

**INTERLOCAL AGREEMENT BETWEEN  
THE CITIES OF OLYMPIA, LACEY AND YELM  
FOR A WATER RIGHTS ACQUISITION STRATEGY**

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**Whereas**, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**Whereas**, pursuant to RCW 39.34.080, each party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: provided, that such contract shall be authorized by the governing body of each party to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Cities of Lacey, Olympia and Yelm (Cities) agree as follows:

**I. Purpose/Objective**

The Cities are each developing mitigation plans to offset potential surface water impacts to the Deschutes River from groundwater withdrawals from the McAllister sub-basin of the Nisqually River watershed. As part of a regional approach for water resource management and mitigation within the basin, the Cities wish to pool mitigation efforts. Acquisition of consumptive water rights is one mitigation action currently proposed by the Cities. The purpose of this Agreement is to allow the Cities to contract with an independent consultant to identify potential water rights for acquisition within the

Deschutes Basin that can be relinquished for mitigation, placed in trust, or put to other beneficial use in furtherance of agreed goals for resource enhancement and mitigations.

## **II. Scope of Agreement/Work**

The Cities agree to jointly engage the services of one or more consultants to assist the Cities in planning for the acquisition of water rights to mitigate surface water impacts on the Deschutes River and to assist in acquiring such water rights.

The work is currently planned in two phases. The first phase will include tasks necessary for planning the acquisition strategy and identifying water rights for acquisition. The second phase will include implementation of the acquisition strategy by initiating contact with necessary parties and negotiating for acquisition. This Agreement provides authority for the Cities to enter into the necessary professional services agreement to accomplish all tasks necessary for Phase One.

For Phase One, the Cities will enter into a professional services agreement with Westwater Research. Westwater Research will research and identify surface or groundwater rights that can be acquired and retired, placed in trust or otherwise reallocated to mitigate for modeled impacts to surface water bodies in the Deschutes River watershed, from new points of withdrawal proposed by each city. All reports will be provided to each city independently, however, the Cities shall have equal access to any reports generated by Westwater Research or any consultant regarding this project. Westwater Research will deliver draft results to each of the three cities for initial review, and comments from the Cities will be accepted and incorporated into a final report. The parties expect that all information obtained will be shared only amongst the Cities, except as otherwise required by law.

The Cities agree that none of the water rights identified under the scope of this project will be purchased or acquired by any of the Cities, either individually or as part of a group, prior to separate agreement by the Cities setting forth the process for: (1). Obtaining further research and analysis of water rights; (2). Deciding which water rights to acquire; (3). Acquiring the selected water rights; (4). Disposition of acquired water rights; and (5). Apportioning interests among the jurisdictions in water rights or benefits derived from the acquired water rights.

## **III. Payment (or Funding/Costs/etc.)**

The Cities will equally divide costs. Total costs for Phase One are not to exceed forty one thousand eight hundred and twenty and 00/100 dollars (\$41,820.00).

**IV. Method of Payment**

A. The consultant will invoice each City separately on a monthly basis.

B. Payment will be made separately by each City to the consultant upon receipt of an acceptable invoice, after completion of each tasks agreed upon in the professional services agreement.

**V. Indemnification & Insurance**

Each City agrees to defend, indemnify and hold the other cities, their officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with the indemnifying City's performance of this Agreement, including injuries and damages caused by the negligence of the indemnifying City's officers, officials and employees.

**VI. No Separate Entity Created**

This Agreement creates no Joint Board and no separate legal entity.

**VII. Duration of Agreement**

This Agreement shall be effective on the date of the last signature affixed hereto and shall terminate upon completion of the tasks necessary to accomplish the purpose of the agreement, unless sooner terminated by the Cities as provided herein.

**VIII. Termination of Agreement**

This Agreement may be terminated upon mutual agreement of the Cities.

**IX. Interpretation and Venue**

A. 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 shall be the Superior Court of Thurston County.

**X. Entire Agreement**

This Agreement sets forth all terms and conditions agreed upon by the Cities and supercedes any and all prior agreements oral or otherwise with respect to the specific subject matter addressed herein.

**XI. Recording**

Prior to its entry into force, this Agreement shall be filed with the Thurston County Auditor's Office or posted upon the Cities' websites as provided by RCW 39.34.040.

**XII. Notice**

Any notice required under this Agreement shall be to the party at the address listed below and shall become effective three days following the date of deposit with the United States Postal Service.

**CITY OF OLYMPIA:**

Attn: Tikva Glantz, Program and Planning Supervisor  
Re: Water Rights Acquisition Strategy/Deschutes Basin  
PO Box 1967  
Olympia, WA 98507-1967

**CITY OF LACEY:**

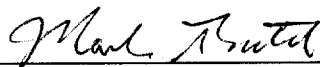
Attn: Peter Brooks, Water Resource Manager  
Re: Water Rights Acquisition Strategy/Deschutes Basin  
P.O. Box 3400  
Lacey, WA 98509-3400

**CITY OF YELM:**

Attn: Shelly Badger, City Administrator  
Re: Water Rights Acquisition Strategy/Deschutes Basin  
P.O. Box 479  
Yelm, WA 98597

This Agreement is hereby entered into between the Cities and shall take effect on the date of the last authorizing signature affixed hereto:

**CITY OF OLYMPIA**

  
\_\_\_\_\_  
~~Steve Hall, City Manager~~


Mark Foutch, Mayor

Date: 11-05-07

Approved as to form:


  
\_\_\_\_\_  
Annaliese Harksen, Asst. City Attorney

**CITY OF LACEY**

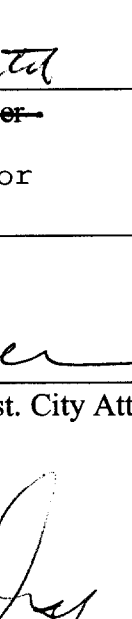
  
\_\_\_\_\_  
Greg Cuojo, City Manager

Date: 10-29-07

Approved as to form:


  
\_\_\_\_\_  
Ken Ahlf, City Attorney

**CITY OF YELM**

  
\_\_\_\_\_  
Ron Harding, Mayor

Date: Nov. 14, 2007

Approved as to form:

  
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Kathleen Callison, City Water Rights Attorney