

## **APPENDIX A INTERLOCAL AGREEMENT**

### **I PURPOSE**

This agreement sets forth the terms and conditions by which Clark County, Washington, hereafter referred to as County, shall provide funds from its Conservation Futures Account, pursuant to RCW 84.34.210 and Chapter 3.24 of the Clark County Code, to the City of Camas, hereinafter identified as City, for the purpose of acquiring fee simple or lesser interest in open space, farm land, or timber land, as such are defined in RCW 84.34.020.

### **II AUTHORITY**

This interlocal agreement by and between Clark County, Washington, and the City of Camas is authorized by Chapter 39.34 of the Revised Code of Washington.

### **III PROJECT DESCRIPTION**

The City's application to County is part of this contract. The application is the City's notification of its intent to implement and manage this project in conformance with local and state goals and objectives. The project to be assisted is summarized from the City's application as follows:

- A. Acquire approximately 70 acres of land to protect, scenic, recreation and environmental values adjacent to the north shore of Lacamas Lake.
- B. Acquisition facilitates establishment of a primary trailhead and key link in a seven (7) mile multi-use trail system that surrounds Lacamas Lake

### **IV FUNDING OF PROJECT**

City estimates the total cost of the property to be acquired under terms of this agreement is \$4,780,000. City requests that County pay \$2,580,000, or 54 percent of the total estimated project cost.

County recognizes, however, that this estimate, while made in good faith, may or may not represent fair market value as determined by standard professional appraisal procedures.

County agrees to pay \$2,580,000 or 54 percent of the total estimated project cost, or the same percentage amount of fair market value, whichever is less.

- A. Fair market value shall be determined utilizing professional appraisal procedures as set forth in subsections 1 through 5, below:
  - 1. Fair Market Value is established through professional appraisals.
  - 2. Appraisals are completed and approved by a real estate appraiser licensed in the state of Washington pursuant to 18.140 RCW.
  - 3. Review appraisals, when required by state or federal regulations or grant funding sources, or when determined advisable by County, shall be completed by a Member of the American Institute of Real Estate Appraisers (MAI) licensed in the state of Washington.
  - 4. Appraisal Reports and Reviews for acquisitions involving federal funding must be in compliance with the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).
  - 5. For all other funding programs, appraisals meeting the current Uniform Standards of Professional Appraisal Practice (USPAP) publication are acceptable with the following exceptions:
    - a. Extraordinary Assumptions and Hypothetical Conditions must be clearly listed and justified in the appraisal report.
    - b. Appraisals must consider existing encumbrances.
    - c. The restricted format for reporting appraisals is not acceptable.
    - d. Appraisers must provide a specific point value rather than a value range.
    - e. Property owners are given an opportunity to accompany each appraiser during inspection of the property.
- B. City Completes Due Diligence Investigations:
  - 1. City orders and reviews a preliminary title report. City submits title report to County for review with the County Prosecuting Attorney.
  - 2. If no prior survey exists, City shall have a boundary survey of the property completed and a legal description of the property prepared.
  - 3. City shall prepare all required maps and exhibits, such as the Land and Water Conservation Fund 6(f)(3) map, for acquisitions involving federal funding based on the legal description of any easements or other encumbrances that may restrict use of the property.
  - 4. Acquisitions that may receive grant funding will meet all requirements of the anticipated funding sources.
  - 5. City shall invite County to participate in a site inspection, or series of site inspections, to determine that the property is suitable for the intended purpose.
    - a. Zoning is appropriate for the intended use.

- b. Necessary land use permits for the intended use are identified/verified.
    - c. Structures meet current building code requirements.
    - d. An Americans with Disabilities Act (ADA) and/or Outdoor Accessibility (USDOJ) assessment is completed.
  - 6. City requires a hazardous materials questionnaire to be completed by the property owner:
    - a. If deemed advisable by City or County, City shall cause a Phase I Environmental Site Assessment to be completed.
    - b. The format and content of Phase I ESA reports must be in general accordance with the American Society for Testing of Materials (ASTM) Standard Practice for Environmental Site Assessments including: Site Assessment Process E-1527-05 and the United States Environmental Protection Agency's (USEPA) standards for All Appropriate Inquiries (AAI) at 40 Code of Federal Regulations (CFR) Part 312.
- C. The cost of the appraisal, other due diligence studies and related administrative costs incurred by City may be reimbursed by County as components of the \$2,580,000, or 54% of total costs requested by City. Unless specifically authorized via a written amendment to this agreement, however, County funding contributions to this acquisition project including land costs and said incidental costs shall not exceed this limit.
- D. In the event fair market value exceeds the City's estimated project cost, the Board of County Councilors, at its discretion, may increase the approved funding allocation to cover fair market value of the property to be acquired. A written request to this effect should be submitted by City to the County Conservation Futures Program Manager, acting as program staff for the Board of Councilors. The request shall include a copy of the appraisal report and appraisal review. County program manager shall notify City of the Board's decision within 45 days of the receipt of the request, or as soon thereafter as is practicable, and a written amendment to this agreement shall be executed by the parties.

## **V LAND ACQUISITION COSTS EXCEEDING FAIR MARKET VALUE**

County considers a reviewed and approved appraisal to be an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this marketplace value may be considered along with the appraised value in establishing the reasonable limits of assistance.

If City believes that the negotiation price is a better indication of market value yet it is higher than the appraised value, a detailed and well-documented statement of this difference must be submitted, together with a formal request for a cost increase. This

statement must explain why the appraisal did not reflect the true value and what steps City took to establish the true value through acceptable appraisal technique.

## **VI STATEMENT OF DIFFERENCE IN VALUE**

If the property is to be purchased for less than the approved fair market value, City must submit a letter to County signed by seller acknowledging that the seller was aware of the approved fair market value and that the seller's decision to sell at less than fair market value was made of his/her own free will.

## **VII REAL PROPERTY ACQUISITION PROCEDURES**

City may designate City staff or a third party as the "Acquisition Specialist" that will assist with the acquisition of the subject property. A list of this individual's qualifications and credentials relating to real property acquisition shall be provided to the Conservation Futures Program Manager to assure the designated acquisition specialist is qualified to participate.

## **VIII CONTINGENCIES**

The duty of County to pay out funds under this contract depends on:

- A. Strict compliance by City with the terms of this contract, and;
- B. Available funds in County's Conservation Futures Account.

## **IX ACQUISITION PERIOD**

The term of this project shall run from the date of funding approval by the Board of County Councilors until December 31, 2021. City must complete the acquisition within this term.

The Board of County Councilors may extend the acquisition period at its discretion. To secure an extension, City shall send written notice to the Conservation Futures Program Manager, acting as program staff for the Board of Councilors, at least thirty days prior to the end of the acquisition period. The notice shall state the need for an extension and explain the reasons for the request. The program manager shall notify City of the Board's decision within thirty days of receipt of the request, or as soon thereafter as is practicable.

Any project that has not been completed within the acquisition period, and for which no extension has been granted, shall be considered withdrawn and allocated funds shall become available for other projects.

City agrees to notify the Conservation Futures Program Manager of any circumstances or events during the acquisition period (such as an owner indicating he is no longer a willing seller) which will cause the termination of efforts to acquire the subject property.

City, on forms provided, will advise Clark County at least once every six months of their acquisition progress.

City shall obtain, and submit for review by County, a title insurance policy for the acquired land. County shall review all easements, restrictions, and other encumbrances that appear in the policy to assure that they do not impact, to an excessively negative degree, the Conservation Futures purposes for which the land is to be acquired. Clark County will not release funds for land purchases until this requirement is met.

#### **X DURATION OF INTERLOCAL AGREEMENT**

This agreement shall remain in effect in perpetuity, except as otherwise provided for in the "Acquisition Period" section of this agreement.

#### **XI RELATIONSHIP OF PARTIES**

The Clark County Board of Councilors imposed the Conservation Futures levy to provide a reliable and predictable funding source to help acquire interest in open space, farm land, timber land, and certain classifications of park property. This project, however, is sponsored by the City of Camas and not Clark County. The purpose of this agreement is to provide City monetary assistance, which will enable it to complete the project described herein. In return for monetary assistance, County requires that a Deed of Right to the County, as shown in Appendix B, be recorded by City at closing of the acquisition to ensure that the acquired land is managed consistent with the purposes articulated in this agreement. County will not acquire any ownership interest in the subject property by virtue of this agreement, nor will County assume any responsibility for improving or managing the property.

City shall be responsible for the management of this project within the terms and conditions of this agreement. Furthermore, Clark County shall not become party to any contract between the Contracting Party and others by reason of having entered into this agreement.

#### **XII OTHER ORGANIZATIONS**

No separate legal or administrative entity shall be created by this agreement.

#### **XIII PERFORMANCE**

City agrees to manage the subject property in a manner consistent with the legislative declarations and objectives set forth in RCW 84.34.010-020 and RCW 84.34.200-250 and in Chapter 3.24 of the Clark County Code. Moreover, City recognizes that boards of county councilors are the only legislative authority empowered to impose the Conservation Futures levy and that the Board of Clark County Councilors, having done so, has the responsibility to assure proper use and administration of the Conservation Futures Fund and has a corresponding interest in the management of all properties acquired with the fund. Therefore City shall operate and maintain the subject property as follows:

- A. The property and any improvements to the property shall be kept safe and clean.
- B. City shall make reasonable effort to control nonconforming uses, such as hunting in wildlife preserves and sanctuaries.
- C. Sanitation and sanitary facilities shall be maintained in accordance with applicable state and local public health standards.
- D. City shall submit to the Conservation Futures Program Manager any plans for improving the subject property to assure statutory compliance and consistency with the Conservation Futures Project Application attached as Appendix \_\_\_\_\_. This does not apply to routine maintenance. Improvements that may be allowed under terms of the statute, the plans for which, in any event, should be submitted to the program manager, include but are not limited to picnic tables, viewpoints, rest areas, docks, benches, boat launches, restrooms, and parking lots. Work shall not commence without written approval from the Conservation Futures Program Manager. Though County shall be given the opportunity to review plans for improvements, this should not be construed to mean that County shall participate in the funding of improvements.
- E. City shall submit to the Conservation Futures Program Manager any proposals for lease-back agreements, as provided in RCW 84.34.210 easements, rights-of-way, or other conditions or restrictions which limit the use of or alter the character of the subject property. Any such proposal shall be reviewed for statutory compliance and consistency with proposed plans and uses as stated in City's project application at the time of funding approval. City shall not conclude any such agreement without written consent of the Conservation Futures Program Manager.
- F. The property shall be kept open for public use at reasonable hours and times of year. County recognizes, however, that appropriate hours may vary considerably depending on the type of interest that has been acquired, and

the existence of leaseback or other agreements that might properly limit public access.

- G. The property shall be open for the use of all segments of the public without restriction because of the race creed, color, sex, religion, national origin or residence of the user.
- H. Roads, trails, tables, benches, and other improvements shall be kept in reasonable repair throughout their estimated lifetime, as to prevent undue deterioration that would discourage public use.
- I. City should operate and maintain the facility in accordance with all applicable federal, state, and local laws and regulations.

#### **XIV USER FEES AND CHARGES**

User or other types of fees may be charged in connection with areas that are the subject matter of this contract, provided that the fees and charges are commensurate with the value of recreation services or opportunities furnished and are within the prevailing range of public fees and charges within the state for the particular activity involved.

#### **XV CONVERSION**

City for and in consideration of monies coming in whole or in part from Clark County's Conservation Futures Fund, shall record a Deed of Right to County upon closing, and dedicate the property to be acquired under terms of this agreement in perpetuity for the public's use and enjoyment and to promote the purposes of Conservation Futures.

The City will not make or permit to be made any use of the real property described in this agreement, or any part of it, which is inconsistent with those chapters of the Clark County Code and Revised Code of Washington that govern the use of Conservation Futures funds, or any use which is inconsistent with the purposes and improvements as described in City's project application at the time of funding approval, unless the Board of Clark County Councilors consents to the inconsistent use. County shall approve any such conversion only upon conditions where City can assure it will acquire substitute properties which are of equal or greater value at the time of conversion, which, to the extent feasible, are equivalent in usefulness and location, and which also meet the goals and objectives of the Conservation Futures Program.

#### **XVI REMEDIES**

In the event the City fails to comply with any or all of its obligations under this agreement, County stipulates that specific performance shall be the remedy preferred

by County.

The remedy of specific performance shall not be the sole remedy and does not serve to exclude any and all other remedies available to County. County may choose to exercise any and all other remedies available, together with, or as an alternative to, specific performance, at the option of County.

## **XVII    REPORTS AND INSPECTIONS**

City, in cooperation with the Conservation Futures Program Manager, shall prepare a final report upon completion of this project or its early termination for presentation to the Board of Clark County Councilors. The report shall include a final accounting of all expenditures and a description of the work accomplished. If the project is terminated early, the report shall provide a full explanation of the reasons for not completing the project. City also agrees to provide interim status reports to the Conservation Futures Program Manager every six months during the acquisition period.

Property and improvements acquired under terms of this agreement shall be available for inspection by the Conservation Futures Program Manager, or his designee, upon request. As a matter routine, Clark County shall conduct an on-site inspection approximately once a year to assure that the property is being operated, maintained, and used in accordance with this Contract.

## **XVIII   ASSIGNMENT**

This agreement shall not be assignable in whole or in part by the City except with the express written consent of the Board of Clark County Councilors.

## **XIX    HOLD HARMLESS**

City agrees to defend and hold harmless Clark County, Washington, the Board of Clark County Councilors and any employees thereof from any and all suits at law or equity or claims or demands, or any loss of any nature, including but not limited to costs and attorneys' fees, suffered, or alleged to be suffered, on the premises, or arising out of use, improvements, operation, or management of the subject property.



**XX      NOTICES**

Any notices, requests, consents, approvals, and other communications shall be in writing and shall be deemed to have been sufficiently given for all purposes when delivered or mailed by first class postage or certified mail, postage prepaid, addressed as follows:

A. Notice to Clark County

TO: Conservation Futures Program Manager  
Clark County Public Works Department  
Parks and Lands Division  
4700 NE 78<sup>th</sup> Street  
Vancouver, Washington 98665

B. Notice to the Camas

TO: Jerry Acheson  
Parks and Recreation Manager  
616 NE 4<sup>th</sup> Avenue  
Camas, WA 98607

Jerry Acheson serves in the capacity of Parks and Recreation Manager for the City of Camas and has been designated as the City's liaison officer for the purposes of this agreement.

Attest: \_\_\_\_\_  
Scott Higgins, Mayor

\_\_\_\_\_  
\_\_\_\_\_

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Rebecca Tilton  
Clerk to the Board

APPROVED AS TO FORM, ONLY  
Anthony F. Golik  
Prosecuting Attorney

BOARD OF COUNTY COUNCILORS  
FOR CLARK COUNTY, WASHINGTON

By: \_\_\_\_\_  
Marc Boldt, Chair

By: \_\_\_\_\_  
Amanda Migchelbrink  
Deputy Civil Prosecutor

By: \_\_\_\_\_  
Jeanne Steward, Councilor

By: \_\_\_\_\_  
Julie Olson, Councilor

By: \_\_\_\_\_  
John Blom, Councilor

By: \_\_\_\_\_  
Eileen Quiring, Councilor

CITY OF CAMAS

By: \_\_\_\_\_  
Scott Higgins, Mayor

# DEED OF RIGHT

## ***For Public Use of Land Acquired Under the Clark County Conservation Futures Program***

The City of Camas, \_\_\_\_\_, for and in consideration of monies coming in whole or in part from the Conservation Futures Account, as established by Chapter 324 of the Clark County Code, and in fulfillment of terms contained in the Interlocal Agreement identified below, conveys and grants to Clark County, Washington, individually and as the representative of all the people of Clark County, the right to use the real property described below forever for those purposes described in the Interlocal Agreement signed by the City of Camas on the \_\_\_\_ day of \_\_\_\_\_ and by Clark County on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and which is entitled \_\_\_\_\_. Project # \_\_\_\_\_.

The City of Camas will not make or permit to be made any use of the real property described in is deed, or any part of it, which is inconsistent with those chapters of the Clark County Code and Revised Code of Washington that govern the use of Conservation Futures Funds, or any use which is inconsistent with the purposes and improvements as described in the City's project application at the time of funding approval, unless the Board of Clark County Councilors consents to the inconsistent use. Clark County shall approve any such conversion only upon conditions where the City of Camas can assure it will acquire substitute properties which are of equal or greater value at the time of conversion, which, to the extent feasible, are equivalent in usefulness and location, and which also meet the goals and objectives of the Conservation Futures Program.

The real property covered by this deed is described in Exhibit A attached hereto and is incorporated by this reference.

This deed shall in no way modify or extinguish the functions of the signatory parties under the terms and conditions set forth in the aforementioned interlocal Agreement.

Dated this \_\_\_\_ day of \_\_\_\_\_

Mayor: - City of Camas - \_\_\_\_\_  
Scott Higgins

Approved as to Form, Only  
Anthony F. Golik  
Prosecuting Attorney

BY \_\_\_\_\_ Attest: \_\_\_\_\_  
Amanda Migchelbrink Rebecca Tilton  
Deputy Civil Prosecutor Clerk to the Board