



**INTERAGENCY AGREEMENT**  
**Between**  
**WASHINGTON STATE PARKS AND RECREATION COMMISSION**  
**And**  
**PACIFIC COUNTY DEPARTMENT OF PUBLIC WORKS**  
**AGREEMENT NO. IA 315-037**



This Agreement is made and entered into by and between the Washington State Parks and Recreation Commission, referred to as "PARKS", and Pacific County Department of Public Works referred to as "County," and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

**1. PURPOSE**

The purpose of this Agreement is to provide maintenance of Ocean Beach (GAP) roads.

**2. STATEMENT OF WORK**

The COUNTY shall furnish the necessary personnel, equipment, material, and/or services and otherwise do all things necessary for or incidental to the performance of the work set forth in the scope of work below:

- 1) The gap road maintenance shall be defined as that section of road providing beach access between the November 11, 1889, line or ordinary high tide or westerly from the last point of development or private access, whichever is furthest west and the existing high tide line as is now or may be.
- 2) The County shall continue to maintain all Pacific Ocean beach gap roads at the expense of the County. The State, subject to the availability of State funds, shall reimburse the County for County maintenance during the fiscal years of 2013-2014 and 2014-2015, for Pacific Ocean beach gap roads as follows:
  - (1) Midway
  - (2) Oysterville
  - (3) Ocean Park
  - (4) Cranberry
  - (5) Klipsan
  - (6) Seaview
  - (7) Warrenton Cannery
- 3) The County shall issue use permits to the State prior to any expenditure of State funds. The use permits shall apply to the gap road areas lying, approximately, between the November 11, 1889 line of ordinary high tide and the U.S. Coast and Geodetic Survey mean high tide line. The use permit is attached and made part of this agreement as Exhibit "A".
- 4) The County will maintain the gap roads designated by this Agreement for public access as is needed for each individual gap road. The amount of expected public usage shall be the determinative factor for degree of maintenance for any particular gap road at any particular time during the year. The County maintenance policy is to keep the gap roads accessible when there is a high demand for their usage and to not maintain them when there is a low demand. In the event a gap road is not opened to the public for 12 consecutive months the county may only be reimbursed for maintenance on said gap road at Parks sole discretion.
- 5) The State shall post the Pacific Ocean beach gap roads with the necessary signs, covering such regulations of the State as are now in effect, provided that Pacific County will put up warning signs if the County determines that a gap road approach is dangerous for current use at any given time.

### **3. PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of performance of this Agreement shall commence on July 01, 2013, and be completed on June 30, 2015, unless terminated sooner as provided in this Agreement, or extended through a properly executed amendment.

### **4. COMPENSATION**

Compensation for the work provided in accordance with this Agreement has been established under the terms of chapter 39.34.130 RCW. The parties have estimated that the cost of accomplishing the work herein will not exceed **Seventy Thousand, And No/100ths Dollars (\$70,000.00)**. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount prior to the commencement of any work that will cause the maximum payment to be exceeded. Compensation for services shall be based on the following rates and in accordance with the following terms:

Reimbursement for fiscal year 2013-2014 shall be \$5,000.00 per gap road maintained and or the fiscal year 2014-2015, \$5,000.00 per gap road maintained, for a total biennium expenditure of \$70,000.00.

### **5. BILLING PROCEDURES**

The County shall submit invoices no more often than monthly. Payment for approved goods and/or services will be made by warrant or account transfer within 30 days of receipt of the invoice. Upon expiration of the Agreement, invoices shall be paid, if received within 30 days after the expiration date. However, invoices for all work done within a fiscal year must be submitted within 30 days after the end of the fiscal year.

### **6. BILLING DETAIL**

Each invoice voucher submitted to PARKS by the County shall include such information as is necessary for the PARKS to determine the exact nature of all expenditures. At a minimum, the County shall specify the following:

- 1) Parks Agreement Number IA 315-037
- 2) Gap roads maintained, including cost per gap road.
- 3) The total invoice charge.

### **7. DUPLICATION OF BILLED COSTS**

The County shall not bill the PARKS for services performed under this contract, and the PARKS shall not pay the County, if the County is entitled to payment or has been or will be paid by any other source, including grants, for that service.

### **8. FUNDING CONTINGENCY**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to completion of the work in this Agreement, the PARKS may:

- 1) Terminate this Agreement with Thirty (30) days advance notice. If this Agreement is terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- 2) Renegotiate the terms of the Agreement under those new funding limitations and conditions,
- 3) After a review of project expenditures and deliverable status, extend the end date of this Agreement and postpone deliverables or portions of deliverables, or
- 4) Pursue such other alternative as the parties mutually agree to writing.

### **9. AMENDMENT**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

**10. ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising under this Agreement, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

**11. ASSURANCES**

The parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable federal, state and local laws, rules, and regulations as they currently exist or as amended.

**12. CONTRACT MANAGEMENT**

The contract manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Contract Manager for PARKS is:	The Contract Manager for County is:
Louise Sexsmith, AA4 <i>(Contract Manager's Name &amp; Title)</i>	Mike Collins, Director/County Engineer <i>(Contract Manager's Name &amp; Title)</i>
Washington State Parks	Pacific County Dept of Public Works
PO Box 42650 <i>(Contract Manager's Address)</i>	PO Box 66 <i>(Contract Manager's Address)</i>
Olympia WA 98504-2650 <i>(Contract Manager's Address)</i>	South Bend WA 98586-6066 <i>(Contract Manager's Address)</i>
Phone: (360) 725-9772 FAX: (360) 586-4272 E-Mail: <a href="mailto:louise.sexsmith@parks.wa.gov">louise.sexsmith@parks.wa.gov</a>	Phone: (360) 875-9368 FAX: (360) 875-9377 E-Mail: <a href="mailto:kbannish@co.pacific.wa.us">kbannish@co.pacific.wa.us</a>

**13. DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

The cost of resolution will be borne as allocated by the Dispute Board.

**14. GOVERNING LAW AND VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought under this Agreement shall be in Superior Court for Thurston County.

**15. INDEPENDENT CAPACITY**

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

**16. MAINTENANCE OF RECORDS**

a. The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All

books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of agreement. The Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

- b. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- c. Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available any confidential information to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. However, the parties acknowledge that State Agencies are subject to chapter 42.56 RCW, the Public Records Act.

## **17. ORDER OF PRECEDENCE**

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- 1) Applicable state and federal statutes, and local laws, rules and regulations;
- 2) Statement of Work;
- 3) Exhibits and Appendices – list separately; and
- 4) Any other provisions of the agreement, including materials incorporated by reference.

## **18. RESPONSIBILITIES OF THE PARTIES**

Each party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act, or omission of any person, agency, firm, or corporation not a part to this Agreement.

## **19. SEVERABILITY**

If any term or condition of this Agreement is held invalid, such invalidity shall not affect the validity of the other terms or conditions of this Agreement.

## **20. SUBCONTRACTING**

- a. "Subcontractor" means one not in the employment of a party to this Agreement, who is performing all or part of those services under this Agreement under a separate contract with a party to this Agreement. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- b. Except as otherwise provided in the Agreement, the County shall not subcontract any of the contracted services without the prior approval of the PARKS. The County is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all Subcontracts. Any failure of County or its Subcontractors to perform the obligations of this Agreement shall not discharge County from its obligations under this Agreement.

## **21. TERMINATION FOR CAUSE**

If for any cause either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written

notice of the aggrieved party to the other.

**22. TERMINATION FOR CONVENIENCE**

Either party may terminate this Agreement upon 30 calendar days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**23. WAIVER**

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement. Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by personnel authorized to bind each of the parties.

**24. ALL WRITINGS CONTAINED HEREIN**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

**Washington State Parks and  
Recreation Commission**

**Pacific County  
Department of Public Works**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit "A"**  
**Use Permit**

**WHEREAS**, County and Parks have entered into an agreement for the maintenance of the ocean beach gap roads owned by the County, and

**WHEREAS**, said agreement provides that the maintenance shall be performed by the County through financial aid from Parks, and

**WHEREAS**, said agreement further provides that prior to expenditure of State funds the County shall issue use permits to the Parks for all gap roads included under the agreement.

**NOW THEREFORE**, the County, acting through its Board of Commissioners, does hereby grant to Parks, for and in consideration of mutual benefits, the right to use for public access purposes all that part of the following named ocean beach gap roads lying between the line of ordinary high tide as it existed on November 11, 1889, or westerly of the last point of development or private access, whichever is furthest west, and the existing line of ordinary high tide as it is now or may hereafter be located:

- (1) Midway
- (2) Oysterville
- (3) Ocean Park
- (4) Cranberry
- (5) Klipsan
- (6) Seaview
- (7) Warrenton Cannery

The term of this permit is to run concurrently with the term of the maintenance agreement and shall expire automatically upon expiration of the agreement.

This permit shall also be automatically renewed or extended upon renewal or extension of the maintenance agreement, but may be modified and/or abridged to suit new conditions and circumstances.

**WITNESS** our hands and the official seal of our office this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**PACIFIC BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Lisa Ayers, Commissioner

\_\_\_\_\_  
Frank Wolfe, Commissioner

\_\_\_\_\_  
Steve Rogers, Commissioner

STATE OF WASHINGTON )

)ss

COUNTY OF PACIFIC )

**THIS IS TO CERTIFY:** That on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared \_\_\_\_\_, to me personally known to be the Board of County Commissioners of Pacific County, State of Washington, who executed the foregoing instrument and acknowledged to me that they signed and sealed the same as the free and voluntary act and deed, and on oath stated they were authorized to execute said instrument and that the seal affixed is the seal of said county.

**WITNESS** my hand and official seal the day and year in this certificate first above written.

\_\_\_\_\_  
**Notary Public in and for the State of Washington,**

Residing at \_\_\_\_\_