



McCleary City Council Agenda

March 9th, 2016- 7:00 PM

Flag Salute

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

Public Hearings

Public Comment

Executive Session

| | | | | | |
|-----------------------------|-----------------------|--------------|----------|--------|----------|
| Minutes | Tab A Approval | Introduction | X | Action | X |
| Approval of Vouchers | | Introduction | X | Action | X |

Mayor Comments

- Fire Lane discussion
- Connection Fee Adjustment
- Utility Rate discussion

Staff Reports

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

| | | | | | |
|---------------------|---|--------------|----------|--------|----------|
| Old Business | Council Position #2 | Introduction | X | Action | X |
| | Tab E Electrical Rate Study Contract | Introduction | X | Action | X |
| | Tab F Pole Attachment Agreement | Tabled | | | |

| | | | | | |
|---------------------|--|--------------|----------|--------|--|
| New Business | Tab G Jon Hinton, G&O- Introduction and Review of City Projects | Introduction | X | Action | |
|---------------------|--|--------------|----------|--------|--|

| | | | | | |
|-------------------|---|--------------|----------|--------|----------|
| Ordinances | Tab H Marijuana Production- Option #1 & #2 | Introduction | X | Action | X |
|-------------------|---|--------------|----------|--------|----------|

Resolutions

Mayor Council Comments

Public Comments

Executive Session

Adjournment or Recess Meeting

Please turn off Cell Phones- Thank you
 Americans with Disabilities Act (ADA) Accomodation is Provided Upon Request
 The City of McCleary is an equal opportunity provider and employer.

CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, February 24, 2016

ROLL CALL AND FLAG SALUTE Councilmember's Orffer, Peterson, and Blankenship were in attendance.

ABSENT Councilmember Ator was absent and requested to be excused. **It was moved by Councilmember Peterson, seconded by Councilmember Orffer to excuse Councilmember Ator's absence. Motion Carried 3-0.**

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

PUBLIC HEARING None.

PUBLIC COMMENT Helen Hamilton is in support of marijuana manufacturing to help with revenues from taxes and utilities.

EXECUTIVE SESSION None.

MINUTES APPROVED **It was moved by Councilmember Peterson, seconded by Councilmember Blankenship to approve the February 10, 2016 minutes. Motion Carried 3-0.**

VOUCHERS Accounts Payable vouchers/checks approved were 40724 - 40786 including EFT's in the amount of \$212,355.94.

Payroll vouchers/checks approved were 40567 - 40598 including EFT's in the amount of \$75,180.05 and the Treasurer's Report from the January 2016 bank reconciliation.

It was moved by Councilmember Orffer, seconded by Councilmember Blankenship to approve the vouchers. Motion Carried 3-0.

CITY ATTORNEY REPORT Dan Glenn has provided a report and is available to respond to any questions.

MAYOR'S COMMENTS Mayor Schiller attended a town hall meeting and met Congressman Derek Kilmer. They talked about the issues with the City and Mr. Kilmer seems to have his finger on the pulse of what is going on around the Harbor. Mayor Schiller also met with other Mayors and had an opportunity to talk about all the various challenges the different communities are dealing with.

Paul Morrison was hired as the new Public Works Assistant.

The Mayor asked Todd Baun to put together an estimate for crack sealing 3rd Street to fix some of the asphalt damage. The asphalt is breaking up and we need to keep the street in good condition because it is a main thoroughfare.

The City has not received any Civil Service applicants since posting the vacancies. Anyone interested needs to submit their interest in writing to the City.

A McCleary community group is planning on picking up garbage around town on Sunday. The City will provide a dumpster and the Fire Department will provide water for the participants.

COUNCIL POSITION #2 APPOINTMENT Mayor Schiller asked the Council to wait until Pam Ator is attendance so all four Councilmember's can vote on the appointment to replace Chris Vessey. **It was moved by Councilmember Peterson, seconded by Councilmember Orffer to table the appointment of Council Position #2 until March 9, 2016. Motion Carried 3-0.**

DIRECTOR OF PUBLIC WORKS REPORT Todd Baun provided a written report for the Council and is available, if they have any questions.

WATER SYSTEM STUDY
DEPARTMENT OF HEALTH
GRANT

Todd is applying for a water system study grant from the Department of Health. The study will look at a couple small water systems that we have that are surrounding the City that the water purveyor would like to get rid of. The City would like to know if it feasible, which is what this grant is designed for. He is asking the Council to authorize the Mayor to sign the grant. **It was moved by Councilmember Orffer, seconded by Councilmember Peterson to authorize the Mayor to sign the grant application request for the Department of Health study. Motion Carried 3-0.**

USDA GRANT FOR STRATEGIC
PLANNING

Todd is applying to the USDA for a grant to do our strategic plan. The grant is due on Monday and he needs the Mayor to sign it. The grant is for \$25,000 - \$27,000 to do the strategic plan. **It was moved by Councilmember Orffer, seconded by Councilmember Peterson to authorize the Mayor to sign the USDA grant for strategic planning. Motion Carried 3-0.**

ADNETS SERVER
VIRTUALIZATION PROJECT

It was moved by Councilmember Peterson, seconded by Councilmember Orffer to authorize Adnets to make the expansion of the Exchange Server project to virtualize the DCFS and Exchange Server onto two server hardware chassis at an additional cost of \$9,500 to the original approved amount. Motion Carried 3-0.

ELECTRICAL RATE STUDY
CONTRACT

Tabled.

POLE ATTACHMENT
AGREEMENT

Tabled.

SUPPORT OF HB 2576

HB 2576, relating to public records requests, made it out of the Committee with amendments, which results in it now being characterized as SSHB 2576. Dan Glenn suggested the Council authorize a letter to be sent in support of the Bill. **It was moved by Councilmember Orffer, seconded by Councilmember Peterson to authorize a letter to be sent in support of SSHB 2576 to House Speaker Frank Chopp, House Majority Leader Pat Sullivan and Senate Minority Leader Sharon Nelson. Motion Carried 3-0.**

CONNECTION FEE
ADJUSTMENT

Todd Baun provided the Council with a comparison chart showing other cities and their connection fee charges compared to McCleary's charges. The Council has shown interest in the past to lower the connection fees in an effort to compete for building projects. When the fees are less, the builders are more likely to want to build here to keep their initial cost down. The City will recover the lost revenue over time by collecting monthly utility billing payments and utility tax. The Council will discuss this in further detail at the next meeting.

MARIJUANA PRODUCTION
ORDINANCE

Helen Hamilton would like C-2 to be included. Tabled until March 9th.

EXECUTIVE SESSION

None.

PUBLIC COMMENT

Sue Portschy asked if the City could paint the parking bumpers yellow, or some other bright color, for those people that don't see so well at night.

MEETING ADJOURNED

It was moved by Councilmember Orffer, seconded by Councilmember Peterson to adjourn the meeting at 7:40 pm. The next meeting will be Wednesday, March 9, 2016 at 7:00 pm. Motion Carried 3-0.

Approved by Mayor Brent Schiller and Clerk-Treasurer Wendy Collins.

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: March 4, 2016
RE: LEGAL ACTIVITIES as of MARCH 9, 2016

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. **ELECTRICAL RATE STUDY CONSULTANT CONTRACT**: The firm has responded to the questions and suggestions. I assume that Mr. Baun will provide a copy of that response to the six of you for your review.

I have two specific recommendations:

A. Cost: The indication given is that the reason they did not provide a "cap" beyond which they do not go without City approval is that will relate to the final scope of the project authorized. Thus, I would recommend that the desired scope (what utilities to be involved) be defined prior to execution of the contract and that a figure be provided to the City for each study which is not to be exceeded without Council approval rather than an hourly rate approach without a cap.

B. Status Review: To avoid surprises that whichever committee the Mayor and Council chooses work with Todd and Paul so as to be directly involved in scheduled reviews of the status of the project in terms of relating the portion of the rate study completed as related to the percentage of the

authorized project budget expended.

2. **COUNCIL VACANCY**: As a result of the resignation of Council Member Vessey, you are in process of selecting a successor. As you will remember, the Council has exclusive jurisdiction in terms of making that choice during the 90 days following his resignation. After that the County Commissioners get to make the choice.

It is my understanding that you have at least two candidates who have submitted expressions of interest. Both of them meet the basic requirements of being residents of the City for more than a year and being registered voters. So, the basic process then becomes involved. As you are aware from prior involvement in this activity, the provisions of RCW 42.12.070 do not lay out the nature of the process to be followed by the Council in the selection of the successor. You have the exclusive authority to make the decisions in that area. However, in addition to the 90 day jurisdiction matter, other points the statute makes clear include the following:

1. The interview process of candidates must be open to the public. That would be true whether it be done by a committee or, as I anticipate, by the Council as a body.

2. If you desire to do so, the Council and Mayor have the right to recess into an executive session for purposes of discussing results of the interviews and the qualifications of the candidates. RCW 42.30.110(1)(h) However, it is mandatory that no commitments be made nor any consensus opinion be sought or developed in that executive session. The City of Tacoma was sanctioned under the OPMA's provisions as a result of the Court finding that a particular candidate was chosen in such an executive session.

3. As is true in all situations, the final decision must be made in public under the provisions of the cited portion of the Open Meetings Law. The vote is to be a public vote and may not be by secret ballot.

4. The appointee will serve until the matter is placed upon the ballot at the next municipal election in which McCleary participates.

3. **POLE ATTACHMENT AGREEMENT STATUS:** As I believe I have mentioned, Mr. Pitt, the PUD's counsel, and I are working together with the goal of developing a basic agreement which is similar for both entities. The rationale is that consistency is beneficial to the entities and the users. You are aware that Mr. Nott, Mr. Baun, and I have worked out our basic approach. At this stage Mr. Pitt indicated to me that he is awaiting certain technical information.

I would anticipate having a proposed draft for your review by no later than the first meeting in April.

4. **ZONING TEXT AMENDMENT ORDINANCE:** As of this time I have not received any questions or requests for modification in either draft. As was indicated at the last meeting the basic difference between the "A" and "B" drafts is the allowance of the commercial growing and process of cannabis in not only the industrial zone but also in the C-2 zone. If you have not had the opportunity to review the allowed uses in the C-2 zone, I would recommend that you do so in order to determine the extent to which you conclude the new use would be consistent with the existing use.

As a side point, if you felt it appropriate to allow the use in the C-2 zone but felt some restrictions appropriate, rather than making it is "permitted" use you could place it in the "conditional" use category which allows the decision to be made on a case by case basis after public hearing.

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

DG/le

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: February 19th, 2016
Re: Current Non-Agenda Activity

City Council Tour Date and Time

The City Council City Tour is scheduled for March 11th at 2:30. We will meet at City Hall to start the tour.

City Wide Clean-Up

The City wide clean-up is scheduled for April 23rd from 8:00 am to 2:00 pm.

Water Main Break on Summit Rd.

On Friday, March 4th, I was contacted at around 5:30 AM about low water pressure for residents on N. Summit Rd. I called in the crew to investigate the issue. By 6:15 AM, I was called again and told that there was a water main break at 685 Summit Road. I arrived on site at 6:30 and seen that there was a major water leak in the area and started to shut down the water main section. The shutdown initially shut off water to customers from the yellow blinking light to the "S" turns on Summit road. The crew got mobilized to the site and started the process of repairing the line. During that process, the crew found that one of the mains did not shut down, so at that time, we had to shut down water to customers North of Beck street. The repair was completed and water was slowly turned on at around 2:45- 3:00 PM.

All the crews (Public Works and Light & Power) did a great job on the response and repair of the water main. The ladies in the front office took many calls and helped with dealing with customers questions. It was a great team effort and is one of the many times that I'm proud to be part of this City.

On the next pages, I will be posting pictures of the leak. It was an 8" Asbestos Cement line that cracked and blew a 9" hole in the bottom of the pipe. We replaced the 5 foot section with a new plastic line.





STAFF REPORT

To: Mayor Schiller
From: Paul Nott, Light & Power
Date: March 2, 2016
Re: February Report



| | Monthly Statistics; | YTD Totals; |
|---------------------------------|---------------------|-------------|
| New Services; | 0 | 2 |
| System Outages; | 3 | 7 |
| Pole Replacements; | 1 | 2 |
| Maintenance Work Orders; | 4 | 12 |
| Billable Work Orders; | 0 | 2 |

The month of February consisted of three outages, completion of some projects and general maintenance work.

The three outages consisted of; one caused by weather (tree in the power lines) and the other two were due to equipment failure (bad transformer and bad sleeve).

The crew completed the project at Aspen Ln. and also work is complete for the new clinic.

We are also continuing to change the old HPS street lights to the new LED street lights.

It has come to our attention that there have been quite a few questions arising on social media in regards to customers "power bills". We would like to remind everybody that we will gladly investigate any questions in regards to high consumption issues. Typically, during the winter months all customers' electrical consumption increases due to less daylight, colder weather and the holiday season. We have met with numerous customers regarding this issue. With our testing equipment and or analyzing past history of consumption, we can more often than not answer the question of large consumption. It should be mentioned that rates have not been increased since January of 2014, so any increase or decrease during the last two years in a customer's monthly power bill is due to an increase or decrease in power consumption.

Once again, we consider our customers our number one priority and we encourage all of them to come to us with any concerns they may have in regards to their electrical needs.

As always if you have any questions feel free to contact us...

Staff Report for McCleary Police Department

To: Mayor & Council
From: George M. Crumb, Chief of Police
Date: March 4, 2016
RE: For March 9, 2016 Council Meeting

SUMMARY OF POLICE INCIDENTS / ACTIVITIES:

The below listed information are calls or contacts received by McCleary Police Officers either generated by Grays Harbor County dispatch 911 service, citizen reports, call in reports, citizen contacts, US mail, or other officer generated incidents. 0424 Incident Histories at time of this report.

| | |
|--------------------------------------|---|
| 00-Assault(s) | 00-Noise Complaints |
| 00-Agency Assist(s) | 00-No Valid Operator's License (NVOL) |
| 00-Alcohol Offense | 00-Police Information-, Protection Order Scv- |
| 00-Audible Alarm | 00-Public Works Assist |
| 00-Abandon Vehicle | 00-Parking Complaint |
| 00-Animal Complaint () | 00-Police Referral/RSO- |
| 00-Burglary | 00-Speeding Stops |
| 00-Curfew Violation | 00-Speed in School Zone |
| 00-Citizen Dispute | 00-Suspicious Person-/Vehicle-/Circumst- |
| 00-Civil | 00-Subject Stop |
| 00-Court Order Violation | 00-Sex Offense-0/Sex Offen Add Confirmation- |
| 00-Citizen Assist | 00-Suicide-0/Suicide Attempt- |
| 00-DUI | 00-Traffic Offense-/Reckless-/Hazard- |
| 00-Disorderly Conduct/Verba/-Threats | 00-Theft Reports/Vehicle-(Shop lifter-) |
| 00-Drug Incidents (VUCSA) | 00-Traffic Accident |
| 00-Death Report(s) | 00-Traffic Stop |
| 00-Domestic Violence/Verbal/Mal Mis. | 00-Trespass |
| 00-Extra Patrol Request | 00-Vehicle Prowl-0/Prowler-0 |
| 00-Fire Responses | 00 -Warrant Service/Confirmation |
| 00-Found/Lost Property Report(s) | 00 -Warrant Search |
| 00-Fraud--Firearm- Compl- | 00 -X-Patrol request |
| 00-Fight | 00-Warrant Arrest |
| 00-Harassment- | 00-Welfare Check |
| 00-Medical | 00 -Weapons Offense |
| 00-Juvenile Problem/Run-a-way | 00-911 Open Line or Hang Up |
| 00-Motorist Assist | 00-No classification-, or Unknown Problem- |
| 00-Malicious Mischief | 00-Wire Down |
| 00-Missing Person-/Found- | |

Saved On call hours: Jan-112, Feb-210, March-20.

IH Log Book Available/OnCall February was 210 hrs, recouped, with 6 calls, 3 responses.
1.5 hrs x2 for training(OT and Comp, =10 hrs OT Officer worked on holiday)
Discussion: Open.

Council Members Present: ALL.... Mrs. Orpher- Position 1, Position 2 open,
Mr. Peterson-Position 3, Mr. Blankenship-Position 4,
Mrs. Ator-Position 5.

Mayor : Brent Schiller Present / Not Present _____

Officer Reporting: Chief Crumb  _____

STAFF REPORT

To: Mayor and Council
From: Todd Baun- Director of Public Works
Date: February 19, 2016
Re: Electrical Rate Study Contract

These are the questions that were brought to FCS group. The bold is FCS response.

1. Normally there is an hourly rate shown for the services to be provided. I do not see such a figure provided but only what are effectively “lump sum” figures for the services to be provided.

The hourly rate is identified, by consultant, in Exhibit B Budget under consultant position.

2. I am assuming that they meant the scope of work section to read “as defined”.
Is this referring to page five, second sentence.” As illustrated in the task plan..” to be changed to “As defined in the task plan....”

Contract Agreement:

Section 3: Payment: There is a budget attached but the “no more than” provision in the section has no figure. Mr. Baun will have to indicate what his recommendation is in that regard. **That is correct. This was left blank intentionally until the City determines the tasks it would like to proceed with.**

Section 6: Termination: Remove the provision for having to pay 10% of the total price in the event the City terminates the agreement. **We have altered the contract to delete this.**

Section 7: Indemnity: Add to the duty of the Company to hold the City harmless intentionally wrongful actions as well. **I may need more clarification here as I believe the language does do as requested. Is the confusion that we are using client rather than City?**

Section 8: Work Product: It is implied buy add language to make explicit that copies of all materials generated, whether electronic or printed, will be provided to the City. **This has been added.** Also, does the City wish to retain privacy if they utilize the information for other purposes? **Language already allows for you to provide any restrictions in writing.**

Also, I would recommend that we match up now the software they intend to utilize with what the City has to insure that whatever product they provide in an electronic format is usable by the City. **Our preference is to add the software program to the scope of services rather than modify the contract for this. See Task 4 first sentence – added excel software.**

EXHIBIT A

1. In terms of the water and sewer items, I would recommend that what will actually be provided be clarified. The language present “the rate design assumes no changes in the rate structures.” Does that mean not creating new classes or does it mean that they would recommend specific rates changes for the various classes? The language specifies that you will be offered what is in Task 4 (see detail). You are correct in that there are no rate structure changes. **Any rate increase identified will be applied equally to the existing rate classes and rate components (fixed and variable). We tried to minimize the budget for the fiscal health review. We would be happy to provide you a scope and budget if you have certain rate structures that you would like developed or reviewed. We will modify the existing rate structures for any rate increases identified.**

2. As to optional meetings, they are shown at a fixed rate. It would appear appropriate that they be modified so that any such meeting is implemented on a time and materials rate with them capped at these figures. After all, Exhibit B indicates that the initial “Go to Meeting” meeting will be charged at \$540.00, an effective rate of that amount per hour without an indication of how many staff members would participate, etc.. **I have adjusted the meetings to show the details of who and what hours make up the onsite meetings. I have moved the optional task detail below the budget.**

Action Requested:

If these answers are acceptable, we need to come up with the services that we want FCS Group to perform. The Budget for the Electrical Rate Study is in Exhibit “B”, on page 8. That cost is \$29,789.00. They also give additional options for Water and Sewer fiscal health review for \$5,560 for each fund. On page 9. If both options are chosen it will costs \$11,120. There is also additional options if we choose to have additional meeting with them in addition to the meetings we have in the budget. I have the options broken down in the table below.

| Option # | Cost | Total |
|---|-----------------|---------|
| #1- Electrical rate study only | \$29789 | \$29789 |
| #2- Electrical rate study with Water fiscal health review | \$29789+\$5560 | \$35349 |
| #3- Electrical rate study with Sewer fiscal health review | \$29789+\$5560 | \$35349 |
| #4- Electrical rate study with Water and Sewer fiscal health review | \$29789+\$11120 | \$40909 |

CONTRACT AGREEMENT

BETWEEN

**FINANCIAL CONSULTING
SOLUTIONS
GROUP, INC.**

Redmond Town Center
7525 – 166th Ave. NE, Suite D-215
Redmond, Washington 98052

AND

CITY OF MCCLEARY

100 South 3rd Street
McCleary, WA 98557

PROJECT: COST OF SERVICE STUDY AND RATE DESIGN

THIS AGREEMENT combines all understandings between the Parties regarding professional services for the Project named above and supersedes all prior proposals, quotations, solicitations, negotiations, representations, agreements or understandings, whether written or oral.

The performance of the professional services herein described and authorized by **City of McCleary**, as well as payment for such services, shall be in accordance with the terms and conditions presented in this Agreement and the following Sections and Exhibits which are attached and incorporated by reference which, taken together, shall constitute the whole Agreement.

- Section I - Relationship of the Parties**
- Section II - Contract Provisions**
- Exhibit A - Scope of Work and Task Plan**
- Exhibit B - Budget**

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this _____ day of _____, 20_____.

APPROVED:

**FINANCIAL CONSULTING
SOLUTIONS GROUP, INC.**

APPROVED:

CITY OF MCCLEARY

Angie Sanchez Virnoche
Principal

Date: _____

Date: _____

ATTEST:

SECTION I: RELATIONSHIP OF THE PARTIES

The **City of McCleary** ("Client"), desires to complete a Cost of Service Study and Rate Design ("Project"). In furtherance of the Project, the Client hereby contracts with **Financial Consulting Solutions Group, Inc.** ("FCS GROUP") to perform the professional services described in Exhibit A of this Agreement. All services shall be performed under the joint supervision of the Client's Representative, **Todd Baun**, or a designee or designees identified in writing to FCS GROUP by the Client's Representative.

This Agreement shall inure to the benefit of and be binding upon successors, assigns, and legal representatives of each of the Parties hereto. Any assignment or transfer of an interest in this Agreement by either Party without the written consent of the other shall be void.

SECTION II: CONTRACT PROVISIONS

1. Scope of Work: FCS GROUP shall perform the service for the Client which as defined in Exhibit A of this Agreement.

2. Time for Completion: The Scope of Work for the conduct of the study as set forth above is anticipated to be completed by FCS GROUP within a time frame approximating that shown by the following schedule:

Notice to Proceed: Upon signature of Agreement by both parties
Completion of Project: June 1, 2016

FCS GROUP agrees to perform the work described in the Scope of Work according to the contract schedule. Any delays shall be agreed upon by FCS GROUP and Client prior to the due date. Changes in the schedule caused by Client delays may require additional compensation and a change order.

If FCS GROUP is delayed in the performance of services by conditions which are beyond their control, or by a change in the scope of work, the schedule showing time of performance may be revised. Any revision thereto shall be submitted in writing to the Client for review and approval by the Client Representative. If FCS GROUP's services are temporarily suspended by the Client in the interest of the Project and with written notice to FCS GROUP, and the suspensions last longer than 90 consecutive days, FCS GROUP shall be compensated for any additional labor and direct expenses incurred due to the interruption and resumption of services.

3. Payment: FCS GROUP will be paid by the Client on a time and materials basis as outlined below and in accordance with the budget attached hereto as Exhibit B. Direct expenses will be charged as identified in Exhibit B. FCS GROUP agrees to perform the services as set forth in Exhibit A at a cost not to exceed \$**XXX**. It is understood that FCS GROUP will not exceed this amount without the Client's prior written authorization.

Payment to FCS GROUP for services set forth in Exhibit A shall be: an amount equal to FCS GROUP's standard billing rates included in the budget as set forth in Exhibit B multiplied by the actual hours worked. Should any unforeseen project delays, not caused by FCS GROUP, and/or any requested amendments to the original scope of work, cause this contract to extend more than 90 days past the original contracted schedule date, any work and/or amendments to the work shall be billed at the standard billing rates in effect for the period of time the work is being performed. If said change in billing rates will cause the project to exceed the amount stated in the preceding paragraph, a change order will be prepared and signed by both parties.

FCS GROUP will invoice Client monthly and payment shall be made within 30 days of receipt of invoice.

4. Supplemental Agreements: Supplemental Agreements may be entered into upon mutual written agreement that would increase or decrease the scope and associated costs and payment.

5. Work to be Accomplished: All work accomplished will be performed under the direction of the Client Representative or his/her Designee.

6. Termination: This contract may be terminated by the Client by giving FCS GROUP written notice of such termination no fewer than fifteen (15) days in advance of the effective date of said termination. FCS GROUP shall be entitled to terminate this agreement only in the case of a material breach by the Client, and upon failure of the Client to remedy said breach within fifteen (15) days of said notice. In the event that the contract is terminated before completion, FCS GROUP shall be paid for the services to date on the basis set forth in Paragraph 3. The Client shall notify FCS of termination or abandonment in writing.

7. Indemnity: FCS GROUP shall comply with all Federal Government, State and local laws and ordinances applicable to the work to be done under this Agreement.

FCS GROUP hereby agrees to hold the Client harmless from and shall process and defend at its own expense, specific claims, demands or suits at law or equity, arising from FCS GROUP's negligent performance of the provisions of this Agreement; provided that if the Client and FCS GROUP are concurrently negligent, FCS GROUP shall be required to indemnify and defend only in proportion to negligence of FCS GROUP. These indemnity provisions shall not require FCS GROUP to defend or indemnify the Client against any action based solely on the alleged negligence of the Client.

8. All Work Produced is Joint Property of FCS GROUP and the Client: The materials, computer programs, reports, calculations, analyses, etc., generated by FCS GROUP under this contract including the final report shall be the joint property of the Client and FCS GROUP. Copies of all materials generated, whether electronic or printed, will be provided to the City. FCS GROUP may retain copies thereof for work paper documentation and their own use unless specifically restricted in writing by the Client as to use.

Computer models use generally available software, such as Microsoft Excel (TM), and FCS GROUP does not intend or imply any warranty of those programs.

9. Financial Forecasts: Neither FCS GROUP's name nor the report and its financial projections may be referred to or included in any prospectus or as a part of any offering or representation made in connection with the sale of securities or participation interests to the public, whether through a public or private offering.

The information used in developing the forecast assumptions will be derived from published information and other sources FCS GROUP considers appropriate. However, FCS GROUP cannot assume responsibility for the accuracy of such material. Moreover, forecasts are subject to many uncertainties as to the future; therefore, FCS GROUP cannot represent that the projected financial statements will be representative of the results that actually occur. FCS GROUP will endeavor to include appropriate comments drawing the readers' attention to these matters.

10. Integrated Agreement: This agreement together with attachments or addenda represents the entire and integrated agreement between the Client and FCS GROUP supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended by written instrument signed by both the Client and FCS GROUP.

11. Independent Contractor: The parties intend that an independent Contractor/Client relationship will be created by this agreement. No agent, employee, or representative of FCS GROUP shall be deemed to be an agent, employee, or representative of the Client for any purpose. FCS GROUP shall be solely responsible for all acts of its agents, employees, representatives, and subcontractors during the performance of this contract.

12. Equal Opportunity: FCS GROUP is committed to the principles of providing equal employment opportunities for all employees. The performance and diversity of our employees will help us meet the

challenges of the present and the future in serving our clients. This policy statement is a reaffirmation of our long-standing commitment to provide equal opportunity on the basis of individual merit and personal qualifications to employees and applicants for employment without regard to race, color, religious creed, sex, sexual orientation or preference, gender identity, genetic characteristics or information of employee or family, age, national origin, ancestry, marital status, citizenship, the presence of sensory, mental, or physical disability, pregnancy/childbirth or related condition, medical condition, membership in the military service, veteran's status, political ideology or any other basis protected by applicable federal, state, or local laws.

13. Notices: Notices to the Client shall be sent to the following address:

City of McCleary
Attention: Todd Baun
100 South 3rd Street
McCleary, WA 98557

Notices to FCS GROUP shall be sent to the following address:

Financial Consulting Solutions Group, Inc.
Attention: Angie Sanchez Virnoche, Principal
Redmond Town Center
7525 – 166th Ave. NE, Suite D-215
Redmond, Washington 98052

EXHIBIT A: SCOPE OF WORK AND TASK PLAN

The following work tasks have been developed to complete a cost-of-service and rate design study. As defined in the task plan, we follow a structured method to arrive at rate conclusions, which will enable us to perform the work in an orderly, efficient and results-oriented manner.

Task 1 | Data Collection/Validation

FCS GROUP will provide a data needs list encompassing historical and projected revenue, expenses, load data, power costs, fiscal policies, and planning information. The data will be reviewed, analyzed and validated for inclusion in the study process.

Task 2 | Project Kickoff Meeting

FCS GROUP will schedule a project kickoff meeting with the City project team. Attendees will ideally include representatives from engineering, operations, administration, finance, and customer service. This approach has worked successfully in the past by incorporating multiple views and allowing for issues to be vetted at the beginning of the project. The meeting will introduce the project team, identify study objectives, review methodology and expectations, confirm schedule, and discuss team roles. We recommend this one (1) hour meeting be scheduled as a “Go-To-Meeting™

Task 3 | Review and Forecast Sales and Load Information

The development of load data is vital to the rate study as it establishes the foundation from which all other analyses are based: rate revenue, power costs, cost allocations and rate designs. A load forecast will be developed by collecting and reviewing customer billing summaries, by class. With the information gathered, the number of accounts, kWh and kW by customer class, will be validated against revenue collected by conducting a revenue reconciliation. Anomalies and/or adjustments identified will be corrected to develop customer class usage profiles for a “normalized” year. This data will be used to develop a load forecast for the test period identified.

The load forecast developed will be applied to the current City rates to determine the level of existing rate revenue collected by customer class. This revenue forecast will be used in the revenue requirement to evaluate the sufficiency of revenue in meeting total overall utility revenue needs.

The revenue forecast will offer the option to adjust growth in total or to differentiate customer and load growth to reflect the anticipated impacts of price elasticity and conservation, if applicable.

Task 4 | Establish Revenue Requirements

In this task, we will craft analytical spreadsheet models, in Microsoft Excel software, for a six-year revenue requirements forecast that analyzes the following:

- ◆ Capital infrastructure costs
- ◆ Expenses incurred to operate, maintain, and manage the system (including power costs)
- ◆ Existing and future debt repayment and reserves
- ◆ Cash flow needs
- ◆ Fiscal policy achievement

We will design the analysis to mirror the City’s own funds and to be flexible and stable enough to analyze multiple scenarios. Tasks include:

- a) **Operating Forecast.** The operating forecast is intended to identify future annual non-capital costs. Annual escalation factors will be applied for general inflation, labor and benefits. Adjustments will be made for new costs anticipated from additional staffing needs and other operating costs associated with maintaining the system along with initiating new or enhanced program activities such as conservation.
- b) **Power Costs.** Work with City staff and Bonneville Power Administration (BPA) power and transmission representatives to forecast power costs based on the load forecast developed. We have gained efficiency through direct access to the BPA portal. Power costs will be forecast based on the City's power resources – BPA and others if applicable.
- c) **Capital Funding.** The City's capital improvement plan will be used to determine total annual capital needs. The analysis will develop a capital funding plan that will determine an optimal mix of available resources from rate revenues, contributions in aid of construction, existing cash reserves and debt financing to maintain ongoing financial health of the system.
- d) **Debt Service Requirements.** We will include existing and any anticipated new debt service obligations in the revenue requirement along with meeting debt service coverage requirements/targets.
- e) **Reserve Analysis.** We will review existing fund balance policies for compliance and recommend new fund balance targets as warranted.
- f) **Fixed/Variable Costs.** Complete a line item analysis of costs to determine the fixed and variable costs of the system to include power costs. Discuss the BPA composite charge cost split.
- g) **Test of Sufficiency.** We will evaluate the adequacy of current system revenues in meeting both cash flow needs and debt service coverage requirements.
- h) **Annual Rate Strategy.** Develop an annual rate strategy to fully fund all system obligations and smooth rate impacts.
- i) **Sensitivity Analyses.** Offer up to two (2) sensitivity analyses to evaluate the financial and rate impacts of changes to load growth, power costs, project timing and priority, project funding, conservation initiatives or others specified by the City.

Task 5 | Rate Design

Current rate design options for each customer class will be analyzed to determine whether they are sufficient to meet City objectives, and are consistent with current and/or recommended fiscal policies, generate sufficient revenue to meet the required revenue forecast, and begin to address any inequities identified in the cost-of-service findings. If there are gaps in the current rate design, the project team will craft alternative rate designs for consideration based on industry standards and project team expertise and experience. Key tasks include the following:

- a) Identify the rate structure goals/objectives of the City (e.g. conservation, equity, revenue stability).
- b) Review classes of service and existing rate designs for appropriateness. Identify improvements as warranted.
- c) Develop a schedule of rates, by customer class for the approved rate strategy
- d) Provide a comparison of surrounding utility rates.

Task 6 | Pole Attachment Charges

Charges for electric system pole attachments will be analyzed or established to ensure fairness, and in consideration of applicable public policy goals and regulatory requirements, if any. The analysis will consider multiple approaches including the Federal Communications Commission (FCC) telecom rate formula both pre and post-April 7, 2011 as well as an independent formulation. The result will be two to four viable and defensible options that will be provided and explained to the City to assist in developing its strategy concerning pole attachment rates. It is nearly always the case that the FCC formula produces a lower pole attachment rate than an independent analysis due to the public policy goals that have tended to affect the FCC formula (i.e. promotion of broadband). Even though the City is not subject to FCC regulation there may be local public policy goals concerning broadband, or even neighboring utility rates to be factored into its decision on setting pole attachment rates.

Data generally required for the study includes the installed cost and counts of various size poles, depreciation rates, number of attachments, number of attaching parties per pole and other financial information. A project review meeting will be scheduled to review findings and incorporate edits. The overall objectives of the task are to assist the City in implementing pole attachment rates that are defensible and meet the City's goals.

Task 7 | Plan Project Team Review Meetings

It will be important to interact frequently with City staff throughout the project; to make certain that the study develops work products collaboratively, reflecting the industry expertise of the project team and the specific needs and goals of City staff and management.

We recommend the following project team meetings.

- a) Kickoff meeting – included in Task 2
- b) First review meeting via Go-To-Meeting™
- c) Second review meeting on-site

Task 8 | Presentations

Prepare for and facilitate a presentation to the City Council to review findings, conclusions and recommendations. Tasks include:

- a) Develop PowerPoint presentation material on the recommendations of the study for an on-site presentation to the City Council.
- b) Optional second Council meeting will be included separately.

Task 9 | Documentation

The report will be separated under two phases. The first phase will include a Technical memorandum of findings that will identify the key assumptions, results and recommendations of the revenue requirement. This technical memorandum should be sufficient to satisfy the Auditor's request.

The second phase of the documentation will be optional. It will include an extended discussion of the rate study process, methodology and rate design evaluation and schedules.

EXHIBIT B: BUDGET

| Task | CONSULTANT HOURS | | | | | | | | |
|--|----------------------------------|----------------------------------|--------------------|-----------------------------|---------------------|---------------------------------|-------------------|--------------------------|-----------------|
| | FCS GROUP | | | POWER SYSTEM ENGINEERING | | | | Total | Labor Budget |
| | Sanchez Managing Principal | Tarasov Asst. Proj Manager | Senior Analysts | Macke Project Manager | Gasal Consultant | Nelson Supporting Analyst | Admin. Support | Estimated Hours | |
| <i>Hourly Billing Rates:</i> | \$230 | \$175 | \$135 | \$242 | \$187 | \$143 | \$75 | | |
| TECHNICAL TASKS | | | | | | | | | |
| Task 1 Data Collection/Validation | - | - | 4 | - | - | - | 2 | 6 | \$690 |
| Task 2 Kickoff Meeting (1 GoTo - 1 hour) | 1 | 1 | 1 | - | - | - | - | 3 | \$540 |
| Task 3 Review and Project Sales and Load | 4 | 12 | 20 | - | - | - | - | 36 | \$5,720 |
| Task 4 Establish Revenue Requirements | 4 | 8 | 24 | - | - | - | - | 36 | \$5,560 |
| Task 5 Pole Attachment Charges | - | - | - | 4 | 20 | 2 | - | 26 | \$4,994 |
| Task 6 Rate Design | 2 | 4 | 4 | - | - | - | - | 10 | \$1,700 |
| Total Technical Tasks | 11 | 25 | 53 | 4 | 20 | 2 | 2 | 117 | \$19,204 |
| PROCESS TASKS | | | | | | | | | |
| Meetings | | | | | | | | | |
| Task 7 Review Meetings (1 GoTo - 2 hours) | 2 | 2 | 2 | - | - | - | - | 6 | \$1,080 |
| Review Meetings (1 Onsite Meeting) | 6 | 6 | - | - | - | - | - | 12 | \$2,430 |
| Task 8 Presentations | | | | | | | | | |
| 1 City Council Meeting | 2 | 10 | - | - | - | - | 2 | 14 | \$2,360 |
| Task 9 Documentation | | | | | | | | | |
| Phase 1: Technical Memo | 1 | 2 | 8 | - | - | - | 2 | 13 | \$1,810 |
| Phase 2: Extended Documentation (optional) | 1 | 2 | 12 | - | - | - | 2 | 17 | \$2,350 |
| Total Process Tasks | 12 | 22 | 22 | - | - | - | 6 | 62 | \$10,030 |
| TOTAL LABOR ALL | 23 | 47 | 75 | 4 | 20 | 2 | 8 | 179 | \$29,234 |
| Expenses | | | | | | | | | |
| Travel Three (3) Onsite Trips (mileage only) | | | | | | | | Estimate, Billed At Cost | \$555 |
| TOTAL PROJECT LABOR AND EXPENSES | | | | | | | | | \$29,789 |

DIRECT EXPENSES

Direct Expenses will not be charged for ordinary project-related expenses. For any client-requested extraordinary expenses, specific terms will be established prior to expenditure and billing.

Optional Tasks

The City has requested a budget to complete a revenue requirement update for the water and sewer utilities. It appeared that the water and sewer utilities have not been formally reviewed since the last study FCS GROUP conducted in 2007. As requested by the City, we have provided an estimate for a revenue requirement update for each utility. There is cost efficiency in number of meeting required, data coordination and project start up when all three utilities are looked at together. Budgets identified for each additional task are not to exceed amounts.

Optional: Water and Sewer Fiscal Health Review

Fiscal health review would encompass performing a revenue requirement analysis for the additional selected utilities (e.g. Water and Sewer). Elements identified in Task 4 above will be completed. The rate design assumes no changes to the existing rate structures. The rate strategy developed would be applied equally to each rate class and fixed and variable rate component.

| Task | CONSULTANT HOURS | | | | | | | | |
|----------------------------------|----------------------------|----------------------------|-----------------|--------------------------|------------------|---------------------------|------|----------------|-----------------------|
| | FCS GROUP | | | POWER SYSTEM ENGINEERING | | | | Admin. Support | Total Estimated Hours |
| | Sanchez Managing Principal | Tarasov Asst. Proj Manager | Senior Analysts | Macke Project Manager | Gasal Consultant | Nelson Supporting Analyst | | | |
| <i>Hourly Billing Rates:</i> | \$230 | \$175 | \$135 | \$242 | \$187 | \$143 | \$75 | | |
| OPTIONAL ADDITIONAL TASKS | | | | | | | | | |
| Water Fiscal Health Review | 4 | 8 | 24 | - | - | - | - | 36 | \$5,560 |
| Sewer Fiscal Health Review | 4 | 8 | 24 | - | - | - | - | 36 | \$5,560 |

Optional: Additional Meetings & Presentations

Depending on City's needs and budget constraints, additional meetings can be performed either on-site or through conference call and Go-To-Meeting™ software, which allows all parties to view documents via an Internet connection. Presentations to the Council and the public typically require development of presentation materials and some direct expenses for travel.

| Task | CONSULTANT HOURS | | | | | | | | |
|--------------------------------------|----------------------------|----------------------------|-----------------|--------------------------|------------------|---------------------------|------|----------------|-----------------------|
| | FCS GROUP | | | POWER SYSTEM ENGINEERING | | | | Admin. Support | Total Estimated Hours |
| | Sanchez Managing Principal | Tarasov Asst. Proj Manager | Senior Analysts | Macke Project Manager | Gasal Consultant | Nelson Supporting Analyst | | | |
| <i>Hourly Billing Rates:</i> | \$230 | \$175 | \$135 | \$242 | \$187 | \$143 | \$75 | | |
| OPTIONAL ADDITIONAL TASKS | | | | | | | | | |
| Go-To Meeting | 2 | 2 | 2 | - | - | - | - | 6 | \$1,080 |
| Additional City Council Presentation | 2 | 10 | - | - | - | - | 2 | 14 | \$2,360 |
| Additional Meeting No Presentation | 8 | - | - | - | - | - | - | 8 | \$1,840 |

ORDINANCE NO. _____

**AN ORDINANCE RELATING TO ZONING, REGULATING
CERTAIN USES, AMENDING SECTION II, ORDINANCE
804, PROVIDING FOR ENFORCEMENT,
SEVERABILITY, AND AN EFFECTIVE DATE.**

R E C I T A L S:

1. With the adoption of Initiative 502, certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB)

2. Pursuant to Ordinance 804, the City enacted a prohibition of activities authorized by Initiative 502, as codified in RCW Chapter 69.50.

3. Since that time, a request has been received to review the matter of the allowance of certain activities authorized under Initiative 502, specifically the growing and processing of marijuana as allowed by permission issued by WSCLB.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance.

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

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited to public safety, to implement a prohibition or regulation of the allowance within the corporate limits of the siting and implementation of the uses set forth in Section II.

SECTION II: Section II, Ordinance 804 and the section of Chapter 17.20 by which it has been codified shall be amended to read as follows:

A. General: No use that is illegal under local, state, or federal law shall be allowed in any zone within the city.

B. Specific Application – Medical Marijuana Dispensaries and Collective Gardens: Until such time as this code is amended to provide specific provisions and land use controls allowing and regulating dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, such uses are not allowed in any zone within the city.

For purposes of this section:

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers,

exchanges, or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

C. Production and Processing Permitted (~~and Retailing of Marijuana Prohibited~~): The production and processing of marijuana by a person or entity possessing a valid license to do so as a marijuana producer or marijuana processor which has been issued by the Washington State Liquor Control Board pursuant to its authority granted by Initiative 502 and applicable provisions of RCW 69.50 and WAC 314-55, as now existing or hereafter amended or succeeded, shall be allowed as a permitted use in the Industrial (I) zone so long as such activities are in compliance with the terms and conditions under which the license was issued.

1. In relation to the uses authorized by this section, the following specific provisions shall apply:

a. The facility shall be equipped with such air handling and filtering equipment so as to prevent the odor associated with the growth and processing of marijuana from escaping the interior of the facility.

b. Waste products shall be disposed of in a secure manner that will prevent exposure to or access by the public nor shall disposal or storage create a nuisance.

c. As a condition of processing of any application for any use authorized by this section, prior to the consideration of the issuance of any permit, the applicant shall provide proof satisfactory to the City

of the provision of written notice to the owners of the property located within 1,000 feet of the boundaries of the Applicant's property and which are utilized as elementary or secondary schools, recreation centers or facilities, child care centers, churches, agencies which operate public parks, transit center, libraries, or a game arcade to which admission by anyone less than the age of 21 years is not restricted. The application shall not be considered complete until such proof is provided.

2. For purposes of this section, the following definitions apply: PROVIDED THAT, in the event that either RCW Chapter 69.50 or WAC Chapter 314.55, each as now existing or hereafter amended or succeeded, provide a different definition, the definition in the WAC Chapter 314.55 or RCW Chapter 69.50 shall govern.

a. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

b. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~((Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale, and retail outlets for the sale of marijuana and marijuana infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of~~

~~Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended, such uses are each prohibited and not allowed in any zone within the city.))~~

D. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating ((production, processing,)) retail sale or (7) retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, as now existing or hereafter amended, are each prohibited and not allowed in any zone within the city.

E. **Enforcement:** Any violation of this ordinance ((section)) is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Section 17.40.140 MMC.

SECTION III: Section 17.20.030 MMC & Section 1 (Part), of Ordinance 709, as last amended by Section 2, Ordinance 804, is amended in the following respects:

The table of land uses setting forth permitted uses in the Industrial [I] zone shall be modified to add the following as permitted uses:

Marijuana growing and marijuana processing as defined in and permitted by Section II of this ordinance.

SECTION IV: 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 V: This Ordinance shall take effect upon the fifth day following date of publication. As of that date, any moratorium imposed by prior ordinances on the activities covered by this ordinance shall be deemed repealed.

SECTION VI: 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 _____, 2015, by the
City Council of the City of McCleary, and signed in approval
therewith this _____ day of _____, 2016.

CITY OF McCLEARY:

BRENT SCHLLER, 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
_____, 2016, by WENDY COLLINS.

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

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ZONING, REGULATING CERTAIN USES, AMENDING SECTION II, ORDINANCE 804, PROVIDING FOR ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE.

R E C I T A L S:

1. With the adoption of Initiative 502, certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB)

2. Pursuant to Ordinance 804, the City enacted a prohibition of activities authorized by Initiative 502, as codified in RCW Chapter 69.50.

3. Since that time, a request has been received to review the matter of the allowance of certain activities authorized under Initiative 502, specifically the growing and processing of marijuana as allowed by permission issued by WSLCB.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance.

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

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited to public safety, to implement a prohibition or regulation of the allowance within the corporate limits of the siting and implementation of the uses set forth in Section II.

SECTION II: Section II, Ordinance 804 and the section of Chapter 17.20 by which it has been codified shall be amended to read as follows:

A. General: No use that is illegal under local, state, or federal law shall be allowed in any zone within the city.

B. Specific Application – Medical Marijuana Dispensaries and Collective Gardens: Until such time as this code is amended to provide specific provisions and land use controls allowing and regulating dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, such uses are not allowed in any zone within the city.

For purposes of this section:

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers,

exchanges, or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

C. Production and Processing Permitted (~~and Retailing of Marijuana Prohibited~~): The production and processing of marijuana by a person or entity possessing a valid license to do so as a marijuana producer or marijuana processor which has been issued by the Washington State Liquor Control Board pursuant to its authority granted by Initiative 502 and applicable provisions of RCW 69.50 and WAC 314-55, as now existing or hereafter amended or succeeded, shall be allowed as a permitted use in the General Commercial [C-2] and Industrial (I) zones so long as such activities are in compliance with the terms and conditions under which the license was issued.

1. In relation to the uses authorized by this section, the following specific provisions shall apply:

a. The facility shall be equipped with such air handling and filtering equipment so as to prevent the odor associated with the growth and processing of marijuana from escaping the interior of the facility.

b. Waste products shall be disposed of in a secure manner that will prevent exposure to or access by the public nor shall disposal or storage create a nuisance.

c. As a condition of processing of any application for any use authorized by this section, prior to the consideration of the issuance of any permit the

applicant shall provide proof satisfactory to the City of the provision of written notice to the owners of the property located within 1,000 feet of the boundaries of the Applicant's property and which are utilized as elementary or secondary schools, recreation centers or facilities, child care centers, churches, agencies which operate public parks, transit center, libraries, or a game arcade to which admission by anyone less than the age of 21 years is not restricted. The application shall not be considered complete until such proof is provided.

2. For purposes of this section, the following definitions apply: PROVIDED THAT, in the event that either RCW Chapter 69.50 or WAC Chapter 314.55, each as now existing or hereafter amended or succeeded, provide a different definition, the definition in the WAC Chapter 314.55 or RCW Chapter 69.50 shall govern.

a. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

b. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~((Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale, and retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of~~

~~Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended, such uses are each prohibited and not allowed in any zone within the city.))~~

D. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating ((~~production, processing,~~) retail sale or (~~7~~) retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, as now existing or hereafter amended, are each prohibited and not allowed in any zone within the city.

E. **Enforcement:** Any violation of this ordinance ((~~section~~)) is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Section 17.40.140 MMC.

SECTION III: Section 17.20.030 MMC & Section 1 (Part), of Ordinance 709, as last amended by Section 2, Ordinance 804, is amended in the following respects:

The table of land uses setting forth permitted uses in the Industrial [I] and General Commercial [C-2] zones shall be modified to add the following as permitted uses:

Marijuana growing and marijuana processing as defined in and permitted by Section II of this ordinance.

SECTION IV: 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 V: This Ordinance shall take effect upon the fifth day following date of publication. As of that date, any moratorium imposed by prior ordinances on the activities covered by this ordinance shall be deemed repealed.

SECTION VI: 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 _____, 2015, by the City Council of the City of McCleary, and signed in approval therewith this _____ day of _____, 2016.

CITY OF McCLEARY:

BRENT SCHLLER, 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

ORDINANCE -B- 7
02/12/2016
DG/le

CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

SIGNED AND SWORN to before me this _____ day of
_____, 2016, by WENDY COLLINS.

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