



McCleary City Council Agenda

July 26th, 2017 6:30 PM

Flag Salute

Roll Call: ___ Pos. 1- Orffer, ___ Pos. 2-Richey , ___ Pos. 3- Peterson, ___ Pos. 4- Blankenship, ___ Pos. 5- Ator

- Mayor Comments** Burn Ban, Governor Meeting
- Public Comment**
- Executive Session**
- Minutes** **Tab A**
- Approval of Vouchers**

- Staff Reports** **Tab B** Dan Glenn
- Tab C** Todd Baun

- Old Business** **Tab D** Fire Levy Proposal
- Tab E** Hearing Examiner Report

- New Business** **Tab F** Cedar Heights Agreement
- Tab G** Comprehensive Plan Firm Choice
- Tab H** BPA Energy Conservation Contract
- Tab I** Janitorial Bid

- Ordinances** **Tab J** Zoning Ordinance Draft "A"
Zoning Ordinance Draft "C"
- Tab K** Fire Levy Proposal

- Resolutions** **Tab L** Amend 671, LGIP Name Change

Mayor/Council Comments

Public Comments

Executive Session

Adjournment or Recess Meeting

Previously Tabled Items

CAO Update, Dev. Incentives

Please turn off Cell Phones- Thank you

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

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TAB - A

CITY OF MCCLEARY
Regular City Council Meeting and Council Workshop
Wednesday, July 12, 2017

ROLL CALL AND FLAG SALUTE Councilmembers Orffer, Richey, Peterson, Ator and Blankenship were in attendance.

ABSENT None.

STAFF PRESENT Present at the meeting were Todd Baun, Wendy Collins, Tom Arnold and Dan Glenn.

PUBLIC HEARING None.

Council Workshop The City Council held a workshop to discuss the Hearing Examiner's Report and Recommendation. The summary of the request was to recommend to the McCleary City Council Amendments to the McCleary Municipal Code (MMC) Governing Zoning for Residential Treatment Facilities and Hospitals. Summary of recommendation: Amend the table of land uses in several ways for Residential Treatment Facilities; add criteria for hospitals in residential zones.

EXECUTIVE SESSION During the workshop, at 5:30 pm, Mayor Schiller called for a 15 minute Executive Session per RCW 42.30.110[1][i]. The Executive Session ended at 5:45 pm. No action was taken.

The workshop ended at 6:29 pm.

MINUTES APPROVED **It was moved by Councilmember Peterson, seconded by Councilmember Ator to approve the minutes from the meeting on June 28, 2017. Motion Carried 5-0.**

VOUCHERS Accounts Payable checks approved were 42912 - 42944 including EFT's in the amount of \$74,219.43.

Payroll checks approved were 42830 - 42857 including EFT's in the amount of \$144,468.13.

Reconciliation for June 2017.

It was moved by Councilmember Richey, seconded by Councilmember Blankenship to approve the vouchers. Motion Carried 5-0.

MAYOR'S COMMENTS Mayor Schiller introduced Tom Arnold, McCleary's new police officer. Tom was the final hire to make McCleary a four-officer department. The audience welcomed Officer Arnold.

Mayor Schiller reported the Bear Festival was a success.

PUBLIC COMMENT Gary Atkins asked if the Council could ban fireworks. Mayor Schiller will be working with another resident to come up with a plan to shorten the days for fireworks. He does not want to impose a full ban on them because there are too many people that love participating in fireworks and their wishes should be considered, as well. The City of McCleary follows State RCW, which allows fireworks from June 28th to July 5th. He will present options to the Council with a shortened window for setting off fireworks. There are people that hate them and people that love them and we have to work to meet everyone's wishes. The City will have something in place before next July 4th.

Todd Broderius from Great Rivers Behavioral Health Organization read a statement to the Mayor and Council in response to the Hearing Examiners decision. He read: "In his recommendation, the Examiner suggested development standards for any "hospital" use in the R-1 zone. As the Council knows, the Mark Reed Hospital is in the R-1 zone, and the building may not comply with these, or other, development standards in the Code - in particular the setback requirement, given the current location of the building. If the Council adopts development standards as part of this ordinance, these development standards should apply to new structures only. If they apply to existing structures, it could preclude the future use of the Mark Reed Hospital, which is why Great Rivers filed its lawsuit in the first place. In other words, if the City zones Great Rivers out through development standards, it will effectively continue the ban that we're challenging in court."

CITY ATTORNEY REPORT	Dan Glenn provided a written report for the Council. Mr. Glenn left the meeting early due to illness.
POLICE CHIEF REPORT	Chief Blumer provided a written report for the Council.
DIRECTOR OF PUBLIC WORKS REPORT	<p>Todd Baun provided a written report for the Council. He said the Bear Festival went really well and the crew did a great job. He added that the stew tasted good again this year.</p> <p>Councilmember Orffer asked Todd Baun about the nuisance list in the staff report. She asked if that was regarding the Hemlock Street mowing issue and Todd stated yes, it was.</p> <p>Councilmember Orffer congratulated the WWTP operators for the award they received for "Wastewater Treatment Plant Outstanding Performance". Mayor Schiller concurred and said he was going to mention it at the end of the meeting. Councilmember Orffer noted in the staff memo it stated they have reached a temporary solution for the bio solids but cannot continue using this method and will need to find a long-term solution. Todd Baun stated they are working with Gray & Osborne to come up with an affordable long-term solution.</p>
FIRE LEVY PROPOSAL	<p>Councilmember Orffer stated, after hearing about the history of the REED fund and how many times it's been accessed over the past fifteen years, she thinks it's reasonable to use the money for this situation. She understands the City has a line item in the fire department budget for \$5,000 for equipment. By using the REED fund money and the fire equipment fund money, it will be much less of a burden on the tax payers compared to what they originally were considering. Councilmember Richey agrees with Councilmember Orffer to contribute what we can from the REED fund before going to the tax payers. Mayor Schiller said this approach would modify option 3 by lowering the amount to \$180,000. Councilmember Orffer asked for the cost per thousand at the new rate of \$180,000 for four years instead of five. Todd Baun will work the numbers for the Council before the end of the meeting.</p>
HEARING EXAMINER REPORT	The Council will provide more discussion at the next meeting and may possibly take action at that time.
ORDINANCE 832 NUISANCE MUNICIPAL CODE UPDATE	<p>Recently, Mayor Schiller, Councilmember Blankenship, Dan Glenn, Paul Morrison, Chief Blumer and Todd Baun sat down and went over the nuisance ordinance line by line and believe they have a final draft ready for approval. In the draft, the Council agreed to language referring to "weeds more than twelve (12) inches in height". It was moved by Councilmember Blankenship, seconded by Councilmember Richey to adopt Ordinance 832 RELATING TO GOVERNMENTAL OPERATION, REPEALING VARIOUS SECTIONS OF CHAPTER 8.16 MMC, AMENDING AND ADDING NEW SECTIONS TO CHAPTER 8.16 MMC, ADDING A NEW SECTION TO CHAPTER 10.25 MMC, AMENDING SECTION 15.04.060 AND SECTION II (PART), ORDINANCE 479, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. Roll Call taken in the affirmative. Ordinance Adopted 5-0.</p>
COMPREHENSIVE PLAN INTERVIEWS	Todd Baun received 7 or 8 firms that turned in RFP's for the Comprehensive Plan and is asking if any Councilmembers can sit in on the interviews. Councilmember's Richey and Blankenship agreed to participate.
RESOLUTION 707 EDDIE BIERS PARK PLAN REMOVAL	<p>Part of the right-of-way process for the 3rd Street Project will require the road to run through the Eddie Biers Park. The City is required to convert the little park into a right-of-way and to take the park off the comprehensive plan. Dan Glenn prepared two resolutions to make these changes. It was moved by Councilmember Orffer, seconded by Councilmember Richey to adopt Resolution 707 AMENDING THE CITY OF MCCLEARY COMPREHENSIVE PARK AND RECREATION PLAN FOR THE YEARS 2008 - 2014; AND SUPERSEDING RESOLUTION 565 TO THE EXTENT INCONSISTENT HEREWITH. Resolution Adopted 5-0.</p>
RESOLUTION 708 EDDIE BIERS CONVERSION TO RIGHT-OF-WAY	It was moved by Councilmember Ator, seconded by Councilmember Peterson to adopt Resolution 708 DESIGNATING CERTAIN PUBLIC PROPERTY FOR USE AS CITY RIGHT-OF-WAY. Resolution Adopted 5-0.
PUBLIC COMMENT	Mayor Schiller stated the Bear Festival was a success this year. William Roundtree did a great job, considering this was his first year running the Bear Festival. He also thanked Officer Tom Arnold for helping out during the festival.

Gary Atkins asked if there was any property the City owns that they could sell to help pay for the fire department equipment. Councilmember Ator responded stating once you sell it, it's gone.

Todd Baun worked up new numbers for the fire department levy cost. He said for a four year levy for \$180,000, the cost would be .48 - .49 cents per thousand. Councilmember Orffer stated that on a \$200,000 house, it would cost approximately \$96.00. The Council agreed they liked this option the best. Mayor Schiller said he will contact the REED Committee members.

MEETING ADJOURNED

It was moved by Councilmember Ator, seconded by Councilmember Richey to adjourn the meeting at 7:00 pm. The next meeting will be Wednesday, July 26, 2017 at 6:30 pm. Motion Carried 5-0.

TAB - B

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: July 21, 2017
RE: LEGAL ACTIVITIES as of JULY 26, 2017

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. **LEVY LIFT ELECTION DOCUMENT**: It is my understanding that the desire is to submit a ballot proposition to the voters in the August 7th election which would generate \$180,000.00 over four years. The sole authorized expenditure would be for the acquisition of equipment and supplies for the Fire Department. It is my understanding that none of the funds would be expended to update the Fire Hall or to make any associated structural improvements.

Ms. Bednarik, who the County Assessor agrees, is the most knowledgeable person in the County on such matters, is now back in the office. I have had discussions with her on the matter and as of the time of the preparation of this Report, she is reviewing what that the anticipated necessary increase over the normal levy figure would be in terms of cents per \$1,000 of assessed valuation. I have prepared a draft document which, at this stage, I have sent to Ms. Bednarik for her review in terms of the figures, etc. Hopefully we will have a draft for your consideration at this meeting since it must be adopted and filed with the Auditor no later than the date of our August election in order to qualify for placement upon the November ballot.

2. **ZONING ORDINANCE DRAFT**: Based upon comments from Mr. Baun, I have prepared two drafts for your consideration, modification, and adoption.

A. The "A" draft basically would implement the recommendations of Mr. Aaland by allowing RTFs housing six

patients or less to be in the referenced residential zones as a permitted use while RTFs housing seven or more individuals would be a conditional use. I have suggested a number of specific conditions in Section II, sub-paragraph H. I am still reviewing how other entities deal with this area so that there may be later versions coming up.

B. The "C" is basically the same with a major exception. That exception is that residential treatment facilities of any size would be classified as conditional uses.

Given the constraints upon regulation of this activity, arising under the federal and state laws, I would recommend that the adoption of the base level set out in Mr. Aaland's Report is the most appropriate.

In terms of final action, at this stage I would recommend that the matter of action on this ordinance be held over until your next meeting so as to insure that all interested parties have the opportunity to review and submit comments and suggestions.

3. **CRITICAL AREAS ORDINANCE:** This process continues to move forward. I have completed a draft ordinance. So as to reduce the chance of "whoops,, we left something out" occurring again as it apparently did in 2014, I have provided it to Mr. Mraz of DOE, the individual who will be involved in the Department's final concurrence, for his review and comment. He has been most helpful in this process. I also have provided it to Mr. Baun and Mr. Morrison for their review and comment.

My anticipation is that the final draft will be on your agenda for the first meeting in August for formal consideration.

4. **LOCAL GOVERNMENT INVESTMENT POOL AUTHORIZATION RESOLUTION:** As you are aware the City invests certain of its moneys in this State Treasurer managed investment source which is known by the acronym of the LGIP. They require a formal resolution authorizing the investment and designating the individual authorized to take action. They have requested that the City update its resolution since it was last adopted in 2014 when Mr. Dent was serving as Mayor. So, I have prepared a resolution which would succeed the prior resolution to the extent of reaffirming that the City is aware that no investments are without risk and that Mayor Schiller is the authorized individual.

For long terms reasons, Ms. Collins called the LGIP folks as to whether or not the City can simply designate that the individual who serves as Mayor is so delegated with that

authority. The answer was that they want the City to formally designate names, not positions, for dealing with the account.

5. **CEDAR HEIGHTS AGREEMENT:** Some years ago the lender took ownership of the unsold lots in this development. They were purchased by Dragt Development, LLC. Back in 2014, the City notified the Company that certain sidewalk improvement work needed to be modified so as to comply with the ADA. Since then, things have been on hold. On the 14th, Ms. Dragt, the principal of the Company, contacted the City as to the fact that she now has a buyer for three of the lots and as to what process would allow closing of those transactions while the sidewalk corrections are undertaken. Obviously, it is beneficial to her and to the City for utilization of these lots to move forward. (By the time of this meeting, Ms. Dragt will have met twice with Mr. Baun and Mr. Hinton to discuss the necessary corrective steps.)

Upon receipt of the contact from Ms. Dragt, my recommendation was that an agreement be entered into under which a deposit in the estimated cost of the repairs would be placed with the City. It then would then be released to her company upon acceptance of the repairs. In the absence of correction within a specified period, then the City could undertake the repairs and recover the cost from the deposit. Following an email exchange I have prepared such an agreement and Ms. Dragt has agreed to its contents. Thus, I would recommend that the Mayor be authorized to execute the Agreement which is being provided to you.

6. **OTHER POTENTIAL MATTERS:**

A. **Janitorial Services:** The City has solicited proposals for these services. My understanding is that the proposals will have been received and reviewed by the time of this meeting with the potentiality of a recommendation. If that is correct, to move things along I would recommend that the Mayor be authorized to execute an agreement in the general nature utilized with the prior provider.

B. **Comprehensive Plan Update Consultant:** Last week the Committee met with the entities submitted expressions of interest. There is apparently a recommendation which will be made to the Council. I have reviewed the initial documents submitted by the consulting firm and will be preparing, as he anticipated, a more detailed agreement. One aspect of his proposal I would ask be specifically review and direction provided in the element of monetary distribution. The apparent request is that a retainer in the amount of \$15,000.00, which represents nearly 25% of the entire anticipated expenditure, be

disbursed. In the absence of a more specific explanation as to the basis for that level of initial disbursement, I would suggest that we modify to reflect a different payment approach more tied to submission of specific time utilization.

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

DG/le

TAB - C

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: July 21, 2017
Re: Current Non-Agenda Activity

My activities that past couple of weeks have been on items that are on the current agenda.

TAB - D

STAFF REPORT

To: Mayor Schiller and City Council Members
From: Todd Baun, Director of Public Works
Date: July 21, 2017
Re: Fire Department Levy

I have talked to Diann Locke, from the Washington State Department of Revenue about our options for running a levy. The City is assessed at \$94,846,925 for 2017 tax. We are currently taxing residents at \$1.81 per \$1,000. We can legally tax at \$3.60 per \$1,000 if we did not have the library tax of \$0.40. We have to take \$0.40 library tax from the \$3.60, which drops our taxing amount to \$3.20.

I have also talked to Paula Bednarik, from the Grays Harbor Assessor's office, and confirmed the numbers below.

Option #3.1 -Temporary lid lift and REED fund money.

Use \$70,000 from the Rural Electrical Economic Development Fund (REED) and then ask voters to approve an \$180,000 levy for the fire safety equipment. A 4 year lid lift, which would cost the residents about \$0.48 per \$1,000 of assessed value. If approved by voters, this would be for 4 years, starting in 2018. This would generate roughly \$45,526 per year for an approximate total of \$ \$182,106 after 4 years.

Alternate Option

After running numbers, I have noticed that if we ask voters to approve a \$250,000 levy, with a 5 year lid lift, it would cost the residents about \$0.53 per \$1,000 of assessed value. If approved by voters, this would be for 5 years, starting in 2018. This would generate roughly \$50,268 per year for an approximate total of \$251,344 after 5 years.

TAB - E

City of McCleary Hearing Examiner
Report and Recommendation

Summary of Request: Recommend to the McCleary City Council Amendments to the McCleary Municipal Code (MMC) Governing Zoning for Residential Treatment Facilities and Hospitals.

Requested by: City of McCleary
100 South 3rd Street
McCleary, WA 98557

SUMMARY OF RECOMMENDATION: Amend the table of land uses in several ways for Residential Treatment Facilities; add criteria for hospitals in residential zones

SUMMARY OF RECORD:

Public Hearing:

A public hearing was opened at 6:00 p.m. on May 16, 2017 at the VFW Hall in McCleary, Washington. Present for the city were Neil Aaland, Hearing Examiner and Todd Baun, Public Works Director. The Examiner briefly summarized the proposal for the record, including the purpose of the hearing and how the hearing process works. He asked that people focus their comments on the question of how the zoning ordinance should be amended, rather than on a specific proposal. The Examiner is only providing a recommendation to the City Council on amending the zoning ordinance.

Todd Baun summarized the staff report prepared for the hearing. No letters were received in advance from the public.

The questions posed to the Hearing Examiner by the city council are:

- How should a residential treatment facility be classified under the city's zoning code; and
- Whether hospitals should be allowed as conditional uses in residential zones

List of exhibits submitted at hearing:

1992 AGO Opinion submitted by Maren Blankenship

Note from Ron Hulscher

Letter from Tracee Reopelle, RN

Letter from Helen Lake Hamilton

Letter from Marc Bollinger, CEO, Great Rivers BHO

Letter from Joan Brewster to Vickie Raines (submitted by Vickie Raines)

Binder submitted by Marc Bollinger

A set of numbered documents, numbered 1, 2, 2(a), 5, 6, and 8 (unclear who submitted):

1 Joint Statement of the Department of Justice and the Department of Housing and Urban Development

2 McCleary Zoning Code Section 17.36 – Nonconforming Uses, Lots and Structures

- 2(a) Grays Harbor County Assessor's Office Online Parcel Database, Assessment Information for Parcel 618051233002
- 5 McCleary Zoning Code Section 17.28.010 – Architectural features, stairways, and fences
- 6 Revised Code of Washington (RCW) Section 70.128.140 – Compliance with local codes and state and local fire safety regulations
- 8 Telecare, Grays Harbor – Feasibility Report dated May 16, 2016

Exhibits submitted by City:

- Staff report from Todd Baun
- Joint Statement of the Department of Justice and the Department of Housing and Urban Development: Group Homes, Local Land Use, and the Fair housing Act (August 18, 1999)
- Regulating Group Homes in the Twenty First Century: The Limits of Municipal Authority (April 2013)
- Federal Fair Housing Act (Response to Request for Information, Municipal Research and Services Center, March 2017)
- Alcoholism, Drug Addiction, and the Right to Fair Housing: How the Fair Housing Act Applies to Sober Group Homes (Spring 2010)
- Group Homes (MRSC, 2016)

Testimony:

The following persons provided testimony:

- | | |
|-------------------|-------------------|
| Jim Hargrove | Linda Reese |
| Maren Blankenship | Marc Bollinger |
| Stephen Bean | Gary Atkins |
| Doug Smythe | Gloria Hale |
| Alice Ortquist | Dan Holcomb |
| Fred Ortquist | Otis Leathers |
| Robin Nunez | Bea |
| Josh Martin | Jean Orton-Elders |
| Tammy Moore | Ron Hulscher |
| Larry Kahl | Jerry Olson |
| Vickie Raines | Stephen Bean |
| Drew McDaniel | Carol Murphy |

Jim Hargrove: He is a retired state senator and not a citizen of McCleary, but worked on these issues for many years. Mental health facilities should be in every community. The hospital closed in 2012 which impacted the economy. A new facility would bring 38 jobs. It would be secure.

Maren Blankenship: Her fiancé was admitted to a facility and it did damage to him. It was in Everett. She referenced the requirement to provide facilities. She cited state and federal requirements, and noted that the McCleary Police Department is not a full-time

police force; a facility would create a fundamental change in an R-1 zone. Reasonable accommodations depend on local circumstances. She asked the examiner to review the attorney general's opinion and provided a copy.

Stephen Bean: He is representing some citizens in McCleary. It's not a question of whether it should be in McCleary but a question of where it can be legally located. Hospital is a non-confirming use. It's been closed longer than four years, so the non-confirming use goes away. Don't put this in a residential neighborhood. Codes don't provide for this in the R-1 zone. Must consider neighborhood safety; not the right place. McCleary's comprehensive plan does not identify sites for this type of uses. It would also violate the state Growth Management Act as well as McCleary's comprehensive plan.

Doug Smythe: He is a retired detective. He is concerned about the cost of police protection, and thinks this is not needed in a residential area. He does think it is needed somewhere, but not in a residential area. Police is not covered on a 24-hour basis. Would need to hire another officer for 24-hour protection. Other issue is property values; Grays Harbor County has some of the lowest property values in the state, and this will make them even lower.

Alice Ortquist: Agrees with Doug Smythe.

Fred Ortquist: He wonders who is responsible for streets in the hospital area. There is a major problem with drainage, which has been going on for 50 years.

Robin Nunez: Her points have already been covered.

Josh Martin: He is the acting CEO for Summit Medical Center. There are challenges and opportunities. We have 50% less mental health professionals than comparable communities. There is a lack of providers and facilities. Over 130 patients have been seen by Summit Medical Center's emergency room since January 1, 2017 with mental health issues. Since such a treatment facility is not in the county, it makes it hard to manage and address these people. He supports the project. On his personal perspective, his brother was diagnosed with schizophrenia. He can hold a job, drive a car. About once per year he needs to go through a period of stabilization. He is not a drug addict nor a drug seeker, but uses this resource. Without it he would be on the street.

Tammy Moore: She provides care in the community, and has for nearly a decade. She thinks we need to provide for their care. They deserve care. She doesn't know a lot about zoning. Previously, when the hospital was open, they provided some treatment within this community. Now they continue to provide some care in Elma. It seems like people are saying "not in my neighborhood". If not here, where? These patients are in our family.

Larry Kahl: He is the Chief Operating Officer for Grays Harbor Hospital. He noted that GH Hospital is in a residential area. That is not unusual in other communities to have facilities in the neighborhoods. Aberdeen zoned them light residential, and that has worked. Regarding the mental health role, there is a tremendous need. 30 patients per

month come in with mental health issues. He agrees that McCleary has a unique opportunity.

Vickie Raines: She submitted a statement from the former Public Health Director for Grays Harbor County, who recently retired. She is a Grays Harbor County Commissioner and on the board for Great Rivers Behavioral Health. She shared a statement from Grays Harbor Sheriff Rick Scott, who supports the facility in McCleary. She supports this facility, and thinks a recent zoning change was done to discourage the facility. She agrees with Kathy, and when talking about “drug addicts” and “those people” we’re talking about our family and co-workers. Treatment is needed close to home. The sheriff provides back-up police services to the McCleary Police Department.

Drew McDaniel: He is a regional director for crisis services. Sentiments in the room are not surprising to hear. He told a story about categorizing someone who has schizophrenia. Grays Harbor County has 2% of the state’s population, and 40% of the “unable to detain” population. They were released to the streets because not enough beds exist.

Linda Reese: She is with Telecare. They have operated four other residential treatment facilities for seven years. She’s heard concerns about local law enforcement. In 3 of the 4 facilities they have never called law enforcements; in the other 2 incidents in 4 years. They don’t anticipate an impact on law enforcement. Instead, they can be viewed as a resource. One of their facilities is across the street from a high school; they’ve had no incidents. There is no greater rate of criminal behavior. The primary reason they are in these facilities is they are a danger to themselves. People do not self-refer to these facilities.

Marc Bollinger: He is the CEO for Great Rivers. He said the Mark Reed facility was operating one year ago, not four years ago. This is not unreasonable to have in a residential neighborhood. The hospital should be allowed as a conditional use. People did not have a problem when it was just a hospital. He provided a binder with related information to the Examiner.

Gary Atkins: He is a manic/bi-polar person. There’s a difference between mentally ill and mentally ill drug addicts. Combining them with drug addicts is not good. They know how to play the game. McCleary has only 1600 people. It’s going to be a sore thumb. The city is just starting to come back after some difficult years. The community deserves more.

Gloria Hale: We know this is needed. It doesn’t need to be at the Mark Reed hospital. Most people in McCleary will not be hired at the hospital. There are other places besides a residential place in McCleary.

Dan Holcomb: Even a hospital would not fit into a residential area. The zoning should not be changed.

Otis Leathers: He is bi-polar. He has lived here since 1997. He's trained to support people in reaching recovery. He was lucky enough to have insurance. They should be able to continue treating people. He's willing to support the hospital and people.

Bea: One of her family members has mental health problems. Doesn't think it is a good location. City only allows 8-foot-tall fences, not 10 feet; there is not enough funding for more police. Sheriff takes a while to get here. Also, there is not enough parking.

Jean Orton-Elders: She is a lifelong Grays Harbor resident. She moved back to McCleary, it is a small peaceful community. The hospital will have an impact on vehicle traffic. Parking was previously an issue, it will be again. She gets both points of view, had a brother who was bi-polar. We do need a mental health facility. She is a social worker. The neighborhood is not the right place. The hospital was closed because the building was not good enough, but now it will be okay? A better facility is needed.

Ron Hulscher: He is a hospital district employee. He's studied the history of Mark Reed Hospital. It originated in the 1940s; it's relatively remote even now. A wooded corridor is between the hospital and residences on Morrison, three sides of the building are relatively isolated. It's now zoned residential.

Jerry Olson: He has two points: First, he wonders how this facility can grow if it will provide treatment over the years. Second, he thinks we'll see much more growth in McCleary due to lower cost of housing. He wonders what impact this facility would have on McCleary.

Stephen Bean: Non-conforming uses are to be the exception, not the rule. It's a question of where. There must be somewhere to site them legally.

Carol Murphy: Has lived here for 40 years. She doesn't see how this will work security-wise. If people are homeless, they don't have family help. It's a long process. Also, it's the wrong kind of facility for the community. We need a state hospital. People should lobby in Olympia.

Hearing was closed at 7:30 pm.

The written comments of city staff, together with the staff report and other supporting materials, are incorporated into the record of the hearing.

FINDINGS:

1. MCC Chapter 2.30 establishes the office of the Hearing Examiner and assigns certain responsibilities to the Examiner.
2. MCC Chapter 17.40.130 and ordinance #790 establishes the responsibility and authority of the Hearing Examiner to hear and make recommendations on matters assigned to him by the Mayor and the City Council.

3. The Mayor and the City Council have assigned to the Examiner the responsibility of conducting the required public hearing and making a recommendation to the City Council for a proposal to revise the MMC.
4. City staff have provided an affidavit of publication advertising the public hearing in the paper of record, the Montesano Vidette, for three consecutive weeks between April 27th, 2017 and ending on May 11th, 2017.
6. Section 17.40.140 of the MCC stipulates the procedure for amending the zoning ordinance. Section A states:

“The City Council may amend the text of the zoning ordinance, including the city of McCleary zoning map, whenever public necessity, convenience, or general welfare require such action and the proposed amendment is consistent with the city of McCleary comprehensive land use plan in accordance with RCW 35.A.63.105.

5. The Hearing Examiner conducted a public hearing for the proposal on May 16, 2017.
6. People attending the public hearing testified about their concerns. The testimony was mixed, with some expressing concern about the potential location of a facility at the old Mark Reed Hospital site, some stating the need for a facility providing treatment services, and some expressing other concerns.
7. The city staff report includes a description of the purposes of each zone in the city.
7. The 2002 McCleary Comprehensive Plan, on page 10, includes the following paragraph for the R-1 District regarding appropriate conditional uses:

“Examples of other compatible uses eligible for conditional uses in the R-1 District may include: bed and breakfast inns, home businesses, parks, schools, churches, and other public and semipublic uses as long as such uses will not create a significant traffic or parking problem, noise or light pollution, and water and sewer facilities are capable of supporting such development.

Similar language is found on the same page for the R-2 and R-3 Districts.

8. The Comprehensive Plan does not include a definition of public and semi-public uses.
9. The State Environmental Policy Act (SEPA) requires a threshold determination to be made for revisions to the comprehensive plan and the UDC. A Determination of Non-Significance (DNS) was issued on April 27, 2017. As allowed under WAC 197-11-340 (2), no comment period was provided. No appeal of the SEPA determination was filed.

10. "Adult family home" is defined in the McCleary Municipal Code, section 17.12 "A" definitions" as "...the regular family dwelling unit of a person or persons who provide personal care, room, and board to no more than four adults not related by blood or marriage to the person or persons providing the services. An adult family home may have a maximum of six adults if licensed pursuant to Chapter 70.128 RCW by the Washington State Department of Social and Health Services."

11. "Residential Treatment Facilities" are defined in the McCleary Municipal Code, as included in Ordinance 830:

'Residential Treatment Facility" means any facility to which the definition contained within WAC 246-337-005, as now existing or hereafter amended or succeeded, is applicable and is required by state law to have a license issued by the State to operate as such a facility."

12. WAC 246-337-005 defines a Residential Treatment Facility: "Residential treatment facility" or "RTF" means a facility for purposes of evaluation and treatment or evaluation and referral of any individual with a chemical dependency or mental disorder."

13. Residential Treatment Facilities are a type of Group Home. Group homes have been the subject of federal law and state law. This recommendation does not attempt to summarize all the applicable laws and court cases. However, there are several key points. Mr. Ted Gathe summarized some of these relevant laws and cases in his April 2013 article (see list of exhibits for citation). Key points from his article include:

a. The primary federal law is the Federal Housing Act Amendment (a 1988 amendment of the Federal Housing Act). This law extended the protection of the 1968 Federal Housing Act to persons with disabilities and prohibits discriminating against the disabled in zoning. The FHAA states, in part, that "The Act is intended to prohibit the application of special requirements through land use regulations, restrictive covenants, and conditional or special use permits that have effect of limiting the ability of such individuals to live in the residence of their choice in the community."¹

b. The key state law is the Washington Housing Protection Act (WHPA). Adopted by the state Legislature, in 1993, this was in direct response to the Federal Housing Act Amendment. In a discussion of hypotheticals, Mr. Gathe states: "A City violates the WHPA if it grants a variance or accommodation and then subsequently denies a similar request to a similar group of individuals, such as permitting a "family" to obtain immediate occupancy of a residential structure but requiring 'group care facilities" to obtain a SUP [special use permit] before occupying a similar residential structure."

¹ H. Rep. No. 100-711, at 24 (1998), reprinted in 1988 U.S.C.C.A.N. 2173, 2185.

- c. Mr. Gathe concludes: “A city may defend its zoning laws so long as they attempt to reasonably protect the aesthetic quality of single-family neighborhoods, address legitimate health and safety concerns, are in the best interest of the Acts’ protected classes, and do not implicate the FHAA’s “reasonable accommodation requirement. Because courts will review each circumstance on a case-by-case basis in this highly fact-specific inquiry, a city must be prepared to have strong support and documentation to justify their zoning and land use decisions.”
14. The U.S. Department of Justice and the U.S. Department of Housing and Urban Development issued a joint statement in 1999 titled “Joint Statement of the Department of Justice and the Department of Housing and Urban Development: Group Homes, Local Land Use, and the Fair Housing Act” (see list of exhibits for citation). A question and answer page attached to this included this statement: “The Fair Housing Act prohibits discrimination on the basis of handicap...this may include conditions such as alcoholism, drug addiction...”
15. The Municipal Research Services Center (MRSC) in Seattle, in a March 2017 response (see list of exhibits) to an inquiry, stated the following in response to this question: “Is there a threshold size over which a group home over which a city may regulate such a facility differently than single-family residences and even prohibit them?”

The response: “Yes, although there is no clear line as to what that threshold is, and it may depend upon the particular circumstances at issue. Obviously, a group home with 100 residents, which would effectively be an institutional use, need not be allowed in a single-family zone. But what about a home with 12 or 15 residents? It apparently depends on the circumstances.”

16. The Examiner researched how other nearby jurisdictions address these facilities.
- a. The City of Olympia allows group homes with 6 or fewer residents as permitted uses in any residential zone. Group homes of 7 or more residents are allowed as conditional uses in every zone except two residential zones: R 4, R4 CB. These latter two zones have limitations due to stormwater issues.^{2 3} There are no special criteria for consideration of these as conditional uses other than those for any conditional use.⁴
- b. The City of Yelm defines “Residential Care Facilities” as “...a facility, licensed by the state, that cares for at least five but not more than 15 people...”⁵ These facilities are permitted uses in the R-4 (Low Density Residential District), R-6 (Moderate Density Residential District), and R-16 (High Density Residential

² Olympia Municipal Code, Section 18.04.040, Table 4-1; and

³ Olympia Municipal Code, Section 18.04.020(B)(3)

⁴ Olympia Municipal Code, Chapter 18.48

⁵ Yelm Municipal Code, Section 18.02.040

District).⁶ It does not appear that these facilities are allowed in the city's commercial districts.

- c. The Examiner also reviewed zoning requirements for Aberdeen, Hoquiam, and Shelton but found no relevant requirements in those codes.

17. The second question posed to the Examiner is whether hospitals should be allowed as conditional uses in residential zones. Hospitals are defined in the McCleary Municipal Code: "Hospital means any institution, place, building, or agency which qualifies as fitting within the definition of hospital as set forth in RCW 70.41.020(7), as now existing or hereafter amended."⁷

18. The Examiner researched how nearby jurisdictions address this.

- a. The city of Elma provides that hospitals and medical clinics are not permitted in the Rural Residential zone and allowed as a conditional use in the General Residential zone.
- b. The city of Yelm provides that hospitals are not permitted in residential zones.⁸
- c. The city of Hoquiam allows hospitals as a permitted use in the R-2 (high density residential) zone and as a conditional use in the R-1 (low density residential) zone.⁹
- d. The city of Montesano provides that hospitals are allowed as conditional uses in all three of their residential zones.¹⁰
 - a. The code provides additional requirements when considering a conditional use permit for hospitals:
 - (A) "Such uses are located on a collector or arterial street,
 - (B) Structures do not exceed a height of fifty feet,
 - (C) The front, side, and rear yard setbacks shall be one foot for each one foot of building height or the minimum setbacks for this zoning district, whichever are greater..."

CONCLUSIONS:

General:

1. The request by the city to the Hearing Examiner is not about a specific proposal, but is about revising the city code to address potential facilities in the future.
2. There is a general lack of clarity about how to address residential treatment facilities, due to different federal and state laws and different court cases.

Question 1: How should a residential treatment facility be classified under the city's zoning code?

⁶ Yelm Municipal Code, Chapters 18.31, 32, and 33

⁷ McCleary Ordinance #830, adopted April 12, 2017

⁸ Yelm Municipal Code, Chapters 18.35, 36, 37, and 40

⁹ Hoquiam Municipal Code, Table 10.03.106

¹⁰ Montesano Municipal Code, Chapters 17.20, 22, and 24

3. The city needs to provide for siting of residential treatment facilities to comply with federal and state law, and court cases.
4. Residential treatment facilities for 6 or fewer persons should be allowed as a permitted use in zones that allow residential uses. This is consistent with federal and state law, McCleary's definition of "adult family homes", and the city of Olympia's standards.
5. Residential treatment facilities for more than 6 persons should be allowed as a conditional use in most zones that allow residential uses. The standards for reviewing conditional use applications allow various impacts to be considered and addressed.

Question 2: Should hospitals continue to be allowed as a conditional use in residential zones?

6. Most jurisdictions surveyed allow consideration of hospitals as a conditional use in residential zones. The Examiner believes it is appropriate for the city of McCleary to continue to have similar provisions.
7. The city of Montesano has some specific criteria, which would be useful for future consideration. The height requirement of 50 feet, however, should be the same as for other structures in the McCleary code, which is 35 feet.

RECOMMENDATION:

The City should amend the zoning code in several ways:

1. Allow residential treatment facilities for 6 or fewer persons as a permitted use in single-family homes, where such housing is allowed.
2. Allow larger residential treatment facilities as a conditional use in residential and some commercial zones where residential uses are allowed. The C-3 highway commercial district does not seem appropriate for such uses.
3. Continue to allow Hospitals as conditional uses in residential zones, and add the criteria used by the city of Montesano (except using the current McCleary height requirement).

Suggested amendments are shown in Attachment One.

NOTICE TO APPLICANTS AND INTERESTED PARTIES:

Under section 2.30.090 of the McCleary Municipal Code, the decision of the examiner shall be final and conclusive, as to any further action or appeal as to those matters in which the examiner's decision is in fact passed on to the mayor and council as a recommendation, on the twenty-first day after the date of the decision. Since this is a recommendation and not a final decision, there is no appeal provided.

This report is the recommendation of the Hearing Examiner to the McCleary City Council. The council may approve, reject or modify this recommendation. Interested parties should contact the Clerk-Treasurer concerning action by the City Council.

Dated this 25th day of June, 2017

Neil L. Aaland
Neil L. Aaland, AICP
McCleary Hearing Examiner

ATTACHMENT ONE
Proposed revisions to McCleary Municipal Code

1. For Residential Treatment Facilities: Add the following to Section 17.20.030 Table of land uses for all zoning districts:

Land Use	R-1	R-2	R-3	C-1	C-2	C-3	I	F/OS
Residential Treatment Facilities for 6 or fewer persons	P	P	P	P ²	P			
Residential Treatment Facilities for 7 or more persons	C	C	C	C	C			

2. For Hospitals: No change to the current Table of land uses is proposed. The following criteria should be added as a new section 18.40.110 (G):

“Additional criteria for hospitals:

- (1) “Such uses are located on a collector or arterial street,
- (2) Structures do not exceed a height of thirty-five feet, and
- (3) The front, side, and rear yard setbacks shall be one foot for each one foot of building height or the minimum setbacks for this zoning district, whichever are greater.”

TAB - F

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: July 21, 2017
Re: Cedar Heights Agreement

This issue has been going on for several years. When Cedar Heights was completed, it had several small issues that needed to be completed in order to finalize the plat. The plat was finalized, but with a condition that 2 ADA ramps had to be re-done to meet ADA standards. In 2014, the developer successfully fixed one of the ADA ramps, but the other ramp still needs work to meet ADA standards. Since then, things have been on hold. On July 14th, the developer contacted the City as to the fact that she now has a buyer for three of the lots and as to what process would allow closing of those transactions while the sidewalk corrections are undertaken. Obviously, it is beneficial to her and to the City for utilization of these lots to move forward. (By the time of this meeting, Ms. Dragt will have met twice with City Engineer Jon Hinton and myself to discuss the necessary corrective steps.)

Upon receipt of the contact from the developer, Dan's recommendation was that an agreement be entered into under which a deposit in the estimated cost of the repairs would be placed with the City. It then would then be released to her company upon acceptance of the repairs. In the absence of correction within a specified period, then the City could undertake the repairs and recover the cost from the deposit

Action Requested:

Please allow the Mayor be authorized to execute the Agreement which is being provided to you.

CONTRACT

THIS AGREEMENT executed upon the dates stated below, by and between the CITY OF McCLEARY, hereinafter "City"; and DRAGT DEVELOPMENT, LLC, a Washington limited liability, and DOYCE DRAGT, as an individual, hereinafter collectively referred to as "Developer".

R E C I T A L S:

1. Developer is the owner of certain lots within the development within the City identified as Cedar Heights. It acquired them and is a successor to the initial developer,

2. As part of that development, Developer or its predecessor was required to carry out the installation of certain improvements which were to be transferred to the City. One of these improvements is a sidewalk system.

3. Certain remaining deficiencies have been identified by the City's engineer in relation to compliance with the requirements of the American's with Disabilities Act (ADA) of a certain portion of that sidewalk system. The area and deficiencies and the necessary corrective steps are set out

upon Exhibit #1, attached hereto and incorporated by this reference.

4. Developer is moving forward with sale of lots within the Development. Developer has requested that the City exercise its discretion in relation to allowing sale of certain lots within the Development pending correction of the deficiencies. These lots have been identified as Lots 21, 22, and 23.

4. The City is willing to allow this to occur under certain conditions. Those conditions are as follows:

A. Prior to the sale of the identified lots, the deposit with the City the sum of \$3,000.00 as guaranty of timely correction of the deficiencies. For purposes of this Agreement, "timely" shall mean within ninety calendar days of the execution of this Agreement.

B. Undertaking with the identified period the corrective steps identified in the Exhibit to the reasonable satisfaction of the City.

NOW, THEREFORE, for good and valuable consideration, it is agreed as follows:

SECTION I: Subject to compliance with the terms and conditions set forth in Exhibit #1, the City agrees that upon deposit of the sum of \$3,000.00 as a bond to assure compliance with the corrections, it agrees that Developer may go forward with sale of the three lots identified in the Recitals and that it will process any permits requested in relation to such lots in the normal manner.

SECTION II: The Developer shall take the following steps:

A. Take the identified corrective steps within the time period set forth above.

B. Deposit with the Clerk-treasurer the sum of \$3,000.00.

SECTION III: Implementation:

A. Corrective Process

1. As set out above, Developer shall undertake and complete the necessary actions to correct the identified deficiencies in the sidewalk area within the identified time period and notify the City when such action has been completed.

2. Upon receipt of the notification of completion, the City shall promptly review the sidewalk area involved and,

if it is determined that the correction is not in compliance with the requirements, promptly notify Developer in writing of any defect or correction it contends is necessitated as a result of a factor subjecting Developer to the duty to correct.

3. To the extent reasonably possible and so long as doing so will not endanger life or property, the City shall allow Developer forty-five calendar days after notification to correct the condition.

4. In the event that Developer does not timely undertake any necessary repair, replacement, or correction, the City may go forward with such repair, replacement, or correction and charge the costs thereof, including additional management costs of ten percent for the City's role, to Developer. Such costs shall be deducted first from the \$3,000.00 deposited with the City by the Developer and then, to the extent the costs exceed that amount, be reimbursed to the City by the Developer.

B. Release of Funds: So long as Developer completes the corrective actions within the time period or any extension thereof granted by the City, the funds deposited with the City shall be timely released to the Developer upon notification to

the Clerk-treasurer by the Director of Public Works of such completion.

SECTION III: Disputes:

A. The parties agree, in the event of a dispute arising out of this Agreement, to submit the dispute to non-binding mediation and binding arbitration through the utilization of the services of the Washington Mediation Service: PROVIDED that no party objects to arbitration within thirty (30) days after a demand for arbitration is filed with WAMS. If either party objects to resolution through arbitration, then either party may commence litigation in the venue set forth in §C.

B. As to any dispute subject to resolution under this section, whether the resolution be through an arbitration process or a judicial process, either party may bring into the proceeding such other entities as will be necessary to achieve a full resolution of all issues raised in the dispute. Such additional parties may include, but are not limited to, those parties who could be added to litigation pursuant to the Civil Rules promulgated for the Superior Courts of the State of Washington.

C. Any judicial proceedings shall be

brought in the Superior Court of the State of Washington, in and for the County of Grays Harbor. The laws of the State of Washington shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

D. In addition to any other relief which may be granted to the prevailing party in arbitration or litigation, the Arbitrator or Court, as may be the case, may award the prevailing party reasonable attorneys' fees and costs, including expert witness fees.

SECTION V: Severability and Survival: If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

EXECUTED IN MULTIPLE COPIES UPON THE DATE STATED BELOW.

DEVELOPER: DRAGT DEVELOPMENT, LLC

DOYCE DRAGT, PRINCIPAL & AS AN INDIVIDUAL

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney



City of McCleary
Home of the McCleary Bear Festival

July 17, 2017

Dragt Development LLC
8904 Hunter Point Rd
Olympia, WA 98502

SUBJECT: CEDAR HEIGHTS ADA RAMP

Dear Mrs. Dragt:

The City in conjunction with our City Engineer has completed the inspection of the recent sidewalk/ADA ramp pour near the intersection of Hemlock Street and Evergreen Place and provide the following observations.

1. The cross slope of the westerly portion of the north sidewalk exceeds the 2 percent limit.
2. Expansion joint areas need to be sealed in several locations due to gaps between joint material and sidewalk.
3. ADA ramp cross slope on south ramp exceeds 2 percent and 8.3 percent..

I have attached the City of McCleary ADA standards

Should you have any other questions, please feel free to contact me at (360) 495-3667 or via email at toddb@cityofmccleary.com.

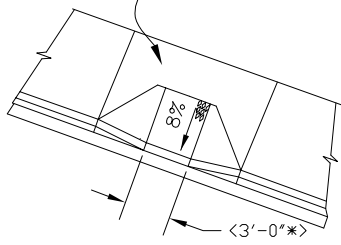
Sincerely,
City of McCleary

Todd Baun
Director of Public Works

CC: Paul Morrison- City of McCleary
Jon Hinton, P.E. - Gray and Osborne, Inc.
Dan Glenn

ACCESSIBLE SIDEWALK CURB RAMP DESIGNS

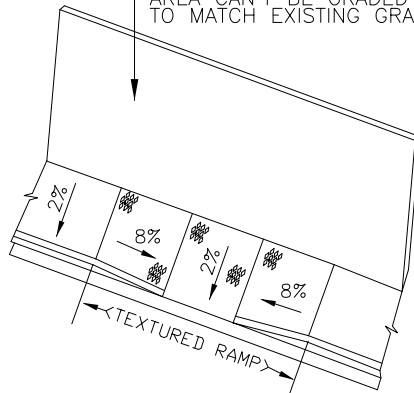
PROVIDE MINIMUM FOUR FT. LANDING AT TOP OF RAMP FOR TURNING OR BYPASSING THE RAMP



CURB RAMP TYPE A

*THIS DIMENSION (3'-0") SHALL BE INCREASED TO 4'-0" WHEN ONLY ONE RAMP IS CONSTRUCTED.

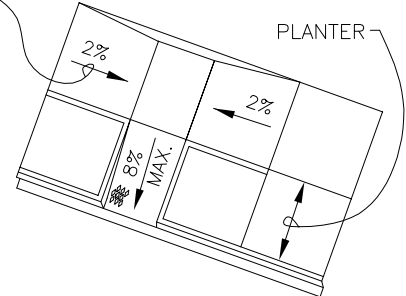
BUILDING FACE, RETAINING WALL, IF AREA CAN'T BE GRADED TO MATCH EXISTING GRADES



CURB RAMP TYPE B

USE TYPE B WHERE INADEQUATE TOP LANDING SPACE EXISTS

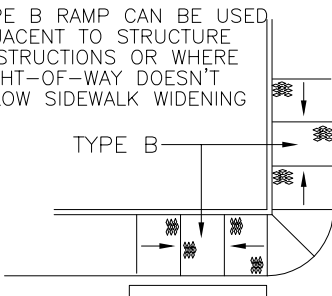
IF PLANTER WIDTH IS SIX FT. OR GREATER THIS SLOPE CAN BE ELIMINATED



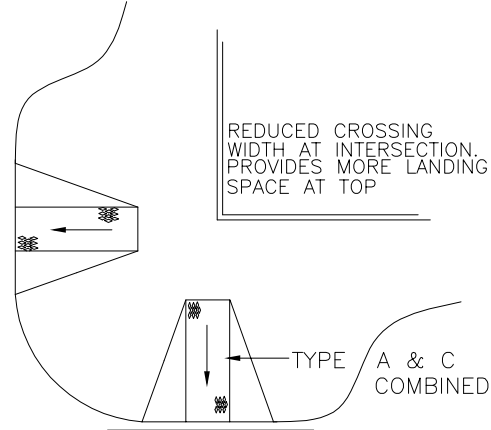
CURB RAMP TYPE C

SIDEWALK CURB RAMPS AT INTERSECTIONS

TYPE B RAMP CAN BE USED ADJACENT TO STRUCTURE OBSTRUCTIONS OR WHERE RIGHT-OF-WAY DOESN'T ALLOW SIDEWALK WIDENING



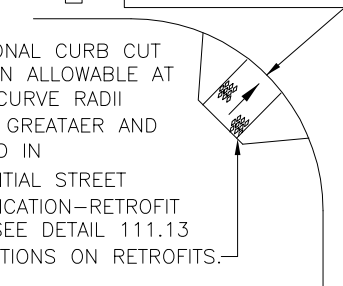
REDUCED CROSSING WIDTH AT INTERSECTION PROVIDES MORE LANDING SPACE AT TOP



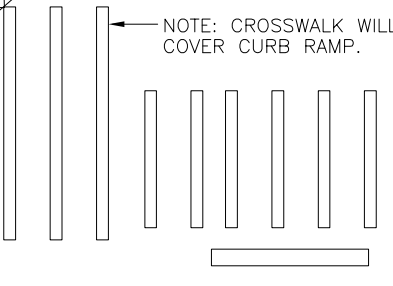
TYPE A & C COMBINED

MIDPOINT OF CURB RADIUS

TRADITIONAL CURB CUT LOCATION ALLOWABLE AT LARGE CURVE RADII 35' OR GREATER AND ALLOWED IN RESIDENTIAL STREET CLASSIFICATION—RETROFIT ONLY, SEE DETAIL 111.13 FOR OPTIONS ON RETROFITS.

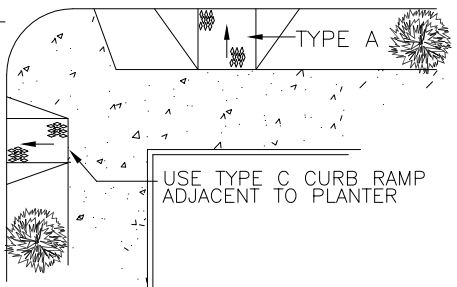


NOTE: CROSSWALK WILL COVER CURB RAMP.



TYPE A

USE TYPE C CURB RAMP ADJACENT TO PLANTER



TAB - G

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: July 21, 2017
Re: Comprehensive Plan Firm choice

The interview committee interviewed 5 firms to complete our Comprehensive Plan. They all were good firms that do good work, but we have chosen a firm that we feel will write a plan that is most beneficial for the City. Once I have the contract back, it will be provided to council before the meeting.

Action Requested:

With contract approval from our City Attorney, please consider authorizing the Mayor to sign the contract to complete our City Comprehensive Plan.

TAB - H

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: July 21, 2017
Re: BPA Energy Conservation Contract

We have received and updated Energy Conservation Agreement, Contract No. 17ES-11510, from Bonneville Power Administration (BPA). This Agreement updates the previous contract that expires on September 30th, 2017.

This is the program that we use to provide rebates for energy conservation in our electric service area.

Staff Recommendation:

We recommend that amendment be accepted and signed by Mayor.

Action Requested:

Please consider authorizing the Mayor to execute the City of McCleary's Energy Conservation Agreement, Contract No. 17ES-11510.



Department of Energy

Bonneville Power Administration
909 First Avenue Suite 380
Seattle WA 98104

ENERGY EFFICIENCY

July 17, 2017

In reply refer to: PEJB-SEATTLE

The Honorable Brent Schiller, Mayor
City of McCleary
100 S 3rd Street
McCleary, WA 98557

Dear Mayor Schiller:

Attached is an original copy of the Energy Conservation Agreement Contract (ECA) No. 17ES-11510 between Bonneville Power Administration (BPA) and City of McCleary.

If McCleary finds the ECA offer acceptable, please electronically sign the flagged signature field in the enclosed document and return it to me by e-mail as soon as practicable but no later than September 15, 2017. Alternatively, you may print, sign, and scan the document into a pdf file and return it by e-mail, or you may print off two copies, countersign both copies, and mail both paper copies of the countersigned document to my attention by September 15, 2017.

Please feel free to contact me at (206) 220-6772 if you have any questions or concerns.

Sincerely,

Melissa J. Podeszwa
Energy Efficiency Representative

cc: Todd Baun, Public Works Director

ENERGY CONSERVATION AGREEMENT
executed by
BONNEVILLE POWER ADMINISTRATION
and
CITY OF MCCLEARY

Table of Contents

Section		Page
1.	Term	2
2.	Definitions.....	2
3.	Implementation Budget	3
4.	The Implementation Manual.....	4
5.	Invoicing Process.....	5
6.	Payment of Approved Invoice Payment Amounts	6
7.	Oversight Review and Evaluation Processes	6
8.	Netting of Amounts Owed.....	7
9.	Information Exchange, Privacy Act Compliance, and FOIA.....	7
10.	Governing Law and Dispute Resolution.....	7
11.	Uncontrollable Forces	9
12.	Standard Provisions	10
13.	Termination	11
14.	Signatures	13

Exhibit A Notices and Contact Information

This ENERGY CONSERVATION AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through BONNEVILLE POWER ADMINISTRATION (BPA); and CITY OF MCCLEARY (McCleary), a municipal corporation organized under the laws of the State of Washington, hereinafter individually referred to as “Party” or collectively referred to as the “Parties.”

RECITALS

BPA is required by the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839-839h (Northwest Power Act), to meet the net firm power load requirements of its customers in the Pacific Northwest.

Per the Northwest Power Act and consistent with the Pacific Northwest Electric Power and Conservation Planning Council’s regional power plan, BPA pursues Conservation as a resource.

BPA is authorized to acquire cost-effective Conservation to reduce the firm power load requirements of its customers in the Pacific Northwest, and intends to do so by purchasing Energy Savings from Program Participants in accordance with the Energy Conservation Agreement.

McCleary intends to implement Measures in accordance with the Implementation Manual and to report and sell the resulting Energy Savings to BPA.

This Agreement, including BPA's Energy Efficiency Implementation Manual as may be revised, provides the implementation, reporting, and payment requirements for BPA's portfolio of Energy Efficiency Measures.

The Parties agree as follows:

1. TERM

This Agreement takes effect on the date signed by the Parties and expires on September 30, 2021, unless terminated earlier as provided in section 13, Termination. Performance by BPA and McCleary shall commence on October 1, 2017, with the exception of those actions required prior to that date included in section 3(a) and section 3(b). All obligations under this Agreement shall be preserved until discharged or satisfied.

2. DEFINITIONS

Capitalized terms used in this Agreement shall have the meaning stated.

- (a) "Approved Invoice Payment Amount" means the sum of amounts in an invoice package that BPA determines has met the criteria in section 5(b) and section 5(c) and that BPA authorizes payment of per section 6.
- (b) "Available Implementation Budget" means the amount available for BPA to purchase Energy Savings from a specific Program Participant at a given point in time equal to the Program Participant's Initial Implementation Budget plus any applicable Rollover Amount plus or minus any applicable Implementation Budget Transfers minus any applicable Approved Invoice Payment Amounts.
- (c) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution, as defined in section 3(3) of the Northwest Power Act, and includes actual and planned Conservation.
- (d) "Energy Efficiency Incentive" or "EEI" means the aggregate program cost established by BPA for purchasing Energy Savings from all Program Participants within a Rate Period.
- (e) "Energy Savings" means amounts of Conservation that BPA has determined to be attributable to Measures implemented in a manner consistent with this Agreement.

- (f) “Implementation Budget Transfer” means an increase or decrease in a Program Participant’s Available Implementation Budget as a result of a method of transferring funds as defined and allowed under this Agreement.
- (g) “Implementation Manual” means the publicly accessible BPA guidance document, as may be revised, that specifies: (1) the Measures that may be implemented by Program Participants, (2) the requirements and specifications for implementation of Measures, and (3) the obligations on BPA and the Program Participants related to the implementation, reporting, payment amounts, oversight, and evaluation of Energy Savings, including Self-Funded Energy Savings.
- (h) “Initial Implementation Budget” means the portion of an EEI established by BPA and effective at the beginning of a Rate Period to purchase Energy Savings from a specific Program Participant during that Rate Period.
- (i) “Measure” means any material, equipment, or activity identified in the Implementation Manual that a Program Participant may install or implement within its service area to achieve Conservation.
- (j) “Program Participant” means a BPA customer that has an Energy Conservation Agreement in effect.
- (k) “Rate Period” shall have the meaning as defined in BPA’s Tiered Rate Methodology, as amended.
- (l) “Rollover Amount” means an amount of a Program Participant’s budget remaining at the end of a given Rate Period that may carry forward to increase the amount of that Program Participant’s Available Implementation Budget for the following Rate Period.
- (m) “Self-Funded Energy Savings” means Energy Savings for which a Program Participant chooses to not seek payment from BPA.

3. IMPLEMENTATION BUDGET

- (a) **Determination of EEI**
By September 30, 2017, and no later than September 30 prior to the start of each Rate Period thereafter, BPA shall determine the EEI for the upcoming Rate Period.
- (b) **Notification of McCleary’s Initial Implementation Budget**
By September 30, 2017, and no later than September 30 prior to the start of each Rate Period thereafter, BPA shall notify McCleary of its Initial Implementation Budget for the upcoming Rate Period.

Each Rate Period, BPA shall establish McCleary’s Initial Implementation Budget based on McCleary’s Tier One Cost Allocator. For purposes of this

Agreement, the term Tier One Cost Allocator has the meaning as defined in BPA's Tiered Rate Methodology, as may be revised.

(c) **Rollover Amount**

As applicable and in accordance with the terms and conditions in the Implementation Manual, BPA shall calculate McCleary's Rollover Amount and incorporate a Rollover Amount into McCleary's Available Implementation Budget for each Rate Period. By November 15, 2017, and no later than November 15 every two years thereafter, BPA shall notify McCleary of its applicable Rollover Amount for the remainder of the Rate Period.

(d) **Implementation Budget Transfers**

McCleary may request an increase or decrease to its Available Implementation Budget through an Implementation Budget Transfer in accordance with the Implementation Manual.

If BPA, or the Parties together, establish a new project or program that allows Implementation Budget Transfers to McCleary's Available Implementation Budget, then the terms and conditions of such project or program will be included in the Implementation Manual or as a new exhibit to this Agreement.

BPA shall provide notice to McCleary stating the changes to McCleary's Available Implementation Budget due to any Implementation Budget Transfers.

(e) **Notices and Notifications**

Notices sent under this section 3 shall be sent in accordance with Exhibit A, Notices and Contact Information.

In addition to the notices sent by BPA pursuant to sections 3(b), 3(c) and 3(d) above, McCleary may request notification of its Available Implementation Budget at any time during the term of this Agreement.

4. THE IMPLEMENTATION MANUAL

The Implementation Manual is incorporated by reference and is made a part of this Agreement. BPA may unilaterally modify the Implementation Manual within the general scope of this Agreement and in accordance with the process stated in the Implementation Manual. BPA will provide notice of all modifications to McCleary in accordance with the process stated in the Implementation Manual.

McCleary may implement Measures to produce Energy Savings consistent with the Implementation Manual. Unless otherwise agreed, BPA shall use the Implementation Manual in effect on the Measure completion date when conducting its reviews pursuant to section 5(c) below.

5. INVOICING PROCESS

(a) **Documentation and Submittal of Invoice Packages**

McCleary shall comply with the documentation requirements in the Implementation Manual.

Unless the Parties agree otherwise, McCleary shall execute and maintain a BPA Customer Portal Access and Use Agreement in order to submit invoice packages to BPA.

Whether seeking Self-Funded Energy Savings or for BPA payment for Energy Savings, McCleary shall submit its invoice packages, including any required reports and documentation, in accordance with the reporting requirements in the Implementation Manual. If there is a disagreement regarding the completeness or accuracy of any submitted documentation, reports, or invoices, as applicable, then BPA shall work with McCleary to resolve such issues.

If BPA determines that any Program Participant's third-party contractor falsified information reported to BPA, then BPA shall have the right to prohibit all Program Participants from reporting Measures implemented with the assistance of that contractor. If such action is taken, then BPA will notify all Program Participants in accordance with Exhibit A.

(b) **Performance Payments**

For purposes of this Agreement, Performance Payment shall have the meaning as defined in the Implementation Manual.

When BPA notifies McCleary of its Initial Implementation Budget for the upcoming Rate Period pursuant to section 3(b) above, BPA shall also notify McCleary of its Performance Payment classification category and rate for the upcoming Rate Period. BPA's Performance Payment classification categories, rates, caps, and certain terms and conditions of McCleary's receipt of such, shall be as stated in the Implementation Manual.

If McCleary is seeking BPA payment for Energy Savings, then BPA shall automatically apply a Performance Payment unless McCleary requests otherwise. Instructions for McCleary to reduce or opt out of Performance Payments, as applicable, will be included in the Implementation Manual. If McCleary opts out of a Performance Payment for a given invoice package, then McCleary may not claim Performance Payments for that invoice package at a later date.

BPA shall not apply Performance Payments for any invoice package or the portion of an invoice package that McCleary submits for Self-Funded Energy Savings.

BPA will deduct any applicable Performance Payments from McCleary's Available Implementation Budget.

(c) **BPA Review of Invoice Packages, Creation of Invoice Reports, and Determination of Approved Invoice Payment Amounts**

After BPA receives an invoice package from McCleary, BPA shall conduct a timely review process to determine whether: (1) the Measures submitted conform to the requirements of the Implementation Manual and this Agreement, (2) McCleary has otherwise followed the terms and conditions of the Implementation Manual and this Agreement, (3) McCleary has adequate Available Implementation Budget, and (4) the form of the invoice is proper.

After BPA has conducted its review process above, which may include an oversight review pursuant to section 7 below, then BPA will determine whether it accepts the invoiced Energy Savings. BPA will not accept Measures that are not in compliance with the requirements of this Agreement. BPA shall create and provide to McCleary an itemized invoice report that states the accepted Energy Savings and the Approved Invoice Payment Amount.

In no event shall the Approved Invoice Payment Amount on an invoice report exceed McCleary's Available Implementation Budget.

6. PAYMENT OF APPROVED INVOICE PAYMENT AMOUNTS

BPA agrees to purchase and McCleary agrees to sell Energy Savings in accordance with this Agreement. BPA shall pay McCleary any Approved Invoice Payment Amounts, as determined under sections 5(b), 5(c) and 8 of this Agreement and in accordance with sections 10 and 13 of this Agreement. Such payment shall be due no later than 30 days after BPA accepts the invoiced Energy Savings and provides the itemized invoice report to McCleary pursuant to section 5(c) above. All payments to McCleary will be made electronically.

This contract is subject to the provisions of the Prompt Payment Act (31 U.S.C. 3901 *et seq.*) and regulations at 5 C.F.R. Part 1315. If interest penalty payments are determined due under the provisions of the Prompt Payment Act, payment shall be made at the rates determined by the U.S. Treasury under Section 611 of the Contract Disputes Act of 1978 (41 U.S.C. 7109) that is in effect on the day after the due date.

7. OVERSIGHT REVIEW AND EVALUATION PROCESSES

In accordance with the oversight review and evaluation processes in the Implementation Manual, BPA shall have the right to conduct: (1) oversight review including, but not limited to, site and record reviews, and (2) impact and process evaluations.

During the invoice package review process in section 5(c) above or otherwise, BPA may select at random any Program Participant invoice to conduct oversight review. If BPA selects an invoice submitted by McCleary to conduct oversight review, then BPA shall notify McCleary of such selection and the Parties shall coordinate accordingly.

Oversight review and evaluation processes will be conducted at BPA's discretion.

8. NETTING OF AMOUNTS OWED

BPA will net amounts owed under this Agreement by McCleary to BPA against any equal or greater amount owed under a pending Approved Invoice Payment Amount by BPA to McCleary. However, if there is no pending Approved Invoice Payment Amount of equal or greater value, then BPA shall send McCleary a bill for the amount owed to BPA.

9. INFORMATION EXCHANGE, PRIVACY ACT COMPLIANCE, AND FOIA

Upon request and as allowed by law, the Parties shall provide each other with any information that is reasonable and necessary to verify the achievement of Energy Savings and otherwise administer and implement this Agreement. The Parties shall make best efforts to provide such requested information in a timely manner.

BPA represents that personally identifiable information (PII), including end-user information provided to BPA under this Agreement, is protected by federal law and BPA policy. This protection includes compliance with the requirements of the Privacy Act of 1974 (5 U.S.C. §552a) and DOE Order 206.1.

If BPA subsequently enters into a contract with a third party under which end-user PII provided to BPA by McCleary will be provided to the third party, then BPA shall include terms contractually obligating such third parties to protect such end-user PII and to only use such PII for purposes of administering and implementing that contract.

BPA may release information provided by McCleary when required by the Freedom of Information Act (5 U.S.C. § 552) (FOIA), court order, or federal law. Proprietary information of McCleary, as designated in writing by McCleary, will only be shared within BPA with individuals who need the information to fulfill a job function.

10. GOVERNING LAW, LIABILITY, AND DISPUTE RESOLUTION

This Agreement shall be interpreted consistent with and governed by federal law. McCleary and BPA shall identify issue(s) in dispute arising out of this Agreement and make a good faith effort to negotiate a resolution of such disputes before either may initiate litigation or arbitration. Such good faith effort shall include discussions or negotiations between the Parties' executives or managers.

BPA and McCleary assert that neither is the agent or principal for the other; nor are they partners or joint venturers, and BPA and McCleary agree that they shall not represent to any other party that they act in the capacity of agent or principal for the other.

In no event will either BPA or McCleary be liable to each other for any special, punitive, exemplary, consequential, incidental or indirect losses/damages from any failure of performance howsoever caused, whether or not arising from a party's sole, joint or concurrent negligence.

The reference to specific products or manufacturers does not represent a BPA endorsement or warranty, and BPA is not liable for any damages that may result from the installation or use of such products.

Pending resolution of a contract dispute or contract issue between the Parties or through formal dispute resolution of a contract dispute arising out of this Agreement, the Parties shall continue performance under this Agreement unless to do so would be impossible or impracticable. Unless the Parties engage in binding arbitration as provided for in this section, the Parties reserve their rights to individually seek judicial resolution of any dispute arising under this Agreement.

(a) **Judicial Resolution**

Final actions subject to section 9(e) of the Northwest Power Act are not subject to arbitration under this Agreement and shall remain within the exclusive jurisdiction of the United States Court of Appeals for the Ninth Circuit. Such final actions include, but are not limited to, the establishment and the implementation of rates and rate methodologies. Any dispute regarding any rights or obligations of McCleary or BPA under any rate or rate methodology, or BPA policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. For purposes of this section, BPA policy means any written document adopted by BPA as a final action in a decision record or record of decision that establishes a policy of general application or makes a determination under an applicable statute or regulation. If BPA determines that a dispute is excluded from arbitration under this section, then McCleary may apply to the federal court having jurisdiction for an order determining whether such dispute is subject to non-binding arbitration under this section.

(b) **Arbitration**

Any contract dispute or contract issue between the Parties arising out of this Agreement, which is not excluded by section 10(a) above, shall be subject to arbitration, as set forth below.

- (1) McCleary may request that BPA engage in binding arbitration to resolve any dispute. If McCleary requests such binding arbitration and BPA determines in its sole discretion that binding arbitration of the dispute is appropriate under BPA's Binding Arbitration Policy or its successor, then BPA shall engage in such binding arbitration, provided that the remaining requirements of this section 10 are met. BPA may request that McCleary engage in binding arbitration to resolve any dispute. In response to BPA's request, McCleary may agree to binding arbitration of such dispute, provided that the remaining requirements of this section 10 are met. Before initiating binding arbitration, the Parties shall draft and sign an agreement to engage in binding arbitration, which shall set forth the precise issue in dispute, the amount in controversy and the maximum monetary award allowed, pursuant to BPA's Binding Arbitration Policy or its successor.

(2) Non-binding arbitration shall be used to resolve any dispute arising out of this contract that is not excluded by section 10(a) above and is not resolved via binding arbitration, unless McCleary notifies BPA that it does not wish to proceed with non-binding arbitration.

(c) **Arbitration Procedure**

Any arbitration shall take place in Portland, Oregon, unless the Parties agree otherwise. The Parties agree that a fundamental purpose for arbitration is the expedient resolution of disputes; therefore, the Parties shall make best efforts to resolve an arbitrable dispute within one year of initiating arbitration. The rules for arbitration shall be agreed to by the Parties.

(d) **Arbitration Remedies**

The payment of monies shall be the exclusive remedy available in any arbitration proceeding pursuant to this section. This shall not be interpreted to preclude the Parties from agreeing to limit the object of arbitration to the determination of facts. Under no circumstances shall specific performance be an available remedy against BPA.

(e) **Finality**

(1) In binding arbitration, the arbitration award shall be final and binding on the Parties, except that either Party may seek judicial review based upon any of the grounds referred to in the Federal Arbitration Act, 9 U.S.C. §1-16 (1988). Judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

(2) In non-binding arbitration, the arbitration award is not binding on the Parties. Each Party shall notify the other Party within 30 calendar days, or such other time as the Parties otherwise agreed to, whether it accepts or rejects the arbitration award. Subsequent to non-binding arbitration, if either Party rejects the arbitration award, either Party may seek judicial resolution of the dispute, provided that such suit is brought no later than 395 calendar days after the date the arbitration award was issued.

(f) **Arbitration Costs**

Each Party shall be responsible for its own costs of arbitration, including legal fees. Unless otherwise agreed to by the Parties, the arbitrator(s) may apportion all other costs of arbitration between the Parties in such manner as the arbitrator(s) deem reasonable taking into account the circumstances of the case, the conduct of the Parties during the proceeding, and the result of the arbitration.

11. UNCONTROLLABLE FORCES

The Parties shall not be in breach of their respective obligations to the extent the failure to fulfill any obligation is due to an Uncontrollable Force. "Uncontrollable Force" means an event beyond the reasonable control of, and without the fault or

negligence of, the Party claiming the Uncontrollable Force, that prevents that Party from performing its contractual obligations under this Agreement and which, by exercise of that Party's reasonable care, diligence and foresight, such Party was unable to avoid. Uncontrollable Forces include, but are not limited to:

- (a) strikes or work stoppage;
- (b) floods, earthquakes, or other natural disasters; terrorist acts; and
- (c) final orders or injunctions issued by a court or regulatory body having competent subject matter jurisdiction which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction.

Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.

If an Uncontrollable Force prevents a Party from performing any of its obligations under this Agreement, such Party shall: (1) immediately notify the other Party of such Uncontrollable Force by any means practicable and confirm such notice in writing as soon as reasonably practicable; (2) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligation hereunder as soon as reasonably practicable; (3) keep the other Party apprised of such efforts on an ongoing basis; and (4) provide written notice of the resumption of performance. Written notices sent under this section must comply with Exhibit A, Notices and Contact Information.

12. STANDARD PROVISIONS

(a) **Amendments**

Except where this Agreement explicitly allows one Party to unilaterally amend a provision or revise an exhibit, no amendment or exhibit revision to this Agreement shall be of any force or effect unless set forth in a written instrument signed by authorized representatives of each Party.

(b) **Interpretations**

BPA may issue interpretations, determinations, and findings related to this Agreement that are binding on the Parties. Such decisions shall be provided to McCleary in writing. In administering this Agreement, only the written statements of BPA officials acting within the scope of their authority shall be considered to be official BPA statements.

(c) **Assignment**

This Agreement is binding on any successors and assigns of the Parties. BPA may assign this Agreement to another Federal agency to which BPA's

statutory duties have been transferred. Neither Party may otherwise transfer or assign this Agreement, in whole or in part, without the other Party's written consent. Such consent shall not be unreasonably withheld. BPA shall consider any request for assignment, consistent with applicable BPA statutes.

(d) **Entire Agreement**

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement.

(e) **Order of Precedence**

In the event of conflict, the body of this Agreement shall prevail over the exhibits of this Agreement. If the terms and conditions of the Implementation Manual conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement will take precedence.

(f) **No Third Party Beneficiaries**

This Agreement is made and entered into for the sole benefit of the Parties, and the Parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

(g) **Severability**

If any term of this Agreement is found to be invalid by a court of competent jurisdiction, then such term shall remain in force to the maximum extent permitted by law. All other terms shall remain in force unless that term is determined not to be severable from all other provisions of this Agreement by such court.

(h) **Waivers**

No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving Party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other breach of this Agreement.

13. **TERMINATION**

All notices sent under this section 13 shall be sent in accordance with Exhibit A, Notices and Contact Information.

(a) **Customer's Right to Terminate**

If McCleary has no Measures in the process of being implemented and all outstanding invoice packages have been submitted to BPA, then McCleary may terminate this Agreement upon thirty days' prior written notice to BPA. However, if McCleary does have Measures in the process of being implemented, then McCleary must submit any associated invoice packages prior to submitting a notice of termination. Any such termination will take effect upon BPA's payment of the final Approved Invoice Payment Amount.

McCleary may not submit invoices for implemented Measures after McCleary has submitted a notice of termination.

If BPA has made any progress payments to McCleary pursuant to the Implementation Manual and the relevant Measure(s) are yet to be fully implemented, or if McCleary otherwise owes money to BPA under this Agreement, and McCleary provides BPA written notice to terminate this Agreement, then the Parties shall work together to develop a mutually agreeable completion and repayment schedule. McCleary will be required to have Measures under this Agreement completed by September 30 of the Rate Period in which the termination notice is provided to BPA. Termination of this Agreement will not be effective prior to BPA being reimbursed amounts owed or until BPA determines sufficient Measure completion.

(b) **BPA's Right to Terminate**

BPA may terminate this Agreement upon thirty days' prior written notice to McCleary if BPA determines that McCleary:

- (1) has failed to comply with the record-keeping requirements included in the Implementation Manual;
- (2) has failed to use any portion of the Implementation Budget in a manner consistent with this Agreement;
- (3) has posed a significant environmental, health or safety threat;
- (4) has reported falsified information to BPA; or
- (5) has made any other material breach of this Agreement.

Any notice of termination sent by BPA shall include an effective date of such termination.

If BPA terminates this Agreement, then McCleary's Available Implementation Budget will be zero as of the date of termination. McCleary will not be allowed a completion period for any Measures McCleary has in progress beyond the termination date. Further, McCleary shall have 30 days after the termination date to provide a refund to BPA of any progress payments BPA made to McCleary for Measures for which McCleary had not yet submitted an invoice.

Termination by BPA under this section 13(b) is without prejudice to any other remedies available to BPA under law.

(c) **Termination Upon Termination of Power Sales Agreement**

If McCleary's Power Sales Agreement Contract No. 09PB-13069 is terminated, then this Agreement shall terminate on the same date. If such actions occur, McCleary's Available Implementation Budget will be zero as of the date of termination. McCleary will not be allowed a completion period for

any Measures McCleary has in progress beyond the termination date. Further, McCleary shall have 30 days after the termination date to provide a refund to BPA of any progress payments BPA made to McCleary for Measures for which McCleary had not yet submitted an invoice. BPA shall also determine if McCleary is required to provide a refund to BPA, in addition to any refund of progress payments.

14. SIGNATURES

This Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement, and the Agreement may be executed and delivered electronically. The Parties have executed this Agreement as of the last date indicated below.

CITY OF MCCLEARY

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By _____

By _____

Title Mayor

Title Energy Efficiency Representative

Exhibit A
NOTICES AND CONTACT INFORMATION

1. NOTICES AND CONTACT INFORMATION

(a) **Notices**

Any notice required under this Agreement that requires such notice to be provided under the terms of this section shall be provided in writing to the other Party in one of the following ways:

- (1) delivered in person;
- (2) by a nationally recognized delivery service with proof of receipt;
- (3) by United States Certified Mail with return receipt requested;
- (4) electronically, if both Parties have the means to verify the electronic notice's origin, date, time of transmittal and receipt; or
- (5) by another method agreed to by the Parties.

Notices are effective when received. Either Party may change the name or address for delivery of notice by providing notice of such change consistent with this section. Parties shall deliver notices to the following person and address:

(b) **Contact Information**

If to McCleary:

City of McCleary
100 S Third Street
McCleary, WA 98557
Attn: Todd Baun
Public Works Director
Phone: 360-495-3667 x109
E-Mail: toddb@cityofmccleary.com

If to BPA:

Bonneville Power Administration
909 First Avenue, Suite 380
Seattle, WA 98104
Attn: Dena Hilde – PEK/Seattle
Utility COTR
Phone: 206-220-6792
E-Mail: DLHilde@bpa.gov

2. REVISIONS

When a Party to this Agreement requests a change to their contact information included in section 1(b) of this exhibit, then the requesting Party must send notice of such requested change to the other Party. BPA may unilaterally revise this exhibit to implement such requested changes to section 1(b). All other revisions to this exhibit shall be by mutual agreement of all the Parties.

TAB - I

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: July 21, 2017
Re: Janitorial Bid

After going the last several weeks without a janitorial service, the City has choose to use the Janitorial services master contract that is ran by the Department of Enterprise Services.

We have received several bids and will have a recommendation to council at the meeting.

Action Requested:

If approved by the City Attorney, please allow the Mayor be authorized to execute the Agreement for Janitorial services.

TAB - J

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ZONING, AMENDING
SECTIONS 17.12.030 and 17.36.020 MMC;
PROVIDING AN EFFECTIVE DATE AND FOR
SEVERABILITY AND CORRECTION.

R E C I T A L S:

1. The provisions of the City's Uniform Development Code, as codified in Title 17 of the Municipal Code, govern the land use within the corporate limits.

2. Pursuant to Ordinance 830, certain changes were made to the definitional provisions of Section 17.12.010 by the clarification of the definition of a hospital and the addition of the definition of a residential treatment facility. This was done so as to insure consistency of application with applicable state laws, rules, and regulations, as now existing or hereafter amended or succeeded.

3. The Council referred the issue of development of recommendations as to zones within which these uses will be allowed and under what classifications to the Hearing Examiner as authorized by the Municipal Code. The Examiner, after giving of the required public notice, held a public hearing. The Examiner has submitted his Report and Recommendations. A copy of that

document is attached hereto as Exhibit #1 and incorporated by this reference.

4. Contained within that document were recommendations as to appropriate action to be taken to clarify in what zones such uses should be permitted and the classification of such utilization.

5. Upon receipt of the Report and Recommendations, the Council chose to waive any further open record hearings, accept the record of the Examiner's hearing as the Council's record, and move forward with consideration of the matters.

6. Based upon a review of the material provided, it has become evident that the siting of residential treatment facilities is subject to certain provisions of federal and state law which limit the scope of discretion as to siting normally available to municipal corporations.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: The chart set forth in Section 17.20.030 and Section I, Ordinance 709, as last amended by Section I, Ordinance 810, shall be amended in the following respects:

A. Residential treatment facilities for six or fewer persons shall be shown as a permitted use in all zones in which residential uses are allowed.

B. Residential treatment facilities for more than six persons shall be shown as a conditional use in the following zones: R-1, R-2, R-3, C-1, C-2, and C-3.

SECTION II: Section 17.40.100 and Section 1, Ordinance 709, as last amended by Section 2, Ordinance 738, are each amended to read as follows:

A. Certain uses possess unique and special characteristics with respect to the location, design, size, method of operation, circulation, and/or demand on public facilities. The Table of Land Uses in Section 17.20.030 lists such uses as conditional uses. The conditional use permit process reviews these uses to assure their compatibility with neighboring properties as well as to Section 17.40.070(A) of this chapter to prevent or control:

1. Environmental hazards and pollution;
2. Traffic hazards and congestion;
3. Street and road capacities in the surrounding area;
4. Location and amount of off-street parking;
5. Visual and auditory impacts;
6. Obtrusive visual blight; and/or
7. Any other unusual impact associated with the proposed conditional use.

B. A request for a conditional use permit shall be commenced by the filing of a written application with the office of the clerk-treasurer. The application shall meet the requirements set by the provisions of this code and shall be accompanied by the payment of such fees and costs as may be required by applicable provisions of this code and any implementing resolution. The land use hearing examiner shall conduct a public hearing on the conditional use permit application at least fifteen days after the city gives public notice. The permit application shall meet the following conditions for approval:

1. The use will not cause or allow conditions that create general nuisances or hazards to life or property;
2. The use conforms to the comprehensive plan; and
3. The use meets all conditions and requirements of the zone in which it proposes to locate, the ordinance in general, and other city laws and requirements.

C. In granting any conditional use permit, the land use hearing examiner may attach conditions to the permit necessary to mitigate any possible adverse impacts, including, but not limited to, those set forth in sub-section H.

D. The decision of the land use hearing examiner shall be final unless appealed to superior court within ten days or

within such other time period as may be mandated by applicable state law.

E. Subsequent Invalidity.

1. A conditional use permit shall become invalid if not exercised within the time prescribed in such permit, or, if the date is not specified, within one year of the effective date thereof. A conditional use permit shall be deemed to have been exercised by (a) the obtaining of and compliance with any necessary building permit, including substantial completion of any required construction or, for uses not requiring a building permit, either by substantial completion of any anticipated construction and/or by commencement of the use.

In either event, if all necessary construction is not completed within twelve months of the issuance of the permit or such other date as may be set forth in the permit and an extension is not requested as provided by subsection F of this section, the permit shall be deemed to have become invalid.

2. Conditional use permits shall become invalid if the approved use is abandoned or discontinued for any continuous period of one year or more.

3. Any conditional use permit issued for a specific time period shall become null and void after the expiration of that time period unless an extension for a time certain is

requested in the manner authorized under subsection F of this section.

F. Extensions.

1. A conditional use permit which would otherwise become invalid for noncompliance with subsection (E)(1) of this section may be extended for a period of up to one additional year upon approval of the city council so long as the holder of the conditional use permit files the written request for such extension with the office of the clerk-treasurer prior to the expiration of the permit. The request shall specify the bases for the necessity of the extension and the period of extension sought. For conditional use permits granted between January 1, 2005, and December 31, 2005, the holder may file the request for the extension at any time until October 1, 2006; provided, that such extension as may be granted shall be retroactive to the date of the expiration of the original permit.

2. A conditional use permit covered under the provisions of subsection (E)(3) of this section which would otherwise become invalid due to expiration of the granted term may be extended for such period as may be deemed appropriate by action of the city council under such conditions as may be deemed appropriate by the council so long as the holder of the conditional use permit files the written request for such extension with the office of the clerk-treasurer prior to the expiration of the permit. The request shall specify the bases for

the necessity of the extension and the period of extension sought.

3. The filing of any request for extension sought under either of the prior subsections shall not be deemed filed unless it meets the requirements set by the provisions of this code and is accompanied by the payment of such fees and costs as may be required by applicable provisions of this code and any implementing resolution. If an extension sought under either of the prior subsections is not granted, then the permit shall be deemed invalid as of the date of the denial of the request for extension; provided, that if a judicial appeal is taken of a decision made in relation to such request, it shall be taken within the time limits established by subsection B of this section and the permit shall remain valid until the exhaustion of such appeal.

G. The original applicant of an approved conditional use permit may transfer it to any successors in interest and all special requirements shall continue in effect as long as the use continues. The land use hearing examiner may limit the right of transfer of the conditional use permit as a requirement of approval.

H. In recognition of the unusual characteristics of the particular use, as to applications for conditional use permits for the following uses, if issued the permit shall specifically require the following criteria to be met:

1. As to hospitals, the following:

a. The location shall be upon a collector or arterial street,

b. The structure shall not exceed a height of thirty-five (35) feet, and

c. The front, side and rear yard setbacks shall be one foot for each one foot of building height or the minimum setbacks for the zoning district within which it will be located, whichever requirement is greater.

2. As to residential treatment facilities for seven or more residents, the following:

a. Shall not be located within _____ feet of a similarly licensed facility,

b. No resident shall be released from residency without having motorized transport present for utilization to transport the resident to a location no closer than _____ feet of the facility unless the resident's regular residential location is a lesser distance.

c. Shall have such security facilities and staffing as are deemed reasonably necessitated by such use taking into consideration the size of the structure, the nature of the condition being treated, and the number of residents.

I. A permit, other than for off-street parking, issued pursuant to the provisions of this section which would otherwise become invalid under subsection E may be extended in the same

manner as is provided for extension of a conditional use permit through utilization of and conditioned upon compliance with the process and requirements set forth in Section 17.40.110(F) of this chapter.

SECTION III: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION IV: This Ordinance shall take effect upon the fifth day following date of publication.

SECTION V: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS _____ DAY OF _____,
2017, by the City Council of the City of McCleary, and signed in
approval therewith this _____ day of _____,
2017.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON)
 : ss.
GRAYS HARBOR COUNTY)

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number _____ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number _____, as it was published, is on file in the appropriate records of the City of McCleary.

WENDY COLLINS

SIGNED AND SWORN to before me this _____ day of
_____, 2017, by WENDY COLLINS.

NOTARY PUBLIC IN AND FOR THE STATE OF
WASHINGTON, Residing at:
My appointment expires:

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ZONING, AMENDING
SECTIONS 17.12.030 and 17.36.020 MMC;
PROVIDING AN EFFECTIVE DATE AND FOR
SEVERABILITY AND CORRECTION.

R E C I T A L S :

1. The provisions of the City's Uniform Development Code, as codified in Title 17 of the Municipal Code, govern the land use within the corporate limits.

2. Pursuant to Ordinance 830, certain changes were made to the definitional provisions of Section 17.12.010 by the clarification of the definition of a hospital and the addition of the definition of a residential treatment facility. This was done so as to insure consistency of application with applicable state laws, rules, and regulations, as now existing or hereafter amended or succeeded.

3. The Council referred the issue of development of recommendations as to zones within which these uses will be allowed and under what classifications to the Hearing Examiner as authorized by the Municipal Code. The Examiner, after giving of the required public notice, held a public hearing. The Examiner has submitted his Report and Recommendations. A copy of that

document is attached hereto as Exhibit #1 and incorporated by this reference.

4. Contained within that document were recommendations as to appropriate action to be taken to clarify in what zones such uses should be permitted and the classification of such utilization.

5. Upon receipt of the Report and Recommendations, the Council chose to waive any further open record hearings, accept the record of the Examiner's hearing as the Council's record, and move forward with consideration of the matters.

6. Based upon a review of the material provided, it has become evident that the siting of residential treatment facilities is subject to certain provisions of federal and state law which limit the scope of discretion as to siting normally available to municipal corporations.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: The chart set forth in Section 17.20.030 and Section I, Ordinance 709, as last amended by Section I, Ordinance 810, shall be amended in the following respects:

Residential treatment facilities shall be shown as a conditional use in the following zones: R-1, R-2, R-3, C-1, C-2, and C-3.

SECTION II: Section 17.40.100 and Section 1, Ordinance 709, as last amended by Section 2, Ordinance 738, are each amended to read as follows:

A. Certain uses possess unique and special characteristics with respect to the location, design, size, method of operation, circulation, and/or demand on public facilities. The Table of Land Uses in Section 17.20.030 lists such uses as conditional uses. The conditional use permit process reviews these uses to assure their compatibility with neighboring properties as well as to Section 17.40.070(A) of this chapter to prevent or control:

1. Environmental hazards and pollution;
2. Traffic hazards and congestion;
3. Street and road capacities in the surrounding area;
4. Location and amount of off-street parking;
5. Visual and auditory impacts;
6. Obtrusive visual blight; and/or
7. Any other unusual impact associated with the proposed conditional use.

B. A request for a conditional use permit shall be commenced by the filing of a written application with the office of the clerk-treasurer. The application shall meet the requirements set by the provisions of this code and shall be accompanied by the payment of such fees and costs as may be

required by applicable provisions of this code and any implementing resolution. The land use hearing examiner shall conduct a public hearing on the conditional use permit application at least fifteen days after the city gives public notice. The permit application shall meet the following conditions for approval:

1. The use will not cause or allow conditions that create general nuisances or hazards to life or property;

2. The use conforms to the comprehensive plan; and

3. The use meets all conditions and requirements of the zone in which it proposes to locate, the ordinance in general, and other city laws and requirements.

C. In granting any conditional use permit, the land use hearing examiner may attach conditions to the permit necessary to mitigate any possible adverse impacts, including, but not limited to, those set forth in sub-section H.

D. The decision of the land use hearing examiner shall be final unless appealed to superior court within ten days or within such other time period as may be mandated by applicable state law.

E. Subsequent Invalidity.

1. A conditional use permit shall become invalid if not exercised within the time prescribed in such permit, or, if the date is not specified, within one year of the effective date

thereof. A conditional use permit shall be deemed to have been exercised by (a) the obtaining of and compliance with any necessary building permit, including substantial completion of any required construction or, for uses not requiring a building permit, either by substantial completion of any anticipated construction and/or by commencement of the use.

In either event, if all necessary construction is not completed within twelve months of the issuance of the permit or such other date as may be set forth in the permit and an extension is not requested as provided by subsection F of this section, the permit shall be deemed to have become invalid.

2. Conditional use permits shall become invalid if the approved use is abandoned or discontinued for any continuous period of one year or more.

3. Any conditional use permit issued for a specific time period shall become null and void after the expiration of that time period unless an extension for a time certain is requested in the manner authorized under subsection F of this section.

F. Extensions.

1. A conditional use permit which would otherwise become invalid for noncompliance with subsection (E)(1) of this section may be extended for a period of up to one additional year upon approval of the city council so long as the holder of the

conditional use permit files the written request for such extension with the office of the clerk-treasurer prior to the expiration of the permit. The request shall specify the bases for the necessity of the extension and the period of extension sought. For conditional use permits granted between January 1, 2005, and December 31, 2005, the holder may file the request for the extension at any time until October 1, 2006; provided, that such extension as may be granted shall be retroactive to the date of the expiration of the original permit.

2. A conditional use permit covered under the provisions of subsection (E)(3) of this section which would otherwise become invalid due to expiration of the granted term may be extended for such period as may be deemed appropriate by action of the city council under such conditions as may be deemed appropriate by the council so long as the holder of the conditional use permit files the written request for such extension with the office of the clerk-treasurer prior to the expiration of the permit. The request shall specify the bases for the necessity of the extension and the period of extension sought.

3. The filing of any request for extension sought under either of the prior subsections shall not be deemed filed unless it meets the requirements set by the provisions of this code and is accompanied by the payment of such fees and costs as may be required by applicable provisions of this code and any

implementing resolution. If an extension sought under either of the prior subsections is not granted, then the permit shall be deemed invalid as of the date of the denial of the request for extension; provided, that if a judicial appeal is taken of a decision made in relation to such request, it shall be taken within the time limits established by subsection B of this section and the permit shall remain valid until the exhaustion of such appeal.

G. The original applicant of an approved conditional use permit may transfer it to any successors in interest and all special requirements shall continue in effect as long as the use continues. The land use hearing examiner may limit the right of transfer of the conditional use permit as a requirement of approval.

H. In recognition of the unusual characteristics of the particular use, as to applications for conditional use permits for the following uses, if issued the permit shall specifically require the following criteria to be met:

1. As to hospitals, the following:

a. The location shall be upon a collector or arterial street,

b. The structure shall not exceed a height of thirty-five (35) feet, and

c. The front, side and rear yard setbacks shall be one foot for each one foot of building height or the minimum

setbacks for the zoning district within which it will be located, whichever requirement is greater.

2. As to residential treatment facilities, the following:

a. Shall not be located within _____ feet of a similarly licensed facility,

b. No resident shall be released from residency without having motorized transport present for utilization to transport the resident to a location no closer than _____ feet of the facility unless the resident's regular residential location is a lesser distance.

c. Shall have such security facilities and staffing as are deemed reasonably necessitated by such use taking into consideration the size of the structure, the nature of the condition being treated, and the number of residents.

I. A permit, other than for off-street parking, issued pursuant to the provisions of this section which would otherwise become invalid under subsection E may be extended in the same manner as is provided for extension of a conditional use permit through utilization of and conditioned upon compliance with the process and requirements set forth in Section 17.40.110(F) of this chapter.

SECTION III: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the

validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION IV: This Ordinance shall take effect upon the fifth day following date of publication.

SECTION V: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS _____ DAY OF _____,
2017, by the City Council of the City of McCleary, and signed in approval therewith this _____ day of _____,
2017.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON)
 : ss.
GRAYS HARBOR COUNTY)

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number _____ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number _____, as it was published, is on file in the appropriate records of the City of McCleary.

WENDY COLLINS

SIGNED AND SWORN to before me this _____ day of _____, 2017, by WENDY COLLINS.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at:
My appointment expires:

TAB - K

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCCLEARY RELATING TO REGULAR PROPERTY TAXES; PROVIDING FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 7, 2017, A PROPOSITION AUTHORIZING THE CITY TO LEVY REGULAR PROPERTY TAXES IN EXCESS OF THE LIMITATIONS OF CHAPTER 84.55 RCW; AND SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION.

R E C I T A L S :

1. The City Council of the City of McCleary (the "City") has determined that it is in the interest of the City and its citizens to replace and update miscellaneous fire and emergency medical service related equipment so as comply with applicable federal and state laws, provide for the safety of the Department's members, and to maintain current service levels provided by the City's fire department.

2. RCW 84.55.050 provides for the levy of regular property taxes in an amount exceeding the limitations specified in chapter 84.55 RCW if such increased levy is authorized by a ballot proposition approved by a majority of the voters at an election held within the taxing district (a "levy lid lift").

3. The City Council has determined that it is in the best interest of the City and its residents to submit a levy lid

lift proposition under RCW 84.55.050(1) to the voters for their approval or rejection.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: Finding: The City Council finds that it is in the best interests of the City to submit to the qualified voters of the City, at the general election to be held on November 7, 2017, a proposition authorizing the City to increase its regular property tax levy beginning for collection in 2018 by an amount greater than otherwise permitted under chapter 84.55 RCW for the purposes described in Section 2(a). If this proposition is approved, the City Council will be authorized to adopt, in accordance with its regular budget process, an increased regular property tax as described in Section 2.

SECTION II: Purpose and Description of Ballot Proposition (the "Proposition"). For the purposes identified below, the City Council seeks voter approval under RCW 84.55.050 for a levy lid lift, as follows:

A. Purpose. The amounts collected pursuant to the increase authorized by the Proposition shall be used to replace and update miscellaneous fire and emergency medical service related equipment so as maintain and improve current service levels within the City's fire department.

B. Increase Authorized in 2018. The Proposition authorizes a maximum increase in the City's total levy rate to

the maximum rate otherwise allowed for collection in 2018 under chapter 84.55 RCW plus not to exceed \$0.____ per \$1,000 of assessed value. The total regular property tax rate produced is estimated to be approximately \$_____ per \$1,000 of assessed value, based on estimated 2017 assessed values.

C. Increase Authorized in Future Years. Pursuant to RCW 84.55.050(4), the dollar amount of the maximum authorized levy under chapter 84.55 RCW for collection in 2018 shall be used for the purpose of computing the limitations for subsequent levies provided for under chapter 84.55 RCW, for a total of not to exceed four years, and such funds shall be limited to the purposes described in Section 2(a), above.

SECTION III: In furtherance of the actions authorized by Section II, the Council does hereby approve and adopt the following ballot title and proposition and authorizes its submission to the Grays Harbor County Auditor as the lawful Supervisor of elections so as to submit the proposition to the voters of the City in substantially the following form:

CITY OF McCLEARY

PROPOSITION NO. 1

Levy for Fire Safety and Emergency Services Purposes

The City Council of the City of McCleary adopted Ordinance No. _____ concerning a levy lid lift for fire safety purposes and equipment replacement. To finance fire services equipment, operations and improvements, this proposition would increase the City's regular property tax levy to a total authorized rate of not to exceed \$_____ per \$1,000 (an estimated increase of \$0.48 per \$1,000 over the 2017 levy) of assessed valuation for collection beginning 2018 and to use the 2018 levy amount to recalculate subsequent levy limits for a period not to exceed three additional years. Should this proposition be:

Approved? Rejected?

SECTION IV: The Mayor and Clerk-treasurer shall be authorized, to the extent allowed by law, to make such changes in the title and contents of the proposition, including the per one thousand dollar rate necessary to provide for the collection of \$180,000.00 as to the Proposition, as may be necessary to meet the requirements of State Law, the Office of the County Auditor, or the Office of the Prosecuting Attorney. This authority shall include to certify a copy of this ordinance to the Auditor and to perform such other duties as are necessary or required by law to the end that these propositions described herein should appear on the ballot at the primary election specified in Section I.

SECTION V: For purposes of receiving notice of the exact language of the ballot propositions required by RCW 29.36.080, the Council designates Wendy Collins, Clerk-treasurer, as the individual to whom such notice should be provided.

SECTION VI: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION VII: This Ordinance shall take effect upon the fifth day following date of publication.

SECTION VIII: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS _____ DAY OF JULY, 2017, by the City Council of the City of McCleary, and signed in approval therewith this _____ day of July, 2017.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON)
 : ss.
GRAYS HARBOR COUNTY)

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number _____ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number _____, as it was published, is on file in the appropriate records of the City of McCleary.

WENDY COLLINS

SIGNED AND SWORN to before me this _____ day of
_____, 2017, by WENDY COLLINS.

NOTARY PUBLIC IN AND FOR THE STATE OF
WASHINGTON, Residing at:
My appointment expires:

TAB - L

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING INVESTMENT OF THE
CITY OF McCLEARY'S MONIES IN THE LOCAL
GOVERNMENT INVESTMENT POOL.

R E C I T A L S:

1. Pursuant to Chapter 294, Laws of 1986, the Legislature created a trust fund to be known as the public funds investment account (commonly referred to as the Local Government Investment Pool (LGIP)) for the contribution and withdrawal of money by an authorized governmental entity for purposes of investment by the Office of the State Treasurer; and

2. Pursuant to Resolution 791, the City confirmed that it would be advantageous to the authorized governmental entity, City of McCleary, the "governmental entity", to contribute funds available for investment in the LGIP; and

3. The investment strategy for the LGIP is set forth in its policies and procedures; and

4. The applicable rules require that any contributions or withdrawals to or from the LGIP made on behalf of the governmental entity shall be first duly authorized by the City Council, the "governing body" or any designee of the governing

body pursuant to this resolution or a subsequent resolution and that the governmental entity will cause to be filed a certified copy of said resolution with the Office of the State Treasurer;

6. The rules require that the governing body and any designee appointed by the governing body with authority to contribute or withdraw funds of the governmental entity have received and read a copy of the prospectus and understands the risks and limitations of investing in the LGIP.

7. The City Council attests by the signature of its presiding officer that it is duly authorized and empowered to enter into this agreement, to direct the contribution or withdrawal of governmental entity monies, and to delegate certain authority to make adjustments to the incorporated transactional forms, to the individuals designated herein.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY, THE MAYOR SIGNING IN AUTHENTICATION THEREOF that the governing body does hereby authorize the contribution and withdrawal of governmental entity monies in the LGIP in the manner prescribed by law, rule, and prospectus.

BE IT FURTHER RESOLVED that the governing body has approved the Local Government Investment Pool Transaction Authorization Form (Form) as completed by Wendy Collins, Clerk-treasurer, and incorporates said form into this resolution by reference and does hereby attest to its accuracy.

BE IT FURTHER RESOLVED that the governmental entity designates Brent Schiller in his position of Mayor of the City, as the "authorized individual" to authorize all amendments, changes, or alterations to the Form or any other documentation including the designation of other individuals to make contributions and withdrawals on behalf of the governmental entity.

BE IT FURTHER RESOLVED that this delegation ends upon the written notice, by any method set forth in the prospectus, of the governing body that the authorized individual has been terminated or that his or her delegation has been revoked. The Office of the State Treasurer will rely solely on the governing body to provide notice of such revocation and is entitled to rely on the authorized individual's instructions until such time as said notice has been provided.

BE IT FURTHER RESOLVED that the Form as incorporated into this resolution or hereafter amended by delegated authority, or any other documentation signed or otherwise approved by the authorized individual shall remain in effect after revocation of the authorized individual's delegated authority, except to the extent that the authorized individual whose delegation has been terminated shall not be permitted to make further withdrawals or contributions to the LGIP on behalf of the governmental entity.

No amendments, changes, or alterations shall be made to the Form

or any other documentation until the entity passes a new resolution naming a new authorized individual.

BE IT FURTHER RESOLVED that the governing body acknowledges that it has received, read, and understood the prospectus as provided by the Office of the State Treasurer. In addition, the governing body agrees that a copy of the prospectus will be provided to any person delegated or otherwise authorized to make contributions or withdrawals into or out of the LGIP and that said individuals will be required to read the prospectus prior to making any withdrawals or contributions or any further ~~withdrawals or contributions if authorizations are already in~~ place.

PASSED THIS _____ DAY OF JULY, 2017, by the City Council of the City of McCleary, and signed in authentication thereof this _____ day of _____, 2017.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney