

Connell City Hall  
104 E. Adams Street

**City of Connell, Washington  
CITY COUNCIL  
PRELIMINARY AGENDA**

REGULAR MEETING  
July 3, 2017

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REGULAR MEETING

6:00 PM

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1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS
5. CONSENT CALENDAR

All matter listed within the Consent Calendar have been distributed to each member of the Connell City Council for reading and study, are considered to be routine, and will be enacted by one motion of the Council with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Calendar and placed on the Regular Agenda by request.

- a) Minutes of the Regular Council Meeting June 19, 2017
  - b) Accounts payable 7/3/17 for \$80,038.57
  - c) Check Register 6/27/17 for \$195.17
  - d) Payroll Register 6/15/17- 6/20/17 for \$62,633.84
6. PRESENTATIONS FOR COUNCILMEMBERS  
City Clerk Treasurer Rose Courneya
  7. APPROVAL OF AGENDA

ORDER OF BUSINESS

8. EXECUTIVE SESSION - 15 minutes to discuss with legal counsel potential litigation.
9. BNSF Pipeline License
10. Amendment to Purchase and Sale Agreement – Lots adjacent to tennis court
11. RESOLUTION NO. 2017-12 - Setting Hearing date for Alley Vacate at Heritage Park
  
12. COMMITTEE, CITY ADMINISTRATOR, AND DEPARTMENT REPORTS
13. CITIZEN COMMENT/NON-AGENDA ITEMS
14. CITY COUNCIL CLOSING REMARKS
15. ADJOURNMENT

*The public is welcome and encouraged to attend this meeting. The City of Connell wishes to provide reasonable access to all public meetings for individuals with disabilities. Please contact the City Clerk at least three business days prior to the meeting for accommodations to be arranged.*

MEETING OF THE CITY OF CONNELL, WASHINGTON  
CONNELL, FRANKLIN COUNTY, WASHINGTON  
June 19, 2017

The regular semi-monthly meeting of the Connell City Council was called to order by Mayor Blackwell at 6:00 pm in the City Hall and was opened with the Pledge of Allegiance.

ROLL CALL

**PRESENT:** Mayor Bruce Blackwell, Mayor Pro Tem Monty Huber, Councilmembers: Ray Minor, Kathie Silva, Rhonda Quinton, and Joe Escalera.

**STAFF:** City Administrator Maria Peña, City Clerk/Treasurer Rose Courneya, Public Works Director Larry Turner, Fire Chief Chris Schulte and City Attorney Dan Hultgrenn.

**VISITORS:** Citizens; John White, Pat Barrera and Franklin County Graphic; Katherine Bingham Trowbridge.

CONSENT CALENDAR

**Motion:** Mayor Pro Tem Huber moved to approve the Consent Calendar with item C (BNSF Pipeline Licensed) removed.

- a) Minutes of the Regular Council Meeting June 5, 2017
- b) Accounts payable 6/19/17 for \$96,212.94

Councilmember Quinton seconded motion. Motion carried unanimously.

APPROVAL OF AGENDA

**Motion:** Councilmember Minor moved to approve the agenda as presented. Mayor Pro Tem Huber seconded motion. Motion carried unanimously.

ORDER OF BUSINESS

**RESOLUTION NO. 2017-09-STIP 2018-2023**

Public Works Director Larry Turner had Council review the following documents:

- Resolution No. 2017-09
- 2018-2023 State Transportation Improvement Plan

Mr. Turner explained that the Street Committee had met on May 22, 2017 and reviewed the State Transportation Improvement Plan and made a recommendation of change to the City Council. Council held a public hearing on June 5, 2017 and approved the changes to the 2018 STIP and moved to have staff prepare a resolution and update the 2018-2023 STIP as presented for final approval.

MEETING OF THE CITY OF CONNELL  
Regular Meeting – June 19, 2017

**Motion:** Councilmember Quinton moved to approve Resolution No. 2017-09 for the 2018-2023 STIP. Mayor Pro Tem Huber seconded motion. Motion carried unanimously.

**ORDINANCE NO. 978-2017- UPDATING PARKING REGULATIONS**

Attached for Council was updated Ordinance No. 978-2014 which reflected the following changes to Chapter 10.20 of the Connell Municipal Code:

Under 10.20.010 angle parking.

Item (6) the north side of Adams Street in front of the Connell Heritage Museum, was added.

Under 10.20.060 parking for certain purposes prohibited.

Item (6) no vehicle shall be parked on any street in the City in violation of posted time limits as established by the chief of police with the consent of the City Council, was added.

Section 2 was added for clarification as to sections being repealed.

**Motion:** Councilmember Silva moved to approve Ordinance No. 978-2017 Updating Parking Regulations. Councilmember Minor seconded motion. Motion carried unanimously.

**FUND 415 WATER/SEWER BOND RESERVE FUND - ORDINANCE NO. 980-2017**

City Clerk/Treasurer Rose Courneya explained to Council, that the City of Connell Fund 415 Water/Sewer Bond Reserve was established as a reserve account by Ordinance No. 715 as required by the Parity Lien Water Bond documents for the farm bonds. The long term debt of the Farm Bond had been paid in full and Fund 415 was no longer needed.

**Motion:** Councilmember Silva moved to adopt Ordinance No. 980-2017 closing Fund 415 Water/Sewer Bond Reserve Fund. Councilmember Minor seconded motion. Motion carried unanimously.

**RESOLUTION NO. 2017-10 FEMA DESIGNATION OF APPLICANT'S AGENT**

Mayor Blackwell had declared a city-wide emergency due to severe weather that caused flooding of the Esquatzel Coulee. Franklin County Board of Commissioners declared a county-wide emergency and the state of Washington declared a state-wide emergency which all lead to funding by FEMA to help recover the costs. City staff held a debriefing with FEMA and WA Emergency Management to review the damages and discuss cost recovery. City Administrator Peña provided Council with Resolution No. 2017-10, which would allow the City of Connell to obtain federal and/or state emergency or disaster assistance funds.

**Motion:** Councilmember Quinton moved to approve Resolution No. 2017-10 FEMA designation of applicant's agent. Councilmember Silva seconded motion. Motion carried unanimously.

**RESOLUTION NO.2017-11 MASTER FEE SCHEDULE AMENDMENT PARK & REC FEES**

City Administrator Maria Peña was approached by a parent who inquired into starting up the Swim Team program. The parents would run the program, much like they had prior to the City taking it over in 2014. City Administrator Peña recommended the City charge a \$10 facility use charge per swim team member. The swim team would need to provide and pay for two certified guards. The City previously had charged \$15 per member for approximately 8 weeks and also provided a guard. City Administrator Peña presented Resolution No. 2017-11 to amend the Master Fee Schedule to include a \$10 charge per swim team member for Council to review.

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**Motion:** Councilmember Minor moved to approve Resolution No. 2017-11 amending the Master Fee Schedule to provide for a \$10 facility use charge per swim team member. Councilmember Quinton seconded motion. Motion carried unanimously.

JULY 4<sup>TH</sup> POOL CAN DRIVE

City Administrator Maria Peña discussed that in the past the City of Connell had provided free swimming on the Fourth of July and at times had asked for canned food donations which would then be delivered to the Connell Food Bank. She stated this would be a good practice to continue and asked Council to consider a free day for swimming or an entrance fee of a canned food item (a can for each session).

**Motion:** Councilmember Silva made a motion to allow for a pool entrance fee of a canned food item for July 4<sup>th</sup>. Mayor Pro Tem Huber seconded motion. Motion carried unanimously.

AGREEMENT WITH PUD FOR UTILIZATION OF STREET LIGHT FACILITIES

Ben Hooper, Broadband Services Manager for PUD, had provided a presentation to Council this past December in regards to the City's needs for broadband, fiber deployment and how PUD's wholesale broadband worked. Mayor Blackwell and Public Works Director Turner met with staff from PUD to discuss the progress of this project. An agreement between the City of Connell and PUD for the utilization of the City's street light facilities to install wireless communications equipment was presented to Council.

**Motion:** Councilmember Minor moved to authorize the Mayor to sign agreement No. 9101 between the City of Connell and PUD. Mayor Pro Tem seconded motion. Motion carried unanimously.

WA STATE DEPT OF TRANSPORTATION AMENDMENT TO AGREEMENT

City Administrator Peña provided an update on the Rail Interchange Project. BNSF and WA State DOT were continuing to work on an agreement; the project was on hold until such an agreement was signed. City Administrator presented an amendment to the agreement which was for money that was allocated to the City in the State's 2015-2017 biennium to complete the design portion of the project. The City had only spent \$2,123.85 of the \$600,000 that was allocated. It was determined that this money would be best spent by using it to pay for engineering that would be completed by BNSF's engineers and therefore the City did not continue to use HDR for the engineering. This amendment was needed to close out the City's hold on these funds and would allow BNSF to acquire the funding.

**Motion:** Mayor Pro Tem moved to authorize the Mayor to approve Amendment No.1 between the City of Connell and the State of Washington agreement GCB2372. Councilmember Quinton seconded motion. Motion carried unanimously

CHRIS SCHULTE, FIRE CHIEF, EXTENSION OF CONTRACT

City Administrator Maria Peña stated that the current Fire Chief's contract would expire on July of 2017 and suggested changes to existing contract language was presented to Council.

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Section 5. Salary B-Allowing the employee to reside within forty five minutes rather than ten minutes from the worksite.

Section 14. The subsequent uniform allowance would be budgeted not to exceed \$1,000 instead of \$300.

Section 16. Other Terms and Conditions of Employment –Former Fire Chief after separation would provide for support and training to the next Fire Chief for two months to be compensated at the Former Fire Chief’s normal monthly salary rate.

**Motion:** Councilmember Minor moved to approve Fire Chief Contract extension as presented with change of wording. Councilmember Escalera seconded motion. Motion carried unanimously.

COMMITTEE / DEPARTMENT REPORTS

CITY ADMINISTRATOR- Maria Peña

1. Would attend the annual AWC Conference along with Councilmember Minor.

FIRE CHIEF- Chris Schulte

1. Approved Firework Permit for the Chamber of Commerce.

There being no further business before the City Council of Connell Mayor Blackwell adjourned the meeting at 6:54 pm.

ATTEST: \_\_\_\_\_  
Marissa Canales, Accounting Clerk

\_\_\_\_\_  
Bruce Blackwell, Mayor

# ACCOUNTS PAYABLE

City Of Connell  
MCAG #: 0286

As Of: 07/03/2017

Time: 13:53:29 Date: 06/29/2017  
Page: 1

Accts Pay #	Received	Date Due	Vendor	Amount	Memo
17027	07/03/2017	07/03/2017 11	Action Medical, Inc.	57.56	City Hall Supplies
17057	07/03/2017	07/03/2017 31	Anderson Perry & Assoc.	2,057.50	General Services, Pocketinet, Museum (sale Of Land Survey-boundary Adjustment)
17058	07/03/2017	07/03/2017 31	Anderson Perry & Assoc.	9,550.00	GIS-job 68-245
17067	07/03/2017	07/03/2017 31	Anderson Perry & Assoc.	3,152.50	Franklin Street Water Line Replacement -Emergency Repair
17069	07/03/2017	07/03/2017 704	Avista Utilities	217.45	Utility Bills
17019	07/03/2017	07/03/2017 74	Bank Of America - Visa	1,022.66	City Hall VISA
17020	07/03/2017	07/03/2017 74	Bank Of America - Visa	145.32	
17021	07/03/2017	07/03/2017 74	Bank Of America - Visa	1,017.35	Police Department VISA
17024	07/03/2017	07/03/2017 74	Bank Of America - Visa	1,036.72	VISA Fire Dept - Cell Phone Mount, Printer/copier, Dry Cleaning, Hand Tools, ID Card System
17026	07/03/2017	07/03/2017 74	Bank Of America - Visa	861.14	Public Works VISA Charges
17023	07/03/2017	07/03/2017 80	Basin City Auto Parts	63.82	Small Tools, New Ratchet And Socket For 1/2" Drive Set
17035	07/03/2017	07/03/2017 118	Budget Print Center Inc.	554.94	City Envelopes
17028	07/03/2017	07/03/2017 515	CenturyLink	491.98	Phone Bills
17018	07/03/2017	07/03/2017 155	City Of Connell	50.00	Pool
17032	07/03/2017	07/03/2017 160	Code Publishing Company	46.33	Ord. 977 And 979 Codification
17036	07/03/2017	07/03/2017 164	Columbia Grain & Feed Inc	578.13	Weed Trimmer & Sprayer
17062	07/03/2017	07/03/2017 170	Connell Auto Parts	101.95	Tools/Filter
17064	07/03/2017	07/03/2017 3494	Connell Community Club	91.44	City Yard Sale
17052	07/03/2017	07/03/2017 4665	Curtis Blue Line, Dept 34921	15.12	Name Patch
17049	07/03/2017	07/03/2017 229	Dept Of Licensing-Firearm	36.00	CPL's
17038	07/03/2017	07/03/2017 1937	Farmers Electric II, LLC	2,444.78	Park Parts/Pump
17060	07/03/2017	07/03/2017 284	Franklin Co Corrections	2,958.00	May 2016 Inmate Housing
17051	07/03/2017	07/03/2017 296	Franklin County E911	14,962.50	2nd QTR Dispatch User Fees
17025	07/03/2017	07/03/2017 4740	Goodrich, Pegi	300.00	Full Community Center Deposit Refund For Event Date 06/23/2017 Pegi Goodrich
17039	07/03/2017	07/03/2017 4356	HD Supply Waterworks, LTD	3,860.21	Water Parts
17007	07/03/2017	07/03/2017 4142	Havlina, Joseph	27.04	Replacement Check Lost- Original Check Number 35976 Stop Paid
17031	07/03/2017	07/03/2017 4414	Interconnect Systems, Inc.	1,150.20	WFOA C Lass Fraud, Internal Controls
17029	07/03/2017	07/03/2017 4436	Intermedia.net Inc.	113.20	Voip
17055	07/03/2017	07/03/2017 3351	JDT Sales and Repair	43.20	LOF #122
17006	07/03/2017	07/03/2017 4719	Jones, Joanne	83.96	Credit From Sell Of Home In Connell At 435 S Almira --Replace Check #35592 Orgianly Sent To Title Company
17040	07/03/2017	07/03/2017 4050	KCDA Purchasing Cooperative	364.92	Custodial Supplies
17041	07/03/2017	07/03/2017 384	Kennewick Ind & Elec Sup	731.70	Irrigation/Plumbing Supplies

# ACCOUNTS PAYABLE

City Of Connell  
MCAG #: 0286

As Of: 07/03/2017

Time: 13:53:29 Date: 06/29/2017  
Page: 2

Accts Pay #	Received	Date Due	Vendor	Amount	Memo
17065	07/03/2017	07/03/2017 400	Kuffel, Huligrenn,	2,256.00	Sell Agreement, Telecon, Meetings, Parking Ord. And BNSF Agreement
17042	07/03/2017	07/03/2017 401	Kuo Testing Labs Inc.	142.00	WW Labs
17034	07/03/2017	07/03/2017 402	Lamb-Weston	30.00	Refund Of Community Center Rental --replacement Check For #36451- That Was Stop Paid
17022	07/03/2017	07/03/2017 4068	Language Testing International, Inc.	90.00	Spanish Testing For Ivan
17063	07/03/2017	07/03/2017 2146	LiquiVision Technology, Inc.	8,202.60	Reservoir Cleaning/Inspection
17043	07/03/2017	07/03/2017 427	Marc	268.15	Custodial Supplies
17059	07/03/2017	07/03/2017 3568	Minor, Ray	301.42	Travel Reimbursement (Councilmember-Ray Minor) AWC Conference-6/20-6/23
17044	07/03/2017	07/03/2017 462	NW HydroTech, LLC	6,804.00	Well 5 Control Valve
17045	07/03/2017	07/03/2017 2147	Northstar Chemical, Inc.	5,263.70	Sodium Hypochlorite
17046	07/03/2017	07/03/2017 484	Pallis Pool & Patio	275.39	Pool Test Kit
17050	07/03/2017	07/03/2017 4677	Pollock, Onna L	257.89	Travel Reimbursement
17003	07/03/2017	07/03/2017 520	Quill	252.65	Supplies Received For City Of Connell City Hall
17054	07/03/2017	07/03/2017 3480	Red Waggin' RescueDBA Connell Pet Rescue	1,500.00	Dog Re-homing Fee
17056	07/03/2017	07/03/2017 2695	Roylance Backflow Testing, Roger Roylance	900.00	Backflow Testing
17008	07/03/2017	07/03/2017 4720	Sanchez, Sergio	400.00	Full Community Center Deposit Refund From Event Date 06/17/2017
17068	07/03/2017	07/03/2017 639	Tri-City Herald	348.40	Annual Subscription
17004	07/03/2017	07/03/2017 3364	Tri-County Fire Association	250.00	County Lost Check And Then Found. Sending Back To City Original One Check #34050. This Is A Replacement Check For Annual Dues For 2015
17047	07/03/2017	07/03/2017 3397	USABlueBook	993.91	Pool Pump Supplies
17048	07/03/2017	07/03/2017 2398	United Rental, (North America) Inc.	336.43	Boom Lift Repair
17030	07/03/2017	07/03/2017 673	WA Finance Officers Assoc	125.00	WFOA C Lass Fraud, Internal Controls
17037	07/03/2017	07/03/2017 4535	Washington State Dep. of Transportation	1,270.53	Rock For Flood Control
17053	07/03/2017	07/03/2017 3440	Washington State Patrol, Budget and Fiscal Service	600.00	2nd QTR ACCESS User Fee
17033	07/03/2017	07/03/2017 667	Wesley Group, The	350.00	POlice Union Contract
17066	07/03/2017	07/03/2017 4133	White Security Systems, INC.	632.88	Inspections Of Fire Alarm Systems In The Fire Station And Community Center

Report Total: 80,038.57

# CHECK REGISTER

City Of Connell  
MCAG #: 0286

06/27/2017 To: 06/27/2017

Time: 14:30:04 Date: 06/26/2017  
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2261	06/27/2017	Claims	7	EFT	Unclaimed Property State of Washington	195.17	Leisinger, Reed 1629 W Admiralty Heights Ln Apt E304, Bremerton, WA 98312-5986 Acct 2082 Sent To Unclaimed Properties; Spencer, James/Lisa PO Box 564 Connell WA 99326-0564 Sent To Unclaimed Prop
						50.00	
						177.36	
						-32.19	
						195.17	Claims: 195.17
* Transaction Has Mixed Revenue And Expense Accounts						195.17	

WE, the members of the City Council of the City of Connell, Washington, DO HEREBY certify that the merchandise or services listed above have been received and that the above listed vouchers and the related checks have been reviewed and approved for payment by the City of Connell Council. DATED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

ATTEST:

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Finance Director

# CHECK REGISTER

City Of Connell  
MCAG #: 0286

06/15/2017 To: 06/20/2017

Time: 14:31:12 Date: 06/19/2017  
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2104	06/15/2017	Payroll	7	EFT		1,673.54	
2105	06/15/2017	Payroll	7	EFT		1,166.39	
2106	06/15/2017	Payroll	7	EFT		1,041.05	
2107	06/15/2017	Payroll	7	EFT		497.69	
2108	06/15/2017	Payroll	7	EFT		1,638.35	
2109	06/15/2017	Payroll	7	EFT		1,157.80	
2110	06/15/2017	Payroll	7	EFT		1,610.30	
2113	06/15/2017	Payroll	7	EFT		1,829.18	
2116	06/15/2017	Payroll	7	EFT		1,497.33	
2117	06/15/2017	Payroll	7	EFT		1,686.09	
2118	06/15/2017	Payroll	7	EFT		1,334.19	
2119	06/15/2017	Payroll	7	EFT		161.40	
2120	06/15/2017	Payroll	7	EFT		2,365.35	
2121	06/15/2017	Payroll	7	EFT		1,319.68	
2122	06/15/2017	Payroll	7	EFT		1,331.76	
2123	06/15/2017	Payroll	7	EFT		916.85	
2124	06/15/2017	Payroll	7	EFT		1,728.36	
2126	06/15/2017	Payroll	7	EFT		1,608.42	
2127	06/15/2017	Payroll	7	EFT		2,018.55	
2129	06/15/2017	Payroll	7	EFT		161.40	
2130	06/15/2017	Payroll	7	EFT		812.58	
2131	06/15/2017	Payroll	7	EFT		1,013.65	
2132	06/15/2017	Payroll	7	EFT		2,475.92	
2133	06/15/2017	Payroll	7	EFT		2,082.22	
2135	06/20/2017	Payroll	7	EFT	Community First Bank	14,107.78	941 Deposit For 06/15/2017 - 06/16/2017
2136	06/20/2017	Payroll	7	EFT	Department Of Retirement	8,122.29	06/15/2017 To 06/16/2017 - PERS 2; 06/15/2017 To 06/16/2017 - LEOFF 2; 06/15/2017 To 06/16/2017 - Deferred Comp; 06/15/2017 To 06/16/2017 - PERS 3
2137	06/20/2017	Payroll	7	EFT	MT457-306685	500.00	06/15/2017 To 06/16/2017 - ICMA-457
2085	06/16/2017	Payroll	7	36400		861.26	Police Retro Pay
2086	06/16/2017	Payroll	7	36401		574.09	Police Retro Pay
2087	06/16/2017	Payroll	7	36402		449.00	Police Retro Pay
2088	06/16/2017	Payroll	7	36403		1,479.13	Police Retro Pay
2089	06/16/2017	Payroll	7	36404		351.12	Police Retro Pay
2090	06/16/2017	Payroll	7	36405		302.96	Police Retro Pay
2111	06/15/2017	Payroll	7	36406		161.40	
2112	06/15/2017	Payroll	7	36407		1,130.62	
2114	06/15/2017	Payroll	7	36408		161.40	
2115	06/15/2017	Payroll	7	36409		54.43	
2125	06/15/2017	Payroll	7	36410		161.40	
2128	06/15/2017	Payroll	7	36411		163.91	
2138	06/20/2017	Payroll	7	36412	Case # 2549720 WA State Support Registry	650.00	06/15/2017 To 06/16/2017 - Child Support
2139	06/20/2017	Payroll	7	36413	WSECU	275.00	06/15/2017 To 06/16/2017 - WSECU
						41,792.93	001 General Fund
						2,308.09	101 Street
						9,673.44	401 Water Fund
						8,859.38	402 Sewer Fund

62,633.84 Payroll: 62,633.84



**City of Connell**

**EASTERN  
WASHINGTON'S  
HARVESTLAND**

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**MEMORANDUM**

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**DATE:** JULY 3, 20157  
**TO:** MAYOR & COUNCIL  
**FROM:** MARIA PEÑA, CITY ADMINISTRATOR  
**RE:** EXECUTIVE SESSION

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Staff needs a 15 minute executive session to discuss with legal counsel potential litigation.



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**MEMORANDUM**

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**DATE:** JULY 3, 20157  
**TO:** MAYOR & COUNCIL  
**FROM:** MARIA PEÑA, CITY ADMINISTRATOR  
**RE:** BNSF PIPELINE LICENSE

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Staff has received the necessary documents from BNSF to replace the waterline on West Franklin across the rail corridor.

The license fee is \$4,443. The agreement must be returned within 60 days from June 1 or there will be an additional cost of \$1,600 for processing.

**RECOMMENDATION:** Council move to approve and authorize the Mayor to sign the Pipeline License agreement with BNSF Railway Company.



Jones Lang LaSalle Americas, Inc.  
4200 Buckingham Road, Suite 110  
Fort Worth, Texas 76155  
tel +1 817-230-2600

June 1, 2017

City of Connell  
Attention: Mr. Larry Turner  
PO Box 1200  
Connell, WA 99326-1200

17-57747

Dear Mr. Turner:

Attached please find a copy of the requested contract for execution by an official authorized to execute contract agreements on behalf of your company. Please print two (2) copies execute and return both copies with original signature for completion on part of BNSF Railway Company ("BNSF") to this office, along with the following requirements:

- A check in the amount of \$4,443.00 payable to BNSF Railway Company which covers the contract fee(s).

Please note the agreements cannot be executed by BNSF without an approved insurance certificate. If there are any issues with your insurance, you will be contacted by a member of the Risk Management team of BNSF Railway.

1. A Certificate of Insurance as required in the agreement.
2. A separate policy for Railroad Protective Liability Insurance as required in the agreement (**ORIGINAL POLICY MUST BE PROVIDED**). BNSF Railway Company will be the only insured party; OR;

In lieu of providing a separate policy for Railroad Protective Liability Insurance, you may participate in the BNSF's Railroad Protective Policy by checking the appropriate box in the contract and including an additional \$1,150.00 with your check.

**PLEASE ADVISE IF THIS PROJECT IS ARRA FUNDED.**

Acceptance and deposit of any check by BNSF does not constitute an agreement between BNSF and Licensee for the requested license. BNSF shall not be obligated to hold the check in a separate fund, but may commingle the funds with other funds of BNSF, and in no event shall BNSF be responsible for interest on said funds.

The enclosed permit is not a binding agreement and shall become binding only when, and if, it is executed by you and fully approved and executed by BNSF Railway Company. Upon completion on behalf of BNSF, one fully executed counterpart will be returned for your records.

The specifications/plans you provided may differ from BNSF's minimum specification requirements. Therefore, prior to your installation, please review the Exhibit A to determine the specifications necessary for your installation.

Please be informed that if contracts, fees, and insurance are not returned within sixty (60) days, the processing fee will increase to \$1,600.00.

Sincerely,

*Katrina Salazar*

Katrina Salazar  
Associate Manager - Permits  
Attachment

**PIPELINE LICENSE**

THIS PIPELINE LICENSE ("License") is made to be effective \_\_\_\_\_, 2017, (the "Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Licensor") and **CITY OF CONNELL**, a Washington corporation ("Licensee").

In consideration of the mutual covenants contained herein, the parties agree to the following:

**GENERAL**

1. **Grant of License.** Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "**Drawings and Specifications**"), one (1) pipeline, 8 inches in diameter inside a 24 inch steel casing (collectively, the "**Pipeline**"), across or along Licensor's rail corridor at or near the station of Connell, County of Franklin, State of Washington, Line Segment 0046, Mile Post 110.26 as shown on the attached Drawing No. 69767, dated May 12, 2017, attached hereto as **Exhibit "A"** and incorporated herein by reference (the "**Premises**").
2. **Term.** This License shall commence on the Effective Date and shall continue for a period of twenty-five (25) years, subject to prior termination as hereinafter described.
3. **Existing Improvements.** Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use, repair, maintenance or replacement of such improvements.
4. **Use of the Premises.** Licensee shall use the Premises solely for construction, maintenance, and use of the Pipeline in accordance with the Drawings and Specifications. The Pipeline shall carry potable water, and Licensee shall not use the Pipeline to carry any other material or use the Premises for any other purpose.
5. **Alterations.** Except as set forth in this License, Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

**COMPENSATION**

6. **License Fee.** Licensee shall pay Licensor, prior to the Effective Date, the sum of Four Thousand, Four Hundred Forty-Three and No/100 Dollars (\$4,443) as compensation for the use of the Premises.
7. **Costs and Expenses.**
  - 7.1 For the purpose of this License, "cost" or "costs" and "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
  - 7.2 Licensee agrees to reimburse Licensor (pursuant to the terms of **Section 8** below) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction and maintenance of the Pipeline, including but not limited to the furnishing of Licensor's flaggers and any vehicle rental costs incurred. Licensee shall bear the cost of flagger services and other safety measures provided by Licensor, when deemed necessary by Licensor's representative. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); railway and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. Flagging rates in effect at the time of performance by the flaggers will be used to calculate the flagging costs pursuant to this **Section 7**.

8. **Payment Terms.** All invoices are due thirty (30) days after the date of invoice. If Licensee fails to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from the due date until paid at an annual rate equal to the lesser of (i) the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2-1/2%), or (ii) the maximum rate permitted by law.

### **LICENSOR'S RESERVED RIGHTS**

9. **Reserved Rights of Use.** Licensor accepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:
- 9.1 to maintain, use, operate, repair, replace, modify and relocate any utility, power or communication pipe/lines/cables and appurtenances (other than the Pipeline) and other facilities or structures of like character upon, over, under or across the Premises existing as of the Effective Date;
  - 9.2 to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities, structures and related appurtenances upon, over, under or across the Premises; or
  - 9.3 to use the Premises in any manner as Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in **Section 4** above.
10. **Right to Require Relocation.** If at any time during the term of this License, Licensor desires the use of its rail corridor in such a manner as would, in Licensor's reasonable opinion, be interfered with by the Pipeline, Licensee shall, at its sole expense, within thirty (30) days after receiving written notice from Licensor to such effect, make such changes in the Pipeline as in the sole discretion of Licensor may be necessary to avoid interference with the proposed use of Licensor's rail corridor, including, without limitation, the relocation of the Pipeline, or the construction of a new pipeline to replace the Pipeline. Notwithstanding the foregoing, Licensee agrees to make all emergency changes and minor adjustments, as determined by Licensor in its sole discretion, to the Pipeline promptly upon Licensor's request.

### **LICENSEE'S OPERATIONS**

11. **Construction and Maintenance of the Pipeline.**
- 11.1 Licensee shall notify Licensor's Roadmaster, David Raglin at 5324 East Trent, Spokane, WA 99212, telephone (509) 536-2305, or email david.raglin@bnsf.com, at least ten (10) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon. In the event of emergency, Licensee shall notify Licensor of Licensee's entry onto the Premises at the telephone number above as soon as practicable and shall promptly thereafter follow up with written notice of such entry.
  - 11.2 Licensee's on-site supervisors shall retain/maintain a fully executed copy of this License at all times while on the Premises.
  - 11.3 While on the Premises, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other.
  - 11.4 Any contractors or subcontractors performing work on the Pipeline or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.
  - 11.5 Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so.

Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.

- 11.6 Licensee shall, at its sole cost and expense, construct and maintain the Pipeline in such a manner and of such material that the Pipeline will not at any time endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. The construction of the Pipeline shall be completed within one (1) year of the Effective Date, and any subsequent maintenance shall be completed within one (1) year of initiation. Within fifteen (15) days after completion of the construction of the Pipeline or the performance of any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore the Premises to substantially their state as of the Effective Date, unless otherwise approved in advance by Licensor in writing. On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense, surrender the Premises to Licensor pursuant to the terms and conditions set forth in Section 24 hereof.
- 11.7 Licensor may direct one or more of its field engineers to observe or inspect the construction and/or maintenance of the Pipeline at any time for compliance with the Drawings and Specifications and Legal Requirements (defined below). If ordered at any time to halt construction or maintenance of the Pipeline by Licensor's personnel due to non-compliance with the Drawings and Specifications or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the Pipeline, it being solely Licensee's responsibility to ensure that the Pipeline is constructed and maintained in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise of, nor the failure by Licensor to exercise, any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this Section 11, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, pursuant to the terms of Section 8. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.

## 12. Boring and Excavation.

- 12.1 Prior to Licensee conducting any boring, excavation, or similar work on or about any portion of the Premises, Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Licensee may request information from Licensor concerning the existence and approximate location of Licensor's underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline by contacting Licensor's Telecommunications Helpdesk at least thirty (30) business days prior to installation of the Pipeline. Upon receiving Licensee's timely request, Licensor will provide Licensee with the information Licensor has in its possession regarding any existing underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline and, if applicable, identify the location of such lines on the Premises pursuant to Licensor's standard procedures. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions of the Premises and Licensee's operations will be subject at all times to the liability provisions herein.
- 12.2 For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation must be performed by Licensee and reviewed by Licensor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensor's reasonable opinion that granular

material is present, Licensor may select a new location for Licensee's use, or may require Licensee to furnish for Licensor's review and approval, in Licensor's sole discretion, a remedial plan to deal with the granular material. Once Licensor has approved any such remedial plan in writing, Licensee shall, at Licensee's sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.

- 12.3 Any open hole, boring, or well, constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:
- 12.3.1 filled in to surrounding ground level with compacted bentonite grout; or
- 12.3.2 otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensor's property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

### **LIABILITY AND INSURANCE**

#### **13. Liability and Indemnification.**

- 13.1 For purposes of this License: (a) "**Indemnitees**" means Licensor and Licensor's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees, and agents; (b) "**Liabilities**" means all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments, and expenses (including, without limitation, court costs, reasonable attorneys' fees, costs of investigation, removal and remediation, and governmental oversight costs) environmental or otherwise; and (c) "**Licensee Parties**" means Licensee or Licensee's officers, agents, invitees, licensees, employees, or contractors, or any party directly or indirectly employed by any of them, or any party they control or exercise control over.
- 13.2 **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEES FOR, FROM, AND AGAINST ANY AND ALL LIABILITIES OF ANY NATURE, KIND, OR DESCRIPTION DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO (IN WHOLE OR IN PART):**
- 13.2.1 **THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,**
- 13.2.2 **ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,**
- 13.2.3 **LICENSEE'S OCCUPATION AND USE OF THE PREMISES,**
- 13.2.4 **THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED TO BY LICENSEE, OR**
- 13.2.5 **ANY ACT OR OMISSION OF ANY LICENSEE PARTY.**
- 13.3 **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE NOW AND FOREVER WAIVES ANY AND ALL CLAIMS THAT BY VIRTUE OF ENTERING INTO THIS LICENSE, LICENSOR IS A GENERATOR, OWNER, OPERATOR, ARRANGER, OR TRANSPORTER FOR THE PURPOSES OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED ("CERCLA") OR OTHER ENVIRONMENTAL LAWS (DEFINED BELOW). LICENSEE WILL INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS. NOTHING IN THIS LICENSE IS MEANT BY EITHER PARTY TO CONSTITUTE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES AND THIS LICENSE SHOULD NOT BE SO CONSTRUED. IF ANY AGENCY OR COURT CONSTRUES THIS LICENSE TO BE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES, LICENSEE AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND INDEMNITEES FOR ANY LIABILITIES RELATED TO THAT CONSTRUCTION OF THIS**

**LICENSE. IN NO EVENT AS BETWEEN LICENSOR AND LICENSEE AS TO USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL LICENSOR BE RESPONSIBLE TO LICENSEE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.**

- 13.4 **IF ANY EMPLOYEE OF ANY LICENSEE PARTY ASSERTS THAT HE OR SHE IS AN EMPLOYEE OF ANY INDEMNITEE, TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY SUCH ASSERTION INCLUDING, BUT NOT LIMITED TO, ASSERTIONS OF EMPLOYMENT BY AN INDEMNITEE RELATED TO THE FOLLOWING OR ANY PROCEEDINGS THEREUNDER: THE FEDERAL EMPLOYERS' LIABILITY ACT, THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- 13.5 **THE FOREGOING OBLIGATIONS OF LICENSEE SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE, BUT SHALL APPLY TO ALL OTHER LIABILITIES, INCLUDING THOSE ARISING FROM OR ATTRIBUTED TO ANY OTHER ALLEGED OR ACTUAL NEGLIGENCE, INTENTIONAL ACTS, OR STRICT LIABILITY OF ANY INDEMNITEE.**
- 13.6 Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs and expenses incident to such defense, including, but not limited to, reasonable attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.
14. **Personal Property Risk of Loss. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**
15. **Insurance. Licensee shall, at its sole cost and expense, procure and maintain during the life of this License the following insurance coverage:**
- 15.1 **Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by Licensee. Coverage must be purchased on a post 2004 ISO occurrence or equivalent and include coverage for, but not limited to, the following:**
- Bodily Injury and Property Damage
  - Personal Injury and Advertising Injury
  - Fire legal liability
  - Products and completed operations
- This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:
- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
  - Waiver of subrogation in favor of and acceptable to Licensor.
  - Additional insured endorsement in favor of and acceptable to Licensor and Jones Lang LaSalle Brokerage, Inc.
  - Separation of Insureds.
  - The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability Insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to Licensor's employees.

No other endorsements limiting coverage may be included on the policy.

- 15.2 Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000, and include coverage for, but not limited to the following:

- Bodily injury and property damage.
- Any and all vehicles owned, used or hired.

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Licensor.
- Additional insured endorsement in favor of and acceptable to Licensor.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.

- 15.3 Workers' Compensation and Employers' Liability Insurance. This insurance shall include coverage for, but not limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) in which the services are to be performed. If optional under state laws, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Licensor.

- 15.4 Railroad Protective Liability Insurance. This insurance shall name only Licensor as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction of the Pipeline. **THE CONSTRUCTION OF THE PIPELINE SHALL BE COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE.** If further maintenance of the Pipeline is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 12 03 and include the following:

- Endorsed to include the Pollution Exclusion Amendment.
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to include Evacuation Expense Coverage Endorsement.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to Licensor prior to performing any work or services under this License.
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody and control arising out of the acts or omissions of the contractor named on the Declarations."

In lieu of providing a Railroad Protective Liability Policy, for a period of one (1) year from the Effective Date, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$1,150.

- I elect to participate in Licensor's Blanket Policy;
- I elect not to participate in Licensor's Blanket Policy.

15.5 Intentionally deleted.

15.6 Other Requirements:

- 15.6.1 Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.
- 15.6.2 Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, Licensee's insurers, through the terms of the policy or a policy endorsement, must waive their right of subrogation against Licensor for all claims and suits, and the certificate of insurance must reflect the waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers must also waive their right of subrogation against Licensor for loss of Licensee's owned or leased property, or property under Licensee's care, custody, or control.
- 15.6.3 Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this License, be covered by Licensee's insurance will be covered as if Licensee elected not to include a self-insured retention or other financial responsibility for claims.
- 15.6.4 Prior to entering the Premises, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. Licensee shall notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution, or material alteration. In the event of a claim or lawsuit involving Licensor arising out of this License, Licensee will make available any required policy covering such claim or lawsuit.
- 15.6.5 Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- 15.6.6 If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration or termination of this License. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.
- 15.6.7 Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this License. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.
- 15.6.8 Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.
- 15.6.9 If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.
- 15.6.10 Failure to provide evidence as required by this **Section 15** shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this Section shall not operate as a waiver of Licensee's obligations hereunder.
- 15.6.11 The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

15.6.12 These insurance provisions are intended to be a separate and distinct obligation on the part of the Licensee. Therefore, these provisions shall be enforceable and Licensee shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable.

15.6.13 For purposes of this Section 15, Licensor shall mean "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

## **COMPLIANCE WITH LAWS, REGULATIONS, AND ENVIRONMENTAL MATTERS**

### **16. Compliance with Laws, Rules, and Regulations.**

- 16.1 Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**") relating to the construction, maintenance, and use of the Pipeline and the use of the Premises.
- 16.2 Prior to entering the Premises, Licensee shall and shall cause its contractor(s) to comply with all of Licensor's applicable safety rules and regulations. Licensee must ensure that each of its employees, contractors, agents or invitees entering upon the Premises completes the safety orientation program at the Website "www.BNSFcontractor.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Licensee must ensure that each and every employee of Licensee, its contractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering upon the Premises. Licensee must renew the Safety Orientation annually.
- 16.3 Licensee shall obtain on or before the date it or its contractor enters the Premises, any and all additional rights-of way, easements, licenses and other agreements relating to the grant of rights and interests in and/or access to the Premises (collectively, the "**Rights**") and such other rights, licenses, permits, authorizations, and approvals (including without limitation, any necessary local, state, federal or tribal authorizations and environmental permits) that are necessary in order to permit Licensee to construct, maintain, own and operate the Pipeline and otherwise to perform its obligations hereunder in accordance with the terms and conditions hereof.
- 16.4 Licensee shall either require that the initial stated term of each such Rights be for a period that does not expire, in accordance with its ordinary terms, prior to the last day of the term of this License or, if the initial stated term of any such Right expires in accordance with its ordinary terms on a date earlier than the last day of the term of this License, Licensee shall, at its cost, exercise any renewal rights thereunder, or otherwise acquire such extensions, additions and/or replacements as may be necessary, in order to cause the stated term thereof to be continued until a date that is not earlier than the last day of the term of this License.
- 16.5 Upon the expiration or termination of any Right that is necessary in order for Licensee to own, operate or use the Pipeline in accordance with the terms and conditions of this License, this License thereby shall automatically expire upon such expiration or termination of the Right.

### **17. Environmental.**

- 17.1 Licensee shall strictly comply with all federal, state and local environmental Legal Requirements and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, and CERCLA (collectively referred to as the "**Environmental Laws**"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.
- 17.2 Licensee covenants that it will not handle or transport "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any federal, state, or local governmental agency or body through the Pipeline on Licensor's property. Licensee agrees periodically to furnish Licensor with proof, satisfactory to Licensor that Licensee is in compliance with the provisions of this Section 17.2.

- 17.3 Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any known (i) release of hazardous substances on, from, or affecting the Premises, (ii) violation of Environmental Laws, or (iii) inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on, from, or affecting the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- 17.4 If Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Pipeline which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.
- 17.5 Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons, property, or the environment arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

#### **DISCLAIMER OF WARRANTIES**

18. **No Warranties.**
- 18.1 **LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 18.2 **LICENSOR MAKES NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING (A) THE SCOPE OF THE LICENSE OR OTHER RIGHTS GRANTED HEREUNDER TO LICENSEE OR (B) WHETHER OR NOT LICENSEE'S CONSTRUCTION, MAINTENANCE, OWNERSHIP, USE OR OPERATION OF THE PIPELINE WILL VIOLATE OR INFRINGE UPON THE RIGHTS, INTERESTS AND ESTATES OF THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY LEASES, USE RIGHTS, EASEMENTS AND LIENS OF ANY THIRD PARTY.**
19. **Disclaimer of Warranty for Quiet Enjoyment. LICENSOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.**
20. **Eviction at Risk of Licensee. In case of the eviction of Licensee by anyone owning, claiming title to, or claiming any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable (i) to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or (ii) for any damage Licensee sustains in connection with the eviction.**

#### **LIENS AND TAXES**

21. **Liens and Charges. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this Section 21 or any other Section of this License.**

22. **Taxes.** Licensee shall pay when due any taxes, assessments or other charges (collectively, "Taxes") levied or assessed by any governmental or quasi-governmental body upon the Pipeline or any other improvements constructed or installed on the Premises by or for Licensee (collectively, the "Improvements") or any Taxes levied or assessed against Licensor or the Premises that are attributable to the Improvements.

#### **DEFAULT, TERMINATION, AND SURRENDER**

23. **Default and Termination.** In addition to and not in limitation of Licensor's right to terminate for failure to provide evidence of insurance as required pursuant to the terms of **Section 15**, the following events are also deemed to be events of default pursuant to which Licensor has the right to terminate as set forth below:
- 23.1 If default shall be made in any of Licensee's covenants, agreements, or obligations contained in this License and Licensee fails to cure said default within thirty (30) days after written notice is provided to Licensee by Licensor, or in case of any assignment or transfer of this License in violation of **Section 26** below, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee. Notwithstanding the foregoing, Licensor shall have the right to terminate this License immediately if Licensee fails to provide evidence of insurance as required in **Section 15**.
- 23.2 Should Licensee not comply fully with the obligations of **Section 17** regarding the handling or transporting of hazardous waste or hazardous material, notwithstanding anything contained in any other provision of this License, Licensor may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee.
- 23.3 Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedy set forth in this **Section 23** shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.
- 23.4 In addition to and not in limitation of Licensor's rights to terminate this License for failure to provide evidence of insurance or occurrence of defaults as described above, this License may be terminated by either party, at any time, by serving thirty (30) days' written notice of termination upon the other party. Such termination shall not release either party hereto from any liability or obligation under the License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or thereafter in case by the terms of the License it is provided that anything shall or may be done after termination hereof.
24. **Surrender of the Premises.**
- 24.1 On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense:
- 24.1.1 if so directed by Licensor in writing, remove the Improvements, the Pipeline and all appurtenances thereto, or, at the sole discretion of Licensor, fill and cap or otherwise appropriately decommission the Pipeline with a method satisfactory to Licensor;
- 24.1.2 report and restore any damage to the Premises or Licensor's other property arising from, growing out of, or connected with Licensee's use of the Premises;
- 24.1.3 remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
- 24.1.4 leave the Premises in substantially the condition which existed as of the Effective Date.
- 24.2 Upon any expiration or termination of this License, if Licensee fails to surrender the Premises to Licensor or if Licensee fails to complete its obligations under **Section 24.1** above (the "**Restoration Obligations**"), Licensee shall have a limited license to enter upon the Premises solely to the extent necessary for Licensee to complete the Restoration Obligations, and all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered and the Restoration Obligations are completed. Neither termination nor expiration shall release Licensee from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Licensee surrenders the Premises and all of the Restoration Obligations are completed.

- 24.3 If Licensee fails to complete the Restoration Obligations within thirty (30) days after the date of such termination of its tenancy, then Licensor may, at its election, either: (i) remove the Pipeline and the other Improvements or otherwise restore the Premises, and in such event Licensee shall, within thirty (30) days after receipt of bill therefor, reimburse Licensor for cost incurred, (ii) upon written notice to Licensee, take and hold the Pipeline and the other Improvements and personal property as its sole property, without payment or obligation to Licensee therefor, or (iii) specifically enforce Licensee's obligation to restore and/or pursue any remedy at law or in equity against Licensee for failure to so restore. Further, if Licensor has consented to the Pipeline and the other Improvements remaining on the Premises following termination, Licensee shall, upon request by Licensor, provide a bill of sale in a form acceptable to Licensor conveying the Pipeline and the other Improvements to Licensor.

## MISCELLANEOUS

25. Successors and Assigns. All provisions contained in this License shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Licensor and Licensee to the same extent as if each such successor and assign was named a party to this License.
26. Assignment.
- 26.1 Licensee may not sell, assign, transfer, or hypothecate this License or any right, obligation, or interest herein (either voluntarily or by operation of law, merger, or otherwise) without the prior written consent of Licensor, which consent may not be unreasonably withheld or delayed by Licensor. Any attempted assignment by Licensee in violation of this Section 26 shall be a breach of this License and, in addition, shall be voidable by Licensor in its sole and absolute discretion.
- 26.2 For purposes of this Section 26, the word "assign" shall include without limitation (a) any sale of the equity interests of Licensee following which the equity interest holders of Licensee immediately prior to such sale own, directly or indirectly, less than 50% of the combined voting power of the outstanding voting equity interests of Licensee, (b) any sale of all or substantially all of the assets of (i) Licensee and (ii) to the extent such entities exist, Licensee's parent and subsidiaries, taken as a whole, or (c) any reorganization, recapitalization, merger or consolidation involving Licensee. Notwithstanding the foregoing, any reorganization, recapitalization, merger or consolidation following which the equity interest holders of Licensee immediately prior to such reorganization, recapitalization, merger or consolidation own, directly or indirectly, at least 50% of the combined voting power of the outstanding voting equity interests of Licensee or any successor thereto or the entity resulting from such reorganization, recapitalization, merger or consolidation shall not be deemed an assignment. THIS LICENSE SHALL NOT RUN WITH THE LAND WITHOUT THE EXPRESS WRITTEN CONSENT OF LICENSOR, SUCH CONSENT TO BE IN LICENSOR'S SOLE DISCRETION.
- 26.3 Notwithstanding the provisions of Section 26.1 above or anything contained in this License to the contrary, if Licensee sells, assigns, transfers, or hypothecates this License or any interest herein in contravention of the provisions of this License (a "Purported Assignment") to another party (a "Purported Transferee"), the Purported Transferee's enjoyment of the rights and privileges granted under this License shall be deemed to be the Purported Transferee's agreement to be bound by all of the terms and provisions of this License, including but not limited to the obligation to comply with the provisions of Section 15 above concerning insurance requirements. In addition to and not in limitation of the foregoing, Licensee, for itself, its successors and assigns, shall indemnify, defend and hold harmless Licensor for all Liabilities of any nature, kind or description of any person or entity directly or indirectly arising out of, resulting from or related to (in whole or in part) a Purported Assignment.
- 26.4 The provisions of this Section 26 shall survive the expiration or earlier termination of this License.
27. Notices. Any notice, invoice, or other writing required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Jones Lang LaSalle Brokerage, Inc.  
4200 Buckingham Road, Suite 110  
Fort Worth, TX 76155  
Attn: Permits/Licenses

with a copy to: BNSF Railway Company  
2301 Lou Menk Dr. – GOB-3W  
Fort Worth, TX 76131  
Attn: Senior Manager Real Estate

If to Licensee: City of Connell  
PO Box 1200  
Connell, WA 99326-1200

28. **Survival.** Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Pipeline and the other Improvements are removed and the Premises are restored to its condition as of the Effective Date.
29. **Recordation.** It is understood and agreed that this License shall not be placed or allowed to be placed on public record.
30. **Applicable Law.** All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.
31. **Severability.** To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.
32. **Integration.** This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.
33. **Joint and Several Liability.** If Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.
34. **Waiver.** The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.
35. **Interpretation.**
- 35.1 This License shall be interpreted in a neutral manner, and not more strongly for or against any party based upon the source of the draftsmanship; both parties hereby agree that this License shall not be subject to the principle that a contract would be construed against the party which drafted the same. Article titles, headings to sections and paragraphs and the table of contents (if any) are inserted for convenience of reference only and are not intended to be a part or to affect the meaning or interpretation hereof. The exhibit or exhibits referred to herein shall be construed with and as an integral part of this License to the same extent as if they were set forth verbatim herein.
- 35.2 As used herein, "include", "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; "writing", "written" and comparable terms refer to printing, typing, lithography and other means of reproducing words in a visible form; references to any person are also to that person's successors and permitted assigns; "hereof", "herein", "hereunder" and comparable terms refer to the entirety hereof and not to any particular article, section, or other subdivision hereof or attachment hereto; references to any gender

include references to the masculine or feminine as the context requires; references to the plural include the singular and vice versa; and references to this License or other documents are as amended, modified or supplemented from time to time.

36. Counterparts. This License may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this License may also be exchanged via email or electronic facsimile machines and any email or electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.
37. Licensor's Representative. Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

**END OF PAGE – SIGNATURE PAGE FOLLOWS**

This License has been duly executed by the parties hereto as of the date below each party's signature; to be effective, however, as of the Effective Date.

**LICENSOR:**

**BNSF Railway Company, a Delaware corporation**

**By:** Jones Lang LaSalle Brokerage, Inc.,  
4200 Buckingham Road, Suite 110  
Fort Worth, TX 76155

**By:** \_\_\_\_\_  
Shane Krueger

**Title:** Vice President – Permits & Special Projects \_\_\_\_\_

**Date:** \_\_\_\_\_

**LICENSEE:**

**CITY OF CONNELL, a Washington corporation**

PO Box 1200  
Connell, WA 99326-1200

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

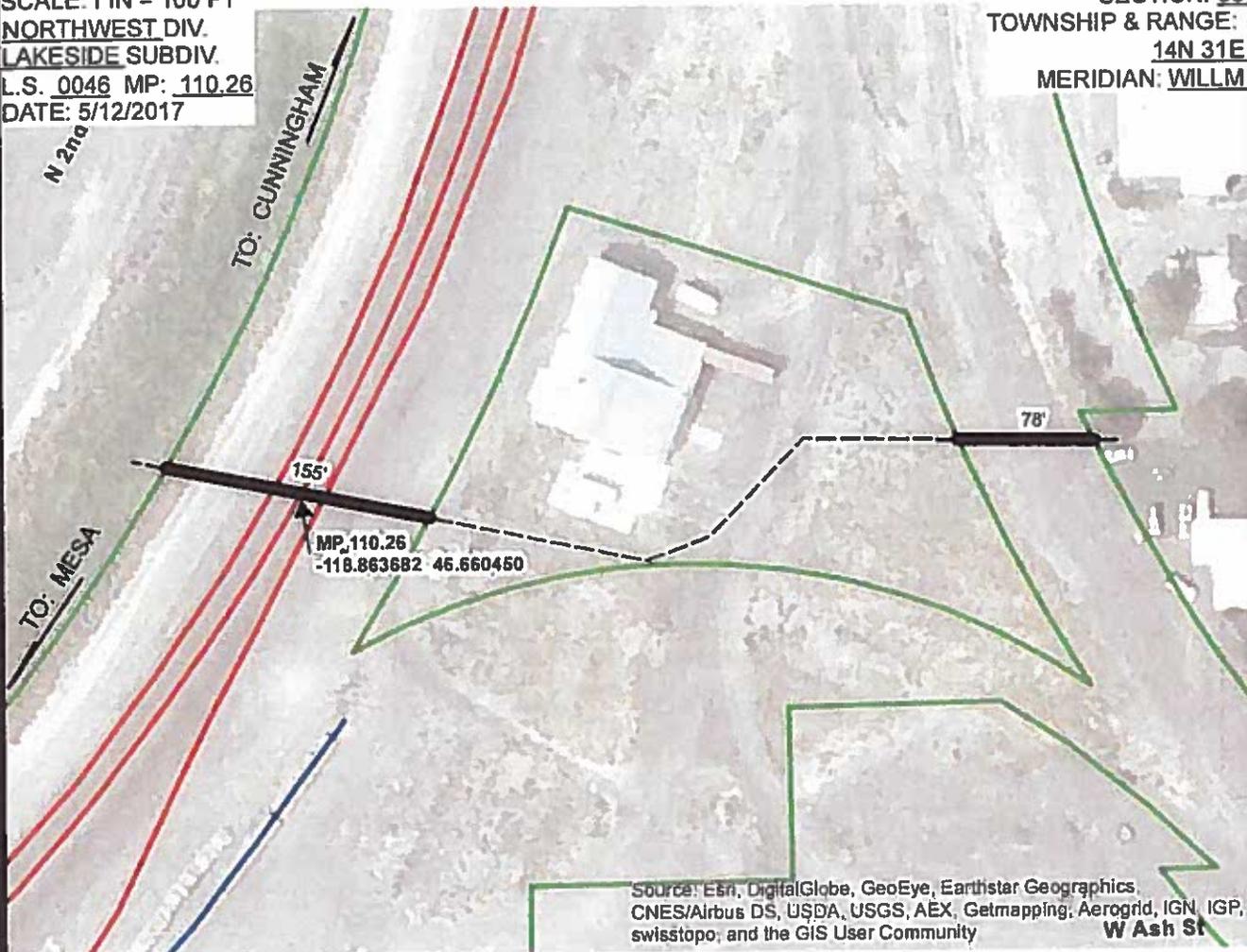
**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
**BNSF RAILWAY COMPANY**  
 AND



**CITY OF CONNELL**

SCALE: 1 IN = 100 FT  
 NORTHWEST DIV.  
 LAKESIDE SUBDIV.  
 L.S. 0046 MP: 110.26  
 DATE: 5/12/2017

SECTION: 36  
 TOWNSHIP & RANGE:  
14N 31E  
 MERIDIAN: WILLM



**DESCRIPTION OF PIPELINE  
 PIPELINE SHOWN BOLD**

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	<u>8"</u>	<u>24"</u>	LENGTH ON R/W:	<u>233'</u>	<u>233'</u>
CONTENTS:	<u>POTABLE WATER</u>		WORKING PRESSURE:	<u>60 PSI</u>	
PIPE MATERIAL:	<u>DUCTILE IRON</u>	<u>STEEL</u>	BURY: BASE/RAIL TO TOP OF CASING		<u>5.5' MIN.</u>
SPECIFICATIONS / GRADE:	<u>AWWA CLASS 350 (350 PSI)</u>	<u>ASTM A53 (60,000 PSI)</u>	BURY: NATURAL GROUND		<u>3.5' MIN.</u>
WALL THICKNESS:	<u>0.5"</u>	<u>0.375"</u>	BURY: ROADWAY DITCHES		<u>5.5' MIN.</u>
COATING:	<u>ASPHALTIC OUTSIDE COATING</u>	<u>NONE</u>	CATHODIC PROTECTION		<u>-</u>

VENTS: NUMBER - SIZE - HEIGHT OF VENT ABOVE GROUND -  
 NOTE: CASING TO BE JACKED OR DRY BORED ONLY

**AT CONNELL  
 COUNTY OF FRANKLIN**

**STATE OF WA**

**XLR**



**City of Connell**

**EASTERN  
WASHINGTON'S  
HARVESTLAND**

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**MEMORANDUM**

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**DATE:** JULY 3, 20157  
**TO:** MAYOR & COUNCIL  
**FROM:** MARIA PEÑA, CITY ADMINISTRATOR  
**RE:** AMENDMENT TO PURCHASE AND SALE AGREEMENT

---

Jorge Ortiz has provided that he needs additional time to complete the purchase of the lots adjacent to the City's tennis court and is asking for an extension to his agreement for the Purchase and Sale of the those lots. Mr. Ortiz is requesting the agreement be extended until December 1, 2017. The attached amendment provides for that extension. Council will need to discuss if they wish to grant an extension (and for how long) or not. Mr. Ortiz has provided Dan's office with the \$5,000 deposit.

Mr. Ortiz will be present at the meeting to answer any questions Council may have.

**OPTIONS:** 1) Move to approve the amendment to the purchase and sale agreement 2) Do not approve 3) Defer action to a later date.

AMENDMENT TO  
PURCHASE AND SALE AGREEMENT

THIS AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is entered into this \_\_\_\_\_ day of July, 2017, between CITY OF CONNELL, a Washington municipal corporation ("Seller") and JORGE ORTIZ, JR., ("Buyer") and modifies and supplements that certain Agreement to Purchase and Sell Real Estate between the Buyer and the Seller dated \_\_\_\_\_, 2017, ("Agreement").

IT IS AGREED between the Buyer and Seller that Section 4 shall be amended to read as follows:

4. Close of Escrow. Close of escrow shall occur no later than \_\_\_\_\_, 2017, unless extended in writing by the parties at the office of Escrow Agent, or at such other place as the parties may agree in writing.

All other terms and conditions of the said Purchase and Sale Agreement between the Buyer and the Seller dated \_\_\_\_\_, 2017, shall be and remain in full force and effect unless clearly inconsistent with this Amendment. The provisions of this Amendment shall survive closing.

This Amendment may be executed in any number of counterparts, but when so executed, shall constitute but one and the same Amendment.

SELLER:

BUYER:

CITY OF CONNELL

By: \_\_\_\_\_

\_\_\_\_\_  
Jorge Ortiz, Jr.

Date: \_\_\_\_\_

Date: \_\_\_\_\_



---

## MEMORANDUM

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**DATE:** JULY 3, 20157  
**TO:** MAYOR & COUNCIL  
**FROM:** MARIA PEÑA, CITY ADMINISTRATOR  
**RE:** ALLEY VACATION HERITAGE PARK

---

With the recent sale of the museum the City is working on selling additional land where the caboose and old school house are currently located. In order to complete this transaction the City needs to vacate a portion of the alley. The attached map indicates the area to be sold as well as the area that needs to be vacated. The first step in initiating the vacation process is to adopt a resolution fixing a time for a public hearing. The attached resolution provides for a public hearing at the August 7<sup>th</sup> regular Council meeting. After the public hearing an ordinance will be presented to vacate the right-of-way.

**RECOMMENDATION:**

Move to approve Resolution 2017-12 setting forth the City's intent to vacate an unopened right-of-way.

City of Connell, Washington

RESOLUTION NO. 2017-12

**A RESOLUTION OF THE CITY OF CONNELL, WASHINGTON, SETTING FORTH THE CITY'S INTENT TO VACATE AN UNOPENED RIGHT-OF-WAY IN SECTION 36, TOWNSHIP 14 NORTH, RANGE 31 EAST, SAID LEGAL DESCRIPTION BEING MORE FULLY SET FORTH HEREIN.**

**THE CITY COUNCIL FOR THE CITY OF CONNELL** does hereby resolve as follows:

**Section 1.** It is the intent of the City of Connell, Washington, to vacate the following-described right-of-way, to-wit:

A PORTION OF THAT 20 FOOT WIDE ALLEY WITHIN block 13 of the map of Connell, recorded IN BOOK "A" AT PAGE 69, RECORDS OF FRANKLIN COUNTY, LOCATED IN THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ON-QUARTER (NE ¼ NE ¼) OF SECTION 36, TOWNSHIP 14 NORTH, RANGE 31 EAST, WILLAMETTE MERIDIAN, FRANKLIN COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 16 OF SAID BLOCK 13, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY OF ADAMS STREET; THENCE ALONG SAID ADAMS STREET N.89°13'59"E., 120.00 FEET TO THE SOUTHWEST CORNER OF SAID ALLEY, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE DEPARTING SAID ADAMS STREET AND ALONG THE WESTERLY LINE OF SAID ALLEY N.00°46'00"W., 68.51 FEET; THENCE DEPARTING SAID WESTERLY LINE S.40°41'07"E., 31.17 FEET TO A POINT ON THE EASTERLY LINE OF SAID ALLEY; THENCE ALONG SAID EASTERLY LINE S.00°46'00"E., 44.61 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE OF ADAMS STREET; THENCE ALONG SAID ADAMS STREET S.89°13'59"W., 20.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1131.141 SQUARE FEET OR 0.026 ACRES MORE OR LESS.

**Section 2.** A public hearing shall be heard concerning said vacation before the City Council of the City of Connell, Washington, at its regularly scheduled meeting on the 7th day of August, 2017, at 6:00 p.m., or as soon thereafter as the same may be heard.

**Section 3.** The City Clerk for the City of Connell is hereby instructed to proceed with all proper notices according to law.

**PASSED** by the City Council of the City of Connell and **APPROVED** by the Mayor this 3th day of July, 2017.

\_\_\_\_\_  
Bruce Blackwell, Mayor

ATTEST:

\_\_\_\_\_  
Rose Courneya, City Clerk Treasurer

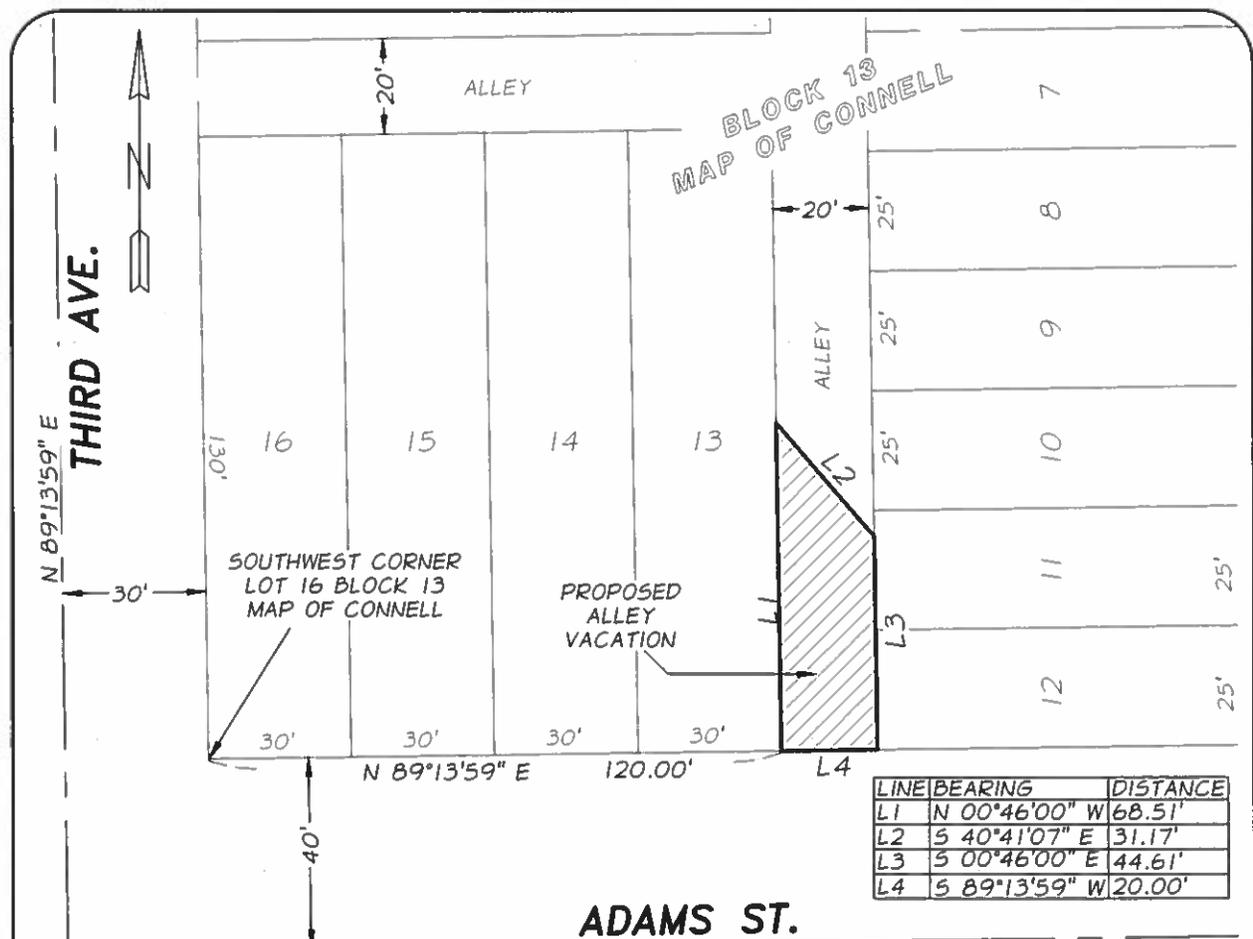
APPROVED AS TO FORM:

\_\_\_\_\_  
Dan F. Hultgrenn, City Attorney

INTRODUCED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

APPROVED: \_\_\_\_\_



**ADAMS ST.**

**ALLEY VACATION DESCRIPTION**

N 89°13'59" E BASIS OF BEARING

A PORTION OF THAT 20 FOOT WIDE ALLEY WITHIN BLOCK 13 OF THE MAP OF CONNELL, RECORDED IN BOOK "A" AT PAGE 69, RECORDS OF FRANKLIN COUNTY, LOCATED IN THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (NE1/4NE1/4) OF SECTION 36, TOWNSHIP 14 NORTH, RANGE 31 EAST, WILLAMETTE MERIDIAN, FRANKLIN COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 16 OF SAID BLOCK 13, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY OF ADAMS STREET; THENCE ALONG SAID ADAMS STREET N.89°13'59"E., 120.00 FEET TO THE SOUTHWEST CORNER OF SAID ALLEY, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE DEPARTING SAID ADAMS STREET AND ALONG THE WESTERLY LINE OF SAID ALLEY N.00°46'00"W., 68.51 FEET; THENCE DEPARTING SAID WESTERLY LINE S.40°41'07"E., 31.17 FEET TO A POINT ON THE EASTERLY LINE OF SAID ALLEY; THENCE ALONG SAID EASTERLY LINE S.00°46'00"E., 44.61 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE OF ADAMS STREET; THENCE ALONG SAID ADAMS STREET S.89°13'59"W., 20.00 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 1131.141 SQUARE FEET OR 0.026 ACRES MORE OR LESS.



**anderson perry**  
 associates  
 www.andersonperry.com  
 (509) 529-9260

**ALLEY VACATION**  
**CITY OF CONNELL**  
**FRANKLIN COUNTY, WA.**  
 AP JOB# 68-244-100

**EXHIBIT**  
**A**  
**JUNE 2017**

