



SELAH CITY COUNCIL

5:30pm October 22, 2019



Selah City Council
 Regular Meeting
 Tuesday, Oct. 22, 2019
 5:30pm
 City Council Chambers

Mayor:
 Mayor Pro Tem:
 Council Members:

Sherry Raymond
 John Tierney
 Roger Bell
 Russell Carlson
 Diane Underwood
 Jacquie Matson
 Kevin Wickenhagen
 Jeremy Burke

CITY OF SELAH
 115 West Naches Avenue
 Selah, Washington 98942

City Administrator:
 City Attorney:
 Clerk/Treasurer:

Donald Wayman
 Rob Case
 Dale Novobielski

AGENDA

- A. Call to Order –Mayor Raymond
- B. Roll Call
- C. Councilmember Absence – Motion to Excuse
- D. Pledge of Allegiance
- E. Invocation
- F. Agenda Changes **None**
- G. Public Appearances/Introductions/Presentations
 - 1. Introduction of Jeff Fortner, Building Inspector
- H. Getting To Know Our Businesses **None**
- I. Communications
 - 1. Oral

This is a public meeting. If you wish to address the Council concerning any matter that is not on the agenda, you may do so now. Please come forward to the podium, stating your name for the record. Each person wishing to speak shall have two minutes to address the Mayor and Council.

Persons wishing to speak are required to comply with the City's Rules of Decorum and shall maintain appropriate civility. Comments that are impertinent, degrading, slanderous, or impugn the integrity of any member of the Council, employee of the city, or any member of the public shall not be permitted.

2. Written

Erin Barnett a. September 2019 Code Enforcement Report

- J. Proclamations/Announcements **None**
- K. Consent Agenda

All items listed with an asterisk (*) are considered routine by the City Council and will be enacted by one motion, without discussion. Should any Council Member request that any item of the Consent Agenda be considered separately, that item will be removed from the Consent Agenda and become a part of the regular Agenda.

- Monica Lake * 1. Approval of Minutes: October 8, 2019 Council Meeting
- Dale N. * 2. Approval of Claims & Payroll
- L. Public Hearings **None**

- M. General Business
 - 1. New Business **None**
 - 2. Old Business **None**
- N. Resolutions
 - Gary Hanna 1. Resolution authorizing the Mayor to sign the 2019 Yakima County Comprehensive Emergency Management Plan and adopt the National Incident Management Plan
 - Joe Henne 2. Resolution authorizing the Mayor to sign an Industrial Wastewater User Contract with Tree Top Inc.
- O. Ordinances **None**
- P. Public Appearances **None**
- Q. Reports/Announcements
 - 1. Departments
 - 2. Council Members
 - 3. City Administrator
 - 4. Boards **None**
 - 5. Mayor
- R. Executive Session **None**
- S. Adjournment

****Next Regular Meeting: November 12, 2019**

<p>Each item on the Council Agenda is covered by an Agenda Item Sheet (AIS)</p> <p>A yellow AIS indicates an action item.</p> <p>A blue AIS indicates an information/non-action item.</p>



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Council Meeting Informational Item
10/22/2019 I – 2a

Title: Code Enforcement Report for September 2019

From: Erin Barnett, Code Enforcement Officer

Action Requested: Informational - No action needed

Staff Recommendation:

N/A

Board/Commission Recommendation: Not Applicable

Fiscal Impact: N/A

Funding Source: N/A

Background / Findings & Facts: See attached

Code Enforcement Report September 2019

Subject Property	Date	Expiration	Communication	Code Violation	Result	Notes
200 BLK Anchor Lp	9/6/2019	9/20/2019	Letter-Standard	Dumping area, Landscape		
700 BLK S. 4th st	9/5/2019	9/19/2019	Letter-Standard	Landscape Maintenance		
500 BLK Speyers Rd	9/6/2019	9/13/2019	Letter-Standard	Attractive Nuisance		
800 BLK S. 4th St Lp	9/6/2019	9/20/2019	Letter-Standard	Landscape Maintenance, Certain Growth		
700 BLK S. 4th St Lp	9/6/2019	9/13/2019	Letter-Standard	Parking on an unimproved surface		
700 BLK S. 4th St	9/9/2019	9/16/2019	Letter-Standard	Parking on an unimproved surface		
100 BLK Hillcrest Dr	9/9/2019	9/23/2019	Letter-Standard	Certain Growth		
600 BLK Crusher Canyon Rd	9/9/2019	9/23/2019	Letter-Standard	Landscape Maintenance		
100 BLK E. Bartlett Ave	9/11/2019			Certain Growth	Citation	
600 BLK S. 1st St	9/10/2019	12/10/2019	Letter-Standard	Dumpster Enclosure		
300 BLK Lacey Ave	9/11/2019	9/25/2019	Verbal	Debris		



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Council Meeting Action Item
10/22/2019 K – 1

Title: Approval of Minutes: October 8, 2019 Council Meeting

From: Monica Lake, Executive Assistant

Action Requested: Approval

Staff Recommendation:

Approval of Minutes

Board/Commission Recommendation: Not Applicable

Fiscal Impact: N/A

Funding Source: N/A

Background / Findings & Facts: See Minutes for details

Recommended Motion: Motion to approve the Consent Agenda as read.
(This item is part of the Consent Agenda)

City of Selah
Council Minutes
October 8, 2019

Regular Meeting
Selah Council Chambers
115 West Naches Avenue
Selah, WA 98942

- A. Call to Order Mayor Raymond called the meeting to order at 4:00pm.
- B. Roll Call
- Members Present: Kevin Wickenhagen; Jacquie Matson; Jeremy Burke; John Tierney; Roger Bell; Diane Underwood; Russell Carlson
- Members Absent: None
- Staff Present: Rob Case, City Attorney; Dale Novobielski, Clerk/Treasurer; Eric Steen, Deputy Police Chief; Gary Hanna, Fire Chief; Jim Lange, Deputy Fire Chief; Joe Henne, Public Works Director; Ty Jones, Public Works Utility Supervisor; Treesa Morales, Recreation Manager; Monica Lake, Executive Assistant

C. Councilmember Absence – Motion to Excuse **None**

D. Pledge of Allegiance

Council Member Wickenhagen led the Pledge of Allegiance.

E. Invocation

Deputy Police Chief Steen gave the prayer.

F. Agenda Changes **None**

G. Public Appearances/Introductions/Presentations

1. Introduction of Firefighter Cody Roberts

Fire Chief Hanna approached the podium and addressed the Council. He introduced Firefighter Cody Roberts, saying that he had been a volunteer for seven years and was selected from the existing hire list when one of the career firefighters left to take a job in East Valley.

H. Getting To Know Our Businesses **None**

I. Communications

1. Oral

Mayor Raymond opened the meeting.

Dan Peters, 311 Hillcrest, approached the podium and addressed the Council. He stated that he was there to give his opinion and hopes on the development of the Crusher Canyon site across from Hillcrest, as he was concerned about the high density zoning granted many years ago and how it would affect his neighborhood and the overall community. He said that he understood that there were still decisions to be made about that, that they have an excavation permit at the moment and are causing a lot of dust in the area. He hoped that Council would take into consideration the people on Hillcrest as well as those right next to the site when making future decisions regarding the property.

Seeing no one else rise to speak, Mayor Raymond closed the meeting.

- 2. Written **None**
- J. Proclamations/Announcements **None**
- K. Consent Agenda

Executive Assistant Lake read the Consent Agenda.

All items listed with an asterisk (*) were considered as part of the Consent Agenda.

- * 1. Approval of Minutes: September 24, 2019 Council Meeting
- * 2. Approval of Claims and Payroll:

Payroll Checks Nos. 83052 – 83071 for a total of \$292,474.66

Claim Checks Nos. 73738 – 73816 for a total of \$294,731.66

Council Member Carlson moved, and Council Member Tierney seconded, approval of the Consent Agenda as read. By voice vote, approval was unanimous.

L. Public Hearings

- 1. Public Hearing on Revenue Sources for the 2020 Budget

Clerk/Treasurer Novobielski addressed L – 1. He said that each year the City is required to have a discussion as to revenue sources for the future year. He discussed property taxes, including the levy lid lift approved by voters for funding of the Fire Department, sales tax and other taxes that the City would receive, and projected increases for water, sewer and solid waste based on the Comprehensive Plan, and an increase to building permit fees based on the published inflation rate as stated in the municipal code.

Council Member Carlson asked for clarification on the fire safety levy increase of thirty-five cents, wondering if the amount could be decreased due to higher assessed property values than the numbers from when the levy was run.

Clerk/Treasurer Novobielski replied that the amount collected would be based off of current values, and that the assessed property values did increase by approximately just under ten percent, including new construction. He added that, as they move along in the budget process, they would look at that and determine whether to impose the full amount they were authorized to impose.

Mayor Raymond opened the public hearing. Seeing no one come forward, she then closed the public hearing.

M. General Business

- 1. New Business **None**
- 2. Old Business **None**

N. Resolutions

- 1. Resolution Authorizing the Mayor to sign Construction Contract Change Order No.1 between the City of Selah and Granite Construction Company for the East Goodlander Road Improvement Project, STPUS-4710(001)

Public Works Director Henne addressed N – 1. He said that the resolution for a change order between the City and Granite Construction Company as the contractor to reconstruct East Goodlander Road, explaining that they had specified a specific type pf block for the retaining walls, and when Granit found that procurement was substantially longer, they presented an alternative block they could acquire that would get them back on schedule. He added that it was approved and they've been using it, which resulted in a credit based on the lower cost of the original blocks, and the change order was to keep the paperwork straight and reflect the price difference.

Council Member Tierney asked that he describe the new type of block.

Public Works Director Henne answered that it's a precast block with a tailpiece that hooks to a vertical upright, then one would backfill it and keep building these up, while the other blocks were just held in by mass.t

Council Member Tierney inquired if they were used anywhere else in the City.

Public Works Director Henne replied that they used them for the retaining wall behind the Palm Park pump house and so far they have stayed in place.

Council Member Tierney opined that was the important part.

Council Member Tierney moved, and Council Member Wickenhagen seconded, to approve the Resolution Authorizing the Mayor to sign Construction Contract Change Order No.1 between the City of Selah and Granite Construction Company for the East Goodlander Road Improvement Project, STPUS-4710(001). Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Burke – yes; Council Member Tierney – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

2. Resolution Authorizing the Mayor to sign Construction Contract Change Order No.2 between the City of Selah and Granite Construction Company for the East Goodlander Road Improvement Project, STPUS-4710(001)

Public Works Director Henne addressed N – 2. He said that Pacific Power has told them that the ballfield light pole in the northeast corner of field two needs to be relocated due to a distance setback from the relocated power poles, and that the change order reflects what Granite Construction is proposing for cost and a subcontractor.

Council Member Bell asked for confirmation that it was for one light pole.

Public Works Director Henne replied in the affirmative.

Council Member Tierney inquired if the cost included a new pole.

Public Works Director Henne answered in the negative, saying that they would use the old pole, but leave the junction box where at and rewire it to the new pole location.

Council Member Burke wondered how far that would be.

Public Works Director Henne responded that it would be fifteen to twenty feet, noting that the cost of conduit and wire wasn't significant; it was the cost of moving the pole and putting in a new base.

Council Member moved, and Council Member seconded, to approve the Resolution Authorizing the Mayor to sign Construction Contract Change Order No.2 between the City of Selah and Granite Construction Company for the East Goodlander Road Improvement Project, STPUS-4710(001). Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Burke – no; Council Member Tierney – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – no. Motion passed with five yes votes and two no votes.

3. Resolution Accepting the Valhalla Heights Zone 6 booster Pump Station as Complete

Public Works Director Henne addressed N – 3. He said that the City still holds the performance bond for the Zone 6 booster pump station, which is the upper station about three-fourths of the way up the hill that serves the upper lots and the rest of zone 6 from the Valhalla reservoir, and Selland Construction has asked for the bond back now that the generator has been serviced and they've confirmed that everything is working properly. He requested approval to accept it as complete and release the bond back to the developer.

Council Member Burke moved, and Council Member Matson seconded, to approve the Resolution Accepting the Valhalla Heights Zone 6 booster Pump Station as Complete. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Burke – yes; Council Member Tierney – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

4. Resolution Authorizing the Mayor to sign a WSDOT Request for Sole Source Consultant Agreement for the East Goodlander Road Improvement Project, STPUS-4710(001)

Public Works Director Henne addressed N – 4. He said that the original supplement number one had an expiration of June 30, 2016, but the City didn't execute supplement number two until July 12, 2016. He added that he had conversations with WSDOT at the time, although he hasn't been able to get hold of the local program engineer to discuss it, and that on July 14 he sent a transmittal letter to WSDOT saying that they knew the agreement was past date, but with the June 28 Council Meeting canceled he had to wait until July 12 for approval. He explained that WSDOT is saying everything since then is invalid, including approximately eighty-five thousand in funds the City had collected from STP funding, and they want the monies reimbursed and require the City to go through a sole source agreement procedure and re-establish a new amendment to the consultant agreement. He noted that the City has roughly three hundred thousand invested in the project and that if Council approves the agreement he would reimburse the State and move that eighty-five thousand from engineering to construction, resulting in a simple money shuffle.

Council Member Burke inquired if there was any harm in waiting to do something about this and get an answer as to why they waited three years to make this demand.

Public Works Director Henne replied that fees would go up.

Council Member Burke asked if those were late fees.

Public Works Director Henne responded in the negative, that he meant the engineering fees.

Council Member Carlson asked if it was money they should have been spending and weren't.

Public Works Director Henne answered that eighty-six point five percent of the money was reimbursable to the City, and that over the last three years that amount was approximately eighty-five thousand of a one point four million total project, of which one point three million is Federal Highway money.

Council Member Tierney opined that it was all smoke and mirrors.

Public Works Director Henne agreed, saying that if that's they are willing to do that would result in additional costs to the City he recommends approval of the agreement. He added that he had no idea what would happen if they pushed back at WSDOT.

Council Member Tierney observed that bottom line is that the eighty-five thousand is a wash that won't fiscally impact the City at all.

Council Member Tierney moved, and Council Member Bell seconded, to approve the Resolution Authorizing the Mayor to sign Construction Contract Change Order No.2 between the City of Selah and Granite Construction Company for the East Goodlander Road Improvement Project, STPUS-4710(001).

Council Member Carlson wondered if the project was over-charged by eighty-five thousand dollars.

Public Works Director Henne replied in the negative.

Council Member Carlson asked if it was all just paperwork.

Public Works Director Henne responded that it explains how they want to handle things.

Council Member Wickenhagen inquired if there was any risk that the sole source application wouldn't be accepted.

Public Works Director Henne answered that those at the local level have talked to Olympia and that's how they want to proceed.

Council Member Wickenhagen wondered if there would be any issue if they don't accept it.

Public Works Director Henne replied that he would pass it along to City Attorney Case to take the letter and talk with WSDOT.

Council Member Wickenhagen remarked that was why he asked if there was any harm in waiting, as it's one thing if they are simply doing a paper shuffle, but another matter entirely if they have a large invoice on the line and are trying to work something out. He asked if there was any harm in asking for clarification on why so that Council has assurances going forward.

Public Works Director Henne deferred to Terry Alapeteri from HLA.

Terry Alapeteri approached the podium and addressed Council. He said that the State has indicated a rush to wrap all this up because they've paid five thousand out that technically shouldn't have been paid if they had a lapsed agreement. He added that the odds of the agreement not happening were very small.

Council Member Matson read aloud from the AIS, saying that she didn't understand why the City wouldn't be able to ask for the eighty-six point five percent repayment.

Public Works Director Henne responded that repayment would only apply to the new agreement.

Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Burke – yes; Council Member Tierney – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

O. Ordinances

1. Ordinance Amending the 2019 Budget for The Expenditure of Lodging Taxes

Clerk/Treasurer Novobielski addressed O – 1. He said that the budget adjustments were the result of a Lodging Tax Advisory Committee meeting held September 23, where they gave consideration to three different applications for funding. He reviewed the three requests and amounts approved, referring Council Members to the

information provided in their packets, and noted that he also made adjustments to both the hotel/motel tax and the Tourism Promotion Area tax based on actual revenues received and an adjustment from Department of Revenue.

Council Member Wickenhagen moved, and Council Member Matson seconded, to approve the Ordinance Amending the 2019 Budget for The Expenditure of Lodging Taxes. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Burke – yes; Council Member Tierney – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

Deputy Police Chief Steen had no report.

Fire Chief Hanna said that it was Fire Prevention Week, and they had posted information on the website and Facebook for that. He added that Firefighter Cline would be starting kindergarten fire safety classes next week. He noted that they were flow testing hydrants and would either finish by the end of the week or early the following week. He finished by saying that tomorrow night would be orientation for the twenty-one new volunteer applicants.

Council Member Carlson asked about the number compared to the previous year.

Fire Chief Hanna replied that they had eleven last year and ended up with two.

Council Member Carlson commented that it was a lot of volunteers in a season without lots of fires.

Fire Chief Hanna noted that in 2017 they had twenty-five applicants and ended up with four or five.

Council Member Carlson wondered if there was a need to have the full thirty-five cents levied with a higher assessed value on properties than when they ran the levy.

Fire Chief Hanna replied that it certainly extends their ability to make that money last, saying that his department was projecting out ten to twelve years and getting a little additional money up front would prolong the need to revisit it.

Council Member Carlson wondered if it would create a scenario of spend it because they have it.

Fire Chief Hanna answered in the negative, saying that he has talked both with the Fire Commissioners and the City about not spending just because they have it, and that next year's budget was very similar to this year's. He went on to say that they would see those ending fund balances grow but their projection is that it would climb then level off.

Clerk/Treasurer Novobielski said that he has been working on the preliminary 2020 budget. He remarked that he would have the September financials done the next day, upload them to the website, then put together a third quarter financial summary for the finance committee and schedule a meeting.

Council Member Wickenhagen wondered if he had a date for the meeting.

Clerk/Treasurer Novobielski replied that he would send out an email invite.

Council Member Carlson remarked that they have kicked around the idea of ending the Marudo property debt once they have collected the money needed to pay it off.

Clerk/Treasurer Novobielski said that he had already estimated in the 2020 budget the amount of bond utility tax needed to pay the reserves and pay off the bonds for 2021 and 2022, and suggested that around October of next year Council should take action to consider sunseting that.

Council Member Carlson inquired if he needed a resolution from Council on making the decision to sunset when enough money had been collected, expressing his concern over collecting more than necessary and ruining trust with the taxpayers.

Clerk/Treasurer Novobielski replied that he would confer with the City Attorney on the matter.

Council Member Carlson asked City Attorney Case if there was a way to allow the Clerk/Treasurer to make adjustments when that time comes rather than having to forecast, and to give him the ability to end the utility tax when enough money is collected.

City Attorney Case responded that he would have to look into it.

Clerk/Treasurer Novobielski opined that Council wouldn't need to pass additional direction to him to reduce the rate, as it was already in the language creating the utility tax.

Recreation Manager Morales had no report.

Public Works Director Henne said that they were preparing for winter, winterizing meters and doing a final meter read, stockpiling salt and deicer, and finishing up projects around town. ,

Council Member Underwood expressed concern over the raised section of sidewalk in front of the Liberty building and the potential for people to fall off of it.

Public Works Director Henne replied that they are supposed to be installing railing.

Council Member Carlson said that he had a question regarding dust abatement for Crusher Canyon.

Public Works Director Henne replied that he had been on vacation and didn't know if a grading permit had been issued yet. He said that originally they were only going to grub to a one inch depth, although they were supposed to keep the dust down. He added that the SEPA document had been submitted and

issued to agencies for comment. He spoke briefly about the John Campbell project, noting that they were behind in submitting paperwork.

Council Member Burke asked if that had been brought to their attention.

Public Works Director Henne responded that he believes so, as he asked Community Development Supervisor Peters to call them and let the superintendent know that their architect hasn't come through with the documents needed.

City Attorney Case remarked that he's worked on projects with most department heads by now. He gave a brief explanation on the status of the Owens appeal, saying that he's playing catch up with the voluminous record to date, and that he's waiting for the Owens' attorneys to file the written order requested by the judge to file a cross appeal regarding the City's request for costs and fees.

Council Member Burke asked if he had an assessment on whether they should go forward with the appeal for fees and costs.

City Attorney Case responded that he sees no reason not to, that Bob Noe was confident on the City's position adding that he would be getting into it deeper when the time come but was currently focused on learning the record. He provided a brief explanation of how the process would work, noting that the appeal board wasn't bound by the trial judge's order.

2. Council Members

Council Member Wickenhagen remarked that it was very nice to drive around Selah and see all the work being done, saying that the new grass layout on First Street looks great, there's a lot of construction going on, and it's nice to live in a town that takes care of what it has.

Council Member Matson had no report.

Council Member Burke had no report.

Council Member Tierney thanked his fellow Council Members for approving the expenditure of LTAC funds.

Council Member Bell announced that the Selah Chamber of Commerce would have their annual event at the Civic Center on Friday, called Wine, Dine and Beyond, and that tickets were still available.

Council Member Underwood had no report.

Council Member Carlson commented that the next YVCOG meeting would be October 16th at Nana Kate's in Selah and encouraged his fellow Council Members to attend. He added that they have attendees from most municipalities in the valley and frequently talk about monies available. He praised Tiffany Hein for her efforts in the community as the new executive director of the SDA, saying that she does a phenomenal job, and observed that the work being done on the Liberty building was a good example of the City and the SDA working together.

- 3. City Administrator **None**
- 4. Boards **None**
- 5. Mayor

Mayor Raymond remarked that Cities on Tap was coming up on October 23rd in Yakima, with the agenda focused on talking about their legislators, when would be a good time to talk to them, how to present yourself and matters of concern to them. She requested that those Council Members who were interested contact Executive Assistant Lake.

P. Executive Session **None**

Q. Adjournment

Council Member Tierney moved, and Council Member Matson seconded, that the meeting be adjourned. By voice vote, approval was unanimous.

The meeting adjourned at 4:58pm.

Sherry Raymond, Mayor

John Tierney, Council Member

Roger Bell, Council Member

Russell Carlson, Council Member

Diane Underwood, Council Member

Jacquie Matson, Council Member

Kevin Wickenhagen, Council Member

Jeremy Burke, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Council Meeting	Action Item
10/22/2019	K – 2

Title: Claims & Payroll

From: Monica Lake, Executive Assistant

Action Requested: Approval

Staff Recommendation:

Approval of Claims & Payroll as listed on Check Registers.

Board/Commission Recommendation: Not Applicable

Fiscal Impact: See Check Registers

Funding Source: See Check Registers

Background / Findings & Facts: See Check Registers

Recommended Motion: Motion to Approve the Consent Agenda as read.
(This item is part of the Consent Agenda)



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Council Meeting Action Item
10/22/2019 N – 1

Title: Resolution authorizing the Mayor to sign the 2019 Yakima County Comprehensive Emergency Management Plan and adopt the National Incident Management Plan.

From: Gary W. Hanna, Fire Chief

Action Requested: Approval

Staff Recommendation:

Not Applicable

Board/Commission Recommendation: Not Applicable

Fiscal Impact: None

Funding Source: Not Applicable

Background / Findings & Facts: The City of Selah, in cooperation with Yakima County and other local city and town governments, private sector entities, and private non-profit organizations, has revised the County-wide Comprehensive Emergency Management Plan in a continued effort to provide an effective allocation of resources for the protection of people and property in time of an emergency.

Recommended Motion: Move to approve resolution authorizing the Mayor to sign the 2019 Yakima County Comprehensive Emergency Management Plan and adopt the National Incident Management Plan.

RESOLUTION NO. _____

**Resolution authorizing the Mayor to sign the 2019 Yakima
County Comprehensive Emergency Management Plan and adopt
the National Incident Management Plan**

WHEREAS, the City of Selah, in cooperation with Yakima County and other local city and town governments, private sector entities, and private non-profit organizations, has revised the County-wide Comprehensive Emergency Management Plan (CEMP) in a continued effort to provide an effective allocation of resources for the protection of people and property in time of an emergency; and,

WHEREAS, normal day-to-day procedures are insufficient for effective disaster response, as extraordinary emergency measures must be implemented quickly to reduce impacts to life, property, and environment. Effective plans carried out by knowledgeable and well-trained personnel can reduce losses, injuries, and damages; and,

WHEREAS, the objective of the CEMP is to coordinate the resources of the County and its local jurisdictions into an effective organization capable of responding effectively to an emergency; now, therefore,

BE IT HEREBY RESOLVED the City of Selah gives its full support to the CEMP and urges all officials, employees, and citizens to do their part in the emergency preparedness effort. Local municipalities shall continue to have the responsibility to prepare and maintain their own emergency procedures and guidelines and commit to carrying out the training, exercises, and plan maintenance needed to support the Yakima County CEMP.

BE IT FURTHER RESOLVED that this 2019 Yakima County CEMP is hereby promulgated and adopted, along with the National Incident Management System. This 2019 Yakima County Comprehensive Emergency Management Plan supersedes all previous CEMPs and shall be effective immediately.

DONE this 22nd day of October 2019.

Sherry Raymond, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Rob Case, City Attorney



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Council Meeting	Action Item
10/22/2019	N – 2

Title: Resolution authorizing the Mayor to sign an Industrial Wastewater User Contract with Tree Top Inc.

From: Joe Henne, Public Works Director

Action Requested: Approval

Staff Recommendation:

To approve the attached wastewater contract between Tree Top Inc. and the City of Selah.

Fiscal Impact: N/A

Funding Source: None

Background / Findings & Facts: The Public Works received a request to update the existing Industrial Wastewater User Contract with Tree Top, Inc. Meetings were held with representatives from Tree Top and the City along with HLA Engineering. The updated Contract clarifies discharge locations, metering & monitoring equipment. Tree Top is to provide reasonable access to City personnel. Discharges shall be regulated, failing to meet discharge limits shall be considered a violation and fines can be imposed. Please review the attached Contract.

Recommended Motion: Authorize the Mayor to sign an Industrial Wastewater User Contract between the City of Selah and Tree Top Inc.

RESOLUTION NO. _____

Resolution authorizing the Mayor to sign an Industrial Wastewater User Contract with Tree Top Inc.

WHEREAS, the City of Selah desires to update the industrial Wastewater User Contract between the City and Tree Top Inc.; and

WHEREAS, Tree Top Inc. is in need of discharging wastewater to the City's Wastewater Treatment Plant during the winter months due to limitation in Tree Top's Lagoon and Spray System; and

WHEREAS, the Industrial Wastewater User Contract provides for the allocation of a portion of the capacity of the City's wastewater treatment facilities to the Contracted User in accordance with Schedule "A" attached to the Contract; and

WHEREAS, the Contract allows for the adjustment of Contracted Capacity and adjustments in capacity are reasonable based on additional information collected through metering and monitoring of the industrial discharges from the Contracted User;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be authorized to sign the agreement in the Industrial User Contract as attached.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 22nd day of October 2019.

Sherry Raymond, Mayor

ATTEST:

Dale Novobielski, Clerk/ Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney

CITY OF SELAH

INDUSTRIAL WASTEWATER USER CONTRACT TREE TOP, INC.

November 1, 2019

1. Parties:

1.1. City of Selah, a Washington municipal corporation, hereinafter referred to as "the City."

1.2. Tree Top Inc., a corporation, hereinafter referred to as "Tree Top."

2. Industrial Wastewater Terms, Conditions:

2.1. This Contract shall commence upon the signing of this Contract, and shall continue until terminated by Tree Top as provided herein.

2.2. Tree Top may terminate this Contract by providing the City with written notice at least thirty (30) days prior to the date of Contract termination.

2.3. Monitoring of industrial wastewater discharges shall be conducted by the City. A flow meter and automatic sampler approved by the City shall be used to monitor discharges. Discharge locations shall be established jointly between the City and Tree Top, and each location shall include the required industrial wastewater metering and monitoring equipment. City personnel shall be provided reasonable access to the discharge locations when discharges are occurring.

2.4. The City shall gather and handle all samples in accordance with recognized standards and requirements and will use only certified laboratories for testing of the samples.

2.5. Tree Top may request that duplicate samples be taken at any time during the term of the Contract. The City will make duplicate samples available to Tree Top for their own testing when the City retrieves their samples from the sampling device.

2.6. It is understood that, due to differences in handling and testing procedures, no direct comparison between the City's testing results and Tree Top's testing results can be made.

2.7. City testing results shall be used to determine characteristics of the wastewater for the purpose of establishing industrial wastewater billings.

2.8. Discharges of industrial wastewater to the City's wastewater treatment facilities shall, in volume and strength, not exceed the amounts listed in Schedule A attached hereto. Listed values are monthly average values measured at the industry's discharge, and represent the combined total of all industrial discharges to the City's wastewater treatment system.

2.9. Discharges to the City's wastewater treatment facilities shall be equally distributed throughout a 20-hour period to the maximum extent practical. No discharges will be allowed from 6:00 a.m. to 10:00 a.m. Discharging the full

contracted daily volume within a 12-hour period or less shall be considered an unauthorized discharge.

- 2.10. Unauthorized discharge of industrial wastewater by Tree Top to the City's wastewater system which has not passed through the industrial monitoring facility shall be considered a violation of this Contract. The fine for such a violation, as well as other unauthorized discharges, shall be \$1,000 per day for every day on which such unauthorized discharge occurs. Tree Top may appeal any such fines to the Selah City Council.
- 2.11. Tree Top shall provide a contact person with authority to respond 24 hours a day to issues related to the industrial discharges. That person shall have the authority to control or terminate discharges at the request of the City.
- 2.12. It is recognized that Tree Top may wish to discharge to the City on an emergency basis at times outside of, and/or in quantities in excess of, those listed in Schedule A - Allowable Wastewater Discharges. No emergency discharges shall be allowed unless authorized by the City. Tree Top shall notify the City of Selah as soon as possible prior to any discharge to the City system on said emergency basis. Such notification shall be made to the City of Selah Wastewater Treatment Plant Supervisor. The City shall review its treatment plant loadings and advise if emergency discharge is allowed.

3. Rates and Charges:

- 3.1. Monthly charges for the discharge of industrial wastewater shall be based on the volume and strength of wastewater discharged. Monthly charges will be based on the total volume of wastewater discharged during the month as measured by the City flow meter, the strength of the wastewater, expressed as pounds of BOD per month, and pounds of TSS per month, as determined through testing of the wastewater by the City.
- 3.2. Rates for volume and strength of industrial wastewater discharged shall be as specified in the City's most current sewer rate resolution for Industrial Users Required to Connect to the City Pretreatment Facility.
- 3.3. Rates and charges shall be subject to annual review by the City Council and may be adjusted as required to meet the revenue needs of the City's sewer fund.
- 3.4. If components of Tree Top's industrial wastewater discharges exceed the allowable quantities set forth in Condition 2.9 of this Contract, the rates for that portion in excess of that set forth in Condition 2.9 shall be 1.25 times the rate as set forth in Conditions 3.2 and 3.3. This surcharge provision shall not apply to emergency discharges authorized under Condition 2.10.

4. Prohibited Discharges:

- 4.1. Tree Top shall not cause or permit the release or discharge of the following pollutants to the City's wastewater system:
 - A. Pollutants which create a fire or explosion hazard in the City's wastewater system, including, but not limited to, discharges with a closed cup flashpoint of less than 140° Fahrenheit or 60° Centigrade using the test method specified in 40 CFR 261.21;

- B. Pollutants which will cause corrosive structural damage to the wastewater system, but in no cases discharges with a pH lower than 5.0 or greater than 11.0;
- C. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the wastewater system;
- D. Any discharge at a flow rate and/or concentration which will cause interference with wastewater treatment;
- E. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference with wastewater treatment or will pass through the wastewater system untreated;
- F. Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater system in a quantity that may cause acute worker health and safety problems or will pass through the wastewater system untreated; and
- G. Heat in amounts which will inhibit biological activity or which would cause wastewater entering the treatment plant to exceed 40° Centigrade unless otherwise approved by the City prior to commencing the discharge.

5. Billing Procedure:

- 5.1 Monthly billings by the City and payments by Tree Top shall be in accordance with City standard billing and payment procedures.

6. Remedies if Tree Top Fails to Perform:

- 6.1. If Tree Top fails to make any payment or perform any obligation required of Tree Top under the terms of this Contract, the City shall be entitled to exercise all rights and remedies allowed by law or equity including, without limitation, the following remedies which may be cumulative:
 - A. Collection Action: The City may commence an action for the collection of past due payments or obligations.
 - B. Damages, Fines, Penalties: In the event Tree Top fails to perform this Contract including, without limitation, prohibited discharges, Tree Top shall be responsible for any damages to the City, including without limitation:
 - 1. Costs incurred in connection with removal of debris or obstructions from pipelines, pumping stations, and other wastewater system components;
 - 2. Costs of repairs to the City facilities and equipment;
 - 3. Any environmental cleanup costs; and

4. Any damages, costs, fines, penalties, or expenses for which the City may be obligated as a result of Tree Top's failure to perform this Contract.
- 6.2 If the City fails to perform any obligation required of the City under the terms of this Contract, Tree Top shall be entitled to all rights and remedies allowed by law or equity.
7. Indemnification:
 - 7.1 Tree Top will at all times indemnify and hold harmless and defend the City, its elected officials, officers, employees, agents, and representatives from and against any and all losses, damages, costs, charges, expenses, judgments, and liabilities, including attorney's fees (including attorney's fees in establishing indemnification of whatsoever nature), collectively referred to herein as "losses," directly or indirectly resulting from, arising out of, or related to one or more claims, as hereinafter defined, unless such losses or claims, or both, directly or indirectly result from, arise out of or relate to, or are asserted to have resulted from, arisen out of or related to, in whole or in part, one or more negligent acts or omissions of the City or its elected officials, officers, agents, representatives, employees, or any other party acting for or on behalf of the City.
 - 7.2 The term "claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, including but not limited to claims, lawsuits, causes of action, and other legal actions and proceedings involving bodily or personal injury or death of any person or damage to any property (including but not limited to persons employed by the City, Tree Top, or any other person and all property owned or claimed by the City, Tree Top, and any affiliate of Tree Top, or any other person).
 - 7.3 The obligations of Tree Top hereunder shall apply to all losses or claims, or both, that result from, arise out of, or are related to any event, occurrence, condition or relationship, whether such losses or claims, or both, are asserted. The City will not be liable to Tree Top for, and Tree Top hereby releases the City from, all liability for any injuries, damages, or destruction to all or any part or parts of any property owned or claimed by Tree Top that directly or indirectly result from, arise out of, or relate to Tree Top's use of the City's wastewater facilities or under this Contract or any part thereof, unless such injuries, damages, or destruction directly or indirectly result from, arise out of, or relate to, in whole or in part, one or more negligent acts or omissions of the City or its elected officials, directors, employees, agents, representatives, or any other party acting for or on behalf of the City.
 - 7.4 In case any action shall be brought against the City in respect of which indemnity may be sought against Tree Top, the City shall promptly notify Tree Top in writing and Tree Top shall have the right to assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The City shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by the City unless the employment of such counsel has been authorized by Tree Top and Tree Top shall control the defense of claims against which it is providing indemnity hereunder.

7.5 Should a court of competent jurisdiction determine this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the officers, employees, and agents, Tree Top's liability hereunder shall be only to the extent of Tree Top's negligence.

7.6 It is further specifically and expressly understood that the indemnification provided herein constitutes Tree Top's waiver of immunity under industrial insurance, Title 41 RCW, solely for the purpose of this indemnification. This Waiver has been mutually negotiated by the parties.

_____ initial

_____ initial

7.7 The provisions of this indemnification section shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF the parties hereto have executed this Contract as of this 22nd day of October, 2019.

CITY OF SELAH

SHERRY RAYMOND, MAYOR

ATTEST:

DALE NOVOBIELSKI, CLERK/TREASURER

TREE TOP, INC.

DULY AUTHORIZED REPRESENTATIVE

CITY OF SELAH

**INDUSTRIAL WASTEWATER USER CONTRACT
TREE TOP, INC.**

November 1, 2019

**SCHEDULE A
ALLOWABLE WASTEWATER DISCHARGES**

Month	Average Daily Flow (gallons per day)	Average Daily BOD Loading (pounds per day)	Average Daily TSS Loading (pounds per day)
January	80,000	1,600	500
February	80,000	1,600	500
March	80,000	1,600	500
April	0	0	0
May	0	0	0
June	0	0	0
July	0	0	0
August	0	0	0
September	0	0	0
October	80,000	1,600	500
November	80,000	1,600	500
December	80,000	1,600	500

1. Maximum flow rate discharged to City shall not exceed 200 gpm.
2. Tree Top shall provide details of the characteristics of the proposed discharge and the hours of the day when flow will occur for City review and approval prior to commencing discharge.
3. It is understood that BOD is the limiting parameter. Therefore, the average daily flow may be increased up to a maximum of 150,000 gallons per day provided the average daily BOD loading does not exceed 1,600 pounds per day.