

**DRAFT**  
**SETTLEMENT TERM SHEET**

*Astoria Area-Wide Petroleum Site – Area of Concern 4 (“AOC4”)*

The undersigned Parties to the above-referenced matter hereby agree to fully settle and resolve all claims, issues, and disputes that now exist, or which may exist in the future, regarding the implementation of the remedial action at the Astoria Area-Wide Petroleum Site Area of Concern 4 (“AOC4”) and the cost allocation related to the same on the material terms set forth below.

1. In general, the settlement envisions that McCall Oil and Chemical Corporation (“McCall”) and Exxon Mobil Corporation (“Exxon Mobil”) will contribute funds severally to the Port of Astoria (“Port”) to be put towards the planning, construction, operation, and maintenance of the remedial action selected by the Oregon Department of Environmental Quality (“DEQ”) in its May 2019 Record of Decision (“ROD”) for AOC4. The settlement further envisions that the approved remedial action will be planned, constructed, operated, and maintained by the Port of Astoria at no additional cost to McCall or Exxon Mobil.

2. The selected remedial action shall address all matters required by the DEQ ROD including: (a) removing contaminated soil at the Port's shop building, (b) maintaining existing controls on vapor intrusion, (c) containing contaminated sediment at the head of the Port's Slip No. 2, and (d) passively treating contaminated groundwater at the head of Slip No. 2.

3. McCall and Exxon Mobil have agreed to pay the Port the collective sum of \$2.9 million dollars for their respective shares of the total cost of the remedial action set forth in the ROD. McCall and Exxon Mobil shall severally pay their respective shares of the total sum of \$2.9 million dollars to the Port, and such payments shall fully satisfy any and all claims associated with the Site, including all claims by and requirements of DEQ related to the Site. McCall shall pay \$1.55 million dollars in two installments. McCall's first payment to the Port of \$775,000 dollars is due upon the entry of the anticipated DEQ Consent Order that will require the Site cleanup by the Port and the "cash out" payments, described herein, by McCall and Exxon. McCall's second and final payment of \$775,000 is due within one year from the date of entry into the DEQ Consent Order. ~~McCall's second and final payment of \$775,000 is due upon DEQ's approval of the Port's work plan to conduct the remedial action per the DEQ Consent Order.~~ Exxon's payment of \$1.35 million dollars is due upon the entry of the DEQ Consent Order.

4. The Parties agree that they will work expeditiously with DEQ and in good faith to secure a final Consent Order by June 1, 2020. The Parties agree that they will request that DEQ include a list of six additional PRPs that DEQ deems liable parties for the cleanup costs. The Parties agree that McCall and the Port will pursue contribution claims against these additional PRPs after the Consent Order is entered. McCall and the Port agree that the first \$150,000 received in any settlements with these PRPs shall be paid to the Port. Thereafter, McCall will receive 75% of any additional settlement monies (with the remaining 25% going to the Port) up to a cap of \$150,000. In no event shall McCall's net payment as a cash-out party after the anticipated payouts from the six additional PRPs be less than \$1.4 million dollars.

5. The Port shall defend and indemnify McCall and Exxon Mobil with respect to all claims by any private party or governmental entity, including but not limited to DEQ, related to or

arising out of the construction, operation, and maintenance of the selected remedial action for AOC 4. The Port's defense and indemnity obligations include, but are not limited to, any future claims or requirements by DEQ related to the Site, including without limitation, monitoring of or changes to the remedial action.

6. The Parties agree to a mutual release of all claims, known or unknown, which could be alleged against each other or against any of their respective affiliates, employees, or officers arising out of or related to any petroleum releases or contamination in AOC4, including but not limited to, all claims for contribution for RI/FS costs, IRAM costs, or any other past or future remedial action activities under state and federal law. With respect to Exxon Mobil, this release includes but is not limited to Niemi Oil Company and its affiliates, employees or officers.

7. McCall, Exxon Mobil, and the Port shall each bear their own attorney fees, costs, and expenses incurred in connection with the Site and the negotiation and enforcement of the Parties' settlement.

8. The Parties anticipate the preparation and execution of a formal Settlement Agreement to incorporate the provisions of this Term Sheet within the next 30 days. Notwithstanding that expectation and subject to paragraph 9 below, this Term Sheet is binding and enforceable regardless of whether a formal Settlement Agreement is prepared and executed.

9. This Term Sheet is subject to and conditioned upon the Port, McCall and Exxon Mobil receiving all necessary internal approvals, which the Port, McCall and Exxon Mobil will use their best efforts to obtain.

10. This Term Sheet may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

**PORT OF ASTORIA**

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

Its: \_\_\_\_\_

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

**MCCALL OIL AND CHEMICAL CORPORATION**

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

Its: \_\_\_\_\_

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

**EXXON MOBIL CORPORATION**

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

Its: \_\_\_\_\_

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