



**City of McCall  
City Council**

**AGENDA  
Emergency Meeting  
June 2, 2023 at 2:00 PM  
Legion Hall – Below City Hall  
216 East Park Street  
McCall, ID  
AND MS TEAMS Virtual**

**ANNOUNCEMENT:**

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, please contact City Hall at 634-7142 at least 48 hours prior to the meeting. Council Meetings are available for in person attendance. Any member of the public can join and listen only to the meeting at 2:00 pm by calling in as follows:

**Dial 208-634-8900 when asked for the Conference ID enter: 691 702 80#**

**When calling in please keep your phone muted.**

**This meeting will not be live streamed; however, a video of the meeting will be posted to YouTube immediately after the meeting.**

**This is an Emergency Meeting of the McCall City Council pursuant to Idaho Code §74-204(2)**

**OPEN SESSION**

**BUSINESS AGENDA**

AB 23-125 Request to Ratify the Approval of the Contract with Olympus Technical Services for the fuel cleanup in Payette Lake and affected areas (ACTION ITEM)

Staff will provide a report of the cleanup efforts and the timeline for completion.

**ADJOURN**

**McCALL CITY COUNCIL  
AGENDA BILL**

216 East Park Street  
McCall, Idaho 83638

**Number AB 23-125  
Meeting Date June 2, 2023**

**AGENDA ITEM INFORMATION**

<b>SUBJECT:</b>  <i>Request to Ratify the Approval of the Contract with Olympus Technical Services for the fuel cleanup in Payette Lake and affected areas</i>		<i>Department Approvals</i>	<i>Initials</i>	<i>Originator or Supporter</i>
		Mayor / Council		
		City Manager		
		Clerk		
		Treasurer		
		Community Development		
		Police Department		
		Public Works		
		Golf Course		
<b>COST IMPACT:</b>	\$100,000	Parks and Recreation		
<b>FUNDING SOURCE:</b>	Public Works	Airport		
		Library		
<b>TIMELINE:</b>	June 1, 2023	Information Systems		
		Grant Coordinator		

**SUMMARY STATEMENT:**  
On May 28, 2023 an unidentified fuel source was reported in the Big Payette Lake. After meeting with DEQ and the EPA it was determined that the fuel needed to be mitigated as soon as possible. After soliciting three emergency cleanup service quotes, staff chose Olympus Technical Services as they had appropriate experience and equipment to start immediately. Due to the emergency nature of this contract, it was decided, with the advice of legal counsel, that BessieJo Wagner acting as City Manager in Anette Spickard’s absence would sign the contract and then bring it to the Council to ratify the decision.

**RECOMMENDED ACTION:**  
Ratify the approval of the Contract with Olympus Technical Services for the fuel cleanup in Payette Lake and affected areas giving BessieJo Wagner the authority to sign all necessary documents related to this contract.

**RECORD OF COUNCIL ACTION**

<b>MEETING DATE</b>	<b>ACTION</b>

**OLYMPUS TECHNICAL SERVICES, INC.  
GENERAL SERVICES CONTRACT #C\_\_\_\_\_**

This CONTRACT is made this 1 day of June by and between OLYMPUS TECHNICAL SERVICES, INC. ("Olympus") and the Olympus customer ("Client"):

Client name: City of McCall

Address: 216 East Park St  
McCall, ID 83638

Phone: 208-634-7142

For and in consideration of the mutual covenants contained herein, the parties agree:

**ARTICLE I. SERVICES BY OLYMPUS**

**1.0 Scope of Work**

Olympus will provide personnel, equipment, and materials for those services described in specific Task Orders, (hereinafter "Services") subject to this Contract, signed by Olympus and the Client.

**1.1 Method of Performance**

- 1.1.1 Olympus shall mobilize such personnel, equipment, and materials as Client may direct.
- 1.1.2 Olympus shall comply in all material respects with all applicable federal, state, and local laws and regulations in its performance of the Services.
- 1.1.3 Olympus will make its personnel available at its standard rates and those of its authorized subcontractors at Client's cost available to confer with Client to review the status of projects and to review and establish procedures for the efficient delivery of Services hereunder.
- 1.1.4 Neither Olympus, its authorized subcontractors, nor any of their employees shall supervise, directly or indirectly, any temporary or permanent employee of Client.
- 1.1.5 Olympus will bring to the location of a response action only such equipment, personnel, or other resources as Client requests for the response action, or, in the absence of prior instructions from Client, such equipment, personnel, or other resources as Olympus reasonably deems necessary.

**ARTICLE II. COMPENSATION**

- 2.1 Client shall reimburse Olympus for Services as described in each Task Order. Olympus

shall invoice Client monthly for Services performed hereunder. Client shall make payment within thirty (30) days of receiving such invoice. A late fee will be added to accounts 30 days in arrears at the rate of one and one half percent (1.5%) of the amount due for each month of delinquency, prorated on a daily basis. All expenses incurred by Olympus for liening or collecting any delinquent amount including, without limitation, attorney and filing fees shall be paid to Olympus by Client.

2.2 In the event of any failure of payment by Client to Olympus when due, Olympus shall have the right to suspend work and may retain any and all documentary work product prepared by Olympus until Client makes all outstanding payments current. In such event, Olympus shall have no liability for any damages or losses that may result from any delay associated with the suspension of work or for the withholding of work product.

2.3 In the event that the services provided by Olympus under the Scope of Work and this Agreement are terminated by Client for any reason, Olympus shall be paid for all services it has performed prior to receiving written notice of termination. Client hereby agrees to pay Olympus such additional termination costs and expenses reasonably necessary to close out the project.

### **ARTICLE III. OLYMPUS'S LIABILITY INSURANCE**

3.1 Until the Services are completed, Olympus agrees to provide and maintain at its own expense the following insurance coverage:

- 3.1.1 Workers' Compensation, including employers liability coverage and United States Longshore and Harbor Workers' Compensation Act where applicable, at the statutory limits for the state or states in which the work is to be performed.
- 3.1.2 Commercial General Liability insurance in the amount of \$5,000,000 per occurrence/\$5,000,000 aggregate combined single limits for bodily injury and property damage, including product liability, completed operations, contractual liability and, where applicable, coverage for damage caused by blasting, collapse, or structural injury, and/or damage to underground utilities.
- 3.1.3 Automobile Public Liability in the amount of \$1,000,000/\$5,000,000 umbrella per accident for bodily injury and property damage, including non-owned automobiles.
- 3.1.4 Consultants Environmental Liability in the amount of \$5,000,000 per occurrence to an aggregate amount of \$5,000,000.
- 3.1.5 In the event that Client desires additional insurance, Client will notify Olympus of such request and Olympus will obtain a quote from its insurance carrier regarding the cost of obtaining the requested coverage. The cost of such additional insurance will be borne by Client. Olympus will not procure this additional coverage without the written approval of Client.

## **ARTICLE IV. HEALTH AND SAFETY**

4.1 Olympus will perform all Services under this Contract in accordance with generally accepted professional standards that apply in the community where the Services are performed for the type of work involved and applicable laws.

4.2 Olympus will utilize a health and safety plan for its own employees. Olympus will also use situation-specific health and safety planning for its own employees at response action sites.

## **ARTICLE V. ACCESS TO PROPERTY**

5.1 Client has the responsibility for obtaining a right of entry to property where the Services are to be performed. The right of entry shall allow Olympus, its agents, subcontractors and employees to enter the property from time to time, as necessary to perform all acts, studies and research pursuant to the agreed services within the scope of the Work. Olympus does not assume control of nor responsibility for the property, the person in charge of the property, nor the safety of persons not in Olympus' employ.

5.2 Client recognizes that hazardous materials may be encountered at the Site or in the subsurface as part of the performance of Services under this Agreement by Olympus, its employees or agents, and Client agrees that potential hazardous materials pre-existing at the site of the Work or in the subsurface were not placed, deposited, or generated by Olympus, its employees, or agents and Olympus will not take title to the waste.

5.3 If any unforeseen conditions or occurrences, including, but not limited to, hazardous substances or pollutants, are encountered, which, in Olympus's sole judgment, significantly affect or may affect the recommended scope of the Services, then Olympus will notify Client. After such notification, Olympus will complete the original scope of Services, if appropriate, or agree with Client to modify the Agreement, or terminate this Agreement with respect to the Services pursuant to Section 6.11 hereof.

## **ARTICLE VI. GENERAL PROVISIONS**

### **6.1 Indemnification**

Removed

### **6.2 Permits and Access**

Olympus will assist Client in securing necessary project-specific permits required by authorities having jurisdiction over a given response action. Olympus will also assist Client in securing necessary permission for Olympus to enter on private property if required for the performance of Services.

### **6.3 Force Majeure**

Delay or failure of Olympus in the performance of services hereunder shall be excused if caused

by circumstances beyond the control of Olympus, including, without limitation, acts of God, strikes, fire, flood, windstorm, extreme weather events, war, riot, epidemic and action or request of governmental authority, and inability to obtain material, equipment, or services, provided that a prompt notice of such delay or failure is given and Olympus diligently attempts to remove the cause.

#### **6.4 Independent Contractor Relationship**

Olympus is and shall perform all Services as an independent contractor and as such shall have and maintain exclusive control and direction over all of its employees, agents, and operations. No other relationship is intended or created under this Agreement, and neither party to this Contract shall have authority to make any statements, representations, or commitments of any kind or to take any action that will be binding on the other party, except as may be expressly provided for in this Contract or otherwise authorized in writing.

#### **6.5 Subcontracts**

Olympus may at any time and without Client's consent delegate orally or in writing the performance of Services hereunder, or any portion thereof. All subcontractors shall remain under the direction and supervision of Olympus Employees

#### **6.6 Survival**

Section 6.1 and all other provisions of this Contract that may reasonably be construed as surviving the term of this Contract shall survive the term of this Contract.

#### **6.7 Applicable Law**

This Contract shall be governed exclusively by the laws of the state where the work is performed. Venue for any dispute hereunder shall be in the federal or state court sitting in the city of the nearest Olympus office in proximity to the primary location of the Services being rendered by Olympus under this Contract, and each party hereby consents to the venue of such courts for any dispute hereunder; provided, however, that nothing herein shall preclude Olympus from exercising its mechanics' or materialmen's lien rights under the laws of any jurisdiction where the Services are performed.

#### **6.8 Severability**

If any provision of this Contract is found to be illegal, invalid, or unenforceable for any reason, such findings shall not affect the other provisions hereof.

#### **6.9 Taxes**

Client shall pay all state and local sales, use, or excise taxes of any kind assessed and/or arising out of the sale or use of the Services and shall, upon demand, reimburse Olympus for any sums it has expended for such taxes.

## **6.10 Assignment**

Neither this Contract nor any duty for payment of Services due or to become due under this Contract and its adjoining Task Order nor any right hereby granted to Olympus may be assigned by Client without the prior written consent of Olympus, and any assignment without such consent shall be void. No third party is intended to be benefited hereby.

## **6.11 Term and Termination**

The term of this Contract shall expire upon written notice by either party; provided, however, that neither party shall have the right to terminate this Contract except pursuant to the following provisions of this Section 6.11.

6.11.1 Either party may, for its sole convenience, terminate the performance of the Services in whole or in part at any time, or from time to time, by giving ten (10) days' written notice of intent to terminate.

6.11.2 Client will pay Olympus all time and materials costs (and any fee) which have accrued as of the effective date of termination and, in addition, those time and materials costs incurred or earned in good faith by Olympus after the effective date of termination in connection with: (1) demobilization of equipment and personnel; and (2) any necessary subcontract and/or vendor settlements.

6.11.3 The rights and remedies of the parties provided in this Section 6.11 are in addition to any other rights and remedies provided by law or under this Contract.

## **6.12 Entire Agreement**

This Contract and its associated Task Order(s) contain(s) the entire and only agreement between Client and Olympus respecting the subject matter hereof. It supersedes all prior or conflicting agreements, representations, promises, or conditions. Any modification of this Contract must be in writing and signed by both parties and must expressly indicate an intent to modify this Contract.

## **6.13 Attorney's Fees**

In the event of litigation or arbitration among the parties to enforce this Agreement, arising out of this Agreement, or arising out of the transaction or property involved in this Agreement, the non-prevailing Party must pay all expenses of the prevailing party (including attorneys' fees and expenses).

## **6.14 Notices**

All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given if (and then two (2) business days after) it is sent by registered or certified mail, return

receipt requested, postage prepaid, and addressed to the intended recipient as set forth below. Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth below using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

For Olympus:

For Client:

Olympus Technical Services, Inc.  
765 Colleen Street  
Helena, MT 59601

### **6.15 Dispute Resolution.**

If any dispute arises between the parties the parties agree to negotiate and informally resolve such dispute before proceeding to judicial action, as hereinafter provided. Upon notice ("Negotiation Notice") by either party to the other seeking a negotiation with respect to any issue the parties agree to meet as soon as practicable in a good faith effort to negotiate in order to seek a mutually acceptable resolution of the issue. If an issue is not resolved by negotiation within thirty (30) days of the delivery of the Negotiation Notice, either party may thereafter initiate an effort by the parties to resolve such issue through non-binding mediation under the rules of the American Arbitration Association ("AAA"). The parties agree as follows with respect to such mediation:

- 6.15.1 The cost of mediation including filing fees with the AAA and the fees of the mediator shall be borne equally by the parties; and
- 6.15.2 Mediation shall occur at such city of the nearest Olympus office as shall be designated by the mediator who shall be selected pursuant to the Mediator's Rules of the American Arbitration Association if the parties are unable to agree on a mediator within thirty (30) days of the delivery of the Negotiation Notice.
- 6.15.3 If a party does not participate in good faith negotiations to attempt resolution of a dispute after its receipt of a Negotiation Notice, then neither party is obligated to submit to mediation before electing to initiate litigation.

### **6.16 No Waiver of Performance:**

The failure or delay of Olympus to require performance of any provision of this Contract shall in no manner affect its right to enforce that provision. No single or partial waiver by Olympus of any condition of this Contract, or the breach of any term, agreement or covenant or the inaccuracy of any representation or warranty of this Contract, whether by conduct or otherwise, in any one or

more instances shall be construed or deemed to be a further or continuing waiver of any such condition, breach or inaccuracy or a waiver of any other condition, breach or inaccuracy.

**6.17 Counterparts and Fax Signatures.**

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument. An electronic signature has the same effect as an original ink signature.

**EXECUTED** as of the date first written above.

**OLYMPUS TECHNICAL SERVICES, INC.**

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

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

Printed Name: \_\_\_\_\_

-AND-

**Client:** City of McCall

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

Authorized Client Signature

Title: City Clerk – Acting City Manager

Printed Name: BessieJo Wagner



Olympus WO#:

Governing Contract Number:

Customer Contact: Cris Malvich for project/ BessieJo Wagner for approvals Date: 6/1/2023

Customer Work Order Number:

Customer: City of McCall

Street Address: 216 East Park Street

City, State, Zip: McCall, ID 83638

Phone Number: 208-634-7142

Fax Number: 208-634-3038

Customer hereby authorizes and employs Olympus Technical Services, Inc. (Olympus) to: Provide response to a petroleum based product released in McCall Idaho not to exceed \$100,000 without additional approval.

Customer will be invoiced monthly, on a time and materials basis in accordance with Olympus' standard rate schedule. Olympus' invoices will reflect actual charges based on the applicable schedules. Any changes to our agreement must be mutually agreed and in writing.

The General Services Contract between Olympus and Customer will govern this Task Order. Please acknowledge your acceptance of these Services by having this Task Order and attached General Services Contract properly executed by a person authorized to purchase these Services and returning a signed copy to us.

Olympus Technical Services, Inc.

By (Signature): \_\_\_\_\_ Print Name: \_\_\_\_\_

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

Approved for City of McCall (Customer)

By (Signature): \_\_\_\_\_ Print Name: BessieJo Wagner

Title: City Clerk – Acting City Manager Date: June 1, 2023