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Director

STATE OF WASHINGTON
WASHINGTON STATE PARKS AND RECREATION COMMISSION

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March 26, 2015

Item E-3: Real Estate Management Policy Implementation—Requested Action

EXECUTIVE SUMMARY: This Item asks the Commission to approve guidelines for permitting recreation business activities in parks and criteria to guide identification and designation of surplus lands for revenue generating purposes. This Item advances the Commission Transformation Strategy: "Expand use of land holdings for compatible revenue generating purposes" and with the Agency culture and core values.

SIGNIFICANT BACKGROUND INFORMATION:

At its January 2015 meeting, the Commission considered changes to the agency's real estate management policies to allow some forms of privately financed development on State Parks land, and it directed staff to:

1. Prepare general guidelines for Commission consideration on the types of Recreation Business Activities that will be permitted in state parks.
2. Prepare criteria for Commission consideration for identifying and evaluating candidate sites for Commission designation as Enterprise Lands.
3. Provide the Commission a report on the revisions to existing policy documents that resulted from the January decision.

Staff has completed these tasks and in this agenda item is now asking the Commission to consider adoption of guidelines and criteria that address direction number 1 and 2 above. This agenda item also reports on anticipated Commission policy revisions delegated to the Director per direction number 3.

Recreation Business Activities

Recreational Business Activities (RBAs) are privately financed recreational facilities within state parks. These facilities are intended to provide additional amenities for park visitors while also generating revenue to support the state park system. RBAs are conditionally permitted activities in Recreation Areas, Resource Recreation Areas, and Heritage Areas under the agency's land classification system. RBAs are therefore only allowed where the Commission has classified lands in one of these three classifications and specifically approved RBAs as a permitted use. A decision to allow RBAs in a classified area can be made by the Commission as part of initial land classification or through later classification revisions.

Current state park recreational developments include campgrounds, picnic facilities, trails, cabins, vacation houses, dormitories, hostels, and small resorts. All of these might also be

appropriate for private development as an RBA, as would other facilities such as lodges or small hotels. Mike Reid, a land use consultant working with the agency, has advised that the four kinds of RBAs most likely to generate revenue for the state park system include groupings of vacation cottages, moorage facilities, RV Resorts, and food services.

This list is not exhaustive, but can provide a general sense of the types of activities the agency is looking to provide. It is critical to note that RBAs are intended to encourage development of public amenities that provide or support a publicly accessible recreational experience. Facilities intended for private use or facilities that are not recreation oriented are not appropriate in RBAs.

Staff Recommendation

Instead of creating comprehensive lists of the kinds of Recreation Business Activities that will or will not be allowed, staff recommends a set of guidelines to assist in evaluating specific proposals. Staff recommends that the Commission consider allowing activities that:

1. Are consistent with a State Parks mission, vision, and core values
2. Are consistent with a park's adopted land classifications
3. Advance the agency's Transformation Strategy or other adopted strategic documents
4. Are consistent with grant funding restrictions that may apply to a park, or that are able to cost effectively resolve inconsistencies with those restrictions
5. Are mutually beneficial to both State Parks and the project developer, in:
 - a. Providing recreational benefits to park users
 - b. Providing economic benefits to the state park system
6. Have a net positive impact on park operation
7. Provide activities that respond to recreation trends and help meet current and future recreation demands

In addition to these guidelines, staff anticipates asking the Commission to set site-specific restrictions when approving RBA lease agreements to ensure consistency with the park's design guidelines and operational needs. Such restrictions may include:

- Building height limits
- Development size limits
- Building setbacks
- Design standards (aesthetics, materials, lighting, etc.)
- Hours of operation
- Restrictions on access to other park facilities

Enterprise Lands

Enterprise Lands are properties the Commission has found surplus to the needs of the agency and are made available for lease to other public or private parties for the primary purpose of generating revenue to support the state park system. In contrast to RBAs, developments on Enterprise Lands do not need to directly align with the agency's mission. Enterprise Lands will further the State Parks mission indirectly by generating revenue to support park operations.

Only properties that have been declared surplus to state park purposes can be considered for Enterprise Lands designation, but surplus properties may only be used as Enterprise Lands when the Commission has specifically approved that use. Properties can only be declared surplus by a

unanimous vote of the Commission. This can happen as part of a long-term boundary decision through the agency's Classification and Management Planning process or as a separate decision.

Staff Recommendation

Staff recommends that the following criteria be considered when determining whether a property is surplus to state park purposes:

1. Is the property contiguous with other State Parks lands, or is it separated by a road or other barrier?
2. Why did State Parks acquire the property originally? Was it donated for a specific purpose?
3. Are there deed restrictions on the property that would prohibit it being used for non-park purposes?
4. Are there important natural or cultural resources on the property that should be preserved?
5. Are there existing park facilities on the property? If so, are they needed?
6. Is the property needed for new park facilities or infrastructure, or as a park buffer?
7. Does the property form an important connection with other recreation areas, natural areas, or public lands?
8. Is the property needed for use by another government agency or partner non-profit?
9. If the property is near a state park, what impact would development of the surplus property have on the park?

After the Commission declares a property surplus, staff recommends that it consider the following factors when determining whether the property should be designated Enterprise Land:

1. Are there deed restrictions on the property that limit its use?
2. What development is allowed under local zoning regulations?
3. Is there easy access to the property, and are utilities nearby?
4. Does the property have physical or other attributes that may be desirable to the private sector?

When the Commission designates a property as Enterprise Land, staff anticipates asking the Commission to impose site-specific restrictions on the kinds of development that will be allowed, in order to minimize impacts on nearby State Parks properties (if applicable). For example, a building setback may be required to create a visual buffer.

Commission Policy Revisions

As part of its adoption of real estate management policy recommendations in January 2015, the Commission delegated authority to the Director to harmonize adopted recommendations into existing Commission policies. The Commission also directed staff to report on how this task was achieved. Harmonizing adopted policy recommendations will require revisions to two Commission policies:

- Policy 55-06-1 Real Estate Transactions and Non-recreational Uses of Parklands
- Policy 25-07-1 Delegations of Authority for Real Estate Transactions & Service

Proposed revisions to policy 55-06-1 are included in Appendix 1 and revisions to policy 25-07-1 are included in Appendix 2. Staff anticipates the Director will approve policy revisions under delegated authority in the next few months.

LEGAL AUTHORITY:

RCW 79A.05.030 Powers and duties – Mandatory

RCW 79A.05.170 Transfer of surplus land – Reversionary clause required – Release – Parkland acquisition account

RCW 79A.05.175 Disposal of land not needed for park purposes

RCW 79A.05.178 Real property disposal – Disputed land – Manner – Notice and hearing – Suit for noncompliance

RCW 79A.05.180 Exchange of state land by commission – Public notice – News release – Hearing – Procedure

SUPPORTING INFORMATION:

Appendix 1: Revised Policy 55-06-1 Real Estate Transactions and Non-recreational Uses of Parklands

Appendix 2: Revised Policy 25-07-1 Delegations of Authority for Real Estate Transactions & Service

REQUESTED ACTION FROM COMMISSION:

That the Washington State Parks and Recreation Commission:

1. Approve general guidelines for the types of Recreation Business Activities that will be permitted in state parks, as recommended by staff.
2. Approve criteria for Commission consideration for identifying and evaluating candidate sites for Commission designation as Enterprise Lands, as recommended by staff.

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Reviewer(s):

Randy Kline, SEPA REVIEW: Following review, staff has determined that the action proposed for the Commission by staff is exempt from the State Environmental Policy Act (SEPA) pursuant to WAC 197-11-800 (19).

Christeen Leeper, Fiscal Impact Statement: There is no fiscal impact directly associated with approval of the guidelines and criteria in this requested action.

Michael Young, Assistant Attorney General: March 4, 2015

Peter Herzog, Assistant Director

Approved for Transmittal to Commission



Don Hoch, Director

APPENDIX 1

Additions are shown in red; Deletions are shown with ~~strikethrough~~.

55-06-1 Real Estate Transactions and Non-recreational Uses of Parklands

(Revisions approved January 29, 2015 by Agenda Item E-1 and E-2)

I. DEFINITIONS

- A. Non-traditional park lands – any State Parks’ property that:
 - 1. Is in whole or substantial part a former railroad right-of-way corridor (commonly referred to as a rail-trail)
 - 2. Shows evidence of previous or current industrial or commercial use
 - 3. Has been designated as “non-traditional” park land by the Commission
- B. Traditional park lands – all other properties of the State Parks system
- C. Grandfathered Access - a historical road used for agriculture (seasonal ingress/egress), forestry access, a single private residence, or other limited access to privately/publicly held lands.
- D. Road Crossing – either a county road crossing or private drive which can feasibly be improved or additionally developed to access property. Utilities of any form located on, over, under or within park lands are not considered Crossings.
- E. Unreasonable hardship – where the next best alternate access route or crossing is proven to the satisfaction of the Director to be either economically infeasible or environmentally unacceptable.
- F. Surplus park lands – those lands which the Commission has formally designated as lands under its control that cannot advantageously be used for State Parks purposes and are not consistent with, or contribute significantly towards fulfilling the agency mission.
- G. Major facilities – include but are not limited to sewage treatment facilities, central utility plants, major structures, transmission lines, new transmission towers, public and private telecommunications, commercial cables or conduits, commercial buildings, pipelines, etc.
- H. Concession – any contractual agreement (e.g., lease, franchise, permit, etc.) granted by the Commission for the purpose of providing public accommodations, facilities and/or services on parkland.
- I. Concessionaire – the contractor, franchisee, or permittee who provides public accommodations, facilities and/or services on parkland pursuant to a concession agreement.
- J. Economic benefit – Includes cost avoidance, land or material exchange, and revenue earned to the park system as a result of the agreement.

- K. **Public Service Utility** - means any municipal electric utility formed under Title 35 RCW; public utility district formed under Title 54 RCW; irrigation district formed under chapter 87.03 RCW; cooperative formed under chapter 23.86 RCW; mutual corporation or association formed under chapter 24.06 RCW; port district formed under Title 53 RCW; or water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity, water, or wastewater to one or more retail customers in the state; joint operating agency formed under RCW 43.52 or non-profit mutual corporation formed under RCW 24.06 comprising and selling electricity or telecommunications to one or more of the above public service utilities; and any investor-owned utility owned by investors that meets the definition of "Public Service Company" in RCW 80.04.010 that is engaged in distributing electricity to more than one retail electric customers in the state.
- L. **Fair Market Value "Fair market value" (FMV)** - means the amount of money which a purchaser willing, but not obligated, to buy the property would pay an owner willing, but not obligated, to sell it, taking into consideration all uses to which the property is adapted and might in reason be applied. Such uses must be consistent with applicable federal, state and local laws and regulations affecting the property as of the date of valuation.
- M. **Recreational Business Activity (RBA's)** – are activities or developments located on Commission designated sites within State Parks or State Park Properties that provide opportunities for privately financed development of recreation facilities that meet the needs of park visitors and generate revenue to support the state park system. RBAs are intended as opportunities for the private sector to finance, construct, and operate recreation facilities in appropriate areas in state parks.
- N. **Enterprise Lands** – are Commission designated surplus properties which are available for lease to other public or private parties for the primary purpose of generating revenue.

II GENERAL PRINCIPLES

- A. **Park Values.** The Washington State Parks and Recreation is firmly opposed to the placement on parklands of any facility, utility line, improvement or commercial facility that will have a significant adverse effect on public recreation or the natural environment. Protection of park values and the provision of public recreational needs are paramount to any other use.
- B. **Refusal of Application.** The Commission may, at its discretion, refuse to approve any proposed use or concession solely on the basis that the facility or service detracts from the natural, cultural or recreational values of the park, or causes adverse impacts which cannot be sufficiently mitigated.
 - 1. **Recreational Business Activities (RBAs) will be consistent with a park's adopted land classifications and the corresponding *Land Use and Land Classification Compatibility Matrix* outlined in the agency's land classification system.** If a type of facility or activity is not specified in the matrix, a decision to permit, conditionally permit, or not permit a facility or activity should be based on the most similar or closely aligned facility or activity listed in the guidelines.
 - 2. **RBAs are generally limited to areas within parks classified as Recreation, Resource Recreation, and Heritage Areas. Constructed facilities will also be consistent with adopted management guidelines that set the appropriate intensity and types of facilities for each land classification. RBAs involving construction of facilities are not permitted in Natural Areas, Natural Forest Areas, or Natural Area Preserves.**

- C. **Review Criteria.** The Commission may grant uses and/or site facilities only when review criteria are met. The Commission will consider the following in reviewing any request to use park lands for non-recreational purposes and deciding whether to grant or deny such a request:
1. The extent to which the requested use will impact the physical environment and recreational uses of the park lands on which the use will occur
 2. The extent to which any such impacts can be mitigated to the satisfaction of the Commission. Proposals that cannot be successfully mitigated will be denied
 3. The amount of revenue to be generated based on payment of compensation pursuant to the applicable fee schedule or other valuation method adopted by the Commission or otherwise provided by law
 4. Review Criteria for granting uses on non-traditional park lands takes into account the significantly different attributes and management conditions of rail-trails and other non-traditional lands. It is the policy of the Commission to recognize the significantly different attributes and management conditions of rail-trails and other non-traditional lands, and to be more flexible in permitting non-parks uses; specifically:
 - a. The Commission continues to recognize established “grandfathered” residential, agricultural, forestry and other limited use access crossings of former railroad rights-of-way, and will not assess application or use fees against holders or requestors of “grandfathered” permits. “Grandfathered” crossings may be relinquished by the owner or terminated with the owner’s consent.
 - b. Existing leases of rail-trail lands will be honored for the duration of their terms. The Commission will consider renewals or new leases per RCW 79A.05.030.
 - c. Permits or easements for crossings of these rights-of-way corridors, binding on all signatories, must fulfill statutory requirements under RCW 79A.05.030 (5) and RCW 79A.05.070 (7); be approved as to form by the AAG; and follow Commission policy and objectives as detailed in the *LANDS Manual, Volume One: Narrative and Data Tables*.
 - d. The Commission recognizes and confirms the rights of adjoining landowners’ pre-existing agricultural and forestry operations on lands adjacent to the rail-trails.
 - e. The Director or designee may permit access or other use parallel to or, in very limited circumstances on a case by case basis, on the recreational trail within the right-of-way corridor of a rail-trail, for temporary agricultural, forest management or other uses under such terms and conditions as deemed necessary to protect the public interests.
- D. **Valuation.** The Commission sets application and processing fees and guides staff in deriving use fees per its annually revised “Fee Schedule – Real Estate and Concession Services.”
1. Staff may use other agencies’ appraisals in deriving value of lands to be leased. In the event no independent appraisal is required, fair rental shall be determined through staff review, evaluation and negotiation.

2. The Commission may consider and accept non-monetary compensation or benefits in lieu of or in addition to cash or monetary consideration when authorizing leases, permits, easements or other agreements; Provided, the action is consistent with federal and state law and Commission policy. The in-kind services shall be documented and accepted in writing as being of equal or higher value than the negotiated monetary value for the use.
3. The Commission may, at its sole discretion, waive or reduce rents in lieu of other considerations when the proposed user is a public entity or a non-profit organization.

E. **Waiver.** Each use or concession request is unique; therefore, on a case-by-case basis, staff may request the Commission to waive specific requirements, to require additional materials, or to deviate from generally accepted criteria.

F. **Other Requirements.** Commission-approved agreements for non-recreational uses of parklands will include language and/or contract conditions as required for the protection of the park's natural, cultural, historic or recreational values.

Use Agreement terms and conditions, binding on all signatories, must fulfill statutory requirements under RCW 79A.05.030 (5) and RCW 79A.05.070 (7); be approved as to form by the AAG; and follow Commission policy and objectives as detailed in the *LANDS Manual, Volume One: Narrative and Data Tables*. "No permanent use may be conveyed that is not reciprocal or for the primary/sole benefit of the Commission." (Adopted May 3, 2001.)

J. **Surplus Park Lands.** The Commission may dispose of parklands only as authorized by statute. Surplus park property may be sold only after unanimous Commission declaration in open session of a regularly scheduled or special meeting that the property to be sold is surplus to the needs of the state park system. Disposal of surplus park lands pursuant to RCW 79A.05.175 shall be guided by the following:

1. Staff will clearly separate the two processes of 1) designating a parcel of park lands surplus to the needs of Commission and 2) conducting subsequent property improvements, entitlements and sale activities with respect to such park lands.
2. Staff will seek to maximize the return to the State Parks system from the sale of any park lands declared surplus by the Commission, unless otherwise specifically directed by the Commission. Staff may determine that property improvements or entitlements are warranted prior to the sale of surplus property. The Commission acknowledges that prudent investments through reasonable property improvements of surplus property will return a net, positive economic value on the date of sale. Investments of this type are in the best interest of the Commission.
3. Prior to recommending disposal of surplus property to the Commission, staff will consider off-setting benefits or payments from third parties, in support of Commission goals to protect open space and natural areas. Surplus park lands shall be transferred in a natural condition, consistent with existing Commission policies and values (environmental, cultural, historic and recreational) when such transfers are economically feasible or environmentally warranted.
4. **The Commission may designate selected surplus lands as Enterprise Lands. Rather than being sold, Enterprise Lands will be offered for lease to public or private parties for the purpose of generating revenue for the state park system.**
 - i. **The Commission will not acquire new lands solely for the purpose of leasing them as Enterprise Lands, but it may purchase lands that are not**

suitable to park purposes as part of a larger transaction that secures high-quality park properties. In these instances, the Commission may retain the unsuitable lands for an Enterprise Lands designation.

- ii. If the Commission is unsuccessful in executing Revenue Lands leases with qualified parties after suitable periods of time and reasonable efforts have been made to advertise the opportunities, the subject lands may be sold or otherwise disposed of without further Commission action as provided by statute (RCW 79A.05.175).

K. Existing Default – Public Service Utility Providers. Beginning January 1, 2015, the Commission will not process any new request for non-recreational uses of park lands, or for the extension of an existing use agreement:

- if the applicant, at the time of the request is found to be occupying any other State Parks property without an authorizing agreement for the use
- if the applicant is in breach or default of the terms of any other use agreement (including the Commission acting as successor in interest to a former railroad company agreement), or any executed Master Agreement.

Any breach of the terms of a single easement under a Master Agreement may be grounds for termination of that easement but shall not be considered a breach or default of, or grounds for termination, of the Master Agreement. Notwithstanding the foregoing, the Commission may elect to process a request for a new use agreement, or for the extension of an existing use agreement, if the applicant agrees to comply with the terms of any and all previous use agreements for which the applicant is in breach, and/or agrees to remedy an unauthorized use by obtaining authorization for the applicant's use of park lands, when such agreement is made as part of a comprehensive settlement resolving all of the applicant's breaches and/or unauthorized uses.

L. Existing Default - Private Utility Providers. The Commission will not process any new request for non-recreational uses of park lands, or for the extension of an existing use agreement, if the applicant is at the time of the request in breach of the terms of any other use agreement (including a lease or easement) between the applicant and the Commission (including the Commission acting as successor in interest to a former railroad company agreement). The Commission will not process any new request for non-recreational uses of park lands, or for the extension of an existing use agreement, if the applicant is at the time of the request is found to be occupying any other Park property without an authorizing agreement for the use. Notwithstanding the foregoing, the Commission may elect to process a request for a new use agreement, or for the extension of an existing use agreement, if the applicant agrees to comply with the terms of any and all previous use agreements for which the applicant is in breach, and/or agrees to remedy an unauthorized use by obtaining authorization for the applicant's use of park lands, when such agreement is made as part of a comprehensive settlement resolving all of the applicant's breaches and/or unauthorized uses.

N. Property Transfers. The Commission may transfer lands without financial compensation to another government jurisdiction when it unanimously finds that the lands are *surplus to the needs of the state for development for state park purposes* (RCW 79A.05.170). The Commission may sell or exchange lands when it unanimously finds that lands *cannot be advantageously be used for park purposes* (RCW 79A.05.175). Consistent with these statutes, the Commission will actively and strategically manage its real estate holdings to improve and enhance the quality and extent of state park recreation and conservation

opportunities to best meet the needs of this and future generations of Washington residents and visitors.

The Commission will, under specific circumstances consider transfer, sale, and exchange of agency-owned property to other government jurisdictions, including Native American tribal governments, as an appropriate mechanism through which to redirect resources and, in part, achieve its strategic land management goals.

The Commission will consider originating transfer of all or part of state parks or state park properties to other government jurisdictions only when the Commission unanimously finds a park or property is surplus to its needs consistent with RCW 79A.05.170. The Commission may make such a finding when:

- a. A catastrophic natural disaster or event has either closed or significantly impacted the use of the park or property for state park purposes; or
- b. Legal or physical access to the park or property has been lost (e.g., court action, title claim, or condemnation proceeding), or when
- c. All or part of a park or property does not sufficiently advance the Commission's strategic goals or direction as expressed in its adopted strategic planning documents or other actions.

The Commission will consider originating transfer of all or part of a state park or state park property to other government jurisdictions when necessary to address insufficient agency financial resources to continue operation of the site or as directed by the Legislature. The Commission will consider such transfers to be consistent with RCW 79A.05.170 and RCW 79A.05.175.

The Commission will consider requests from other government jurisdictions for transfer or sale of all or part of a state park or state park property to other government jurisdictions when the Commission unanimously finds that a park or property is surplus to its needs consistent with RCW 79A.05.170 or RCW 79A.05.175. The Commission may make such a finding when:

- a. All or part of a state park or state park property is considered an inholding in another government entity's real estate ownership or other formally established property acquisition boundary (e.g., Tribal reservation, wilderness area, state wildlife area, state natural resource conservation area, local community forest or park); or when
- b. It can be demonstrated that transferring ownership of all or part of a park or park property to another government jurisdiction will better achieve the property's originally intended purpose or otherwise better advance the Commission's recreation or conservation mission.

The Commission will only consider originating or evaluating requests for exchange of all or part of parks or park properties when the Commission finds that a park or park property is surplus to its needs consistent with RCW 79A.05.175. The Commission will make such a finding only when an exchange transaction will result in a significant net benefit to the Commission's statewide recreation or conservation mission.

When considering any transfer or exchange of state parks or state park properties to other government jurisdictions, the Commission should evaluate efficacy of the proposed

transaction(s) using adopted criteria to analyze the degree to which a potential real estate transaction:

- a. Demonstrates the benefits from protection of natural and cultural resources
 - b. Advances the business interests of the agency
 - c. Enhances the recreation, cultural and interpretive opportunities that people want
 - d. Promotes meaningful opportunities for volunteers, friends and donors
 - e. Forms strategic partnerships with other agencies, tribes and non-profits
 - f. Expands use of land-holdings for compatible revenue generating purposes
 - g. Develops amenities or acquires lands that advance transformation
- O.** Leased Lands - Approval of all new leases and cancellation of existing leases wherein the Commission functions as the Grantee to the agreement, other than those that are routine and minor, will remain with the Commission

APPENDIX 2

Additions are shown in red; Deletions are shown with ~~strikethrough~~.

25-07-1 Delegations of Authority for Real Estate Transactions & Service

(As revised January 29, 2015 by Agenda Item E-2)

Provided that all actions serve the public good by enhancing the State's natural, cultural or recreational resources, the Commission grants a consolidated Authority that allows the Director or designee to:

A. Grant real property agreements (leases, easements and permits) or execute transfers of fee interest or development right as provided for by law on any State Parks' property which the Commission has unanimously designated as surplus parklands (as defined in Commission Policy 55-06-1 or in RCW 79A.05.175); Provided:

1. All public notice and public hearing statutes, policies and procedures are met.
2. Staff periodically provides the Commission with a summary of agreements or transfers executed under this authority.

B. Transfer fee interests, through sale at public auction or as provided for in RCW 79A.05.170, in any State Parks' property which the Commission has unanimously designated as surplus parklands (as defined in Commission Policy 55-06-1 or in RCW 79A.05.175); Provided:

1. All public notice and public hearing statutes, policies and procedures are met.
2. No transfer of fee interest shall be executed under those authorities granted in RCW 79A.05.178.
3. The minimum bid of all lands sold at public auction shall first be determined through appraisal to the satisfaction of the Commission.
4. No exchange of lands shall be authorized under this authority.
5. Lands authorized for sale through public auction under this delegation shall first be offered to the county, local governments and Tribal Nation in which the lands are situated. If more than one other form of government offers to purchase surplus lands as described therein, the Director or designee shall offer the sale to the highest and best bid received.

C. Accept or grant non-fee simple agreements, permanent or temporary, necessary for the implementation of State Parks' projects, partnerships, fee-simple real property purchases and programs approved or budgeted by the Commission, or directed/funded by the Washington legislature or Governor's Office.

For all agreements where the Commission functions as the Grantee (property manager/operator) within the agreement, the approval of any new lease or the cancellation of any existing lease will remain with the Commission.

For all agreements where the Commission functions as the Grantor (landowner) within the agreement for purposes including ~~All other agreements~~ for the installation, operation and maintenance of utilities and facilities; for the use of park roads by second parties; and for other uses of parklands and facilities, shall be subject to the following conditions and limitations:

1. That no permanent property right is conveyed unless the conveyance is reciprocal, for the ~~primary benefit of the Commission or~~ meets the criteria of subparagraph C(4) below.

2. That permits will:
 - a) Be granted for terms not to exceed five years or 60 total months.
 - b) Meet the general criteria for a use permit as detailed in the *LANDS Manual*.
 - c) Only authorize improvements or facilities that are movable and temporary in nature.
 3. That leases for periods not to exceed twenty (20) years will be granted only when the lease is for a park concession as defined in Commission policy 55-06-1, Section I.G or at least two of the following conditions exist and lessee's permitted use will not adversely affect natural, cultural or historic park resources: (Temporary impacts due to construction are acceptable if mitigated, and if the property is returned to a condition as good or better than before the activity.)
 - a) Lessee's permitted use is not considered a commercial venture.
 - b) Lessee's permitted use will provide for increased recreational opportunity or for improved habitat/natural conditions.
 - c) Lessee's permitted use does not require new construction, is located within, or adjoins, existing facilities, and the lease area is less than ten acres.
 - d) Lessee is another government agency or sub-division thereof.
 - e) The lease area is located within a rail-trail right-of-way.
 - f) The lease is on undeveloped land and the permitted use supports grazing or agricultural purposes.
 - g) The lease may be terminated for any higher park purpose by the Commission following formal notice of one year or less to the Lessee.
 4. That easements for any period will be granted when the conveyance is the conversion of a "grandfathered" crossing permit as defined in Commission Policy 55-06-1 to an easement or when at least two of the following conditions exist and the permitted use will not adversely affect natural, cultural or historic park resources: (Temporary impacts due to construction are acceptable if mitigated, and if the property is returned to a condition as good or better than before the activity.)
 - a) The easement is underground or provides access for residential uses.
 - b) The easement area is less than 1,000 linear feet or less than two acres in total area.
 - c) Lessee is another government agency or sub-division thereof.
 - d) The easement is located within a rail-trail right-of-way.
 5. That the applicable environmental declaration indicates that the action is minor and that the adverse effects are not significant can be readily mitigated or are categorically exempt from SEPA.
 6. That the real property agreement, binding on all signatories, fulfills statutory requirements under RCW 79A.05.030 (5) and RCW 79A.05.070 (7); is approved as to form by the AAG; and follows Commission policy and objectives as detailed in the *LANDS Manual, Volume One: Narrative and Data Tables, Section III* and *Volume Two: Procedures, Section RPA*.
- D. Renew, replace, assign or amend existing lease, easement, permit and other agreements with current State Parks' documents; Provided:**
1. The new agreement is more restrictive than the previous agreement (*i.e.*, reduced lease term, additional language to protect Commission interests or higher levels of bonding and insurance, etc.);

2. All costs associated with the renewal, replacement, assignment or amendment are borne by the proponent;
3. The assignment or amendment is offered to cure a minor error or omission in the original document;
4. The amendment will not materially change the original permitted use unless such a change is necessary for public health and safety;
5. The new agreement meets the general conditions described in Section C (3) (4) and (6) of this delegation. (e.g., 20-yr. lease; conforming language, etc.); or
6. The agreement is appurtenant to non-traditional parklands (as defined in Commission Policy 55-06-1).

E. Accept services in lieu of or in addition to cash or monetary considerations for grants involving leases, permits or easements; provided:

1. The in-kind services are documented and accepted in writing as being of equal or higher value than the negotiated monetary value for the use.
2. Acceptance is consistent with state law, specifically public works and prevailing wage statutes or;
3. The proponent is a public entity or a non-profit organization.

F. Sign agreements (e.g., Memoranda of Agreement or Understanding, Interlocal Agreements, Restrictive Covenants and Declaration of Covenants), and accept encumbrances, perpetual restrictions, conservation easements or deed reservations involving property for the purpose of protecting or improving recreational, natural, historical or cultural resources, public health, safety and welfare, consistent with health requirements and/or authorities with jurisdiction; Provided, the agreement, binding on all signatories, fulfills statutory requirements under RCW 79A.05.030(5) and RCW 79A.05.070(7); is approved as to form by the AAG; and follows Commission policy and objectives as detailed in the *LANDS Manual, Volume One: Narrative and Data Tables, Section III* and *Volume Two: Procedures, Section RPA*.

G. Upon request, provide the Commission a listing of leases, easements, permits, covenants and other agreements granted and accepted under this authority.

H. Spend Parkland Acquisition Account (PAA) funds to execute agreements and purchase fee-simple ownership in properties or property rights (i.e., uplands, tidelands and shorelands; improvements and structures) when the fee-simple purchase is time-sensitive, and/or where acquisition is effectively prohibited using traditional fund sources; Provided:

- The fee-simple purchase price is under \$100,000
- The parcel is non-complex (e.g., single owner, minor improvements, no liens, etc.), and
- The parcel is adjacent to or adjoins existing parklands; or
- The parcel meets the criteria described in Section (K) below.

I. Spend PAA funds to obtain non-fee-simple ownership easements and rights, preferably in perpetuity, but under no condition for less than 30-year terms, when the non-fee-simple interest is deemed “highest value¹” when considered in the context of adopted park objectives, and the purchase price is under \$100,000.

¹ *Highest Value* -- the consideration given to a property based on criteria including: future availability, value in use to the park, conversion risk and any other park-specific conditions that contribute to overall WSPRC objectives. *Example of a “park-specific condition that contributes to an overall park objective”*: Purchasing easement interests to provide water/utility services from an existing provider when the alternative is acquisition of non-recreational lands with water availability.

J. Accept donations of real property or partial interests in real property; Provided, the donation parcel is adjacent to existing park property. Acceptance may be completed only after a formal acceptance letter is offered to the donor by the Director, stating that the land or partial interest of the lands involved is beneficial to the state park system.

K. Acquire real property; provided, that the property is acquired from willing seller(s), is less than 10 total acres, or that the purchase price is under \$500,000 (2007 dollars, as adjusted for inflation); and funding is available through either the PAA or a grant source. Additionally, the property to be acquired shall be:

- Located entirely within a Commission-approved, long-term (CAMP) boundary or other agency adopted master plan or development plan
- Needed to complete an agency adopted capital project
- Needed to complete an agency adopted partnership project

L. Act on any Commission decision relating to real property and adopted in open session, for a period of ten (10) years from the date of the adopted item in accordance with the action and in an effort to complete the property transaction; Provided, that the action is essentially the same as and materially consistent with the original Commission decision. For transactions completed beyond 24 months from the date of the original decision, staff will provide a written report to the Commission on the property transaction.

M. Make necessary adjustments in the legal description and deed of a subject parcel as deemed to be in the best interest of the State, and take other minor or administrative actions as necessary to complete real estate transactions approved by the Commission, including but not limited to correcting scrivener's errors, making amendments to park boundaries following disposal of parkland, and revising or amending agreements when the revision or amendment constitutes less than a 20 percent change in the original agreement or scope of work (e.g., adding a water line to a sewer line in the same trench.)

~~**N.** Sign agreements for the purpose of managing or operating recreational lands or facilities or agreements which improve natural, historical or cultural resources on lands owned or managed by other forms of government or federally regulated entities provided the operation results in an economic benefit to the Washington State Park system over the term of the agreement.~~