

INTERLOCAL AGREEMENT BETWEEN THURSTON COUNTY AND THE CITY OF
LACEY REGARDING LONG LAKE

This agreement is made and entered into by and between Thurston County, a subdivision of the State of Washington, hereinafter, "County" and the City of Lacey, a municipal corporation, hereinafter, "City".

WHEREAS, the Cities of Lacey, Olympia, and Yelm represent that they have made application to the Department of Ecology for certain new water rights or changes (i.e. G2-30248, G2-30249, G2-29304, G2-30251, G2-29165, G2-30250, Certificates 8030 and S2-001105C, and G2-29085) which groundwater modeling has shown could, in aggregate when fully developed, result in a one-inch lowering of the water level in Long Lake under certain conditions; and

WHEREAS, the City of Lacey's mitigation plan identifies three phases of development and use of Lacey's requested water rights, consisting of Phase 1 (G2-30248 and G2-30249), Phase 2 (G2-29304 and G2-30251) and Phase 3 (G2-29165 and G2-30250); and

WHEREAS, Thurston County is legally responsible for the funds and operations of Long Lake Management District No. 19 pursuant to Chapter 36.61 RCW; and

WHEREAS, the Long Lake Management District No. 19 Steering Committee, which makes recommendations to the County for protection of water quality, fish and wildlife habitat, recreation, and aesthetic values of Long Lake, has expressed concerns to the City about potential impacts to these values from reduced water levels in Long Lake; and

WHEREAS, the City, on behalf of itself, and the cities of Olympia and Yelm, wishes to provide for water monitoring, data sharing, and support other activities to protect and enhance Long Lake by funding work of Thurston County as set forth in this agreement,

NOW, THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. In consideration of the benefits to be derived by the County, and indirectly Long Lake Management District No. 19, the County agrees to perform the work set forth herein in cooperation with the City, which shall supplement the County's work that is funded by rates and charges imposed within Long Lake Management District No. 19.
2. **Relationship of the Parties.** The City and the County agree that they intend to act cooperatively pursuant to the authority of chapter 39.34 RCW to accomplish the purposes recited herein. No separate legal entity is created by this Agreement. This Agreement shall be administered jointly by the City and the County by the following representatives, or any successor representative designated by a party.

The representative for the County shall be:

Rich Doenges
Water Resources Program
929 Lakeridge Drive SW
Bldg. 4, Room 100
Olympia, WA 98502

The representative for the City shall be:

Peter C. Brooks, P.E.
City of Lacey
Water Resources
420 College Street
Lacey, WA 98503

3. **Scope of Project.** Upon the City's payment to the County as set forth below in Section 4, the City and the County shall cooperate and participate in the performance of the following program of work, subject to the available funding.

A. Data collection and analysis of lake water level, precipitation, and specific water quality parameters for water resources located in Long Lake or its immediate environs. The County shall provide technical and administrative oversight of the monitoring the work, including sampling site locations, water quality parameters and sampling methodology. The data collection and analysis will follow Thurston County Environmental Health Division's standard operating procedures for water quality monitoring and be consistent with Quality Assurance Project Plan guidelines as established by the Washington Department of Ecology. The City shall process and post this data semi-annually on the City's web site. The parties will agree on the frequency and specific water quality parameters to be tested, which may include data collection at least twice each year of turbidity, pH, dissolved oxygen, conductivity, and total phosphorus.

B. The County shall provide data results to the City in a mutually acceptable format. Water level data shall be provided at semi-annual intervals or by request and water quality data annually. The City shall process and post this data semi-annually on the City's web site.

4. **Financing.** The City shall, on behalf of the cities of Lacey, Olympia and Yelm, make the following annual payments which payments shall commence for the first year that the City begins to pump water allowed by the water rights approved by the Department of Ecology:

A. The City shall pay to the County the sum of \$2,500 per year, adjusted to current dollars as set forth below, for water level and quality monitoring activities identified in Section 3(A) of this Agreement.

B. The City shall pay to the County the following amounts, adjusted to current dollars as set forth below, to fund activities for the protection of water quality, fish and wildlife habitat, recreation, and aesthetic values of Long Lake.

During the first year and each year thereafter that the City draws water from wells included within the Phase 1 water rights request, the City shall pay an additional \$1,500 to the County.

During the first year and each year thereafter that the City draws water from wells included within the Phase 2 water rights request, the payment under this subsection shall be increased to \$2,500 per year.

During the first year and each year thereafter that water is drawn from wells within the Phase 3 water rights request and thereafter, the payment under this subsection shall be increased to \$4,500 per year.

C. The payments called for in this section are based upon February, 2011 dollars which shall be the base year. Payments shall be adjusted annually beginning February 1, 2012 based on the Engineering News & Record Construction Cost Index (ENR CCI). For example, if the increase in the (ENR CCI) from the base year is 3.0%, then the annual payments will be increased by 3.0%.

D. The City shall transmit each annual payment to the County on or before January 30 of each year. The payments shall then be deposited by the County into the Long Lake Management District account for supplementing the County's work in Long Lake that is funded by this account.

5. **Hold Harmless.** The City agrees to defend and hold harmless the County, its officers, employees and agents from any and all liability arising from actions of the City, its officers, employees and agents. Provided, that in the event of the concurrent negligence of the parties, the City's obligations hereunder shall apply only to the percentage of fault attributable to the City, its employees, agents or subcontractors.

The County agrees to defend and hold harmless the City and its officers, employees and agents from any and all liability arising from actions of the County, its officers, employees and agents in the performance of this agreement. Provided that in the event of the concurrent negligence of the parties, the County's obligations hereunder shall apply only to the percentage of fault attributable to the County, its employees, agents or subcontractors.

6. **Governing Law and Venue.** This agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The parties hereby agree that venue for enforcement of any provisions of this Agreement shall be the Superior Court of Thurston County, Washington.

7. **Entire Agreement.** The parties agree that this Agreement is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded.

8. **Duration.** This Agreement will take effect upon the City filing it with the Thurston County Auditor, or posting upon the website of at least one of the parties as provided by RCW 39.34.040, and shall continue in effect until terminated as provided herein.

9. **Termination.** This Agreement may be terminated by mutual written Agreement of the parties. Provided, however, that during such time as the Long Lake Management District continues to exist, such termination shall not occur without the parties first providing written notice and engaging in consultation with the Steering Committee of said District. 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. The hold harmless and indemnification provisions of this Agreement shall survive termination or expiration of this Agreement.

10. **Severability.** If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

CITY OF LACEY

By: 

Date: 9-28-2012

ATTEST:

Care Little
City Clerk

BOARD OF COUNTY COMMISSIONERS
Thurston County, Washington


CHAIR

Karen Valenzuela
VICE CHAIR

Sandra Romero
COMMISSIONER

Date: October 23, 2012

APPROVED AS TO FORM:


City Attorney

ATTEST:

Laborita L. Bruyner
Clerk of the Board

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY

By: 
Deputy Prosecuting Attorney