

2022 CHINOOK PARK HOST AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into _____, by and between LARRY AND DOREENA THOMAS, hereinafter called the HOST, and the County of Pacific, a municipal corporation of the State of Washington, hereinafter called the COUNTY.

WHEREAS, the COUNTY desires to have certain park maintenance and operation services performed and the HOST has the necessary skills and capabilities and experience to perform said park maintenance and operation services, as set forth below;

NOW THEREFORE, in consideration of the terms, conditions and performance contained herein, the parties hereto agree as follows:

1. **LOCATION.** The park maintenance and operation site shall be CHINOOK PARK located at 16 Chinook Park Rd, Chinook, WA 98614.
2. **TERM.** This Agreement shall commence on May 1, 2022 and shall terminate on September 30, 2022.
3. **DESCRIPTION OF SERVICES.** During the term of this Agreement, the HOST shall provide the following services:
 - A. Keep the park clean and available for renters of the park.
 - B. Have the park available for daily use by the general public between the hours of 8:00 AM and 10:00 PM. The operation of the park can exceed five (5) months, but must be consecutive with the regular operating period and only upon approval by the COUNTY.
 - C. Provide the proper janitorial/custodial service for the park restrooms. The COUNTY agrees to provide all necessary operating supplies for the restrooms, supplied at COUNTY'S sole cost and expense.
 - D. Provide all general maintenance of the park grounds, equipment and facilities to include, but not limited to, mowing, weeding and litter pickup, all to be completed with equipment provided by the COUNTY (Husqvarna, Serial No. 021911A001634 riding lawn mower) with no usage fee, for the purpose of park mowing and for park maintenance within the boundaries of Chinook Park. The COUNTY agrees to maintain the mower for the duration of the Agreement. The COUNTY will provide fuel for the riding lawn mower. At the conclusion of this Agreement, the mower shall be returned to the COUNTY in proper working order.

- E. The HOST shall not allow property owned by the COUNTY to be removed from premises. This includes, but is not limited to, any fallen trees located within the park.
4. **PARK FEES.**
- A. The HOST shall not collect fees from persons or groups using the park.
5. **PARK CLOSURE.** The HOST may temporarily close the park upon prior approval of the COUNTY with at least seven (7) days' prior written notice to the Pacific County Parks Manager. Closing of the park on short notice is only allowed during an emergency or a severe weather event.
6. **LONG TERM USE.** Agreements for long-term use of the facilities in excess of three (3) weeks shall require prior approval of the COUNTY.
7. **COMPENSATION.**
- A. The COUNTY will provide a space at the park for the location of a recreation vehicle for the HOST; the COUNTY will provide electrical power, water, sewer and garbage disposal services to the site. No other utility services shall be provided.
- B. The COUNTY will pay a one-time reimbursement to the HOST in an amount not to exceed \$900 (Nine Hundred Dollars) for the HOST's cost of obtaining the insurance policy as described in Paragraph 21 below. The HOST will pay the insurance premium and present a receipt to the COUNTY for reimbursement. In the event that the cost of the insurance exceeds \$900, HOST shall be solely responsible for paying the remaining balance due.
8. **STRUCTURES.** No structures shall be erected on the premises, and no residence will be permitted, without prior written approval of the COUNTY. The HOST shall bear all costs associated with placement and/or removal of HOST's facility.
9. **APPEARANCE.** The HOST shall keep and maintain their recreational vehicle, and the area outside of their recreational vehicle, in a neat and sanitary condition at all times. The COUNTY reserves the right to request removal of personal items around the recreation vehicle if it appears to be disorderly.
10. **USES RESERVED BY COUNTY.** The COUNTY will retain use of the campsites at the southwesterly end of the park (known as campsites G-01 and G-02), also the area across the park road from the referenced campsites where the storage building currently exists, and that easterly portion of the park located between State Route 101 and the referenced campsites for use by the Pacific County Health and Human Services Youth Adventures Program.

11. **REPAIRS OR MAINTENANCE BY COUNTY.** The COUNTY reserves the right to determine whether repairs and maintenance shall be performed and the right to schedule such repairs and maintenance. Maintenance by the COUNTY will be performed at the convenience of the COUNTY, and the COUNTY shall not be held liable for any losses of any nature by the HOST or other affected parties.
12. **EMPLOYEES OF HOST.** The HOST shall not employ anyone in fulfillment of this Agreement who is required to register as a sex offender under Chapter 9A.44.130 RCW or who has been prohibited from contact with a vulnerable adult under Chapter 74.34.130 RCW.
13. **RELATIONSHIP OF PARTIES.** It is understood by the parties that HOST is an independent contractor with respect to COUNTY, and is not an employee of COUNTY. COUNTY shall not provide fringe benefits, including health insurance benefits, paid vacation, or any other employee benefit, for the benefit of HOST or its employees.
14. **FEDERAL, STATE, AND LOCAL PAYROLL TAXES.** No federal or state income tax, or payroll tax of any kind shall be withheld or paid by COUNTY on behalf of HOST or the employees of HOST. No employees of HOST shall be treated as employees with respect to services performed hereunder for federal or state tax purposes. HOST shall be solely responsible for paying any and all taxes, FICA, worker's compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit-sharing, and other benefits for HOST and its employees, servants, and agents.
15. **WORKERS' COMPENSATION.** No workers' compensation insurance shall be obtained or paid for by COUNTY concerning HOST or the employees of HOST. HOST shall comply with workers' compensation laws concerning HOST and the employees of HOST.
16. **FRINGE BENEFITS.** Because HOST is an independent business, neither HOST nor any employees of HOST shall be eligible for or participate in any employee pension, health or fringe benefit plan of COUNTY.
17. **TERMINATION.** Either party shall have the right of cancellation or termination of this Agreement with or without reason, by serving notice on the other party by certified mail, return receipt requested, of such intent to cancel or terminate this entire Agreement at least (30) thirty days prior to any such proposed cancellation or termination date; such cancellation or termination to be without recourse except for any sums owing to either party at the end of cancellation or termination.
 - A. The HOST shall be solely responsible for removing all their personal property from the park grounds within (30) thirty days of the notification of cancellation or termination of this Agreement. If said personal property has not been removed within the time specified, the COUNTY shall have said property removed and the HOST shall be solely responsible for bearing all costs involved.

- B. Should criminal charges be filed in a jurisdictional court, against the HOST, this Agreement may be terminated, and all personal property of the HOST must be removed, within three (3) days.
18. **RETURN OF RECORDS.** Upon termination of this Agreement, HOST shall deliver all records, notes, data, memoranda, models, and equipment of any nature that are in HOST'S possession or under HOST'S control and that are the COUNTY'S property.
19. **ASSIGNMENT/SUBHOSTS.** HOST's obligations under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the COUNTY. HOST shall not subcontract any part of the work to be performed under this Agreement or assign this Agreement without the specific written consent of the COUNTY.
20. **COMPLIANCE WITH LAWS.** HOST shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination, and licensing laws and regulations.
21. **PUBLIC RECORDS ACT.**
- A. This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the HOST are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the HOST agrees to make them promptly available to the COUNTY. If the HOST considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the HOST shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the HOST and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY's sole obligations shall be to notify the HOST (a) of the request and (b) of the date that such information will be released to the requester unless the HOST obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the HOST fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.
- B. The COUNTY has, and by this section assumes, no obligation on behalf of the HOST to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the HOST for releasing records not clearly identified by the HOST as

confidential or proprietary. The COUNTY shall not be liable to the HOST for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

- C. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the HOST or the HOST's subHOSTs or consultants for delivery to the COUNTY under this Agreement shall be the sole and absolute property of the COUNTY. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the COUNTY at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the HOST uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the COUNTY is owned by the HOST and is not "work made for hire" within the terms of this Agreement.
22. **INSURANCE.** Without limiting the HOST'S indemnification of COUNTY, and prior to commencement of this Agreement, HOST shall obtain, provide and maintain during the term of this Agreement, policies or insurance of the type and amounts described below and in a form satisfactory to the COUNTY.
- A. General Liability Insurance. HOST shall maintain commercial general liability insurance with at least as broad as Insurance Services Office form CG 00 0, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.
 - B. Workers' Compensation Insurance. If the HOST employs personnel, the HOST shall, at its own expense, maintain Workers' Compensation Insurance (statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).
 - C. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow HOST or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. HOST hereby waives its own right of recovery against COUNTY, and shall require similar written express waivers and insurance clauses from each of its subHOSTs.

- D. Additional Insured. HOST shall provide the COUNTY with properly executed certificate of insurance and provide a policy endorsement naming the COUNTY as an additional insured. HOST agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that HOST's liability insurance policy shall so state.
23. **INDEMNIFICATION.** In accepting this Agreement, the HOST, including its successors and assigns, does hereby covenant and agree to indemnify and protect and save harmless the COUNTY and its officers and employees from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person, partnership, corporation, or other entity of any kind that arise in whole or in part from intentional tort(s), or negligent act(s) or omission(s), or strict liability of the HOST or its employees, agents, successors, or assigns. If the above sentence applies and any suit or action is brought against the COUNTY, its officers, its employees, or any combination thereof, the HOST, including its successors or assigns, shall defend the suit or action at his or her or their sole cost and expense and shall fully satisfy any judgment that is rendered against the COUNTY, its officers, its employees, or any combination thereof.
24. **ASSUMPTION OF RISK.** The placement and storage of personal property on said premises shall be the responsibility, and at the sole risk, of the HOST.
25. **ADJUSTMENT OF CLAIMS.** The HOST shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the HOST under this Agreement. The HOST agrees that all such claims, whether processed by the HOST or HOST's insurer, either directly or by means of an agent, will be handled by one key person.
26. **ATTORNEY'S FEES.** If either party files suit to enforce this Agreement, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit.
27. **DISPUTES.** Differences between the HOST and the COUNTY, arising under and by virtue of this Agreement, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due HOST shall be decided by the COUNTY'S representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S representative shall be final and conclusive, subject to their right to seek judicial relief.

28. **NOTICES.** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, certified mail, return receipt requested, addressed as follows:

For COUNTY:

Pacific County Department of Public Works
211 North Commercial Street
Raymond, WA 98577
(360) 875-9368

For HOST:

Larry and Doreena Thomas
PO Box 37
Chinook, WA 98614

Either party may change such address from time to time by providing written notice to the other in the manner set forth above.

29. **AMENDMENT.** This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.
30. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Washington. The venue of any litigation between the parties relating to this Agreement shall be the Superior Court of Pacific County, State of Washington.
31. **SEVERABILITY.**
- A. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
 - B. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.
 - C. Should the COUNTY determine that the severed portions substantially alter this Agreement so that the original intent and purpose of the Agreement no longer exists, the COUNTY may, in its sole discretion, terminate this Agreement.
32. **NON-WAIVER.** The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

33. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties. +

DATED THIS _____ DAY OF _____, 2022

HOST

BOARD OF COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Larry Thomas

Lisa Olsen, Chair

Doreena Thomas

Frank Wolfe, Vice-Chair

State of Washington
Unified Business ID Number

Michael Runyon, Commissioner

ATTEST

APPROVED AS TO FORM

Amanda Bennett, Clerk of the Board

Prosecutor's Office WSBA #