



McCleary City Council

AGENDA

October 23, 2013

7:00 Council Meeting

Flag Salute
Roll Call
Public Hearings:

Public Comment:
Minutes (Tab A)
Mayor's Report/Comments:

Staff Reports: Dan Glenn, City Attorney (Tab B)
 Nick Bird, Director of Public Works (Tab C)

Old Business: Animal Code (Tab D)
 Simpson Track and Tune (Tab E)
 Marijuana Regulations (Tab F)

New Business: City Hall Rent (Tab G)*
 Mason PUD #1 Mutual Aid (Tab H)

Ordinances:

Resolutions:

Vouchers
Mayor/Council Comments
Public Comment
Executive Session
Adjournment

*Omitted as of 10/21/13. May be added prior to meeting

Americans with Disabilities Act (ADA)
Accommodation is Provided Upon Request

Please Turn Off Cell Phones – Thank You

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CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, October 9, 2013

ROLL CALL AND FLAG SALUTE Councilmember's Schiller, Catterlin, Reed, and Ator.

ABSENT Councilmember Larry Peterson and Mayor Dent.

STAFF PRESENT Present at the meeting were Wendy Collins, John Graham, Colin Mercer and Nick Bird.

PUBLIC COMMENT None.

MINUTES APPROVED **It was moved by Councilmember Schiller, seconded by Councilmember Reed to approve the minutes from the September 25, 2013 Council Meeting. Motion Carried 3-0.**

MAYOR'S COMMENTS Mayor Pro Tem Ator chaired the meeting in Mayor Dent's absence.

CITY ATTORNEY REPORT The City Attorney was not present and was available by telephone conference, if needed.

DIRECTOR OF PUBLIC WORKS REPORT Nick Bird has provided a written report for the Council and is available for any questions.

ANIMAL CODE Nick Bird commented that code enforcement is very difficult to enforce. Dan Glenn stated in his report McCleary needs to recognize we are not Seattle but also not an unincorporated area. We need to create a code specifically for McCleary. Nick used the City of Olympia's code for the council to review. Councilmember Schiller wanted to know what complaints have been made and how many are there. Nick Bird did not have an exact number on it but did report complaints were made regarding horses, emu's, sheep, chickens, and goats. Helen Lake suggested creating a variance as a solution. Nick said we need to define what a nuisance animal is.

Christie Wales asked what type of complaints have been made on her emu because she has never received any complaints. She said the bird is friendly and is trained to respond to her commands. She said there was nothing in the code regarding emu's. Nick stated the other concern is if someone else brought in another emu in town, it may not be trained the same. Christie asked why she should be penalized because someone else cannot contain their animals. She said emu's can jump six feet straight up in the air and they can kick a hole in you and are predator's. She said the one she has is well socialized and comes when she calls. She said her nephew even rides her. Christie added that she does a lot in the community with her animals.

Meredith Cleveland is a neighbor of Christie's and she wanted to speak in favor of the exotic animals she has. She stated that she never smells any fowl animal smells and approves of how well Christie takes care of her animals. Ms. Cleveland said Christie also teaches neighborhood kids how to treat animals. She would like to see the City come up with a waiver for Ms. Wales and her animals.

Helen Lake believes there is a statement in the zoning ordinance that says if you have to clean up after one thing, you have to clean up after another. She thinks a variance option might be a solution. She also suggested that we model ourselves after Elma and Montesano, not Olympia.

Councilmember Catterlin would like to see something more condensed than the lengthy version that was provided. He believes the City needs to define nuisance.

Councilmember Schiller suggested a registration process for unique and/or exotic animals. Nick added that Olympia differentiates between domestic and non domestic animals. Councilmember Schiller stated he agrees with Ms. Lake that we are not Olympia and should keep our comparisons to small cities like ours. He wants to know if there have been complaints about Christie specifically and Nick affirmed there have been. Both Christie and Councilmember Schiller wanted to know what the complaint was. Councilmember Schiller would like more time to read through the materials and research the subject more.

SIMPSON TRACK & TUNE	Nick Bird has been working on incentive programs with Simpson Door Company. One of the programs is the Track and Tune program. After discussion regarding cost and current capacity, the Council requested to table the topic.
MARIJUANA REGULATIONS	The City needs to decide what type of zoning they want to implement with the new marijuana sales. There are restrictions already in place for locations and the City wants to make sure we create very strict rules for where a business can be located.
LIGHT AND POWER MATERIAL ORDER	It was moved by Councilmember Catterlin, seconded by Councilmember Schiller to authorize the execution of Purchase Order's 12431 in the amount of \$3,327.95, 12432 in the amount of \$8,881.82 and 12433 in the amount of \$1,602.15 for supplies needed in preparation of winter storms for the Light and Power department. Motion Carried 3-0.
STORM & SEWER WORK	It was moved by Councilmember Catterlin, seconded by Councilmember Schiller to authorize staff to proceed with the proposal submitted by Pipe Experts with the limitations presented in the staff recommendation. Motion Carried 3-0.
AWC EMPLOYEES BENEFIT TRUST	It was moved by Councilmember Schiller, seconded by Councilmember Ator to adopt Resolution No. 663 Authorizing the City's participation in the Washington Cities Employee Benefit Trust and the execution of the interlocal agreement in relation to such participation. Resolution Adopted 3-0.
APPROVAL OF VOUCHERS	Accounts Payable vouchers/checks approved were 36995-37042 including EFT's in the amount of \$132,204.76. It was moved by Councilmember Reed, seconded by Councilmember Schiller to approve the vouchers. Motion Carried 3-0.
PUBLIC COMMENT	None.
EXECUTIVE SESSION	None.
MEETING ADJOURNED	It was moved by Councilmember Catterlin, seconded by Councilmember Reed to adjourn the meeting at 7:50 PM. The next meeting will be October 23, 2013 at 7:00 PM. Motion Carried 3-0.

Mayor Gary Dent: _____

Clerk-Treasurer Wendy Collins: _____

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: October 17, 2013
RE: LEGAL ACTIVITIES as of OCTOBER 23, 2013

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. **ANIMAL ISSUE**: To the extent that you wish to move forward on this issue, there are at least two approaches which may be considered by the Council. One approach is to treat it as a nuisance issue. The other is to treat it as a zoning issue. I believe you will find the number restriction issue is usually treated through the zoning code. Issues related to behavior or prohibition of certain animals (snakes, etc.) go through a different portion of the code.

At the time of the adoption of the current zoning code in 2004, it appears the decision was made to not get into the area of animal regulation to any significant degree. However, the Code contains most of the necessary definitions if you would like to go forward with establishment of restrictions upon the number of animals which may be maintained within a particular zone. If you would like to prohibit the maintenance of particular animals within the City, the better way would be to add provisions into Title 6 relating to animals or Title 8 defining nuisances.

I will await your direction.

2. **BUDGET HEARINGS**: It is my understanding Ms. Collins will be publishing the required notices to allow the required hearings relating to estimated revenue, the ad valorem tax levy issue, etc. For purposes of cost efficiency, all will be published in one group.

Unfortunately, I do not believe the City has yet received the statutorily required assessed valuation figures. As you are aware, this has been a problem in past years as well. The problem has apparently reached the point the Office of the State Auditor has raised the issue as one of major concern. However, as indicated, my understanding is the reality of our situation is the figures, even the tentative figures received in the past, have not been received. Thus, unless information is received prior to this meeting or soon thereafter, Ms. Collins may well have to develop figures founded upon last year's information and certain projections. They would then be used as the basis for discussion of this element of the budgetary development.

The good news is that while the statutes put forth a time line with which hearings on the various subjects must be held, the City has until the last day of November to provide its ordinance setting the real property (ad valorem) tax to the County Commissioners and Assessor.

3. **I-502**: One of the things made relatively clear at the WSAMA semi-annual conference which I was attending at the time of the last Council Meeting was the State's position is that it has preempted most local authority in this area. For instance, the position seems to be that the failure of a city to issue a business license would not prevent the LCB from issuing a license to one of the three categories of activity covered by 502 (Retail sales, commercial growing, and processing).

A. **Zoning Matters**: As you are aware, the moratorium on the I 502 matters (retail sales locations, growth locations, and processing locations) is in place until the end of this year. In a presentation made at the WSAMA Conference, the Liquor Control Board official in charge of the development of the regulations noted the final regulations are going to be issued with one "emergency" modification. That modification is the 1,000 foot prohibition from facilities such as schools, municipally owned parks or recreational facilities now is "as a crow would fly" rather than by the normal walk way approach.

In any event, the reality appears to be the state law has preempted the ability of the City to totally prohibit such activities. Thus, it would appear ever more important that the Council refer the zoning matter to Mr. Aaland for public hearing and development of recommendations. For instance, in what commercial zone would you consider authorizing the potential placement of a retail licensee? Based upon a discussion with affected County staff, the County is in the process of developing zoning regulations. Aberdeen's City Attorney indicated the same. Olympia adopted an interim ordinance last week which set out zone

provisions including size limitations and hours of operation which are less than those allowed under the Board's rules. As a start, would you like to look at that ordinance as a point of commencement?

B. Medical Marijuana Area: This moratorium is also set to expire at the end of the year. However, the Legislature in its budget enactment added a somewhat interesting requirement for the LCB. That requirement is that by January, 2014, the Board is to provide recommendations to the Legislature as to how to create and integrate a program governing the operation of the dispensaries and collective gardens through the LCB. Thus, given that, it is entirely likely an extension of that particular moratorium for an additional six month would be defensible, if desired. The rationale is to give the Legislature the time to consider the LCB's report and recommendation and act legislatively.

That is something for you to consider in the next forty-five days.

4. WASHINGTON STATE ASSOCIATION OF MUNICIPAL ATTORNEYS CONFERENCE: As usual, the presentations at the semi-annual Conference were very useful. On Wednesday, WCIA representatives presented talks on two issues, including certain land use issues. Not only were they informative, they also had the effect of allowing me to meet WCIA's annual training requirement for counsel. The Thursday and Friday sessions of WSAMA were also useful, although they can be a bit frightening in terms of the infamous "I did not know that" situation.

One bit of good news arising from my serving as President of WSAMA is that apparently the facility hosting the event provides a complimentary room for the president. Thus, the amount of reimbursement for hard costs incurred will be less since there was no housing cost.

5. BPA GRANT FUNDING FOR "TRACK & TUNE AGREEMENT": I understand you are still reviewing the approach you wish to take on this matter. I have commenced the "morphing" of the agreement form recommended by BPA to fit with the relationship the City has with Simpson. However, before I complete the draft I will need your direction on whether to go forward and, if so, under what customer specific conditions.

As always, this is not meant to be all inclusive. If you have any questions or comments, please direct them to me.

DG/le

STAFF REPORT

To: Mayor Dent
From: Nick Bird, Director of Public Works
Date: October 17, 2013
Re: Current Non-Agenda Activity

Water Quality

Taste and odor complaints have been minimal recently. We have observed low pressures in various locations of the distribution system. We believe that this is likely due to scale or other material sloughing off of the inside of the pipes and plugging the meter or downstream screens. We are still flushing fairly aggressively to maintain the chlorine residual throughout the distribution system. This flushing will also help remove sloughing material as well. Again, if you or anybody you know is experiencing water quality problems please keep us informed so that we may address the issues as they develop.

DOH Sanitary Survey

The data required by DOH has been collected with the exception of a couple of minor items. We anticipate finalizing the response to DOH next week.

Well 2 & 3 Project

Again, we were hoping to have the reconciliation change order and final progress estimate as action items for this meeting. This paperwork is currently in the hands of the Contractor. From our standpoint, there is no hurry to close the project, as we still have almost a year before it financially impacts the City's interest rate on the project.

Another topic to address is the local agency participation amount. If you recall, we are required to provide for 5% of the project cost as a local match. In the event that we increase the local match to 10%, PWTF will authorize a 1% reduction in the interest rate. This translates to reducing the rate from 1.5% to 0.5%, which is a significant savings over the life of the loan. This will require us to put more money into the project, which is why we haven't pushed this issue. If you would like, I could prepare a quick financial evaluation to see if it pencils out.

General Sewer Plan

The draft scope and budget have now been reviewed. No changes were necessary. We will utilize the scope and budget provided to initiate the grant/loan agreement with the Department of Ecology. Once the formal document is prepared and agreed up by staff and Ecology, we will present the formal agreement with the general engineering services amendment for your consideration.

Shoreline Management Plan

We have been in contact with Grays Harbor County to see if there is the possibility that we can share inventory and characterization services with the County utilizing their consultant. We may also be able to utilize the County consultant to complete our draft plan as an appendix to the County's plan. We are still fleshing out the details at this stage. If we are able to utilize the County consultant, this will expedite the project by eliminating solicitation of services, however, the project schedule will likely be much longer than needed as the consultant will be focusing on the County work as well as ours. If you have a strong preference, please feel free to let me know.

Water System Plan

No additional information to report since the August 28 Council Meeting.

Underground Boring Equipment

The schedule on purchasing this equipment has slipped due to other items of work. Our goal is to issue the call for bids next week. If advertised, the earliest bids will be presented is at the November 13 Council meeting.

TIB Main Street Application (SCAP)

After speaking to the TIB Engineer, the Main Street Project sounds promising. We are competing against 10 other projects in our region. As previously mentioned, the typical funding approach is to fund 1-2 projects completely and trickle down the priority list until a project that can be funded with the remaining amount is funded in its entirety. As we submitted a small arterial project, it is very likely that if we are not highly ranked, we still have the opportunity for the trickle down dollars. Again, formal notification is likely to occur in November.

TIB Ash Street Application (SCPP)

The Small City Preservation Program is a statewide program, which means we are competing against all of Washington. A total of 113 projects were submitted and are competing for \$1.5 million. While we believe that this project is very competitive, it does not seem wise to get our hopes up on this one. We will know soon enough.

3rd Street Improvements Phase I

No additional information to report since the August 28 Council Meeting.

WSDOT JC Agreement

No additional information to report since the August 28 Council Meeting.

7th and Ash (12 kV) Substation

No new information to report since the October 9 Council Meeting.

Snow Plow

No additional information to report since the August 28 Council Meeting.

2014 Budget

A large amount of time has been invested in the 2014 preliminary budget. At this point in time, we are still on schedule and the draft document will likely be provided on October 28. We will coordinate with the finance commit

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: October 18, 2013
Re: Animal Code

Last meeting quite a bit of information was presented and public comment was heard. We have now had the opportunity to digest some of this information. It was not our intent to suggest that we have a 40+ page animal code, but to point out that there are some simple ways that we can be much more specific and quantitative in our code requirements. Council also suggested that we begin drafting a new standard at the last meeting recognizing that we do not live in downtown Seattle or Olympia.

It was also recommended that we review the Elma and Montesano animal codes to see how they compare. Please note that this review is our interpretation of their codes and does not reflect how they enforce their codes.

Elma

Animal code addresses dogs and horses. Based on a quick review, horses are only allowed on public streets in certain areas of the City. No reference was found on the keeping of such animals within City limits. The animal code for dogs is very similar to ours.

Montesano

Montesano is similar to Elma in the fact that the focus of the animal code is on dogs and horses/work animals. The restrictions in Montesano are similar to that of Elma in that horses are only allowed on public streets in certain areas of the City and are permitted on private property. Again, the animal code for dogs is very similar to our code for dogs.

Based on the review of adjacent agencies, we still believe that our code must be revised to be more definitive in what is permitted, what is not permitted, and what must be registered.

Staff Recommendation:

As was noted in Mr. Glenn's memorandum, this topic can be addressed in one of two ways, via zoning modifications or via revising the animal code. This really boils down to personal preference of the Council, but it should be noted that a city wide animal code would provide the consistency that many of the citizens may be looking for.

Action Requested:

Please identify how you would like to proceed.

STAFF REPORT

To: Mayor Dent
 From: Nick Bird, P.E., Director of Public Works
 Date: October 18, 2013
 Re: Simpson Track & Tune

After a thorough evaluation, there is very little I can confirm that is a direct “City benefit” by proceeding with this program. I did speak to Simpson regarding this subject and they were quick to point out the indirect benefits. Their goal is to reduce the cost per unit of production (cost per door) so that they can be more competitive in the market place. Their thought process is that if they can reduce the cost per door, thereby becoming more competitive in the market, sales and production will increase, which will in turn increase electricity consumption, jobs created, and local sales tax revenue increases.

I have taken the liberty of evaluating the net impact to the Light and Power fund, which is shown below. The bold net impact line shows the difference between the reduction in revenue from consumption charges and the reduction in expenditures from purchasing power from Bonneville Power.

T&T Net Impact	FY 14	FY 15	FY 16*	FY 17*	FY 18*	Total
Est. Annual Simpson Reduction (kwh)	-	-	780,000	780,000	780,000	2,340,000
Est. Annual Simpson Utility Savings	\$0	\$0	\$36,270	\$36,270	\$36,270	\$108,810
Est. Annual Power Purchase Decrease	\$0	\$0	\$27,355	\$27,355	\$27,355	\$82,064
Net Impact	\$0	\$0	\$8,915	\$8,915	\$8,915	\$26,746

* - FY16, 17, & 18 are estimated net impacts based on the current sales rate of \$0.0465/kwh and the current purchase rate of \$35.07/mwh.

As shown above, the annual net impact of this program to the utility is minimal. An additional impact to current expense (via utility tax at 6%) is estimated to be \$2,176 using the figures shown above.

Staff Recommendation:

This topic is extremely difficult to quantify and justify as a utility from a financial prospective, however, it appears to be easier to digest as a municipal government. Our primary focus is on facilitating market competition for our largest employer with the hope that these market conditions will improve, ultimately benefiting the City.

Action Requested:

Please discuss this topic and identify any concerns that may arise.

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: October 18, 2013
Re: Marijuana Regulations

As suggested last meeting, staff has reviewed the language promulgated through I-502 and are digesting how the new rules may be incorporated by reference with modifications if need be. We have also evaluated how the defined components (retail sales, processing facilities, and production facilities) would be addressed in our current zoning language. We have coordinated with the State to confirm the locations of licensed child care facilities within our jurisdiction so that boundaries can be properly established. We are also reviewing other Cities zoning modifications to address this topic to see if there is anything that jumps out at us.

Our next step will be to provide a report that defines how these components will be addressed if we “do nothing” and provide recommendations to more appropriately locate the operations through land use regulations. Once the report is prepared, we will schedule a public hearing with Mr. Aaland to take public comment on the report. After the public hearing, Mr. Aaland will provide recommendations to Council for consideration.

Mr. Mercer has prepared a staff report providing a little bit more detail regarding this subject following this staff report.

Staff Recommendation:

No recommendation is provided at this time, as this has been provided for informational use only.

Action Requested:

No action requested.

STAFF REPORT

To: Mayor Dent
From: Colin Mercer
Date: October 17, 2013
Re: Initiative 502

This report is in regards to the activity of City staff due to the passing of Initiative 502 and Councils authorization to move forward with reviewing our zoning code in relation to State Law.

We have researched the MRSC and Liquor Control Board (LCB) websites, and compiled various documents and information as to what other jurisdictions have done to their zoning ordinances in an attempt to comply.

The attached sheet outlines a brief description of what other jurisdictions have adopted.

Currently Ordinance 797 allows for a moratorium until January 24th 2014 to determine if any zoning modification would be required based on the LCBs final decision on the rules and regulations for securing a marijuana license.

As the zoning ordinance exists now the following items could be enforced:

1. Retail license – a retail marijuana location would be allowed in C1, C2 & I zones. (Retail sales, indoor)
2. Processor license – a marijuana processing facility would be allowed in C2 & I zones. (Industry, light)
3. Producer license – a marijuana producer facility would be allowed in C2, I & F/OS. (Agriculture / silviculture activities and facilities)

The rules and regulations established by the LCB would provide restrictions that could be enforced at the local level. ie, 1000 foot buffer around certain entities, separation and security.

Ordinance Comparison Table

Jurisdiction	Allow Under Existing Laws	Moratorium	Interim Zoning	Permanent Zoning	Prohibition
Burien			X		
Carbonado		X			
Douglas County				X	
Edgewood			X		
Fife		X			
Kent¹					X
Kirkland	X				
Lacey				X	
Millwood		X			
Milton				X	
Monroe			X		
Mossyrock					X
Mukilteo (Draft)				X	
Normandy Park				X	
Olympia		X			
Pasco		X			
Puyallup		X			
Redmond		X			
Richland					X
Seattle				X	
Spokane			X		
Tukwila				X	

¹. The Kent zoning code prohibits all business activities that are not specifically allowed in designated zones. The Kent city council has not amended their zoning code to allow recreational marijuana businesses, so that lack of amendment acts as a prohibition of marijuana businesses.

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: October 18, 2013
Re: Mason PUD #1 Mutual Aid Agreement

We have many mutual aid agreements with adjacent utilities, but it has come to our attention that we do not have an agreement in place with Mason PUD #1. Since storm season is right around the corner, we wanted to present this agreement as soon as possible.

We started with an agreement that Mason #1 had entered into with Ohop Mutual Light. Mr. Glenn then provided some recommendations that were incorporated into the original agreement. We then sent the agreement to Mason #1 to see if they had any concerns with the proposed agreement, which there were none.

Since Mason #1 has reviewed the agreement and have no concerns, it must be presented to Council for consideration and authorization.

The agreement is simple in the fact that if we request assistance, reimbursement procedures are set in place and if Mason #1 requests assistance, reimbursement procedures are in place. Please note that rendering aid is entirely at the discretion of the aiding agency, which means we are not obligated to provide aid if we are under duress and need our crew.

Staff Recommendation:

Entering into mutual aid agreements do not create a fiscal burden, but gives the agencies flexibility during the times when additional resources are necessary. As such, we recommend the Mutual Aid Agreement be executed with Mason PUD #1.

Action Requested:

Please consider authorizing the attached Mutual Aid Agreement with Mason PUD #1.

Mutual Aid Agreement

In consideration of the mutual commitments given herein, each of the Signatories, City of McCleary & Mason County PUD No. 1, agrees to render aid to the other Signatory as follows:

1. Request for Aid. The Requesting Signatory agrees to make its request in writing to the Aiding Signatory within a reasonable time after aid is needed and with reasonable specificity. The requesting Signatory agrees to compensate the Aiding Signatory as specified in this Agreement and in other agreements that may be in effect between the Requesting and Aiding Signatories.
2. Discretionary rendering of aid. Rendering of aid is entirely at the discretion of the Aiding Signatory. The agreement to render aid is expressly not contingent upon a declaration of a major disaster or emergency by the federal government or upon receiving federal funds.
3. Invoice to Requesting Signatory. Within 90 days of the return to the home work station of all labor and equipment of the Aiding Signatory, the Aiding Signatory shall submit to the Requesting Signatory an invoice of all charges related to the aid provided pursuant to this Agreement. The invoice shall contain only charges related to the aid provided pursuant to this Agreement.
4. Charges to the Requesting Signatory. Charges to the Requesting Signatory from the Aiding Signatory shall be as follows:
 - a. Labor Force. Charges for labor force shall be in accordance with the Aiding Signatory's standard practices.
 - b. Equipment. Charges for equipment, such as bucket trucks, digger derricks, and other special equipment used by the Aiding Signatory, shall be at reasonable and customary rates for such equipment in the Aiding Signatory's location.
 - c. Transportation. The Aiding Signatory shall transport needed personnel and equipment by reasonable and customary means and shall charge reasonable and customary rates for such transportation.
 - d. Meals, lodging and other related expenses. Charges for meals, lodging and other expenses related to the provision of aid pursuant to this Agreement shall be the reasonable and actual costs incurred by the Aiding Signatory.
5. Liability. The entity requesting the services shall defend, indemnify, and hold the providing entity, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the intentionally wrongful acts of the providing entity, its officers, agents, or employees.

Should a court of competent jurisdiction determine that this Agreement 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 concurrent negligence of the entities, their officers, officials, employees, and volunteers, each entity's liability

hereunder shall be only to the extent of the entity's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the AGENCY's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been *mutually negotiated* by the parties. The *provisions* of this section shall survive the expiration or termination of this Agreement.

6. Filing. Upon Execution by the entities, this Agreement shall be filed as required under the provisions of RCW 39.34.040.
7. Termination. This Agreement Shall continue in full force and effect until one party gives the other party written notice of its desire and intention to terminate the Agreement. The termination shall occur now sooner than thirty days after the receipt of the notice by the non-terminating entity. Any such termination shall not affect any responsibility arising under this Agreement in relation to activities previously performed.
8. Notices. Any notice given under this agreement, other than requests for service, shall be given in writing and shall be deemed received by the other entity three business days after the notice is mailed with the proper address and postage by certified mail, return receipt requested, or if personally delivered, upon the date of delivery.

Any notice given to McCleary shall be provided to the Clerk-treasurer of the City of McCleary 100 S. 3rd Street, McCleary, Washington 98557 or by personal delivery at the City Hall. Any notice to be given to the District shall be provided to its General Manager by mail or by personal delivery to 21971 U.S. 101, Shelton, Washington 98584.
9. Counterparts. The Signatories may execute this Mutual Aid Agreement in one or more counterparts, with each counterpart being deemed an original Agreement, but with all counterparts being considered one Agreement.
10. Execution. Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated.

City of McCleary

Mason County PUD No. 1

By: D. Gary Dent
Title: Mayor

By: Steven Taylor
Title: General Manager

Date: _____

Date: _____