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Agreement BUREAU OF RECLAMATION
Kittitas County Auditor



REVIEWED

AUG 12 2020

KITTITAS COUNTY TREASURER
INITIALS: *WJ*

Return to:
Carron Helberg, YAK-5130
U.S. Bureau of Reclamation
1917 Marsh Road
Yakima, WA 98901

Agreement No. 20-07-13-L1363
Pm Sec 11 & 14, T17N, R18E, WM
Parcels 17146 thru 17156, 218733, 598733, 228733, 258733 & 028733
Kittitas County, Washington

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Yakima River Basin Water Enhancement Project, Washington

LAND EXCHANGE AGREEMENT

THIS AGREEMENT, made this 7th day of JULY, 2020, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. § 391) and acts amendatory thereof or supplementary thereto, collectively referred to as the Federal Reclamation Laws specifically, Title XII of P.L. 103-434, the Yakima River Basin Water Enhancement Project Act, of October 31, 1994, as amended; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646 or 84 Stat. 1894) and the Uniform Relocation Act Amendments of 1987 (P.L. 100-17 or 101 Stat. 246-256; 42 U.S.C. 4601) hereinafter called the Relocation Act, by and between the **UNITED STATES OF AMERICA**, hereinafter called the **United States**, by and through the Department of the Interior, Bureau of Reclamation, hereinafter called **Reclamation**, and the **CITY OF ELLENSBURG**, a public entity created and operating under the laws of the State of Washington, hereinafter called **the City**.

WITNESSETH, THAT:

WHEREAS, in connection with the Yakima Project, Washington, hereinafter called the Project, the Bureau of Reclamation acquired certain lands in Kittitas County, Washington, from Schaake North LLC, by General Warranty Deed dated August 6, 2003, recorded in Kittitas County as Auditor's File Number (AFN) 20038070013 on August 7, 2003, defined as Parcel A, which is hereinafter referred to as Tract A, herein described in Exhibit A; and,

WHEREAS, the City is the owner of certain lands in Kittitas County, Washington purchased from John and Marjorie B. Hanks, Jr., by Statutory Warranty Deed dated September 18, 1967, recorded in Kittitas County as AFN 341774 on September 20, 1967, in Book 126 of Deeds, page 626, which is hereinafter referred to as Tracts 1-4, herein described in Exhibit B; and,

WHEREAS, the City desires to convey land parcels AFN 228733, 258733, 028733, and 598733, to the United States, in exchange for portions of land parcels AFN 17146, 17147, 17148, 17152, 17153, 17156, 17157 and 218733, and the entire land parcels AFN 17150, 17151, 17154, and 17155, with all herein described parcels being depicted in Exhibit C; and,

WHEREAS, the City has a tenant, Twin City Foods, Inc., that is a displaced farming business subject to the Relocation Act; and,

WHEREAS, as agreed to herein, it is in the mutual interest of the United States and the City to affect such an exchange of properties; and,

WHEREAS, the interests in the real property to be exchanged have been appraised and determined to be of approximate equal value.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the parties hereto agree as follows:

1. The City covenants and agrees to convey by good and sufficient Warranty Deed to the United States of America, and its assigns, free and clear of lien or encumbrance, except as otherwise provided herein, the fee simple title to Tracts land parcels AFN 228733, 258733, 028733, and 598733, being located in a portion of Sections Eleven (11) and Fourteen (14), Township Seventeen (17) North, Range Eighteen (18) East, Willamette Meridian, records of the Auditor of Kittitas County, Washington, and more particularly described as:

Within Sections 11 and 14, Township 17 North, Range 18 East, Willamette Meridian, Kittitas County, Washington, the following Parcels as follows:

To United States: land parcels AFN 228733, 258733, 028733, and 598733;

SUBJECT TO: Wastewater Treatment Plant Outfall Pipeline 100-foot easement and pipeline road access 50-foot easement, and Tjossem Ditch right of way;

as more particularly depicted in Exhibit C, of which are attached hereto and made a part hereof.

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in anyway appertaining; all the estate, title, dower, right of homestead, claim or demand whatsoever of the City; and, any buildings and improvements thereon and all rights and appurtenances thereto. Also, together with all right, title, and interest of the City in and to water rights, banks, beds, and waters of any stream or river bordering or traversing the land, and any alleys, streets, ways, strips, or gores abutting or adjoining the land, and in any means of ingress or egress appurtenant thereto.

Subject to any oil, gas or mineral rights of record outstanding in third parties at the date of this Agreement; existing easements of record in favor of the public or in third parties for roads and highways, utilities, railroads, pipelines, ditches, and canals; and, subject to rights outstanding in third parties as may be acceptable to the United States Department of Justice.

2. The City hereby confirms that the title to said Tracts 1-4, per Exhibit B, are vested in the City, subject only to the interests, liens, or encumbrances expressly provided herein. The United States shall procure and have recorded without cost to the City all assurances of title and

affidavits which the City may be advised by the United States are necessary and proper to show in the City complete fee simple unencumbered title to said Tracts 1-4 subject only to the interests, liens, or encumbrances expressly provided herein. The expense of recording this Agreement and the Warranty Deed shall be borne by the United States.

3. Once this Agreement has been fully executed, accepted, and recorded and the Warranty Deed referenced above has been delivered, approved by the United States, and recorded, the United States shall, at their expense, provide a final Title Insurance Policy on the ALTA U.S. Policy - 9/28/91 form. The Policy shall be dated subsequent to the time and date the deed is recorded and shall show fee title to said Tracts 1-4 vested in the name of the UNITED STATES OF AMERICA.

4. The United States agrees to pay all expenses related to this transaction, including but not limited to the costs associated with environmental, cultural resources, and hazardous material inspections, reports and clearances (including required mitigation), appraisal and appraisal review, document preparation, title clearance, closing fees, recording in the public records, and title insurance. The City agrees to pay all expenses related to real estate taxes, and any excise, roll-back, and special use taxes triggered by this transaction.

5. For and in consideration of the above, the United States shall by separate Quitclaim Deed remise, release, and forever quitclaim all of its right, title, and interest in and to:

To City of Ellensburg: portions of land parcel AFN 17146, 17147, 17148, 17152, 17153, 17156, 17157 and 218733, and the entire parcels AFN 17150, 17151, 17154, and 17155; and their heirs, successors, or assigns;

SUBJECT TO: Wilson Creek Buffer.

Said parcels are located within Section 11, Township 17 North, Range 18 East, Willamette Meridian, Kittitas County, Washington, as more particularly described in Exhibit C, which are attached hereto and made a part hereof. The acquiring federal agency is the United States, Department of the Interior, Bureau of Reclamation.

Said Quit Claim Deed will be subject to the following conditions:

- a. The reservation of a right-of-way for ditches and canals being of the same character and scope as that created with respect to certain public lands by the Act of August 30, 1890 (26 Stat. 391), as it has been or may hereafter be amended;
- b. Rights-of-way and easements of record or in use for roads and highways, utilities, railroads, pipelines, ditches and canals;
- c. The rights, if any, that were reserved in the original patent;
- d. Any oil, gas or mineral rights of record outstanding in third parties;
- e. The reservation, hereby made to the United States, of all other minerals.

6. The Quitclaim Deed referenced in Article 5, above, shall be provided as soon as practicable after the United States has obtained a final title opinion showing title to said land parcels AFN 228733, 258733, 028733, and 598733, vested in the United States and acceptable to the United States Department of Justice.

7. Where operations of this agreement extend beyond the current fiscal year, it is understood that the agreement is made contingent upon Congress making the necessary appropriation for expenditures thereunder after such current year has expired. In case such appropriation as may be necessary to carry out this agreement is not made, the City hereby releases the United States from all liability due to the failure of Congress to make such appropriation.

8. No member of or delegate to Congress or resident commission shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this agreement if made with a corporation or company for its general benefit.

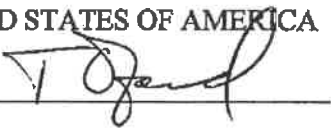
9. The City warrants that no person or agency has been employed or retained to solicit or secure this document upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agencies maintained by the City for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this agreement without liability or in its discretion to require the City to pay, in addition to the grant price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

10. Each provision of this agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision of this agreement shall be deemed or determined by competent authority to be invalid or prohibited, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provisions or any other remaining provisions, or of the agreement as a whole.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By: _____



CITY OF ELLENSBURG

By: _____



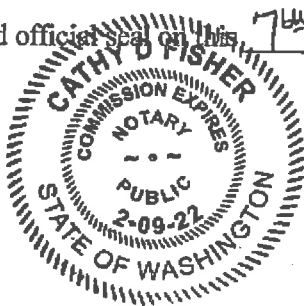
ACKNOWLEDGEMENT

STATE OF WASHINGTON)
): ss
County of Kittitas)

On this day personally appeared before me, the undersigned notary, Ryan Ruysh, known to me to be the individuals whose names are subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

WITNESS my hand and official seal on this 7th day of July, 2020.

(SEAL)



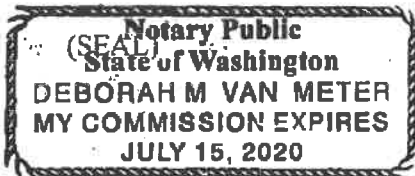
Notary Public in and for the
State of Washington
Residing at: Ellensburg
My Commission expires: 2-9-2022

Cathy D Fisher

STATE OF WASHINGTON)
): ss
County of Yakima)

On this day personally appeared before me, the undersigned notary, TALMADGE OXFORD, known to me to be the individuals whose names are subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

WITNESS my hand and official seal on this 10th day of JULY, 2020



Notary Public in and for the
State of Washington
Residing at: YAKIMA WA
My Commission expires: JULY 15, 2020

**EXHIBIT A
UNITED STATES OF AMERICA**

**TRACT A: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 21 Survey
filed April 29, 2002, Book 27 of Surveys, pages 148 and 149, Auditor's File No. 200204290002,
portion of Sections 10, 11 and 14, Township 17 North, Range 18 East, Willamette Meridian,
County of Kittitas, State of Washington.**

**EXHIBIT B
CITY OF ELLENSBURG**

TRACT 1: That portion of the East Half of the Northwest Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Easterly and Northeasterly of the Yakima River and Southwesterly of the Tjossem Ditch right of way.

EXCEPT: Lot 21 of that certain Survey as recorded July 25, 2002 in Book 27 of Surveys at pages 148 and 149, under Auditor's File No. 200207250001, records of Kittitas County, Washington.

TRACT 2: That portion of the Northwest Quarter of the Northeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Southwesterly of the Tjossem Ditch and Southeasterly of the Southeastern boundary of Lot 21 of that certain Survey as recorded July 25, 2002 in Book 27 of Surveys at pages 148 and 149, under Auditor's File No. 200207250001, records of Kittitas County, Washington.

TRACT 3: That portion of the South Half of the Northeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Southwesterly of Tjossem Ditch and Northeasterly of the Yakima River and Southwesterly of the following described line:

Beginning at the Southeast corner of the Northeast Quarter of said Section 14; thence North 88°42' West, along the South boundary of said Section 14, 482.3 feet to the true point of beginning; thence North 56°16' West, 684.0 feet; thence North 23°11' West, 370.4 feet; thence North 43°15' West, 190.6 feet to the right of way of Tjossem Ditch and the terminus of said line.

EXCEPT that portion of the Southeast Quarter of the Northeast Quarter of Section 14 which is described as follows:

A tract of land bounded by a line beginning at a point on the South boundary line of said quarter of quarter section which is 1099.0 feet West of the Southeast corner of said quarter of quarter section and running thence North 75°00' West, 213.0 feet, more or less, to the West boundary line of said quarter of quarter section; thence South along said boundary line to the Southwest corner of said quarter of quarter section; and thence East on the South boundary line of said quarter of quarter section to the point of beginning.

TRACT 4: That portion of the Northeast Quarter of the Southeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., in the County of Kittitas, State of Washington, described as follows:

A tract of land bounded by a line beginning at the Northeast corner of said Northeast Quarter of the Southeast Quarter and running thence West on the North boundary line thereof 1099 feet; thence South 57°East, 913 feet; thence South 32°36' East, 618 feet to the East boundary line of said Northeast Quarter of the Southeast Quarter, thence North 1018 feet to the point of beginning.

EXHIBIT C

Schaake Land Exchange

RECLAMATION

