

MEMORANDUM OF AGREEMENT

Between

**WASHINGTON STATE PARKS AND RECREATION COMMISSION
Don Hoch, Director**

And

**PACIFIC COUNTY, WASHINGTON
Board of County Commissioners**

This Memorandum of Agreement (AGREEMENT) between PACIFIC COUNTY, a political subdivision of the State of Washington (County) and the State of Washington, acting through the WASHINGTON STATE PARKS AND RECREATION COMMISSION ("State Parks").

WHEREAS, State Parks has been approved for a Recreation and Conservation Office (RCO) grant to link the North Head Lighthouse Road with the existing Discovery Trail at Cape Disappointment State Park; and

WHEREAS, a requirement of the grant is that State Parks must have control and tenure of the North Head Lighthouse Road; and

WHEREAS, County was granted easement rights to the North Head Lighthouse Road by the US Coast Guard titled "Easement Deed" (Easement), in Section 5, Township 9 North, Range 11 West, W.M. recorded in Volume 194, pages 477-481 and Volume 194, pages 519 and 520, records the Pacific County Auditor; and

WHEREAS, County has continually maintained the roadway as a public road; and

WHEREAS, State Parks has requested from County the assignment of said Easement; and

WHEREAS, County received written approval from the US Coast Guard via letter dated November 30, 2011 (Exhibit "A"); to assign County's interest in Easement to State Parks; and

WHEREAS, County currently leases (Lease) 1.63 acres from State Parks abutting the Willapa Hills Trails. Parcel No. 14082842210; and

WHEREAS, the leases are known as Lease No. 200256 (OIL TANK STORAGE & EQUIPMENT WAREHOUSE) Lease No. 211,292 (10' x 12' AGGREGATE UNLOADER) (PARKS) and identified as "Those portions of Lots 1 through 11, Block "A" and Lots 1 through 3, Block "B" of the Railway Company Subdivision at Willapa Station" (Exhibit "B"), and are located in Section 28, Township 14 North, Range 8 West, W.M.;

NOW THEREFORE, for valuable consideration receipt of which is hereby acknowledged, the parties agree as follows:

1. **Assignment of Easement.** Pacific County Commissioners agree to assign their Easement for North Head Lighthouse Road to State Parks prior to March 29, 2012.
2. **Transfer of Property.** State Park will transfer at no fee all rights title and interest to Leased property to Pacific County, subject to State Park Commission approval, no later than April 30, 2012.
3. **Termination for Breach.** In the event either party breaches or fails to complete the above terms and conditions within a reasonable permit of time, the Agreement will be terminated.
4. **Contingencies**
 - a. This agreement is contingent upon the US Coast Guard (USCG) formally releasing Pacific County from any liability related to the easement for North Head Lighthouse Road, i.e., all liability arising after the date of assignment for said easement shall be transferred to State Parks. Should the USCG not agree to this condition the County has the unilateral right to rescind this agreement.
 - b. Both Pacific County's obligation to assign the easement under section 1 and State Parks obligation to transfer the Leased Property under section 2 are contingent upon the approval of such transfers by the relevant authority and performance by the other party. In the event that either party does not receive the necessary approval or fails to deliver the relevant documents at closing, this Agreement shall become null and void, and all obligations shall cease to exist.
5. **Closing.** The parties shall close the transaction by exchanging the necessary documents to effect the assignment and transfer as soon as practical after receive the relevant approvals.

EXECUTED as of the date herein below set forth.

Washington State Parks & Recreation
Commission

Pacific County

Larry Fairleigh, Assistant Director

Chair, County Commissioners

Date _____

Date _____

**PACIFIC COUNTY WASHINGTON
DEPARTMENT OF PUBLIC WORKS**

VOLUNTARY ASSIGNMENT OF EASEMENT DEED

THIS ASSIGNMENT is made by and between PACIFIC COUNTY WASHINGTON acting through the Department of Public Works ("County"), and the STATE OF WASHINGTON, acting by and through the WASHINGTON STATE PARKS AND RECREATION COMMISSION, whose address is 1111 Israel Rd. SW, Olympia, WA 98405("Assignee").

BACKGROUND

WHEREAS, the United States of America, acting by and through the United States Coast Guard (USCG) granted an Easement Deed to the County, dated July October 21, 1964 for easement and right-of-way over, across, in and upon that certain portion of land described in Exhibit A (Easement Deed) , attached hereto, for the establishment and maintenance of the exiting roadway as a County road for public use. Said road is known as North Head Light House Road No. 10160;

WHEREAS, the Assignee wishes to incorporate the North Head Light House Road No. 10160 into Cape Disappointment State Park.

WHEREAS, the USCG is willing to consent to the assignment of the Easement Deed as set forth herein and release the County from future liability and obligations related to the Easement Deed after the date of this assignment.

THEREFORE, the parties agree as follows:

SECTION 1 ASSIGNMENT AND ASSUMPTION.

County hereby assigns to Assignee all of County's rights, obligations and interests in and to the Easement Deed, and Assignee hereby assumes any and all of County's obligations arising under the Easement Deed arising after the date of this assignment and agrees to indemnify County against and hold County harmless from any and all liabilities, costs, losses, damages, claims or expenses, including, without limitation, reasonable attorney's fees, arising out of the obligations assumed herein.

SECTION 2 WARRANTIES

County represents and warrants to Assignee that;

- (i) The Easement Deed is in full force and effect;
- (ii) Any breaches or defaults under the Easement Deed that existed at the time the Easement Deed was voluntarily assigned to Assignee have been fully cured and County is not in default or breach of the Easement Deed;

To the best of County's knowledge, the property is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, and laws. County shall defend, indemnify and hold Assignee harmless from any claims or causes of action, known or unknown, of the County or its predecessors in interest that have or may arise from circumstances that precede this assignment, for any breach of the foregoing warranties and for subsequent claims or causes of action arising from Assignee's consent to this assignment that

SECTION 3 CONSENT TO ASSIGNMENT BY COUNTY

This assignment is contingent upon approval of the transfer of the Easement Deed and the North Head Light House Road No. 10160 to Assignee by the County Commissioners; and approval of the Governor's deed to quitclaim unto Pacific County all of State Parks right, title, and interest in and to that portion of Lots 1 though 11, Block "A; and Lots 1 though 3, Block "B" of the Railway Company's subdivision at Willapa Station (Tax Parcel number 14082842210).

SECTION 4 AMENDMENT.

This Assignment may not be changed or amended, except by a writing signed by each of the parties hereto.

SECTION 5 FURTHER ASSURANCES.

The parties shall from time to time do and perform such additional acts and execute and deliver such additional documents and instruments as may be required or reasonably requested by any party to effect the intents and purposes of this Assignment.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

PACIFIC COUNTY

Dated: _____, 20____

By: _____

Title:

Address:

STATE OF WASHINGTON
WASHINGTON STATE PARKS AND
RECREATION COMMISSION

Dated: _____, 2012 By: _____

Larry Fairleigh

Title: Parks Development Director

CONSENT AND RELEASE

The undersigned on behalf of the United States Coast Guard hereby consents to the assignment of the Easement Deed to Assignee and releases the County from liability arising out of performance of the Easement Deed after the date of this assignment.

UNITED STATES COAST GUARD.

Dated: _____, 2012 By: _____

DRAFT

EXHIBIT A

Beginning at a point on the 1/16 Section line, which point is S. 88° 50' 43" E. 3644.0 feet, more or less, from the special witness/meander corner to Section 5 T. 9 N., R. 11 W. of W.M.; Thence S. 25° 51' E. 64.6 feet to the true point of beginning of this description, the same being the intersection of the right-of-way herein described and the state highway; Thence S. 69° 33' W. 135.6 feet; Thence on a 36° 00" curve to the right through a central angle of 37° 44' a distance of 104.8 feet; Thence N. 72° 43' W. 148.8 feet; Thence on a 6° 00" curve to the left through a central angle of 14° 45' a distance of 245.8 feet; Thence N. 87° 28' W. 649.4 feet; Thence on a 3° 00' curve to the right through a central angle of 10° 02' a distance of 334.4 feet; Thence N. 77° 26' W. 284.5 feet; Thence on a 30° 00' curve to the left through a central angle of 57° 57' a distance of 193.2 feet; Thence S. 44° 37' W. 211.1 feet; Thence on a 80° 00' curve to the right through a central angle of 69° 30' a distance of 86.9 feet; Thence N. 65° 53' W. 121.0 feet; Thence on a 6° 00' curve to the right through a central angle of 14° 52' a distance of 247.8 feet; Thence N. 51° 01' W. 19.6 feet; Thence on a 4° 00' curve to the right through a central angle of 10° 19' a distance of 257.9 feet; Thence N. 40° 42' W. 601.2 feet, more or less.

AFTER RECORDING RETURN TO:

Washington State Parks and Recreation Commission
Attn: Lands Program
PO Box 42650
Olympia, WA 98504-2650

GOVERNOR'S DEED

Grantor: STATE OF WASHINGTON, acting by and through the Washington State Parks and Recreation Commission

Grantee: PACIFIC COUNTY, a local government municipality

Legal Desc: THOSE PORTIONS OF Lots 1 through 11,Block "A" and Lots 1 through 3, Block "B" of the Railway Company's subdivision at Willapa station as indicated by yellow color on Railway Company's sketch dated April 10, 1970 identified as Exhibit "A", attached here and made part thereof. (Approx. Area 50,660 sq. ft.), Pacific County, Washington

Tax Parcel Number: 14082842210

WHEREAS, Pacific County has requested the transfer of approximately 1.16 acres of land abutting the Willapa Hills Trail in Pacific County, Washington; and

WHEREAS, Pacific County currently leases the property for the stockpile of road maintenance materials, maintaining oil storage tanks and equipment warehouse uses; and

WHEREAS, the State of Washington, acting by and through the Washington State Parks and Recreation Commission (WSPR), at the Commission's March 29, 2012 meeting in Olympia, Washington, authorized the direct transfer of a portion of Willapa Hills State Park to Pacific County, Washington.

NOW THEREFORE, the STATE OF WASHINGTON, acting by and through the WASHINGTON STATE PARKS AND RECREATION COMMISSION, as Grantor, for good and valuable consideration, pursuant to the provisions of RCW 39.33.010, and on such terms and conditions as are hereinafter stated, hereby transfers, conveys and quitclaims unto Pacific County, as Grantee, all of its right, title, and interest in and to that portion of Willapa Hills State

Park as particularly described above.

Subject to the following:

1. Grantor retains the right of ingress and egress over and upon the subject property. Locations shall be mutually agreed to by both parties;
2. Grantor retains the right to stockpile construction materials for projects associated with the Willapa Hills State Parks trail on an as needed bases. Locations shall be mutually agreed to by both parties

The property conveyed herein is subject to any and all encumbrances.

Dated this _____ day of _____, 20__.

STATE OF WASHINGTON

GOVERNOR

ATTEST: _____
SECRETARY OF STATE

Approved as to form only:

ROB MCKENNA
Attorney General

By _____
JIM SCHWARTZ
Assistant Attorney General

APPENDIX 3
SUMMARY OF PUBLIC INVOLVEMENT PROCESS

This page will be replaced once we have completed the public meeting

NOTICE OF PUBLIC HEARING
Pacific County, Washington

STATE OF WASHINGTON
PARKS AND RECREATION COMMISSION
Land Transfer to Pacific County (Parcel No. 14082842210)

Washington State Parks and Recreation Commission staff will conduct a public hearing on XXXXXX at 5:00 p.m., in the XXXXX. The purpose of this hearing is to take public comment for the record on the proposed land transfer of approximately 1.16 acres of land abutting the Willapa Hills Trail which is currently lease to the County, in Sections 28, Township 14 N, Range 8 W., in Pacific County. As required by RCW 39.33.010, the state may transfer lands to other governmental entities.

The public will have another opportunity to comment when the proposed transfer is presented to the Commission at its regularly scheduled meeting March 29, 2012 in Port Townsend, WA.

For additional information regarding the proposed transfer, please call State Parks' Lands Program at (360) 902-8680. The meeting site is accessible to persons with disabilities. If you require accommodations for attendance, please contact our Headquarters Office at (360) 902-8500 or TDD (360) 664-3133.

_____ citizens attended the public hearing, conducted by Lands Program Manager Steve Hahn, who took their comments for the record. Following is a fair and true summary:



Don Hoch
Director

STATE OF WASHINGTON
WASHINGTON STATE PARKS AND RECREATION COMMISSION

1111 Israel Road SW · P.O. Box 42650 · Olympia, Washington 98504-2650
(360) 902-8500 · Washington Telecommunications Relay Service at (800) 833-6388
www.parks.wa.gov

March 29, 2012

**Item E-X: Willapa Hills Trail State Park – Pacific County Land Transfer –
Requested Action - Expedited**

EXECUTIVE SUMMARY: This item requests that the Commission approve the transfer of 1.16 acres of State Park property currently leased to Pacific County as a county road maintenance facility and located within Willapa Hills Trail State Park to Pacific County. This item complies with our Centennial 2013 Plan element, “Our Commitment - Financial Strategy” and with our core values.

SIGNIFICANT BACKGROUND INFORMATION: Washington State Parks acquired the property for what is now Willapa Hills Trail State Park from the Burlington Northern Railroad in 1993. The former railroad right-of-way is presently managed as a linear “rail-trail”. The property being proposed for transfer was originally leased to the county by the railroad in 1970 as a fuel storage facility via a lease with no termination date. The lease area is approximately 1.16 acres and is adjacent to the current trail corridor. The current lease fee is \$250 per year. Pacific County has requested that State Parks transfer this property which is currently used by the county as a road maintenance yard and sand and gravel stockpile area.

Staff to the Commission has inspected the property and find the site has very low recreational value to the public. The property does provide usable space (material storage and trail surfacing stockpile locations) which could be used for future trail development and maintenance projects along the Willapa Hills Trail. Staff has established the market value for the property at \$12,000. Staff additionally believes the property has a moderate level of environmental risk associated with it due to historic uses and activities conducted on the property.

As a condition of any proposed transfer, State Parks will acquire the legal right to stockpile trail surfacing materials (sand, gravel and equipment) for future capital projects associated with the trail together with the ability to utilize or purchase county owned trail surfacing materials as mutually agreed to between the two parties. Additionally, State Parks will retain ingress and egress across the property as needed to access the trail corridor.

The county has also agreed in principle to transfer to State Parks, their jurisdictional rights as currently held through an easement agreement with the United States Coast Guard for the North Head Lighthouse Road, located within Cape Disappointment State Park. This action will provide State Parks with control and tenure over the road right-of-way as needed to use \$1,600,000 dollars of currently available Washington Wildlife and Recreation Program grant funding to begin construction of the multi use trail planned for the area.



STAFF RECOMMENDATION: Staff recommends that the Commission approve the transfer of 1.16 acres of lands as shown on Appendix 1 and 2 be approved.

LEGAL AUTHORITY: RCW 39.33.010 - Sale, exchange, transfer, lease of public property authorized - Section deemed alternative.

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, or a federally recognized Indian tribe, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned. In addition, the state, or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease, or otherwise dispose of personal property, except weapons, to a foreign entity.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972, shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

SUPPORTING INFORMATION:

Appendix 1 - Vicinity and Subject Property Map

Appendix 2 - Legal Description

Appendix 3 - Summary of Public Involvement Process

REQUESTED ACTION FROM STAFF:

That the Washington State Parks and Recreation Commission:

Authorize the transfer of approximately 1.16 acres of property located within Willapa Hills Trail State Park directly to Pacific County for the public benefits detailed in this item contingent upon Pacific County's release of their partial interest in property located within the North Head Lighthouse Road within Cape Disappointment State Park.

Author(s)/Contact: Steve Hahn, Property Management Program Manager
Steve.Hahn@parks.wa.gov Phone: (360)-902-8683

Reviewer(s):

Randy Kline, SEPA Review: Following review, staff has determined that the action proposed for the Commission by staff is exempt from the State Environmental Policy Act (SEPA) pursuant to WAC 197-11-800 (5)(b).

Terri Heikkila, Fiscal Impact Statement: The proposed transfer will have a minimal yearly savings, but has a very positive broader impact by providing State Parks control and tenure at North Head Lighthouse Road within Cape Disappointment. Obtaining control and tenure at North Head Lighthouse Road will allow an important trail connection to be developed with a recently approved \$1.6 million Washington Wildlife Recreation Program grant.

Jim Schwartz, Assistant Attorney General: Approved February 16, 2012

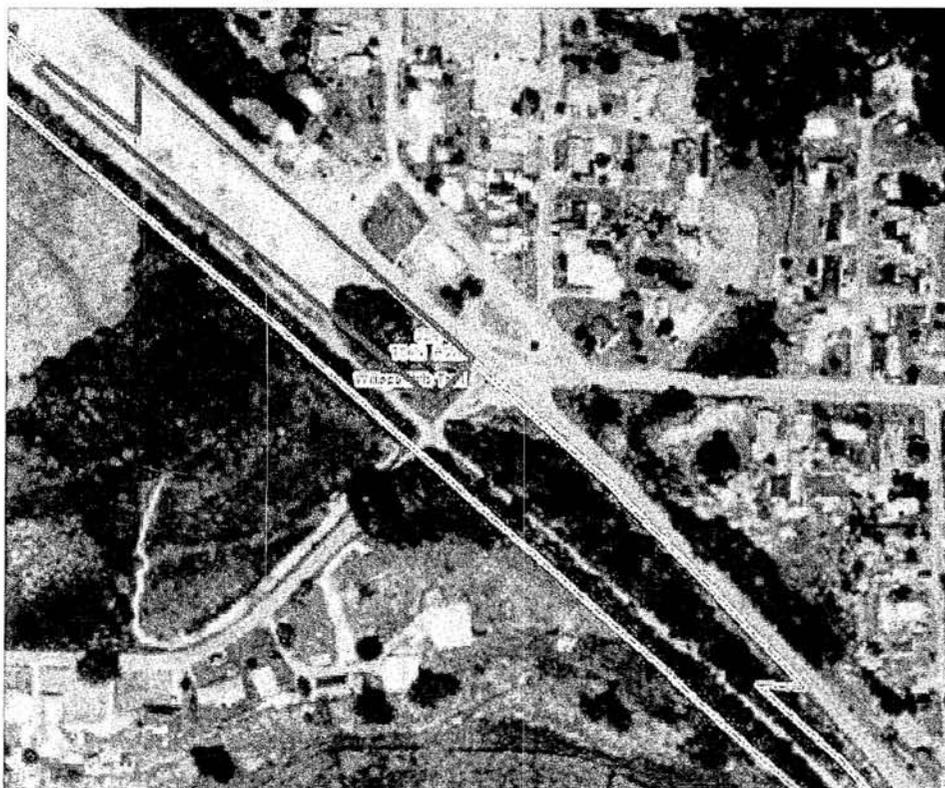
Larry Fairleigh, Assistant Director

Ilene Frisch, Acting Deputy Director: _____

Approved for Transmittal to Commission

Don Hoch, Director

APPENDIX 1:
Vicinity and Subject Property Map



APPENDIX 2
LEGAL DESCRIPTION

THOSE PORTIONS OF Lots 1 through 11, Block "A" and Lots 1 through 3, Block "B" of the Railway Company's subdivision at Willapa station as indicated by yellow color on Railway Company's sketch dated April 10, 1970 identified as Exhibit "A", attached here and made part thereof. (Approximate area - 50,660 sq. ft.)