARY 1, 2015 TO THE START OF DEEP EXCAVATION WORK ON THE TREATMENT PLANT

WHEREAS, Resolution No. 14-43 was adopted on January 6, 2015; and

WHEREAS, Resolution No. 14-43 called for the closure of the Staysail RV Park on February 1, 2015; and

WHEREAS, the construction schedule for the new treatment facility has been delayed, allowing the Staysail RV Park to remain open; and

WHEREAS, there is no need for Staysail RV Park to close until such time as deep excavation begins;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor that:

1. Section 2 of Resolution No. 14-43 is hereby amended as follows:
“The City shall close the Staysail RV Park during construction of the Waste Water Treatment Facility. The closure shall begin at such time when the deep excavation begins.”
2. All other provisions remain in full force and effect.

PASSED by the City Council and approved by its Mayor this 7th day of July, 2015.

CITY OF OAK HARBOR


SCOTT DUDLEY, MAYOR

Attest:

Approved as to form:


Anna Thompson, City Clerk


Nikki Esparza, City Attorney

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CITY OF OAK HARBOR
RESOLUTION NO. 14-43

**A RESOLUTION OF THE OAK HARBOR CITY COUNCIL
DEFINING THE CONSTRUCTION WORK LOCATION FOR THE
WASTE WATER TREATMENT PLANT
AS PRESENTED THROUGH THIS RESOLUTION**

WHEREAS, the 2008 City of Oak Harbor Comprehensive Sewer Plan identifies the need for a new wastewater treatment facility to meet future growth and to replace aging and at-risk infrastructure; and

WHEREAS, recognizing that the City of Oak Harbor is connected to the pristine waters of Puget Sound, specifically Oak Harbor Bay and Crescent Harbor Bay, the City's goal is to obtain the highest level of water quality practical while recognizing the limitations of the rate payers of the City to fund the improvements; and

WHEREAS, National Pollution Discharge Elimination System Waste Discharge Permit No. WA0020567 from the Washington State Department of Ecology has directed the City of Oak Harbor to increase wastewater treatment capacity by December 31, 2017; and

WHEREAS, the City of Oak Harbor Capital Improvement Plan of 2015-2020 specifically lists the Wastewater Treatment Plant Facilities Plan as a prioritized public project to be undertaken within the capital improvement plan time period; and

WHEREAS, on August 14, 2012, City Council adopted Resolution 12-17 selecting the Windjammer Park site using a membrane bioreactor process (MBR) to best meet the needs of the City; and

WHEREAS, on March 18, 2014, City Council authorized the Mayor to sign closing documents, lease back to Whidbey Island Bank and other documents as needed to secure the purchase the Whidbey Island Bank building for the purpose of constructing the wastewater treatment plant; and

WHEREAS, on July 1, 2014, City Council authorized the Mayor to sign a contract with Hoffman Construction to perform General Contractor / Construction Manager (GC/CM) preconstruction services for the new wastewater treatment plant; and

WHEREAS, the City of Oak Harbor encouraged Hoffman Construction to explore ways to add value and reduce costs for constructing the new wastewater treatment plant; and

WHEREAS, Hoffman Construction proposed a potential savings to the City by maintaining equipment and material storage close to the proposed construction site; and

WHEREAS, the use of the Staysail RV Park has been chosen to have the least impact to activities enjoyed in Windjammer Park; and

WHEREAS, the use of the Staysail RV Park provides a location with the least impact on the shoreline environment; and

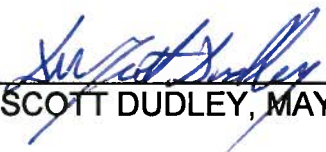
WHEREAS, the City of Oak Harbor finds the proposed construction area for the new wastewater treatment plant provides the greatest value for the utility rate payers.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. The City shall allow Hoffman Construction to use those portions of the park illustrated in the attached exhibit for construction purposed.
2. The City shall close the Staysail RV Park on February 1, 2015 until such time as construction is complete (estimated to be January 1, 2018)
3. The City shall compensate the general fund for lost revenue due to the closure of the Staysail RV Park in an amount equal to the pro-rated value of the net loss in revenue as compared to the last three years.

PASSED by the City Council and approved by its Mayor this 6th day of January, 2015.

CITY OF OAK HARBOR

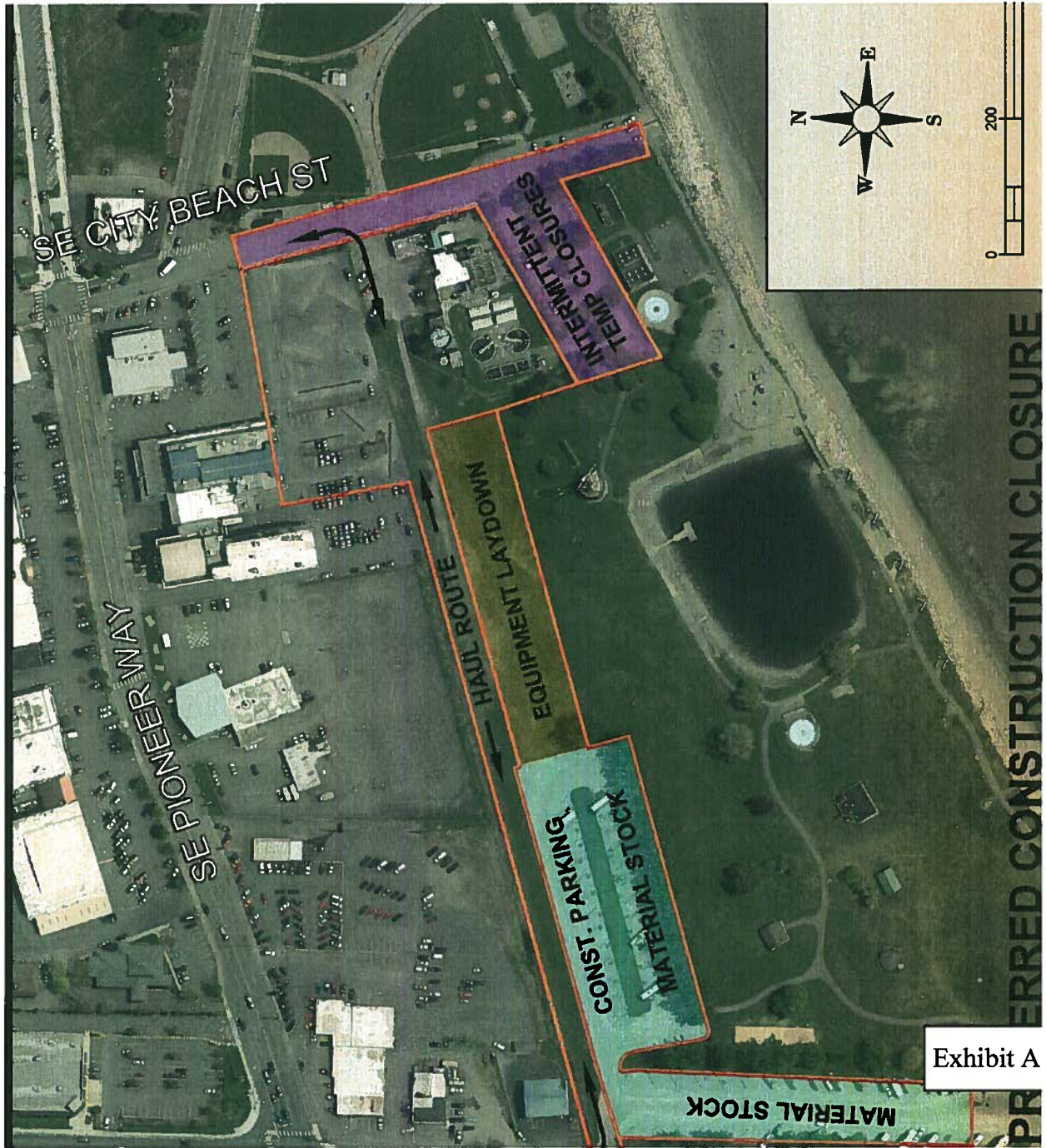

SCOTT DUDLEY, MAYOR

Attest:


Anna Thompson, City Clerk

Approved as to form:


Nikki Esparza, City Attorney



**City of Oak Harbor
Staysail RV Park Revenue Detail**

Month	Park Revenue	Park Revenue	Park Revenue	Park Revenue	Park Revenue	Lease Revenue	Park Revenue	Lease Revenue	Park Revenue	Lease Revenue	Park Revenue	Lease Revenue
	Year	Year	Year	Year	Year	Year	Year	Year	Year	Year	Year	Year
	2011	2012	2013	2014	2015	2015	2016	2016	2017	2017	2018	2018
January	1,297.23	650.41	921.39	4,347.76	2,565.48		2,822.91	11,000.00	4,551.01	11,000.00		-
February	1,618.80	914.19	1,951.20	930.43	2,917.75		3,888.90	11,000.00	2,326.28	11,000.00		-
March	2,926.84	2,601.62	2,899.71	(90.33)	4,055.98		6,165.31	11,000.00	-	11,000.00		-
April	5,683.49	9,738.95	9,775.06	8,748.40	5,533.85		9,232.17	11,000.00	1,174.34	11,000.00		-
May	11,700.09	10,542.92	14,890.68	23,157.21	9,995.07		12,471.54	11,000.00	8,568.72	11,000.00		-
June	17,841.92	15,488.72	15,402.88	25,573.89	17,739.34		17,949.44	11,000.00	16,316.16	11,000.00		-
July	18,244.78	22,216.88	29,001.87	35,259.05	26,308.05	11,000.00	12,569.99	11,000.00	17,642.23	11,000.00		-
August	29,619.15	28,305.56	28,501.36	26,990.56	26,902.90	11,000.00	17,660.37	11,000.00	19,435.35	11,000.00		-
September	20,002.70	20,188.33	18,026.63	22,083.56	12,348.42	11,000.00	14,914.14	11,000.00	15,249.56	11,000.00		-
October	9,553.90	8,341.63	8,864.53	8,208.24	9,196.98	11,000.00	8,221.34	11,000.00	4,743.45	11,000.00		-
November	3,801.25	3,648.60	4,102.99	3,937.22	3,816.61	11,000.00	5,167.05	11,000.00	-	11,000.00		-
December	3,797.63	2,348.69	4,321.59	4,832.87	3,545.60	11,000.00	3,500.44	11,000.00	-	11,000.00		-
Totals	126,087.78	124,986.50	138,659.89	163,978.86	124,926.03	66,000.00	114,563.60	132,000.00	90,007.10	132,000.00	-	-

Lease Amount per Resolution 15-24 396,000.00

Park Fees Received 7/1/15-10/30/17 286,689.26
Lease payment from Wastewater 7/1/15-12/31/17 330,000.00
616,689.26

Difference owed to CWF 220,689.26

RESOLUTION 18-22

A RESOLUTION OF THE CITY OF OAK HARBOR AUTHORIZING REIMBURSEMENT BY THE GENERAL FUND RELATING TO USE OF THE STAYSAIL RV PARK FOR ACCESS AND CONSTRUCTION OF THE CLEAN WATER FACILITY PROJECT

WHEREAS, on July 1, 2014, City Council authorized the Mayor to sign a contract with Hoffman Construction to perform General Contractor/Construction Manager (GC/CM) preconstruction service for the new wastewater treatment plant, now known as the "Clean Water Facility"; and

WHEREAS, Resolution 14-43, signed on January 6, 2015, authorized Hoffman Construction to maintain and store equipment and material at the Staysail RV Park in order to reduce costs during the construction of the Clean Water Facility; and

WHEREAS, Resolution 14-43 authorized closure of the Staysail RV Park on February 1, 2015, in order to store equipment and materials in efforts to reduce construction costs; and

WHEREAS, pursuant to Resolution 14-43, the City agreed to compensate the general fund for lost revenue due to the closure of the Staysail RV Park in an amount equal to the pro-rated value of the net loss in revenue as compared to the last three years; and

WHEREAS, due to a delay in construction, closure of the Staysail RV Park did not occur on February 1, 2015. Resolution 15-22 was subsequently signed July 7, 2015 amending Resolution 14-43 to authorize the closure of Staysail RV Park at beginning of the deep excavation of the Clean Water Facility; and

WHEREAS, the north section of the Staysail RV Park was closed on September 8, 2015, at the beginning of the deep excavation of the Clean Water Facility. The southwest portion remained open during construction and continued to generate revenue for the general fund; and

WHEREAS, on July 7, 2015, the City passed Resolution 15-24, which executed and conveyed a temporary access lease agreement between the City's General Fund (Grantor) and the City's Wastewater Fund (Grantee); and

WHEREAS, in fair consideration of the granting of a temporary access lease agreement pursuant to Resolution 15-24, the Wastewater Fund agreed to give an annual payment in the amount of \$132,000 to the General Fund; and

WHEREAS, the language in Resolution 15-24, indicates that the fair consideration in the amount of \$132,000 represents the forgone revenue to have been earned by the General Fund as calculated by the actual receipt of campground receipt fees received from the temporary leased premises, the Staysail RV Park, during calendar year 2014; and

WHEREAS, pursuant to Resolution 15-24, the temporary access lease agreement was set to expire three years from the date of execution, or upon completion of the project, whichever occurred first; and

WHEREAS, the temporary access lease agreement expired on July 7, 2018; and

WHEREAS, the General Fund has received a total amount of \$330,000 from the Wastewater Fund from the period of July 2015 – December 2017 (30 months); and

WHEREAS, the total amount due under the lease amounted to \$396,000; and

WHEREAS, the lease between funds assumed total possession and use of the leased area by the Wastewater Fund and a total loss of revenue associated with the leased area by the General Fund; and

WHEREAS, the General Fund continued to have possession of portions of the leased area until October 15, 2017, when the Staysail RV Park closed permanently; and

WHEREAS, the Staysail RV Park generated a total of \$286,689.26 during the lease term; and

WHEREAS, the total amount due under the lease was intended to offset total loss of revenue. Due to the fact that significant revenue was generated during the lease term and complete possession of the leased area by the Wastewater Fund did not occur until October 15, 2017, the total lease amount due \$396,000 should be offset by the revenue generated \$286,689.26; and

WHEREAS, with Staysail RV Park (General Fund) revenue and Clean Water Facility Project (Wastewater Fund) lease payments, the amount received for the leased area through December 2017 was \$616,689.26, which is an overpayment of the lease amount of \$220,689.26.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. The General Fund will repay the Wastewater Fund an amount of \$220,689.26 for overpayment of lease amounts.

PASSED by the City Council and approved by its Mayor this _____ day of _____, 2018.

CITY OF OAK HARBOR

Robert Severns, Mayor

Attest:

Carla Brown, City Clerk

Approved as to form:

Nikki Esparza, City Attorney