



# McCleary Regular City Council Meeting

Wednesday, October 09, 2024 – 6:30 PM

McCleary City Hall Council Chambers & Zoom Virtual Meeting

## Agenda

### Join Zoom Meeting

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Meeting ID: **817 9207 7978**

Passcode: **144764**

**(253) 215-8782**

### Call to Order/Flag Salute/Roll Call

### Agenda Modifications/Acceptance

### Special Presentations

### Public Comment - Agenda Items Only

### Consent Agenda

1. Accounts Payable September 17-30, 2024 Ck Numbers 53777-53812 Including EFT's totaling \$59,059.18
- [2.](#) Meeting Minutes - September 11, 2024
- [3.](#) Special Meeting Minutes - September 17, 2024
- [4.](#) Meeting Minutes - September 25, 2024

### Updates

- [5.](#) Staff Reports - Light & Power, Public Works, Fire Department, Water & Wastewater, Police Activity, Finance

### New Business

### Old Business

- [6.](#) Department of Labor and Industries Appeal Settlement Agreement for Fire Department

### Ordinances and Resolutions

### Public Comment - City Business Only

### Executive Session

### Council Comments

### Mayor Comments

### Adjourn

### Please turn off Cell Phones- Thank you

Americans with Disabilities Act (ADA) Accommodation is Provided Upon Request.

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La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador.



# McCleary Regular City Council Meeting

Wednesday, September 11, 2024 – 6:30 PM

McCleary Community Center and Zoom Virtual Meeting

## Minutes

### Call to Order/Flag Salute/Roll Call

Meeting called to order at 6:30pm. Councilmember Huff asked for a moment of silence

#### PRESENT

Councilmember Jacob Simmons (by phone)  
 Councilmember Brycen Huff  
 Councilmember Andrea Dahl  
 Councilmember Keith Klimek

#### ABSENT

Mayor Chris Miller

### Agenda Modifications/Acceptance

Motion made by Councilmember Dahl, Seconded by Councilmember Klimek to accept the agenda.

Voting Yea: Councilmember Simmons, Councilmember Huff, Councilmember Dahl, Councilmember Klimek

### Special Presentations

None

### Public Comment - Agenda Items Only

Carri Comer spoke about the Social Media Policy mentioned in Jenna Amsbury's Staff Report. Carri wants to know who has access and asked about the use of comments. She asked where City business will be posted. Councilmembers Klimek & Simmons received Jenna's Social Media Draft Policy, but they do not have an update at this time as they have not met on it.

### Consent Agenda

Chantal Segó made a comment regarding the minutes accuracy for how the Civic Renewal was founded and asked for them to be updated.

Motion made by Councilmember Dahl, Seconded by Councilmember Klimek to accept the consent agenda with the revision of the minutes to be made.

Voting Yea: Councilmember Simmons, Councilmember Huff, Councilmember Dahl, Councilmember Klimek

1. Accounts Payable Aug 16-31 Ck Numbers 53681-53712 Including EFT's Totaling \$71,851.46
2. Meeting Minutes - August 28, 2024

### Updates

3. Staff Reports - Light & Power, Finance, Fire, Police, Water & Wastewater, Public Works Director

Councilmember Dahl asked about the grant for inflow and infiltration. Chad Bedlington stated October 15th is the due date and he plans to submit a grant application.

Councilmember Huff asked about the Police Explorer needing to be sold as surplus. Huff also asked about the

attorney RFP's.

There will be a budget workshop meeting on September 17th from 6:00pm - 8:00pm

Chad Bedlington said the RFP's for IT Services are due September 19th. He did a walk through with a couple companies that were interested in applying.

Councilmember Simmons asked if the Mayor will be present at the Budget Workshop. He said it is unacceptable to spend time at extra meetings when the Mayor won't show up at any meetings.

Chad Bedlington gave an update on the Maple Street Project. It is a 3-year project from the award to completion, and we are in the billable stage now. Next Spring will be the construction stage.

### **New Business - None**

### **Old Business**

4. Fraternal Order of Police – Memorandum of Understanding for the 2024-2026 Collective Bargaining Agreement

Jenna Amsbury stated that since the adoption of the Collective Bargaining Agreement the shift times has changed from 6:00 to 6:00 to the new schedule of 7:00 to 7:00. This MOU changes the shift differential to match shift times for the full evening shift. It also details that the shift differential will not be retroactive, but start on September 1.

Motion made by Councilmember Dahl, Seconded by Councilmember Huff to accept the MOU for the 2024-2026 Police contract.

Voting Yea: Councilmember Simmons, Councilmember Huff, Councilmember Dahl, Councilmember Klimek

5. Washington Department of Enterprise Services Energy Services Authorization/Agreement

Chad Bedlington spoke about the Solar Project. This is the 5th conversation on this topic. It is revenue generating and will offset Bonneville charges 100,000-160,000, we will find out during this process. In addition for maintenance, Ameresco is willing to provide a 25-year maintenance agreement to alleviate concerns. The project can also provide \$30,000 in sales tax revenue to the General Fund from the purchases of the equipment and panels.

Councilmember Klimek asked what the maintenance contract entailed. Brian Solan from Ameresco said it's an O&M agreement. He believes there is a way for it to be funded through the grant at the average of 10-20% of the cost of power generated. The structure agreement would need the cost upfront as part of the agreement. Councilmember Klimek doesn't want to pay this out of the City Funds. There is no guarantee there will be a 25-year service contract if Ameresco were to not be in business over the whole period. Brian Solan said Ameresco has been in business over 20 years already and has a strong business presence.

Councilmember Simmons said he reached out to Department of Commerce to get more information. He wants a response from Department of Commerce before voting.

Councilmember Huff wants to table this until the next meeting. The consensus was to table the item for next meeting.

6. McCleary Civic Renewal Council regarding City Partnership

Carri Comer said the Civic Renewal Council didn't request a letter of support from the City for the grant. They have already submitted a grant for \$4,800 in additional funding to purchase more décor for the park.

She explained a year ago the City was looking for an arts/parks committee. The scope is not clear what the city is wanting to be involved in. She wants the City to partner with the Civic Renewal to do the volunteer work for the Christmas event. Councilmember Klimek talked about the Liability Insurance. Councilmember Huff said he has helped with events in the past and it's hard to say what someone might sue for.

Civic Renewal Group would like to start with the Christmas Event, decorating of the park and lights over the pickleball court and then discuss other partnerships. Councilmember Klimek said that the Civic Renewal Group does a good job. There will be more discussion with Chad and Jenna to see if an MOU can be drafted.

#### **Ordinances and Resolutions - None**

#### **Public Comment - City Business Only**

Dan Baskins stated other cities have used a volunteer application process for events and said that is something the city could review for the civic renewal council.

#### **Executive Session - None**

#### **Council Comments**

Councilmember Huff said September is suicide awareness month, the phone number for help is 988. Huff reminded everyone that the City Wide Garage sale is September 20-22, 2024.

Councilmember Dahl said Council Position #3 has been vacated and it is open for applications.

#### **Mayor Comments**

None

#### **Adjourn**

Motion made by Councilmember Klimek, Seconded by Councilmember Dahl to adjourn the meeting at 7:47pm. Voting Yea: Councilmember Simmons, Councilmember Huff, Councilmember Dahl, Councilmember Klimek



# McCleary Special City Council Meeting

September 17, 2024 – 6:00 PM

McCleary City Hall & Zoom Virtual Meeting

## Minutes

### Call to Order/Flag Salute/Roll Call

Meeting called to order at 6:00pm

### PRESENT

Councilmember Jacob Simmons

Councilmember Brycen Huff

Councilmember Andrea Dahl

Councilmember Keith Klimek

### Discussion Items:

#### 1. 2023 Strategic Planning Progress Update

Jenna Amsbury, Clerk-Treasurer, and Chad Bedlington, Director of Public Works, provided an update on the goals and priorities that were identified in the 2023 strategic planning session. They detailed what the city has done in coordination with these goals and priorities.

#### 2. 2025 Budget Discussion and Project list

Chad and Jenna asked for council feedback on wish list items or projects council would like included in the 2025 budget. Councilmember Huff stated he wants to make sure the Police Department is maintained at current staffing level. He would also like to see money set aside for alley improvements and adding in hot water to the park bathrooms for use at events. He also asked if there had been further development on the transit station maintenance agreement with Grays Harbor Transit. Chad stated there are no updates from Transit. There was discussion on the use of the investment income that is coming in from LGIP, as presented in a resolution earlier this month. Jenna Amsbury noted there is ability to use these funds for any purpose if reallocated to general fund. Then the council could earmark the revenue for projects or special purposes.

### Adjourn

Motion made by Councilmember Dahl and Seconded by Councilmember Simmons to adjourn the meeting at 7:30 p.m.

Voting Yea: Councilmember Simmons, Councilmember Huff, Councilmember Dahl, Councilmember Klimek



# McCleary Regular City Council Meeting

Wednesday, September 25, 2024 – 6:30 PM

McCleary Community Center & Zoom Virtual Meeting

## Minutes

### Call to Order/Flag Salute/Roll Call

Meeting called to order at 6:30pm

#### PRESENT

Councilmember Jacob Simmons

Councilmember Brycen Huff

Councilmember Andrea Dahl

Councilmember Keith Klimek

#### ABSENT

Mayor Chris Miller

### Agenda Modifications/Acceptance

Motion made by Councilmember Dahl, Seconded by Councilmember Klimek to accept the agenda.

Voting Yea: Councilmember Huff, Councilmember Simmons, Councilmember Dahl, Councilmember Klimek

### Special Presentations

None

### Public Comment - Agenda Items Only

No Public Comment

### Consent Agenda

Motion made by Councilmember Dahl, Seconded by Councilmember Simmons to accept the consent agenda.

Voting Yea: Councilmember Huff, Councilmember Simmons, Councilmember Dahl, Councilmember Klimek

1. Accounts Payable Sept. 1-16, 2024 Check Numbers 53722-53776 including EFT's Totaling \$210,515.53

### Updates - No Updates

### New Business - None

### Old Business

2. Washington Department of Enterprise Services Energy Services Authorization/Agreement:

The Investment Grade Audit will be contracted through Ameresco, Inc., and funded with a \$2.745 million grant from Department of Commerce. Chad Bedlington stated this item has been discussed at numerous meetings and does not have anything new to add, but is open for questions.

Councilmember Simmons had no further questions.

Motion made by Councilmember Simmons, Seconded by Councilmember Dahl to approve the Investment Grade Audit.

Voting Yea: Councilmember Simmons

Voting Nay: Councilmember Huff, Councilmember Dahl, Councilmember Klimek

3. Right!Systems

Chad Bedlington stated the RFP for the new contract period was extended to allow for additional interested parties to come view the system. He requested to extend the contract with Right Systems for an additional 30 days to allow for review of the RFP and selection of a vendor moving forward.

Motion made by Councilmember Dahl, Seconded by Councilmember Klimek to extend the IT Service contract an additional 30 days.

Voting Yea: Councilmember Huff, Councilmember Simmons, Councilmember Dahl, Councilmember Klimek

**Ordinances and Resolutions - None**

**Public Comment - City Business Only**

Lucas Reich talked about his concerns for stray cats in the neighborhood. He expressed frustration that there is nothing that can be done to stop them from coming in his yard and defecating. He asked about code enforcement and was told there is no guideline for this issue in city code. There is also nothing for racoons or possums. Lucas also contacted Fish & Wildlife to see if they had anything they could do. He reviewed ordinances/codes of other Washington cities and provided them to council to help create an ordinance/code for McCleary regarding such issues.

**Executive Session - None**

**Closed Session- None**

**Council Comments**

Councilmember Huff asked about the status of the Request For Proposals for the city attorney. Jenna Amsbury stated it was extended through the end of the month with no response as of yet.

Councilmember Klimek asked about dogs in the park signage. Chad stated it will be up within the next couple weeks, the last item was just received.

Councilmember Dahl asked about audit entrance meeting. Jenna stated they just contacted her last week are in the planning stages. Councilmember Dahl asked about the status of the budget drafts, Jenna stated they are almost done with the first draft and the council will receive one in October.

**Mayor Comments - None**

**Adjourn**

Motion made by Councilmember Simmons and Seconded by Councilmember Klimek to adjourn the meeting at 6:44pm.

Voting Yea: Councilmember Simmons, Councilmember Huff, Councilmember Dahl, Councilmember Klimek



# City of McCleary STAFF REPORT

<b>To:</b>	Council
<b>From:</b>	Paul Nott
<b>Date:</b>	10/1/2024
<b>Department:</b>	Light and Power

Hello All,

Since our last report we have completed Pine Street re-build and cut over. We are waiting for communication transfers of their conductors then we will remove the pole stubs. We had 4 new customer services, and one underground fault on Olin Ave. Now we will begin rebuilding 4<sup>th</sup> Street back to Oak and all the lateral lines off those feeders. All our trucks passed the annual dielectric and DOT testing, and we have some general maintenance items that need addressed. The PUD was here this month and assisted us with a new battery bank for our substation.

As always, we are also working on customer service requests and maintenance issues as they arise.

If anyone has any questions or concerns, feel free to contact us...

GO HAWKS!!!

Paul





# City of McCleary STAFF REPORT

<b>To:</b>	Mayor Miller and Council
<b>From:</b>	Jenna Jarvis, Public Works Field Foreman
<b>Date:</b>	October 3, 2024
<b>Department:</b>	Public Works

Hello everyone!

The month of September has been busy for sure! We are trying to get as many projects done before the rainy season is officially here.

At the end of August, we replaced a much needed water service line. For the last year this line had produced 5 water leaks that we knew of. While replacing this line we also found another 3 that we didn't know of.

We are also working on some new additions to the foyer at city hall. There is now a new tack board for new poster postings. As well as a mounted tv. The goal for the TV is to be able to add photos of all the crews and the work that we do.

Another huge project we were able to almost complete, we have some minor touches before being 100% complete, was dress up the brick wall at the top of 3<sup>rd</sup>. With a huge thank you to the Light and Power crew for helping and making our lives a thousand times easier we were able to add about 20 tons of drain rock. Every plant that was planted was generously donated once again by our mayor. The real MVPs are all the volunteers that spent their Saturday morning beautifying our little city. After this day of planting, we still had left over plants. We spruced up the front of the community center. Our future goals is to also plant more at the McCleary Library.



Between all these projects we have smaller issues that make a great impact that needed to be fixed. We had a hot water tank inspection about mid-September. Come to find out that when the Police department tank was replaced the wrong pipe was installed. Also, when the food banks tank was installed, there was no relief pipe. Both issues have been resolved.

We also had a storm manhole ring and lid fail at the main entrance to the Simpson mill. Which has also been replaced. Hopefully next summer we will be able to replace the cold mix with asphalt.

One of the projects we are currently working on is redirecting the storm water between 2<sup>nd</sup> and 3<sup>rd</sup> and Pine and Mommsen. While in the process of connecting into the current storm system we discovered a few things. We have 5 different types of pipe in one little area. Those being PVC, wood stave (barely any wood left), ductile, and concrete. In this process we also found there is a long straight stretch of wood pipe that feeds a near by catch basin. We will be replacing this section of pipe in the upcoming days.

Have a wonderful day!  
-Jenna Jarvis



# City of McCleary STAFF REPORT

<b>To:</b>	Mayor Miller and Council
<b>From:</b>	Fire Chief Andrew Pittman
<b>Date:</b>	October 1, 2024
<b>Department:</b>	Fire Department

Hello all,

We have 3 new members that are now hired and able to respond to serve our citizens.

Our Partners at Grays Harbor Fire District #12 have agreed to purchase new wildland gear for all members of the department. This will be a great help with working on wildland fires because of the lightweight properties, Thank you GHFD#12 commissioners for your ongoing partnership with the city.

We had 3 members participate in the Firefighter Stair climb challenge in Portland in order to raise money for Cystic Fibrosis. As a team we raised over \$1000. Thank you everyone for your support.

August numbers are as follows:

Accidents =2 Fire alarms=1 Public assists =7  
Total= 10

I have just received an email stating that the burn restrictions have been lifted for land clearing fires, just a friendly reminder that burn piles are only 4x4 feet in size and only can consist of natural vegetation. A free burn permit is required for outdoor burning and can be obtained through ORCAA's website. More information on this you can check ORCAA, DNR, or the grays harbor county fire marshal's websites for up to date burn restrictions.

Thank you for the opportunity and Stay Safe,

Fire Chief Andrew Pittman



# City of McCleary

## STAFF REPORT

<b>To:</b>	Mayor Miller and City Council
<b>From:</b>	Kevin Trehwella
<b>Date:</b>	October, 2024
<b>Department:</b>	Water and Wastewater

### Wastewater:

As you recall in Septembers report I spoke to you about the ongoing Inflow and Infiltration (I&I) problems which were recognized in a letter in 1966 addressed to the city council. Unfortunately, the I&I problem has not resolved itself.

Since it is a very costly endeavor to resolve these problems, I have asked for help with a grant direct funding to resolve the largest portions of the City's I&I problems.

We have received calls from the Department of Ecology stating the EPA wants this resolved due to the Impacts it is having on the WWTP process in the rainy season.

Also, we are in the process of also looking for grant funding from the Department of Energy to convert the WWTP's Biosolids to a renewable energy source. Which is in our Citizens, our City and our Planets best interest.

We are looking for is a grant to convert our current unused digester into an Anaerobic Digester, converters to make the gas into energy and add a vertical composter to the system.

Because Anaerobic digestion is regarded as a credible process due to its economic and technical viability I have put together some notes on the *Benefits of Anaerobic Digestion:*

- **Renewable Energy:** Anaerobic digestion (AD) provides a sustainable and renewable source of energy. Anaerobic digestion produces biogas and digestate to recover energy from biodegradable and moist waste such as food waste and Bio-solids, which can be used for heating fuel, agricultural fertilizer, and more.

- **Waste Reduction:** By converting organic waste into biogas, anaerobic digestion helps reduce landfill waste and **anaerobic digestion** has less impact on **air quality** and contributes to minimizing greenhouse gas emissions by producing energy to replace **fossil fuels** greenhouse gas emissions.
- **Nutrient Recovery:** The digester produces a nutrient-rich byproduct (digestate) that can be used as a fertilizer.

### **Conclusion**

- Anaerobic digestion offers a promising solution for generating electricity from organic waste. By using the principles associated with this technology, we can continue to develop and implement sustainable energy solutions.

Kevin Trehwella

**McCleary Police Department  
Monthly Call Activity Report**



**Sep-24**

			Malicious Mischief
			Message
		1	Motorist Assist
		1	Noise Problem or Complaint
#	Calls		Non Blocking Accident
	911 Hangup		Non Blocking Vehicle
2	911 Open line		Overdose Accident
	Abandoned/Disabled Vehicles		Order Issued/ Violation
	Abuse		Open
1	Accident Unknown		Paper Service
	Accidents non blocking/unk	1	Parking Problem
1	Accidents with injuries/Rollover	12	Police Information/phone message
9	Agency Assist	1	Property/Lost/Found/Recovered
1	Alarm		Prowler
4	Animal Problem	4	Reckless
	Assault		Railroad Crossing Blocked
	Assault in Progress		Runaway
4	Assists- Cittzen		Service
	ATC (Attempt to Contact)		Sex Offense/ Rape
	ATL (Attempt to Locate)		Shooting/Weapons/Explosives/ Hazards
	Bite	1	Shoplifting
	Burglary		Structure fire/Threatened
1	Code Enforcement Viol.	4	Subject Stop
3	Civil/Public		Suicide
	CPS/ APS Referral		Suicide/Threats/ Attempts
	Controlled Substance	7	Suspicious Person
1	Death / Report of dead body	3	Suspicious Vehicle
1	Disabled Vehicle	5	Suspicious/Unknown Circumstances
	Disorderly conduct		Thefts In Progress
	Display (unlawful)	1	Thefts/ Larceny
	DUI		Threats
3	DVA in Progress/Act	1	Traffic Offenses
1	Extra Patrols Request	48	Traffic Stops
	Fight	8	Traffic- Other/Hazzard/Patrol
55	Fire or Aid Responding		Traffic Pursuit
	Firearm		Test Incident Type
1	Forgery/ Fraud-Blackmail	1	Trespassing
	Found Person / Child	1	Unknown Problem
	Found Property		Vehicle Theft
	Hazardous		Verbal
	Harassment	2	Violation Controlled Substance
	Hit & Run		Voided incident
1	Illegal Burn	1	Warrants Service or Confirm
2	Juvenile Problem	3	Welfare check
	Lost/Missing/Found Person	1	Wire down
<b>91</b>		<b>107</b>	

Tickets: 20 YTD: 285

Total : 198 Year To Date: 1711



# City of McCleary

## STAFF REPORT

<b>To:</b>	Mayor and Council
<b>From:</b>	Jenna Amsbury, Clerk-Treasurer
<b>Date:</b>	October 3, 2024
<b>Department:</b>	Finance & Administration

**Finance:**

The 2025 Budget is in draft form and budget hearings begin this month. Still for needed review for the 2025 budget is utility rates and property tax revenue information to come in from the County. There is a 2024 budget amendment for review by council to true up this year. The State Auditors have been onsite, and I am providing them with all the information I can before I leave. An entrance audit session will be schedule soon. I will be providing documentation on status of projects and to do lists for my successor. I will be completing payroll and quarterlies with Lindsay before I leave for cross training and providing documentation for future help.

**HR:**

Teamster negotiations are still underway. Vacant positions have been posted to the website and applications will be reviewed as received. We have temporary help through Express Personnel that is assisting throughout the transition period of staffing to maintain city functions.

**Public Records:**

There is currently two (2) open public records requests and 35 closed requests for 2024 for a total of 37 received. These are administrative records only, as police requests are separate and handled by the PD Clerk.

**Policies:**

<u>Policy</u>	<u>Policy Committee Status</u>	<u>Current Status</u>
Camera Policy	Reviewed Sent to Council	Approved on 7-24-24
Public Records Ord. Update	Reviewed Sent to Council	Not approved by Council – needs revisions or comments from committee/council
Social Media Policy	Draft and research emailed	Needs committee review and recommendation
Dog Ordinance	Updates and staff comments emailed	Needs committee review and recommendation
Asset Management Policy		Needs drafted
Fee Schedule Resolution		Needs updated
Employee Handbook		Review for updates and law changes needed
Employee Technology Use Policy/ Cell Phone Use		Needs drafted
Purchasing Policy		Needs reviewed and new draft created
Small works roster		May need updates due to new RCW



## CITY COUNCIL AGENDA ITEM COVER SHEET

**FROM:** Jenna Amsbury

**DATE:** October 3, 2024

**AGENDA ITEM TITLE:** Department of Labor and Industries Appeal Settlement Agreement for Fire Department

### SUMMARY

On February 22, 2024 the L&I Department initiated an inspection of the McCleary FD worksite located at 5129 State Route 12, Elma, WA 98541. As a result of that inspection, the Department issued Citation and Notice No. 317978751 (“Citation”) to the City on June 26, 2024, alleging violations of the Washington State Industrial Safety and Health Act (WISHA) and assessing a monetary penalty of \$7,200.00. The Employer filed a timely appeal to the Citation on July 19, 2024, and the Department exercised its discretion and reassumed jurisdiction over the matter. The Employer and the Department signed an Extension of Reassumption Process on August 20, 2024. The Department found a reduction was in order from the \$7,200 to \$5,400. The City and Department of L&I met and the attached settlement agreement was proposed in lieu of the whole fine.

The City Fire Department will pay \$2,700 in fines and the remaining \$2,700 will be used to purchase decontamination kits, a mask cleaner/sink, and eyewash/decontamination shower system for the fire department.

This will most likely require a budget adjustment for 2024 to pay for the \$5,400.

### RECOMMENDATION/ACTION REQUESTED

Approve the Settlement agreement totaling \$5,400 in fines and equipment.



**AGREEMENT OF PARTIES TO SETTLE APPEAL  
BETWEEN  
CITY OF MCCLEARY  
AND  
THE WASHINGTON STATE DEPARTMENT OF LABOR & INDUSTRIES**

The parties in this matter, CITY OF MCCLEARY (“Employer”), and the DEPARTMENT OF LABOR & INDUSTRIES (“Department”) (collectively, “Parties”), enter into the following Agreement of Parties to Settle Appeal (“Agreement”).

**FACTS**

On February 22, 2024 the Department initiated an inspection of the Employer’s worksite located at 5129 State Route 12, Elma, WA 98541. As a result of that inspection, the Department issued Citation and Notice No. 317978751 (“Citation”) to the Employer on June 26, 2024, alleging violations of the Washington State Industrial Safety and Health Act (WISHA) and assessing a monetary penalty of \$7,200.00. The Employer filed a timely appeal to the Citation on July 19, 2024, and the Department exercised its discretion and reassumed jurisdiction over the matter. The Employer and the Department signed an Extension of Reassumption Process on August 20, 2024.

**AGREEMENT**

The Parties are each aware of the facts and proceedings stated above and have considered those facts in entering into this Agreement.

The Parties enter into this Agreement for the purpose of expediting the abatement of workplace hazardous exposures and precluding protracted and expensive litigation.

Once the Department issues a Corrective Notice of Redetermination (“CNR”) related to this appeal, that CNR in conjunction with the following will become the final and binding Agreement between the Parties in relation to this Citation.

1. In exchange for the penalty reduction shown on the CNR, the Employer agrees to take the following extra steps. It is understood that expenditures for extra steps shall be documented and be available for Department review upon request or as set forth in this Agreement.
  - a. The contact person for the Department for extra steps will be:  
LYNDSAY BANKS, Regional Manager  
Department of Labor & Industries  
7233 Linderson Way SW  
Tumwater, Washington 98501  
Phone: (360) 902-5409  
Email: lyndsey.banks@lni.wa.gov

- b. The contact person for the Employer will be:  
 ANDREW PITTMAN, Fire Chief  
 CITY OF MCCLEARY  
 100 South 3rd Street  
 McCleary, Washington 98557  
 Phone: (360) 495-3667  
 Email: apittmanghfd12@gmail.com
- c. Employer agrees to purchase three decontamination kits by January 1, 2025, and provide the Department's contact person with proof of purchase by January 15, 2025.
- d. Employer agrees to purchase a sink and install an ultrasonic mask cleaner by January 1, 2025, and provide the Department's contact person with proof of purchase by January 15, 2025.
- e. Employer agrees to purchase a shower and eye wash station by January 1, 2025, and provide the Department's contact person with proof of purchase by January 15, 2025.
- f. Once steps listed in Paragraph 1 above have been completed, the Department's contact person will send an email to the DOSH Appeals Program stating all contingencies have been met. A copy of that email will be sent to the Employer's contact person.
- g. If the Employer does not comply with the terms or deadlines set forth above, the Department will send the Employer a Notice and Opportunity to Cure. The Employer shall have 10 business days from the date of receiving the Notice and Opportunity to Cure to provide the Department with written confirmation that the Employer has cured the alleged compliance issue(s). If the Employer does not cure the alleged compliance issue, then the Department reserves the right to void any or all of this Sidebar Agreement and reinstate Citation and Notice No. 317978751 including the original penalty and any and all past and future interest that has and may accrue until the penalty is paid in full, without right of appeal to the Board, subject to the rights and remedies set forth below or as otherwise permitted by law. The Employer's rights and remedies shall be as set forth in Paragraph 5 below.
2. The Parties agree that the total penalty after modification will be \$2,700.00 The Employer promises to pay the amount of penalties within 15 days of signing this Agreement. Payment can be made online by visiting <https://www.lni.wa.gov/agency/pay-a-balance-due/>. You may also mail a check made payable to the Department of Labor and Industries. Payment checks shall reference Corrective Notice of Redetermination No. 317978751, and payments shall be sent to:

Department of Labor and Industries  
 ATTN: CASHIER  
 P. O. Box 44835  
 Olympia, WA 98504-4835

3. The Employer further promises and agrees that all violations shall be abated by the dates set forth in the corresponding CNR, if not already abated. Employer further agrees to complete and send in the Employer’s Certification of Hazards Corrected forms, if any, that accompany the CNR.
4. Employer agrees to post a copy of this Agreement at each establishment to which it applies, in a conspicuous place or places where notices to employees are customarily posted, for a period of seven (7) days or until all extra steps referenced above are completed, whichever is later.
5. Venue for enforcement of this Agreement shall be in the Superior Court of Thurston County, Washington. In any action brought to enforce the Agreement, the other party shall pay the prevailing party’s attorney’s fees and costs.
6. This Agreement does not render the Employer immune from future compliance efforts generated by complaints, accident investigations, monitoring inspections, follow-up inspection protocol, and/or by Division of Occupational Safety & Health’s inspection targeting system.
7. By entering into this Agreement, the Department does not admit that it could not have established the Citation as originally written. Rather, the Department believes that settlement of the Citation is in the Department’s best interest in order to avoid the costs and uncertainties of litigation. Nonetheless, nothing shall limit the Department’s ability to use the affirmation of the violations contained in this Agreement in future proceedings/inspections instituted by the Department under Chapter 49.17 RCW, including establishing repeat, failure to abate or willful violations.
8. No further appeal action will be taken by the Employer regarding the Citation or Corrective Notice of Redetermination.

DATED: 9/26/2024

DATED: \_\_\_\_\_

DEPARTMENT OF LABOR & INDUSTRIES

CITY OF MCCLEARY

*ADAM ZAHN*

ADAM ZAHN  
Hearings Officer

ANDREW PITTMAN, Fire Chief