

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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ITEM NO: A-3

DATE: October 9, 2008

SUBJECT: Resolution No. 08-27 Approving the Collective Bargaining Agreement with Teamsters local 763 (Representing Public Works and Clerical Workers)

CONTACT PERSON: Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is authorizing the Mayor to sign Resolution No. 08-27 (Attachment A) approving a three-year collective bargaining agreement (Agreement) with Teamsters Local 763, representing the City's public works and clerical workers.

**STAFF RECOMMENDATION:**

The staff recommendation is to authorize the Mayor to sign Resolution No. 08-27 approving the terms and conditions of the collective bargaining agreement with the City's public works and clerical workers effective December 31, 2007 through December 31, 2010, authorizing the Mayor to execute the collective bargaining agreement on behalf of the City.

**SUMMARY:**

The City's contract with the public works and clerical workers expired on December 30, 2007. Resolution No. 07-35 extended the contract, by mutual agreement of both parties, pending the completion of negotiations in 2008. The City and Teamsters have been bargaining in good faith and the parties have reached an agreement.

If the Council chooses not to approve the proposed resolution, the parties would return to the bargaining table to continue negotiations seeking to finalize an Agreement as quickly as possible.

Under RCW 41.56 et al, public employees may form bargaining units or labor unions to represent them in collective bargaining negotiations with the City regarding wages, hours and working conditions. The City is obligated to engage in collective bargaining with the employee's designated representative. Teamsters Local 763 represents the City's public works and clerical employees.

**DISCUSSION:**

In general, the proposed collective bargaining agreement is similar to the agreement which expired on December 30, 2007. The material changes to the contract are summarized below:

#### Article II

- 2.1 Non-Discrimination – added “sexual orientation” and “sexual preference” as protected classes under the Washington Law Against Discrimination. \_

#### Article VII – Holidays

- 7.1.4 Clarifies how prorated holidays are calculated for regular part-time employees based on hours worked

#### Article VIII

- 8.3 Provides a new method for scheduling vacations – *“Vacation schedules will be posted on December 1st of each year for selection purposes for the following year and shall remain posted until January 1st. Vacations shall be selected in order of seniority and a seniority list shall be posted. However, any vacation not selected by January 1st shall be granted to employees in the order in which the Employer receives employee vacation requests (on a first come, first served basis). Within five (5) working days from receipt of a vacation request, the Employer shall advise the employee of the status of such request. Vacation shall be scheduled considering the employees’ request subject to the needs of the Department.”*

#### Article IX – Leaves

- 9.1.1 Uses of Sick Leave (f) and (g)

The parties agree to grandfather all current employees allowing them to include domestic partner (a person other than spouse with whom one cohabits) as “immediate family” for the purpose of sick leave and bereavement leave as outlined in Article IX (LEAVES), Section 9.1.1 (f) and (g), during the term of his/her employment with the City of Sultan. **Employees hired after the date the contract is ratified are not eligible for this benefit.**

- f. The term “immediate family” for the purpose of the sick leave policy shall include spouse, , and children of the employee, step-children, parents, step-parents, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and/or grandmother, grandfather,

grandchildren, or any person residing with or legally dependent upon the employee.

g. The term "immediate family" for the purpose of bereavement leave shall include ~~be defined as~~ spouse, , and children of the employee, step-children, parents, step-parents, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and/or grandmother, grandfather, ~~mother, father,~~ grandchildren, aunts and uncles, or any person residing with or legally dependent upon the employee.

9.1.4 2 ~~The Employer may require that the employee, after three (3) consecutive days of illness, furnish a physician's proof of illness. After three (3) continual days of absence, the employer may require a written report from the employee's health care provider verifying the illness or incapacity. If the period of absence claimed as sick leave does not exceed three (3) days, no healthcare provider's certification shall be required to accompany the request for approval of sick leave time.~~

*Note – The city may still require an employee to provide medical information under the Family Medical Leave Act (FMLA) to determine if an employee's time off is subject to FMLA and counts towards allowed FMLA leave.*

9.2 ~~Emergency Leave – In the event of a critical illness in an employee's immediate family, such as a critical illness, serious injury or some other emergency situation so authorized by the employee's Department Head, the employee shall be granted use of up to three (3) days of sick leave to be off with pay. Replaced with 9.1.1~~

#### Article X – health and Welfare and Pension

10.1 Medical and Dental Insurance No change to the current medical and dental plans – AWC Medical Plan B and AWC Dental Plan A.

Medical Plan A will be discontinued by AWC effective January 1, 2012. The City will need to negotiate a new benefits package when the current contract expires in 2010.

10.1.1 Effective October 1, 2008 Employer shall pay ~~90%~~ 89% of dependent coverage

10.1.2 If an employee chooses not to cover their dependents (including spouse) under the medical and/or dental plan, the City will reimburse the employee fifty percent (50%) of the premium savings providing the employee is able to provide proof of dependent coverage through his/her spouse or other credible source acceptable to the City.

- 10.2 This will no longer allow employees to cover "domestic partners" as dependents for the purpose of health and Welfare coverage under Article X (Health, Welfare and Pension) and Article IX (Leaves) of the current Collective Bargaining Agreement.
- 10.6 Adds State's Deferred Compensation program as an alternative retirement savings choice for employees
- 10.7 Adds Teamsters Pension as an alternative retirement savings choice for employees
- 10.8 Clarifies when an employee is hired, healthcare benefits shall be effective on the first (1<sup>st</sup>) day of the following month in which the employee works a paid shift.

Article XI Miscellaneous

11.2 Uniforms – Provides uniforms for employees and allows employees to wear blue jeans as an alternative to laundered uniform pants.

The Employer retains the right to establish acceptable uniform policies. Uniforms shall be worn at all times while the employee is on duty. Uniforms shall be clean at the beginning of each workday. The employer will cover the cost of replacement of uniform items worn or damaged by work activities to ensure employees are able to remain in compliance with uniform requirements. If the employer requires City logo'd clothing to be worn, it shall be furnished by the employer.

The Employer shall provide each year to each employee not less than the following number of uniform items:

- Eleven (11) pairs of uniform pants
- Eleven (11) uniform shirts
- Five (5) pairs of blue jeans (maximum annual reimbursement is \$150.00)
- Three (3) mechanics coveralls
- Five (5) short-sleeved T-shirts
- Two (2) summer caps
- Two (2) winter caps

Additionally, the employer shall provide each employee one (1) winter-weight (insulated) and one (1) summer weight coat every other year; one (1) set of raingear and one (1) pair of rubber boots shall be provided.

Article XV Duration

Three year contract ending December 31, 2010

## Appendix A

### A.1.1 No increase in employee wages

### A.2 Cost of living adjustment based on CPI-W

#### FISCAL IMPACT:

Overall, the City achieved its primary goal to begin sharing future health care cost increases with City employees. Rising health care costs have been driving up employee costs for the last decade. The city is also able to "save" \$10,000 in the 2009 budget originally set aside to hire a professional negotiator to assist in transitioning employees away from Medical Plan B which will terminate in 2012.

The COLA adjustment of 3.3% for 2008 will be applied retroactively when a contract is approved by the City Council. The 89% dependent coverage begins effective October 1, 2008. The COLA for 2009 will be 6.2% and has been calculated into the 2009 budget.

The contract does not include any wage or benefit increases outside of the cost of living adjustment.

Decreasing the dependent coverage from 90% to 89% will "save" the city approximately \$1,200 in 2009.

#### ALTERNATIVES:

1. Approve Resolution No. 08-27 as presented.

This alternative will provide the City with some stability in regards to wages, hours and working conditions. It will allow the City Administrator to reallocate time spent at the negotiating table on other Council priorities.

2. Direct City staff to return to the bargaining table to finalize a contract before December 31, 2008.

This alternative will require City staff to continue negotiations. The collective bargaining unit is supportive of extending the current contract. Continuing negotiations may or may not be finalized before the current contract expires.

RECOMMENDED MOTION:

Authorize the Mayor to sign Resolution No. 08-27 approving the terms and conditions of the collective bargaining agreement with the City's public works and clerical workers effective December 31, 2007 through December 31, 2010, authorizing the Mayor to execute the collective bargaining agreement on behalf of the City.

ATTACHMENTS:

Attachment A – Resolution No. 08-27

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COUNCIL ACTION:

DATE:

RESOLUTION NO. 08-27

A RESOLUTION OF THE CITY OF SULTAN, WASHINGTON, APPROVING THE TERMS AND CONDITIONS OF THE COLLECTIVE BARGAINING AGREEMENT WITH THE CITY'S PUBLIC WORKS AND CLERICAL WORKERS EFFECTIVE DECEMBER 31, 2007 THROUGH DECEMBER 31, 2010, AND AUTHORIZING THE MAYOR TO EXECUTE THE COLLECTIVE BARGAINING AGREEMENT ON BEHALF OF THE CITY.

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WHEREAS, a new collective bargaining agreement has been negotiated with Teamsters Local 763 for the period of December 31, 2007 to December 31, 2010;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The collective bargaining agreement between the City of Sultan and Teamsters Local 763, effective December 31, 2007 through December 31, 2010 is hereby adopted.

Section 2. The Mayor is hereby authorized to make minor administrative changes, if necessary, to the collective bargaining agreement described herein, and to execute the agreement on behalf of the City of Sultan City Council.

Section 3. Severability. If any section, sentence, clause, or phrase of this Resolution or any resolution adopted or amended hereby, should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Resolution.

RESOLVED this 9<sup>th</sup> day of October 2008.

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CAROLYN ESLICK, MAYOR

ATTEST/AUTHENTICATED:

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LAURA KOENIG  
CITY CLERK

OCTOBER \_\_\_\_\_, 2008  
TEAMSTERS LOCAL UNION NO. 763  
VOTING DOCUMENT  
TENTATIVE CONTRACT AGREEMENT  
CITY OF SULTAN, WASHINGTON  
(Representing the Public Works and Office-Clerical Employees)

ARTICLE II NON-DISCRIMINATION

- 2.1 No employee shall be discriminated against for upholding Union principles or engaging in recognized Union related activities provided such activities shall not interfere with the employees work duties. The Employer and the Union shall not unlawfully discriminate against any individual with respect to his hiring, compensation, terms or conditions of employment because of such individuals' race, color, religion, sex, sexual orientation, sexual preference, national origin, or marital status, or the presence of any physical, mental or sensory handicap, or age, unless such physical, mental or sensory handicap, or age is a bona fide occupational qualification; nor shall they limit, segregate or classify employees in any way to deprive any individual employee of his employment opportunities, except as such may be a bona fide occupational qualification.
- 2.2 Wherever works denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply to either gender.

ARTICLE VII – HOLIDAYS

- 7.1 Current Contract Language (CCL)
- 7.1.1 CCL
- 7.1.2 CCL
- 7.1.3 CCL
- 7.1.4 Regular Part-Time Employees who are regularly scheduled to work less than eight (8) hours per day shall receive holiday benefits on a pro rata basis. Pro-rata means the ratio between the number of hours in the employee's regular work schedule and forty (40) hours per week.
- 7.1.5 CCL

ARTICLE VIII VACATION

- 8.1 Each regular full-time employee shall accrue vacation with pay on the following basis in accordance with the employee's accumulated continuous service:

INSERT VACATION TABLE

- 8.1.1 New employees shall be eligible to use accrued vacation days upon completion of six (6) months of service, subject to Section 8.3 below.
- 8.2 An employee may accrue a maximum of two (2) years worth of vacation leave based on the employee's current accrual rate. In the event an employee reaches the maximum vacation accrual, the Employer shall notify the employee of such. The employee shall have sixty (60) days to reduce vacation leave to below the maximum. Any vacation leave in excess of the maximum accrual not used within the sixty (60) day period shall be forfeited. The sixty (60) day period may be extended with written approval of the Mayor. Sick leave hours converted to vacation leave shall not count in the maximum accrual calculation.
- 8.3 ~~Employees shall request vacation, in writing, two (2) weeks in advance of the requested vacation days. Vacations shall be scheduled considering the employees' requests subject to the needs of the Department. In the event scheduling conflicts occur, the employee with the earliest seniority date shall be given preference in the selection of vacation time.~~ Vacation schedules will be posted on December 1st of each year for selection purposes for the following year and shall remain posted until January 1st. Vacations shall be selected in order of seniority and a seniority list shall be posted. However, any vacation not selected by January 1st shall be granted to employees in the order in which the Employer receives employee vacation requests (on a first come, first served basis). Within five (5) working days from receipt of a vacation request, the Employer shall advise the employee of the status of such request. Vacation shall be scheduled considering the employees' request subject to the needs of the Department.
- 8.4 Employees shall receive their vacation pay for vacations of three (3) days or more before leaving on their vacation; provided however, the employee shall give fifteen (15) days written notice to the Employer.
- 8.5 Regular Part-Time Employees who are regularly scheduled to work less than eight (8) hours per day shall accrue vacation on a pro rata basis. Pro-rata means the ratio between the number of hours in the employee's regular work schedule and forty (40) hours per week.

#### ARTICLE IX LEAVES

- 9.1 **Sick Leave** - Regular full-time employees shall accumulate sick leave with pay at the rate of eight (8) hours per month of service provided however, no employee shall be accredited with an accumulation greater than nine hundred sixty (960) hours.
- 9.1.1 Allowable Uses of Sick Leave:
- a. Employee's choice to use for own health condition (illness, injury, physical or mental disability due to pregnancy or childbirth);
  - b. The need to care for the employee's immediate family member who is ill or injured and/or a serious or emergency health condition;

c. Medical or dental appointments for the employee or immediate family member provided that the employee makes a reasonable effort to schedule such appointments at times which have the least interference with the work day;

d. Exposure to a contagious disease where on-the-job presence of the employee would jeopardize the health of others;

e. Use of a legal drugs, prescription or over-the-counter medication, which impairs job performance or safety;

f. The term "immediate family" for the purpose of the sick leave policy shall ~~be defined as~~ include spouse and children of the employee, domestic partner (a person other than spouse with whom one cohabits), step-children, parents, step-parents, brother, sister, mother and father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandmother and grandfather, grandchildren, aunts and uncles, or any person legally dependent upon the employee.

g. The term "immediate family" for the purpose of bereavement leave shall include ~~be defined as~~ spouse and children of the employee, domestic partner (a person other than spouse with whom one cohabits), step-children, parents, step-parents, brother, sister, mother and father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandmother and grandfather, grandchildren, aunts and uncles, or any person legally dependent upon the employee.

It is agreed by the parties to grandfather all current employees allowing them to include domestic partner (a person other than spouse with whom one cohabits) as "immediate family" for the purpose of sick leave and bereavement leave as outlined in Article IX (LEAVES) during the term of his/her employment with the City of Sultan. Employees hired after the date this contract is ratified are not eligible for this benefit. The Letter of Understanding (included in this agreement) lists the current employees grandfathered and eligible for this benefit.

9.1.1 ~~2~~ The Employer may require that the employee, after three (3) consecutive days of illness, furnish a physician's proof of illness. After three (3) continual days of absence, the employer may require a written report from the employee's healthcare provider verifying the illness or incapacity. If the period of absence claimed as sick leave does not exceed three (3) days, no healthcare provider's certification shall be required to accompany the request for approval of sick leave time.

9.1.2 ~~3~~ Use of Sick Leave – Sick Leave shall be available to employees as soon as they have the sick leave time and may be charged against their sick leave balance immediately.

9.1.3 Employees who work less than eight (8) hours per day shall receive sick leave on a pro rata basis. Delete, amend and move to 9.6

9.1.4 Sick Leave Buy Back - Should an employee's sick leave accrual reach the maximum set forth within Section 9.1, the employee may convert a maximum of forty (40) hours a year to vacation time.

- 9.1.4 1 Upon retirement, an employee who has been employed by the Employer for twenty (20) years or more shall receive compensation equal to twenty-five percent (25%) of the sick leave hours accrued but unused at the employees regular straight-time hourly rate of pay.
- 9.1.5 ~~Shared Leave - The Employer shall have a Shared Leave Program that enables~~ Employees may donate accrued paid leave to a fellow employee who has a serious health condition and is about to exhaust their paid leave benefits. Any leave shared shall be on a dollar equivalent basis.
- 9.2 ~~Emergency Leave - In the event of a critical illness in an employee's immediate family, such as a critical illness, serious injury or some other emergency situation so authorized by the employee's Department Head, the employee shall be granted use of up to three (3) days of sick leave to be off with pay.~~  
Replaced with 9.1.1
- 9.2.1 ~~The term "immediate family" shall be defined as spouse, domestic partner, children of the employee, step children, parents, step parents, brother, sister, mother and father in law, brother in law, sister in law, grandmother and grandfather, grandchildren and aunts and uncles.~~ Replace with 9.1.1 (g)
- 9.3 2 Maternity Leave - Maternity leave shall be granted in accordance with sick leave. Such maternity leave shall be for the period of time that the employee is temporarily disabled because of pregnancy or childbirth (See Personnel Policies).
- 9.4 3 Jury Leave - An employee who is required to serve on a jury or is required to appear before a Court shall be allowed authorized leave with pay less any amount received for such service. Documentation from the Court of payment received shall be required.
- 9.5 4 Leave of Absence - Employees may be granted up to twelve (12) months of leave of absence without pay subject to prior approval by the Employer. Such leave shall not constitute a break in service, but no benefits or seniority shall accrue or be paid during the leave of absence. Leaves of absence may not be taken to pursue other employment opportunities.
- 9.6 5 Bereavement Leave - In the event of death in the employee's "immediate family", the employee shall be granted use of up to three (3) days of leave with pay, which shall not be deducted from his sick leave, vacation leave or comp time balance. For purposes of this section immediate family shall be defined by the terms outlined in Section 9.2 1.1 of this Agreement.
- 9.6 Regular Part-Time Employees who are regularly scheduled to work less than eight (8) hours per day shall receive sick and bereavement leave on a pro rata basis. Pro-rata means the ratio between the number of hours in the employee's regular work schedule and forty (40) hours per week.

ARTICLE X HEALTH AND WELFARE and PENSION

**10.1** **Medical and Dental Insurance** – Effective January 1, 2008, the Employer shall pay one hundred percent (100%) of the premium necessary for the purchase of employee coverage ninety percent (90%) of the premium necessary for the purchase of employee dependent coverage under the following plans:

**Association of Washington Cities Medical Plan "B"**  
**Association of Washington Cities Dental Plan "A"**

10.1.1 Effective November 1, 2008, the Employer shall pay one hundred percent (100%) of the premium necessary for the purchase of employee coverage eighty-nine percent (89%) of the premium necessary for the purchase of employee dependent coverage under the following plans:

Association of Washington Cities Medical Plan "B"  
Association of Washington Cities Dental Plan "A"

10.1.2 If an employee chooses not to cover their dependents (including spouse) under the medical and/or dental plan, the City will reimburse the employee fifty percent (50%) of the premium savings providing the employee is able to provide proof their dependents have coverage.

Example: Dependent Coverage:  
\$408.15 X 50% = \$204.08      Spouse  
\$189.60 X 50% = \$ 94.80      First Dependent  
\$163.75 X 50% = \$ 81.88      Second Dependent

**10.2** **Vision Insurance** - The Employer shall pay one hundred percent (100%) of the premium necessary for the purchase of employee and dependent coverage under the Association of Washington Cities Vision Plan (\$10.00 deductible).

10.3 Domestic Partner Coverage – The City of Sultan, City Council voted to discontinue the recognition of “domestic partners” as dependents for the purpose of Health Insurance coverage under City Policy.

This will no longer allow employees to cover “domestic partners” as dependents for the purpose of Health and Welfare coverage under Article X (Health, Welfare and Pension) of the current Collective Bargaining Agreement.

10.3 4 **Life Insurance** - The Employer shall pay one hundred percent (100%) of the premium necessary for the purchase of a life insurance policy with a face value of ten thousand dollars (\$10,000) for each employee.

10.4 5 Regular Part Time employees who are scheduled to work less than eight (8) hours per day shall receive medical and dental insurance premium contributions on a pro rata basis, with the balance paid by the employee. Pro-rata means the ratio between the number of hours in the employee’s regular work schedule and forty (40) hours per week.

10.6 Deferred Compensation - Employees may participate in the Washington State DRS Deferred Compensation Plan under the terms and conditions set up by the administrator of the program and applicable laws.

10.7 Teamsters Pension - The bargaining unit shall have the right once each year, at least sixty (60) days prior to the end of the calendar year, to notify the employer in writing of the unit's intent to divert a portion of any wage increase provided by this Agreement to the Western Conference of Teamsters Pension Trust at such time and in such amounts as may be determined by the bargaining unit. The diversion shall be effective the first month of the following year.

10.8 Coverage – When an employee is hired, their healthcare benefits shall be effective on the first (1st) day of the following month in which the employee is compensated for work.

ARTICLE XI MISCELLANEOUS

**11.1** **Footwear** – The Employer shall reimburse each public works field employee, building inspector and custodian up to two hundred fifty dollars (\$250.00) annually for the cost of work boots. Receipt for the purchase of the purchase of the footwear must be presented for reimbursement. Work boots must meet Labor and Industry Standards.

**11.2** **Uniforms** – ~~The Employer shall provide each public works department field employee five (5) uniform shirts and pants and one (1) jacket, such clothing items shall be laundered by the Employer. The Employer shall also provide such employees with identification badges. Uniform clothing and identification badges shall be worn by the employees while at work.~~

The Employer retains the right to establish acceptable uniform policies. Uniforms shall be worn at all times while the employee is on duty. Uniforms shall be clean at the beginning of each workday. The employer will cover the cost of replacement of uniform items worn or damaged by work activities to ensure employees are able to remain in compliance with uniform requirements. If the employer requires City logo'd clothing to be worn, it shall be furnished by the employer.

The Employer shall provide each year to each employee not less than the following number of uniform items:

- Eleven (11) pairs of uniform pants
- Eleven (11) uniform shirts
- Five (5) pairs of blue jeans (\$150.00 maximum reimbursement per year)
- Three (3) mechanics coveralls
- Five (5) short-sleeved T-shirts

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- Two (2) summer caps
- Two (2) winter caps

Additionally, the employer shall provide each employee one (1) winter-weight (insulated) and one (1) summer weight coat every other year; one (1) set of raingear and one (1) pair of rubber boots shall be provided.

The employer shall launder all uniform items supplied (e.g. uniform pants and shirts).

New employees shall be provided uniforms within thirty (30) days of their first date of compensated work.

- 11.2.1 CCL
- 11.2.2 CCL
- 11.3 DELETE
- 11.4 CCL
- 11.5 CCL

11.5.1 Union Officials Stewards Time-Off – A Union ~~Official~~ Steward who is an employee of the bargaining unit (Shop Steward or Alternate) may be granted eight (8) hours paid time-off bank (straight time per year) for training seminars or courses as endorsed by the Union. ~~Provided: They notify The Shop Steward or Union notifies~~ the Employer in writing at least forty-eight (48) hours prior to the time-off period. The Employer is able to properly staff the employee's job duties during the time-off period.

The wage cost to the Employer is no greater than the cost that would have been incurred had the Union ~~Official~~ Steward not taken time-off; and

Union ~~Officials~~ Stewards shall not transact Union business while working on shift, which in any way interferes with the operation or normal routine of any department.

- 11.6 CCL

ARTICLE XV DURATION

15.1 This Agreement shall be effective January 01, 200~~8~~ and shall remain in full force and effect through December 31, 200~~7~~10

APPENDIX "A"  
to the  
AGREEMENT  
by and between  
CITY OF SULTAN, WASHINGTON  
and  
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS  
LOCAL UNION NO. 763  
(Representing the Public Works and Office-Clerical Employees)  
January 01, 20068 through December 31, 200710

THIS APPENDIX is supplemental to the AGREEMENT by and between the CITY OF SULTAN, WASHINGTON, hereinafter referred to as the Employer, and PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS LOCAL UNION NO. 763, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union.

A.1           **Effective January 01, 2007, the hourly rates of pay for classifications covered by the Agreement shall be as follows:**

\*INSERT CLASSIFICATIONS, STEPS, WAGES

A.1.1       **Effective January 01, 2007~~8~~, the rates of pay set forth within Section A.1 shall be increased by one hundred percent (100%) of the percentage increase set forth in the "~~All Urban Consumers Index~~" (CPI-U) Urban Wage Earners and Clerical Workers (CPI-W), All Items Revised Series (1967 1982-84=100) for the Seattle-Tacoma-Bremerton Area for the period from June 200~~5~~6 to June 200~~6~~7, as is published by the Bureau of Labor Statistics, United States Department of Labor.**

A.2           **Effective January 01, 200~~9~~, the rates of pay set forth within Section A.1 shall be increased by one hundred percent (100%) of the percentage increase set forth in the "~~All Urban Consumers Index~~" (CPI-U) Urban Wage Earners and Clerical Workers (CPI-W), All Items Revised Series (1967 1982-84=100) for the Seattle-Tacoma-Bremerton Area for the period from June 200~~7~~ to June 200~~8~~, as is published by the Bureau of Labor Statistics, United States Department of Labor.**

A.X           **Effective January 01, 201~~0~~, the rates of pay set forth within Section A.1 shall be increased by one hundred percent (100%) of the percentage increase set forth in the "~~All Urban Consumers Index~~" (CPI-U) Urban Wage Earners and Clerical Workers (CPI-W), All Items Revised Series (1967 1982-84=100) for the Seattle-Tacoma-Bremerton Area for the period from June 200~~8~~ to June 200~~9~~, as is published by the Bureau of Labor Statistics, United States Department of Labor.**

A.3           CCL

A.4           CCL

A.5           CCL

LETTER OF UNDERSTANDING

by and between  
CITY OF SULTAN, WASHINGTON  
and  
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS  
LOCAL UNION NO. 763  
(Representing the Public Works and Office-Clerical Employees)

January 1, 2008 through December 31, 2010

IT IS UNDERSTOOD AND AGREED by the parties, City of Sultan, Washington (hereafter "the Employer"), and Teamsters Local Union No. 763 (hereafter "the Union"), enter into this agreement as follows:

It is agreed by the parties to grandfather all current employees allowing them to include domestic partner (a person other than spouse with whom one cohabits) as "immediate family" for the purpose of sick leave and bereavement leave as outlined in Article IX (LEAVES), Section 9.1.1 (f) and (g), during the term of his/her employment with the City of Sultan. Employees hired after the date this contract is ratified are not eligible for this benefit.

The following is a list of the current employees who will be grandfathered;

- Julie Addington
- Jim Barnes
- Cyd Donk
- Bill Ferry
- John Harris
- Janice Leonardi
- Howard Mackey
- Rosemary Murphy
- Todd Strom
- Mike Williams
- Dominic Zimmerman

PUBLIC, PROFESSIONAL & OFFICE-CLERICAL  
EMPLOYEES AND DRIVERS LOCAL UNION NO.  
763, affiliated with the International Brotherhood of  
Teamsters

CITY OF SULTAN, WASHINGTON

By \_\_\_\_\_  
David A. Grage, Secretary-Treasurer

By \_\_\_\_\_  
Carolyn Eslick, Mayor

Date \_\_\_\_\_

Date \_\_\_\_\_

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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ITEM NO: D-1  
DATE: October 9, 2008  
SUBJECT: Special Events and Noise Ordinance  
CONTACT PERSON: Deborah Knight, City Administrator

**ISSUE:**

This is a placeholder to discuss the community input and feedback received at the community forum hosted by Councilmember Davenport-Smith on Saturday, October 4, 2008 on the City's noise regulations and proposed special events permit.

**STAFF RECOMMENDATION:**

Discuss the outcomes from the community meeting and direct staff on how to proceed.

**SUMMARY:**

Councilmember Sarah Davenport-Smith hosted a meeting on Saturday, October 4, 2008 with local business owners and community members to discuss the Sultan's noise ordinance regulations under the Sultan Municipal Code 8.10 (Attachment A). The meeting was also an opportunity to gather input on the staff proposal to adopt a special events permit to regulate the impacts of special events on the City's infrastructure and services.

Councilmember Davenport-Smith and staff will share the outcomes from the meeting. City Staff are seeking direction from the Mayor and Council on how to proceed.

**BACKGROUND:**

The City has experienced conflicts between business owners and residents over noise generated from business establishments. This issue is not unique to Sultan. The Sultan Municipal Code has noise regulations codified in Chapter 8.10 of the Sultan Municipal Code. The noise ordinance is similar to ordinances adopted by other cities throughout Washington State. The key issue for the police department is enforcement of the regulations.

Currently, the regulations are enforced by civil penalties (SMC 8.10.060). Interim Police Chief Rick Hawkins has recommended the Council adopt criminal penalties which provide more legal protections for potential violators and have more "teeth" because violators may be arrested as opposed to receiving a ticket for a civil infraction.

City staff have recommended the City Council repeal SMC 5.12 (Dancing and Live Music) since, in the previous City Attorney's opinion, the chapter is unconstitutional. City staff have used SMC 5.12 to "permit" live music events within the City limits. Staff recommend replacing SMC 5.12 with a special events permit to regulate activities on public property such as the Sultan Shindig, lumberjack classes, and live music events at the gazebo. A special events permit could also be used to regulate activities on private property which would affect the public rights-of-way and city services.

The City Council discussed these issues at its July 27, 2008 meeting. Councilmember Davenport-Smith volunteered to host a community meeting to take input and feedback on potential changes to the city's noise regulations and implementation of a special events permit.

The community forum was advertised in the Sky Valley Chamber October newsletter. Invitations were sent to local business owners and community members who have expressed an interest in this issue. City staff sent a notice regarding the meeting to participants in the City's listserve e-mail list.

**RECOMMENDED ACTION:**

Discuss the outcomes from the community meeting and direct staff on how to proceed.

**ATTACHMENTS**

A – SMC 8.10

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**COUNCIL ACTION:**

**DATE:**

Chapter 8.10  
PUBLIC DISTURBANCE NOISE

Sections:

[8.10.010](#) Definitions.

[8.10.020](#) Exemptions.

[8.10.030](#) Infraction.

[8.10.040](#) Enforcement.

[8.10.050](#) Separate offenses.

[8.10.060](#) Punishment.

[8.10.070](#) Evidence in proceedings.

**8.10.010 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

“Public disturbance noise” shall mean the following sources of sound:

A. Frequent, repetitive or continuous sound from any horn or siren attached to a motor vehicle except as a warning of danger or specifically permitted or required by law;

B. Frequent, repetitive or continuous sound in connection with the starting, operating, repairing, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine in any residential zone which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property in the residential zone;

C. Loud or raucous sound from any activity which unreasonably interferes with the operation of any school, church, hospital, sanitarium or nursing or convalescent facility;

D. Frequent, repetitive or continuous sound which emanates from a building structure or property, and created by musical instrument, whistle, sound amplifier, stereo, jukebox, radio, television or other device capable of reproducing or creating sound, such as sounds originating from a band session, tavern operation or commercial sales lot which unreasonably interferes with the peace, comfort and repose of owners or occupants of nearby property;

E. Sound from a motor vehicle audio sound system, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than 50 feet from the vehicle itself;

F. Sound from carried or transported portable audio sound equipment, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than 50 feet from the source of the sound;

G. Frequent, repetitive or continuous sound which emanates from a residence, structure or property, and created by audio sound equipment, musical instruments or social gatherings which unreasonably interferes with the peace, comfort and repose of owners or occupants of neighboring residential properties;

H. Sound from squealing or screeching of motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners except such sounds which arise from actions to avoid danger;

I. Sound originating from a motor vehicle on the public highway when the vehicle is operated without a muffler in good working order and in accordance with applicable laws and regulations;

J. Sound from yelling, shouting, hooting, whistling or singing on or near the public streets occurring between the hours of 11:00 p.m. and 7:00 a.m. which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property;

K. Sound originating from residential real property relating to temporary projects for the maintenance or repair of homes, grounds or appurtenances, including sounds from lawnmowers, power hand tools, snow removal equipment and the like when the same occurs between the hours of 10:00 p.m. and 7:00 a.m. weekdays and 10:00 p.m. and 9:00 a.m. on weekends;

L. Sounds originating from construction sites and activities, including but not limited to sounds from construction equipment, power tools and hammering between the hours of 10:00 p.m. and 7:00 a.m. weekdays and 10:00 p.m. and 9:00 a.m. on weekends except such sounds which arise from emergency construction work to protect public or personal health and safety. (Ord. 799-02)

#### **8.10.020 Exemptions.**

Though the following sources of sound may fall within the definitions of a “public disturbance noise” as defined in the previous section, the following sounds shall be exempt and shall not be a public disturbance noise:

A. Noise originating from aircraft in flight and sounds which originate in airports and are directly related to flight operations;

B. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety relief intent of the device;

C. Noise created by fire or security alarms, or noise created by emergency equipment;

D. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;

E. Noise created by a special event so long as the event is in compliance with the terms and conditions of its special event permit;

F. Noise created by natural phenomenon;

G. Noise created by public utility facilities including electrical substations;

H. Noise created from local school marching bands while practicing;

I. Noise created by bells, chimes or carillon not operated for more than five minutes in any one hour from the hours of 7:00 a.m. to 10:00 p.m., but not including such noise as is artificially created and amplified and broadcast via loud speaker; and

J. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad. (Ord. 799-02)

#### **8.10.030 Infraction.**

It is unlawful and a civil infraction for any person to cause or allow to be emitted a nonexempt public disturbance noise as defined by this chapter. (Ord. 799-02)

#### **8.10.040 Enforcement.**

Where this chapter defines “public disturbance noise” as sound unreasonably interfering with the peace, comfort and repose of owners or possessors of real property or neighboring property, only after a complaint has been made by such a person may the police department issue a civil infraction notice. In all other instance of a “public

disturbance noise” a civil infraction notice may be issued without a complaint. (Ord. 799-02)

**8.10.050 Separate offenses.**

For enforcement purposes, sound emitted during separate days shall be deemed a separate violation. A day is a 24-hour period beginning at 12:01 a.m. (Ord. 799-02)

**8.10.060 Punishment.**

A first violation and infraction of this chapter shall be punished with a penalty of \$100.00. A second violation and infraction of this chapter shall be punished with a penalty of \$200.00. A third and/or subsequent violation and infraction of this chapter is a misdemeanor and shall be punished with a fine of \$500.00 and/or incarceration in jail for a period not to exceed 30 days. (Ord. 799-02)

**8.10.070 Evidence in proceedings.**

In any proceeding under this chapter, evidence of sound level through the use of sound level meter readings shall not be necessary to establish the commission of the violation. (Ord. 799-02)

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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ITEM NO: D-2

DATE: October 9, 2008

SUBJECT: Snohomish Cities 2009-2011 Draft Legislative Agenda and Capital Budget Requests

CONTACT PERSON: Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is to review the Snohomish cities draft legislative agenda (Agenda) and Sultan's capital budget requests for the upcoming 2009-2011 state budget biennium.

**STAFF RECOMMENDATION:**

1. Review the draft legislative agenda and capital budget requests.
2. Provide feedback and comments to staff. Comments and suggestions from Mayor Eslick and the City Council will be taken to the Snohomish County Managers and Administrators Group (MAG) for potential inclusion in the legislative agenda and capital project list.

**SUMMARY:**

The cities in Snohomish County have, for the first time, coordinated their efforts and developed a legislative agenda (Attachment A) and capital budget requests (Attachment B) to assist Snohomish County cities in achieving shared goals in the 2009 legislative session.

Thirteen Snohomish County cities including Sultan have developed the draft agenda. The MAG members are working to obtain support of other Snohomish County cities including Brier, Edmonds, and Lynnwood. If Snohomish cities are united in their approach to the legislature, all of our citizens will be better served.

The draft legislative agenda reflects the position of Snohomish cities on several key matters such as unfunded mandates, zoning and annexation, and public infrastructure funding tools. Several of the agenda items may be proposed as legislation in the upcoming 2009-2011 State Legislative Session.

The draft capital budget list identifies priority projects in each jurisdiction. The capital budget list will be prioritized following discussions with city councils and state legislators.

City staff are seeking feedback from the Mayor and Council on the legislative agenda and Sultan's capital budget requests.

## DISCUSSION:

### Legislative Tools

As far as a legislative "tools" list, Sultan didn't submit any specific requests. From the staff perspective it appears the Mayor and Council are mostly concerned about ensuring the legislature does not adopt any new unfunded mandates such as climate change initiatives or a required tree inventories as proposed last year. As a small city with limited retail sales tax revenue any new legislative actions that require new programs or consultant time are generally unwelcome.

The tools list includes a number of items that are of interest to Sultan including:

- Annexations: Require joint planning by the county, cities and special purpose districts in future annexation areas (i.e. RUTA). Provide funding to address capital deficiencies of annexed areas.
- Tax Increment Financing (TIF): Support "tax-increment financing", which is a tool used by 46 other states. TIF directs future increments of tax revenue for a period of time to finance debt payments for infrastructure improvements that serve new development and supports economic development. In the short-term, expand Local Infrastructure Finance Tool (L.I.F.T.) and increase eligibility to allow other cities to participate.
- Local Transportation and Capital Facilities Funding Options: Support legislation to provide cities additional funding for infrastructure improvements (e.g., streets, sidewalks, storm water, sewers, water, parks, open space preservation, facilities) to assist with community and economic development that benefit the cities of Snohomish County. Fully support Public Works Trust Fund Program
- State Transportation Routes: Support legislation that provides financial assistance to cities that have state transportation routes through their communities.
- LEOFF 1 Medical Liability: Seek help from the State Actuary to identify the liability for medical and long-term care costs for LEOFF 1 retirees, by jurisdiction, and pursue options for providing financial assistance to local governments for this liability.
- Public Records Requests: Support legislation to provide some relief for cities and other governmental agencies breaking under the weight of excessive and frivolous public records requests.

At the Sky Valley Chamber meeting candidates' forum on October 2, 2008, Mayor Eslick asked the legislative candidates their thoughts on legislation to "fix" the state's juvenile justice system. The City is currently struggling to address juvenile crime and truancy. The Mayor and City Council may want to direct staff to add this as a topic of discussion for the 2009-2011 Snohomish cities legislative agenda.

### Capital Budget Requests

Sultan submitted three capital project requests:

First and foremost is the City's request for \$10 million to upgrade the waste water treatment plant. The upgrade is necessary to serve pending development. The City has over 400 plated lots. These lots will use up the remaining plant capacity. Last year, the legislature awarded Sultan \$500,000 towards the plant upgrade. The City was told last year to come back again during the 2009 budget process and request additional funding. The City will need approximately \$18.5 million to complete the plant. Sultan plans to procedure with this effort.

The other primary project (T-60 on the City's transportation plan) is an extension of Sultan Basin Rd at US 2 to the south to intersect with primary commercial development along Foundry Drive and Cascade View Drive to serve ROMAC a major metal foundry and other businesses providing living wage jobs. The total project cost is estimated at \$2.8 million. The City has funds from the state and federal government for design. Design is underway and the City is seeking funds for construction. The City recently realigned the northern intersection of Sultan Basin Rd and US 2 and installed a traffic signal with a combination of federal, state and local dollars.

Longer term, the City is seeking funding for intersection improvements at US 2 and Rice Rd - 339<sup>th</sup> Ave (project T-40) \$1.4 million.

### FISCAL IMPACT:

It takes Council and staff time to promote the City's interests in Olympia. Members of the City Council have attended the Association of Washington Cities Legislative Conference in Olympia during the legislative session. The 2009 budget includes approximately \$1,000 for the Mayor, Councilmembers and staff to attend the conference to promote Sultan's legislative priorities.

### RECOMMENDED ACTION:

1. Review the draft legislative agenda and capital budget requests.
2. Provide feedback and comments to staff. Comments and suggestions from Mayor Eslick and the City Council will be taken to the Snohomish County

Managers and Administrators Group (MAG) for potential inclusion in the legislative agenda and capital project list.

ATTACHMENTS:

- A – Legislative Tools List (annotated from 10/1/08 meeting with legislators)
- B – Capital Budget Requests (unprioritized)

## Proposed Legislative Tools/Repair Kit

This Legislative Agenda reflects the Cities of Snohomish County position on several key matters that are expected to be proposed as legislation in upcoming 2009-2011 State Legislative Session.

- 1) **Unfunded Mandates and Preemption of Local Authority:** Strongly oppose any legislation that imposes an “unfunded mandate” that is considered by cities to be detrimental without additional funding to support these programs and strongly oppose any legislation that attempts to preempt local authority over any policy or operational matter traditionally and historically vested with local government.
- 2) **Facilitation of Annexation/Implementation of GMA:**
  - a. Support joint planning (e.g., development regulations, boundary coordination, finance) by cities, counties and special purpose districts in areas subject to future annexation to ensure the consistency of development and efficient provision of services in the incorporated and unincorporated parts of GMA urban growth areas.
  - b. Support extension of Annexation State Sales Tax Incentive to 2014 and define that “commenced” means that an annexation election or petition representing 60% of the assessed value of the annexation area be completed by the due date.
  - c. Support legislation clarifying that the State’s tax incentive can be used to offset the costs of providing new municipal services for operational expenses and **capital deficiencies** within the annexation area.
  - d. Support extension of legislation that provides the State’s tax incentive to cities interested in annexing populations of 10,000 or greater (remove population cap of 20,000).
  - e. Support legislation that allows Counties the ability to levy a utility tax, if 50% of revenue are dedicated to create an annexation incentive fund to address capital infrastructure needs within each MUGA
- 3) **Gambling/Local Zoning:** Support legislation that provides cities the ability to zone or partially ban gambling facilities.
- 4) **Tax-Increment Financing (TIF):** Support “tax-increment financing”, which is a tool used by 46 other states. TIF directs future increments of tax revenue for a period of time to finance debt payments for infrastructure improvements that serve new development and supports economic development. In the short-term, expand Local Infrastructure Finance Tool (L.I.F.T.) and increase eligibility to allow other cities to participate. **OR**
- 4) **Local Infrastructure Finance Tool (L.I.F.T.):** Support expansion of Local Infrastructure Finance Tool (L.I.F.T.) and increase eligibility to allow other cities to participate. In the long-term, support “tax-increment financing (TIF)”, which is a tool used by 46 other states.
- 5) **Brownfield Program:** Support and enhance the State’s Brownfield Program.

**Attachment A**

- 6) **Local Transportation and Capital Facilities Funding Options:** Support legislation to provide cities additional funding for infrastructure improvements (e.g., streets, sidewalks, storm water, sewers, water, parks, open space preservation, facilities) to assist with community and economic development that benefit the cities of Snohomish County. Fully support Public Works Trust Fund Program
  
- 7) **State Transportation Routes:** Support legislation that provides financial assistance to cities that have state transportation routes through their communities.
  
- 8) **LEOFF 1 Medical Liability:** Seek help from the State Actuary to identify the liability for medical and long-term care costs for LEOFF 1 retirees, by jurisdiction, and pursue options for providing financial assistance to local governments for this liability.
  
- 9) **Public Records Requests:** Support legislation to provide some relief for cities and other governmental agencies breaking under the weight of excessive and frivolous public records requests.

## Capital Budget

During the 2009-11 Legislative Session, the following Cities of Snohomish County (Arlington; Bothell; Everett; Lake Stevens; Marysville; Mill Creek; Monroe; Mountlake Terrace; Mukilteo; Snohomish; Stanwood; Sultan; and Woodway) support the following funding requests for consideration in the State Capital Budget:

### City of Arlington

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Wastewater Treatment Plant	\$ 14,000,000 (Clean Water State Revolving Fund)
2.	SR 531 Widening and Improvements (43 <sup>rd</sup> Ave NE to Hwy 9)	\$60,000,000
3.	Smokey Point Blvd Improvements (164 <sup>th</sup> to SR 530) – preliminary design & engineering	\$500,000
4.	Secondary roadway planning and development in Smokey Point	\$9,000,000
5.	Smokey Point Park acquisition	\$500,000
6.	Centennial Trail Phase I, Stage3	\$150,000
7.	Airport Business Park – Phase I Infrastructure	\$1,500,000
8.	New library / building annex to Library	\$500,000
9.	Fire Station 46 Remodel / Reconstruction	\$1,000,000
10.	Fire Station 48 Construction	\$3,000,000
11.	Brekhus / Beach Planning (South area planning)	\$100,000
12.	New foodbank facility	\$100,000
13.	Haller Park Improvements (in conjunction with Centennial Trail improvements)	\$100,000
14.	Downtown Restroom Facility (in conjunction with Legion Park and Centennial Trail)	\$50,000

### City of Bothell

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Completion of SR-522 Improvements from 83 <sup>rd</sup> Ave NE to 102 <sup>nd</sup> Ave NE	\$30,000,000
2.	39 <sup>th</sup> Avenue (228 <sup>th</sup> Ave SE to 240 <sup>th</sup> Ave SE)	\$25,000,000
3.	North Creek Trail	\$5,000,000
4.	State Route 524 Improvements from 24 <sup>th</sup> Ave W to Bothell west city limits	\$30,000,000
5.	State Route 524 Improvements from SR 527 to 39 <sup>th</sup> Ave SE	\$30,000,000
6.	SR 527 Multi-Way Blvd	\$20,000,000

**City of Brier**

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

**City of Darrington**

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

**City of Edmonds**

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

**City of Everett**

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Fiber Optics Network System to develop a long term plan for supporting voice and data communications needs between city locations, Emergency Operations Center, SnoPac Emergency 911, SERS, CT/ET Bus Rapid Transit and potentially EvCC and other regional centers.	\$1,390,000
2.	S Everett/Bruskrud Road Parks Open Space Project to develop 1.5 miles of trails, enhancement of wetlands and connection to interurban trail and residential neighborhoods on 15.06 acres north of 112th and west of the Interurban Trail.	\$1,750,000
3.	Rucker Avenue Freight Corridor	\$2,000,000
4.	U.S. Highway 2 (County request)	\$800,000

**City of Gold Bar**

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

**City of Granite Falls**

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

**City of Index**

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

### City of Lake Stevens

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Roundabout: Lundeen Park Way/ Soper Hill Rd/Vernon Road Intersection	\$600,000
2.	Safe Routes to School – 123 <sup>rd</sup> Project	\$350,000
3.	Safe Routes to School - Northlake Middle and Plichuck Elementary	\$400,000
4.	Sidewalk Improvement Projects	\$400,000

### City of Lynnwood

	<b>Project</b>	<b>State Requested Contribution</b>
1.		

### City of Marysville

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Boys & Girls Club	\$1,000,000
2.	156 <sup>th</sup> Street Overcrossing	\$4,000,000
3.	Smokey Point Master Plan	\$2,000,000
4.	88 <sup>th</sup> Street Widening (ROW acquisition)	\$2,000,000
5.	Cross-town Ridge Trail Completion	\$1,000,000

### City of Mill Creek

	<b>Project</b>	<b>Requested Contribution</b>
1.	Citywide Sidewalk Replacement Program	\$ 125,000
2.	Citywide Street Repair Program	\$400,000
3.	Village Green Drive & 148 <sup>th</sup> Street Crosswalk Improvements	\$60,000
4.	SR 527 & 151 <sup>st</sup> Street Intersection Modifications	\$65,000
5.	SR 527 & 164 <sup>th</sup> Street Intersection Improvements	\$1,500,000
6.	Security Improvements, City Hall	\$100,000
7.	Hillside Park Improvements, Phase 2	\$140,000
8.	Highlands Park Repairs & Renovations	\$250,000
9.	Citywide Park Repairs & Improvements	\$100,000

## City of Monroe

	<b>Project</b>	<b>Requested Contribution</b>
1.	US 2 / SR 522 Phased Bypass: Stage 1 (WSDOT) Stage 2 US 2 Eastbound (WSDOT)	\$47,000,000 \$92,000,000
2.	Downtown Master Plan - Transportation/Automobile Circulation: SR 203 & Freemont Intersection Main & Freemont Roundabout	\$1,500,000 \$750,000
3.	Downtown Master Plan - Municipal Parking: Acquisition Development	\$600,000 \$900,000
4.	North Hill Community Park: Acquisition Development	\$1,100,000 \$11,200,000
5.	Wastewater Treatment Plant & Sewer Collection System: 2009 Improvements 2010-2013 Improvements & System Expansion	\$5,500,000 \$15,500,000
6.	Municipal Campus & Law & Justice Center	\$30,000,000
7.	Centennial Regional Trail - Completion, Snohomish - Monroe (Snohomish County project)	\$4,000,000
8.	Fairfield Community Park - completion (Snohomish County project)	\$5,000,000

## City of Mountlake Terrace

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Downtown Revitalization (L.I.F.T.): North/South Town Square Circulator East/West Town Square Circulator 56 <sup>th</sup> Ave Corridor Improvements 56 <sup>th</sup> Ave Corridor Improvements - Undergrounding of Utilities Town Center Water Main System Replacement Total Downtown Revitalization (L.I.F.T.)	\$2,600,000 \$2,400,000 \$4,000,000 \$2,400,000 \$2,400,000 \$13,800,000
2.	Transportation Link: 230 <sup>th</sup> Street Reconstruction (56 <sup>th</sup> to 61 <sup>st</sup> ) *	\$925,000
3.	Transportation Link: 244 <sup>th</sup> Street Reconstruction (48 <sup>th</sup> to 55 <sup>th</sup> ) *	\$2,500,000
4.	52 <sup>nd</sup> /53 <sup>rd</sup> Ave Road Extension Project *	\$950,000
5.	Sidewalk Improvement Projects *	\$347,500
6.	220 <sup>th</sup> St SW & 58 <sup>th</sup> Ave W Intersection *	\$900,000
7.	Open Space Acquisition (Terrace Creek Park) *	\$500,000

8.	Melody Hill Neighborhood Park Acquisition *	\$500,000
9.	Bike & Pedestrian Trail connecting Transit Center/Downtown with Interurban Trail *	\$315,000
10.	Municipal Facilities (Civic Center, Police Station, Community/Senior Center, Recreation Pavilion)	TBD
11.	Lake Ballinger Watershed Partnership	TBD

\*Represents 50% of total project costs

### City of Mukilteo

	Project	Project Estimated Cost	State Requested Contribution
1.	Boys and Girls Club	\$3,000,000	\$500,000
2.	Japanese Gulch Park Acquisition	\$8,000,000	\$2,000,000
3.	Seaway Traffic Corridor Study (Phase I)	\$1,000,000	\$500,000
4.	Park N Ride Development	\$2,000,000	\$1,000,000
5.	Park Land Acquisition (from WSDOT)	\$2,500,000	\$1,000,000

### City of Snohomish

	Project	State Requested Contribution
1.	Wastewater Treatment Improvements	\$15,000,000

### City of Stanwood

	Project	Project Estimated Cost	State Requested Contribution
1.	Pedestrian Overpass at intersection of 72nd street and State Highway 532	\$3,900,000	\$3,900,000
2.	Shoreline Restoration and Enhancement Project Adjacent to the Mark Clark Bridge	TBD	TBD
3.	Phase I - "Heritage Park" Regional Park Master Plan and Park Up-Grades	\$1,400,000	\$1,005,000
4.	Historic Main Street Revitalization and Reconstruction Project	\$1,200,000	\$900,000
5.	Historic Cedarhome Drive North Revitalization and Reconstruction Project	\$931,000	\$698,250
6.	LED School Markings and Signage Safety Program	\$365,000	\$273,750
7.	271st Street Corridor Improvements-Undergrounding of Utilities	\$1,400,000	\$1,005,000

### City of Sultan

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Waste Water Treatment Plant Upgrade	\$10,000,000
2.	Extension of Sultan Basin Rd at US 2 to the south to intersect with Sultan's primary commercial development along Foundry Drive and Cascade View Drive to serve ROMAC a major metal foundry and other businesses providing living wage jobs	\$2,800,000
3.	Intersection Improvements at US 2 and Rice Rd - 339 <sup>th</sup> Ave	\$1,400,000

### **Town of Woodway**

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Woodway Community & Environmental Education Center Land/Building Acquisition (total cost -- \$6,000,000) Development (total cost -- \$1,800,000)	\$3,000,000 \$900,000

### **Snohomish County**

	<b>Project</b>	<b>State Requested Contribution</b>
1.	Emergency Operations Center	\$4,000,000
2.	Route Development Plan on US2	\$320,000

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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**ITEM NO:** D-3  
**DATE:** October 9, 2008  
**SUBJECT:** Amending Ordinance No. 985-08 establishing a Stormwater Utility  
**CONTACT PERSON:** Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is to consider postponing amendments to the Stormwater Utility until the fee structure generates sufficient revenues to provide for staff and equipment resources to manage privately owned stormwater facilities.

**STAFF RECOMMENDATION:**

1. Postpone amending Ordinance 985-08 to incorporate a city responsibility to maintain private stormwater facilities until such time as the utility generates sufficient revenues to support this level of service.
2. Direct staff to assist homeowners associations with developing plans to maintain their stormwater retention and detention facilities in accordance with state and local requirements.
3. Direct staff to monitor stormwater revenues and meet with the business and homeowners association representatives in 2009 to reevaluate the stormwater utility.

**SUMMARY:**

The City Council adopted Ordinance 985-08 without the Credit Section. The credit section was removed as a result direction from Council to adopt a "flat-fee" alternative which was not adjusted annually for inflation. The concern was the City would be offering credits and thereby not collecting sufficient revenues to meet the proposed levels-of-service.

Staff recommended reevaluating the credit section when there were sufficient revenues available to maintain private stormwater facilities.

During the legislative process to adopt the stormwater utility fees (Ordinance No. 986-08), the City Council amended its previous direction and adopted a fee which included a small annual increase through the year 2012.

The staff had originally proposed a five step increase, but the utility fees will not be effective until 2009, so only a four step increase was adopted. The year 2012 is significant because the National Pollution Discharge Elimination System Permits will be reevaluated and the City of Sultan may need to comply with the permit requirements.

After reviewing the stormwater utility and the fees generated by the utility through 2012, it does not appear the utility will general revenues need to maintain private stormwater systems during the 4 year period in which the fees will be in affect.

City staff are concerned amending the utility will obligate the City to provide a level of service that is not supported by the utility fees. At the same time, City staff are sensitive to the fact that private retention/detention ponds need maintenance. Several homeowners associations supported adoption of the higher fee based on the understanding the City would sometime in the future take responsibility for maintenance of these facilities.

Staff is seeking direction from the City Council on how to weigh the need to support the homeowners associations while ensuring adequate funding to meeting the basic needs of the City's stormwater systems.

**ALTERNATIVES:**

3. Do not accept the staff recommendation and provide direction to staff on how to proceed. This alternative indicates the City Council is interested in amending the stormwater utility to address concerns raised by the homeowner associations regarding their retention/detention facilities.
4. Accept the staff recommendation to postpone amending the utility and direct staff to assist homeowners associations with plans maintaining their systems in accordance with state and local requirements.

**FISCAL IMPACT:**

Since the City will not be obligating itself to maintain privately owned retention and detention systems there is no fiscal impact anticipated.

**RECOMMENDED ACTION:**

1. Postpone amending Ordinance 985-08 to incorporate a city responsibility to maintain private stormwater facilities until such time as the utility generates sufficient revenues to support this level of service.
2. Direct staff to assist homeowners associations with developing plans to maintain their stormwater retention and detention facilities in accordance with state and local requirements.

3. Direct staff to monitor stormwater revenues and meet with the business and homeowners association representatives in 2009 to reevaluate the stormwater utility.

**ATTACHMENT**

- A - Ordinance 985-08
- B – Ordinance 986-08

**City of Sultan  
Snohomish County, Washington**

**Ordinance 985-08**

**An ordinance of the City of Sultan, Washington enacting a new Title 14 and establishing a Stormwater Utility for the City**

**Whereas**, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as the City, to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., has published rules for stormwater outfall permits; and

**Whereas**, pursuant to RCW Ch. 35 A.11, Ch. 35.67 and Ch. 35.92, the City has the authority to establish a Stormwater Utility and set utility rates, and

**Whereas**, the City currently combines its Sewer and Stormwater Utility rates into a single utility rate; and

**Whereas**, in 2001 the City received a loan for \$140,000 from the Washington State Revolving Fund to develop a Surface Water Quality Management Plan; and

**Whereas**, the City commissioned a Surface Water Quality Management Plan Report including analysis of existing conditions and recommendations for a Stormwater Utility and Stormwater Utility rate. A written report was developed by a qualified consultant. Said report is dated December 1, 2002 and is hereby incorporated by this reference; and

**Whereas**, the City Council finds that the extent of impervious area preventing infiltration or hastening the drainage of storm and surface water from a parcel of property, and carrying contaminants into the streams and receiving waters is a primary factor determining an individual property's contribution into the City stormwater system; and

**Whereas**, increases in impervious surfaces have increased flood events in recent years; and

**Whereas**, all property within the City will benefit from the Stormwater Utility which will protect property from stormwater effects; and

**Whereas**, the City Council has determined that the value of the in-kind service provided by the rights-of-way in collecting and transporting storm and surface water from adjacent properties is equal to or exceeds the Stormwater Utility Fee that would be charged by the Utility; and

**Whereas**, the City desires to establish a Stormwater Utility to be responsible for the operation, construction and maintenance of stormwater facilities; for stormwater system planning, and for review of stormwater development plans for compliance with stormwater management codes; and

**Whereas**, the City Clerk did give notice of a public hearing as required by law; and

**Whereas**, on August 21, 2003 the City Council did conduct a public meeting for a Surface Water Quality Management Plan to include the establishment of a Stormwater Utility and Stormwater Utility rate; and

**Whereas**, for purposes of convenience and efficiency, the City has combined its rates and charges for water, sewer, garbage and stormwater into one ordinance; and

**Whereas**, the City adopted and incorporated the Surface Water Quality Management Plan into the Comprehensive Plan in February 2006 by Ordinance No. 913-06; and

**Whereas**, the City did create and involve a Citizen's Advisory Board to participate in the formation of the Stormwater Utility; and

**Whereas**, the Citizen's Advisory Board met on February 10, 2007, March 6, 2007, April 17, 2007 and May 1, 2007; and

**Whereas**, the City noticed all residents in the Sultan zip code and held an Open House on March 13, 2007 to share information on the proposed utility and take public comment; and

**Whereas**, on March 20, 2007 the City did update the Planning Board on the progress of the Stormwater Utility development and associated research activities and public involvement; and

**Whereas**, on May 10, 2007 the City did update the Planning Board; and

**Whereas**, the Planning Board held a Public Hearing to take public comment on July 17, 2007;

**Whereas**, the City Council held a Public Hearing to take public comment on August 9, 2007;

**Whereas**, the City notified all commercial, industrial and retail property owners by mail in October 2007 regarding the proposed utility and fees; and

**Whereas**, the City Council held a second Public Hearing on January 24, 2008 to take public comment; and

**Whereas**, the Public Hearing was continued to February 28, 2008 to allow additional comment opportunities; and

**Whereas**, the City Council formed a Stormwater Stakeholders Group comprised of city residents, business owners, planning board and council representatives to review the proposed utility and make recommendations to the City Council; and

**Whereas**, the Stormwater Stakeholders met on March 10, 2008, March 24, 2008, April 7, 2008, and April 21, 2008; and

**Whereas**, the Stormwater Stakeholders support the City's efforts to establish the Stormwater Utility

**Now therefore**, the City Council of the City of Sultan, Washington do ordain as follows:

Section 1. The City of Sultan finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the incorporated City limits. Such benefits include, but are not limited to:

1. the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater;
2. the reduction of hazards to property and life resulting from stormwater runoff;
3. improvements in general health and welfare through reduction of undesirable stormwater conditions; and
4. improvements to the water quality in the stormwater and surface water system and its receiving waters.

Section 2. A new Title 14 Sultan Municipal Code, entitled "Stormwater" is hereby enacted to read as follows:

## **TITLE 14 – STORMWATER**

### **Chapter 14.04 STORMWATER UTILITY**

Sections:

- 14.04.010 Establishment of Utility
- 14.04.020 Definitions
- 14.04.030 Rate Policy and establishment
- 14.04.040 Property Classification for Stormwater Utility fee
- 14.04.050 Real Property in an Undeveloped Condition
- 14.04.060 Initial Stormwater Fee
- 14.04.070 Property Exempt from Stormwater Fees
- 14.04.080 Billing
- 14.04.090 Rate/Charge Adjustment and Appeals

**14.04.010 Establishment of Utility.** For those purposes of the Federal Clean Water Act and pursuant to authority set forth in RCW Chapters 35A.11, 35.67, and 35.92, there is created a

Stormwater Utility (“Utility”), which shall consist of a separate fund account and such staff necessary to implement and manage the Utility as the City Council shall authorize.

The City shall exercise throughout the Utility all lawful powers necessary and appropriate to implement the policies of the City pertaining to the collection, treatment, storage, and disposal of stormwater within the incorporated City limits.

It is not the purpose of this Chapter to create a duty to individual persons or property.

**14.04.020 Definitions.** The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

- 1) “Adjustment Request” means a request by a rate payer for review and adjustment of the rate or fee levied upon the property.
- 2) “Base Rate” means the gross charge per ERU needed to satisfy all of the projected costs associated with the stormwater utility for an established period of time.
- 3) “City” means the City of Sultan, Washington or another city with whom Sultan has an interlocal agreement for stormwater rate collection.
- 4) “Developed” means the state, status, or condition of the subject property at the time the proposed project has been completed or development permits have expired, which may include existing buildings, impervious areas, and topography as is affected.
- 5) “Equivalent Residential Unit (ERU)” shall mean the measure of impervious square feet to be used by the Utility in assessing stormwater utility fees against each parcel of property.
- 6) “Impervious Area” means that hard surface area which prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff.

An area may be impervious whether or not the same is occupied or inhabited.

For the purposes of this definition, open retention/detention facilities and wetlands, appropriately drained grass playfields and grass sports fields as defined by the Public Works Director or designee shall not be considered as impervious surfaces.

- 7) “Non-Profit Organization” as defined by RCW 24.03.490 and RCW 35.92.020(g) or as may be amended.
- 8) “Stormwater Utility Fee” means the monthly fee levied by the Utility upon all developed real property within the boundary of the Utility as authorized herein.
- 9) “System” shall mean the entire system of storm drainage facilities owned by the Utility or within the public rights of way for the movement and control of storm and surface waters, including both naturally occurring and manmade facilities.

- 10) "Undeveloped Property" means the state, status, or condition of the subject property prior to any development of the property, which may include trees, pastures, or native features.
- 11) "Utility" means the Sultan Stormwater Utility, created by Ordinance No. 985-08 a utility which operates and maintains the storm or surface water drains, channels and facilities, outfalls for storm drainage and the rights and interests in property relating to the system the boundaries of which shall be the city limits of the City of Sultan and future additions thereto.

**14.04.030 Rate Policy.** It shall be the policy of the City that the rate structure be based upon the Equivalent Residential Unit (ERU), which will be adopted by separate ordinance by the City.

1). The Base Rate shall be based on the relative contribution of increased surface and stormwater runoff from a given parcel to the stormwater system. The percentage of impervious surfaces on the parcel and the total parcel acreage will be used to indicate the relative contribution of increased surface and stormwater runoff from the parcel to the stormwater system. The relative contribution of increased stormwater runoff from each parcel will determine that parcel's share of the Stormwater Utility Fee revenue needs. The Stormwater Utility Fee revenue needs of the Utility are based upon all or any part, as determined by the Council, of the cost of stormwater services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose.

2). The Public Works Department shall determine the stormwater utility fee for each parcel within the Utility based on percentage of impervious surface. Aerial photographic mapping, ortho-rectified aerial photographs (orthophotos), as-built drawings, and parcel boundaries obtained from the Snohomish County Assessor (or other appropriate data) will be used to determine each parcel's percentage of impervious surface coverage.

**14.04.040 Property Classification for Stormwater Utility Fee.**

1) Property Classification: For purposes of determining the Stormwater Utility Fee, all properties in the City are classified into one of the following classes:

Single-family detached residential property;

Two-, three- and four-family residential property; or

Commercial and Other developed property including multi-family (5-99 units).

2) Single-family residential fee: The City Council finds that the intensity of development of most parcels of real property in the City classified as single-family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as building, structures, and other impervious areas) on each such parcel. Therefore, all single-family residential properties in the City shall be charged a flat stormwater management fee equal to 1 ERU regardless of the size of the parcel or the improvements.

3) Two-, three- and four-family residential fee: The City Council finds that the intensity of development of most two-, three- and four-family residential properties is approximately 1.75 times that of the average single-family residential properties. Therefore, all two-, three- and four-family residential properties will be 1.75 ERUs.

4) Commercial and Other developed property fee: The fee for commercial and all other developed property in the City shall be based on the numerical factor obtained by dividing the total impervious surface area (square feet) of the property by one (1) ERU. The minimum stormwater utility fees for other developed property shall be equal one (1) ERU.

**14.04.050** Real Property in an Undeveloped Condition. In accordance with the policy established in Section 14.04.030, the stormwater utility fee shall be determined by the amount of impervious area contained on each parcel of real property. Therefore, no stormwater utility fee shall be imposed upon those parcels of real property within the boundaries of the Utility that are in an entirely undeveloped state and are determined by the Public Works Director or his/her designee to not make use of the services of the Utility.

**14.04.060** Initial Stormwater Utility Fee. In accordance with the rate structure established herein, there is hereby levied upon all developed real property within the boundaries of the Utility the following Stormwater Utility Fee:

- 1) For all single-family residences and detached single-family condominiums, the monthly Stormwater Utility Fee shall be the fee established and approved by separate ordinance for one Equivalent Residential Unit (ERU).
- 2) For two-, three- and four-family residential property, the monthly Stormwater Utility Fee shall be the fee established and approved by separate ordinance for 1.75 ERUs.
- 3) For all other developed property including commercial, institutional, manufacturing, multi-family greater than four (4) residences, attached condominiums of greater than four (4) units and mobile home parks within the boundaries of the Utility, except as specified under Section 14.04.070, the monthly Stormwater Utility Fee is determined by separate ordinance based on the number of ERUs calculated by dividing the total square feet of impervious surface on the subject property by one (1) ERU.
- 4) Low income senior citizens may apply for a 50% discount to their stormwater utility fee. "Low income senior citizen" means persons 62 years of age or older, on or before January 31st of the year of the filing for the discount. Low income is based on 125 percent of the federal poverty guidelines.

**14.04.070** Property Exempt From the Stormwater Utility Fee. The following special categories of property are exempt from the Stormwater Utility Fee:

- 1) City street rights-of-way.
- 2) State of Washington highway rights-of-way and Snohomish County road rights-of way so long as the State of Washington and Snohomish County shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way as required by the Utility in conformance with all Utility standards for maintenance, construction and

improvement hereafter established by the Utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the Utility or to the City.

- 3) Real property within the boundaries of the Utility that are in an entirely undeveloped state and are deemed by the Public Works Director or his/her designee not to make use of the services of the Utility.

**14.04.080. Billing.**

- 1) The charges imposed by this chapter shall be billed in conjunction with the property owner's or user's customary water and sanitary sewer bill issued by the City and for the purposes of billing only the city shall be deemed to have a consolidated sewer, water and stormwater utility and therefore the City may allocate receipts on billings first to stormwater and sewer to preserve its right to shut off water. For developed properties subject to the stormwater utility fee that do not otherwise receive a water or sanitary sewer bill from the City of Sultan, the stormwater utility fee may be billed at intervals set by the Public Works Director, but not less than annually.
- 2) Delinquent accounts shall be determined and administered in a manner consistent with that provided for water and sewer.
- 3) Billings may be made in the name of tenant or other occupants of the premises that are provided Stormwater Utility services at the mailing address of the property. Such billings shall not relieve the owner of the property from liability for the payment of the charges for furnishing of such stormwater services nor in any way affect the lien rights of the City against the premises to which said stormwater services are furnished. Failure to receive mail properly addressed to the mailing address provided above shall not be a valid defense for failure to pay the delinquent charges and penalties. Any change in the mailing address provided above must be properly filed in writing with the Office of the City Clerk before it will become effective.
- 4) In the event the City must bring legal action to collect stormwater utility fees and/or penalties, the City, in addition to such charges and penalties, shall recover its attorney's fees and other costs incurred in connection with such collection.

**14.04.090 Rate/Charge Adjustment and Appeals:**

- 1) Any person billed a stormwater fee under this chapter may file an "Adjustment Request" with the Public Works Director within sixty (60) days of the date of the billing statement. Submittal of an Adjustment Request shall be made on forms provided by the Director and shall not extend the period of payment for the stormwater fee.
- 2) Upon timely receipt of an Adjustment Request, the Public Works Director or his/her designee will review the request and make a preliminary determination after a review of Utility records or a site visit.
- 3) The Public Works Director may grant a rate adjustment only in accordance with this chapter and only upon a finding that one or more of the following conditions exist:
  - a. The parcel charged is not within the Sultan city limits.

- b. The impervious surface area of the parcel would change the number of Equivalent Residential Units used in determining the stormwater fee.
  - c. The parcel is in an undeveloped condition and not paved, graveled or covered with any impervious surface.
  - d.
  - e. The rate charged was otherwise not calculated in accordance with the terms of this chapter.
- 4) If the property owner does not agree with the preliminary determination, the property owner may submit further evidence supporting the calculation prepared by a licensed surveyor, engineer or professional. This may include an approved drainage plan, a detailed site plan or other information required by the Public Works Director.
  - 5) The property owner shall have the burden of proving by a preponderance of the evidence that the desired Adjustment Request meets the requirements of this section.
  - 6) When granted, an Adjustment Request shall only apply to the Stormwater utility fee bills subsequently issued. If an Adjustment Request is granted which reduces the rate charge for the current year, the applicant shall be refunded the amount overpaid in the current calendar year only. If the Public Works Director finds that a rate charge bill has been undercharged, then at the Director's discretion, either an amended bill shall be issued which reflects the increase in the stormwater utility fee, or the undercharged amount shall be added to the next bill. Any amended bill shall be due and payable under the provisions set forth in this chapter.
  - 7) Decisions on Adjustment Requests shall be made by the Public Works Director based on information submitted by the applicant in the Adjustment Request, the utility's records and a site visit. Decisions shall be made within thirty (30) days of the date of the Adjustment Request, except when additional information is requested or needed by the Public Works Director. The applicant shall be notified in writing of the Public Works Director's decision.
  - 8) Decisions of the Public Works Director on Adjustment Requests shall be final unless appealed to the Snohomish County Superior Court within thirty (30) days of the final decision on the Adjustment Request.

Section 3. Effective Date. This ordinance shall become effective from and after its passage and the expiration of five (5) days after publication as provided by law, except the provisions of Section 2 relating to Initial Stormwater Utility Fee Rates, SMC 14.04.060 shall be effective on July 1, 2008.

Section 14. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

ADOPTED by the City Council and APPROVED by the Mayor this \_\_\_ day of \_\_\_\_\_, 2007.

CITY OF SULTAN

By: \_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST:

By: \_\_\_\_\_  
Laura Koenig, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Kathy Hardy, City Attorney

Date of Publication: \_\_ day of \_\_\_\_\_, 2008

Effective Date: \_\_ day of \_\_\_\_\_, 2008

**City of Sultan  
Snohomish County, Washington**

**Ordinance 986-08**

**AN ORDINANCE OF THE CITY OF SULTAN,  
WASHINGTON ESTABLISHING A STORMWATER  
UTILITY RATE STRUCTURE LEVIED UPON ALL  
DEVELOPED REAL PROPERTY WITHIN THE  
BOUNDARIES OF THE UTILITY**

**Whereas**, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as the City, to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., has published rules for stormwater outfall permits; and

**Whereas**, pursuant to RCW Ch. 35 A.11, Ch. 35.67 and Ch. 35.92, the City has the authority to establish a Stormwater Utility and set utility rates, and

**Whereas**, for purposes of convenience and efficiency, the City has combined its rates and charges for water, sewer, garbage and stormwater into one ordinance; and

**Whereas**, the City commissioned a Surface Water Quality Management Plan Report including analysis of existing conditions and recommendations for a Stormwater Utility and Stormwater Utility rate. A written report was developed by a qualified consultant. Said report is dated December 1, 2002 and is hereby incorporated by this reference; and

**Whereas**, the City Council finds that the extent of impervious area preventing infiltration or hastening the drainage of storm and surface water from a parcel of property, and carrying contaminants into the streams and receiving waters is a primary factor determining an individual property's contribution into the City stormwater system; and

**Whereas**, increases in impervious surfaces has increased flood events in recent years; and

**Whereas**, all property within the City will benefit from the Stormwater Utility, which will protect property from stormwater effects; and

**Whereas**, the City Council has determined that the value of the in-kind service provided by the rights-of-way in collecting and transporting storm and surface water from adjacent properties is equal to or exceeds the Stormwater Utility Fee that would be charged by the Utility; and

**Whereas**, the City desires to establish a Stormwater Utility to be responsible for the operation, construction and maintenance of stormwater facilities; for stormwater system planning, and for review of stormwater development plans for compliance with stormwater management codes; and

**Whereas**, the City Clerk did give notice of a public hearing as required by law; and

**Whereas**, on August 21, 2003 the City Council did conduct a public meeting for a Surface Water Quality Management Plan to include the establishment of a Stormwater Utility and Stormwater Utility rate; and

**Whereas**, the City adopted and incorporated the Surface Water Quality Management Plan into the Comprehensive Plan in February 2006 by Ordinance No. 913-06; and

**Whereas**, the City did create and involve a Citizen's Advisory Board to participate in the formation of the Stormwater Utility establishing Stormwater Utility rates; and

**Whereas**, the Citizen's Advisory Board met on February 10, 2007, March 6, 2007, April 17, 2007 and May 1, 2007; and

**Whereas**, the City noticed all residents in the Sultan zip code and held an Open House on March 13, 2007 to share information on the proposed utility and take public comment; and

**Whereas**, the Planning Board held a Public Hearing to take public comment on July 17, 2007;

**Whereas**, the City Council held a Public Hearing to take public comment on August 9, 2007;

**Whereas**, the City notified all commercial, industrial and retail property owners by mail in October 2007 regarding the proposed utility and rates; and

**Whereas**, the City Council held a second Public Hearing on January 24, 2008 to take public comment; and

**Whereas**, the Public Hearing was continued to February 28, 2008 to allow additional comment opportunities; and

**Whereas**, the City Council formed a Stormwater Stakeholders Group comprised of city residents, business owners, planning board and council representatives to review the proposed utility and rates and make recommendations to the City Council; and

**Whereas**, the Stormwater Stakeholders met on March 10, 2008, March 24, 2008, April 7, 2008, and April 21, 2008; and

**Whereas**, the Stormwater Stakeholders made a recommendation to the City Council to adopt a stormwater utility rate structure to support maintenance and operations and capital improvements to the City's stormwater facilities;

**Whereas**, the City Council held a public hearing on June 12, 2008 to take comment on establishing a stormwater utility and rate structure.

**Now therefore**, the City Council of the City of Sultan, Washington do ordain as follows:

Section 1. Definitions. The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

- 12) "City" means the City of Sultan, Washington or another city with whom Sultan has an interlocal agreement for stormwater rate collection.

- 13) "Developed" means the state, status, or condition of the subject property at the time the proposed project has been completed or development permits have expired, which may include existing buildings, impervious areas, and topography as is affected.
- 14) "Equivalent Residential Unit (ERU)" shall mean the measure of impervious square feet to be used by the Utility in assessing stormwater utility fees against each parcel of property. The calculated ERU is 4,519 square feet.  

ERU's are used for the purpose of calculating the stormwater user's rate. An ERU represents the average square footage of impervious surface of a detached single-family residential property and is applied to commercial properties to calculate the commercial rate.

The ERU is established by reviewing a representative sample of recorded data, maps, surveys or field measurement to obtain the average impervious area for a single-family lot. Non-residential properties are converted into ERUs based on the amount of impervious area on the property.
- 15) "Impervious Area" means that hard surface area which prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff.
- 16) "Stormwater Utility Fee" means the monthly fee levied by the Utility upon all developed real property within the boundary of the Utility as authorized herein.
- 17) "Undeveloped Property" means the state, status, or condition of the subject property prior to any development of the property, which may include trees, pastures, or native features.
- 18) "Utility" means the Sultan Stormwater Utility, created by Ordinance No. 985-08 a utility which operates and maintains the storm or surface water drains, channels and facilities, outfalls for storm drainage and the rights and interests in property relating to the system the boundaries of which shall be the city limits of the City of Sultan and future additions thereto.

**Section 2. Rate Policy.** In accordance with the policy established by the Utility, the stormwater utility fee shall be determined by the amount of impervious area contained on each parcel of real property as determined by the Public Works Department.

**Section 3. Stormwater Utility Fee.** In accordance with the rate structure established herein, there is hereby levied upon all developed real property within the boundaries of the Utility the following Stormwater Utility Fee:

- 5) For all single-family residences and detached single-family condominiums, the monthly Stormwater Utility Fee shall be the fee established and approved for 1.00 ERU.
- 6) For two-, three- and four-family residential property, the monthly stormwater utility fee shall be the fee established and approved for 1.75 ERUs.
- 7) For all other developed property including commercial, institutional, manufacturing, multi-family greater than four (4) residences, attached condominiums of greater than four (4) units and mobile home parks within the boundaries of the Utility, except as exempt under Section 4 below, the

monthly Stormwater Utility Fee is determined by dividing the total square fee of impervious surface on the subject property by one (1) ERU.

By way of illustration:

12,500 square feet of impervious surface / 4,519 square fee (1 ERU) = 2.77 ERU

2.77 ERU = \$5.90/month

<b>STORMWATER MONTHLY RATE SCHEDULE PER TAX PARCEL</b>				
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>RESIDENTIAL PARCELS</b>				
Single Family	\$5.75/MO	\$6.75/MO	\$8.00	\$9.25
Low-Income Senior (50% SFR rate)	\$2.88/MO	\$3.38/MO	\$4.00/MO	\$4.63/MO
Two-, three-, and four-family residential	\$5.90/MO	\$6.85/MO	\$8.10/MO	\$9.35/MO
<b>COMMERCIAL, INSTITUTIONAL, MANUFACTURING, MULTI-FAMILY (GREATER THAN 4 UNITS) AND MOBILE HOME PARKS</b>				
Base Rate by Equivalent Residential Unit (ERU) The calculated ERU is 4,519 square feet				
≤ 1 ERU	\$5.75/MO	\$6.75/MO	\$8.00/MO	\$9.25/MO
1.01-5.00 ERU	\$5.90/MO	\$6.85/MO	\$8.10/MO	\$9.35/MO
5.01-10.00 ERU	\$6.00/MO	\$6.95/MO	\$8.20/MO	\$9.45/MO
10.01-15.00 ERU	\$6.10/MO	\$7.05/MO	\$8.30/MO	\$9.55/MO
15.01 – 20.00 ERU	\$6.20/MO	\$7.15/MO	\$8.40/MO	\$9.65/MO
20.01 – 25.00 ERU	\$6.30/MO	\$7.25/MO	\$8.50/MO	\$9.75/MO
25.01 – 50.00 ERU	\$6.40/MO	\$7.35/MO	\$8.60/MO	\$9.85/MO
50.01-100.00 ERU	\$6.50/MO	\$7.45/MO	\$8.70/MO	\$9.95/MO
> 100.00 ERU	\$6.60/MO	\$7.55/MO	\$8.80/MO	\$10.05/MO

**Section 4. Property Exempt From the Stormwater Utility Fee.** The following special categories of property are exempt from the Stormwater Utility Fee:

- 4) City street rights-of-way.
- 5) State of Washington highway rights-of-way and Snohomish County road rights-of way so long as the State of Washington and Snohomish County shall agree to maintain, construct and improve

**Attachment B**

all drainage facilities contained within such rights-of-way as required by the Utility in conformance with all Utility standards for maintenance, construction and improvement hereafter established by the Utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the Utility or to the City.

- 6) Real property within the boundaries of the Utility that are in an entirely undeveloped state and are deemed by the Public Works Director or his/her designee not to make use of the services of the Utility.

**Section 5 Severability:** This ordinance is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

**Section 6 Effective Date.** This ordinance shall become effective: \_\_\_\_\_, 2008.

PASSED by the City Council and APPROVED by the Mayor this 25th day of September 2008.

CITY OF SULTAN

By \_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST:

By \_\_\_\_\_  
LAURA KOENIG, City Clerk

Approved as to form:

By \_\_\_\_\_  
Kathy Hardy, City Attorney