



BUCKLEY CITY COUNCIL MEETING AGENDA
June 28, 2016
Multi-Purpose Center, 811 Main Street
City Council Meeting
Opening 7:00 P.M.

Call to Order
Pledge of Allegiance
Roll Call of Council Members

Next Ordinance #17-16
Next Resolution #16-09
Next Agenda Bill #AB16-085

Presentation to Melissa Paton
Swearing In of New Fire Fighter Recruits

A. Citizen Participation

Time Limit of Three Minutes (Must sign up at City Hall by Wednesday prior to the Council Meeting)

B. Staff Reports

C. Main Agenda

- | | |
|--|--------|
| 1. Interview of City Council Applicants & Nominations | Pg. 8 |
| 2. RES No. 16-__ : Amending Council Selection Process Policy | Pg. 9 |
| 3. Service Agreement: Bidadoo Auctions | Pg. 16 |
| 4. Phase II SR410 Realignment Project: Change Order #1 | Pg. 20 |
| 5. Agreement: Healthbridge Plan Services (Health Reimbursement Account) | Pg. 26 |
| 6. Bid Award: Museum Damage Repair Project | Pg. 85 |
| 7. Contract Amendment No. 5: DSHS – Fire Protection Services at Rainier School | Pg. 93 |
| 8. Consultant Scope: AHBL – Grant Support Services – Addendum #1 | Pg. 96 |
| 9. Lease Agreement: 117 N. River Avenue (former Del’s Farm Supply) | Pg. 98 |

D. Consent Agenda

10. A. Claims

E. Committee Reports

- | | |
|---|---------------|
| 11. Mayor’s Report | Johnson |
| 12. Administration, Finance & Public Safety | Boyle Barrett |
| 13. Transportation & Utilities | Tremblay |
| 14. Community Services | Rose |
| 15. Council Member Comments & Good of the Order | |

Council may add and take action on other items not listed on this agenda



CITY OF BUCKLEY ♦ PO BOX 1960 ♦ BUCKLEY, WA 98321
360-829-1921 ♦ Fax 360-829-2659 ♦ <http://www.cityofbuckley.com>

CITY OF BUCKLEY MEETING LIST

~~June 20 7:00 PM Planning Commission - CANCELLED~~

June 21 9:30 AM Admin, Finance & Public Safety (City Hall)

~~June 21 7:00 PM Transportation & Utilities - RESCHEDULED~~

June 27 7:00 PM Transportation & Utilities (City Hall)

June 28 7:00 PM City Council

June 30 4:00 PM Community Services

July 5 9:30 AM Admin, Finance & Public Safety (City Hall)

~~July 5 7:00 PM City Council Study Session - CANCELLED~~

July 11 10:30 AM Buckley Hall Board (City Hall)

July 11 7:00 PM Planning Commission

July 12 7:00 PM City Council

July 19 9:30 AM Admin, Finance & Public Safety (City Hall)

July 19 7:00 PM Transportation & Utilities (City Hall)

July 21 4:00 PM Community Services

July 25 7:00 PM Planning Commission

July 26 7:00 PM City Council

The above meetings will be held in the Multi-Purpose Center located at 811 Main Street unless otherwise noted.
Last Revised June 20, 2016

June 2016



Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 7 Planning Commission	7 City Council Study Session	8	9	10	11
12	13 10:30 AM Buckley Hall Board	14 7 City Council	15	16	17	18
19 	20 Summer Solstice	21 9:30 Admin, Fin & PS	22	23	24	25
26	27 7 Transportation & Utilities	28 7 City Council	29	30 4 Community Services		

July 2016



Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4  Happy 4th of July!	5 9:30 Admin, Fin & Public Safety	6	7	8	9
10	11 10:30 Buckley Hall Board 7 Planning Comm.	12 7 City Council	13	14	15	16
17	18	19 9:30 Admin, Fin & Public Safety 7 Transportation & Utilities	20	21 4 Community Ser- vices	22	23
24	25 7 Planning Commis- sion	26 7 City Council	27	28	29	30
31						

A. CITIZEN PARTICIPATION

B. STAFF REPORTS

C. MAIN AGENDA



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Interview of City Council Applicants & Nominations	Agenda Date: June 28, 2016		AB16-085
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: N/A			
<p>SUMMARY STATEMENT: City Council interview of four candidates for the vacant City Council position and subsequent nomination.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: Nomination of Candidates			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: RES No. 16-__ : Amending Council Selection Process Policy Cost Impact: N/A Fund Source: N/A Timeline: N/A	Agenda Date: June 28, 2016		AB16-086
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: Resolution			
SUMMARY STATEMENT: Resolution amends section 4.0 of the City Policy on Filling Declared Vacant Council Positions to change the deadline for interviewing new candidates from “at least 30 days from the closing date of application submittal” to “within 30 days from the closing date of application submittal, or within 90 days of the seat being vacant.”			
COMMITTEE REVIEW AND RECOMMENDATION: Full Council			
RECOMMENDED ACTION: MOTION to Approve RES 16-__ Amending Council Selection Process Policy.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

CITY OF BUCKLEY, WASHINGTON

RESOLUTION NO. 16-__

A RESOLUTION OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON ESTABLISHING COUNCIL POLICIES AND PROCEDURES FOR FILLING A COUNCIL POSITION THAT HAS BEEN DECLARED VACANT.

WHEREAS, on March 24, 2009 the City Council adopted Resolution 09-06 that established policies and procedures for filling a City Council position that had been declared vacant; ~~and~~

~~WHEREAS, on June 10, 2014 the City Council adopted Resolution 14-07 amending the established policies and procedures for filling a City Council position that had been declared vacant; and;~~

WHEREAS, the City Council establish these policies and procedures subject to statute under RCW 35A.12.050 and 42.12.070; and

WHEREAS, these statutes provide only general rules for the appointment of someone to fill a vacant position; and

WHEREAS, the City Council has filled a number of vacant seats utilizing the process outlined in Resolution 09-06 and Resolution 14-07 since adoption and have identified needed changes to clarify the procedures to make the process more efficient; and

WHEREAS, the City Council has expressed a desire to modify the policies and procedures to reflect these changes,

NOW THEREFORE BE IT RESOLVED the City Council of the City of Buckley hereby adopts the Policy entitled “City Policy on Filling Declared Vacant Council Positions” as amended and attached hereto as Exhibit A.

Introduced, passed and approved this ~~28th~~¹⁴ day of June, 201~~6~~⁴.

Pat Johnson, Mayor

ATTEST:

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

Posted: [June 12, 2014](#)

Exhibit A

City Policy on Filling Declared Vacant Council Positions

1.0 Purpose

The purpose of this policy is to provide guidance to the City Council when a Buckley Councilmember position becomes vacant before the expiration of the official's elected term of office. Pursuant to state law, a vacancy shall be filled only to serve the remainder of the unexpired term until the next regular municipal election.

2.0 References

RCW 42.30.110(h) - Executive Session Allowed to consider qualifications of a Candidate for Appointment to Elective Office.

RCW 42.30.060 - Prohibition on Secret Ballots.

RCW 42.12 - Vacant Position

RCW 35A. 12.030 - Eligibility to Hold Elective Office

RCW 35A. 12.050 - Vacancies

3.0 Appointment Process

A Council position shall be officially declared vacant upon the occurrence of any of the causes of vacancy set forth in RCW 35A.12.050, 35A.12.060 or 42.12.010, including resignation, recall, forfeiture, written intent to resign, or death of a Councilmember. The Councilmember who is vacating his or her position cannot participate in the appointment process. If a Councilmember does not submit a written resignation due to the vacancy, the Council shall consult with legal counsel to determine whether to declare the seat vacant or to first acquire a court order validating the vacancy.

City Council shall direct staff to begin the Councilmember appointment process and establish an interview and appointment schedule so that the position is filled at the earliest opportunity.

City staff shall prepare and submit a display advertisement to the *Enumclaw Courier Herald* and City posting sites, which announces the vacancy consistent with the

requirements necessary to hold public office as set forth in RCW 35A.12.030. This display advertisement shall be published once each week for two consecutive weeks. This display advertisement shall contain other information, including but not limited to time to be served in the vacant position, election information, salary information, brief summary of Councilmember powers and duties, the deadline date and time for submitting applications, interview and appointment schedules (if known), and such other information that the City Council deems appropriate.

City staff shall prepare an application form which requests appropriate information for City Council consideration of the applicants. Applications will be available at City of Buckley offices and such other locations that the City Council deems appropriate. Copies of the display advertisement will be provided to current members of City of Buckley commissions, committees, task forces and other City-sponsored citizen groups.

Applications received by the deadline date and time will be copied and circulated by the City staff to the Mayor and City Council. Packets may also contain additional information received such as endorsements, letters of reference and other pertinent materials.

The City staff shall notify applicants of the location, date and time of City Council interviews.

Prior to the date and time of the interview meeting, the Mayor shall accept one interview question from each Councilmember. The Council may also specify, by majority vote or consensus in a regular or special meeting, which applicants qualify for an interview. The decision as to which applicants to interview will be based on the information contained in the application forms.

The Mayor shall invite all applicants to interview if the Council fails to provide contrary direction six or more calendar days prior to the interview meeting date.

4.0 Interview Meeting

The interview meeting for consideration of applicants/candidates shall take place either at a regular meeting or at a special meeting of the City Council scheduled within at least 30 days from the closing date of application submittal, or within 90 days of the seat being vacant.

Each interview of an applicant/candidate shall be no more than 30 minutes in length as follows:

- The applicant shall present his or her credentials to the City Council (10 minutes).
- The City Council shall ask the predetermined set of questions, which must be responded to by the applicant. Each applicant will be asked and will answer the same set of questions and will have two (2) minutes to answer each question (14 minutes)

- An informal question and answer period in which Councilmembers may ask and receive answers to miscellaneous questions (10 minutes).

The applicant's order of appearance will be determined by a random lot drawing performed by the City Clerk.

The Council may reduce the 30-minute interview time if the number of applicants exceeds six candidates. Vacancies in the City Council shall be filled by a majority vote of the remaining members of the City Council, but such appointee shall hold office only until the next regular general election, at which time a person shall be elected to serve for the remainder of the unexpired term.

5.0 Voting

Upon completion of the interviews, Councilmembers may convene into Executive Session to discuss the qualifications of the applicants. Qualifications of the applicants shall only be discussed in Executive Session; however, all interviews, nominations and votes taken by the Council shall be in open public session.

Final action appointing a candidate to elective office shall be taken in the open public session.

Voting Process:

- Voting shall proceed for all candidates in the same order as their Council interview.
- If there is only one candidate then each Council member shall have one vote which they can cast. If there are more than two candidates then each Council member shall have a total of one less vote than the total number of candidates being considered for each round of voting.
- During the voting round Council members may cast one of his/her votes per candidate of their choice until they have expired all of their votes. Voting shall be via affirmative vote only. (WHO votes for "X", who prefers "Y" - not yeas and nays for one and then the other).
- If there are more than two candidates then the candidate that receives the lowest number of votes in the 1st round shall be eliminated and not be allowed to continue to the next round of voting. Candidates receiving the highest number of votes will advance to the next round of voting where the process is repeated until only two "finalists" remain.
- Once the voting has narrowed the candidate pool to two finalists, Council members shall have one vote each to cast for the finalist of their choice. If the

vote results in a tie the Mayor shall be allowed to vote to break the tie as authorized by RCW 35A.12.100.

- The candidate receiving a majority of votes (from a quorum of the Council), including that of the Mayor in case of a tie, shall be declared the “winner” and the Mayor shall declare the nominee appointed.

Nothing in this policy shall prevent the City Council from reconvening into Executive Session to further discuss the applicant/candidate qualifications.

The new Councilmember shall be sworn into office by the Mayor or City Clerk at the earliest opportunity, or no later than the next regularly scheduled City Council Meeting.



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Service Agreement – BIDADOO Auctions	Agenda Date: June 28, 2016		AB 16-087
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt		X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	Building Depart –		
	Finance Depart – Sheila Bazzar		
	Fire Depart – Chief Predmore	X	
	Parks & Rec Depart – Ellen Boyd		
	Planning Depart – Kathy Thompson		
	Police Depart – Chief Arsanto		
	Other –		
Attachments: Service Agreement with BIDADOO for Auction Services			
SUMMARY STATEMENT: Staff is recommending the use of a large online auction firm as an option for disposing of certain types of surplus property when soliciting from a unique and/or broader market is appropriate. BIDADOO operates around the United States and has a local branch in Kent, WA. BIDADOO is used by a number of local government entities as a method of disposing of surplus property through auction.			
COMMITTEE REVIEW AND RECOMMENDATION: FA&PS Committee recommends approval 6/21/16			
RECOMMENDED ACTION: A MOTION authorizing the agreement with BIDADOO and designating the Fire Chief as an authorized City Agent.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	



bidadoo Inc. - Seller's Agreement

Main: +1.206.442.9000 Toll free: 1.877.bidadoo Fax: +1.303.557.0678
 Web: www.bidadoo.com Email: info@bidadoo.com

Selling Company: City of Buckley (Fire Department)	
Authorized Name: Alan Predmore	Title: Fire Chief
Billing Address: 611 South Division Street	
City: Buckley State WA	Email apredmore@cityofbuckley.com
Zip/Post: 98321 Country: US	Other Contact Info: eskogen@cityofbuckley.com
Primary Phone (home work mobile): (360) 829-1441	Other Phone (home work mobile fax): Fax:
Special Payment Instructions:	

Property Title and Description. Include year, model, serial number, etc. (A separate Property list may be attached as part of this agreement) Include: any authorized preparation, logistics and refurbishment estimates and any agreed reserved prices for specialty items.
1.
2.
3.
4.
5.

Sales Commission and Fees:	Auction Pricing information / Notes												
Commission Schedule (on per item basis): Items selling for: <table style="margin-left: 40px;"> <tr> <td>\$0 to \$4,999</td> <td>17%</td> </tr> <tr> <td>\$5,000 to \$9,999</td> <td>15%</td> </tr> <tr> <td>\$10,000 to \$24,999</td> <td>13%</td> </tr> <tr> <td>\$25,000 - \$49,999</td> <td>12%</td> </tr> <tr> <td>\$50,000 to \$74,999</td> <td>11%</td> </tr> <tr> <td>\$75,000 - \$99,999</td> <td>9.5%</td> </tr> </table> <p>** For any item less than \$2,500, the City will be charged an Additional handling fee of 10% of the selling amount.</p> <p>Note: This is a flat-rate commission schedule on a per-item basis, calculated on final selling value.</p> <p>Additional Fees: Owner authorizes bidadoo at owner's expense to supply minor supplies, parts such as fuel, batteries, tire repair, etc, and cleaning for demonstration of and sale of the Property. A \$50 documentation Fee will be charged for each titled Item.</p> <p>Offsite Production Fee: bidadoo will charge a \$300 production fee for any item not delivered to an authorized bidadoo auction facility.</p>	\$0 to \$4,999	17%	\$5,000 to \$9,999	15%	\$10,000 to \$24,999	13%	\$25,000 - \$49,999	12%	\$50,000 to \$74,999	11%	\$75,000 - \$99,999	9.5%	No additional charge (or fees included) for: <ul style="list-style-type: none"> • No up-front fees for auction preparation and marketing • Photography / video production services • Inspection reports • banking transaction fees for items sold • Storage / warehousing fees • Shipping – costs/preparation borne by buyer / bidadoo • No buyer-premium • No additional internet usage fee Additional Payment or Sale Information:
\$0 to \$4,999	17%												
\$5,000 to \$9,999	15%												
\$10,000 to \$24,999	13%												
\$25,000 - \$49,999	12%												
\$50,000 to \$74,999	11%												
\$75,000 - \$99,999	9.5%												

Your signature constitutes your agreement to be bound by the terms and conditions listed on in this SELLERS AGREEMENT or attached document, titled "SELLERS AGREEMENT - TERMS AND CONDITIONS".

Property Owner or Authorized Agent: Name: _____ Title: _____ Signature: _____	Authorized bidadoo Representative: Name _____ Signature: _____ Date: _____
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SELLERS AGREEMENT – TERMS AND CONDITIONS

By signing the Sellers Agreement you accept these Terms and Conditions, which are incorporated into and made part of the Sellers Agreement between you and bidadoo, Inc. (“bidadoo”).

1. RIGHTS OF SALE

You appoint bidadoo as your preferred auction partner and exclusive sales representative to market and sell the Property listed in the Sellers Agreement or attachment, and any other Property that you deliver to bidadoo for sale (“Property”).

2. FEES

2.1 Fees. You will pay bidadoo a commission of the final sales price of the Property as set forth in the bidadoo fee structure, and all Fees charged by third parties as set forth in the bidadoo Sellers Agreement for services used by bidadoo to market and sell the Property (collectively, “Fees”).

2.2 Settlement of Account. Within 15 days after bidadoo receives full payment from the sale of the Property, bidadoo will pay you the net proceeds it collects from the sale after deducting the Fees, applicable taxes, preparation and repair fees, and any other amounts due or required by law, provided that (a) no claim has been made against any of the Property or proceeds of sale, (b) the item has been received by buyer and reasonable time afforded for buyer inspection, (c) you owe no outstanding amounts to bidadoo, and (d) bidadoo has no reason to believe the buyer will rescind the sale. In the event that bidadoo is unable to collect payment from a buyer, no payment will be made to you for the Property; however, you will still pay any Fees to bidadoo to the extent that bidadoo is unable to recover these charges. bidadoo will not be responsible if it is unable to collect payments from nonpaying buyers. You will hold bidadoo harmless in the event of a non-paying buyer for any amount, which would have been collected, and any loss resulting from the resale of the Property.

3. METHOD OF SALE

3.1 Your Responsibilities. You will deliver the Property to bidadoo or to the buyer in clean and saleable condition, and in accordance with bidadoo’s instructions and in compliance with all laws relating to the Property. You will provide bidadoo with all relevant information pertaining to the Property, including source of origin, evidence of clear ownership, all documents and endorsements required to transfer title to the buyer and to register Property, existence of any intellectual property rights in the Property, damage reports, relevant service and component history, estimates of value, and such other information as bidadoo may request. Property remains at your risk of loss or damage and you will insure Property until delivered to the buyer.

3.2 Sale. bidadoo will have full control over the auction to sell the Property, including the date, method, location, type, minimum starting price, item groupings, fixed or negotiated price, reserve price (if any), and all other terms. bidadoo may use a third party online auction, a website owned by bidadoo, or a live auction to sell the Property, or may sell the Property at anytime to buyers it contacts directly. bidadoo may also consign the Property to another party to sell in any of these ways. You authorize bidadoo as required to sign, execute and deliver on its behalf all documents required to transfer title and permit registration by buyer.

3.3 Marketing. bidadoo may reproduce, distribute, and display photos, video, and descriptions of the Property on the Internet, or any other media, during and after the sale of the Property. bidadoo may disclose your name, trademark or logo to market the Property. You authorize bidadoo to use the Property until delivered to buyer or returned.

3.4 Shill Bidding. Neither you or any third party acting on your behalf or at your direction may bid on the Property. This shill bidding will be considered a material breach of the Sellers Agreement. You will immediately notify bidadoo if any shill bidding comes to your attention.

3.5 Withdrawal From Consignment. You cannot withdraw the Property from consignment for any reason. bidadoo may withdraw the Property from consignment and cancel any auction at any time and at its sole discretion. bidadoo may withdraw the Property if (a) there is doubt as to whether the information provided by you concerning the Property is accurate, (b) you have breached or it is anticipated it will breach any provision of this Agreement, or (c) bidadoo has doubt about title to the Property or your authority to pass clear title to the Property.

3.6 Re-Listing. If bidadoo deems a sale uncollectable or the Property does not sell in an auction, bidadoo may re-list the Property in another auction at its sole discretion. If bidadoo decides not to re-list the Property or otherwise decides to withdraw the Property from consignment, bidadoo will notify you at the email address or telephone number listed in the

Sellers Agreement and you have 30 days to pick up the unsold Property. If you do not pick up the unsold Property within 30 days, bidadoo may dispose of it without any payment or liability to you.

3.7 Termination. If bidadoo decides not to re-list the Property, or decides to withdraw from acting as your agent to sell the Property, bidadoo will notify you at the email address or telephone number listed in the Sellers Agreement and the Sellers Agreement will terminate. Sections 2.2, 4, 5, 6, and 7 will survive the termination of the Sellers Agreement.

4. WARRANTIES AND DISCLAIMER

4.1 Warranties. bidadoo represents and warrants that it will take reasonable care of the Property while the Property is in the possession of bidadoo. You represent and warrant to bidadoo that: (a) the Property information You provided is completely and accurately described; (b) you have the right, power, and authority to consign the Property for sale and to enter into the Sellers Agreement; (c) the Property is, and, until sold, will remain free and clear of all liens or claims by any authority, taxes, encumbrances, or claims of third parties of any kind; (d) good title will pass to the buyer upon sale; (e) the Property is in safe condition, in good operating condition (unless otherwise noted in writing) and free of hazardous materials; (f) there are no restrictions on bidadoo to reproduce and display photographs, video or other media and information of the Property; and (g) all information you have provided to bidadoo, including the information in the Sales Agreement is true and correct.

4.2 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTY LISTED IN SECTION 4.1 ABOVE, BIDADOO MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND. BIDADOO EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, THAT IT WILL SELL THE PROPERTY OR ANY SALE PRICE WILL RESULT FROM THE SALE OF THE PROPERTY, AND ALL WARRANTIES REGARDING BIDADOO’ CARE OF THE PROPERTY AND DAMAGE OR LOSS OF THE PROPERTY.

5. LIMITATION OF LIABILITY

BIDADOO WILL NOT BE LIABLE TO YOU FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES, EVEN IF BIDADOO IS APPRISED OF THE LIKELIHOOD OF THESE DAMAGES OCCURRING. BIDADOO’ TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THE SELLERS AGREEMENT, REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE VALUE OF THE PROPERTY. THESE PROVISIONS ALLOCATE THE RISKS BETWEEN THE PARTIES, AS REFLECTED IN THE PRICING OFFERED BY BIDADOO AND ARE AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN. EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

6. INDEMNITY

You will defend, indemnify, and hold harmless, bidadoo, its employees and agents, against any and all claims, actions, damages, losses, liabilities and expenses (including reasonable attorneys’ Fees) arising out of or resulting from (a) your breach of any of the terms of the Sellers Agreement, and (b) all claims raised by the buyer of the Property. Your warranties and indemnification will survive the completion of the transactions contemplated by the Sellers Agreement.

7. GENERAL TERMS

These Terms and Conditions and the Sellers Agreement constitute the entire agreement between you and bidadoo with respect to the Property and supersedes all prior negotiations or agreements. No modifications or amendment of them will be binding unless in writing signed by bidadoo. If any part of them is deemed to be invalid or unenforceable, the invalidity or unenforceability will not affect the remaining provisions. They will be interpreted, construed, and enforced in accordance with the laws of the State of Washington, without reference to its choice of law rules. You hereby irrevocably consent to the exclusive jurisdiction and venue of the courts in King County, Washington, in connection with any action arising out of or in connection with the Sellers Agreement, Terms and Conditions, and Property.



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Phase II SR410 Realignment Project – Change Order #1 Cost Impact: \$19,654.75 Fund Source: Fund 102 Timeline: N/A	Agenda Date: June 28, 2016		AB16-088
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller	X	X
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
Attachments: Change Order			
<p>SUMMARY STATEMENT: See attached Change Order No. 1 for the Phase II SR410 Realignment Project. This change order relates to the abandonment and fill of the wood stave water line that was encountered during construction of the project. The line belongs to Tacoma Public Utilities (TPU) and the City has notified them that we believe that it's their responsibility to pay for the abandonment; however, in the interim the City needs to approve a change order for the cost so that construction is not delayed while we settle with TPU.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve the Phase II SR410 Realignment Project – Change Order #1.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	



LETTER OF TRANSMITTAL

Johansen Excavating, Inc.
2016-016 - SR 410/SR 165/Ryan
Rd/112th St. E, Realignment Phase 2

DATE: 6/22/2016
TRANSMITTAL #: 2

To: Tani Stafford
Gray & Osborne, Inc.
701 Dexter Ave N, Suite 200
Seattle, WA 98109
Phone: (206) 284-0860
Fax: (206) 283-3206
Email: tstafford@g-o.com

From: Shane Webley
Johansen Excavating, Inc.
P0 Box 674
Buckley, WA 98321
Phone: (360) 829-6493
Fax: (360) 829-5473
Email: swebley@johansenexcavating.com

CC:

Attached and/or enclosed are the following documents.

DOC TYPE	DOCUMENT #	COPIES	STATUS	REMARKS
	:Fully Executed Change Order #1			

Additional Notes: Enclosed please find fully executed Change Order #1


Shane Webley



Contract Number TA 5415	Contract Title SR410/SR165/Ryan Rd/112th Street E Realignment Ph 2	Federal Aid Number stp0410(062)
Change Order Number 1	Change Description Abandon Wood Stave Pipe	Date 6/15/16
Prime Contractor / Design-Builder Johansen Excavating, Inc.		

Ordered by Engineer under the terms of Section 1-04.4 of the Standard Specifications

Change proposed by Contractor / Design-Builder

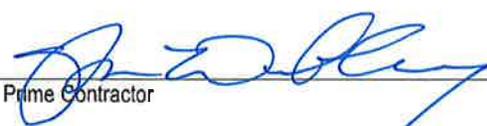
Change Description

See Attachment for descriptions:

Item 1 - Abandon 46-inch wood stave pipe with CDF

Verbal Approval Given By <i>Stacie Kelsey</i>	Verbal Approval Date <i>6/15/16</i>	Working Days +/- 1.5
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Original Contract Amount 1,815,421.05	Current Contract Amount 1,815,421.05	Est. Net Change This C.O. \$19,654.75	Est. Contract Amount 1,835,075.80
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<input checked="" type="checkbox"/> Approval Recommended  Project Engineer  Date	Approved Approving Authority per C.A. Agreement Date
Approval Recommended  By Prime Contractor  Date	Other Approval As Required Signature Date Representing

Contract Number TA 5415	Contract Title SR410/SR165/Ryan Rd/112th Street E Realignment Ph 2	Change Order Number 1
Change Description Cont. See attached description and cost breakdown.		

CHANGE ORDER NO. 1

Project Title SR410/SR165/Ryan Rd/112th Street E Realignment Ph 2
Owner City of Buckley **Contractor Name** Johansen Excavation
Change Order No. 1 **Contractor Address** 28215 112th St E
 Buckley, WA 98321
Change Order Date June 15, 2016
Federal Contract No. TA 5415 **Federal Aid No.** STPUS-0410(062)
G&O No. 14512

The following changes are hereby made to the Contract Documents:

ITEM NO. 1:

The Contractor is directed to expose the existing 46-inch diameter City of Tacoma abandoned wood stave pipe, cut access holes, install 2 plugs, pump out any water between the plugs, fill the cavity between the plugs with CDF and backfill the material from the exposure excavation with the excavated material. The CDF fill will fill the wood stave pipe within the portion of the pipe that is below the new SR165 pavement section, per the attached plan revision to sheet 2. Water removed from the cavity shall be disposed of within the City of Buckley sanitary sewer system. The estimated quantities for CDF required to fill the cavity are noted below. The contractor will be paid for this additional work via the new contract lump sum item for Wood Stave Pipe Abandonment and via the existing unit price for item 27 Controlled Density Fill, for the actual quantities of CDF used to fill the cavity.

ITEM NO	DESCRIPTION	QUANTITY ADJUSTMENT	UNIT PRICE	TOTAL
*80	Abandon Wood Stave Pipe	1 LS	\$14,404.75	\$14,404.75
27	Controlled Density Fill	30 CY	\$175.00	5,250.00
Subtotal Sch A				\$19,654.75
Total Net Addition				\$19,654.75

*New Contract Item



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Agreement: Healthbridge Plan Services (Health Reimbursement Accounts) Cost Impact: N/A Fund Source: N/A Timeline: N/A	Agenda Date: June 28, 2016		AB16-089
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar	X	X
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: Agreement & email from City attorney			
SUMMARY STATEMENT: This Agreement between the City and Healthbridge Plan Services is for the establishment of Health Reimbursement Accounts (HRAs) for Guild employees as negotiated between the City and the Buckley Police Officer’s Guild and as stipulated in the new bargaining unit agreement.			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Agreement Between the City and Healthbridge Plan Services for Health Reimbursement Accounts.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	



Plan Service Agreement

INTRODUCTION

Enclosed in this packet are the legal documents necessary for employers to adopt and implement the HealthBridge HRA Plan and Trust. Please complete two original copies of these documents. An employer's authorized officer must complete and sign the Agreements.

The employer must also provide or attach information defining the employees to be covered by the plan, eligibility requirements, and any limitations on coverage. The employer will then mail both original completed adoption agreements and attachments to the address list below for counter signature. A CJB Financial Group, LLC representative will contact the employer to confirm receipt and answer any questions. One original adoption agreement will be returned to the employer and one will be maintained by CJB Financial Group, LLC. The employer should maintain a copy of all executed documents in their files.

Employer Service Agreement Table of Contents

- Employer Contact Information
- Employer Service Agreement
 - Schedule A
- Exhibit A - Employer Adoption Agreement
 - Schedule B
- Exhibit B – Plan Document
- Exhibit C – Trust Agreement
- Exhibit D – Business Associate Agreement

**CJB Financial Group LLC
818 West Riverside Suite 800
Spokane, WA 99201
Attention: Jeff Gilson**

EMPLOYER INFORMATION

Employer Name: City of Buckley
Employer Address: 933 Main St, P.O. Box 1960, Buckley WA 98321
Employer Phone: 360-829-1921 Employer Fax: 360-829-2659

CONTACT INFORMATION

Benefit Contact Information (1)

Contact Name: Sheila Bazzar Title: Finance Director
Telephone Number: 360-761-7804 E-mail: sbazzar@cityofbuckley.com
Fax Number: 360-829-2659

#1 Granted access to the Employer Portal and will be the person that Peak1 should contact for general questions

Client Billing Contact :(2)

Contact Name: Sheila Bazzar Title: Finance Director
Telephone Number: 360-761-7804 E-mail: sbazzar@cityofbuckley.com
Fax Number: 360-829-2659

#2 If person responsible for payroll and benefit processing is different than the Benefit Contact listed above.

**EMPLOYER HEALTHBRIDGE HRA PLAN
SERVICE AGREEMENT**

1. Formal Authorization and Adoption of Plan by Employer. The Employer, by formal action of its governing body or other authorized action, has formally approved the establishment of an employee benefit plan pursuant to which it desires to make one or more contributions to a health reimbursement arrangement “HRA” plan and to establish a trust for such purposes. Pursuant to such authority:

(a) The Employer adopts the HealthBridge HRA Plan (the “Plan”) set forth in the Employer Adoption Agreement (attached hereto as Exhibit A) and the Plan document attached hereto as Exhibit B, subject to the further terms and conditions contained in this Agreement.

(b) The Employer agrees to execute the Trust agreement attached hereto as Exhibit C and to serve as Trustee thereunder. The Trustee is empowered to register or deposit, or to cause to be registered or deposited, Plan assets in its own name, or in the name of a nominee, agent, or custodian without disclosing the name of the Employer or the Plan, based upon the investment elections of Participants for Participant Accounts and the instructions of the Employer for any Employer Account.

(c) The Employer agrees to execute the Business Associate Agreement attached hereto as Exhibit D.

(d) The Employer appoints CJB Financial Group, LLC, to carry out the responsibilities of the Administrator under the Plan (the “Plan Administrator” or the “Administrator”). Without relieving the Administrator of any of its obligations under the Plan, the Employer hereby authorizes the Administrator to designate one or more agents or sub-contractors, including a third-party administrator and custodian/transfer agent, to carry out any administrative responsibilities under the Plan, and the Employer agrees to deal directly with such agents or sub-contractors, as directed by the Administrator. The Administrator shall identify such agents or subcontractors on Schedule A hereto and shall notify the Employer of any changes thereto from time to time.

In the performance of its obligations and duties under this Agreement, the Administrator shall employ a level of skill and care that one would reasonably expect of a person who is employed as a professional to administer and process claims for under health reimbursement arrangement (HRA) plans.

2. Eligible Employees. The class or classes of employees to be covered by the Plan are specified on Exhibit A hereto. The Employer agrees that, upon request from the Administrator, the Employer will provide the Administrator with any census reports, surveys, or other information requested by the Administrator. The Employer further agrees that the Administrator

shall have the right to rely on information provided by the Employer with respect to employee eligibility.

3. Contributions.

(a) The Employer acknowledges and agrees that Employer contribution(s) to the Plan will be made in accordance with whatever obligations, policies or procedures have been incurred or established by the Employer (pursuant to collective bargaining or otherwise) and that neither the Administrator, nor its officers, representatives, employees, agents, or sub-contractors, or anyone acting on behalf of or with respect to the Plan and Trust has the right, duty or power to determine the amount to be contributed or to collect the amount to be contributed. Rather, the Administrator's rights, duties or powers arise and apply only with respect to contributions actually made into the Plan and Trust.

(b) The Employer acknowledges and agrees that, except for premiums for COBRA continuation coverage, no employee contributions will be made to the Plan, no direct or indirect salary reduction contributions will be made to the Plan attributable to elections by individual employees.

(c) Allocation of Contributions. At the time any contribution is made to the Trust, the Employer shall direct the Administrator as to the amount of such contribution to be allocated to each Participant Account and to any Employer Account. If there is a predetermined method or formula for such allocations set forth in Exhibit A, the Employer's allocation instruction shall be consistent with Exhibit A. However, the Employer acknowledges and agrees that it shall be the Employer's responsibility to determine the amount allocated to each Participant Account and any Employer Account, and the Administrator shall make such allocations solely in accordance with the Plan and Employer's specific directions and shall not be required to verify that such contribution instructions are consistent with Exhibit A.

4. Governmental Employer. The Employer acknowledges that the Plan is available only to employers whose benefit plan constitutes a "governmental plan" within the meaning of the Employee Retirement Income Security Act of 1974. The Employer represents that it is a governmental employer and agrees that the administration of the Plan by the Administrator is contingent upon the Employer being a governmental employer.

5. Indemnification. The Employer agrees, to the fullest extent permitted by applicable law, to indemnify and hold harmless the Administrator and its affiliates, agents and subcontractors, and each of their officers, employees, successors, and assigns against all costs, expenses, liabilities and damages resulting from any misrepresentation, negligent action or inaction, or breach of this Employer Service Agreement, Employer Adoption Agreement, the Plan, any Plan document, or any rules, policies or procedures established by the Administrator, on the part of the Employer or its officers, employees or agents. Neither the Administrator, nor any agent or sub-contractor of the Administrator, nor any of their affiliates, officers, employees, successors,

or assigns, shall have any liability, duty or other obligation with respect to actions or omissions of the Employer (including incomplete or incorrect data provided by the Employer or Participants) or of any trustee, custodian, or other investment advisor or other service provider that is not acting under the direction or control of the Administrator.

6. No Guarantees. The Employer acknowledges and agrees that the Administrator does not guarantee the Trust or any Participant Account or Employer Account thereof from loss or decline in value, nor the payment of any amount that may become due to any person thereunder. Nothing contained in the Trust shall constitute a guarantee by the Administrator that the assets of the Trust will be sufficient to pay any benefit to any person or make any other payment; payments to be paid from the Plan and Trust are limited to the assets remaining in the applicable Participant Account or Employer Account at the time payment is made.

7. Compensation and Expenses. The Employer accepts and agrees to the schedule of fees and expenses attached hereto as Schedule A and acknowledges and agrees that such fees and expenses will be paid out of Plan assets held in the Trust, to be allocated to Participant Accounts and Employer Accounts in the manner determined by the Administrator. The Administrator shall provide the Employer advance written notice of any increase or decrease in its fees or the expenses of the Plan, including any increases or decreases attributable to changes in elections under this Agreement, and the Employer agrees that it shall be deemed to have approved any such change in fees or expenses by the continuation of the Administrator's appointment after the Employer's receipt of such advance written notice.

8. Employer Amendments to Plan Elections. The Employer may amend its elections under this Employer Service Agreement at any time, provided, however, that (1) no such amendment may be inconsistent with the terms of the Plan, (2) any such amendment shall be subject to acceptance by the Administrator and the Employer's acceptance of any additional fees or charges that may result from such changes by the Employer in its Plan elections, (3) to the extent that contributions have been made on behalf of any Participant and have vested prior to the effective date of the amendment, such amendment may not increase the term of any vesting schedule with respect to such contributions, and (4) with respect to Plan contributions made before the effective date of the amendment, such amendment may not modify the elections under paragraph V of Exhibit A hereto to allow additional amounts to be returned to the Employer.

9. Governing Documents. The Employer acknowledges and agrees that, subject to the Employer's right to remove the Administrator pursuant to the Plan, (1) the provisions of the Plan are to be interpreted by the Administrator and the provisions of the Trust shall be interpreted by the Administrator and the Trustee, and (2) the Administrator is to establish such rules, policies, practices and procedures as it deems appropriate for the administration of the Plan, all of which shall govern the Plan and Trust and be binding upon the Employer and its covered Employees. The Employer has been given copies of the Plan and Trust and Enrollment Form.

10. Construction of Documents. The Plan, the Trust, the Employer Service Agreement, the Employer Adoption Agreement are all parts of a single, integrated employee benefit system and shall be construed together. Capitalized terms used in this Employer Service Agreement shall have the definitions given them in the Plan.

11. Prior or Contemporaneous Agreements. This Employer Service Agreement and Employer Adoption Agreement supersedes all prior or contemporaneous agreements or understandings regarding the matters pertaining hereto, whether oral or written, that are not specifically referenced and made a part of this Employer Service Agreement. This Employer Service Agreement may be amended only in writing, and no purported oral agreement or understanding, or conduct or course of conduct, will be binding on any party hereto, unless reduced to writing and executed by authorized officers of all parties hereto.

12. Notices. The address for delivery of all communications to the Administrator shall be:

CJB Financial Group, LLC
818 West Riverside, Suite 800
Spokane, Washington, 99201
Attention: Jeff Gilson, Manager
(509) 343-9546

IN WITNESS WHEREOF, the Employer has approved this Employer Service Agreement, as evidenced by the signature below of its authorized officer, to be effective if and when executed below by the Administrator as accepted.

Employer: CITY OF BUCKLEY
By: Sheila Bazzar
Printed Name: Sheila Bazzar
Title: Finance Director
Dated: 6/7/2016

Accepted by Administrator:

CJB Financial Group, LLC

By: Jeff Gilson, Manager

Date: _____

**Schedule A
To Service Agreement**

Schedule of Administrative Fees and Expenses (1)

The following schedule of administrative fees and expenses will apply.

1. **Monthly Per Participant Account Fee.**

\$7.00 for Participant Account types permitting in-service and post-separation benefits.

2. **Monthly Per Participant Investment Fee:**

\$2.50 per month for Participants which elect to distribute funds within the available investment portfolio

Annual Employer Federal Health Care Reform Fee: PCORI (Fee not applicable to integrated Self-Funded Plan Participants)

The PCORI fee applies to all claims-eligible participant accounts only. Assessment through 2019 subject to increases in National Health Expenditures.

<u>For Plan Year</u>	<u>per Participant Fee</u>	<u>Tax Due Date</u>
2013	\$2.00	07/31/2014
2014	\$2.08	07/31/2015
2015	\$2.17	07/31/2016
2016*	\$2.32	07/31/2017
2017*	\$2.48	07/31/2018
2018*	\$2.65	07/31/2019

*CMS projected increase 2016-2019 6.6 percent – 7.0 percent per year.

(1) Applicable administrative fees are deducted monthly.

Administrator and Subcontractors of the Administrator

- Plan Administrator / Enrollment & Education
CJB Financial Group, LLC
- Third-party Administrator
PEAK 1 Administration
- Investment Advisor
Devenir, LLC
- Custodian/Transfer Agent
UMB Financial Corporation

**EXHIBIT A
EMPLOYER ADOPTION AGREEMENT**

Plan Provisions:

I Employer Name: City of Buckley State: WA Tax ID 91-6001400

New Employer. Employer is a newly-adopting employer, with a plan effective date of July 1, 2016 [enter intended plan effective date]. This Employer Adoption Agreement may be amended only in writing as executed by authorized officers of all parties hereto.

or

Amendment to Existing Plan. Employer is a currently-participating Employer and wants to renew and ratify or amend its participation as defined below. This Employer Adoption Agreement supersedes all prior Employer Adoption Agreements, if any, and may be amended only in writing as executed by authorized officers of all parties hereto.

II Annual Compliance Certification.

The Employer hereby attests that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government. The Employer acknowledges that the qualification of the HealthBridge HRA Plan as an Integrated HRA Plan depends upon the Employer's compliance with the contribution restrictions under the Integrated HRA Plan. The Employer hereby agrees to execute and deliver to the Plan annually, a certificate substantially in the form of Schedule B hereto, as the same may be revised from time to time as required by law in order to maintain the qualifications of the HealthBridge Plan as an Integrated HRA Plan.

III Transfers. [check one only]

No transfer(s) of assets from another plan(s) is contemplated.

The following transfer(s) of assets from another plan(s) is contemplated:

Transfer plan original effective date _____

IV Employer Account(s). [check one only]

An Employer Account can be established for the purpose of accepting Participant Account forfeitures due to a Participant's death or failure to meet vesting requirements. An Employer Account can also be used to hold assets to offset other post-employment benefits, such as OPEB

liabilities as defined by Governmental Accounting Standards Board Statement No. 45 (GASB 45) accounting rules.

The Employer:

Is establishing an Employer Account.

or

Is NOT establishing an Employer Account.

ELIGIBLE GROUPS, TYPES OF BENEFITS, FORFEITURES

V Eligible Employee Groups List each Employee group eligible for contributions to Participant Account.

City of Buckley

Police Officer (Guild)

VI Type of Benefits. Pursuant to collective bargaining agreements, other written agreements, or Employer benefit policies, whichever is applicable, the Employer hereby elects the following options under the Plan:

Participant Accounts. [check one only, unless Employer is establishing more than one type of Participant Account. **If no option is selected, the default election will be – In-service and post-separation coverage:100% vested**]

Commencement of Benefits shall be as directed below by Employer or, for Employees whose assets have been transferred by Employer from a prior plan, Employer may additionally direct in writing that the commencement of Benefits shall coincide with the Employee’s benefit eligibility date under the prior plan, provided the Employee becomes a Participant of the Plan.

In-service and post-separation benefits; 100% vested. Participant shall immediately be eligible to file claims for qualified expenses and premiums incurred anytime after a Participant Accounts is established with respect to such Employee.

or

Post-separation benefits only; 100% vested. Participants shall be eligible to file claims for qualified expenses and premiums incurred after separation from service. Employer must

notify the Third-party Administrator of such Employee's separation dates by submitting a completed Participant Status Change Form.

or

- In-service and Post-separation benefits; subject to vesting. Participants shall be eligible to file claims for qualified expenses and premiums incurred while in-service and post-separation after having met any vesting requirements. Employer must notify the Third-party Administrator of such Employee's claims eligibility dates, separation dates, and/or vested account percentages by submitting a completed Participant Status Change Form.

or

- Post-separation benefits; subject to vesting. Participants shall be eligible to file claims for qualified expenses and premiums incurred post-separation and after having met any vesting requirements. Employer must notify the Third-party Administrator of such Employee's separation dates, and vested account percentages by submitting a completed Participant Status Change Form.

VII Forfeitures. [check one only]

If a vested, positive account balance remains in any Participant Account when there are no surviving Dependents of the Participant (including the surviving spouse), then the account balance (after payment of any remaining Qualified Health Care Benefits incurred by the Participant or any Dependent) will be forfeited and reallocated as follows:

- Reallocate an equal amount to all Participant Accounts from this Employer that have a positive balance at the time of the reallocation.

or

- Reallocate to an Employer Account established pursuant to paragraph IV.

Non-vested Forfeitures: If the balance credited to any Participant Account is forfeited because the Participant failed to satisfy the vesting requirements for such Participant Account or due to the application of Section 5.2.2 of the Plan, the forfeited amount will be reallocated as follows:

- Reallocate an equal amount to all Participant Accounts from this Employer that have a positive balance at the time of the reallocation.

or

- Reallocate to an Employer Account established pursuant to paragraph IV.

Forfeiture for Premium Tax Credit Eligibility: If the balance credited to any Participant Account is forfeited because the participant elected to waive and forfeit participation in the Plan in order to become eligible for IRC § 36B Premium Tax Credit, the forfeited amount will be reallocated as follows:

- Reallocate an equal amount to all Participant Accounts from this Employer that have a positive balance at the time of the reallocation.
- or
- Reallocate to an Employer Account established pursuant to paragraph IV.

COLLECTIVE BARGAINING, EMPLOYER POLICY PROVISIONS, ETC.

Items VIII, IX and X following require a specific description of Employee Eligibility, Employer contribution methods, and vesting (if applicable). Generally, you will be able to provide the information for all three of these items by attaching all or a portion of collective bargaining language and/or employer policies which document such information, and if so, complete items VIII, IX, and X by checking the box marked "Attached to this Adoption Agreement".

VIII Participant Eligibility Date upon which an Employee is eligible to become a Participant and receive contributions.

Participant Eligibility Date may be no earlier than the Effective Date of the Plan. Eligible Employees are eligible to participate as follows:

- First day of the month in which an Employer contribution is received by the third-party administrator.
- The Employee's separation from service date (Employer must complete and submit to the third-party administrator (TPA) a Participant Status Change Form).
- Attached to this Adoption Agreement. *Attach CBA language*
- Other: _____

IX Eligibility Requirements and Contribution Methods by Group.

- Attached to this Adoption Agreement; *Attach CBA language*
- or
- Set forth below:

Eligible Employee Group <i>As set forth in Section V</i>	Eligibility Requirements	Contribution Methods
<i>City of Buckley Police Officers Guild</i>	<u><i>upon hire</i></u>	<u><i>See CPA attached</i></u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Information identifying the group or groups of Employees eligible to be covered by the Plan, Employer contribution methods applicable to each and any requirements for eligibility to become a Participant and receive contributions. Employer shall provide the Administrator with new information from time-to-time as additional Employees or groups of Employees become eligible to be covered by the Plan.

X Vesting Requirements for Forfeiture and Payment of Benefits. [check one only]

All Employer contributions are 100% vested at all times; or

Attached to this Adoption Agreement; or

Set forth in the table below:

Vesting Requirement (e.g. years of service)	Vesting Percentage
_____	_____
_____	_____
_____	_____
_____	_____

are the vesting requirements applicable to the payment of Qualified Health Care Benefits from Participant Accounts. Once vesting requirements, if any, are met for Participant Accounts providing in-service coverage, such Participant Accounts are 100% vested. For post-employment benefits, or for in-service versus post-separation coverage, specify such vesting requirements below or in an attachment to this Adoption Agreement. (Employers will track vesting and notify TPA of vested amounts when participant separates or when it is applicable.)

XI HIPAA Requirements; Applicability of State Laws; and Applicability of Nondiscrimination Rules.

By signing below:

- (a) Employer acknowledges that the Plan is a "Covered Entity" and meets the definition of a "Health Plan," as such terms are defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations thereunder ("HIPAA Regulations"). As the plan sponsor, Employer may be required to adopt certain policies and procedures on behalf of the Plan that are prescribed by HIPAA and the HIPAA Regulations. Employer accepts responsibility for compliance with HIPAA and the HIPAA Regulations.
- (b) Employer acknowledges that various state laws applicable to the Employer may affect certain aspects of the Plan or the Employer's ability to adopt the Plan. These may include, without limitation, state laws regarding the investment of public funds, the permissibility of the Employer to act as trustee under the Plan, conflicts with other statutory or state-sponsored plans, and the applicability of state income taxes. Employer should seek the advice of counsel for such state-law issues.
- (c) Employer acknowledges that IRC § 105(h) prescribes nondiscrimination rules with respect to the contributions to and benefits of the Plan. Employer acknowledges that neither the Administrator, nor any of its affiliates, subcontractors, agents, representatives, officers, or employees accepts any responsibility for Employer's compliance with IRC § 105(h).

XII Other Specific Instructions or Plan Limitations.

Please specify below any other specific instructions or Plan limitations of the Employer.

N/A

Employer: City of Buckley
By: Sheila Bazzar
Printed Name: Sheila Bazzar
Title: Finance Director
Dated: 6/7/2016

SUMMARY OF COMPLIANCE
REQUIREMENTS APPLICABLE TO HRAs

1. No Individual Choice

- (a) Applicable law governing the tax-exemption of the HealthBridge HRA Plan does not permit individual choice with regards to participation or contribution amounts. All employee group members defined as eligible must participate. If an eligible employee refuses or fails to complete the required Enrollment Form, the employee may receive no other remuneration in lieu of the HRA contributions.

2. Annual Limit Restrictions under PHSA 2711

- (a) The HealthBridge HRA Plan is designed to be exempt from the annual limits restriction under PHSA 2711, as an HRA plan that is integrated with the Employer's group health plan. To qualify as an employer-integrated HRA plan, the HealthBridge HRA Plan may accept only contributions (i) made on behalf of employees who are enrolled in the Employer's group health plan that is compliant with the annual limits restriction under PHSA 2711 or (ii) that are approved by the Trustee as "grandfathered" contributions under PPACA. Contributions that do not qualify for the integrated HealthBridge HRA Plan will be accepted into a Post-separation HRA Plan design.
- (b) The HealthBridge HRA Post-separation HRA Plan is designed to be exempt from the annual limits restriction under PHSA 2711, as an HRA plan that provides benefits to former employees only after retirement or other separation from service from the Employer. The HealthBridge HRA Post-separation HRA Plan may accept contributions for any participant, including participants who are not enrolled in the Employers group health plan at the time of such contributions.

3. PCOR fee

- (a) Federal health care reform imposes a new Patient-Centered Outcomes Research (PCOR) fee on all group health plans, including the HealthBridge HRA Plan, to fund clinical effectiveness research.
- (b) For the 2013-2014 Plan year, the PCOR fee is \$2.00 per participant. The fee will increase each year thereafter through the 2019-20 Plan year based on increases in the projected per capita amount of national health expenditures.

4. HSA Participation

- (a) HealthBridge HRA Plan participants can have both a health savings account (HSA) and a health reimbursement arrangement (HRA). However, for a participant or his or her spouse to become eligible to make or receive contributions to an HSA, the participant will need to elect limited purpose coverage.
- (b) If you currently make HSA contributions on behalf of eligible employees, you may want to consider offering HealthBridge HRA contributions in lieu of HSA contributions for employees who are ineligible for HSA contributions, such as those covered under their spouse's medical plan, health flexible spending account (FSA), etc.

5. Form W-2 Reporting

- (a) Form W-2 reporting is not required for HRAs. This is not expected to change unless the IRS publishes further guidance. (IRS Notice 2012-9)

6. Medical opt-outs

- (a) Employers may not drop/discontinue offering their employer-sponsored group health plan and provide HRA contributions instead.
- (b) Employers may not provide medical opt-out HRA contributions to employees who opt out of employer-sponsored group coverage and purchase individual health insurance policies.
- (c) The only medical opt-out contributions currently permitted under HIPPA rules must require that the employee be covered under another employer-sponsored group health plan, such as through their spouse's employer, not an individual policy.
- (d) Employers may not offer medical opt-out HRA contributions to employees age 65 or older. Medicare Secondary Payer (MSP) rules prohibit Employers from providing incentives to employees to drop employer-sponsored coverage, which would otherwise be primary to Medicare.

7. Summary of Benefits and Coverage Requirements

- (a) Newly-enrolling participants may access a Summary of Benefits and Coverage document on the HealthBridge HRA website. The HealthBridge HRA enrollment material directs enrolling participants to the website, or they can contact the TPA and request a free, paper copy.

SCHEDULE B
ANNUAL EMPLOYER CERTIFICATION REGARDING
HRA INTEGRATION WITH EMPLOYER'S MEDICAL PLAN

The undersigned, a duly authorized officer of the Employer named below, hereby certifies the following on behalf of such Employer:

- (a) The Employer has previously adopted and made contributions into the HealthBridge HRA Plan.
- (b) The Employer will make contributions into the HealthBridge HRA Plan only (i) on behalf of participants who are enrolled in the Employer's group health plan that is compliant with PHSA 2711 or (ii) during the period after December 31, 2012 but before January 1, 2014 if such contributions are approved by the Trustee (or its designee) as permitted or "grandfathered" contributions under PPACA and applicable PPACA regulations and regulatory guidance; and
- (c) To the extent Employer makes contributions into the HealthBridge HRA Plan as permitted by its Employer Adoption Agreement, the Employer's group health plan is and will be in compliance with PHSA 2711 (prohibition on annual and lifetime limits) at the time of any such contributions; and
- (d) The Employer will use its best efforts to assist the Trust and the Third-party Administrator to correct or reverse any contributions made into the HealthBridge HRA Plan that are not permitted under the HealthBridge HRA Plan document.

IN WITNESS WHEREOF, the employer has caused this Annual Certification to be executed and delivered, as evidenced by the signature below of its authorized officer.

Employer
Name:

City of Buckley

By:

Sheila Bazzar
Authorized signature

Sheila Bazzar
Printed name

Finance Director
Title

6/7/2016
Date

EXHIBIT B
To Employer Service Agreement
HRA PLAN DOCUMENT
HEALTHBRIDGE HRA PLAN

ARTICLE I
Name, Documents & Definitions

1.1 Name. The name of this Plan shall be the HealthBridge HRA PLAN (“Plan”) of the Employer.

1.2 Plan. The Plan shall consist of this Plan document, the Employer Service Agreement, the Employer Adoption Agreement, and the Trust agreement.

1.3 Definitions.

1.3.1 “Administrator” means the person or persons designated in Writing as the Administrator in the Employer Adoption Agreement, or such other person as the Employer may subsequently name to serve as Administrator.

1.3.2 “Benefit Payment Period” means the accounting period of the Administrator for payment to Participants of Qualified Health Care Benefits that have been approved by the Administrator.

1.3.3 “Dependent” means the Participant’s spouse or dependent, as such terms are used under IRC § 105(b). Effective March 30, 2010 for the purpose of the Plan, the term Dependent shall include any Participant’s child (as defined in Code §152(f)(1) who has not attained age 27 as of the end of the taxable year.

1.3.4 “Effective Date” for this Plan means the effective date set forth in the Employer Adoption Agreement.

1.3.5 “Employee” means any current or former employee of the Employer who is eligible to become a Participant pursuant to the Employer Adoption Agreement.

1.3.6 “Employer” means the employer named in the Employer Adoption Agreement.

1.3.7 “Employer Account” refers to an account for the Employer to account for contributions and other Plan assets not allocated to Participant Accounts.

1.3.8 “Employer Adoption Agreement” means an Employer Adoption Agreement executed by the Employer and accepted by the Administrator, as the same may be amended from time to time, pursuant to which the Employer establishes the Plan, identifies the Employees eligible to participate in the Plan, and specifies other terms and conditions for the provision of

benefits and administration of the Plan. The terms and provisions of the Employer Adoption Agreement, contributions and disbursements pursuant to such Agreement, and any changes to such Agreement, are all subject to the rules, policies and procedures set forth in this Plan document or otherwise established by the Administrator, as amended from time to time.

1.3.9 “Enrollment Form or Enrollment File” means the form or file provided by the Administrator that must be completed by each Employee in order to provide the Administrator with necessary information for administration of the Plan and the Plan benefits, as the same may be amended from time to time.

1.3.10 “IRC” means the Internal Revenue Code of 1986, as amended from time to time.

1.3.11 “IRS” means the Internal Revenue Service.

1.3.12 “Participant” means a current or former Employee for whom contributions have been or will be made into the Plan and Trust and who remains a Participant pursuant to Section 2.2 hereof.

1.3.13 “Participant Account” refers to any account maintained with respect to a Participant to record his or her share of the contributions and adjustments relating thereto.

1.3.14 “Participant Eligibility Date” refers the date specified by the Employer, in the Adoption Agreement or other Written instructions from the Employer to the Administrator, as the first date on which an Employee is eligible to become a Participant and receive contributions. The Participant Eligibility Date for any Employee may not be earlier than the Plan Effective Date, and may also be subject to rules, policies, and procedures of the Administrator.

1.3.15 “Plan Year” shall be defined by the Employer in the Employer Adoption Agreement, but must coincide with a regular calendar quarter. The first Plan Year (which may be a partial Plan Year) is the period from the Effective Date through last date of the Plan Year that includes the Effective Date.

1.3.16 “Qualified Health Care Benefits” are defined in Section 5.1.

1.3.17 “Trust” shall mean the trust established as part of the Plan.

1.3.18 “Trustee” refers to the trustee of the Trust.

1.3.19 “Valuation Period” means the period designated by the Administrator for determining investment values for Accounts.

1.3.20 “Written” or “Writing” shall mean a letter, email or facsimile and shall exclude a text message.

1.4 Forfeiture of Account Balance for Premium Tax Credit Eligibility. The affordable Care Act (ACA) provides that all participants with an account balance will generally constitute minimum essential coverage, as defined under Internal Revenue Code (IRC) § 5000A. Therefore, this disqualifies the participant from becoming entitled to an IRC § 36B Premium tax credit to purchase qualified group health insurance from a marketplace exchange established in accordance with ACA regulations while the participant has a positive HealthBridge HRA account balance.

1.4.1 “Forfeiture Election” In order for a participant to potentially become eligible for an IRC § 36B premium tax credit, the participant can elect to waive and forfeit participation in the Plan and any future contributions or reimbursements after the date of such election. Except as specifically permitted by applicable law or approved by the Plan Administrator, any election to waive participation shall remain in effect indefinitely as of the date of the election.

1.4.2 “Application of Forfeiture” All forfeitures pursuant to Section 1.4 shall be reallocated as provided in exhibit A of the Employer Adoption Agreement, as applicable:

1.5 Limited-Scope Coverage Election. In lieu of the forfeiture election described in Section 1.4, a participant could potentially become eligible for an IRC § 36B premium tax credit by, at any time, electing Limited-Scope Coverage. Except as specifically (a) permitted by applicable law and (b) approved by the Plan Administrator, any election under this Section 1.5 shall be irrevocable as of the date of such election with respect to reimbursement of expenses incurred after the date of such election by the participant.

ARTICLE II

Participation

2.1 Eligibility; Commencement of Participation. In Exhibit A to the Adoption Agreement or in other Written instructions from the Employer to the Administrator, the Employer will designate those Employees or classes of Employees eligible to participate in the Plan, the Participant Eligibility Date, and any other requirements for eligibility to become a Participant and receive contributions. An eligible Employee becomes a Participant under this Plan on the Participant Eligibility Date.

2.2 Duration of Participation. Upon becoming a Participant in the Plan, an Employee’s status as a Participant shall continue for as long as the Participant has a positive balance in any Participant Account. In addition, Participant status shall continue for two (2) consecutive Plan Years during which all Participant Accounts for such Participant remain exhausted. If a Participant’s Accounts remain exhausted for two (2) complete and consecutive Plan Years, then Employee’s status as a Participant shall terminate on the first day of the Plan Year that commences immediately after such two (2) year period. An eligible Employee who has lost his

or her status as a Participant may subsequently become a Participant under the Plan as set forth in Section 2.1.

2.3 Nondiscrimination. The Plan is intended to comply with all nondiscrimination laws applicable to eligibility under, contributions to, and benefits of, the Plan (including any such rules prescribed by IRC §105(h)).

2.4 FMLA and USERRA Leaves of Absence: Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under the FMLA or USERRA, then to the extent required by the FMLA or USERRA, as applicable, the Employer will continue to maintain the Participant's benefits on the same terms and conditions as if the Participant were still an active eligible Employee. If a Participant goes on a leave of absence that is not subject to the FMLA or USERRA, the Participant will be treated as having terminated participation.

ARTICLE III

Funding of Benefits

3.1 Contributions. The Employer shall make contributions to the Plan in such amounts and at such times as the Employer shall determine, or as the Employer may be obligated to do under one or more collective bargaining agreements or pursuant to other legal obligations of the Employer. Contributions to the Plan may include amounts transferred from another welfare benefit plan maintained for the benefit of Employees, provided that no such transfer will be permitted based on the election or direction of any individual Employee or that would otherwise cause the Plan to be treated as other than a health reimbursement arrangement qualifying under IRC §§ 105 and 106. Except for any contributions that constitute COBRA continuation premiums paid by Employees, no individual Employee contributions or direct or indirect salary reduction contributions by individual Employees will be permitted.

3.2 Administration of Deposits and Contributions. All contributions and other amounts transferred to the Plan shall be held in the Trust and invested, administered, and distributed in accordance with the terms of the Plan. The Administrator shall not be under any duty to inquire into the timeliness or correctness of the amounts contributed to the Trust. Neither the Administrator nor any person other than the Employer shall have any duty to determine the amount, or to enforce the payment, of contributions to the Plan, and the Employer agrees to indemnify and hold harmless the Administrator in connection therewith. No provision of this Plan shall be construed as requiring the Employer to make or continue to make contributions to the Plan or Trust. Nothing in this Plan shall entitle the Administrator or any Participant to inquire into or demand the right to inspect the books of the Employer.

3.3 Exclusive Benefit. Except as provided in Section 8.2, the Trust assets shall be held for the exclusive benefit of Participants, Dependents, and any other persons entitled to receive

benefit payments hereunder and to defray reasonable expenses of administering the Plan and Trust.

3.4 Limitation on Rights. Except as otherwise provided herein and in the Employer Adoption Agreement, no person shall have any rights with respect to Trust assets allocable to any Participant Account except the rights of Participants, Dependents, and any other persons entitled to receive payment or reimbursement of Qualified Health Care Benefits under such Participant Account in accordance with the terms, and subject to the limitations of, the Plan, and no such person shall be considered to have any legal or equitable ownership interest in any assets of the Plan or Trust. The rights of a Participant, Dependent, or any other person entitled to receive benefits from a Participant Account, shall not be subject to assignment or alienation, either by voluntary or involuntary act of the person or by operation of law and shall not be subject to attachment, execution, garnishment, or any other legal or equitable process except to the extent required by law.

ARTICLE IV

Accounts

4.1 Participant Accounts and Employer Accounts. Accounting records shall be maintained by the Administrator to reflect the contributions, income, losses, increases and decreases for expenses or benefit payments attributable to each Participant Account and Employer Account, and for the Plan in the aggregate.

4.2 Receipt and Allocation of Contributions. Contributions to Participant Accounts must include an Enrollment Form, or if applicable an Enrollment File for each Participant and contribution instructions from the Employer. Contributions will be credited and allocated by the Administrator among Participant Accounts and any Employer Account pursuant to the contribution instructions received from the Employer. If any portion of any Plan contribution is not allocable to a specific Participant Account or an Employer Account pursuant to instructions from the Employer, or if an Enrollment Form, or if applicable an Enrollment File is not submitted for any amount allocated to a Participant Account, the Administrator will allocate such amount to an account for unallocated funds until such time as further instructions are received from the Employer or the Administrator may return such contribution to the Employer.

4.3 Accounting Steps. The Administrator shall:

4.3.1 Allocate and credit any Employer contribution to this Plan to a Participant Account or an Employer Account, as applicable.

4.3.2 Adjust each Participant Account and Employer Account upward or downward, by an amount equal to the net income or loss accrued under this Plan with respect to such Account.

4.3.3 Charge to each Participant Account payments or distributions made under this Plan to or for the benefit of the Participant (or his Dependent or any other person entitled to receive benefits from a Participant Account) for Participant Accounts, or the Employer, for Employer Accounts.

4.3.4 Charge to each Participant Account and Employer Account applicable fees that are allocable to the account that have not been charged previously.

4.4 Investment of Participant Accounts and Employer Accounts. For Participant Accounts, each Participant shall be responsible for the investment decisions for his or her Participant Account and shall elect one or more investment options into which funds contributed to his or her Participant Account or Accounts will be invested, online through an investment platform made available to the Participant. If Participant does not provide investment direction through the investment platform, funds will be deposited in a default investment option selected by the Administrator.

For Employer Accounts, the contributions will be deposited into an interest bearing account, subject to any investment limitations prescribed by state law.

The Trustee shall not be required to maintain separate investments with respect to separate Participant Accounts or Employer Accounts, and all Trust assets may be invested in an omnibus account with securities registered in the name of the Trustee, or in the name of a nominee, agent, or custodian. Notwithstanding the foregoing, the Administrator shall maintain separate and distinct sub-accounting records for each Participant Account and Employer Account so that such accounts will be credited with divided interests in the specific investments allocable thereto.

4.5 Use of Participant Accounts. Amounts credited to a Participant Account shall be available to provide Qualified Health Care Benefits with respect to the Participant or his or her Dependents at such times (whether in-service or only after the Participant's termination of employment) as specified in the Employer Adoption Agreement, provided the Participant has satisfied the vesting requirements, if any, specified in the Employer Adoption Agreement. Any amounts allocated to a Participant Account that are forfeited pursuant to the terms of the Employer Adoption Agreement will be reallocated to other Participant Accounts or an Employer Account, as provided in the Employer Adoption Agreement.

4.6 Use of Employer Accounts. Amounts credited to an Employer Account are to be applied in any manner permitted under the Employer Adoption Agreement.

ARTICLE V

Qualified Health Care Benefits

5.1 Qualified Health Care Benefits. Qualified Health Care Benefits must be payment or reimbursement for medical care as defined by IRC § 213(d) and excludable from income under

IRC §§ 105 or 106, as amended from time to time. Payments or reimbursements are limited to health benefits not provided by Social Security, Medicare, or any other health insurance contract or plan, and the payments or reimbursements may not be made for items paid or payable by any other insurance contract or plan. Reimbursement may be made for the out-of-pocket portion of premiums incurred for Medicare. Payments or reimbursements may not be made for expenses that were attributable to a deduction allowed for any prior year's tax return by the Participant under any section of the Internal Revenue Code. Payments or reimbursements may not be made for expenses that were incurred: (a) prior to becoming a Participant of the Plan; (b) during any period in which the Employee has lost his or her status as a Participant under Section 2.2; or (c) prior to losing Participant status under Section 2.2 and remain unpaid or unreimbursed at the time the Employee loses Participant status under Section 2.2.

Notwithstanding the provisions of the immediately preceding paragraph, Qualified Health Care Benefits include the payment or reimbursement of benefits otherwise provided under an IRC § 125 plan (frequently referred to as a "flexible spending account") covering the particular Participant, but only to the extent that such payment or reimbursement was not made by that other plan and is ineligible for payment or reimbursement from that other plan because the amount available from that plan to that Participant has been exhausted.

Qualified Health Care Benefits for medicines or drugs are restricted to prescription drugs, insulin, and over-the-counter drugs that are prescribed.

5.1.1 Expenses of Participant or Dependent(s). Qualified Health Care Benefits are payable for expenses incurred by the Participant or the Participant's Dependent(s) or any other person entitled to receive benefits from such Participant Account.

5.1.2 Claims for Benefits. Subject to the terms of any applicable collective bargaining agreement, Employer policy, and the Employer Adoption Agreement, a Participant may file claims for Qualified Health Care Benefits incurred on or after the date on which the Employee first becomes a Participant pursuant to Section 2.1 of this Plan; provided that, the Administrator must have received a completed Enrollment Form or if applicable an Enrollment File, for the Participant and a contribution allocated to that Employee's Participant Account before any claim may be submitted to the Administrator for reimbursement.

5.1.3 Payment of Benefits. Qualified Health Care Benefits shall include premium payments paid directly to insurance companies, health maintenance organizations, health plans, preferred provider organizations, long-term care insurers or to the Employer for COBRA premium payments, or may be in the form of reimbursement for such premium payments. Qualified Health Care Benefits may also include IRC § 213(d) expenses not otherwise covered by insurance or any other plan, which may be reimbursed directly to the Participant.

5.1.4 Dependent Medical Benefits in the Event of Death. If the Participant dies with a vested, positive account balance in any Participant Account, his or her surviving spouse, if any,

may file claims for Qualified Health Care Benefits incurred by the Participant and any Dependents until such account balance is exhausted. If a Participant dies without a surviving spouse and with other Dependent(s), then the executor or administrator of the Participant's estate may file claims for any eligible expenses incurred by the Participant, and the guardian(s) of the Dependent(s), or if no guardian(s), the Dependent(s), may file claims for eligible Qualified Health Care Benefits on behalf of the Dependent(s) until such account balance is exhausted. If a vested, positive account balance remains in any Participant Account at a time when there are no surviving Dependents of the Participant (including the surviving spouse), then the remaining balance in such Participant Account shall be applied in accordance with the election of the Employer as provided in the Employer Adoption Agreement.

5.2 Termination of Benefits. If a vested, positive balance remains in any Participant Account under either of the following circumstances, the remaining balance in such Participant Account shall be reallocated as provided in Exhibit A of the Employer Adoption Agreement, as applicable:

5.2.1 After the death of the Participant and at a time when there are no Dependents or other persons entitled to receive benefits from such Participant Account; or

5.2.2 After the Participant Account shall have been unclaimed for a period of at least two years since the whereabouts or continued existence of the person entitled thereto was last known to the Administrator, and the Administrator determines that the whereabouts or continued existence of such person cannot reasonably be ascertained; or

5.2.3 After the Employee for whom such Participant Account is established shall have been unable to submit claims for reimbursement pursuant to Section 5.1.2 hereof for at least two years from the date the first contribution has been allocated to such Participant Account because the Employee has failed to submit a properly completed Enrollment Form, or if applicable Enrollment File.

5.3 Coordination of Benefits: Benefits under this Plan are solely intended to reimburse Qualified Health Care Benefits not previously reimbursed or reimbursed elsewhere. To the extent that an otherwise eligible Qualified Health Care Benefits is payable or reimbursable from another source, that other source shall pay or reimburse prior to payment or reimbursement from this Plan. Without limiting the foregoing, if the Participant's Qualified Health Care Benefits are covered by both this Plan and by a health flexible spending account, then this Plan shall not be available for reimbursement of such Qualified Health Care Benefits until after amounts available for reimbursement under the health flexible spending account have been exhausted.

ARTICLE VI

General Provisions

6.1 Source of Benefits. The Plan's obligation to any Participant or Dependent for Qualified Health Care Benefits shall be limited to the balance in such Participant's Account. Neither the Employer nor the Administrator, nor any of the Administrator's agents, subcontractors, officers, representatives, or employees, shall have any obligation to pay or reimburse any Qualified Health Care Benefit for the benefit of any Participant or Dependent of a Participant in excess of the balance in such Participant's Account.

6.2 Mechanics of Payment. To the extent permitted by the Employer as specified in the Employer Adoption Agreement, any person eligible to claim benefits under the Plan may submit a request for eligible benefits to the Administrator:

6.2.1 To reimburse Qualified Health Care Benefits paid to an insurance company, health benefit plan, HMO or PPO for qualified insurance premiums, including qualified long-term care premiums; or

6.2.2 To reimburse Qualified Health Care Benefits paid to the Employer for qualified insurance premiums or COBRA premium payments; or

6.2.3 To reimburse Qualified Health Care Benefits for payment of qualified medical expenses and/or premiums; or

6.2.4 To reimburse out-of-pocket premium expenses for Medicare coverage.

6.3 Claims Procedure. A person claiming benefits under the Plan (referred to in this section as the "Claimant") shall deliver a request for such benefit in Writing to the Administrator, or if available, online. The Administrator shall review the Claimant's request for a Plan benefit and shall thereafter notify the Claimant of its decision as follows:

6.3.1 If the Claimant's request for benefits is approved by the Administrator, it shall notify the Claimant of such approval and proceed to process the request for benefits. Claims shall be processed as soon as administratively feasible but no less frequently than weekly.

6.3.2 In the event the Administrator determines that a claim is questionable, the Administrator shall within fifteen (15) days from the date the Claimant's request for Plan benefits was received by the Administrator, unless special circumstances require an extension of time for reviewing said claim, provide the Claimant with Written notice of its need for additional information. In the event special circumstances require an extension of time for reviewing the Claimant's request for benefits, the Administrator shall, prior to the expiration of the initial 15-day period referred to above, provide the Claimant with Written notice of the extension and of the special circumstances which require such extension and of the date by which the Administrator expects to render its decision. In no event shall such extension exceed a period of thirty (30) days from the date of the expiration of the initial period, totaling forty-five (45) days at a maximum.

6.3.3 If the Claimant's request for benefits is denied, in whole or in part, by the Administrator, the Administrator shall notify the Claimant of such denial and shall include in such notice, set forth in a manner calculated to be understood by the Claimant, the following:

6.3.3.1 The specific reason or reasons for the denial and sufficient information to identify the claim involved, including the date of service, the health care provider, and the claim amount (if applicable), and a statement describing the availability, upon request, of the diagnosis code, the treatment code, and the corresponding meanings of these codes;

6.3.3.2 Specific reference to pertinent Plan provisions or IRS rules and regulations on which the denial is based;

6.3.3.3 A description of any additional material or information necessary for the Claimant to perfect the claim and an explanation of why such material or information is necessary; and

6.3.3.4 A description of available internal appeals processes, including information regarding how to initiate an appeal pursuant to Section 6.3.5 below.

6.3.3.5 The availability of, and contact information for, an applicable office of health insurance consumer assistance or ombudsman.

6.3.4 In the event Written notice of a denial of a request for benefits is not provided to the Claimant in the manner set forth in paragraph 6.3.3, the request shall be deemed denied as of the date on which the Administrator's time period for rendering its decision expires.

6.3.5 Any Claimant whose request for benefits has been denied, in whole or in part, or such Claimant's authorized representative, may appeal said denial of Plan benefits by submitting to the Administrator a Written request for a review of such denied claim. Any such request for review must be delivered to the Administrator no later than one hundred eighty (180) days from the date the Claimant received Written notification of the Administrator's initial denial of the claimant's request for benefits or from the date the claim was deemed denied, unless the Administrator, upon the Written application of the Claimant or his authorized representative, shall in its discretion agree in Writing to an extension of said period.

6.3.6 During the period prescribed in paragraph 6.3.5 for filing a request for review of a denied claim, the Administrator shall permit the Claimant to review pertinent documents and submit Written issues and comments concerning the Claimant's request for benefits.

6.3.7 Upon receiving a request by a Claimant, or his or her authorized representative, for a review of a denied claim, the Administrator shall consider such request promptly, and shall advise the Claimant of its decision within thirty (30) days from the date on which said request for review was received by the Administrator, unless special circumstances require an extension of time for reviewing said denied claim. In the event special circumstances require an extension of

time for reviewing said denied claim, the Administrator shall, prior to the expiration of the initial 30-day period referred to above, provide the Claimant with Written notice of the extension and the special circumstances which require such extension and of the date by which the Administrator expects to render its decision. In no event shall such extension exceed a period of forty-five (45) days from the date on which the Claimant's request for review was received by the Administrator. The Administrator's decision shall be furnished to the Claimant and shall:

6.3.7.1 Be Written in a manner calculated to be understood by the Claimant;

6.3.7.2 Include specific reasons for the denial and sufficient information to identify the claim involved, including the date of service, the health care provider, and claim amount (if applicable), and a statement describing the availability, upon request, of the diagnosis code, the treatment code, and the corresponding meanings of these codes; and

6.3.7.3 Include specific references to the pertinent Plan provisions or IRS rules and regulations on which the decision is based;

6.3.7.4 A description of available external review processes, including information regarding how to initiate an appeal pursuant to paragraph 6.3.9 below; and

6.3.7.5 The availability of, and contact information for, an applicable office of health insurance consumer assistance or ombudsman.

6.3.8 The Administrator may, in its discretion, determine that a hearing is required in order to properly consider a claimant's request for review of a denied claim. In the event the Administrator determines that such hearing is required, such determination shall, in and of itself, constitute special circumstances permitting an extension of time in which to consider the claimant's request for review.

6.3.9 After exhausting the above claims procedure in full, any Claimant whose request for benefits has been denied or deemed denied, in whole or in part, or such Claimant's authorized representative, may file a request for an external review of such denied claim. Any such request for review must be delivered to the Administrator no later than four (4) months from the date the Claimant received Written notification of the Administrator's final denial of the Claimant's request for benefits or from the date the claim was deemed denied. Within five (5) business days of receiving the external review request, the Administrator must complete a preliminary review to determine if the Claimant was covered under the Plan, the Claimant provided all the information and forms necessary to process the external review, and the Claimant has exhausted the internal appeals process.

Once the review above is complete, the Administrator has one (1) business day to notify the claimant in Writing of the outcome of its review. If claimant is not eligible for external review, the notice must include contact information for Employee Benefits Security Administration of the Department of Labor. If the claimant's request for external review was incomplete, the notice must describe materials needed to complete the request and provide the later of 48 hours or the four month filing period to complete the filing.

Upon satisfaction of the above requirements, the Administrator will provide that an independent review organization (IRO) will be assigned using a method of assignment that assures the independence and impartiality of the assignment process. Claimant may submit to the IRO in Writing additional information to consider when conducting the external review, and the IRO must forward any additional information submitted by the claimant to the Administrator within one (1) business day of receipt. The decision by the IRO is binding on the Plan, as well as the claimant, except to the extent other remedies are available under State or Federal law. For standard external review, the IRO must provide Written notice to the Administrator and the claimant of its decision to uphold or reverse the benefit denial within no more than forty-five (45) days. An expedited external review in certain circumstances is available and the IRO must provide notice as soon as possible but not later than (72) hours after receipt of the request.

6.3.10 The claims procedures set forth in this Article 6 shall be strictly adhered to by each Claimant under this Plan, and no judicial or arbitration proceedings with respect to any claim for Plan benefits hereunder shall be commenced by any such Claimant until the proceedings set forth herein have been exhausted in full.

ARTICLE VII

Administrator

7.1 Rights and Duties. By execution of the Employer Adoption Agreement, the Employer authorizes the Administrator to administer the Plan in accordance with its terms and to establish such rules, policies and procedures which it deems appropriate for the administration of the Plan. The delegation of administrative authority to the Administrator shall include the following responsibilities:

7.1.1 To determine entitlement to benefits under the provisions of Articles V and VI.

7.1.2 To compute and certify to the Employer the amount and kind of benefits payable to or with respect to Participants.

7.1.3 To maintain all the necessary records for the administration of this Plan other than those maintained by the Employer.

7.1.4 To prepare and file or distribute all reports and notices required by law with respect to the Plan and Trust.

7.1.5 To authorize all disbursements from the Trust.

7.1.6 To act on behalf of the Trustee as permitted or required by the Plan or as otherwise directed by the Employer.

7.1.7 To interpret Plan provisions and the Employer Adoption Agreement.

7.1.8 To publish such rules, policies and procedures for the administration of this Plan that are not inconsistent with the terms hereof.

7.2 Information. To enable the Administrator to perform its functions, the Employer shall supply the Administrator with full and timely information on all matters relating to Employer contributions with respect to Participants and each Employee's eligibility to participate in the Plan. The Administrator shall maintain such information and advise the Employer of such other information as may be pertinent to the administration of the Plan and Trust. The Administrator shall have neither the right nor the obligation to interpret the provisions of any collective bargaining agreement, Employer policy, or other statement or action for the purpose of performing its duties under the Plan or the Trust, and the Administrator shall have the right to rely on information provided by the Employer pursuant to this section with respect to Employee eligibility and other applicable information contained in any collective bargaining agreement, Employer policy, or other statement or action.

7.2.1 Within a reasonable amount of time after receipt of the initial deposit with to a Participant, the Administrator shall provide a Written acknowledgement to the Participant, acknowledging establishment of the Participant Account or Accounts and confirmation of the amount received. The information will also include a summary of the Plan. At the time a Participant becomes eligible in accordance with the Employer Adoption Agreement to file claims for reimbursement of Qualified Health Care Benefits, the Administrator shall provide the Participant with information relating to his or her Participant Account or Accounts and how to request payment of benefits.

7.2.2 The Administrator shall provide an account summary at regular intervals which shall include the following information for the current reporting period: Participant's name and address; deposits received; disbursement payouts; total Participant Account value; and e-mail address and contact telephone number for error corrections or questions regarding the account summary.

7.3 Compensation of Administrator and Plan Expenses. The Employer agrees that the Administrator shall be entitled to compensation payable from Trust assets at the rate set forth in Schedule A to the Employer Service Agreement. These fees will be deducted on a monthly basis. The Administrator may employ such consultants, investment managers, administrators, lawyers, accountants, agents, actuaries and other service providers as it reasonably deems necessary or appropriate in carrying out its responsibilities as Administrator of the Plan, the cost of which shall be considered Plan administration expenses. Such expenses, together with all other reasonable expenses of administration of the Plan, including but not limited to auditing, printing, postage, mail service, and custodian and bank fees shall be paid out of Trust assets by reduction of investment earnings or assessment of Participant Accounts and Employer Accounts, as determined by the Administrator in the exercise of its discretion.

7.4 Resignation and Removal of Administrator; Successors.

7.4.1 The Administrator may resign at any time by giving notice in Writing to the Employer at least ninety (90) days before such resignation is to become effective, unless such notice is waived by the Employer.

7.4.2 The Employer may remove the Administrator, with or without cause, by giving notice in Writing to the Administrator at least ninety (90) days before such removal is to become effective, unless such notice is waived by the Administrator.

7.4.3 If for any reason a vacancy should occur in the position of Administrator, the Employer shall appoint a successor Administrator or the Employer shall succeed as the Administrator until such time as a successor Administrator is appointed by the Employer. No successor or predecessor Administrator shall be liable for the acts or omissions of any other Administrator.

7.5 Funding and Administration Policy and Procedures. The Administrator shall formulate any policies, practices, and procedures it deems appropriate to carry out the funding and administration of the Plan.

7.6 Discretion and Standard of Review. The Administrator has full and absolute discretion in the exercise of each and every aspect of the rights, power, authority and duties retained by it or granted to it under the Plan, including without limitation, the authority to determine all facts, to interpret this Plan, to apply the terms of this Plan to the facts determined, to make decisions based upon those facts and to make any and all other decisions required of it by this Plan, such as the right to benefits, the correct amount and form of benefits, the determination of any appeal, the review and correction of the actions of any Administrator, and the other rights, powers, authority and duties specified in this paragraph and elsewhere in this Plan. Notwithstanding any provision of law, or any explicit or implicit provision of this document, any action taken, or finding, interpretation, ruling or decision made by the Administrator in the exercise of any of its rights, powers, authority or duties under this Plan shall be final and conclusive as to all parties, including without limitation all Participants, former Participants and Dependents, or any other person entitled to receive benefits from a Participant Account, regardless of whether the Administrator (or one or more of the members of any Plan administrative committee) may have an actual or potential conflict of interest with respect to the subject matter of the action, finding, interpretation, ruling or decision. No final action, finding, interpretation, ruling or decision of the Administrator shall be subject to *de novo* review in any judicial proceeding. No final action, finding, interpretation, ruling or decision of the Administrator may be set aside unless it is held to have been arbitrary and capricious by a final judgment of a court having jurisdiction with respect to the issue.

ARTICLE VIII

Amendment and Termination

8.1 Amendments.

8.1.1 Subject to the provisions of the following paragraphs of this Section 8.1 and Section 8.2 hereof, the Employer shall have the right to amend the Plan from time to time, including amendments to its elections under the Employer Adoption Agreement.

8.1.2 Any Plan amendment proposed by the Employer must be submitted to the Administrator, and such amendment shall not take effect until the Administrator delivers Written acceptance of such amendment, subject to the Administrator's right to resign and the Employer's right to remove the Administrator under Section 7.4.

8.1.3 The Administrator may propose an amendment to the Plan by Written notice delivered to the Employer at least ninety (90) days prior to the effective date of the amendment. If within forty-five (45) days following delivery of such notice by the Administrator, the Administrator has not received from the Employer a Written disapproval to the proposed amendment, such amendment shall be deemed to have been approved by the Employer. With the affirmative Written approval of the Employer, an amendment proposed by the Administrator may take effect at any earlier date.

8.1.4 Unless otherwise provided in the Employer Adoption Agreement, no amendment to the Plan shall permit any part of the Trust property other than amounts allocated to an Employer Account, to be used for or diverted to purposes other than for the exclusive benefit of Participants, Dependents, and any other person entitled to receive benefits from a Participant Account, and no amendment may permit amounts credited to a Participant's Account to be used to provide benefits to a person other than the Participant, his or her Dependents, or any other person specifically entitled to receive benefits from such Participant Account, unless there has been a forfeiture of the balance of such Participant Account.

8.1.5 Any amendment to the Plan required by applicable law shall take effect as required by such applicable law to the extent such requirements are inconsistent with this section.

8.2 Termination/Discontinuance of Contributions. No provision of the Plan shall impose any obligation on the Employer to make, or continue making, contributions to the Plan or Trust, and, except as it may otherwise be legally obligated, the Employer may discontinue Plan contributions at any time. Except as otherwise provided in the Employer Adoption Agreement, in the event of such a discontinuance of contributions, Trust assets shall continue to be used to provide Qualified Health Care Benefits in accordance with the terms of the Plan, and any amounts remaining in the Trust will be returned to the Employer upon the satisfaction of all liabilities to provide benefits under the Plan. Notwithstanding the foregoing, the Employer may terminate the Plan, or partially terminate the Plan with respect to any class of Participants, and

cause all or an allocable portion of the Trust assets to be transferred to another welfare benefit fund for the benefit of such Participants, provided that: (a) any such transfer does not violate any legal obligation that the Employer has outside of the terms of the Plan; (b) the welfare benefit fund into which the trust assets will be transferred provides benefits of equivalent value to the

Participants whose vested trust assets are being transferred or such other benefits as are approved by such group of Participants by vote or through collective bargaining, as applicable; (c) the Employer has provided the Administrator with a least ninety (90) days prior notice of such transfer; and (d) the Employer has agreed to indemnify and hold harmless the Administrator and its agents, subcontractors, officers, representatives, and employees (and the Trustee, if a person other than the Employer is Trustee), from any liability associated with such transfer of assets, and to provide such other consideration to the Administrator in connection with the transfer as provided for under the Employer Adoption Agreement.

ARTICLE IX

Miscellaneous

9.1 Construction of Documents. This Plan, the Trust Agreement, and the Employer Adoption Agreement are all parts of a single, integrated employee benefit system and shall be construed together.

9.2 Applicable Law. This Plan shall be construed, administered, and governed under the laws of the State or political subdivisions under whose laws the Employer was established, as set forth in the Employer Adoption Agreement. If any provision of this Plan shall be invalid or unenforceable, the remaining provisions hereof shall continue to be fully effective.

9.3 Headings. Headings used in this Plan are inserted for convenience of reference only, and are not to be used in interpreting the provisions.

9.4 Uninformed Compliance with Laws. Benefits shall be provided in compliance with the Employee Retirement Income Security Act of 1974 (“ERISA”), the Consolidated Omnibus Budget Reconciliation Act (“COBRA”), the Health Insurance Portability and Accountability Act (“HIPAA”), the Family Medical Leave Act (“FMLA”), the Uniformed Services Employment and Reemployment Rights Act (“USERRA”) and other laws applicable to group health plans to the extent those laws apply to governmental plans.

EXHIBIT C

**To Employer Service Agreement
TRUST AGREEMENT**

DATED AS OF *07/01/2016* **[Effective date]** **FOR THE**
HEALTHBRIDGE HRA PLAN
OF *CITY OF Buckley* **[Employer Name]**

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This TRUST AGREEMENT is made as of the Effective Date set forth on the title page hereto, is executed by City of Buckley as the settlor of the Trust (the "Employer"), and by the Employer as trustee (the "Trustee").

WHEREAS, the Employer desires to establish the Trust to hold assets for the benefit of employees who are eligible and participate in the Plan, their spouses and dependents; and

WHEREAS, the Employer desires to act as the Trustee of the Trust.

NOW, THEREFORE, the Employer as settlor and as Trustee agrees to hold all funds and other property from time to time contributed or transferred to it pursuant to the provisions hereof, together with all the increments, proceeds, investments, and reinvestments thereof, and the income therefrom, in trust, for the uses and purposes and upon the terms and conditions hereinafter set forth.

ARTICLE I

DEFINITIONS AND CONSTRUCTION

1.1 Definitions. As used in this agreement, the following terms shall have the meaning hereinafter set out:

- (a) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.
- (b) "Employer" shall have the meaning set forth for such term in the recitals to this agreement.
- (c) "Plan" shall mean the Health Reimbursement Arrangement "HRA" Plan established by the Employer, as amended from time to time.
- (d) "Securities" shall include registered, unregistered and exempt securities issued in accordance with applicable laws, including common and preferred stocks, mutual funds, fixed or variable annuity contracts, contractual obligations of every kind, whether secured or unsecured, equitable interests in real or personal property, and intangible property of every description and howsoever evidenced.
- (e) "Taxes" shall mean taxes and shall be deemed to include any interest or penalties assessed in respect to such taxes.
- (f) "Trust" shall mean the trust established and maintained under this agreement, as amended from time to time.
- (g) "Written" or "Writing" shall mean a letter, email or facsimile, and shall exclude a text message.

1.2 Construction. Where necessary or appropriate to the meaning thereof, the singular shall be deemed to include the plural, the plural to include the singular, the masculine to include the feminine, the feminine to include the masculine.

1.3 Terms Incorporated by Reference. Each capitalized term used herein and not otherwise defined herein shall have the meaning ascribed to such term in the Plan.

ARTICLE II

PURPOSE

2.1 Purpose. The Trust has been established to provide eligible Employees with Qualified Health Care Benefits as set forth in the Plan, and to provide such other permissible payments as may be determined from time to time.

2.2 Payments from the Trust. The Trustee shall make payments from the Trust for the benefit of Participants and their beneficiaries under the Plan or to pay reasonable expenses of administering the Plan and Trust, as directed by the Administrator (as set forth in the Employer Adoption Agreement).

2.3 Exclusive Benefit. The trust is established for the exclusive purpose of paying benefits on behalf of Participants and their beneficiaries and defraying reasonable expenses of administering the Plan and the Trust. Except as set forth herein, all assets and income of the Trust shall be held for this exclusive purpose.

2.4 Trust is Tax Exempt. The Trust is intended to be tax exempt under Code Section 115 as an entity whose income is derived from the exercise of an essential government function.

ARTICLE III

FUNDING

3.1 Contributions. The Trustee shall receive, take and hold in the name of the Trustee any contributions paid to the Trustee by the Employer in cash or other property acceptable to the Trustee. All contributions so received together with the income therefrom and any other increment thereon shall be held, managed, and administered by the Trustee pursuant to the terms of this Trust Agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall not be responsible for the collection of any contributions to the Trust.

3.2 Mistake of Fact. If a contribution or any portion thereof is made to the Trust due to a mistake of fact or other administrative error, then the amount mistakenly contributed to the Trust, and any Trust earnings allocable thereto, shall be returned to the contributor as soon as administratively feasible after the mistake has been discovered and confirmed, provided that the amount returned shall be reduced to the extent the mistaken contribution or transfer has been reduced by investment losses, benefit payments, or administrative expenses.

3.3 Assets Held with Respect to a Particular Account. The Trust shall receive Plan contributions from the Employer in cash or other property acceptable to the Trustee. All contributions received by the Trust from the Employer, together with all assets in which such consideration is invested or reinvested, all income, earnings or profits, and proceeds thereof from whatever source derived, shall, irrevocably be held separately with respect to each Participant and the Employer (with respect to any Employer Account) for all purposes, subject only to the rights of creditors of the Trust, and shall be so recorded upon the books of account of the Trust. In the event that there are any assets, income, earnings, profits and proceeds thereof, funds or payments that are not readily identifiable as assets held with respect to any Account (collectively “General Assets”), the Administrator, on behalf of the Trustee, shall allocate General Assets to, between or among any one or more of the Accounts in a manner and basis as the Administrator, or the Trustee in its sole discretion, deems fair and equitable, and any General Assets so allocated to an Account shall be held with respect to that Account. Each such allocation by the Administrator or the Trustee shall be conclusive and binding upon the Employer (with respect to any Employer Account) and Participants for all purposes. Separate and distinct records shall be maintained for each Account and the assets held with respect to each Account shall be accounted for separately from the assets held with respect to all other Accounts.

3.4 Liabilities Associated with a Particular Account. The liabilities, expenses, costs, charges, and reserves associated with each Participant Account or Employer Account shall be charged against the assets of the Trust held with respect to that particular Account. Any liabilities, expenses, costs, charges and reserves of the Trust that are not readily identifiable as being associated with any particular Account (“General Liabilities”) shall be allocated and charged by the Administrator, on behalf of the Trustee, to and among any one or more of the Accounts in a manner and basis as the Administrator, or the Trustee in its sole discretion, deems fair and equitable, and any General Liabilities so allocated to a particular Account shall be charged against the assets of that Account. Each allocation of liabilities, expenses, costs, charges and reserves by the Administrator or the Trustee shall be conclusive and binding upon the Employer and Participant’s for all purposes. Without limiting the foregoing, but subject to the right of the Trustee or the Administrator to allocate liabilities, expenses, costs, charges or reserves as herein provided, the liabilities, costs, charges and reserves incurred, contracted for or otherwise associated with a particular Account shall be enforceable against the assets held with respect to that Account only and not against the assets of the Trust generally or against the assets held with respect to any other Account.

3.5 Trustee is Legal Owner of Assets. Subject to Trust, the Trustee is the legal owner of the Trust assets, which are to be held for the benefit of the Trust’s beneficiaries, and the Trustee is entitled to exercise all incidents of ownership in the Trust assets.

ARTICLE IV

POWERS AND DUTIES OF THE TRUSTEE

4.1 Trust Property and Investments. In addition to all powers and duties otherwise expressly set forth in this agreement and subject to the provisions of Section 4.5, the Trustee shall have the following powers:

- (a) consistent with the funding policy and method determined by the employer, to invest and reinvest all or any part of the Trust, including both principal and income, in bonds, mortgages, debentures, preferred or common stock, mutual funds, a common trust fund maintained by a fiduciary which is a bank or an insurance company, or other form of real or personal property having a ready market value, or deposit the assets in an interest bearing account in a banking or savings institution;
- (b) to insure the payment of benefits under a contract or contracts with an insurance company or companies, and hold and retain such contract or contracts as part of the Trust;
- (c) to sell, lease, exchange, or otherwise dispose of all or any property, real or personal, at any time held in the Trust;
- (d) to exercise, buy, or sell rights of conversion or subscription;
- (e) to enter into or oppose any plan of consolidation, merger, reorganization, capital readjustment, or liquidation of any corporation or other issuer of Securities held hereunder including any plan for the sale, lease, or mortgage of any of its property or the adjustment or liquidation of any of its indebtedness and, in connection with any such plan, to enter into any other such agreement, and to pay assessments or subscriptions from the other assets held hereunder;
- (f) to retain in cash or otherwise in a form unproductive of income such portion of the Trust as is necessitated by the cash requirements of the Plan; provided, however, that, to the extent feasible, such amounts shall be held in forms of investment which are productive of income but are sufficiently liquid to meet such cash requirements;
- (g) to deposit securities held hereunder in any depository;
- (h) to deposit all or any property held in the Trust, including both principal and interest, in any bank organized under the national banking laws of the United States or under the laws of any State; and
- (i) appoint one or more investment managers, subject to the approval of the Employer.

4.2 Claims Against Trust. Except as regards benefits under the Plan, the Trustee is empowered to compromise and adjust any and all claims, debts, or obligations in favor of or against the Trust, whether such claims be in litigation or not, and to reduce the rate of interest on,

to extend or otherwise modify, or to foreclose upon default, or otherwise enforce any such claim, debt, or obligation.

4.3 [Reserved].

4.4 Registration of Securities; Deposit of Trust Property; Nominees. The Trustee is empowered to register or deposit, or to cause to be registered or deposited, securities or other Trust property in its own name, or in the name of a nominee, agent, or custodian without disclosing the Trust, or to hold the same in bearer form, and to take title to other property in its own name or in the name of a nominee, agent, or custodian without disclosing the Trust, provided however, that, on the books and records of the Trustees, such securities and properties shall be shown to be part of the Trust, and no such registration or holding by the Trustee shall relieve it from liability for the safe custody and proper disposition of such securities and Trust property in accordance with the terms and provisions hereof.

4.5 Investment Elections. The powers conferred upon the Trustee and the Administrator with respect to the investment of the assets of each account and allocations of assets and liabilities shall at all times be subject to the investment elections by the Participant for any Participant Account or the Employer for any Employer Account.

4.6 Agents, Attorneys, Actuaries, Consultants, Administrators and Accountants. The Trustee is empowered, on its own or through the Administrator, to employ such agents, attorneys (including attorneys who may be counsel to the Administrator), actuaries, consultants, administrators, accountants and other service providers as may be deemed necessary or proper in connection with its duties hereunder, and to determine and pay out of the assets of the Trust the reasonable compensation and expenses of such agents, attorneys, actuaries, consultants, administrators, accountants and other service providers.

4.7 Other Authority. The Trustee is authorized to execute and deliver any and all instruments and to perform any and all acts that may be necessary or proper to enable it to discharge its duties under this agreement and to carry out the power and authority conferred upon it.

4.8 Directions to the Trustee. The Trustee may rely on any Written direction, instruction, request, approval, or other document purporting to have been signed on behalf of the Administrator by the person authorized to act for the Administrator. The Administrator shall, at any time and from time to time, identify to the Trustee in Writing the name or names of any person authorized to act for the Administrator, with respect to the exercising of any one or more of the powers of the Trustee or the Administrator granted herein. Until the Administrator notifies the Trustee that such person is no longer authorized to act for the Administrator, the Trustee may continue to rely on the authorization of such person. The Trustee shall be under no duty or obligation to review any instruction it so receives. The Trustee shall have no liability or responsibility for acting without question on such direction of, or failing to act in the absence of any action, unless the Trustee has knowledge that by such action or failure to act it will be participating in or undertaking to conceal a breach of fiduciary duty.

4.9 Payment of Taxes; Indemnity. Although the Trust is intended to be exempt from tax under Code Section 115, the Trustee is empowered to pay out of the assets of the Trust, as a general charge thereon, any and all Taxes of whatsoever nature assessed on or in respect thereto; provided, however, that if the Administrator shall notify the Trustee in Writing that any such Tax is not lawfully or properly assessed, or is questionable, then the Administrator or the Trustee may contest the validity of such Tax in any manner then deemed appropriate.

4.10 Records and Statements. The Trustee shall cause the Administrator to keep accurate records of all receipts, disbursements, and other transactions affecting the Trust, which, together with the assets comprising the Trust and all evidences thereof, shall be available during the Administrator's usual business hours for inspection or for the purposes of making copies or reproductions thereof by the Trustee, upon the Trustee's reasonable request. The Administrator shall render to the Trustee monthly an account summary of receipts and disbursements, during the preceding month affecting the Trust. The Administrator further shall render to the Trustee annually a statement of all assets then held by it hereunder.

4.11 Court Action Not Required. All the powers and authority herein conferred upon the Trustee shall be exercised by it without the necessity of applying to any court for leave or confirmation. No person dealing with the Trustee shall be required to ascertain whether the Trustee shall have obtained the approval of any court or of any person to any action which it may propose to take hereunder, but every such person may rely solely upon the deed, transfer, or assurance of the Trustee.

4.12 Disputes. If a dispute arises as to the payment of any funds or delivery of any assets by the Trustee, the Trustee may withhold such payment or delivery until the dispute is resolved by a court of competent jurisdiction or finally settled in Writing by the concerned parties.

4.13 Administrator to Act on Behalf of Trustee. With respect to any of the powers conferred upon the Trustee in this Article IV or elsewhere in this agreement or in the Plan Documents, the Administrator shall have the authority to exercise such powers on behalf of the Trustee, subject to the right of the Employer to limit or revoke such authority by Written instrument executed by the Employer. Notwithstanding the foregoing, the Trustee shall engage a custodian for the receipt and safekeeping of deposits, investment and redemption of trust assets at the direction of the Participant, and the disbursement of redemption proceeds, and shall enter into any and all agreements necessary or desirable to establish a custodial relationship between the custodian and the Trustee.

ARTICLE V

SUCCESSION TO THE TRUSTEESHIP

5.1 Resignation of the Trustee. The Employer may resign as Trustee, provided that, prior to the date on which such resignation has become effective, a successor trustee has been appointed in compliance with all of the conditions set forth in Section 5.2 hereof. Any other Trustee acting hereunder may resign at any time by giving notice in Writing to the Employer at least ninety (90)

days before such resignation is to become effective, unless such notice is waived by the Employer.

5.2 Appointment of a Successor Trustee. If for any reason a vacancy should occur in the trusteeship, a successor Trustee shall forthwith be appointed by the Employer by action of duly authorized officer thereof, which successor Trustee may be either a corporation authorized to carry on a trust business or a national banking association or such person or persons or committee as deemed appropriate by the Employer and permitted under applicable law. Any successor Trustee appointed hereunder shall execute, acknowledge, and deliver to the Employer and Administrator an instrument in Writing accepting such appointment hereunder. Such successor Trustee shall thereupon become vested with the same powers and duties as are hereby vested in the Trustee. The predecessor Trustee shall execute all such instruments and perform all such other acts as the successor Trustee shall reasonably request to effectuate the provisions hereof. The successor Trustee shall have no duty to inquire into the administration of the Trust for any period prior to its succession.

ARTICLE VI

AMENDMENT AND TERMINATION

6.1 Right of Amendment. Subject to the terms of the Plan, the Employer may amend the terms of this Trust agreement from time to time, subject to acceptance of such amendment by the Administrator and by the Trustee. Any such amendment may be prospective or retroactive as provided therein.

6.2 Right to Terminate. In the event of a discontinuance of contributions by the Employer, the assets of the Trust shall be held, administered, and distributed by the Trustee in accordance with the terms of the Plan and this agreement.

ARTICLE VII

MISCELLANEOUS

7.1 Validity of Agreement. The validity of this agreement shall be determined and this agreement shall be construed and interpreted in accordance with the laws of the State of domicile of the Employer set forth on the signature pages hereto. If any provision of this agreement is held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the agreement unless such illegality or invalidity prevents accomplishment of the objectives and purposes of the Trust. In the event of any such holding, the parties may immediately, and if in accordance with appropriate law, retroactively, amend the agreement as is necessary to remedy any such defect.

7.2 No Guarantees. Neither the Administrator, the Employer nor the Trustee guarantees the Trust from loss or decline in value, or the payment of any amount that may become due to any

person hereunder. Nothing contained in the Trust shall constitute a guarantee by the Administrator, the Employer or the Trustee that the assets of the Trust will be sufficient to pay any benefit to any person or make any other payment; payments to be paid from the Trust are limited to the assets remaining in the applicable Participant Account or Employer Account at the time payment is made. Prior to the time that distributions are made in conformity with the Plan and the Trust, no Employees, Participants, or other persons shall receive any distribution of cash or other thing of current or exchangeable value, either from the Administrator, the Employer or the Trustee on account of, or as a result of the Trust fund created hereunder.

7.3 Duty to Furnish Information. The Administrator and the Trustee each shall furnish to the other any documents, reports, returns, statements, or other information that the other reasonably deems necessary to perform its duties imposed under the Plan or this agreement or otherwise imposed by law. The Trustee shall furnish to the Administrator any documents, reports, returns, statements, or other information that the Administrator reasonably deems necessary to perform its duties and exercise its rights hereunder, under the Employer Adoption Agreement, and otherwise under the Plan.

7.4 Taxes. The Trustee shall withhold any tax that by any present or future law is required to be withheld from any payment under the Plan.

7.5 Separate Accounts. The Trust shall maintain separate and distinct sub-accounting records for each Employer Account and Participant Account so that each Employer and Participant shall have a divided interest in specific assets held by the Trust. No Employer or Participant shall have any interest in any specific assets held by the Trust on behalf of any other Employer or Participant.

7.6 Rebates and Adjustments. In the event a benefit is provided or a disbursement is made from the Trust and it is determined by the Administrator that such benefit should not have been provided or disbursement made, the Administrator may make a contribution or arrange for a contribution to reimburse the Trust or engage in efforts to seek the return of the benefit or disbursement. The Trustee shall be under no duty or obligation to inquire into the correctness of any determination made by the Administrator under this provision.

7.7 Inalienability of Benefits. Except as may otherwise be provided herein, the right of any Participant or other person or entity to any benefit or payment from the Trust shall not be subject to voluntary or involuntary transfer, alienation, pledge, assignment or other disposition and shall not be subject to attachment, execution, garnishment, sequestration or other legal or equitable process. Any attempt to transfer, alienate, pledge, assign or otherwise dispose of such right or any attempt to subject such right to attachment, execution, garnishment, sequestration or other legal or equitable process shall be null and void, unless such action is approved by the Administrator and the Employer and undertaken in accordance with the terms and provisions of the Plan and the Trust.

7.8 No Implied Rights. Neither the establishment of the Trust nor any modification thereof, nor the creation of any fund, trust or account thereunder, shall be construed as giving any Participant or other person or entity any legal or equitable right unless such right shall be specifically provided for in the Plan and the Trust or conferred by affirmative action of the Employer in accordance with the express Written terms and provisions of the Plan and the Trust.

7.9 Status of Employment Relations. The adoption and maintenance of the Trust shall not be deemed to constitute a contract between an Employer and its Employees or any representative thereof or to be consideration for, or an inducement or condition of, the employment of any person. Nothing contained herein shall be deemed to:

- (a) give to any Employee the right to be retained in the employ of the Employer;
- (b) affect the right of the Employer to discipline or discharge any Employee at any time; or
- (c) affect any Employee's right to terminate his employment at any time.

7.10 Parties Bound. This agreement shall be binding upon the parties hereto, all Employees, Participants, and the Administrator, and, as the case may be, the Dependents, heirs, executors, administrators, successors, and assigns of each of them.

IN WITNESS WHEREOF, the Employer has caused this agreement to be executed by its duly authorized officers as of June 7, 2014.

ATTEST: [Name of Employer]

By: Shirley Bazzan City of Buckley

Date: June 7, 2014

Employer is a political subdivision of the State of:

Washington

EXHIBIT D
TO EMPLOYER ADOPTION AGREEMENT
BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT (the “Agreement”) is entered into this day June 7, 2016 between CJB Financial Group LLC, the undersigned (hereinafter the “Business Associate”) and Plan (hereinafter the “Covered Entity”).

WHEREAS, the Business Associate has been retained by the Covered Entity to perform certain plan-related services as part of its health reimbursement arrangement “HRA” plan on its behalf.

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of Protected Health Information disclosed to Business Associate in compliance with HIPAA.

WHEREAS, the nature of the existing contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as amended by Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”), including all pertinent regulations issued by the Department of Health and Human Services (“HHS”); the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

Definitions.

- “Breach” has the same meaning as this term has in 45 CFR § 164.402.
- “Breach Notification Rule” shall mean the Standards and Implementation Specifications for Notification of Breaches of Unsecured Protected Health Information under 45 CFR Parts 160 and 164, subparts A and D.
- “Business Associate” shall mean CJB Financial Group LLC
- “Covered Entity” shall mean the Plan.
- “Designated Record Set” has the same meaning as this term has in 45 CFR §164.501.
- “HIPAA Rules” shall mean the Privacy Rule, Security Standards, Breach Notification Rule, and the Enforcement Provisions set forth in 45 CFR Part 160.
- “Individual” has the same meaning as this term has in 45 CFR §164.501.
- “Privacy Rule” shall mean the Privacy Standards and Implementation Specifications at 45 CFR Parts 160 and 164, subparts A and E.
- “Protected Health Information” (or “PHI”) has the same meaning as this term has in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity pursuant to this Agreement.

- “Representative” will include the Business Associate’s managing members (as applicable), trustees, general partners (as applicable) and financial and legal advisors.
- “Required by Law” will have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- “Secretary” will mean the Secretary of the Department of Health and Human Services or his designee.
- “Security Standards” means the Security Standards and Implementation Specifications at 45 CFR Parts 160 and 164, subparts A and C.
- “Unsecured Protected Health Information” shall have the meaning given the term “unsecured protected health information” in 45 CFR § 164.402.

1. Confidentiality. At all times, both during and after the termination of its relationship with the Covered Entity for any reason, the Business Associate and its Representatives will not use, disclose, or give others any of the Protected Health Information in any manner whatsoever, except as provided in paragraphs 2 and 3 of this Agreement, and will hold and maintain the Protected Health Information in confidence. The Business Associate will ensure that appropriate safeguards are in place to prevent the use or disclosure of the Protected Health Information other than as permitted by this Agreement.

2. Permitted Uses and Disclosures.

- (a) Except as otherwise limited in this Agreement, Business Associate may only use or disclose Protected Health Information, as follows:
 - (i) On behalf of, Covered Entity provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
 - (ii) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (b) At the request of the Covered Entity, the Business Associate agrees to provide access to the Protected Health Information that it or its agents or subcontractors maintains in Designated Records Sets to the Individual to whom the Protected Health Information relates in accordance with 45 C.F.R. §164.524. Effective September 23, 2013, if Covered Entity requests an electronic copy of Protected Health Information that is maintained electronically in a designated Record Set in the Business Associate’s custody or control, Business Associate will provide an

electronic copy in the form and format specified by the Covered Entity if it is readily producible in such format; if it is not readily producible in such format, Business Associate will work with Covered Entity to determine an alternative form and format that enable Covered Entity to meet its electronic access obligations under 45 CFR § 164.524. The Business Associate further agrees to document any disclosures of Protected Health Information and the Information related to such disclosures to respond to an accounting of disclosures of Protected Health Information if requested by the Covered Entity, in accordance with 45 C.F.R. §164.528, and to provide such documentation to the Covered Entity as it may request from time to time. Furthermore, at the request of the Covered Entity, Business Associate agrees to make amendments to the Protected Health Information that it maintains in a Designated Record Set as directed by the Covered Entity and to incorporate any amendments to Protected Health Information in accordance with 45 C.F.R. §164.526. Notwithstanding the foregoing, the Covered Entity will not request that the Business Associate use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if such disclosure or use were done by the Covered Entity itself.

- (c) Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure, or request, except that Business Associate will not be obligated to comply with this minimum-necessary limitation if neither Business Associate nor Covered Entity is required to limit its use, disclosure, or request to the minimum necessary under the HIPAA Rules. Business Associate and Covered Entity acknowledge that the phrase “minimum necessary” shall be interpreted in accordance with the HITECH Act and the HIPAA Rules.

- 3. Required Disclosures and Use. The Business Associate may disclose the Protected Health Information revealed to it by the Covered Entity if and to the extent that Law or court order requires such disclosure. Further, the Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity [available to the Covered Entity], or to the Secretary, as requested by the Covered Entity or designated by the Secretary, for purposes of the Secretary determining the Covered Entity’s compliance with the Privacy Rule.
- 4. Required Notice to the Business Associate. In accordance with 45 C.F.R. §164.520, and to the extent that such a limitation may affect the Business Associate’s use or disclosure of Protected Health Information, the Covered Entity will notify the Business Associate of any limitation(s) in its notice of privacy practices of the Covered Entity, including, without limitation, any changes in, or revocation of, permission by an Individual to use or disclose Protected Health

Information. Covered Entity will also notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

5. Required Notice to the Covered Entity. The Business Associate will report to the Covered Entity any use or disclosure of the Protected Health Information otherwise than as provided by this Agreement within [ten] days of becoming aware of such use or disclosure.

6. Disclosure to Employees of the Covered Entity or Plan Sponsor.

(a) The Covered Entity acknowledges and agrees that the Business Associate shall only disclose PHI in its possession to the following employees who are identified in the Plan documents (Designated Persons) in accordance with 45 C.F.R. §164.504(f), and that such disclosures are solely for purposes of carrying out plan administration functions that the Plan Sponsor performs for the Plan:

[List such persons by name or position]

Sheila Bazzar
Kristin Menovich

(b) Covered Entity agrees to timely notify Business Associate in writing of any changes to the names or positions of employees listed in subsection (a) as Designated Persons. Business Associate shall have no duty to inquire whether the list of the Designated Persons is accurate.

(c) Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity. Nothing in this paragraph shall restrict the ability of Business Associate to use or disclose PHI as set forth in paragraph 2(a) herein.

(d) Covered Entity/Plan Sponsor shall indemnify and hold harmless Business Associate (and its employees) for any and all liability Business Associate may incur as a result of any improper use or disclosure of PHI by the Covered Entity, Plan Sponsor, or a Designated Person(s).

7. Subcontractors. Business Associate will require each of its subcontractors to agree, in a written agreement with Business Associate, to comply with the provisions of the Security Standards; to appropriately safeguard Protected Health Information created, received, maintained, or transmitted on behalf of the

Business Associate; and to apply the same restrictions and conditions that apply to the Business Associate with respect to such Protected 8. Prohibition on Sale of Protected Health Information. Effective September 23, 2013, Business Associate shall not engage in any sale (as defined in the HIPAA rules) of Protected Health Information.

9. Information Safeguards.

- (a) Privacy of Protected Health Information. Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Protected Health Information. The safeguards must reasonably protect Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses of disclosure made pursuant to a use or disclosure otherwise permitted by this Agreement. To the extent the parties agree that the Business Associate will carry out directly one or more of Covered Entity's obligations under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.
- (b) Security of Covered Entity's Electronic Protected Health Information. Business Associate will comply with the Security Rule and will use appropriate administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on Covered Entity's behalf.

10. Breaches and Security Incidents.

- (a) Reporting.
 - (i) Impermissible Use or Disclosure. Business Associate will report to Covered Entity any use or disclosure of Protected Health Information not permitted by this Agreement not more than 10 calendar days after Business Associate discovers such non-permitted use or disclosure.
 - (ii) Breach of Unsecured Protected Health Information. Business Associate will report to Covered Entity any potential Breach of Unsecured Protected Health Information not more than 30 calendar days after discovery of such potential Breach. Business Associate will treat a potential Breach as being discovered in accordance with 45 CFR § 164.410. Business Associate will make the report to Covered Entity's Privacy Officer. If a delay is requested by a law-enforcement official in accordance with 45 CFR § 164.412, Business Associate may delay notifying Covered Entity for the

applicable time period. Business Associate's report will include at least the following, provided the absence of any information will not be cause for Business Associate to delay the report.

- (A) Identify the nature of the Breach, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of the Breach;
 - (B) Identify the types of Protected Health Information that were involved in the Breach (such as whether full name, Social Security number, date of birth, home address, account number, diagnosis, or other information were involved);
 - (C) Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;
 - (D) Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects, and to protect against any further Breaches;
 - (E) Identify what steps the individuals who were subject to a Breach should take to protect against any further Breaches;
 - (F) Provide such other information, including a written report and risk assessment under 45 CFR § 164.402, as Covered Entity may reasonably request.
- (iii) Security Incidents. Business Associate will report to Covered Entity any Security Incident of which Business Associate becomes aware. Business Associate will make this report once a month, except if any such Security Incident resulted in a disclosure not permitted by this Agreement or Breach of Unsecured Protected Health Information. Business Associate will make the report in accordance with the provisions set forth above.
- (b) Mitigation. Business Associate shall mitigate, to the extent practicable, any harmful effect known to the Business Associate resulting from a use or disclosure in violation of this Agreement.

11. Term/Termination

- (a) Term of Agreement. The Term of this Agreement shall be effective as of the date given at the top of Page 1 herein, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections

are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause. Upon Covered Entity's determination of a material breach of this Agreement by Business Associate, the Covered Entity shall either:

- (i) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
- (ii) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
- (iii) If neither termination nor cure is feasible, Covered Entity shall report the violation to the secretary.

(c) Obligation Upon Termination

- (i) Upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- (ii) In the event that Business Associate determines, [in its sole discretion], that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. In the event that Business Associate determines that return or destruction of the Protected Health Information is infeasible, Business Associate will continue to extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such Protected Health Information.

12. No Third Party Beneficiaries. Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies or obligations whatsoever.

13. Successors and Assigns. This Agreement and each party's obligations hereunder will be binding on the representatives, assigns, and successors of such party and will inure to the benefit of the assigns and successors of such party; provided, however, that the rights and obligations of the Business Associate hereunder are not assignable.
14. Notices. All notices, requests, consents and other communications hereunder will be in writing, will be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and will be either (i) delivered by hand, (ii) made by facsimile transmission, (iii) sent by overnight courier, or (iv) sent by registered or certified mail, return receipt requested, postage prepaid.

If to the Covered Entity:

Employer Name

CITY OF Buckley
P.O. Box 1960
Buckley WA 98321
 Facsimile: 360-829-2659

If to the Business Associate:

CJB Financial Group LLC
 818 West Riverside, Suite 800
 Spokane, WA 99201
 Fax (509) 444-2786

15. Entire Agreement. This embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement will affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement.
16. Modifications and Amendments. The terms and provisions of this Agreement may be modified or amended only by written agreement executed by the parties hereto and any such amendment will comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
17. Severability. The parties intend this Agreement to be enforced as written. However, (i) if any portion or provision of the Agreement will to any extent be declared illegal or unenforceable by a duly authorized court having jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, will not be affected thereby, and each portion and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (ii) if any provision, or part thereof, is held to be unenforceable because of the duration of such provision, the Covered Entity and the Business Associate agree

that the court making such determination will have the power to reduce the duration of such provision, and/or to delete specific words and phrases, and in its reduced form such provision will then be enforceable and will be enforced.

18. Interpretation. The parties hereto acknowledge and agree that both (i) the rule of construction to the effect that any ambiguities are resolved against the drafting party and (ii) the terms and provisions of this Agreement, will be construed fairly as to all parties hereto and not in favor of or against a party, regardless of which party was generally responsible for the preparation of this Agreement. Notwithstanding the foregoing, any ambiguities in this Agreement shall be interpreted to permit compliance with the HIPAA rules.
19. Headings and Captions. The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and will in no way modify, or affect the meaning or construction of any of the terms or provisions hereof.
20. No Waiver of Rights, Powers and Remedies. No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefore granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.
21. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Washington.
22. Attorney's Fees. If any action or in equity is brought to enforce or interpret the provisions of this Agreement, the party in such action will be responsible for attorney's fees and costs.
23. Counterparts. This Agreement may be signed in counterparts, which together will constitute one agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives or officers, effective as of the date first listed above in the preamble to this Agreement.

Covered Entity Signature: Sheila Bappal

Business Associate: CJB Financial Group LLC

From: [W. Scott Snyder](#)
To: ["Sheila Bazzar"](#)
Cc: [Dave Schmidt](#)
Subject: RE: HRA HealthBridge service agreement
Date: Tuesday, June 21, 2016 2:55:32 PM

Dear Sheila

I have been through the 54 pages of the Plan Document, the Employer Adoption Agreement, Trust document and Business Associate Agreement. I recognize that these are often take it or leave it situations. Even in that context, the Plan Document and Employer Adoption Agreement are very one sided agreements. For example, please note that while the city is required to indemnify CJB Financial Group, there is no cross identification--they promise you only that they will abide by industry standards. They do not provide a bond. While there is nothing illegal in the agreement and I will approve as to form, it is one sided and, as I am sure you have, it is very important to carefully vet the company and its history when the agreements are this out of balance.

Second, it is important that the council understand that once funds are deposited in the trust, the city as Trustee has no right to withdraw or divert the funds and must use them for the intended purpose.

The Business Associate Agreement is typical given HIPPA requirements. One thing to consider is using titles rather than names for the contacts. It's fine to list individuals by name but you will need to update that information as employees come and go. This agreement may last for decades.

Finally, are you authorized to execute agreements for the city? I am used to seeing the mayor or city manager sign these type of agreements but if the council/mayor have authorized you to execute the agreements, let me know.

Scott

W. Scott Snyder | Attorney

Ogden Murphy Wallace P.L.L.C.
901 Fifth Avenue, Suite 3500
Seattle, WA 98164-2008
(206) 447-7000

CONFIDENTIAL COMMUNICATION - This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender. It may contain information that is proprietary, privileged, and/or confidential. If you are not the intended recipient, any disclosure, copying, distribution, or use of any of the contents is STRICTLY PROHIBITED. If you have received this message in error, please notify the sender immediately and destroy the original transmission and all copies.

-----Original Message-----

From: Sheila Bazzar [<mailto:sbazzar@cityofbuckley.com>]
Sent: Monday, June 20, 2016 11:47 AM
To: W. Scott Snyder
Subject: FW: HRA HealthBridge service agreement
Importance: High

Good morning, Scott.

The City of Buckley's police department is in the process of changing medical providers as the medical they were on will be going away at the end of the year. Attached is an HRA HEalthBridge service agreement. We are asking that you take a look at it and make sure that it is good to go.

Please let me know as soon as possible.
Thank you.

Sheila Bazzar, PFO/CMC
Finance Director
City of Buckley
PO Box 1960
Buckley WA 98321
360 761 7804
sbazzar@cityofbuckley.com

"Beneath the butterflies in your stomach, behind the clouds in your mind, is your greater truth, and it's trying to break on through." Danielle LaPorte



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Bid Award: Museum Damage Repair Project Cost Impact: \$65K Fund Source: Fund 307 & 308 Timeline: Immediate	Agenda Date: June 28, 2016		AB16-090
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar	X	X
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: News Release, Claim & Photos			
<p>SUMMARY STATEMENT: On or about 10:00 PM, Saturday, June 18, 2016 in what appears to be the result of an impaired driving incident, a vehicle traveling at a high rate of speed lost control, rolled and slammed into the south wall of the Buckley Foothills Museum. The Museum sustained extensive damage to the south wall which extends into the interior to include a main support wall. Display cases within the Museum were damaged as well as some priceless historical items. The full extent of the damage is still being evaluated; however, preliminary estimates are that repair costs to the building will be under \$65K.</p> <p>City staff has contacted our insurance carrier and been instructed to move forward with repair, but since we are still in the process of evaluating the full extent a project award will have to be on a time and material basis. The City has contacted Neilson Construction who is a local contractor to complete the work on a time and material basis. The bidding limit threshold for a public works project under State law is \$65,000. Neilson Construction has evaluated the work and believes that the cost of the repairs will be within this threshold. Therefore staff is requesting and recommending that the City Council award this repair project to Neilson Construction for a price “not to exceed” \$65,000 including all materials, labor and sales tax.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOTION to Approve Bid of the Museum Repair Project to Neilson Construction for a “Not to Exceed” Price of \$65,000.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	



**CITY OF BUCKLEY
NEWS RELEASE**

June 21, 2016

RE: Vehicle Accident on Saturday Night and Damage to the Museum

Buckley, WA – On or about 10:00 PM, Saturday, June 18, 2016 in what appears to be the result of an impaired driving incident, a vehicle traveling at a high rate of speed lost control, rolled and slammed into the south wall of the Buckley Foothills Museum. The driver of the car was seriously injured and airlifted out to a regional hospital.

Damage from the accident extends to concrete curb, gutter and sidewalks, landscaping and the building. The Museum sustained extensive damage to the south wall which extends into the interior to include a main support wall. Display cases within the Museum were damaged as well as some priceless historical items. The full extent of the damage is still being evaluated; however, preliminary estimates are that repair costs will be \$75K - \$100K.



The Museum will remain closed while the City concludes its damage assessment. Once we are able to determine the structural integrity of the building the City will evaluate when the Museum can reopen.

Questions and/or concerns can be addressed to the Mayor or City Administrator at City Hall, or by phone at 360.761.7801.

###

Contact:

Joanne Starr, City Clerk
360.761.7801
jstarr@cityofbuckley.com

**CITIES INSURANCE ASSOCIATION OF WASHINGTON
PROPERTY LOSS NOTICE**

PRODUCER:
CANFIELD & ASSOCIATES
451 Diamond Drive
Ephrata, WA 98823
(800) 407-2027
Fax (509) 754-3406

DATE: 6/20/16

DATE & TIME OF LOSS:
6/18/16 - 11:00 PM AM/PM

INSURED: City of Buckley
Insured's Business Phone: 360-761-7802
Person To Contact: DAVID SCHMIDT, City Administrator

LOSS:
Location of Loss: 130 River Road and Adjacent Public
Parking Lot

Police or Fire Department Reported yes - Both

Kind of Loss (Fire, Wind, Explosion, etc.) Automobile collision with damage
to curb, sidewalks, planter areas & museum facility

Probable Amount \$60K - \$75K

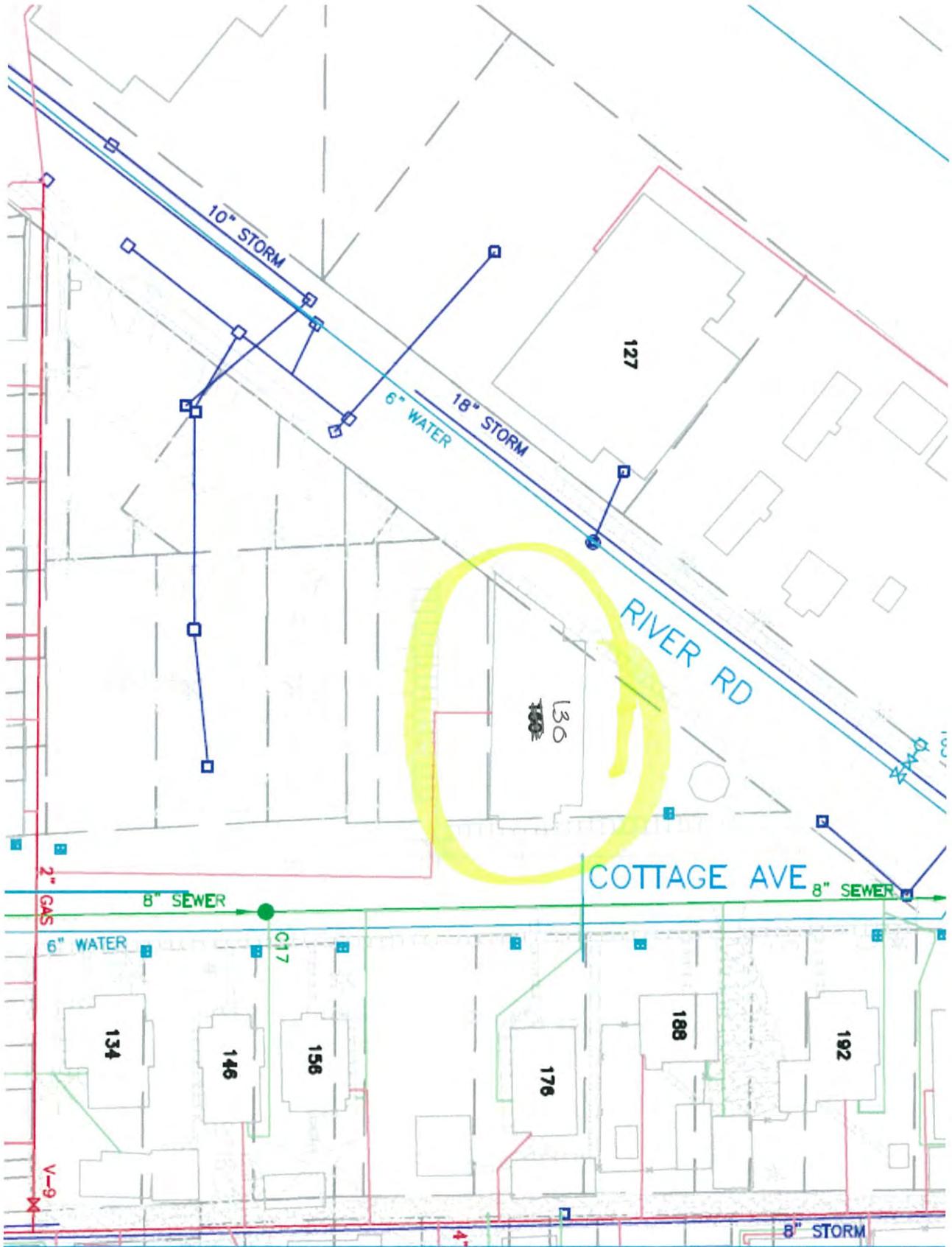
Description of Loss and Damage: IMPAIRED DRIVER DRIVING NORTHBOUND ON
RIVER RD AT A HIGH RATE OF SPEED HIT THE STREET CURB &
ROLLED THE VEHICLE ACROSS SIDEWALKS & PLANTING AREAS & CRASHED
INTO THE SOUTH SIDE OF THE MUSEUM BUILDING. DAMAGE TO
CURB, SIDEWALKS, PLANTING AREAS, LANDSCAPING, EXTERIOR & INTERIOR
OF BUILDING

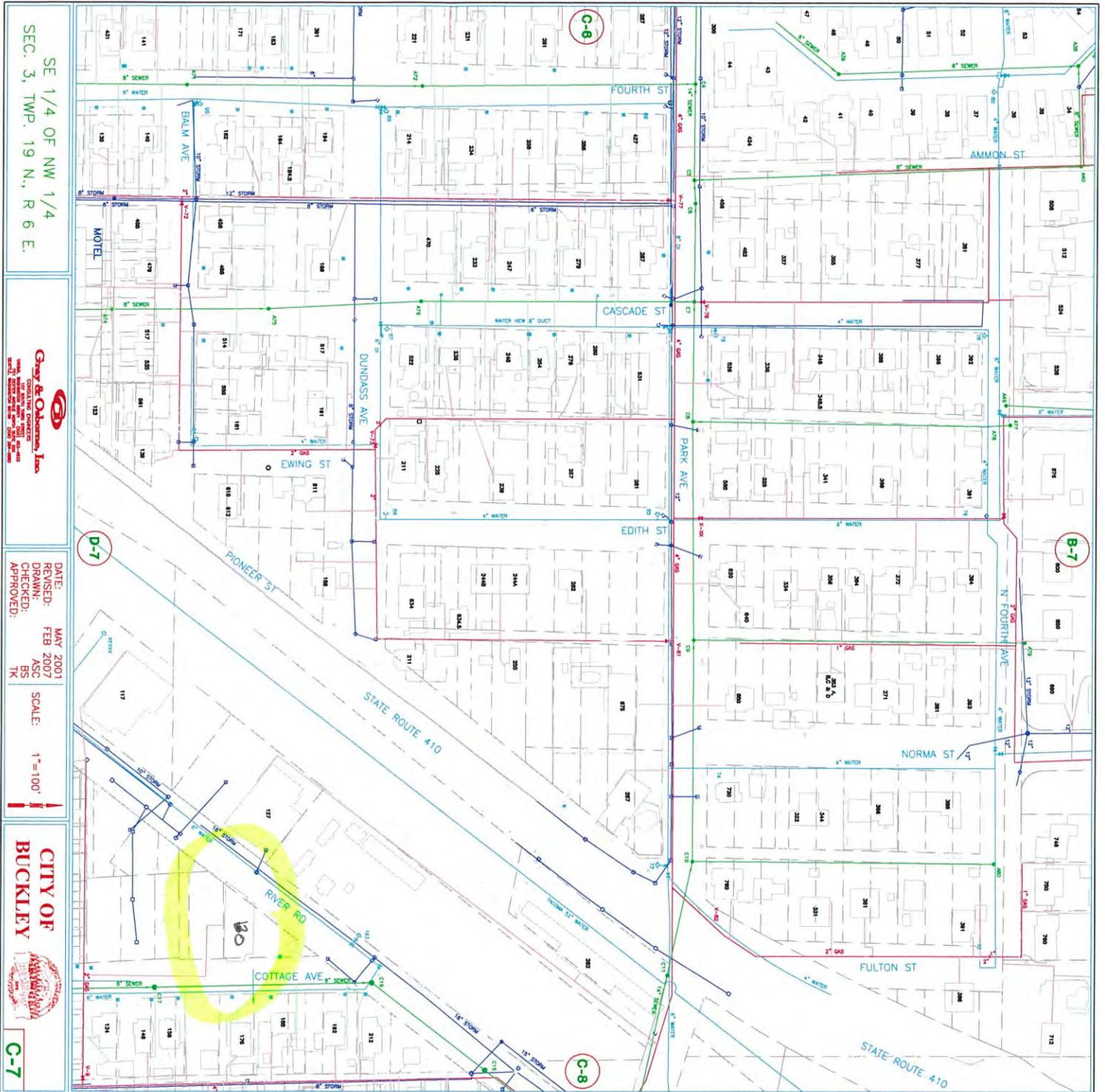
REMARKS: Extensive cleanup & repair is required. Building
is currently closed with RESTRICTED ACCESS UNTIL SUCH
TIME THAT STRUCTURAL INTEGRITY CAN BE VERIFIED

Photos, Police Report & Damage Estimates to follow

Reported By: [Signature]

Phone: 360-761-7802





SE 1/4 OF NW 1/4
 SEC. 3, TWP. 19 N., R 6 E.

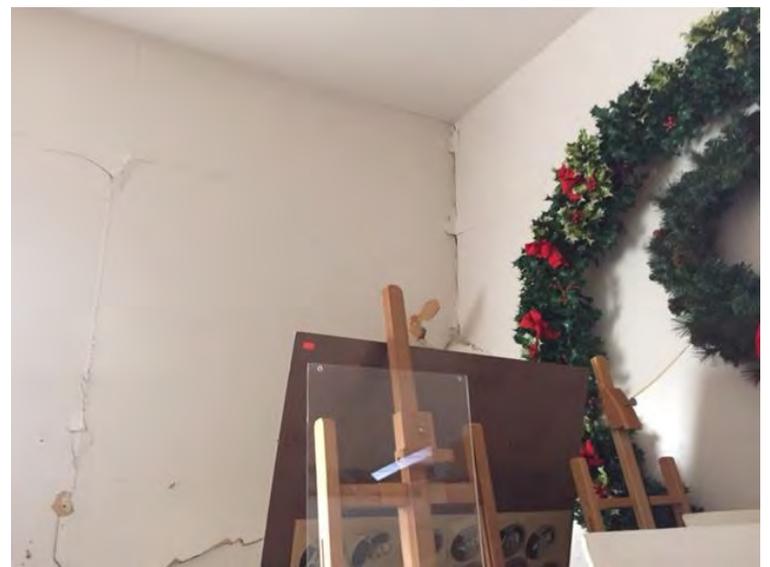
Gray & Olson, Inc.
 CONSULTING ENGINEERS
 1000 WEST 10TH AVENUE, SUITE 100
 DENVER, COLORADO 80202
 PHONE: 303.733.2900
 FAX: 303.733.2901

DATE: MAY 2001
 REVISED: FEB 2007
 DRAWN: ASC
 CHECKED: BS
 APPROVED: TK

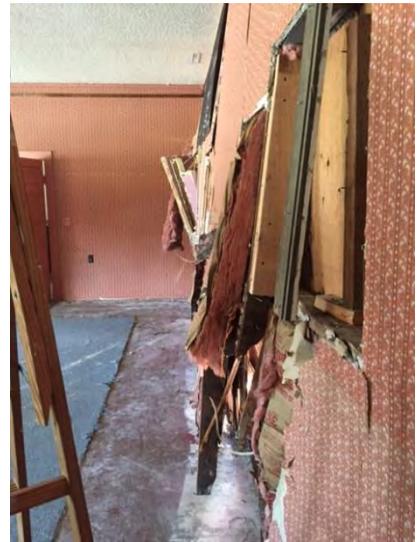
SCALE: 1"=100'

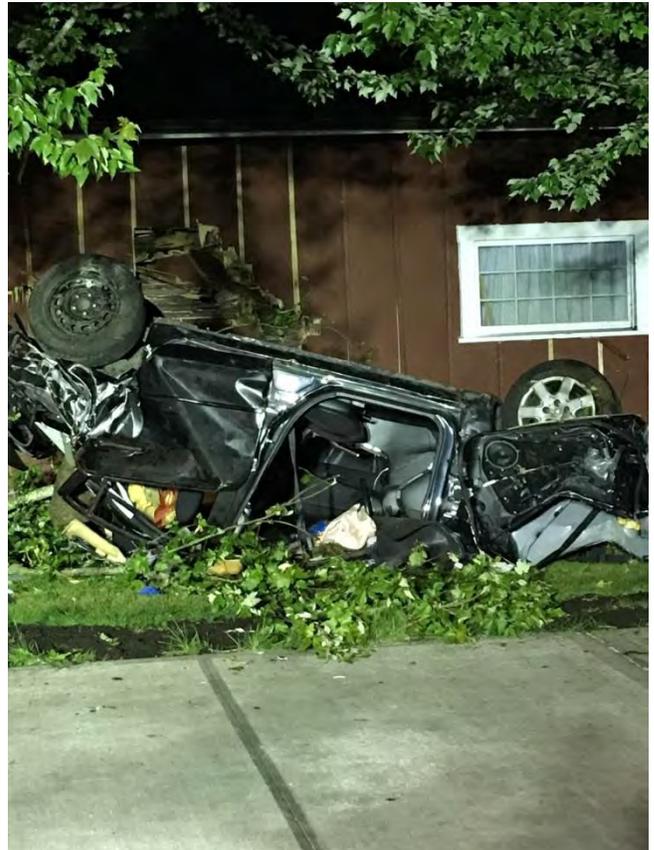
CITY OF BUCKLEY
 APPROVED BY
 MAY 2001

C-7



6-18-2016 Car Accident - Damage to Foothills Historical Museum & North Parking Lot







CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Contract Amendment	Agenda Date: June 28, 2016		AB 16-091
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		
	City Administrator – Dave Schmidt		
	City Attorney – Phil Olbrechts		
	City Engineer – Dominic Miller		
	Building Depart –		
	Finance Depart – Sheila Bazzar		
	Fire Depart – Chief Predmore	X	
	Parks & Rec Depart – Ellen Boyd		
	Planning Depart – Kathy Thompson		
	Police Depart – Chief Arsanto		
	Other –		
Attachments: DSHS Contract Number 1164-30759 Proposed Amendment No. 05			
<p>SUMMARY STATEMENT: The State of Washington Department of Social and Health Services, through the Department of Enterprise Services, previously presented the City of Buckley with a proposed contract through which the City of Buckley would provide Fire Protection Services to Rainier School for the 2-year period commencing on July 1st, 2015. The City Council previously took action to consider the proposed contract and did not vote in favor of approving the agreement as proposed.</p> <p>The Fire Chief sought an extension to the previous agreement which the State offered in Amendment No. 2, thereby extending the contract for a 90-day period through September 30th, 2015. Council approved the amendment at their September 8th, 2015 regular meeting. A subsequent Amendment (No. 3) was approved October 13th, 2015 – extending the contract through December 31st, 2015. On January 12th Council approved Amendment No. 04 extending the contract through 06/30/2016.</p> <p>With Amendment No. 4 about to expire, the State has presented to us for consideration Amendment No. 5 which maintains the current rate and extends the contract through 12/31/2016.</p> <p>Staff recommends approval of Amendment No. 5.</p>			
COMMITTEE REVIEW AND RECOMMENDATION:			
<ul style="list-style-type: none"> - The proposed Amendment presented by the State was received after the most recent FAPS Committee Meeting so committee has not had discussion or action. 			
<p>RECOMMENDED ACTION: A MOTION authorizing the Mayor to execute Contract Amendment No. 05 to the contract agreement between the City of Buckley and State of Washington Department of Social and Health Services for Fire Protection Services at Rainier School.</p>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	



CONTRACT AMENDMENT

DSHS CONTRACT NUMBER:
1164-30759

Amendment No. 05

This Contract Amendment is between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below.

Program Contract Number
[Click here to enter text.](#)
Contractor Contract Number

CONTRACTOR NAME		CONTRACTOR doing business as (DBA)	
The City of Buckley		The City of Buckley	
CONTRACTOR ADDRESS		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER
PO Box 1960		271-100-033	1696
Buckley, WA 98321-1960			
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS
Alan Predmore	(360) 829-1441	(360) 829-0133	apredmore@cityofbuckley.com
DSHS ADMINISTRATION Developmental Disabilities Admin		DSHS DIVISION Division of Developmental Disabilities	DSHS CONTRACT CODE 1000LC-64
DSHS CONTACT NAME AND TITLE		DSHS CONTACT ADDRESS	
Lynn Reedy Administrative Assistant 4		P O Box 600 Buckley, WA 98321-	
DSHS CONTACT TELEPHONE	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS	
(360) 829-3023	(360) 829-3081	reedylm@dshs.wa.gov	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?		CFDA NUMBERS	
No			
AMENDMENT START DATE	CONTRACT END DATE		
07/01/2016	12/31/2016		
PRIOR MAXIMUM CONTRACT AMOUNT	AMOUNT OF INCREASE OR DECREASE	TOTAL MAXIMUM CONTRACT AMOUNT	
\$439,557.36	\$43,984.74	\$483,542.10	
REASON FOR AMENDMENT; CHANGE OR CORRECT CHOOSE ONE:			
ATTACHMENTS. When the box below is marked with an X, the following Exhibits are attached and are incorporated into this Contract Amendment by reference: <input type="checkbox"/> Additional Exhibits (specify):			
This Contract Amendment, including all Exhibits and other documents incorporated by reference, contains all of the terms and conditions agreed upon by the parties as changes to the original Contract. No other understandings or representations, oral or otherwise, regarding the subject matter of this Contract Amendment shall be deemed to exist or bind the parties. All other terms and conditions of the original Contract remain in full force and effect. The parties signing below warrant that they have read and understand this Contract Amendment, and have authority to enter into this Contract Amendment.			
CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE		DATE SIGNED
DSHS SIGNATURE	PRINTED NAME AND TITLE		DATE SIGNED

This Contract between the State of Washington Department of Social and Health Services (DSHS) and the Contractor is hereby amended as follows:

1. The Contract is hereby increased in the amount of \$43,984.74 for a revised maximum contract **amount** of \$483,542.10.
2. The Contract End Date is hereby extended six (6) months for a new End Date of 12-31-2016

All other terms and conditions of this Contract remain in full force and effect.



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Consultant Scope: AHBL – Grant Support Services – Addendum #1 Cost Impact: \$8,160 Fund Source: Fund 308 Timeline: N/A	Agenda Date: June 28, 2016		AB16-092
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		X
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: Proposal for Land Use Planning and Landscape Architecture Services			
<p>SUMMARY STATEMENT: In April, 2016 the City Council approved the scope of work to have AHBL assist staff in developing and preparing grant applications to the RCO for the SR410 Subarea Spray Park and for Phase I Development of the Miller Park. Applications for the two projects were submitted in May, 2016 and both have gone through technical review by RCO staff. A report of the review has been provided to the City which illustrates and points out strengths and weaknesses of the application as well as suggestions for potential changes that would improve our chance at competing.</p> <p>As a result of this additional preparation needed to improve our application(s), staff has asked AHBL to provide costs in an addendum for this additional support. AHBL has indicated that they can provide this additional support for \$8,160 which would be split between both projects. Staff is requesting that the City Council approve this additional cost through Addendum #1 of the Agreement.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: MOVE to Approve the Addendum #1 to the Consultant Proposal for Land Use Planning and Landscape Architecture Services with AHBL for the RCO Grants.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

Land Use Planning – 2160297.30

Additional Grant Preparation: Buckley Spray Park and Miller Park – Tasks 33 and 34

1. Prepare the Powerpoint presentation including editing graphics and technical details as required per the comments. Assist the team in interview preparation. We assume that a planner will not be required to attend the interview.
2. Reimbursable expenses such as mileage and reprographics will be billed on a time and expense basis, with an estimate provided below for budgeting purposes.

Landscape Architecture – 2160297.40

Landscape Design: Buckley Spray Park and Miller Park – Tasks 41 and 42

The following scope of work will be completed for each park:

1. Modify the conceptual park design graphics with associated sketches to reflect comments.
2. Revise Powerpoint presentation.
3. Revise Cost estimates.
4. Coordinate with playground rep, City of Buckley, and AHBL team.
5. Prepare for and attend final presentation.

Billing Summary

<u>Items</u>	<u>Description</u>	<u>Amount</u>
Land Use Planning – 2160297.30		
Addtl Grant Preparation – Buckley Spray Park	T-33	1,580
Addtl Grant Preparation – Miller Park	T-34	1,580
Reimbursable Expenses	T-90	<u>200</u>
Subtotal - T&E Estimate		\$3,360 *
Landscape Architecture – 2160297.40		
Presentation RCO Assistance– Buckley Spray Park	T-41	2,400
Presentation RCO Assistance – Miller Park	T-42	<u>2,400</u>
Subtotal		\$4,800
GRAND TOTAL (based on T&E estimates)		\$8,160 *



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT: Lease Agreement: 117 N. River Avenue (former Del's Farm Supply) to Burbank Bros. Cost Impact: N/A Fund Source: Fund 008 Timeline: Immediate	Agenda Date: June 28, 2016		AB16-093
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
Attachments: Memo, Agreement, RFP & Proposals			
SUMMARY STATEMENT: See attached memo.			
COMMITTEE REVIEW AND RECOMMENDATION: AF&PS 6/21/16			
RECOMMENDED ACTION: MOTION to Approve the Agreement Between the City and Don & Kelly Burbank for Lease of the Building and Property at 117 N. River Avenue (former Del's Farm Supply).			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

City of Buckley

P.O. Box 1960, Buckley WA 98321
Phone: 360-829-1921 ext 200
Fax: 360-829-2659



Memo

To: City Council
From: Mayor Johnson & City Administrator
Date: June 22, 2016
RE: Farm Supply Lease

On May 16, 2016 City staff posted a Request for Proposals (RFP) for lease of the former Del's Farm Supply Store. The RFP stated that the deadline for submittal of proposal(s) was May 31, 2016. In response to the RFP the City received two valid proposals for lease of the City property. The two respondents were Jason Wallawine and Don & Kelly Burbank.

The RFP identified that preference would be given to those proposals that demonstrate:

- An ability to exemplify the type of development and community enhancement envisioned in the SR410 Subarea Plan;
- An ability to conceptualize and execute a business plan that creates a strong sense of place;
- An ability to understand the need for and work alongside existing public spaces;
- An ability to generate economic benefit to the City;
- An ability to demonstrate the party's financial ability for long term sustainability.

The Mayor reviewed each of the proposals and offered the following recommendation to the Committee:

In Jason Wallawine's RFP, I feel he failed to look into the tax structure that we have in Buckley. He gives an estimate on what would be collected with sales tax and B&O taxes. We do not have a B & O tax and he was estimating a fairly large amount of income to the city. Jason requires not only the four parking spaces in front of the building, but would need an additional six stalls on the side of the building which is a public parking lot. Granted the parking spots are used primarily by the feed store,

but parking has been an issue in the past and I do not want to continue down this path. Customers will and can park on the side of the building but those parking stalls were never intended for the exclusive use of a single business. He says in his proposal that he is willing to work with the Farmers Market and other organizations that use the park such as the Tacoma Wheelmen's Daffodil Classic, but once we give exclusive use, those intentions can be hard to keep.

Burbank's have a track record of being active in the community and they listed two of the youth organizations that they are involved in. They were customers of Del's and have first-hand knowledge of what type of store Del's was and have ideas of how to expand. Burbank's have requested only the four parking stalls in front of the building for their exclusive use.

They stated that for special events they would have employees park off site and work with the city and event people to make the parking situation work.

My recommendation for the new tenant is the Burbank's. Both applicants are longtime residents in the area, both propose to pay the same rent, both had plans for expanding the business. Both appear to have a business plan and financial plan as stated in the RFP and both would be able to get insurance. The tipping point for me was the parking and willingness to cooperate with adjoining users. Burbank's stated that they raised animals, stated a few of the youth organizations that they are involved with and overall gave a better presentation of who they were and what they wanted to do.

In follow-up to the Mayor's recommendation it appears that both applicants are under the belief that there are four parking stalls on River Ave. that are solely dedicated to the building; however, most of this area is within the public right-of-way and is therefore public parking just like the area south of the store next to Thunderbird Park. By roughly scaling the area from an aerial map it appears that the building is 12' from the property line which is far less than what is needed for a parking stall. This information should be communicated to the individual that gets awarded a new lease.

On June 21, 2016 the Admin/Finance & Public Safety Committee met at regular meeting and reviewed the two proposals as well as the Mayor's recommendation. After discussion the Committee agreed with the Mayor's recommendation to award a lease to the Burbank Bros. based on the following points:

1. Burbank's showed broader community understanding and willingness to cooperatively support adjacent uses; and
2. Burbank's demonstrated solid business experience; and
3. Burbank's demonstrated a higher level of financial ability to establish a business at the building

If you have any questions, please let me know. Thank you.

Dave

LEASE AGREEMENT

PARTIES

This agreement dated the 1st day of July, 2016, by and between the City of Buckley, (hereinafter known as “Landlord”) and Don and Kelly Burbank, (hereinafter known as “Tenant”).

WITNESSETH

1. Premises. Landlord is the owner of the real property physically located at 117 N. River Avenue, Buckley, Washington, and legally described in Exhibit A (“the Property”). The Property contains the former Del’s Farm Supply Store. The Property and the Farm Supply Store, together with any and all other appurtenances, structures and facilities located on the Property, are collectively referred to hereunder as “the Premises.” Landlord hereby leases to Tenant, upon the terms and conditions herein set forth, the Premises.

2. Use of Premises. Landlord has no knowledge of any conditions now existing within or upon Farm Supply Store for which an abatement proceeding under the International Building Code would be necessary but otherwise makes no representation or warranty regarding physical condition of the Improvements or Premises. Premises shall be used for farm supply retail business, including all other related activities. Tenant shall not use the Premises for any other purpose without Landlord’s prior written consent, which may be withheld for any reason in Landlord’s sole discretion. Landlord has no knowledge of any conditions now existing within or upon the Farm Supply Store for which an abatement proceeding under the International Building Code would be necessary but otherwise makes no representation or warranty regarding physical condition of the Premises. Tenant shall comply with all local, state, or federal laws, statutes, ordinances governmental rules, orders, regulations or requirements relating to the use and occupancy of the Premises. Tenant shall not use, store or dispose of any hazardous or toxic waste or materials on the Premises at any time, except to the extent necessary in the normal course of Tenant’s business and then only in compliance with all applicable laws and regulations. In any event, Tenant shall not dispose of any hazardous waste or materials upon the real property, and shall defend, indemnify and hold Landlord harmless from any and all damages and/or cost of clean-up of any toxic or hazardous waste or materials found upon the property or within the soils related to operations of Tenant’s business, including cost and damages assessed pursuant to Chapter 70.105D RCW.

3. Term. This Lease shall be for a term of 5 years, commencing on the 1st day of July, 2016. This Lease shall be subject to earlier termination as provided in Section 20 herein.

a). Renewal Options. Provided Tenant is not in default of any provision of the Lease at the time that Tenant exercises the right to extend the Lease or at the time

the new term begins, Tenant shall have one (zero if not completed) successive option to extend the term of the Lease for 5 years. The term of the Lease shall be extended on the same terms, conditions and covenants set forth in the Lease, except that (i) the amount of the Base Rent stated in the Lease shall be adjusted as set forth below in Section 5 (provided, however, that Base Rent shall not be decreased); (ii) there shall be no free or abated rent periods, tenant improvement allowances or other concessions that may have been granted to Tenant at the beginning of the initial term hereof.

b). Option Notice. To extend the Lease, Tenant shall deliver written notice to Landlord not less than one hundred eighty (180) days prior to the expiration of the then-current Lease term. Time is of the essence of this Option.

4. Rental. Tenant agrees to pay Landlord, at Landlord's address set forth in Section 17 hereof, or at such other place as Landlord may designate in writing, monthly rent in the amount of Two Thousand Dollars (\$2,000.00) per month commencing the 1st day of July, 2016. This shall be known as the "basic rental."

Rent shall be due and paid to Landlord in advance of the first day of each and every month during the term thereof. Any payment hereunder not made by the 10th day of the month following its due date shall result in the imposition of a late fee in the amount of 5% of the payment missed, which late fee shall become immediately due and payable.

5. Rent Adjustments. Commencing with the second year of the Lease term, and each and every year thereafter, the basic rental shall be increased or decreased (but not by more than 5% per year) by the percentage increase or decrease in the Consumer Price Index published by the Department of Labor, for all items, all urban consumers in the Seattle-Tacoma area over the previous 12 months. As an example, if the Lease term commences on July 1, 2016, then the percentage increase or decrease on July 1, 2017 shall be the percentage difference in the Consumer Price Index as of June 1, 2016 and the Consumer Price Index as of June 1, 2017. The rent amounts shall never fall below the amount fixed in paragraph 4 as the original basic rental.

6. Construction upon Premises. Tenant agrees that it shall obtain the Landlord's written consent prior to the remodeling or addition of any buildings, structures or landscaping upon the Premises, which consent may be subject to such conditions as Landlord deems appropriate, except as to minor alterations and upkeep of the Station which do not necessitate a building permit from the City. Landlord has no duty to alter or improve the Premises. Landlord has no duty to maintain the Premises nor does Landlord warrant the condition of the Premises. Tenant also agrees to obtain, at their expense, any and/or all permits and/or licenses required in order to complete any improvement and shall hold Landlord harmless from any and all liability, costs, damages, expenses (including attorneys' fees), and any and all liens resulting therefrom. Any alterations, additions, or improvements shall be made at Tenant's sole cost and expense; provided, that Tenant shall be solely responsible for ascertaining and paying any prevailing wages applicable therefor to the extent required by Chapter 39.12 RCW. All alterations, additions, and improvements (and expressly including all light fixtures and floor

coverings), except trade fixtures, appliances and equipment which do not become a part of the Premises, shall immediately become the property of Landlord without any obligation to pay therefor. Upon the expiration or termination of the Lease Term, Tenant shall, upon written demand by Landlord, at Tenant's sole cost and expense, forthwith remove any alterations, additions or improvement made by Tenant, designated by Landlord to be removed, and Tenant shall forthwith at its sole cost and expense, repair any damage to the Leased Premises caused by such removal; provided, that Tenant shall not be responsible for removal or repair of any alterations, additions or improvements to which Landlord has acknowledged in writing prior to construction as not requiring removal or repair upon termination of this Lease.

7. Utilities and Other Services. Tenant shall be responsible for payment of all utilities and services utilized upon and provided to the Premises prior to delinquency.

8. Maintenance. Tenant shall at all times throughout the Lease Term, at its sole cost and expense, keep the Premises (including without limitation all exterior doors and entrances, all windows and moldings and trim of all doors and entrances, and all partitions, door surfaces, fixtures, equipment and appurtenances thereof, including lighting, heating and plumbing fixtures and any air conditioning system) in good order, condition and repair, damage by unavoidable casualty excepted (but not excluding damage from burglary or attempted burglary of the Premises). Without limiting the generalities thereof, Tenant shall keep the glass of all windows and doors clean and in good state of repair and shall keep all pipes, drains, toilets, basins and those portions of the heating system within the walls of the Premises in a good state of repair. Tenant shall also keep the roof, exterior walls, foundations and building structure of the Premises in a good state of repair to the extent that repairs are necessary due to the actions of the Tenant. Tenant shall not deposit or cause to be accumulated any trash, refuse, debris, junk or any other items on the Property and shall not employ any exterior coverings, awnings, tarps or signage without Landlord's express written permission. If Tenant fails to keep and preserve the Leased Premises and Property as set forth in this Section, Landlord may, at its option, put or cause the same to be put in the condition and state of repair agreed upon, and in such case upon receipt of written statements from Landlord, Tenant shall promptly pay the entire cost thereof as additional rent. Landlord shall have the right, without liability, to enter the Premises and the Property for the purpose of making such repairs upon the failure of Tenant to do so, upon five (5) days written notice, except in emergencies when no notice shall be required. At the expiration or termination of this Lease, Tenant shall return the Premises to Landlord in the same condition in which received (or, if altered by Landlord or by Tenant with the Landlord's consent, then the Leased Premises shall be returned in such altered condition), reasonable wear and tear excepted. Tenant shall remove all trade fixtures, appliances, and equipment which do not become a part of the Premises and alterations which Landlord designates to be removed and shall restore the Premises to the condition extant prior to the installation of such items. Tenant's obligation to perform this covenant shall survive the expiration or termination of this Lease.

9. Licenses and Taxes. Tenant shall be liable for, and shall pay before delinquency throughout the Lease Term, all applicable license fees, regulatory charges, excise fees, and occupation taxes covering Tenant's use of and business conducted on the Premises. In addition to the rental payments as referenced in paragraph 4 hereinabove, the Tenant shall further be responsible for the payment to Landlord of a leasehold excise tax as required by RCW 82.29A.030 on a monthly basis. At the time of the execution of this agreement, said leasehold excise taxes are 12.84% of the basic rental above.

10. Signs. Tenant acknowledges that no display of any sign, notice or advertising matter is allowed on or about the Premises except in accordance with Buckley City Ordinances. Tenant shall keep all signs in good condition and repair. Tenant will remove signs upon expiration of the term of lease. Landlord can remove unauthorized signs at Tenant's expense.

11. Liability Insurance. Tenant shall, at Tenant's sole expense, maintain public liability insurance insuring against any and all claims for injury to or death of persons, and occurring upon, in, or about the Premises and Station. Tenant shall obtain insurance of the types described below:

a) Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability. Landlord shall be named as an insured under such policy using ISO Additional Insured - Managers or Lessors of Premises Form CG 20 11, or substitute endorsement providing equivalent coverage. Commercial General Liability insurance shall be written with limits no less than \$1,000,000.00 each occurrence, and \$2,000,000.00 general aggregate.

b) Property Insurance shall be written on an all risk basis. Property insurance shall be written covering the full value of Tenant's property and improvements with no coinsurance provisions.

Tenant's insurance coverage shall be primary insurance as respect Landlord. Any insurance, self-insurance or insurance pool coverage maintained by Landlord shall be excess of Tenant's coverage and shall not contribute with it. Tenant's insurance shall be endorsed to state that coverage shall not be canceled by either party except upon not less than 30 days' prior written notice to Landlord, sent via certified mail, return receipt requested. Insurance shall be placed with insurers with a current A.M. Best rating of not less than A:VII. Prior to commencement of the Lease Term, Tenant shall furnish Landlord with copies of the policies of insurance or certificates thereof, including without limitation any amendatory endorsements. If Tenant fails to maintain such insurance, Landlord may, without prejudice to any other remedy, procure and maintain the same on behalf of Tenant. Any such premiums paid by Landlord shall be deemed additional rent and shall be due on the payment date of the next installment of rent hereunder. Landlord and Tenant hereby mutually release each other from all claims, losses, and liabilities arising from or caused by any hazard covered by property insurance or in connection with the Leased Premises. This release shall apply only to the extent that such claim, loss or

liability is covered by insurance. Tenant's maintenance of insurance as required by this Lease shall not be construed to limit the liability of Tenant as to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. Tenant exclusively assumes all risk of loss in storing, using or operating any personal property upon the Premises, and Landlord shall have no responsibility whatsoever for the safety, protection, integrity or preservation thereof.

12. Assignment and Subletting. Neither this Lease nor any rights hereunder may be assigned, transferred, encumbered or sublet in whole or in part by Tenant, by operation of law or otherwise, without Landlord's prior written consent, which consent shall not be unreasonably withheld.

13. Liens. Tenant shall not suffer or permit any lien to be filed against the Premises or Station by reason of work, labor, services or materials performed or supplied to Tenant or anyone holding the Premises or any part thereof under Tenant. If any such lien is filed against the Premises, the Tenant shall cause the same to be discharged of record within 30 days after the date of filing the same. Landlord may require, at Landlord's sole option, that Tenant provide to Landlord, at Tenant's sole cost and expense, payment and performance bonds in an amount equal to one and one-half (1 1/2) times the estimated cost of any improvements, additions, or alterations in the Premises which the Tenant desires to make, in order to insure Landlord against any liability for mechanics' and materialmen's liens and the completion of such work. Nothing in this section shall be construed as an acknowledgment or concession that the Premises or the Property are subject to any lien or encumbrance.

14. Indemnity by Tenant. Tenant shall protect, indemnify, defend and hold Landlord, its officers, officials, and employees harmless from and against any and all claims, suits, actions, or liabilities for death or injury to persons or damages to or destruction of property arising out of Tenant's use or occupation of the Premises, or from the conduct of Tenant's business, or from any activity, work or thing done, permitted, or suffered by Tenant in or about the Premises, including, without limiting the generality of the foregoing, any claims caused by or arising from the condition or maintenance of any part of the Premises, except only such damage or injury as shall have been occasioned by the sole negligence or intentional misconduct of Landlord. With respect to the obligations to hold harmless, indemnify and defend provided for herein, as they relate to claims against the Landlord, its officers, agents and employees, Tenant hereby waives Tenant's immunity under industrial insurance, Title 51 RCW, for any injury or death suffered by Tenant's employees which is caused by or arises out of Tenant's performance of services or work under this Lease. The provisions of this Section shall survive the expiration or termination of this Lease.

15. Default. The occurrence of any one or more of the following events shall be deemed a breach of this Lease by the Tenant:

If Tenant shall fail to perform any obligation or otherwise breaches any of the covenants or agreements contained herein, including but not limited to failure by Tenant to make

any payment of rent or adjusted rent, or any other payment required to be made by Tenant hereunder, as and when due, or use of the Premises for any purpose not authorized by this Lease.

If Tenant shall make an assignment for the benefit of creditors or shall file a voluntary petition under any bankruptcy act or under any other law for the relief of debtors or if an involuntary petition is filed against Tenant under any such law and is not dismissed within 30 days after filing.

If a receiver is appointed for the property of Tenant and is not discharged or removed within 30 days.

If any department of any government or any officer thereof shall take possession of the business or property of the Tenant.

Upon any such occurrence, except as provided in Section 20, Landlord, at its option, in addition to any other remedies at or in equity, may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of a right or remedy which Landlord may have be reason of such default or breach:

Terminate Lease. Terminate this Lease by notice to the Tenant on 10 days' notice and upon such termination Tenant shall forthwith quit and surrender the Premises to the Landlord, but Tenant shall remain liable as hereinafter provided. If this Lease shall be terminated as herein provided, Landlord may immediately, or at any time thereafter, reenter the Premises and remove any and all persons and property there from by any suitable proceeding at law or otherwise, without liability therefore, and reenter the Premises, without such reentry diminishing the Tenant's obligation to pay rental for the full term hereof, and Tenant agrees to pay Landlord (i) all past due rents, and other charges; (ii) the expenses of removing fixtures installed by Tenant and restoring the Premises to pre-possession status, ordinary wear and tear excepted; (iii) Landlord's reasonable attorneys' fees, if applicable; and (iv) any deficiency arising from reentry and reletting of the Premises at a lesser rental than provided herein through the remaining term of the lease. Landlord shall apply the proceeds of any reletting first to the payment of such reasonable expenses as Landlord may have incurred in recovering the possession of the Premises and removing persons and property there from, and placing the same into good order or condition, or preparing or altering the same for reletting, and all other expenses incurred by Landlord for reletting the Premises; and then to Tenant's obligation to pay rental. Any such reletting may be for the remainder for the term of the Lease or for a longer or shorter period. In any such case, whether or not the Premises or any part thereof be relet, Tenant shall pay to Landlord the rent and all other charges required to be paid by Tenant up to the time of such termination of this Lease, and thereafter, Tenant agrees to pay the equivalent of the amount of all rent reserved herein and all other charges required to be paid by Tenant, less the net proceeds of reletting, if any, and the same shall be due and payable by Tenant monthly in amount as ascertained by Landlord, and Landlord may bring an action, as such monthly deficiencies arise.

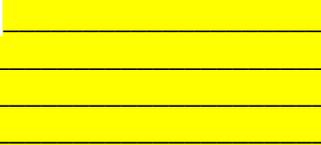
In any of the circumstances hereinabove mentioned, Landlord shall have the option, instead of holding Tenant liable for the amount of all rent and other charges required to be paid by Tenant less the proceeds of reletting, if any, to forthwith recover from Tenant an aggregate sum representing at the time of such termination of this Lease, the then present worth of the excess, if any, of the aggregate of the rent and all other charges payable by Tenant hereunder that would have accrued until the end of the Lease term over the aggregate rental value of the Premises during such term.

Continue the Lease. Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all Landlord's rights and remedies under this Lease, including the right to recover rent and any other charges as may become due hereunder; or

Other Remedies. Pursue any other remedy now or hereafter available to Landlord under the laws of the State of Washington.

16. Condemnation. If all of the Premises are taken by any public authority under the power of eminent domain, this Lease shall terminate as of the date possession is taken.

17. Notices. All notices, demands, and requests to be given by either party to the other shall be in writing. All notices, demands and requests by Landlord to Tenant shall be sent by United States registered or certified mail, postage prepaid (or by private overnight courier) addressed to Tenant at the following address:

Attn: 

All notices, demands and requests by Tenant to Landlord shall be sent by United States registered or certified mail, postage prepaid (or by private overnight courier) addressed to Tenant at the following address:

c/o City Administrator
City of Buckley
P.O. Box 1960
Buckley, WA 98321

Notices, demands, and requests served upon Landlord or Tenant as provided in this section in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder at the time such notice, demand or request shall be so mailed or deposited with a private courier.

18. Subordination. This Lease is and shall be subordinate to any encumbrance now of record or any encumbrance hereafter recorded affecting the Premises. Tenant shall execute any documents required by any such holder to accomplish the purposes of this section, and failure to execute such documents shall be default under this Lease.

19. Access and Use by Landlord - Right of Entry. Upon 48 hours written notice to Tenant, Landlord or Landlord's employees, agents, and contractors shall have the right, but no obligation, to enter the Premises at any time to examine the same and/or to make such inspections, repairs, alterations, improvements or additions as Landlord may deem necessary or desirable. If Tenant is not personally present to permit entry and an entry is necessary in Landlord's reasonable discretion, Landlord may in case of emergency forcibly enter the same, without rendering Landlord liable therefor. Nothing contained herein shall be construed to impose upon Landlord any duty of repair with respect to the Premises except as otherwise specifically provided for herein.

20. Early Termination. In the event that Tenant goes out of business for financial reasons during the initial **five-year** term of this Lease, the Tenant shall have the right to terminate this Lease before the expiration of the initial **five-year** term set forth in Section 3 above, by giving 60 days prior notice to the Landlord in writing of the date of termination of the Lease. Upon the effective date of early termination, Tenant shall not be responsible for future Lease payments or any deficiency arising from reentry and reletting of the Premises at a lesser rental than provided herein, but shall continue to be responsible for all past due rents, fees, or other charges, including but not limited to, costs the Landlord incurs in making necessary repairs or removing any alterations, additions or improvements made by Tenant not acknowledged in writing prior to construction as not requiring such removal or repair.

21. Surrender of Premises. Tenant, at the expiration or sooner termination of this Lease, shall quit and surrender the Premises in good, neat, clean and sanitary condition. If Tenant remains in possession of the Premises after expiration or termination of the Term, or after the date in any notice given by Landlord to Tenant terminating this Lease, such possession by Tenant shall be deemed a month-to-month tenancy terminable by either party upon thirty (30) days' written notice to the other party. During any such month-to-month tenancy, rent shall accrue at the then-current rate per month, payable in advance by the tenth day of each month. All other provisions of this Lease shall apply with respect to any month-to-month tenancy created under this section. Should Tenant vacate or abandon the Premises or be dispossessed by process of law or otherwise, such abandonment, vacation or dispossession shall be deemed a breach of this Lease, and, in addition to any other rights which Landlord may have, Landlord may remove any personal property belonging to Tenant which remains on the Premises and store or dispose of the same to the fullest extent legally permissible, the cost of such removal, storage and/or disposal to be charged to Tenant.

22. First Right of Refusal.

a) The Landlord shall not at any time during the lease term sell or otherwise convey an ownership interest in any or all of the subject property unless Landlord shall first have given written notice to Tenant, in accordance with the terms of this paragraph of Landlord's intent to do so.

b) Landlord shall mail to Tenant a written notice specifying: I) the property in which an ownership interest is to be conveyed. II) the name and the address of the person to whom it is to be conveyed. III) the nature of the interest being conveyed; and IV) the price, payment and other terms of conveyance.

c) The Tenant shall have thirty (30) days from the date of the Landlord's written notice to notify the Landlord in writing that the Tenant will purchase the offered property. Terms of the sale shall be the same as those set forth in the notice mailed to the Tenant.

d) In the event Tenant purchases said property, then Landlord/Owner shall pay a commission of 3% of the Gross sales price to Tenant's Agent, Pacific Rim Real Estate Group, Inc, unless the terms of conveyance contained in the written notice provide otherwise.

23. Non-Waiver. No failure of Landlord to insist upon the strict performance of any provision of this Lease shall be construed as depriving Landlord of their right to insist on strict performance of such provision or any other provision in the future. No waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. No acceptance of rent or of any other payment by Landlord from Tenant after any default by Tenant shall constitute a waiver of any such default or any other default. Consent by Landlord in any one instance shall not dispense with necessity of consent by Landlord in any other instance.

24. Attorney's Fees. If any action to be commenced to enforce any of the provisions of this Lease, the prevailing party shall, in addition to other remedies, be entitled to recover its reasonable attorney's fees, including incurred in seeking relief in the Bankruptcy Court. If Landlord consults with an attorney as a result of a default by Tenant hereunder, Tenant agrees to pay any such attorney's fees incurred by Landlord, and such attorney's fees shall constitute additional sums due by Tenant hereunder.

25. Captions and Construction. The captions in this Lease are for the convenience of the reader and are not to be considered in the interpretation of its terms.

26. Entire Agreement. This document contains the entire and integrated agreement of the parties and may not be modified except in writing, signed and acknowledge by both parties.

27. Interpretation. This Lease has been submitted to the scrutiny of all parties hereto and their counsel, if desired, and shall be given a fair and reasonable interpretation in

accordance with the words hereof, without consideration or weight being given to its having been drafted by any party hereto or its counsel.

28. Time. Time is of the essence to this Lease.

29. Successors and Assigns. Subject to the provisions of Paragraph 12 above, this Agreement shall insure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, personal representatives, successors and assigns.

30. Governing Law. This agreement shall be interpreted in accordance with the laws of the State of Washington.

31. Venue. The venue for any cause of action arising out of this Agreement shall be Pierce County, Washington.

32. Severability. Each and every provision of this Agreement shall be deemed to be severable. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were not a part of this Agreement.

33. Recording. This Agreement shall not be recorded except by agreement of both parties. A Memorandum of Lease shall be recorded, and the recording fees, costs, taxes and other fees, if any, shall be shared equally by the parties hereto.

34. Independent Counsel. The Tenant acknowledges that the drafter of this Agreement is the Landlord's legal representative to whom the Tenant does not look for any legal counseling or legal advice with regard to this transaction.

35. Regulatory Authority Preserved. Tenant acknowledges that Landlord has executed this Lease in Landlord's proprietary capacity as owner of the Property. Nothing herein shall be construed as a waiver, abridgement or limitation of the City of Buckley's regulatory authority, which the City hereby reserves in full.

36. Public Records Disclosure. Tenant expressly acknowledges that Landlord is an "agency" as defined by Chapter 42.56 RCW, and is fully subject to the provisions governing the disclosure of public records codified at Chapter 42.56 RCW. To the extent required or otherwise authorized by said statutes or other applicable law:

Any public records submitted to or generated by Landlord in connection with this Lease are potentially subject public to inspection and copying upon request. Tenant expressly waives any claim or cause of action against Landlord arising out of such disclosure.

Tenant shall fully cooperate with and assist Landlord with respect to any request for public records received by Landlord and related to any public records generated, produced, created and/or possessed by Tenant and related to this Lease. Upon written

demand by Landlord, the Tenant shall furnish Landlord with full and complete copies of any such records within five business days. Tenant’s failure to timely provide such records upon demand shall be deemed a breach of this Lease. To the extent that Landlord incurs any monetary penalties, attorneys’ fees, and/or any other expenses as a result of such breach, Tenant shall fully indemnify and hold harmless Landlord.

For purposes of this section, the term “public records” shall have the same meaning as defined by Chapter 42.56 RCW, as said chapter has been construed by Washington courts.

THE TENANT ACKNOWLEDGES THAT THE TENANT HAS BEEN ADVISED TO CONSULT WITH INDEPENDENT LEGAL COUNSEL OF ITS CHOICE AND HAS HAD AN OPPORTUNITY TO DO SO. BY SIGNING THIS AGREEMENT, THE TENANT ACKNOWLEDGES THAT IT HAS CONSULTED WITH INDEPENDENT LEGAL COUNSEL OF ITS CHOICE OR HAS KNOWINGLY WAIVED THE RIGHT TO DO SO. THERE SHALL BE NO PRESUMPTION OF DRAFTSMANSHIP IN FAVOR OF OR IMPLIED AGAINST ANY PART.

IN WITNESS WHEREOF, the parties have executed this Lease on the date set forth below.

City of Buckley

By: Pat Johnson, Mayor

By: _____

By: David Schmidt, City Administrator

APPROVED AS TO FORM:

By: Phil Olbrechts, City Attorney

EXHIBIT A
Legal Description

Tax Parcel No 8000050120, and the description (abbreviations are the county's): Section 03 Township 19 Range 06 Quarter 31 City of Buckley Amended BS) 96-1; City of Buckley Amended BSP-1 NE of SW 3-19-06E L 12 Ease of Record Approx 30,069 SQ FT out of 06-19-03-3-032 SEG E-0691JU 05-20-93CL.

REQUEST FOR PROPOSALS/APPLICATIONS

Notice is hereby given that proposals/applications will be received by the City of Buckley, Washington, for:

Lease of the City Facility located at 117 N. River Avenue (former Del's Farm Supply). Proposals must be submitted to City Clerk, Buckley City Hall, 933 Main Street, Buckley, WA 98321 no later than 3:00 p.m. on Friday, May 31, 2016.

Proposal Description:

The City of Buckley is seeking proposals or applications from individuals, businesses or organizations interested in leasing the former Del's Farm Supply Store, located at 117 N. River Avenue (hereafter referred to as Facility).

- The Facility is located on 0.69 acres of commercially zoned property with approximately 11,250 square feet of paved, fenced open-storage. The building itself is a wood frame structure totaling 5,600 square feet that consists of 768 square feet of useable retail space and 4,832 of warehouse or storage area. There is dedicated onsite parking available on a limited basis with the exact number of parking spaces to be negotiated.
- The Facility monthly lease amount is a minimum of \$2,000 per month.
- The Facility is to be leased in an "AS IS" condition.
- Tenant will be responsible for all utility costs.
- The Facility property use is currently zoned CC and regulated by Buckley Municipal Code Chapters 19.20.080 and 19.20.130. The City is interested in proposals that seek to establish a similar type farm, feed, garden, pet supply type retail use. For proposals and/or uses that are significantly different from the previous farm supply use, applicants may not receive preferred consideration and are encouraged to confer with the City Building and Planning Department to determine any possible land use restrictions or possible delays in occupying the Facility.
- Proposed lease agreements are subject to the State leasehold tax rate of 12.84% and which will be in addition as a cost to the monthly lease amount.
- The Facility property will be available for occupancy on or around July 1, 2016.
- Showing of the Facility property can be arranged by contacting City Clerk, Joanne Starr, at (360) 761-7801 after May 24, 2016.

Proposals/Application Information:

- All proposals must be submitted on the application form provided by the City of Buckley (application forms are available by contacting City Clerk, Joanne Starr, at (360) 761-7801 or email jstarr@cityofbuckley.com).
- All proposals/applications must be completed, sealed and submitted to the City Administrator no later than 3:00 p.m. on May 31, 2016.
- All proposals/applications submitted to the City are deemed public documents and are subject to public record requests.

Selection Criteria:

Preference will be given to those proposals that demonstrate:

- An ability to exemplify the type of development and community enhancement envisioned in the SR410 Subarea Plan;
- An ability to conceptualize and execute a business plan that creates a strong sense of place;
- An ability to understand the need for and work alongside existing public spaces;
- An ability to generate economic benefit to the City;
- An ability to demonstrate the party's financial ability for long term sustainability.

The City of Buckley reserves the right to reject any submittals and to waive irregularities and informalities in the submittal and evaluation process. This Request for Proposals (RFP) does not obligate the City to pay any costs incurred by respondents in the preparation and submission of a proposal. Furthermore, the RFP does not obligate the City to accept or contract for any expressed or implied services.

Request for Proposal Application Form

Facility: Del's Farm Supply Building
117 N. River Avenue, Buckley, WA

TO: City Clerk, City of Buckley

From: _____ Individual or Organization Name
_____ Address
_____ City, State, Zip Code
_____ Phone #, Email & Fax

Contents Required - Checklist

- Provide a cover letter "Statement of Intent" which clearly describes your proposed use of the Facility. Include the proposed lease amount (the minimum lease amount will be \$2,000/per month plus 12.84% leasehold tax). Lease proposals shall be for a minimum of five years in duration with a maximum of ten years in duration.
- Accurately describe proposed Facility use for the City's review.
- Provide a description of why your proposal is cost effective for the City and is the best use for the Facility.
- Indicate the number of parking spaces requested.
- Indicate any possible conflict with the Parks Facility and Buckley's Country Market activity next to the Facility to be leased.
- Provide financial plan or capabilities of leasing the Facility for the terms of the lease, including insurance coverage.
- Provide **two** proposals **SEALED** and clearly marked: **RFP - Facility at 117 N. River Avenue no later than May 31, 2016 at 3:00 p.m.**

By submission of your proposal, you acknowledge all documents may be subject to disclosure under RCW 42.56 Public Records Act.

Submitted by: _____ Date: _____

Note: All information provided by applicants will be reviewed, so it is important to be thorough and complete in submitting a responsive proposal.

Request for Proposal Application Form

Facility: Del's Farm Supply Building
117 N. River Avenue, Buckley, WA

TO: City Clerk, City of Buckley

From: Don + Kelly Burbank Individual or Organization Name
PO Box 1354 Address
Buckley Wash 98321 City, State, Zip Code
253-350-0187 253-381-8386 Phone #, Email & Fax

Contents Required - Checklist

- Provide a cover letter "Statement of Intent" which clearly describes your proposed use of the Facility. Include the proposed lease amount (the minimum lease amount will be \$2,000/per month plus 12.84% leasehold tax). Lease proposals shall be for a minimum of five years in duration with a maximum of ten years in duration.
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- Indicate any possible conflict with the Parks Facility and Buckley's Country Market activity next to the Facility to be leased.
- Provide financial plan or capabilities of leasing the Facility for the terms of the lease, including insurance coverage.
- Provide two proposals SEALED and clearly marked: RFP - Facility at 117 N. River Avenue no later than May 31, 2016 at 3:00 p.m.

By submission of your proposal, you acknowledge all documents may be subject to disclosure under RCW 42.56 Public Records Act.

Submitted by: Don Burbank
Kelly Burbank

Date: 5/26/16

Note: All information provided by applicants will be reviewed, so it is important to be thorough and complete in submitting a responsive proposal.

CITY OF BUCKLEY REQUEST FOR PROPOSALS/APPLICATIONS

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Selection Criteria:

Preference will be given to those proposals that demonstrate:

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- An ability to generate economic benefit to the City;
- An ability to demonstrate the party's financial ability for long term sustainability.

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Buckley Feed & Farm Supplies, LLC

Don and Kelly Burbank
P.O. Box 1354
Buckley, Washington 98321

(253) 381-8386

Proposal for Lease of "Former Del's Farm Supply Facility" Located at 117 N. River Ave

Statement of Intent

City of Buckley
City Clerk, Buckley City Hall
933 Main Street
Buckley, WA 98321

To whom it may concern:

My Brother and I wish to lease the city facility located at 117 N. River Ave. It is our desire to operate a Farm Store and service the same customers that were served by the previous occupants. We also desire to expand to new customers and farm products to better serve our community. We propose a monthly lease of \$2,000.00 plus leasehold tax paid over a five year lease term.

As life-long residents of the Buckley area, we have been actively involved in agricultural in this community our entire lives. We participated in Future Farmers of American and Four H in our youth. We presently raise livestock and other farm products and are very familiar with the products sold and services that were provided by Del's Farm Supply and it's employees.

We have been fortunate to be successful in our business endeavors in this area and believe them to be a vital part of this community. They include Burbank Construction, Burbank Rentals and Real Estate Development.

We have enclosed with this statement, additional information that addresses the items listed in the Request for Proposal Application Form.

Thank you for considering my brother and I as potential partner's with you in the best use of the city facility on 117 N. River Ave. We would consider it an honor and privilege to partner with the City of Buckley to continue to operate a Farm store at this location. Please let us know what additional information you may desire and any questions and or concerns you may have.

Thank you again for considering our application.

Sincerely yours,

Don Burbank

Sincerely yours,

Kelly Burbank



Buckley Feed & Farm Supplies, LLC

Don and Kelly Burbank
P.O. Box 1354
Buckley, Washington 98321

253-381-8386

Proposal for Lease of "Former Del's Farm Supply Facility" Located at 117 N. River Ave

Additional Information

- **Proposed Lease Terms**

We propose a five year lease with an option to renew for an additional five year term. The monthly lease amount of \$2000 plus leasehold improvement tax of 12.84%. The Lessee will be responsible for all utility costs.

- **Facility Use**

We propose to operate a Farm store that serves the farming community with the sale of feed and farm supplies.

- **Cost Effective/ Best Use**

By proposing a lease that is comparable to current market conditions and utilizes the facility as it has been used in the recent past, we believe this a proposal that is very cost effective to the city and leads to the best utilization of the property. Operation of a retail store at this facility will lead to local sales tax revenue collected on behalf of the City.

- **Parking and Co-ordination with Buckley Parks and Buckley Country Market**

We propose that only the parking spots located directly in front of the facility are exclusive to the lessee. The parking located along side would be open to both users of the park, The Buckley Country Market and customers of the farm Store. When there is a special event at the park or the Buckley Country Market is operating we propose that any employee or customer parking of the store not be permitted in this area.

- **Financial Plan, Capabilities and Insurance**

We believe that we have the financial capability to be able to service the lease payments. We will also be willing to pay the first and last lease payments in advance and a reasonable security and damage deposit. If we are fortunate enough to be chosen to proceed further, we can furnish tax returns, personal financial statements and letters of reference. It is our desire that this financial information not become documents that are subject to disclosure under the Public Records Act.

We have attached a letter from our insurance agent that indicates that we can obtain an insurance policy with the city as a named insured.

City of Buckley

05/23/2016

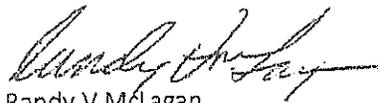
Re: Lease of Del's Farm supply location

Virgil McLagan Company, Inc. 314 182nd Ave E Lake Tapps, Wa 98391 is the insurance agency providing coverage to Don, Kathy and Kelly Burbank and will also be providing the insurance in reference to location 117 River Ave N approx. 5600 square feet of commercial space and the property is it located on.

We are prepared to offer coverage immediately upon execution of a lease agreement a commercial general liability limits with \$1,000,000 per occurrence/\$2,000,000 general aggregate on a primary basis naming the City of Buckley as additional insured with respects to liability arising out of the operations of the named insured on ISO occurrence form CG 0001.

Property requiring coverage will be written on an all risk basis and also will include a 30-day cancellation clause in favor of the City of Buckley.

Should you have any questions or concerns please feel free to call me at 253-862-3610.



Randy V McLagan

Virgil McLagan Company Inc.

Proposal for:

Lease of the City Facility located at 117 N. River Avenue

Prepared for:
City of Buckley
Attn: Joanne Starr
933 Main Street
Buckley, WA 98321

May 31, 2016



Prepared By:
Jason Wallawine

Request for Proposal Application Form

Facility: Del's Farm Supply Building
117 N. River Avenue, Buckley, WA

TO: City Clerk, City of Buckley

From: Jason T. Wallawine Individual or Organization Name
27213 86th Street East Address
Buckley, WA 98321 City, State, Zip Code
360.829.2330 or 253.261.8084 Phone #, Email & Fax

Contents Required - Checklist

- Provide a cover letter "Statement of Intent" which clearly describes your proposed use of the Facility. Include the proposed lease amount (the minimum lease amount will be \$2,000/per month plus 12.84% leasehold tax). Lease proposals shall be for a minimum of five years in duration with a maximum of ten years in duration.
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By submission of your proposal, you acknowledge all documents may be subject to disclosure under RCW 42.56 Public Records Act.

Submitted by: Jason T. Wallawine

Date: 5.31.2016

Note: All information provided by applicants will be reviewed, so it is important to be thorough and complete in submitting a responsive proposal.

Table of Contents

- ❖ Request for Proposal – Application Form
- ❖ Statement of Intent
- ❖ Proposed Facility Use
- ❖ Cost Effectiveness and Best Use for Facility
- ❖ Parking Space Quantity Requested
- ❖ Potential Conflict with Nearby Tenants
- ❖ Financial Plan and Insurance Coverage

May 31, 2016

City of Buckley
933 Main Street
Buckley, WA 98321

Re: Statement of Intent

As a lifetime resident of Enumclaw and Buckley, I am thrilled by this opportunity to provide you with this response to your Request for Proposal for the lease of the facility located at 117 River Rd., Buckley, WA 98321. I am excited at the possibility of continuing to provide the needed farm and feed supplies to the local residents of Buckley, Washington.

In the event I am selected as the tenant for the facility, it is my intention to establish a similar type farm and feed supply retail store. I intend to offer a complete range of products to continue to serve the local families, whether they are farmers, gardeners, or large and small pet lovers.

Through research and reaching out to suppliers, evaluation of the facility and reviewing annual revenue generated by the former tenant, I have created a realistic business plan and believe I have set myself up for success. I will demonstrate in the following pages my ability to conceptualize and execute the startup of and sustainability of what I intend to call JW Farm Supply.

As far as the negotiation of parking spaces, in addition to what appears to be possibly 4 dedicated spots directly in front of the facility, I would like to negotiate the use of 6 additional parking spots.

Thank you for your time and consideration.

Sincerely,

Jason T. Wallawine
360.829.2330
jwallawine@outlook.com

Potential Economic Benefit to City of Buckley

Economic Impacts Locally

Job Creation:

Upon initial startup I intend to self-perform as much of the coverage of store hours as possible as part of my sustainability plan but will hire 3-4 fulltime employees. As the business grows and begins to require and allow for additional staff, this number will increase.

Retail Sales/Customer Service	2
Management	1
Warehouse	1

Potential Annual Sales: 5M-10M Annually Generating Between 2K-164K in B/O Taxes for the City of Buckley *(Based on Previous Tenant Revenues)*

Potential annual events generating revenue for the City of Buckley through B/O Tax from sales as well as bringing needed consumers to the City of Buckley business:

- ❖ Family Fun Day
- ❖ Large High Profile Sale Event
- ❖ Hay Rides During Fall

Possible conflict with the Parks Facility and Buckley's Country Market

Rather than consider the neighboring tenants a nuisance or problematic I believe that the Park's Facility and Buckley's Country Market as well as other surrounding businesses will provide the opportunity to reach additional potential customers for the feed store. Rather than seeing them as an issue or any possible conflict I would consider them to very important to the growth of my business and welcome them as my direct neighbor. I feel like conflict can be avoided by open communication and mutual respect. Because this question was posed I assume the former tenants had trouble operating as freely as they once did prior to the Market's conception. I think because the Market is already established it would be my role to meet with them and discuss priorities to them and what they would need or expect from me as a neighbor.

Deliveries would be scheduled during off hours of the market to avoid congestion and impact on their operation. If the parking is clearly defined and clarified, it is as simple as respecting these delineations and being flexible and aware that from time to time it will be necessary to compromise even these delineations if it is in the interest of keeping a positive relationship with the neighboring businesses. The goal for both businesses is ultimately the same and I welcome the possibility of working together to optimize our potential as business owners.

Another thing that I believe is important to limit possible conflict is the layout of the supply yard offered with the facility. It must be laid out in the most functional way for customer traffic, again limiting impact on the surrounding tenants.



JW Feed Anticipated Month Costs
General Conditions/Monthly Overhead Breakdown

Lease	2,000.00	
State leasehold tax rate of 12.84%	256.80	
Insurance	500.00	
Payroll	5,120.00	
Phone/Internet	150.00	
Power	500.00	
Office Supplies	150.00	
Miscellaneous Cost	250.00	
Credit Card Swiper	50.00	
<hr/>		
Total	8,976.80	Per Month

Clarifications

Lease at 2K with 2 full time employees
Store Hours: 12pm-8pm
244 Operating Hours Per Month

Start Up Cost

Inventory	30,000.00
2 months of GC's	<u>17,953.60</u>
	<u><u>47,953.60</u></u>

I have initiated the loan process with both my personal banker at Columbia Bank and also have applied for a loan through SBA.gov. I have some of savings I intended to incorporate with this money as the initial capital investment.

You will find the attached example of the insurance certificate I've obtained during the quoting process but I would need to know the exact city requirements and whether or not I am selected as the tenant prior to putting the policy in force.

D. CONSENT AGENDA

E. COMMITTEE REPORTS