



McCleary City Council Agenda

11/14/18- 6:30PM

Flag Salute

Roll Call: ___ Pos. 1-Richey, ___ Pos. 2-Huff , ___ Pos. 3- Heller, ___ Pos. 4- Blankenship, ___ Pos. 5- Iversen

Presentation			Greater Grays Harbor
Public Hearing			Final Budget Hearing
Mayor Comments			
Public Comment			
Minutes		Tab	A 10/24/2018
Approval of Vouchers			
Staff Reports		Tab	B Chris Coker Report
		Tab	C Todd Report
		Tab	D Staff Report
Old Business		Tab	E Blighted Properties Discussion
New Business		Tab	F Capital Facilities Plan
		Tab	G Indigent Defense Council Contract
		Tab	H BPA TC-20/BP-20 Settlement Intro
Ordinances		Tab	I New Fund Ordinance
Resolutions			
Mayor/Council Comments			
Public Comments			
Adjourn/Recess Meeting			

Please turn off Cell Phones- Thank you

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TAB - A

CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, October 24, 2018

ROLL CALL AND FLAG SALUTE	Councilmembers Richey, Huff, Heller, Blankenship and Iversen were in attendance.
ABSENT	None.
STAFF PRESENT	Present at the meeting were Director of Public Works Todd Baun, Clerk-Treasurer Wendy Collins and Attorney Chris Coker.
PUBLIC HEARING	The Public Hearing on the Preliminary Budget and Revenue Sources for Levy Setting opened at 6:34 PM. No comments were made. The hearing closed at 6:35 PM.
PUBLIC COMMENTS	None.
MAYOR COMMENTS	<p>The Washington State Department of Transportation Project is wrapping up and Mayor Orffer asked everyone to be mindful that all lanes will now be open and the second exit is also opening after being closed for over a year. The stop sign at the second exit is active again and we all need to be careful to acknowledge it, and once again, stop at the stop sign. Some people thought the plastic cover on the sign had simply blown off and weren't stopping. They didn't realize the sign was back in service.</p> <p>The Family Medical Leave Act (FMLA) is a new leave law, which goes into effect, as of January 1, 2019. Every employer is required to either pay in part, or collect from the employees, for the new family medical leave plan. This will impact all employees, including the elected officials, by enforcing a monthly deduction. When the Council receives their pay in 2019, they will see the deduction taken out of their pay, as well as the employees. Any wage earned will be taxed.</p> <p>Todd Baun, Larry Skinner, Wendy Collins and Mayor Orffer joined the ladies from the Methodist Church to tour their church facility. We reviewed the area they are offering to house the museum items that are subject to damage in the current museum building. It was fun touring the church and hearing the stories that were shared. The church is looking into donating the church facility to the City for it to be used as a museum, and possibly, a welcome center.</p> <p>Mayor Orffer met with John Carnell, and some family members, to share the idea of what has transpired with the museum and the church facility opportunity. Conditions were placed on the original Deed for the Carnell House stating that if the museum ceased to remain in the building for 50-years, the house would go back to the family estate. We have asked them to be patient with us so we can work through the details. The current museum has been in this location for approximately 34-years.</p> <p>This coming Friday is the merchant trick-or-treating around town so be mindful and careful of the kids walking around town.</p>
VOUCHERS	<p>Accounts Payable checks approved were 45035 - 45096, including EFT's, in the amount of \$113,585.63.</p> <p>It was moved by Councilmember Iversen, seconded by Councilmember Heller to approve the vouchers. Motion Carried 5-0.</p>
MINUTES APPROVED	It was moved by Councilmember Huff, seconded by Councilmember Richey to approve the minutes from the meeting held on October 10, 2018. Motion Carried 5-0.
CITY ATTORNEY REPORT	<p>Chris Coker is working on helping Wendy Collins with locating an indigent defense attorney.</p> <p>Mr. Coker is working on anti-harassment training he will be presenting to the city staff in January.</p>
DIRECTOR OF PUBLIC WORKS REPORT	Todd Baun provided a quote for a new lawn mower. The crew attempted to repair the current mower and discovered parts are no longer available.
POLICE CHIEF REPORT	Chief Blumer was not present at the meeting.

LAWN MOWER PURCHASE	It was moved by Councilmember Blankenship, seconded by Councilmember Iversen to authorize the purchase of a new John Deere lawnmower from Washington Tractor, Inc., in the amount of \$3,484.65, including tax. Motion Carried 5-0.
RESOLUTION 720 LEMAY RATE INCREASE	It was moved by Councilmember Richey, seconded by Councilmember Blankenship to adopt Resolution 720, RELATING TO PUBLIC SERVICES; ESTABLISHING AND CONFIRMING FEES; AND PROVIDING FOR EFFECTIVE DATES, to go into affect on 01/01/2019 and to include the \$2.00 fee for city-wide clean-up. Resolution Adopted 5-0.
SURPLUS ITEMS	It was moved by Councilmember Iversen, seconded by Councilmember Huff to authorize the surplus of the listed items and vehicles for auction to the highest bidder. Motion Carried 5-0.
JD TECH SOLUTIONS SERVER UPGRADE	Todd Baun stated the previous IT service provider purchased a server for the City that was intended to be used as an email server. It cost quite a bit of money and is all set up and running as a secondary backup and is sitting there doing nothing. Jesse, our current IT provider, came up with the idea of taking the secondary server and set it up as our record storage server for scanning documents that are taking up storage space. He provided information in regard to upgrading both servers and redesigning the infrastructure. There will be an initial set up cost and will include a \$200 per month increase for monitoring the additional server. Todd asked the Council to consider accepting the proposal from JD Tech Solutions to upgrade the server and increase the monthly retainer. Councilmember Richey asked if we absolutely need this server. Mayor Orffer responded stating we need to convert all of our paper storage to electronic files due to the lack of paper document storage. This is essential for us to modernize our storage and move toward electronic file storage. Councilmember Blankenship is concerned the server size does not have a large enough capacity. Todd will talk with Jesse to see if the size is sufficient. Councilmember Heller is concerned the shelf life is not going to be long enough. Todd said we converted to a solid state hard drive because they don't fail like the standard hard drives have in the past. It was moved by Councilmember Blankenship, seconded by Councilmember Iversen to authorize and approve the cost proposal for the server upgrade, with an added inquiry of what it would cost to double the storage memory, and increase the monthly retainer with JD Tech Solutions as presented. Motion Carried 5-0.
WSDOT LAA AGREEMENT	The Washington State Department of Transportation submitted an agreement supplement to change and move the money from the right-of-way phase to the construction phase. There is no cost change to the request. It was moved by Councilmember Heller, seconded by Councilmember Blankenship to accept the WSDOT LAA Agreement Supplement, as presented. Motion Carried 5-0.
TAX LEVY REFUND	It was moved by Councilmember Iversen, seconded by Councilmember Richey to authorize the City of McCleary to accept option (a) to certify a refund levy collectable in 2019 in the amount of \$2,001.58 to recover net refunds/cancellations. Motion Carried 5-0.
ORDINANCE 845 AD VALOREM TAX LEVY 1% INCREASE	Ordinance 845 was introduced at the last meeting, requesting a 1% increase. It was moved by Councilmember Iversen, seconded by Councilmember Huff to adopt Ordinance 845 RELATING TO THE ESTABLISHMENT OF THE REGULAR TAX LEVY FOR THE YEAR 2018 FOR COLLECTION IN THE YEAR 2019; MAKING FINDINGS; AND RESERVING RIGHTS. Roll call taken in the affirmative. Ordinance Adopted 5-0.
EXECUTIVE SESSION	None.

PUBLIC COMMENT

Mayor Orffer reminded the Council of the budget meeting scheduled for Saturday, October 27th, at 9:00 am. She explained the process for the budget and reviewed the process for the workshop. The copy of the proposed budget, which was provided to the Council, will be the working copy for the workshop. She explained from the staff's standpoint, Todd as the Director of Public Works, Wendy as the Clerk-Treasurer and Chief Blumer as the Police Chief all oversee the departments within the budget. All budgeting requests in the city go to them and they create the budget and prepare the proposal. Wendy, as Clerk-Treasurer, is the owner of the budget and Todd and Chief Blumer have a lot of stake in the game of the development of the budget. Mayor Orffer oversees the process and has been reviewing it along the way. She is asking all the crucial questions regarding the city properties and asks if staff is in need of training and what items are needed for the coming year to keep the city running. On Saturday, she will provide information on any significant changes to the budget lines, which have a 15% or more difference from last years budget. Mayor Orffer will provide snacks and coffee for the workshon

MEETING ADJOURNED

It was moved by Councilmember Huff, seconded by Councilmember Blankenship to adjourn the meeting at 7:13 pm. The next meeting will be Wednesday, November 14, 2018 at 6:30 pm. Motion Carried 5-0.

Approved by Mayor Brenda Orffer and Clerk-Treasurer Wendy Collins.

TAB - B

TAB - C

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: November 7th, 2018
Re: Current Non-Agenda Activity

Update of Resolution #700 and #622

Chris Coker and I have been working through some financial policies updates. The updates are necessary for compliance with state regulations and to clear up some language in the current city policies.

3rd Street Project

Our 3rd Street project is currently out to bid. Bids will be opened on Nov. 28th.

TAB - D

STAFF REPORT

To: Mayor Orffer
From: Paul Nott, Light & Power
Date: November 5, 2018
Re: June-October Report



	Monthly Statistics;	YTD Totals;
New Services;	16	29
System Outages;	6	10
Pole Replacements;	5	23
Maintenance Work Orders;	17	38
Billable Work Orders;	16	30

The last few months have consisted of numerous different items. New service construction has been up. The outages were; 2 underground faults and the other 4 were weather related.

The bridge construction has been completed out Sand Creek, we are now in the process of returning things back to normal.

All poles have been re located for the Third Street project and out of the construction area.

Things that are coming up are prepare the City Christmas decorations, brush maintenance behind the mill, start alley cut over between Simpson and Maple and return circuits to normal out Sand Creek.

With winter approaching it is a good time to mention that we are entering storm season and for everyone to stay away from down power lines and be sure to notify us of any power outages. Too many times people may assume that we know about their outage and they don't call.

Have a happy Thanksgiving...

If you have any questions feel free to contact us...

City Of McCleary Police Report: Chief Steve Blumer
 Reporting Officer: Chief Blumer
 Month Of October
 2018
 City Mayor: Brenda Orffer

City Council Members:
 Position 1: Dustin Richey
 Position 2: Brycen Huff
 Position 3: Jaron Heller
 Position 4: Ben Blankenship
 Position 5: Joy Iversen



Violent & Property Crimes

Murder	
Rape	
Assault	2
Robbery	
Harassment / Domestic	5
Theft	4
Trespass	2
Stalking	
Found Property	1
Warrant Arrest	6
Burglary	7

TOTAL 27

Other Emergent Calls

FIRE	17
Suicide	1
Missing Person	1
Disorderly Conduct	4
Drug Incidents	1
Man Down	
911	5
Alarm	1
Display	
Sex offense	
TOTAL	30

Total Calls For The Month 464

Traffic Stops and Violations

DUI	2
Accident	3
Stolen Vehicle/Recovery	
Abandon Vehicle	1
Parking Enforcement	
Motorist Assist	5
Fatal Accident	
Subject Stop	3
Traffic Stop	302
Reckless	2
Vehicle prowl	

TOTAL 318

Other Non Emergent Calls

Noises Complaints	2
Code Enforcement	6
Agency Assist	8
Police Referral	31
Citizen Assist	2
Suspicious	8
Juvenile	1
Welfare Check	3
Other	27
Fraud	
Court Order	1
TOTAL	89

TAB - E

VACANT AND ABANDONED PROPERTIES

A. Purpose.

It is the purpose and intent of this chapter to establish a vacant or abandoned property registration program in order to protect the community from becoming blighted as a result of abandoned Properties that are not properly secured and maintained. This chapter requires the lender or other responsible parties of Properties that have been vacant and/or abandoned to register those Properties with the City of McCleary as set forth in this chapter.

WHEREAS, the Administration finds that vacant and abandoned properties can lead to neighborhood decline and become attractive nuisances causing the City of McCleary to incur significant costs in the form of staff time for code enforcement actions seeking to maintain and ensure the acceptable condition of these properties; and

WHEREAS, vacant and abandoned properties act as a significant financial drain on municipalities requiring a disproportionate amount of municipal resources while providing minimal ratables; and

WHEREAS, the National Vacant Properties Campaign shows that vacant properties are an increasing expense with every year a property remains vacant or abandoned as such vacant properties produce minimal tax ratables and require significant time, attention and funds from departments such a nuisance abatement, crime, fire prevention and an overall decrease in neighboring property values; and

WHEREAS, vacant and abandoned properties are a strain on the resources of local Police, Fire, and Building Departments, depreciate property values, reduce property tax revenue, attract crime and degrade the quality of life for remaining residents, and

WHEREAS, taxpayers who take care of their homes and properties should not have to subsidize these properties and, accordingly, a registration fee should be assessed to cover such costs and

WHEREAS, it is necessary to take steps to monitor such properties and protect City residents.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of McCleary, in the County of Grays Harbor and State of Washington, as follows:

A. Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise:

1. "Abandoned/Vacant Property" means a property, with or without a building, that is vacant such as:
 - (a) Is under a current notice of default and/or notice of trustee's sale or
 - (b) Is the subject of a pending tax assessor's lien sale or
 - (c) Has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure or
 - (d) Has been transferred under a deed in lieu of foreclosure/sale, or
 - (e) Is subject to a contract forfeiture. Property acquired by Grays Harbor County at a tax foreclosure sale under RCW 84.64 is not to be included within the definition of "Abandoned Property" or
 - (f) Any property that has not been legally occupied for a period of six months and which meets any of the following additional criteria may be deemed to be abandoned property upon a determination by the enforcement officer and in conjunction with the McCleary Municipal Code:
 - I. The property needs rehabilitation in the reasonable judgment of the enforcement officer, and in conjunction with the McCleary Municipal Code, and does not meet the exemption or
 - II. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the Building Department pursuant to this section or
 - III. The property is currently issued a citation for nuisance in accordance with the McCleary Municipal Code or
2. "Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant and not occupied by authorized persons. Such conditions include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities "Water, Sewer, Power"; accumulation of trash, junk, and/or debris; statements by neighbors, delivery agents, or government employees that the property is vacant; and for residential properties, the

absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation.

3. "Lender" means any person who makes, extends, or holds a real estate loan agreement and includes, but is not limited to, mortgagees; beneficiaries under deeds of trust; underwriters under deeds of trust; vendors under conditional land sales contracts; trustees and a successor in interest to any mortgagee, beneficiary, vendor or trustee and any other lien holder on the property. The term also includes any mortgagee, beneficiary or trustee that accepts a deed in lieu of foreclosure.
4. "Owner" means any natural person, partnership, association, corporation or other entity having legal title in real property including any borrower.
5. "Property" means any unimproved or improved, residential, commercial or Industrial zoned real property, or portion thereof, situated in the City of McCleary, and includes the buildings or structures located on the property regardless of condition.
6. "Responsible party" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property, including but not limited to an owner, borrower, and lender as defined in this section.
7. Property determined to be "abandoned property" in accordance with the meaning of such term shall also be deemed to be vacant property for the purposes of this section.

B. Registration of Abandoned / Vacant Properties.

The owner of any vacant property as defined herein shall, within 30 days after becoming a vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the City of McCleary on forms provided by the City of McCleary for such purposes.

The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the property remains vacant property and shall pay a registration or renewal fee in the amount prescribed in this ordinance for each vacant property registered. The initial and renewal fees shall be prorated and or credited accordingly upon legal occupancy. The content of the registration shall include:

1. Proof of ownership, or financial interest, such as a lien or loan;
2. The name and contact information of the owner, lender or responsible party or the agent of the respective entity;
3. The name and contact information for the local property manager responsible for maintaining the property; and

4. Documentation which demonstrates the property is vacant, foreclosed, pending foreclosure, or subject to foreclosure, trustee's sale, tax assessor's lien sale or other legal proceedings.
5. The name, street address, and telephone number of the owner; the case name and number of any litigation pending concerning or affecting the building, including bankruptcy cases; and the name, street address, and telephone number of all persons with any legal interest in the building or the premises.
6. The form shall require the owner to identify a natural person at least twenty-one (21) years of age, to accept 24-hour service on behalf of the owner and file with the City of McCleary on the registration form, the name, address, telephone number, of said person. A street address is required. A post office box is not an acceptable address.

The owner shall file an amended registration within fifteen (15) days of any change in the information contained in the annual registration.

Registration does not exonerate the owner from compliance with all applicable codes and ordinances, nor does it preclude any of the actions the City of McCleary is authorized to take pursuant to this ordinance or elsewhere in the Municipal Code.

The City shall also be notified of any changes if the property is transferred and/or if the property becomes legally occupied, within fifteen (15) days of such transfer and/or occupancy.

An exemption must be received within (10) days and can only be granted by the Director of Public Works or his/her designee upon receiving a COMPLETED exemption form and approved by City Counsel.

C. Minimum Property Maintenance Requirements.

The lender or responsible party shall be required to:

1. Maintain and keep properties free of conditions including, but not limited to:
 - a. weeds, dry brush, dead vegetation, trash, junk, debris, building materials and junk vehicles;
 - b. accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), and discarded personal items including, but not limited to, furniture, clothing, or large and small appliances, and
 - c. graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure;
2. Secure ponds, pools and hot tubs and ensure that they do not become a public nuisance;
3. Secure the property to prevent access by unauthorized persons, including, but not limited to, the following: the closure and locking of windows, doors (walk-through, sliding and garage), gates, and any other opening of such size that it may allow a child or any

other person to access the interior of the property and or structure(s). Securing also includes boarding as applicable. Material used for boarding shall be painted with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure;

4. Take any other action necessary to prevent giving the appearance that the property is abandoned,
5. Post the property with the name and twenty-four (24) hour contact phone number of the local property manager as follows:

"THIS PROPERTY IS MANAGED BY [insert name],
TO REPORT PROBLEMS OR CONCERNS, PLEASE CALL [insert phone number]"

The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of at least forty-five (45) feet. The posting shall be placed on the interior of a window to the front of the property (facing the street) so it is visible from the street or secured to the exterior of the building / structure to the front of the property (facing the street) so it is visible from the street, or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of, and printed with, weather resistant materials;

6. Monitor property as necessary to prevent the creation of a nuisance; and
7. Comply with other applicable portions of the City Municipal Code (code enforcement), the City weed and vegetation control requirements and the City Building Regulations.

D. City Monitoring of Property.

Upon registration, the City may provide regular monitoring of the property including, but not limited to, periodic site visitation, which will not exceed the City's rights of access as well as notification to lender or responsible party if the property begins to exhibit characteristics established in RCW 35.80.010 or this chapter. The City's monitoring of the property does not relieve the lender or other responsible party from monitoring the property.

E. Waiver for City to Abatement — Trespass of Unauthorized Individuals.

As part of the property registration, the lender or responsible party shall waive any objection to the City to enter onto the property for purposes of abating a condition that would constitute an unfit or substandard building as established in RCW or the City of McCleary Municipal Code.

The cost of the abatement shall be charged against the property pursuant to City of McCleary Municipal Code. The City shall notify the owner, lender or responsible party at least seven (7) days prior to the City taking abatement action in order to allow the owner, lender or responsible

party to abate the condition first unless such abatement constitutes an emergency and must be abated immediately.

The lender or responsible party shall provide written authorization to the police department to issue a trespass order against any unauthorized individual from the property.

F. Fee schedule.

The initial registration fee for each Residential “R1, R2, R3” zoned property shall be \$500. The fee for the first renewal is \$1000. The fee for any subsequent renewal is \$2,000. After five years, the registration fee shall be \$5,000. Initial fee shall be prorated according to the month of registration and renewal fees shall be credited when a property becomes legally occupied during a renewal period.

Vacant and Abandoned Residential Property Registration Fee Schedule

<u>Registration</u>	<u>Fee</u>
a. Initial registration	\$500
b. First renewal	\$1000
c. Any subsequent renewal up to five years	\$2000
d. After five years	\$5,000

The initial registration fee for each Commercial “C1, C2, C3” zoned property shall be \$1,000. The fee for the first renewal is \$2000. The fee for any subsequent renewal is \$4,000. After five years, the registration fee shall be \$7,000. Initial fee shall be prorated according to the month of registration and renewal fees shall be credited when a property becomes legally occupied during a renewal period.

Vacant and Abandoned Commercial Property Registration Fee Schedule

<u>Registration</u>	<u>Fee</u>
e. Initial registration	\$1,000
f. First renewal	\$2,000
g. Any subsequent renewal up to five years	\$4,000
h. After five years	\$7,000

The initial registration fee for each Industrial zoned property shall be \$2,000. The fee for the first renewal is \$4,000. The fee for any subsequent renewal is \$8,000. After five years, the registration fee shall be \$10,000. Initial fee shall be prorated according to the

month of registration and renewal fees shall be credited when a property becomes legally occupied during a renewal period.

Vacant and Abandoned Industrial Property Registration Fee Schedule

<u>Registration</u>	<u>Fee</u>
i. Initial registration	\$2,000
j. First renewal	\$4,000
k. Any subsequent renewal up to five years	\$8,000
l. After five years	\$10,000

G. Policies and Procedures.

The City may develop policies to implement the procedures set forth above, which are consistent with and do not conflict with the provisions of this chapter, the City of McCleary Municipal Code, or the Revised Code of Washington.

H. Violation

The enforcement officer shall either personally serve or send by mail both certified and first class a notice of violation to any owner who is not in full compliance with this section or who otherwise violates any provision of this section or of the rules and regulations and issued hereunder shall be subject to a Notice of Infraction of not less than \$500 for the first offense within a 24 month period, after the court finding of committed be issued a Notice of Infraction of not less than \$750 for the 2nd offense within a 24 month period, after the court finding of committed be issued a criminal citation for the third offense and be subject to a fine of up to five thousand dollars and up to one year in jail.

Each day shall constitute a separate violation. Any owner, lender or responsible party who fails to maintain the property shall be in violation of this chapter and subject to any and all available remedies, including but not limited to, those set forth in this chapter and at law. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.

I Liens

The City or the person performing the service by authority of the City, in its, his or her own name, may file a notice of lien in the office of the recorder of deeds in the county in which the real estate is located. The notice of lien shall be filed within five year after the cost and expense is incurred. If, for anyone property, the City engaged in any abatement activity then the City may combine any or all of the costs of those activities into a single notice of lien to include, cost and expenses incurred or payable to the City of McCleary including any unpaid registration.

Subsequent to the filing of a lien, the City may cause to be filed a complaint for foreclosure of such lien, or upon becoming a defendant in a pending lawsuit affecting the premises or real estate, by answer to the complaint or in the nature of an intervening petition or cross-complaint the City may proceed in its corporate name to foreclose such lien. An action to foreclose a lien must be commenced within five years after the date of filing notice of lien. The property subject to a lien arising under this action shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the monies owing the City of McCleary.

- 1) The Public Works Director or his or designee shall keep an itemized account of costs and expenses incurred in the abatement of a nuisance. Upon completion of the work of abatement, a report of the costs of abatement shall be prepared and filed with the city clerk, posted on the property abated, and mailed by first class and certified mail to the property owner and to any person known to be responsible for the property. The report shall include notice of how the costs may be appealed.
- 2) The property owner or person responsible for the property may file a written appeal of the cost report. Such appeal must be delivered to the city clerk and to the director within 10 calendar days from the date of mailing of the cost report. Any appeal must state the grounds for protesting or objecting to the cost report. The property owner's obligation to pay the costs of abatement shall be stayed during the period of appeal.
- 3) The director shall request a hearing date from the hearing examiner and a hearing shall be held within 21 days of receipt of the appeal.
- 4) At the hearing the hearing examiner shall take evidence from the city and the person objecting and either affirm the costs and expenses, modify them, or reject them.
- 5) The costs of abatement shall be a lien on the property abated effective 10 calendar days after: (a) the date of mailing the cost report if no appeal is taken or (b) after the decision of the hearing examiner if the cost report is appealed. The priority of the lien will depend on the type of nuisance abated and be in accordance with state law, including RCW 35A.60.010 and the laws cited in that statute.

The City may develop policies to implement the procedures set forth above, which are consistent with and do not conflict with the provisions of this chapter, the City of McCleary Municipal Code, or the Revised Code of Washington.

J Appeal Process

The property owner or person responsible for the property may file an appeal on a notice to the City Clerk Treasurer upon forms prescribed by the clerk-treasurer and pay the appeal fee as

that fee may be from time to time established. Filing and payment must be accomplished within 10 days after the date of the enforcement officer mailing said notice of violation.

The statement shall be referred to the mayor for review. The notice of appeal shall concisely specify the error or issue which the mayor is asked to consider on appeal and shall cite in the notice of appeal or accompanying memorandum, by reference to section, page and paragraph, the provisions of the ordinance or law which are alleged to have been violated. Issues which are not so identified need not be considered by the mayor. The notice shall be accompanied by such written documents as the appellant may wish considered by the mayor; provided, that such memorandum shall not include the presentation of new evidence and shall be based upon the facts presented to the mayor.

The mayor may also undertake a personal view of the site or condition at issue. If such visit is determined to be appropriate, the property owner or person responsible shall be given prior notice of that intention and shall be allowed to be present at that time. If determined necessary and appropriate by the mayor, an informal conference may be held at which the property owner or person responsible and all other interested parties and persons may present such factual and legal information as is determined relevant by the mayor. Following such review, the mayor shall determine whether or not the property is in violation of this ordinance, and the determination shall be issued in writing, shall be entered in the official records of the city, and a copy provided to the appellant.

There shall only be a review in those instances where a written statement has been filed and accepted by the City Clerk Treasurer as provided within this section. The decision issued by the mayor shall be subject to judicial review as provided by RCW 36.70C.

If more than one person is a person responsible, they shall be jointly and severally liable, including any costs incurred by the city.

The decision of the mayor shall be final unless appealed to superior court within ten days or within such other time period as may be mandated by applicable state law.

Section 2. Administrative Code Interpretations Authorized. In the event of any question or uncertainty regarding the applicability of this Ordinance, the Public Works Director or his/her designee is hereby authorized to make such administrative code interpretations as may be necessary to implement this Ordinance.

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

Section 4. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

VACANT PROPERTY/BUILDING
REQUEST FOR AN EXEMPTION FORM

All vacant properties/buildings must register with the City of McCleary Designated Department in accordance with the Vacant/Abandoned Properties Registration Ordinance. An exemption can only be granted by the City Administrator or his/her designee upon receiving a COMPLETED exemption form and approved by City Council.

Government and/or Public property, parcels, buildings and/or facilities are exempt from the requirements of this ordinance.

Below please identify, for each property, the exemptions that you are requesting. You are required to provide all supporting documentation to support your request for an exemption (e.g., a copy of lease if it is not vacant, listing agreement with a State of Washington licensed real estate broker/firm if it is on the market for sale). You will be notified whether or not your exemption has been granted. If it is not approved, you will be required to register within 30 days of notification.

The building is under active construction/renovation and has a valid building permit(s). The applicant understands that, at the time of initial inspection, they will be exempt from registration until the expiration of the longest running, currently active building permit. Documentation required.

The building suffered fire damage or damage caused by extreme weather conditions. The applicant understands that they will be exempt from the registration requirement for a period of ninety (90) days after the date of the fire or extreme weather event. The applicant further understands that they must provide a written request for exemption to include:

1. the names and addresses of the owner or owners,
2. contact information for their insurance company, and
3. A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

The building is for sale and is listed with a licensed State of Washington realtor. The applicant understands that the property identified will be exempted for a period of twelve (12) months from the start of vacancy. Documentation required.

Any owner of a vacant building may request an exemption for other reasons (i.e., actively marketing as a rental) from the provisions of this Chapter by filing a written application with the City Administrator or his/her designee and later approved by City Council. The applicant understands that the following shall consider the following:

1. the applicant's prior record as it pertains to the City Housing Code, Building Code, or Property Maintenance Code violations;

2. the amount of vacant property the applicant currently has within the City; and
3. the length of time that the building for which the exception is sought has been vacant. Documentation required.

New Subdivision, Annexation, or Land Division, which adds additional lots/parcels in the City of McCleary Limits:

- A new subdivision of less than ten (10) lots/parcels shall be allowed two (2) years from final approval of the plat/subdivision, before having to comply with the registration requirements.
- A new subdivision of more than nine (9) lots/parcels and less than twenty (20) lots/parcels shall be allowed four (4) years from final approval of the plat/subdivision, before having to comply with the registration requirements.
- A new subdivision of more than nineteen (19) lots/parcels shall be allowed ten (10) years from final approval of the plat/subdivision before having to comply with the registration requirements.

This only applies to the owner of the lots/parcels on the recorded documents at the time of final approval by the City. If a lot/parcel changes ownership, this exemption no longer applies even if the ownership changes back to the original owner at the time of final approval by the City.

Section I: Address/es of Vacant Property/Building Exemption is being Requested

- 1)
- 2)
- 3)

Section II: Property Owner Information (Required) (No P.O. Boxes are permitted; must provide a building address.)

If Individual Owner or Designated Agent, please complete the following: Property Owner's Name:

Owner's Address:

City:

State:

Zip Code:

Telephone Number:

Fax Number:

E-Mail Address:

Designated Agent or Contact Person:

Address:

City:

State:

Zip Code:

Telephone Number:

Fax Number:

E-Mail Address:

Additional Information as Requested (attach if necessary):

- 1) Copy of listing agreement with licensed real estate company Yes No
- 2) Copy of valid building permit issued by the City of McCleary Yes No
- 3) List of other properties owned in the City of McCleary Yes No
- 4) Information on length of time the building has been vacant Yes No
- 5) Information regarding property maintenance violations Yes No

I, _____, hereby acknowledge that the information provided above is complete and accurate. I have read and understand Chapter _____ of the McCleary Codified Ordinances for owning a vacant property in the City of McCleary and agree to comply with these requirements. In accordance with this Ordinance, I agree to notify any future owner of this vacant building registration.

_____/_____

Applicant's Signature

Date

Subscribed and duly sworn before me according to the law, by the above named applicant this day _____ in the City of _____, State of _____.

Notary Signature: _____

TAB - F

**PROPOSAL AND CONTRACT
FOR
PROFESSIONAL ENGINEERING SERVICES**

**CITY OF MCCLEARY
WASHINGTON**

OCTOBER 2018

G&O Job. No. 20182.86

**GRAY & OSBORNE, INC.
CONSULTING ENGINEERS**

**CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES**

THIS Contract, entered into this ____ day of _____ 2018, between the CITY OF MCCLEARY, Washington, hereinafter called the "Agency"; and GRAY & OSBORNE, INC., Consulting Engineers, Seattle, Washington, hereinafter called the "Engineer".

WITNESSETH:

WITNESSETH THAT, the Agency now finds that it is in need for the engagement of professional engineering services. The purpose of this Contract is to define the scope of work to be performed, the conditions under which it shall be performed, and method of payment for professional engineering services authorized by the Agency.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto do mutually agree as follows:

ARTICLE 1

EMPLOYMENT OF THE ENGINEER

The Agency, acting pursuant to its vested authority, does hereby engage the Engineer and the Engineer agrees to furnish the engineering services as requested by the Agency in connection with Preparing a Capital Facilities Plan, hereinafter also called the "Project." These services are outlined in this Contract and shall be undertaken upon request by the Agency to the Engineer.

ARTICLE 2

CHARACTER & EXTENT OF ENGINEERING SERVICES

Upon execution of this Contract, and authorization of the Agency to proceed, the Engineer shall provide engineering services more fully described in Exhibit "A."

SPECIAL SERVICES

The Engineer may employ competent professionals to assist in the completion of the work as described as scope of work and budget herein.

The information so secured shall be made available to the Agency and the Engineer for the use and development of the Agency's projects.

ARTICLE 3

SCOPE OF OWNER SERVICES

The AGENCY shall provide or perform the following:

Provide full information as to the Agency's requirements for the Project. Assist the Engineer by placing at his disposal all available information pertinent to the site of the Project, including previous reports, drawings, plats, surveys, utility records, and any other data relative to the Project. Absent specific written direction to the contrary, the Engineer shall be entitled to rely upon the completeness and accuracy of such documentation.

Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by the Engineer.

ARTICLE 4

COMPENSATION

It is mutually agreed that the Agency will compensate the Engineer for services furnished based on the cost reimbursement method.

The total cost of these services shall not exceed the amount shown in Exhibit "B" without further written authorization by the Agency.

Total compensation is based on the following:

- (a) Cost Ceiling: The total amount of compensation for engineering services as described herein, and as further defined in letters or exhibits to this Contract including profit (fee), out-of-pocket expenses, direct labor costs, direct overhead and indirect overhead shall not exceed the total dollar cost agreed upon, without a formal amendment to this Contract.
- (b) Compensation Determination: Payment for work accomplished is on the basis of the Engineer's fully burdened labor cost plus direct non-salary costs.
 - 1. Fully burdened labor costs are determined by multiplying the hours spent by employees on the project, times the employee's fully burdened billing rate. The fully burdened billing rates are identified on Exhibit "C" and include direct salary cost, overhead, and profit. Overhead includes federal, state, and local taxes; insurance and medical; professional development and education; vacations and holidays; secretarial and clerical work; GIS, CADD,

and computer equipment; owned survey equipment and tools; attendance at non-project-specific public meetings for the purpose of keeping the public informed in regard to infrastructure improvements in the community and how the public will be affected; rent, utilities, and depreciation; office expenses; recruiting; professional services; incentive and retirement; and facilities cost of capital.

2. The direct non-salary costs are those costs directly incurred in fulfilling the terms of this Contract including, but not limited to travel, reproduction, supplies and fees for special professional services of outside consultants. If the Engineer is directed to employ special, professional expertise, the Agency will be billed by the Engineer for the special service invoiced amount plus ten percent (10%) for administrative overhead.

Payment of compensation shall be upon submittal to the Agency of a bill by the Engineer at approximate monthly intervals for services rendered during the preceding time period.

The cost records and accounts pertaining to this Contract are to be kept available for inspection by representatives of the Agency for a period of three (3) years after final payment. In the event any audit or inspection identifies any discrepancy in the financial records, the Engineer shall provide clarification and/or make adjustments accordingly.

ARTICLE 5

ADDITIONAL WORK

If during the performance of this contract, or subsequent to completion of the work under this contract, other or additional services other than those previously specified, including but not limited to additions or revisions by the Agency are ordered in writing by the Agency, the Engineer agrees to provide the services and the Agency agrees to compensate the Engineer under the same method of Compensation Determination described herein, to be determined at the time the additional services are ordered. The Engineer agrees not to proceed with the additional services until such time as the costs for the additional services have been approved by the Agency.

ARTICLE 6

PUBLIC RECORDS REQUESTS

The Engineer shall comply with Agency requests for documents which are the result of public records requests made under the Public Records Act. The Agency hereby acknowledges that gathering, copying and transmitting documents requested in this manner is Additional Work and agrees to compensate the Engineer accordingly.

ARTICLE 7

MAJOR REVISIONS

If, after the design has been approved by the Agency, and the Engineer has proceeded with the final design, and has performed work in processing same and the Agency authorizes new or substantially alters the design, the Agency will pay the Engineer a just and equitable compensation as mutually agreed upon by the Agency and the Engineer, or if an agreement cannot be reached within thirty (30) days, the equitable compensation shall be determined by mediators.

ARTICLE 8

COST ESTIMATE

The Agency is herewith advised that the Engineer has no control over the cost of labor, material, and equipment, including the contractors' and suppliers' methods of producing and delivering such goods and services; or over the methods and styles of competitive bidding or market conditions; and, accordingly, the Engineer's cost estimates are made and furnished on the basis of his experience and qualifications and represent only his best judgment as a design professional and within his familiarity with the construction industry, and, as such, the Engineer cannot and does not warrant, in any other manner or style, the accuracy of the cost estimates, nor that the estimates will or will not vary significantly with bids received by or construction costs realized by the Agency.

ARTICLE 9

FACILITIES TO BE FURNISHED BY THE ENGINEER

The Engineer shall furnish and maintain a central office, work space and equipment suitable and adequate for the prosecution of the work that is normal to the functioning of an established operating engineering practice.

ARTICLE 10

OWNERSHIP OF PLANS

All reports, designs, drawings and specifications prepared by the Engineer, as provided under this Contract shall be and do become the property of the Agency upon payment to the Engineer of his compensation as set forth in this Contract. Reuse of any of the instruments of services of the Engineer by the Agency on extensions of this project or on any other project without the written permission of the Engineer shall be at the Agency's risk and the Agency agrees to defend, indemnify and hold harmless the Engineer from all claims, damages and expenses including attorney's fees arising out of such unauthorized reuse of the Engineer's instruments of service by the Agency or by others acting through the Agency.

ARTICLE 11

SEVERABILITY

If any provision of this Contract is held invalid, the remainder of this Contract shall not be affected thereby, if such remainder would then continue to conform to the terms and requirements of the applicable law.

ARTICLE 12

MEDIATION

All claims, disputes and other matters in question between Agency and Engineer shall, in the first instance, be subject to mediation. Either party may notify the other, by certified mail, of the existence of a claim or dispute. If such claim or dispute cannot promptly be resolved by the parties, the Engineer shall promptly contact the Judicial Arbitration and Mediation Service, Inc., or any other recognized mediation service agreed to by the parties, to arrange for the engagement and appointment of a mediator for the purpose of assisting the parties to amicably resolve the claim or dispute. The cost of the mediator shall be borne equally by the parties. The Agency and Engineer further agree to cooperate fully with the appointed mediator's attempt to resolve the claim or dispute, and also agree that litigation may not be commenced, by either party, for a period of ninety calendar days following the receipt by the other party of the written notice of claim or dispute. This mediation provision may be asserted by either party as grounds for staying such litigation.

ARTICLE 13

ASSIGNABILITY

The Engineer shall not assign nor transfer any interest in this Contract without the prior written consent of the Agency.

ARTICLE 14

EQUAL EMPLOYMENT OPPORTUNITY

The Engineer agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

The parties hereby incorporate 41 C.F.R. 60-1.4(a)(7); 29 C.F.R. Part 471, Appendix A to Subpart A; 41 C.F.R. 60-300.5(a)11; and 41 C.F.R. 60-741.5(a)6; if applicable.

This contractor and subcontractor shall abide by the requirements of 41 C.F.R. 60-300.5(a) and 41 C.F.R. 741.5(a). These regulations prohibit discrimination against qualified protected veterans, and qualified individuals on the basis of disability,

respectively, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities, respectively.

ARTICLE 15

COVENANT AGAINST CONTINGENT FEES

The Engineer warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fees, excepting bona fide employees. For breach or violation of this warranty, the Agency shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

ARTICLE 16

SAFETY

The duty and/or Services furnished hereunder by the Engineer, does not include a review of the adequacy of any contractor's safety measures in, on, or near a project construction site. The contractor alone shall have the responsibility and liability thereof, and shall be insured accordingly. Neither the activities of the Engineer, nor the presence of the Engineer's employees at a site, shall relieve the contractor of their obligations, duties, and responsibilities with any health or safety precaution required to ensure the safety of the jobsite.

ARTICLE 17

INDEMNITY AGREEMENT

The Engineer shall hold the Agency harmless from, and shall indemnify the Agency against, any and all claims, demands, actions or liabilities caused by or occurring by reason of any negligent act or omission of the Engineer, its agents, employees or subcontractors, arising out of or in connection with the performance of this Contract.

In those cases where damages have been caused by the concurrent negligence of the Agency and Engineer, its agents, employees or subcontractors the Engineer shall be required to indemnify the Agency for that portion of the damages caused by the negligence of the Engineer, its agents, employees or subcontractors.

The Engineer has no duty to indemnify the Agency where damages were caused by the negligence of the Agency.

ARTICLE 18

INSURANCE

A. Public Liability

The Engineer shall provide evidence of comprehensive Public Liability and Property Damage Insurance which includes but is not limited to, operations of the Engineer, commercial general liability, and blanket limited contractual liability with limits of not less than:

COMPREHENSIVE GENERAL LIABILITY

Bodily Injury & Property Damage: \$1,000,000 each person
\$1,000,000 each occurrence
\$1,000,000 each aggregate

AUTOMOBILE LIABILITY

Bodily Injury: \$1,000,000 each person
\$1,000,000 each occurrence

Property Damage: \$1,000,000 single limit

The Agency shall be named as an additional insured as respects this Contract. In conjunction therewith, the Engineer shall furnish a certificate of such insurance to the Agency at the time of execution of this Contract.

B. Professional Liability

The Engineer shall provide Professional Errors and Omissions Liability Insurance which shall provide coverage for any negligent professional acts, errors or omissions for which the Engineer is legally responsible, with limits of not less than:

PROFESSIONAL ERRORS \$1,000,000 each occurrence
AND

OMISSIONS LIABILITY \$1,000,000 aggregate

The Engineer shall furnish a certificate of such insurance to the Agency at the time of execution of this Contract.

ARTICLE 19

STATUS OF ENGINEER

The Engineer is an independent contractor operating for its own account, and is in no way and to no extent an employee or agent of the Agency. The Engineer shall have the sole judgment of the means, mode or manner of the actual performance of this Contract. The Engineer, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing this Contract.

ARTICLE 20

CERTIFICATION OF ENGINEER

Attached hereto is Exhibit "D" Certification Regarding Debarment, Suspension and Other Responsibility Matters.

ARTICLE 21

CHOICE OF LAW/JURISDICTION/VENUE

This Contract shall be governed as to validity, interpretation, construction and effect, and in all other respects, by the laws of the State of Washington. Jurisdiction of any suit or action arising out of or in connection with this Contract shall be in the State of Washington, and the venue thereof be in the same County as the Agency.

ARTICLE 22

NOTICES

In every case where, under any of the provisions of this Contract or in the opinion of either the Agency or the Engineer or otherwise, it shall or may become necessary or desirable to make, give, or serve any declaration, demand, or notice of any kind or character or for any purpose whatsoever, the same shall be in writing, and it shall be sufficient to either (1) deliver the same or a copy thereof in person to the Mayor, if given by the Engineer, or to the President or Secretary of the Engineer personally, if given by the Agency; or (2) mail the same or a copy thereof by registered or certified mail, postage prepaid, addressed to the other party at such address as may have theretofore been designated in writing by such party, by notice served in the manner herein provided, and until some other address shall have been so designated, the address of the Agency for the purpose of mailing such notices shall be as follows:

CITY OF MCCLEARY
100 South Third Street
McCleary, Washington 98557

and the address of the Engineer shall be as follows:

GRAY & OSBORNE, INC.
1130 Rainier Avenue South
Suite 300
Seattle, Washington 98144

ARTICLE 23

ATTORNEY'S FEES

The parties agree that in the event a civil action is instituted by either party to enforce any of the terms and conditions of this Contract, or to obtain damages or other redress for any breach hereof, the prevailing party shall be entitled to recover from the other party, in addition to its other remedies, its reasonable attorney's fees in such suit or action and upon any appeal therefrom.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year written below.

ENGINEER: Gray & Osborne, Inc.

AGENCY: City of McCleary

By: 
(Signature)

By: _____
(Signature)

Name/Title: Michael B. Johnson, P.E., President

Name/Title: Brenda Orffer, Mayor
(Print)

Date: 10/26/18

Date: _____

"Equal Opportunity/Affirmative Action Employer"

EXHIBIT “A”

SCOPE OF WORK

CITY OF MCCLEARY CAPITAL FACILITY PLAN

The City of McCleary would like to develop a Capital Facility Plan to guide its budgeting and capital spending over the next several years. The City is currently in the process of completing a Water System Plan and a General Sewer Plan. The City has also adopted a 6-year street plan. It is anticipated that these plans will form the basis for the Water, Sewer, and Transportation elements of the Capital Facilities Plan. It is anticipated that additional effort will be required to develop the Stormwater, Public Facilities, and Park elements since recent planning efforts have not been completed in these areas.

Gray & Osborne has developed the following Scope of Work to complete this project.

Task 1 – Data Collection and Review

We will first develop list of required information from the City including any previous planning documents, studies and reports and previous capital budgets. We will then meet with City staff to review that information and identify current needs in each of the element areas. As part of this meeting, we will do field visits to all of the capital facilities to review condition and identify any required improvements.

Task 2 – Prepare Draft Plan

We will then prepare a draft Capital Facilities Plan. The plan will describe and provide estimated costs for capital projects that have been previously identified in other planning documents, have been identified by City staff, or are identified by Gray & Osborne in our review of the existing capital facilities. Projects for each capital facilities plan element will be prioritized and scheduled. The following elements will be included in the Capital Facilities Plan:

a. Water

Projects identified in the Water System Plan will be described and scheduled.

b. Wastewater

Projects identified in the General Sewer Plan will be described and scheduled.

c. Transportation

Projects identified in the six-year street plan will be described and

scheduled. Costs will be updated. Any additional projects identified will be described and costs estimates will be developed.

d. Stormwater

City stormwater facilities will be inventoried and described. Any planned or identified improvement projects will be described and provided with estimated costs.

e. Public Facilities

City public facilities will be inventoried and described. Any planned or identified improvement projects will be described and provided with estimated costs.

f. Parks

City parks will be inventoried and described. Any planned or identified improvement projects will be described and provided with estimated costs.

These elements will be assembled into a complete draft Capital Facilities Plan that will be submitted to the City for review. We will then meet with City to discuss any comments.

Task 3 – Prepare Final Plan

We will then incorporate any comments from City staff and prepare a final Capital Facilities Plan.

Task 4 – Complete QA/QC Review

We will complete internal Quality Assurance / Quality Control reviews of each work product.

Task 5 – Meetings

We will participate in the following meetings with City staff:

- Kickoff meeting and facility review
- Draft Capital Facility Plan review meeting

We will prepare agendas and meeting minutes for each meeting.

Deliverables

Project deliverables will include the following:

1. Three paper copies and one .pdf of the Draft Plan
2. Three paper copies and one .pdf of the Final Plan

Anticipated Schedule

Notice to Proceed	November 1, 2018
Submit Draft Plan	January 31, 2019
Submit Final Plan	14 days after receipt of comments

Assumptions

1. This scope does not include updating any capacity analysis for the various elements. This project will summarize the results of previous capacity analyses and update the estimated costs of previously identified projects to address capacity deficiencies.

EXHIBIT "B"

ENGINEERING SERVICES SCOPE AND ESTIMATED COST

City of McCleary - Capital Facilities Plan

TASKS	Principal Hours	Project Mgr. Hours	Civil Eng. Hours	CADD Tech. Hours
1. Data Collection and Review	1	8	16	
2. Prepare Draft Plan				
a. Water Element	1	4	8	8
b. Wastewater Element	1	4	8	8
c. Transportation Element	4	12	24	16
d. Stormwater Element	4	16	40	16
e. Public Facilities Element	4	16	40	16
f. Park Element	4	16	40	16
3. Prepare Final Plan	1	4	8	16
4. QA/QC	8	4	4	
5. Meetings		8	8	
Hour Estimate:	28	92	196	96
Estimated Fully Burdened Billing Rate:*	\$165	\$150	\$120	\$90
Direct Labor Cost	\$4,620	\$13,800	\$23,520	\$8,640

Subtotal Labor Cost:	\$ 50,580
Direct Non-Salary Cost:	
Mileage & Expenses (Mileage @ \$0.54/mile)	\$ 100
Printing	\$ 320
TOTAL ESTIMATED COST:	\$ 51,000

EXHIBIT "C"

GRAY & OSBORNE, INC.

PROFESSIONAL ENGINEERING SERVICES CONTRACT FULLY BURDENED BILLING RATES* THROUGH JUNE 15, 2019**

<u>Employee Classification</u>	<u>Fully Burdened Billing Rates</u>		
AutoCAD/GIS Technician/Engineering Intern	\$ 48.00	to	\$126.00
Electrical Engineer	\$113.00	to	\$190.00
Structural Engineer	\$106.00	to	\$167.00
Environmental Technician/Specialist	\$ 81.00	to	\$116.00
Engineer-In-Training	\$ 81.00	to	\$126.00
Civil Engineer	\$103.00	to	\$129.00
Project Engineer	\$113.00	to	\$145.00
Project Manager	\$119.00	to	\$190.00
Principal-in-Charge	\$129.00	to	\$190.00
Resident Engineer	\$122.00	to	\$167.00
Field Inspector	\$ 81.00	to	\$142.00
Field Survey (2 Person)***	\$166.00	to	\$213.00
Field Survey (3 Person)***	\$258.00	to	\$293.00
Professional Land Surveyor	\$113.00	to	\$145.00
Secretary/Word Processor***	N/A		

* Fully Burdened Billing Rates include overhead and profit.

** Updated annually, together with the overhead.

All actual out-of-pocket expenses incurred directly on the project are added to the billing. The billing is based on direct out-of-pocket expenses; meals, lodging, laboratory testing and transportation. The transportation rate is \$0.54 per mile or the current maximum IRS rate without receipt IRS Section 162(a).

*** Administration expenses include secretarial and clerical work; GIS, CADD, and computer equipment; owned survey equipment and tools (stakes, hubs, lath, etc. – Note: mileage billed separately at rate noted); miscellaneous administration tasks; facsimiles; telephone; postage; and printing costs, which are less than \$150.

EXHIBIT "D"

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

- I. The Engineer, Gray & Osborne, Inc., certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I)(B) of this certification; and
 - D. Have not within a 3-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.



Michael B. Johnson, P.E., President
Gray & Osborne, Inc.

10/26/18

Date

The Agency may confirm the Engineer's suspension or debarment status on General Services Administration Excluded Parties List System website: www.epls.gov.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hall & Company 19660 10th Ave NE Poulsbo WA 98370	CONTACT NAME: Allison Barga PHONE (A/C, No, Ext): 360-626-2007 E-MAIL ADDRESS: abarga@hallandcompany.com		FAX (A/C, No): 360-626-2007													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Hartford Casualty Insurance Company</td> <td>29424</td> </tr> <tr> <td>INSURER B : Travelers Casualty and Surety Company</td> <td>19038</td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>			INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Hartford Casualty Insurance Company	29424	INSURER B : Travelers Casualty and Surety Company	19038	INSURER C :		INSURER D :		INSURER E :		INSURER F :
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INSURER E :																
INSURER F :																
INSURED 4 Gray & Osborne Inc 1130 Rainier Avenue South, Suite 300 Seattle WA 98144																

COVERAGES

CERTIFICATE NUMBER: 132222467

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> OCP/XCU/BFPD <input checked="" type="checkbox"/> Separation Instds GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			52SBADU7303	9/10/2018	9/10/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			52UEJCS3276	9/10/2018	9/10/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			52SBADU7303	9/10/2018	9/10/2019	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A			52SBADU7303	9/10/2018	9/10/2019	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTH-ER WA Stop Gap E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liab: Claims Made Pollution Liab: Occurrence Form			105339819	9/10/2018	9/10/2019	\$1,000,000 Per Claim \$1,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Job #20182.86

The certificate holder is an additional insured per the attached.

CERTIFICATE HOLDER**CANCELLATION**
 City of McCleary
 100 South Third Street
 McCleary WA 98557

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written



BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
- (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
- (a) In connection with your premises; or
- (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:
- This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
- (a) In the performance of your ongoing operations;
- (b) In connection with your premises owned by or rented to you; or
- (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
- (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
- (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

BUSINESS LIABILITY COVERAGE FORM

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to 2.a. or 2.b above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

BUSINESS LIABILITY COVERAGE FORM

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations**a. When You Accept This Policy**

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

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(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

*** (b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

*** b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED AND RIGHTS OF RECOVERY AGAINST OTHERS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

- A. Any person or organization whom you are required by contract to name as additional insured is an "insured" for LIABILITY COVERAGE but only to the extent that person or organization qualifies as an "insured" under the WHO IS AN INSURED provision of Section II - LIABILITY COVERAGE.
- B. For any person or organization for whom you are required by contract to provide a waiver of subrogation, the Loss Condition - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is applicable.

TAB - G

CONTRACT

THIS CONTRACT, made and entered into by and between the CITY OF McCLEARY, a municipal corporation, hereinafter " McCLEARY ", and THOMAS E. CREEKPAUM III, of INGRAM, ZELASKO & GOODWIN, LLP, WSBA #45386, whose address is 120 East 1st Street, Montesano, Washington 98563, hereinafter "CREEKPAUM".

RECITALS:

1. The Mayor has recommended to the City Council that CREEKPAUM provide indigent defense services to qualifying individuals charged in the Court of Limited Jurisdiction (the Court) in which McCLEARY files criminal charges. The Council has confirmed that recommendation and authorized the execution of this agreement.

2. The Parties wish to memorialize their agreement as to the terms of this relationship and also make provision for automatic renewal unless notice is given.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

SECTION I: McCLEARY shall pay CREEKPAUM the sum of SEVEN HUNDRED HUNDRED DOLLARS (\$700) per month until further modified by agreement of the parties or upon the giving of notice of termination or request for renegotiation. The flat fee of \$700 per month is based on an average case load of 40 assigned case points per calendar year.

///

SECTION II: Scope of Services:

A. General Statement: Pursuant to RCW Chapter 10.101, all indigent criminal defendants determined to be eligible for appointed counsel and charged under ordinances of the City who qualify, will be referred to CREEKPAUM. CREEKPAUM will provide legal representation for each of these defendants from court appointment through trial, sentencing, post-conviction review, and any appeals to Superior Court. Such cases shall include domestic violence cases.

CREEKPAUM shall be responsible for representing every indigent person who is, or has been, arrested or charged with any crime or violation of probation before the Court for which court-appointed counsel for indigent defendants is required, either under the Constitution of the United States or under the Constitution, laws, court rules, or case law of the State of Washington.

B. Time of Commencement: This representation shall be commenced whenever such arrested or accused person, having been apprised of his constitutional and statutory rights to counsel, requests the appointment of counsel to represent him or her or the Court orders that he or she be represented by counsel. Such obligation is waived where the arrested or accused person, having been apprised of his or her right to counsel in open court, affirmatively rejects or intelligently repudiates his constitutional and statutory rights to be represented by counsel. If good cause is shown or when there is more than one defendant with conflicting interests, or in any case, the Court may, upon its own motion or upon application of CREEKPAUM or the indigent accused, appoint counsel other than CREEKPAUM for the accused. The fees of said additional attorney will be paid by the Court.

C. Client Contact: CREEKPAUM will provide criminal defense services at in-custody bail hearings and will be available to talk and meet with indigent defendants who may be held in the Grays Harbor County Jail. Further, CREEKPAUM will make arrangements to meet with clients prior to the pre-trial date.

D. Telephone Access: CREEKPAUM shall provide to the City Police Department the telephone number or numbers at which CREEKPAUM can be reached for critical stage advice to defendants during the course of police investigations and/or arrests twenty-four (24) hours each day.

E. Duty in Event of Ineligibility: Should CREEKPAUM determine a defendant is not eligible for assigned counsel, CREEKPAUM shall so inform the court and move to withdraw from the case.

SECTION III: GENERAL CONDITIONS:

A. Staffing: It is recognized that during the term of this contract CREEKPAUM may utilize the services of other counsel to assist him. Any counsel associated with, employed by, or utilized by CREEKPAUM to provide the services required under this contract shall have the authority to perform the services called for herein. As indicated, CREEKPAUM may employ associated counsel to assist at CREEKPAUM's expense.

CREEKPAUM and all associated counsel hired pursuant to this section shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Washington. Sufficient counsel shall be provided to represent defendants during vacation, illnesses, and settings in more than one courtroom. No legal interns shall be used unless agreed to in

advance by McCLEARY. CREEKPAUM shall have staff available to receive contacts from clients and court staff during normal business hours.

Further, CREEKPAUM shall have a facsimile machine available to receive transmissions from the Court or City Attorney twenty-four hours per day, seven days per week. Additionally, he shall maintain and provide the address of an e-mail account having adequate capacity to receive the dockets transmitted by the Clerk of the Court.

B. Professional Liability Coverage: During the term of the Contract, CREEKPAUM shall have professional liability coverage in a minimum amount of \$1,000,000.00. He shall provide proof of such insurance upon McCLEARY's request.

C. Indemnification: CREEKPAUM shall indemnify, defend, and hold McCLEARY, its elected officials and employees, agents and volunteers harmless from any and all claims, losses, or liability, including all costs and attorneys' fees, arising out of CREEKPAUM's performance of obligations pursuant to the Contract, including claims arising by reason of accident, injury, or death caused to persons or property of any kind occurring by the fault or negligence of CREEKPAUM, his associates, agents, and employees.

To the extent that any of the damages referenced by this paragraph are caused by or resulting from the concurrent negligence of McCLEARY, its agents or employees, this obligation to indemnify, defend, and hold harmless is valid and enforceable only to the extent of the negligence of CREEKPAUM, his associates, agents, and employees.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of

CREEKPAUM and McCLEARY, its officers, officials, employees, and volunteers, CREEKPAUM's liability hereunder shall be only to the extent of CREEKPAUM 's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes, to the extent that it might possibly exist in a contract for provision of professional services, CREEKPAUM 's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been *mutually negotiated* by the parties. The *provisions* of this section shall survive the expiration or termination of this Agreement.

D. Standards for Public Defense Services:

1. CREEKPAUM shall comply with the standards for public defense services as may be adopted by McCLEARY pursuant to chapter 10.101 RCW. In addition to any standards adopted specifically by McCLEARY, the standards adopted by the Washington State Bar Association and the Supreme Court of the State of Washington shall govern. In provision of services to any individual to whom CREEKPAUM is appointed to provide defense services under this Contract, those standards shall govern the provision of their services under this contract.

2. CREEKPAUM shall submit all certifications, whether in relation to qualification of counsel utilized, compliance with training requirements, certification of caseload limits, or otherwise, required under the standards set for in sub-paragraph 1 of this Section.

SECTION IV: TRANSITION: At such time as this Contract is brought to termination, the parties agree that, to allow a transition, the following payment pattern shall apply:

1. As of the month in which cases are no longer allocated to CREEKPAUM and in furtherance of bringing the cases to a point of resolution, CREEKPAUM shall receive an amount which shall be equal to 60 percent of the normal monthly amount.

2. For the second month following the termination of appointments, CREEKPAUM shall receive 30 percent of the contract balance so long as he in fact is continuing to work on the resolution of cases.

3. As to any and all cases pending at the end of the second month, if the Defendants have failed to appear, then CREEKPAUM shall be relieved of any further responsibility of representation. In the event the matters have been set for trial, then CREEKPAUM shall complete the trial process without additional compensation.

In effectuating any such transition, CREEKPAUM recognizes that he shall use all reasonable efforts to resolve the cases during that two month period.

SECTION V: McCLEARY's Assistance:

A. Documents & Codes: McCLEARY agrees to provide to CREEKPAUM, without cost to CREEKPAUM, copies of such police reports as may be provided to the City Attorney. Further, McCLEARY shall provide CREEKPAUM with a copy of the City Criminal Code and any amendments thereto adopted during the term of this Contract.

B. Expert Witness Fees: McCLEARY shall pay directly or reimburse CREEKPAUM for reasonable expert witness fees if the Court orders an expert witness upon motion of CREEKPAUM.

SECTION VI: This contract shall be deemed to commence as of _____, and end _____, unless earlier terminated by the Parties. It shall

thereafter be renewed for additional one-year periods subject to the same terms and conditions, until such time as one of the Parties gives notice of intent to terminate or to modify terms. It is agreed this contract may be terminated by either party upon the giving of sixty (60) days' written notice of termination during the initial term or any extension thereof. Such termination shall not affect CREEKPAUM's duties as set forth in this agreement, nor McCLEARY's duties as set forth under this agreement. In the absence of any such notice of desire to terminate, the one year renewals shall be automatic.

SECTION VII: Notices:

A. Method: Notices shall be given in writing. If mailed, they shall be deemed received upon the third business day following their mailing, properly addressed and postage prepaid, certified mail, return receipt requested, to the address stated below. If personally delivered, they shall be deemed received upon the date of actual receipt.

B. Location:

1. McCLEARY: Any notice to be given to McCLEARY shall be given to the CFO/City Clerk of McCleary. For purposes of receipt of notice, McCLEARY's address for personal delivery shall be 100 South 3rd Street, McCleary, Washington 98557, and is the same for mailing purposes.

2. CREEKPAUM: Any notice, whether by mail or personally, to be given to CREEKPAUM shall be given to CREEKPAUM at the physical address stated above.

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EXECUTED IN MULTIPLE COPIES UPON THE DATES STATED BELOW.

INGRAM, ZELASKO & GOODWIN, LLP

DATE

By _____
THOMAS E. CREEKPAUM III

CITY OF McCLEARY:

DATE

BRENDA ORFFER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney

TAB - H

TC-20 SETTLEMENT AGREEMENT

THIS TC-20 SETTLEMENT AGREEMENT (“TC-20 Settlement Agreement”) is among the Bonneville Power Administration (“Bonneville”) and the Transmission Customers (“Transmission Customer” or “Transmission Customers” or both) (Together, Bonneville and Transmission Customers in the singular, “Party,” in the plural, “Parties”).

RECITALS

- A. Bonneville offers transmission service across the Federal Columbia River Transmission System (“FCRTS”) pursuant to an open access transmission tariff (“Tariff”). Section 9 of this Tariff requires Bonneville to obtain the Federal Energy Regulatory Commission’s (“FERC”) determination that changes to the Tariff satisfy FERC’s reciprocity safe harbor standards, or that such changes are just, reasonable, and not unduly discriminatory or preferential. On November 22, 2016, Bonneville provided a letter to the region to explain Bonneville’s determination that “the safe harbor process is no longer a tenable approach to make future changes to the tariff”;
- B. On January 9, 2018, Bonneville announced its decision to follow the statutory procedural requirements of Section 212(i)(2)(A) of the Federal Power Act (“Section 212”), 16 U.S.C. § 824k(i)(2)(A), to establish a new open access transmission tariff (“TC-20 Tariff”) for transmission service across the FCRTS;
- C. In advance of the Section 212 hearing process, Bonneville and the Transmission Customers engaged in discussions to determine whether they could agree on the terms and conditions of the TC-20 Tariff. The Transmission Customers raised concerns with Bonneville’s proposed TC-20 Tariff terms, including without limitation, terms relating to hourly firm transmission service, Section 9 of the Tariff, transmission rates, and other transmission service issues;
- D. In addition to the TC-20 Tariff discussion, Bonneville and the Transmission Customers have been engaged in settlement discussions with respect to Transmission, Ancillary, and Control Area Services Rates for the FY 2020-2021 (“BP-20”) rate period;
- E. The terms of this TC-20 Settlement Agreement are intended to be a part of a settlement package that includes the partial settlement of the Transmission, Ancillary, and Control Area Services Rates for the FY 2020-21 BP-20 rate period (the “BP-20 Partial Rates Settlement Agreement”); and
- F. The purpose of this TC-20 Settlement Agreement is to document the terms of settlement in relation to the generally applicable terms and conditions for transmission service that will apply to all existing transmission service currently taken under the Tariff, to new transmission service agreements taken under the tariff in Attachment 2 to this TC-20 Settlement Agreement (“Settlement Tariff”), and to all new generator interconnection service agreements taken under the Settlement Tariff.

TC-20 SETTLEMENT AGREEMENT

The Parties agree to the following:

1. In the Bonneville FY 2020-2021 Tariff Terms and Conditions (“TC-20”) proceeding, Bonneville staff will file and recommend that the Administrator adopt a proposal to establish a tariff providing the terms and conditions for transmission service over the FCRTS as specified in Attachment 2 to this TC-20 Settlement Agreement, as well as the transmission service-related commitments set forth in Attachments 1, 2, 3, 4, 5, and 6 to this TC-20 Settlement Agreement.
2. The Parties shall sign this Agreement by 4:30 pm on November 30, 2018. By 4:30 p.m. on December 3, 2018, Bonneville shall notify the Parties of all the signatories to this TC-20 Settlement Agreement. If any Party indicates that it will not sign this TC-20 Settlement Agreement: (1) Bonneville will set up a meeting with the Parties that have signed this TC-20 Settlement Agreement to discuss whether to continue with this TC-20 Settlement Agreement; (2) A Party must indicate if it will withdraw its support for the TC-20 Settlement Agreement within one (1) business day after that meeting by email to the other Parties; and (3) If a Party that has signed this TC-20 Settlement Agreement withdraws its support in accordance with this section 2, this TC-20 Settlement Agreement will be void *ab initio*.
3. If any party to the BP-20 rate proceeding objects to the BP-20 Partial Rates Settlement Agreement, then Bonneville will reconvene the Parties to discuss whether to continue with the proposed TC-20 Settlement Agreement. If a Party under this TC-20 Settlement Agreement submits written notice to the TC-20 hearing officer to withdraw support for the TC-20 Settlement Agreement proposal, this TC-20 Settlement Agreement will be void *ab initio*.
4. If no party to the BP-20 rate proceeding objects to the BP-20 Partial Rates Settlement Agreement, Bonneville will move the TC-20 hearing officer to enter the proposed TC-20 Settlement Agreement into the TC-20 record and to issue a decision recommending that the Administrator adopt the TC-20 Settlement Agreement.
5. Within 30 days of the TC-20 hearing officer’s recommended decision made pursuant to section 4, the Administrator will notify the Parties in the Record of Decision whether the Administrator adopts the proposed TC-20 Settlement Agreement. If the Administrator does not adopt the proposed TC-20 Settlement Agreement, this TC-20 Settlement Agreement will be void *ab initio*, and Bonneville will move the TC-20 hearing officer to strike the TC-20 Settlement Agreement proposal from the record and to amend the procedural schedule.
6. If the Administrator adopts the proposed TC-20 Settlement Agreement, the Settlement Tariff will supersede and replace Bonneville’s prior open access transmission tariff in its entirety effective on October 1, 2019. Notwithstanding any other contract provision, as of October 1, 2019, the Settlement Tariff will apply to all Service Agreements listed in Attachment 3 and any transmission service agreements and generator interconnection agreements that are executed after the date the Parties have signed this TC-20 Settlement Agreement.

7. If the Administrator adopts the proposed TC-20 Settlement Agreement, the Parties agree not to contest this TC-20 Settlement Agreement, including its attachments, or the applicability of the Settlement Tariff to each Transmission Customer's Point-to-Point and Network Integration Transmission Service Agreements specified in Attachment 3 either before FERC, the U.S. Court of Federal Claims, the U.S. Court of Appeals for the Ninth Circuit, or any other judicial or administrative forum. The Parties agree not to support or join any litigation which would seek to change the terms of this TC-20 Settlement Agreement, including documents explicitly incorporated by reference, except as specified in section 11, Reservation of Rights.
8. Attachment 3 lists each Transmission Customer's Point-to-Point and Network Integration Transmission Service Agreements to which the Settlement Tariff will apply. Each Transmission Customer has reviewed the list of transmission service agreements in Attachment 3 and agrees that it is an accurate and complete list of its respective Point-to-Point and Network Integration transmission service agreements with Bonneville.
9. As a condition to this TC-20 Settlement Agreement, the Parties agree not to contest the terms of the BP-20 Partial Rates Settlement Agreement.
10. Statements Not Admissible in Evidence. The Parties agree that this TC-20 Settlement Agreement and the BP-20 Partial Rates Settlement Agreement represent a compromise in the positions of the Parties. As such, conduct, statements, and documents disclosed in the negotiation of this TC-20 Settlement Agreement and the BP-20 Partial Rates Settlement Agreement will not be admissible as evidence in the TC-20 proceeding, the BP-20 proceeding, any other proceeding, or any other judicial or administrative forum.
11. Reservation of Rights
 - a. No Party waives any of its rights: under Bonneville's enabling statutes, the Federal Power Act, other applicable law, or such Party's open access transmission tariff; or to pursue dispute resolution procedures consistent with Bonneville's open access transmission tariff; or to pursue any claim that a particular term, condition, charge, methodology, practice, or rate schedule for transmission service, has been improperly implemented.
 - b. The Parties reserve the right to respond during the term of the TC-20 Settlement Agreement, as specified in section 12, Term and Termination, to any new filings, protests, or claims, by Bonneville or others; however, the Parties will not support, with respect to the TC-20 Settlement Agreement term, a challenge to any terms and conditions or other matters set forth in this TC-20 Settlement Agreement.
 - c. Except as provided in Attachment 1, nothing in this TC-20 Settlement Agreement is intended in any way to alter the Administrator's authority and responsibility to periodically review and revise the terms and conditions for transmission service pursuant to the requirements in the Settlement Tariff in Attachment 2. Execution of this TC-20 Settlement Agreement by a Party does not constitute consent or agreement in any future tariff proceeding to revise the Settlement Tariff in Attachment 2. Except as provided in

Attachment 1 and notwithstanding section 7, Parties retain all of their rights to contest and argue whatever position they believe appropriate with respect to any term or condition of transmission service as in effect on or after October 1, 2021.

d. No Precedential Value. The Parties agree that the provisions of this TC-20 Settlement Agreement are the result of negotiations based upon the unique circumstances in the TC-20 proceeding. The Parties agree and represent that neither this TC-20 Settlement Agreement nor any decision of the Administrator approving the same shall constitute or be cited as precedent or deemed an admission by any Party in any other proceeding except as necessary to enforce its terms before Bonneville or any forum of competent jurisdiction.

12. Term and Termination. Unless this TC-20 Settlement Agreement terminates under the terms set forth in section 2, 3, or 5 above, this TC-20 Settlement Agreement shall continue in effect until September 30, 2021, except for the provisions contained in sections 1, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of this TC-20 Settlement Agreement, and Attachment 1, sections 1, 2.b, 2.c, 2.d, 2.e, 2.g.iii, 2.i, 2.k, 3, 11, and 13 which shall survive this TC-20 Settlement Agreement in accordance with their provisions.

13. Attachments. The following attachments are incorporated into this TC-20 Settlement Agreement:

Attachment 1: Terms

Attachment 2: Bonneville's Open Access Transmission Tariff (the "Settlement Tariff")

Attachment 3: List of Parties' Point-to-Point and Network Integration Transmission Contracts to which the Settlement Tariff shall apply

Attachment 4: Business Practice Process

Attachment 5: Balancing Reserve Capacity Business Practice

Attachment 6: NT Workstreams Roadmap

14. Entire Agreement. This TC-20 Settlement Agreement sets forth the entire agreement among the parties with respect to the subject matter of this TC-20 Settlement Agreement.

15. Execution in Counterparts. This TC-20 Settlement Agreement may be executed in counterparts each of which is an original and all of which, taken together, constitute one and the same instrument.

Customer Name: _____

Bonneville Power Administration

Signature: _____

Signature: _____

Signatory: _____

Richard L. Shaheen, P.E.

Title: _____

Senior Vice President, Transmission Services

Date: _____

Date: _____

ATTACHMENTS

Attachment 1: Terms

Attachment 2: Bonneville's Open Access Transmission Tariff (the Settlement Tariff)

**Attachment 3: List of Parties' Point-to-Point and Network Integration Transmission
Contracts to which the Settlement Tariff shall apply**

Attachment 4: Business Practice Process

Attachment 5: Balancing Reserve Capacity Business Practice

Attachment 6: NT Workstreams Roadmap

Attachment 1: Terms

1. Terms of Service

a. Section 9 Term

Bonneville agrees that the Administrator will not change Section 9 in the Settlement Tariff, as provisions in that Tariff may be amended from time to time pursuant to its terms, before October 1, 2028.

b. Section 9 Language

The Settlement Tariff will include the following:

9. Tariff and Rate Modifications

(a) Tariff Modifications.

(1) Subject to applicable law, Bonneville commits to open access transmission service. Bonneville shall follow the statutory procedures in Section 212(i)(2)(A) of the Federal Power Act to set generally applicable terms and conditions in its Tariff and will make a final determination to adopt transmission service terms and conditions in a record of decision. In the record of decision, the Administrator's determination will set forth the reasons for reaching any findings and conclusions, including conclusions that may differ from those of the hearing officer, based on:

- i. The hearing record,
- ii. Consideration of the hearing officer's recommendation,
- iii. Bonneville's organic statutes and other laws that apply to Bonneville, and
- iv. Consideration of the standards that apply to Commission-ordered Bonneville transmission service under Sections 211 and 212 of the Federal Power Act.

(2) The Administrator has the right to change the terms and conditions, classification of service, or schedules and attachments contained in the Tariff only if the Administrator conducts a proceeding regarding the change in accordance with Section 212(i)(2)(A) of the Federal Power Act and makes a final determination in that proceeding in accordance with section 9(a)(1) above to adopt such change. Any newly proposed transmission tariff of general applicability is considered and treated as a proposed change to the Tariff under this section.

(b) Rate Modifications

The Transmission Provider may change the rates that apply to transmission service pursuant to applicable law.

- (c) Nothing contained in the Tariff or any Service Agreement shall be construed as affecting in any way the ability of any Party receiving service under the Tariff to exercise its rights under applicable law.

2. Hourly Firm

Bonneville will only offer hourly firm transmission service based on available transfer capability (“ATC”) that is calculated in accordance with Bonneville’s short-term ATC methodology. Bonneville will begin limiting the hourly firm product beginning July 1, 2019.

- a. Hourly firm reservations will not be available in real-time starting January 1, 2020. Hourly firm may only be reserved until the day prior to the operating day at 2340.
- b. Bonneville will perform the analysis described in section 2.d below starting from a neutral position (i.e., no certainty as to end state for the hourly firm product).
- c. In the TC-22 period (October 1, 2021 –September 30, 2023), Bonneville will provide hourly firm service that may be reserved until the day prior to the operating day at 2340. Bonneville may propose a change from this *status quo* during the TC-22 proceeding after:
 - i. Bonneville identifies hourly firm service as (1) A demonstrable adverse reliability risk, (2) A more than de minimis adverse impact to firm transmission service, or (3) In conflict with the then applicable market rules; and
 - ii. Bonneville engages in best efforts to come to a collaborative solution that mitigates the identified risks/impacts of hourly firm service with customers. After the TC-22 proceeding, Bonneville and customers will evaluate options for the post-TC-22 period for the hourly firm product based on the results of the neutral evaluation described in section 2.d.
- d. Starting mid-January 2019, Bonneville will monitor and evaluate the hourly firm product. Bonneville will establish a budget of \$2 million total for the BP-20 rate period to fund the evaluation of the hourly firm product. Bonneville will hold one or more workshops and collaborate with its customers to develop a plan for monitoring and evaluating the hourly firm product. Bonneville will subsequently post its plan for monitoring and evaluating the hourly firm product and will consider comments from customers before finalizing the plan. Bonneville will share the results of its evaluation with customers at least **twice** before July 1, 2020.
 - i. Bonneville’s evaluation of the hourly firm product will include:
 1. Updates on any operational experience relating to the hourly firm product’s impact on reliability, curtailments or other system operations;

2. Evaluations of hourly ATC that was available at the time of firm curtailments;
 3. Any identifiable impacts of hourly firm curtailment priorities to customers that hold long-term firm transmission service agreements, including network integration transmission service (“NT”) and long-term firm point-to-point transmission service (“PTP”).
 4. Customer experience with the hourly firm product regarding usage and marketing and load service impacts. This evaluation will be based on information provided to Bonneville from customers that use the hourly firm product during the monitoring period.
- ii. Bonneville will provide responses to customer queries and provide transparent data in support of its actions, as appropriate and available. Bonneville will also provide the following information:
1. Product usage
 - a. Type of service: Firm; Conditional Firm; Non-Firm
 - b. Products used: Long-term; Monthly; Weekly; Daily Hourly
 - c. Timing of reservations (How far ahead of the reservation start time)
 - d. Timing of schedules (How far ahead of flow)
 - e. Point of Receipt (“POR”)and Point of Delivery (“POD”)
 - i. Load service v. marketing (POD analysis)
 - ii. Resources used (POR analysis)
 - iii. POR/POD combinations
 2. Transaction Type
 - a. Redirects
 - b. Original requests
 - c. Resales
 - d. Reassignments
 - e. Transfers
 3. Curtailment events initiated by Bonneville on the network
 - a. Identify the products that are curtailed
 - b. Megawatt (“MW”) amount of curtailment
 - c. Percentage of total schedules curtailed
 - d. Analysis of schedules curtailed based on NERC priority level
 4. Identify the amounts of short-term ATC during:
 - a. Congestion events – determined on a flowgate by flowgate basis. Depending on the flowgate, a congestion event is when actual flows are within 15-20% of total transfer capability (“TTC”).
 - b. When dispatchers log actions
 - c. Curtailment events
 5. Designation of Network Resources
 - a. Seller’s choice impacts

6. Preemption/Competition data
7. System data during congestion and curtailment events
 - a. Impactful outages
 - b. TTC impacts
 - c. System Operating Limits and/or Real Time Contingency Analysis
 - d. Significant forecast errors
- iii. Bonneville agrees to conduct the following analysis:
 1. Firm v. non-firm total usage
 - a. Flow based analysis by NERC curtailment priority – can also show unscheduled flows.
 2. Change in customer use of products
 - a. Shift from long-term to short-term products
 - b. Shift from Firm to Conditional Firm (“CF”)
 - c. Shift from Firm to Non-Firm
 - d. Increase in usage of 6NN
 - e. Increase in usage of PTP non-firm curtailment priority of 1-5
 3. Make up of curtailments:
 - a. Firm curtailments (NT and PTP)
 - b. NT Redispatch
 - c. Hourly Firm
 - d. NT and PTP
 - i. System conditions CF – system condition has not occurred
 - ii. Number of Hours CF – firmed up
 - e. Conditional Firm curtailments
 - i. System conditions CF – system condition has occurred
 - ii. Number of Hours CF – not firmed up
 - f. Non-firm curtailments
 - i. 6NN and 1-5
 4. Redispatch
 - a. Emergency
 - b. NT redispatch
 - c. Discretionary redispatch
 - i. If discretionary redispatch is granted, identify which flowgate was affected
 - ii. Identify if a curtailment was avoided
 5. Bonneville reserves the right to conduct any analysis it deems necessary to evaluate hourly firm service.
- e. By October 1, 2021, Bonneville will use reasonable efforts to develop an accurate and transparent short-term ATC methodology. In this process, Bonneville will:

- i. Begin evaluation in the second quarter of 2019 and identify any potential improvements to short-term ATC that could be implemented before October 1, 2021.
 - ii. Hold a short-term ATC workshop in the fourth quarter of 2019, and the second and fourth quarter of each fiscal year until October 1, 2021;
 - iii. Provide a review of timelines and parameters for making specific changes to ATC/available flowgate capability (“AFC”) methodology to improve accuracy in the short-term ATC workshops; and
 - iv. Continue to calculate and post hourly ATC/AFC values.
- f. As soon as practicable, Bonneville will apply preemption and competition to daily and hourly firm, including redirects, if OATI implements NAESB standards to adopt FERC policy under *Entergy Services Inc.* 148 FERC ¶ 61,209. If FERC has not directed OATI to adopt such NAESB standards or if OATI has not made the changes prior to the start of the TC-22 proceeding, then the issue of whether to apply preemption and competition to daily and hourly firm in the absence of such action will be reevaluated as part of the TC-22 proceeding. The Parties will discuss the conditional window in Tariff section 13.2(iv) in workshops before the TC-22 proceeding.
- g. Seller’s Choice
- i. The Settlement Tariff will include the following language:
 1. Tariff Section 29.2(v): For each off-system Network Resource, such description shall include: . . .
 - Identification of the control area from which the power will originate. The customer is not required to identify the control area for designations at Mid-Columbia Points of Receipt for designations with a term ending prior to October 1, 2021.
 - ii. Bonneville will list the Mid-Columbia Points of Receipts in the Network Integration Transmission Service business practice.
 - iii. Starting October 1, 2019, Bonneville will monitor and evaluate the implementation of this section g as indicated in Attachment 1, section 2.d hourly firm evaluation. Bonneville will share the results of its evaluation with customers at least once before July 2020. Based on the hourly firm evaluation, Bonneville may, in its sole discretion, include in its TC-22 Initial Proposal, Network Resource designation at Mid-Columbia Points of Receipt.
- h. Bonneville will implement Netting of Redirects under Stop Sales Events (TLR Avoidance) in late February 2019 so that transmission service requests that redirect to different POR/POD combinations are allowed if they have equal or less impact than the original parent transmission service request.
- i. Bonneville will provide at least two conversion windows, including one prior to the start of the BP-22 proceeding and one prior to the start of the BP-24 proceedings, for

- customers desiring to switch their long-term firm transmission product designation from either NT to PTP or PTP to NT.
- j. Subject to section 11.a, Reservation of Rights, of the TC-20 Settlement Agreement, nothing in this TC-20 Settlement Agreement is intended to restrain Bonneville's ability, in its sole discretion, to maintain system operations and reliability, including but not limited to setting limitations on the availability of hourly firm to maintain system reliability.
 - k. NT Redispatch Cost Allocation
 - i. Bonneville forecasts NT Redispatch costs in Bonneville rate cases based on historic usage of NT Redispatch ("NT Redispatch Cost Methodology"). For the BP-20 rate period and for any rate period thereafter during which Bonneville offers the hourly firm product, the costs for NT Redispatch under Bonneville's Redispatch and Curtailment Business Practice, will be allocated based on the principle that NT customers should not incur additional NT Redispatch costs that are attributable to the Point-to-Point hourly firm product.
 - ii. Notwithstanding section 2.k.i above, if Bonneville forecasts NT Redispatch costs below \$4 million:
 - 1. In BP-20, Bonneville shall use historical usage to forecast the cost for NT Redispatch and allocate such costs to the network segment generally; and
 - 2. In BP-22 and BP-24, Bonneville shall include in its Initial Proposal that any forecast NT Redispatch costs will be allocated to the network segment generally.
 - iii. If Bonneville forecasts NT Redispatch costs to exceed \$4 million in the BP-22 or BP-24 rate periods, the Parties have the right to support and challenge any alternative approaches to allocate the costs for NT Redispatch in the respective rate proceeding in a manner consistent with the principle set forth in section 2.k.i above.

3. Business Practices

Bonneville shall adopt the Business Practice Process, attached as Attachment 4 to this TC-20 Settlement Agreement, which may be modified as provided in that attachment.

4. Ancillary Services: Schedules 3, 9, and 10, and Balancing Reserves Business Practice

a. Schedule 3

Bonneville shall adopt the language in Schedules 3 as reflected in those respective schedules of the Settlement Tariff, Attachment 2.

b. Schedule 9

The Settlement Tariff will include the following language for Schedule 9:

SCHEDULE 9

Generator Imbalance Service

Generator Imbalance Service is provided when a difference occurs between the output of a generator located in the Transmission Provider's Control Area and a delivery schedule from that generator to (1) another Control Area or (2) a load within the Transmission Provider's Control Area over a scheduling period. Pursuant to Schedule 10, the Transmission Provider must offer this service, to the extent it is physically feasible to do so from its resources or from resources available to it, when transmission service is used to deliver energy from a generator located within its Control Area.

The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements, which may include use of non-generation resources capable of providing this service, to satisfy its Generator Imbalance Service obligation. The charges for Generator Imbalance Service are set forth in Transmission Provider's Transmission, Ancillary, and Control Area Service Rate Schedules and General Rate Schedule Provisions, or its successor.

To the extent the Control Area Operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area Operator.

For purposes of this Schedule 9, the Transmission Provider may bill a Generator owner or operator directly for this service in lieu of billing the Transmission Customer, pursuant to an interconnection agreement or other arrangement. In that case, the generator owner or operator will be deemed to be a "Transmission Customer" for the purposes of this schedule.

The Transmission Provider may charge the Transmission Customer a penalty for generator imbalances under this Schedule or a penalty for energy imbalances under Schedule 4 for imbalances occurring during the same scheduling period, but not both unless the imbalances aggravate rather than offset each other.

c. Schedule 10

The Settlement Tariff will include the following language for Schedule 10:

SCHEDULE 10

Capacity for Generator Balancing Services

Capacity for Generator Balancing Services is necessary to ensure the capacity is available to provide the energy for service under Schedule 9, Generator Imbalance Service, as well as to provide regulation and frequency response for generation, in order to maintain scheduled Interconnection frequency at sixty cycles per second (60 Hz). The obligation to maintain the capacity under this Schedule 10 lies with the Transmission Provider (or the Balancing Authority that performs this function for the Transmission Provider).

The Transmission Provider must offer to provide capacity under this Schedule 10 to generation electrically located in the Transmission Provider's Control Area to the extent it will not unreasonably impair reliability. The Transmission Provider must establish a long-term planning process in its Balancing Reserve Capacity Business Practice and utilize that planning process to forecast the capacity needed to provide this service. The Transmission Provider will offer to provide capacity up to the forecast quantity from its resources or resources available to it. Any changes to the forecasted amount of capacity needed to provide this service will not take effect until that change is reflected in the charges for providing this service, unless needed for reliability or to comply with regulatory requirements. If a change in the forecasted amount of capacity is needed for reliability or to comply with regulatory requirements prior to a revision of the charges, Transmission Provider will convene the parties to review options to revise the charges to reflect the change in capacity, and take prudent steps to adjust rates either in accordance with the posted Rate Schedules or holding a hearing, either expedited or in the next scheduled hearing, under Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act.

The Transmission Customer must either purchase this capacity for generator balancing services from the Transmission Provider or make alternative comparable arrangements, to satisfy its obligation.

The charges for Capacity for Generator Balancing Services are set forth in Transmission Provider's "Transmission, Ancillary, and Control Area Services Rate Schedules and General Rate Schedule Provisions," or its successor. To the extent the Balancing Authority performs this service for the Transmission Provider charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Balancing Authority.

The Transmission Provider may charge the Transmission Customer for Capacity for Generator Balancing Service under this Schedule and for Frequency and Response Service under Schedule 3, since Capacity needs for load and generation may aggravate rather than offset each other.

d. **Balancing Reserve Capacity Business Practice**

Bonneville will adopt the Balancing Reserve Capacity Business Practice, attached as Attachment 5 to this TC-20 Settlement Agreement. Under section E of the Balancing Reserve Capacity Business Practice, curtailment events are estimated to be 110 per year. Bonneville has the right to modify this business practice as provided for in the Business Practice Process adopted in Section 3 of this Attachment 1.

5. Dispute Resolution in Section 12.1 of the Tariff

The Settlement Tariff will include the following:

- 12.1 Any dispute between a Transmission Customer and the Transmission Provider involving transmission service under the Tariff (excluding rate changes) shall be referred to a designated senior representative of the Transmission Provider and a senior representative of the Transmission Customer for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days [or such other period as the Parties may agree upon], such dispute may be submitted to a court or agency of competent jurisdiction or, by mutual agreement, arbitration and resolved in accordance with the arbitration procedures set forth below.

6. NT Conditional Firm and Network Operating Agreement

- a. Bonneville will remove NT Conditional Firm from the tariff and commits to implementing NT Service as described in the NT Service Overview flowchart in Attachment 6 to this TC-20 Settlement Agreement. Bonneville also commits to the NT Work Stream Roadmap in Attachment 6. Both the NT Service Overview and NT Work Stream Roadmap may be revised by Bonneville from time to time in collaboration with customers.
- b. Bonneville will revise Attachment G, as reflected in the attached tariff, develop a template Network Operating Agreement in collaboration with customers, and bilaterally negotiate individual agreements.

7. NT Redispatch and Attachment M

Bonneville will revise NT Redispatch language and remove Attachment M, as reflected in Attachment 2, Settlement Tariff. No later than October 1, 2019, Bonneville will modify the existing Redispatch Business Practice through the agreed upon Business Practice Process. As part of the revised Business Practice Bonneville will include the following provision: Currently, NT Redispatch only applies to Federal Resources. Without customers waiving their right to challenge, prior to inclusion of any non-Federal resources (including off-system resources) in NT Redispatch, Bonneville must hold a public process to determine the appropriate rules and protocols associated with non-Federal Redispatch and Parties will negotiate in good faith to incorporate those rules, as mutually agreed-upon in executed customer-specific Network Operating Agreements.

8. Generator Interconnection Procedures

Bonneville shall adopt new tariff language as reflected in the Settlement Tariff, Attachment 2, to:

- a. Implement the following reforms pursuant to the Federal Energy Regulatory Commission's ("Commission") Order No. 845: The Interconnection Customer's Option to Build, Dispute Resolution, Identification and Definition of Contingent Facilities, Transparency Regarding Study Models and Assumptions, Definition of Generating Facility in the Standard Large Generator Interconnection Procedures ("LGIP") and Standard Large Generator Interconnection Agreement ("LGIA"), Interconnection Study Deadlines, Requesting Interconnection Service Below Generating Facility Capacity, Provisional Interconnection Service.
- b. Delete from Attachment L and N all tariff language that makes reference to Bonneville filing its tariff with the Commission; delete from Attachment L all tariff language that makes reference to filing an unexecuted LGIA with the Commission.

By October 1, 2019, Bonneville shall develop a Business Practice that takes a phased approach to the implementation of the Commission's Order No. 845 reform: Utilization of Surplus Interconnection Service and shall also revise the Large and Small Generator Interconnection Business Practices to clarify its process for determining whether an Interconnection Customer's request for a modification constitutes a Material Modification.

9. Real Power Loss Factor

Bonneville shall create a new Schedule 11, as reflected in the Settlement Tariff, Attachment 2, to document the Real Power Loss Factor.

10. Price Cap

Bonneville shall remove the price cap on resales of point to point transmission service, as reflected in Section 23.1 of the Settlement Tariff in Attachment 2.

11. Financial Middleman

Bonneville will not make any changes to the tariff for the financial middleman issue, but reserves the right to propose such changes in the TC-22 proceeding or any subsequent tariff proceedings.

12. Intertie Studies

No later than January 1, 2020, Bonneville will begin a stakeholder process to review business practices related to studies of transmission service requests ("TSRs"), with the goal to examine and develop a consistent and repeatable approach to studying requests for long-term firm point-to-point transmission service on the southern intertie and network. Bonneville and Transmission Customers may identify the relevant business practices at the beginning of such process.

13. Attachment K

Bonneville shall adopt Attachment K as reflected in the Settlement Tariff in Attachment 2.

In the Federal Register notice initiating the TC-20 proceeding, Bonneville will exclude Attachment K from the scope of the TC-20 proceeding.

- a. Bonneville reserves the right to propose revisions to Attachment K, Transmission Planning Process, in a tariff proceeding that may be conducted earlier than the TC-22 proceeding. If Bonneville initiates a tariff proceeding before the TC-22 proceeding, the scope will be limited to proposed revisions to Attachment K.

BP-20 PARTIAL RATES SETTLEMENT AGREEMENT

Bonneville Power Administration BP-20 Rate Case Transmission, Ancillary, and Control Area Services Rates

THIS PARTIAL RATES SETTLEMENT AGREEMENT (“Agreement” or “BP-20 Partial Rates Settlement Agreement”) is among the Bonneville Power Administration (“Bonneville”) and parties to the BP-20 rate proceeding as provided for in section 3 of this Agreement (such parties in the singular, “Party,” in the plural, “Parties”).

RECITALS

- A. Bonneville and the Parties have been engaged in settlement discussions with respect to Transmission, Ancillary, and Control Area Services Rates and General Rate Schedule Provisions (“Transmission Rates”) for the FY 2020–2021 Rate Period (“Rate Period”);
- B. In addition to discussion of Transmission Rates for the Rate Period, the settlement discussions have addressed issues related to Bonneville’s proposal to conduct a proceeding pursuant to Section 212(i)(2)(A) of the Federal Power Act (the “TC-20 proceeding”) to establish a new open access transmission tariff for transmission service across the Federal Columbia River Transmission System;
- C. As part of the settlement discussions, Bonneville and the Parties have agreed to the terms of settlement for Transmission Rates for the Rate Period and for all issues in the TC-20 proceeding;
- D. Bonneville and its Transmission Customers have agreed to the TC-20 Settlement Agreement;
- E. The terms of this Agreement are intended to be a part of a settlement package that includes the settlement in the TC-20 proceeding; and
- F. The purpose of this Agreement is to document the terms of settlement for Transmission Rates for the Rate Period, without precedent for subsequent rate periods.

AGREEMENT

Bonneville and the Parties agree to the following:

1. In the BP-20 rate proceeding, Bonneville staff will file and recommend that the Administrator adopt a proposal (“Settlement Proposal”) to establish Transmission Rates for the Rate Period as shown in Attachment 1, Proposed 2020 Transmission, Ancillary, and Control Area Services Rate Schedules and General Rate Schedule Provisions (FY 2020–2021). The Settlement Proposal will include only the terms specified in this Agreement and in Attachments 1–3.

2. This Agreement settles, in accordance with its terms, all issues within the scope of the Settlement Proposal for purposes of Transmission Rates in the BP-20 rate proceeding and the Rate Period.
3. Bonneville will notify the Hearing Officer for the BP-20 rate proceeding of this Agreement and move the Hearing Officer to (1) require any party in the BP-20 rate proceeding that does not sign the Agreement to state any objection to the Settlement Proposal and to identify each issue included in the Settlement Proposal that such party chooses to preserve in the BP-20 proceeding by a date established by the Hearing Officer; and (2) specify that any party in the BP-20 rate proceeding that does not state an objection to the Settlement Proposal by such date will waive its rights to preserve any objections to the Settlement Proposal and will be deemed a Party to this Agreement.
4. If, in response to the Hearing Officer's order made pursuant to section 3, any party to the BP-20 rate proceeding states an objection to the Settlement Proposal, Bonneville and any Party to this Agreement will have three business days from the date of the objection to withdraw its assent to the Settlement Proposal. If Bonneville or any Party to this Agreement withdraws its assent to the Settlement Proposal, Bonneville shall promptly schedule a meeting with the Parties to this Agreement to discuss how to proceed and will provide notice and the opportunity to participate to parties to the BP-20 rate proceeding.
5. If the TC-20 proceeding does not result in the adoption of the TC-20 Settlement Agreement, this Agreement will be void *ab initio*.
6. This Agreement will become effective on the date for objections to the Settlement Proposal in the Hearing Officer's order made pursuant to section 3, and will terminate on September 30, 2021; except that, if the Administrator does not adopt the Settlement Proposal in the BP-20 rate proceeding, this Agreement will be void *ab initio*.
7. Preservation of BP-20 Transmission Rates and Settlement Proposal
 - a. If the Administrator adopts the Settlement Proposal, the Parties agree not to contest this Agreement or its implementation pursuant to its terms, from the effective date of this Agreement through the end of the Rate Period.
 - b. The Parties agree to waive their rights to submit data requests and conduct cross-examination in the BP-20 rate proceeding with respect to any issue within the scope of the Settlement Proposal, except in response to issues raised by any party in the BP-20 rate proceeding that objects to this Agreement in response to the Hearing Officer's order made pursuant to section 3.
 - c. Bonneville and the Parties agree that this is a "black box" settlement. Bonneville and the Parties understand, and will not argue otherwise, that this Agreement does not constitute consent or agreement in any future rate proceedings to the Transmission Rates, and that they retain all of their rights to take and argue whatever position they believe appropriate as to such matters.

- d. Bonneville and the Parties acknowledge that this Agreement reflects a compromise in their positions with respect to Transmission Rates for the Rate Period, and that acceptance of the settlement does not create or imply any agreement with any position of any other Party. Bonneville and the Parties agree not to assert in any forum that anything in the Settlement Proposal, or that any action taken or not taken with regard to this Agreement by Bonneville or any Party, the Hearing Officer, the Administrator, the Commission, or a court, creates or implies: (1) agreement to any particular or individual treatment of costs, expenses, or revenues; (2) agreement to any particular interpretation of Bonneville's statutes; (3) any precedent under any contract or otherwise between Bonneville and any Party; or (4) any basis for supporting any Bonneville rate or general rate schedule provision for any period after the Rate Period.
8. Conduct, statements, and documents disclosed in the negotiation of this Agreement will not be admissible as evidence in the BP-20 rate proceeding, any other proceeding, or any other judicial or administrative forum, nor will the fact that the Parties entered into this settlement be cited or used in any future proceedings or Administrator decisions as support for any matters, other than application or enforcement of this Agreement.
9. Reservation of rights
 - a. Except as provided in section 7 above, no Party waives any of its rights, under Bonneville's enabling statutes, the Federal Power Act, or other applicable law, to pursue dispute resolution procedures consistent with Bonneville's open access transmission tariff or to pursue any claim that a particular charge, methodology, practice, or rate schedule has been improperly implemented.
 - b. By signing this Agreement, no Party agrees or admits that the level of financial reserves resulting from the Transmission Rates, if any, are acceptable or otherwise appropriate, and nothing in this Agreement shall limit, waive, or otherwise alter a Party's right to challenge in future rate proceedings the level of Bonneville's financial reserves.
 - c. Except as provided in section 7 above, no Party waives any rights to challenge the Financial Reserves Policy, Leverage Policy, Access to Capital policies or initiatives, all of which are outside of the scope of this Agreement. In particular, nothing in this Agreement limits, waives, or alters the Parties' rights: (1) to challenge the Leverage Policy Record of Decision under and subject to applicable law; and (2) to challenge, in future rate proceedings, the application of the Leverage Policy or the application of depreciation to assets funded by revenue financing. Furthermore, the Parties are not conceding any application of any such policies by agreeing to this Agreement.
 - d. Nothing in this Agreement limits, waives, or alters Bonneville's right to propose, or a Party's right to contest, the adoption of a Transmission General Rate Schedule Provision in the BP-20 rate proceeding to provide for a Financial Reserves Policy Surcharge, as described in the Financial Reserves Policy Phase-In Implementation Record of Decision, dated September 25, 2018.

- e. Bonneville and the Parties reserve the right to respond during the Rate Period to any filings, protests, or claims, by Bonneville, any Party, or others; however, the Parties will not support a challenge to any rates, terms and conditions, or other matters described in this Agreement.
10. All Transmission, Ancillary, and Control Area Service Rates and General Rate Schedule Provisions, as reflected in Attachment 1, are part of this Agreement, and cannot be contested in the BP-20 rate proceeding. For purposes of clarity, Power rates and the terms of the Transmission Cost Recovery Adjustment Clause and the Transmission Reserves Distribution Clause, sections II.H and II.I of the General Rate Schedule Provisions, respectively, are not within the scope of this Agreement or the Settlement Proposal.
 11. If, because of a ruling issued in response to a legal challenge, Bonneville is required to materially modify or discontinue any of the rates, terms and conditions, or other matters provided in this Agreement, Bonneville may seek, and the other Parties agree to support, or not contest, a stay of enforcement of that ruling until after the Rate Period.
 12. Attachment 1, Proposed 2020 Transmission, Ancillary, and Control Area Service Rate Schedules and General Rate Schedule Provisions (FY 2020–2021), Attachment 2, Rate Period Terms for Generation Inputs, and Attachment 3, Inter-business Line Allocations, are made part of this Agreement.
 13. Nothing in this Agreement is intended in any way to alter the Administrator’s authority and responsibility to periodically review and revise the Administrator’s rates or the Parties’ rights to challenge such revisions.
 14. Notwithstanding section 6 of this Agreement, sections 7, 8, and 9 will survive termination or expiration of this Agreement.
 15. This Agreement may be executed in counterparts each of which is an original and all of which, taken together, constitute one and the same instrument.

Customer Name: _____	Bonneville Power Administration
Signature: _____	Signature: _____
Signatory: _____	Richard L. Shaheen, P.E.
Title: _____	Senior Vice President, Transmission Services
Date: _____	Date: _____

ATTACHMENTS

Attachment 1 – Proposed 2020 Transmission, Ancillary, and Control Area Services Rate Schedules and General Rate Schedule Provisions (FY 2020–2021)

Attachment 2 – Rate Period Terms for Generation Inputs

Attachment 3 – Inter-business Line Allocations

TAB - I

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MCCLEARY TO
CREATE FUND ACCOUNTS AND TRANSFER FUNDS TO
NEW ACCOUNTS FOR THE PURPOSE OF CREATING
MANAGERIAL FUNDS.**

R E C I T A L S:

WHEREAS the Mayor and the Council requested Managerial Funds to be created; and

WHEREAS the City staff has determined that the revenues and cash balances of the Funds of: Light and Power (Fund 401), Light and Power Reserve (Fund 410), Sewer (Fund 405), Sewer Reserve (Fund 422), Current Expense (Fund 001), and Current Expense Reserve (Fund 002) are expected to be more than sufficient to meet all capital and operating needs; and

WHEREAS it is the desire and intention of the Council to transfer certain funds from the Light and Power (Fund 401), Light and Power Reserve (Fund 410), Sewer (Fund 405), Sewer Reserve (Fund 422), Current Expense (Fund 001), and Current Expense Reserve (Fund 002) to the newly created fund accounts for use as Managerial Funds;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: The following accounts are created for the purpose of use as Managerial Funds:

Street Managerial Equipment Replacement Fund (Fund 302);

Light and Power Managerial Equipment Replacement Fund (Fund 304);

Water Managerial Equipment Replacement Fund (Fund 305);
Sewer Managerial Equipment Replacement Fund (Fund 307);
Storm Water Managerial Equipment Replacement Fund (Fund 309);
Police Managerial Equipment Replacement Fund (Fund 321);
Fire Managerial Equipment Replacement Fund (Fund 322);
Park and Cemetery Managerial Equipment Replacement Fund (Fund 336).

SECTION II: The sum of \$20,000 shall be and is hereby transferred from the Light and Power Fund (Fund 401) to the Light and Power Managerial Equipment Replacement Fund (Fund 304).

SECTION III: The sum of \$20,000 shall be and is hereby transferred from the Light and Power Reserve Fund (Fund 410) to the Light and Power Managerial Equipment Replacement Fund (Fund 304).

SECTION IV: The sum of \$25,000 shall be and is hereby transferred from the Water Fund (Fund 405) to the Water Managerial Equipment Replacement Fund (Fund 305).

SECTION V: The sum of \$25,000 shall be and is hereby transferred from the Sewer Reserve Fund (Fund 422) to the Water Managerial Equipment Replacement Fund (Fund 305).

SECTION VI: The sum of \$20,000 shall be and is hereby transferred from Current Expense Reserve Fund (Fund 002) to the Police Managerial Equipment Replacement Fund (Fund 321).

SECTION VII: The sum of \$20,000 shall be and is hereby transferred from Current Expense Reserve Fund (Fund 002) to the Fire Managerial Equipment Replacement Fund (Fund 322).

SECTION VIII: The sum of \$20,000 shall be and is hereby transferred from Current Expense Fund (Fund 001) to the Fire Managerial Equipment Replacement Fund (Fund 322).

SECTION IV: The sum of \$10,000 shall be and is hereby transferred from Current Expense Fund (Fund 001) to the Park and Cemetery Managerial Equipment Replacement Fund (Fund 336).

SECTION X: The sum of \$11,500 shall be and is hereby transferred from the Current Expense Reserve Fund (Fund 002) to the Park and Cemetery Managerial Equipment Replacement Fund (Fund 336).

SECTION XI: The Mayor and Clerk-Treasurer are authorized to take such steps as may be necessary to effectuate the transfer of the monies as authorized by this Ordinance.

SECTION XII: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION XIII: This Ordinance shall take effect upon the fifth day following date of publication.

SECTION XIV: Corrections by the Clerk-Controller or Code Reviser. Upon approval of the Mayor and City Attorney, the CFO/City Clerk and the Code Reviser are

authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS _____ DAY OF November, 2018, by the City Council of the City of McCleary, and signed in approval therewith this _____ day of November, 2018.

CITY OF McCLEARY:

BRENDA ORFFER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER COKER, City Attorney

STATE OF WASHINGTON)
 : ss.
GRAYS HARBOR COUNTY)

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number _____ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number _____, as it was published, is on file in the appropriate records of the City of McCleary.

WENDY COLLINS

SIGNED AND SWORN to before me this _____ day of _____,
2018, by WENDY COLLINS.

Print Name _____
NOTARY PUBLIC in and for the State
of Washington, residing at _____
Commission expires: _____