

**RESOLUTION NO. R16-99**

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE MAYOR  
TO SIGN THE WATER SUPPLY AGREEMENT WITH CHS INC.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana,

Section 1: Approval. The agreement between the City of Laurel and CHS Inc., a copy attached hereto, is hereby approved.

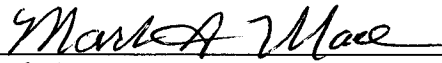
Section 2: Execution. The Mayor and the City Clerk of the City of Laurel are hereby given authority to execute the agreement on behalf of the City.

Introduced at a regular meeting of the City Council on September 6, 2016, by Council Member Poehls.

PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this 6<sup>th</sup> day of September, 2016.

APPROVED by the Mayor this 6<sup>th</sup> day of September, 2016.

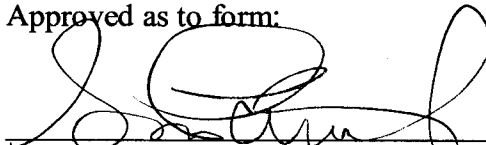
CITY OF LAUREL

  
\_\_\_\_\_  
Mark A. Mace, Mayor

ATTEST:

  
\_\_\_\_\_  
Shirley Ewan, Clerk/Treasurer

Approved as to form:

  
\_\_\_\_\_  
Sam S. Painter, Civil City Attorney

## WATER SUPPLY AGREEMENT

THIS WATER SUPPLY AGREEMENT (“Agreement”) is entered into this 6th day of September, 2016 (“Effective Date”), by and between CHS INC., a Minnesota corporation with a mailing address of 5500 Cenex Drive, Inver Grove Heights, MN 55077 (“CHS”), and the CITY OF LAUREL, a Montana municipal corporation, with a mailing address of 115 W 1<sup>st</sup> Street, Laurel, MT 59044 (“City”).

### RECITALS

WHEREAS, the City has installed at the Yellowstone River a pumping plant with a river intake well and pump house facilities sufficient to pump and sell water pursuant to its State of Montana water right.

WHEREAS, historically, the City has supplied CHS and its predecessors with both potable and raw water for CHS’s use at its facilities located near the City (“CHS Property”) in accordance with various agreements between the parties.

WHEREAS, the parties desire to update and replace all water purchase agreements previously entered into between the City and CHS.

WHEREAS, the intent of the Agreement is to reduce CHS’ use of potable water for its refining operations and to provide the City the ability to market settled water, from the City’s water plant designed to 5 NTU, to CHS as an alternative to potable water.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged as paid, the parties agree as follows:

1. Quantity of Water. City shall utilize its best effort to deliver to CHS a minimum of 950,000,000 gallons of water per year for municipal and industrial purposes. Notwithstanding anything to the contrary in this Agreement, in the event an emergency failure occurs in the City’s water supply system in either pressure or supply due to any malfunction or catastrophe, including but not limited to, main supply pipeline breaks, pump failure, power failure, flood, fire, extreme drought, use of water to fight fire, or earthquake, CHS shall excuse the City from its obligations in this Agreement for such reasonable period of time as may be necessary to restore service.

2. City Facilities. The City shall continue to provide the intake well and pump house facilities or replacements and upgrades thereto, together with electrical power and stand-by emergency electrical power for pumping the water supply from the City pump station into the water mains of CHS and shall operate the pumping equipment for pumping the water to CHS. The City shall operate and maintain its distribution system in an efficient manner and take such action as may be necessary to deliver the quantity and pressure of water to CHS as set forth herein and shall make the necessary adjustments and minor repairs to CHS’s pumps. CHS shall

supply all materials for such adjustments and repairs and shall maintain its transmission main at its sole expense.

3. Points of Delivery. City shall deliver the water in its main distribution pipeline directly to the CHS Property at the historic points of delivery and at such other locations as CHS may develop in any expansion or renovation of the CHS Property. City shall also deliver raw and settled water into the CHS owned water mains. In case of the renovation or expansion of CHS's current system, CHS shall be responsible for the cost of additional pipelines from the City's distribution system to CHS Property.

4. Rates and Charges. The City shall bill CHS based on CHS's monthly consumption of water at the following rates:

- a. Raw or Untreated Water: \$.40 per 1,000 gallons.
- b. Settled Water: \$1.26 per 1,000 gallons.
- c. Municipal or Potable Water from the City's main line: Standard rate charged to other municipal water users, which is currently \$2.86 per 1,000 gallons and as subsequently set pursuant to Montana law.

The raw and settle water rates charged by the City shall be reviewed by the parties every fifth anniversary of this Agreement. The raw and settle water rates charged by the City may be reviewed prior to the fifth anniversary if the City's electrical rates for operating the water plant increase more than 20% above the rates at the time of the agreement signature. The municipal or potable water from the City's main line will be negotiated and adjusted pursuant to Montana law. The parties shall negotiate in good faith to reach an adjusted equitable rate based, in part, on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of City's system unless such increase is required for CHS future expansion. All billing statements shall identify the amount of municipal or potable water, raw water, and settled water delivered to CHS and the rate charged per 1,000 gallons of each type of water.

5. This agreement will have an initial term of ten (10) years from effective date, and shall renew automatically for additional five year terms after the end of the initial term. If either party desires to renegotiate the Agreement, written notice must be sent to the other party, at least six (6) months prior to the expiration date of the Agreement's current term.

6. Default. If either party defaults under the terms of this Agreement, the non-defaulting party shall send the defaulting party written notice setting forth the default, and giving the defaulting party ten (10) days to cure such default. If the default is not cured within the ten

(10) day time period, the non-defaulting party shall be entitled to all remedies allowed under the laws of the State of Montana, including without limitation termination of this Agreement, specific performance, and damages, including attorney fees and costs.

7. Notice. All notices and other communications required or permitted to be given under this Agreement shall be in writing addressed to the appropriate party and shall be delivered by either personal service, electronic transmission with verification of receipt, overnight delivery service, or certified or registered United States mail, return receipt requested, postage prepaid, addressed as follows, or other physical or electronic address given to the other party in writing:

City: 115 W 1<sup>st</sup> Street  
Laurel, MT 59044

CHS: 803 US Highway 212 South  
Laurel, MT 59044

with a copy to:  
5500 Cenex Drive  
Inver Grove Heights, MN 55077  
Attn: Legal Department

A party wishing to change its designated address shall do so by notice in writing to the other party. Notice served by personal service shall be deemed complete when received. Notice by U.S. mail shall be deemed complete three (3) days after deposited in the United States mail, postage prepaid. Notice served by overnight delivery service shall be deemed complete the day after such notice is sent. Notice by electronic transmission shall be deemed complete when sent and verification of receipt received. Such addresses may be changed from time to time by means of a notice given in the manner provided in this Section.

8. Time. Time is of the essence of this Agreement.

9. Entire Agreement. This Agreement contains the entire agreement and understanding of the parties, and supersedes any and all prior negotiations and understandings regarding City supplying water to CHS. This Agreement shall not be modified, amended or changed in any respect except by written document signed by both parties.

10. Severability; Governing Law. If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall nonetheless be effective. This Agreement has been made and entered into in the State of Montana and shall be governed by the laws of the State of Montana.

11. Electronic Copies and Counterparts. An electronic copy of this Agreement containing the signature of a party shall be accepted as the original signature of that party. This

Agreement may be executed in one or more counterparts, which taken together shall constitute one and the same document.

12. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the Parties.

13. Effective Date. This Agreement shall not become effective until CHS pays the one-time payment of \$1,800,000.00 due hereunder. If the cost to CHS for the settled basin project is less than \$1,800,000, the remaining balance shall be returned to CHS at project completion. This payment shall only be used as set forth in attachment A, City of Laurel invoice dated August 18, 2016. If the City does not start construction of the settling basins improvements within twelve months from the date of the agreement, the City will return the full one-time payment to CHS. The agreement will not be effective until it is executed by CHS, and approved by Resolution of the City Council.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

CHS INC., a Minnesota cooperative corporation

By Patrick B Kimmel  
Its UP Laurel Refinery

CITY OF LAUREL, a municipal corporation

By Mark A Mace  
Mark A. Mace, Mayor

ATTEST:

Shirley Ewan  
Shirley Ewan, City Clerk/Treasurer



OPINION OF PROBABLE COST CITY OF LAUREL WTP PROJECT CONVENTIONAL TREATMENT WITH PLATE SETTLERS - 6000 GPM FLOW										
#	BID ITEM	QTY	UNITS	2014 UNIT PRICE 1	2016 UNIT PRICE 2	TOTAL	City Portion		CHS Portion	
							%	Cost	%	Cost
<b>Sedimentation Basins</b>										
1	Pre-Sedimentation Basin	100	CY	\$ 935.00	\$ 991.94	\$ 99,194	67%	\$ 66,460	33%	\$ 32,734
2	Rapid Mix	2	EA	\$ 37,950.00	\$ 40,261.16	\$ 80,522	67%	\$ 53,950	33%	\$ 26,572
3	Horizontal Paddle Wheel Flocculators	2	EA	\$ 158,125.00	\$ 167,754.81	\$ 335,510	67%	\$ 224,791	33%	\$ 110,718
4	Flocculator Installation	1	LS	\$ 67,100.00	\$ 71,186.39	\$ 71,186	67%	\$ 47,695	33%	\$ 23,492
5	Automatic Sludge Removal Equipment	1	LS	\$ 227,700.00	\$ 241,566.93	\$ 241,567	67%	\$ 161,850	33%	\$ 79,717
6	Sludge Equipment Installation	1	LS	\$ 45,540.00	\$ 48,313.39	\$ 48,313	67%	\$ 32,370	33%	\$ 15,943
7	Sludge Pump & Piping	1	LS	\$ 16,500.00	\$ 17,504.85	\$ 17,505	67%	\$ 11,728	33%	\$ 5,777
8	Flocculation Basin Concrete	150	CY	\$ 935.00	\$ 991.94	\$ 148,975	67%	\$ 99,813	33%	\$ 49,162
9	Plate Settler Package	1	LS	\$ 506,000.00	\$ 536,815.40	\$ 536,815	67%	\$ 359,666	33%	\$ 177,149
10	Plate Settler Installation	1	LS	\$ 101,200.00	\$ 107,363.08	\$ 107,363	67%	\$ 71,933	33%	\$ 35,430
11	Sedimentation Basin Concrete	230	CY	\$ 935.00	\$ 991.94	\$ 228,147	67%	\$ 152,858	33%	\$ 75,288
12	Slab on Grade (around basins)	180	CY	\$ 715.00	\$ 758.54	\$ 136,538	67%	\$ 91,480	33%	\$ 45,057
13	Building	8,740	SF	\$ 165.00	\$ 175.05	\$ 1,529,924	67%	\$ 1,025,049	33%	\$ 504,875
14	Yard Piping and Valving	1	LS	\$ 82,500.00	\$ 87,524.25	\$ 87,524	67%	\$ 58,641	33%	\$ 28,883
15	Raw Water Flow Meters, 18-inch	2	EA	\$ 11,000.00	\$ 11,669.90	\$ 23,340	67%	\$ 15,638	33%	\$ 7,702
16	New chemical tanks & metering system	1	LS	\$ 55,000.00	\$ 58,349.50	\$ 58,350	67%	\$ 39,094	33%	\$ 19,255
17	Demolition of Existing Basins	1	LS	\$ 82,500.00	\$ 87,524.25	\$ 87,524	67%	\$ 58,641	33%	\$ 28,883
18	Modification for Temp. Direct Filtration	1	LS	\$ 44,000.00	\$ 46,679.60	\$ 46,680	67%	\$ 31,275	33%	\$ 15,404
19	Controls & SCADA	1	LS	\$ 49,500.00	\$ 52,514.55	\$ 52,515	67%	\$ 35,185	33%	\$ 17,330
20	Settled Water Pumps	4	EA	\$ 35,750.00	\$ 37,927.18	\$ 151,709	67%	\$ 101,645	33%	\$ 50,064
21	Settled Water Pump VFDs	4	EA	\$ 19,250.00	\$ 20,422.33	\$ 81,689	67%	\$ 54,732	33%	\$ 26,957
<b>Sludge/Backwash Ponds</b>										
22	Excavation	7,600	CY	\$ 4.40	\$ 4.67	\$ 35,476	70%	\$ 24,834	30%	\$ 10,643
23	Sitework	1	LS	\$ 16,500.00	\$ 17,504.85	\$ 17,505	70%	\$ 12,253	30%	\$ 5,251
24	Pond liner (plastic)	30,000	SF	\$ 0.83	\$ 0.88	\$ 26,257	70%	\$ 18,380	30%	\$ 7,877
25	Rip Rap	900	CY	\$ 110.00	\$ 116.70	\$ 105,029	70%	\$ 73,520	30%	\$ 31,509
26	Effluent Pump	1	EA	\$ 16,500.00	\$ 17,504.85	\$ 17,505	70%	\$ 12,253	30%	\$ 5,251

OPINION OF PROBABLE COST CITY OF LAUREL WTP PROJECT CONVENTIONAL TREATMENT WITH PLATE SETTLERS - 6,000 GPM FLOW											
27	Soil cover	30,000	SF	\$ 0.28	\$ 0.29	\$ 8,752	70%	\$ 6,127	30%	\$ 2,626	
28	Effluent Discharge Line	400	LF	\$ 55	\$ 58	\$ 23,340	70%	\$ 16,338	30%	\$ 7,002	
29	Yard Piping	1	LS	\$ 16,500	\$ 17,505	\$ 17,505	70%	\$ 12,253	30%	\$ 5,251	
<b>New Backwash Storage Tank</b>											
30	Sitework	1	LS	\$ 11,000	\$ 11,670	\$ 11,670	100%	\$ 11,670	0%	\$ -	
31	Demolition of Existing Tank	1	LS	\$ 27,500	\$ 29,175	\$ 29,175	100%	\$ 29,175	0%	\$ -	
32	New Bolted Epoxy Coated Tank	250,000	Gal	\$ 1.49	\$ 1.58	\$ 393,859	100%	\$ 393,859	0%	\$ -	
33	Misc. Piping	1	EA	\$ 16,500	\$ 17,505	\$ 17,505	100%	\$ 17,505	0%	\$ -	
<b>New Access Road and Site Fencing</b>											
34	New Access Road & Box Culvert	1	LS	\$ 203,500	\$ 215,893	\$ 215,893	100%	\$ 215,893	0%	\$ -	
35	Fencing	1,300	LF	\$ 33	\$ 35	\$ 45,513	100%	\$ 45,513	0%	\$ -	
<b>Relocate Cherry Hills Booster Station</b>											
36		1	LS	\$ 200,000	\$ 212,180	\$ 212,180	100%	\$ 212,180	0%	\$ -	
<b>Subtotal: Direct Construction Costs</b>						<b>\$ 5,348,053</b>		<b>\$ 3,896,249</b>		<b>\$ 1,451,804</b>	
Mobilization						10.0%	\$ 534,805	80%	\$ 427,844	20%	\$ 106,961
<b>Subtotal: Total Construction Cost</b>						<b>\$ 5,882,859</b>		<b>\$ 4,324,093</b>		<b>\$ 1,558,765</b>	
Land Acquisition						\$ 40,000	100%	\$ 40,000	0%	\$ -	
Engineering Design and Bidding Assistance						\$ 493,000	75%	\$ 369,750	25%	\$ 123,250	
Construction Administration and RPR						\$ 500,000	75%	\$ 375,000	25%	\$ 125,000	
Grant and Loan Administration						\$ 53,000	100%	\$ 53,000	0%	\$ -	
<b>TOTAL</b>						<b>\$ 6,968,859</b>		<b>\$ 5,161,843</b>		<b>\$ 1,807,015</b>	
<sup>1</sup> Estimated unit costs are based upon estimates from suppliers and bid tabs for similar projects throughout Montana and include a 10% contingency. <sup>2</sup> The ENR 20 year average Construction Cost Index is +2.88% (1984-2013), so capital costs are projected to an anticipated construction date in 2016 using a 3.0% inflation rate.											



**AMENDMENT NO. 1**

This Amendment (the "Amendment") is entered into as of August 25, 2017 by and between CHS Inc. ("CHS") and City of Laurel ("City").

**RECITALS**

**WHEREAS**, CHS and City entered into a certain Water Supply Agreement having an effective date as of the 6th day of September, 2016 (the "Agreement");

**WHEREAS**, the undersigned desire extend the term of the Agreement as described herein.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Amendment agree as follows:

1. The phrase "if the city does not start construction of the settling basins improvements within twelve months from the date of the agreement" in Article 13, Effective Date, is hereby deleted and replaced with the phrase "if the city does not start construction of the settling basins improvements within eighteen months from the date of the agreement".

2. Except as expressly set forth herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

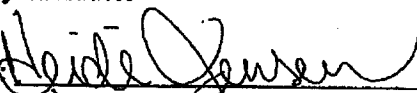
3. Any capitalized term not defined in this Amendment shall have the meaning set forth in the Agreement.


4. This Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which will constitute one in the same instrument. Any executed counterpart of this Amendment delivered by facsimile or other electronic transmission to a party to this Amendment will constitute an original counterpart of this Amendment.

**IN WITNESS WHEREOF**, the parties have caused this Amendment to be executed on the day and year first written above.

City of Laurel

CHS Inc.

By:   
Name: Heidi Jensen  
Its: Chief Administrative Officer

By:   
Name: Patrick B. Kimmet  
Its: Vice President, Laurel Refining

**RESOLUTION NO. R18-05**

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE MAYOR TO  
ACCEPT AND EXECUTE A MODIFIED WATER SUPPLY AGREEMENT WITH  
CHS INC.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana,

Section 1: Approval. The modified agreement between the City of Laurel and CHS Inc., a copy attached hereto, is hereby approved.

Section 2: Execution. The Mayor and the City Clerk of the City of Laurel are hereby given authority to execute the agreement on behalf of the City.

Introduced at a regular meeting of the City Council on February 6, 2018 by Council Member McGee.

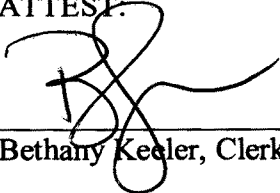
PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this 6<sup>th</sup> day of February, 2018.

APPROVED by the Mayor this 6<sup>th</sup> day of February, 2018.

CITY OF LAUREL

  
Thomas C. Nelson, Mayor

ATTEST:

  
Bethany Keeler, Clerk-Treasurer

Approved as to form:

  
Sam Painter, Civil City Attorney

**AMENDMENT NO. 2**

This Amendment (the "Amendment") is entered into as of January 19, 2018 by and between CHS Inc. ("CHS") and City of Laurel ("City").

**RECITALS**

**WHEREAS**, CHS and City entered into a certain Water Supply Agreement having an effective date as of the 6th day of September, 2016 and amended as of the 25th day of August, 2017 (the "Agreement");

**WHEREAS**, the undersigned desire extend the term of the Agreement as described herein.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Amendment agree as follows:

1. The phrase "if the city does not start construction of the settling basins improvements within eighteen months from the date of the agreement" in Article 13, Effective Date, is hereby deleted and replaced with the phrase "if the city does not start construction of the settling basins improvements within twenty-eight months from the date of the agreement".

2. Except as expressly set forth herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

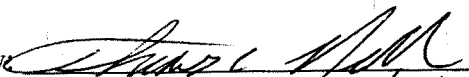
3. Any capitalized term not defined in this Amendment shall have the meaning set forth in the Agreement.


4. This Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which will constitute one in the same instrument. Any executed counterpart of this Amendment delivered by facsimile or other electronic transmission to a party to this Amendment will constitute an original counterpart of this Amendment.

**IN WITNESS WHEREOF**, the parties have caused this Amendment to be executed on the day and year first written above.

City of Laurel

CHS Inc.

By: 

By: 

Name: THOMAS C NELSON

Name: Patrick B. Kimmet

Its: MAYOR

Its: Vice President, Laurel Refining