
CRITICAL AREA PROTECTION AREA

_____, (hereinafter the Grantor), owner of the real property described in Exhibit 1 (hereinafter the Property), hereby grants and conveys to the City of Bonney Lake (hereinafter the City), a Critical Area Protection Area (hereinafter CAPA) restricting use as further described below over, under, and across the portion of real property described in Exhibit 2 and illustrated in Exhibit 3 (hereinafter Protection Area):

1. Recitals.

- 1.1 **Ownership.** Grantor owns the Property located within the City of Bonney Lake, Pierce County, Washington.
- 1.2 **Undevelopable Critical Areas Present.** Environmental critical areas regulated under the City of Bonney Lake Critical Areas Code (Bonney Lake Municipal Code Title 16 Article II) (hereinafter critical area regulations) and the Washington State Growth Management Act (Revised Code of Washington Chapter 36.70A) have been found on the Property. The critical areas subject to this CAPA are considered unbuildable, per City Code and/or State law and are located in the area depicted on Exhibit 3 of this CAPA.
- 1.3 **Purpose.** This CAPA is necessary to prevent development within critical areas, which poses a threat to human safety and to public and private property, and to protect the biological and physical functions provided by critical areas, including but not limited to protecting water quality, fish and wildlife habitat; storing and conveying floodwaters; recharging groundwater; controlling erosion.
- 1.4 **Authority.** Acquisition of this CAPA is required pursuant to BLMC 16.12.130.F to set aside and permanently protect the critical area.

2. **Actions within the Protection Area.** The Grantor shall not perform, nor knowingly allow others to perform, any acts within the Protection Area that will impact the functions and values of the critical area including those acts specifically prohibited or restricted herein and/or the substantive requirements of the City's critical area regulations. The Grantor shall obtain any required written permissions or permits from the City of Bonney Lake in advance of commencing any such action. Any requested action will be carried out consistent with this CAPA, in a manner that protects the functions and values of the critical area, and complies with the standards of the critical area regulations and any other

applicable local, state or federal laws and regulations. Acts specifically prohibited within the Protection Area include:

- 2.1 **Altering Topography.** Altering the existing topography by grading, terracing, digging, plowing, disking, or otherwise disturbing the ground surface.
- 2.2 **Disturbing Vegetation.** Tree trimming, tree topping, tree cutting, tree removal, shrub and brush-cutting, and other similar clearing or alteration activities. Provided that the, Grantor may take restoration activities to improve wildlife and aquatic habitats and/or other functions and values of the critical areas and take action to address hazardous trees or control noxious weeds after obtaining any required permits or licenses from the City.
- 2.3 **Use of Vehicles.** Operation of any motorized vehicle to include recreational vehicles and all-terrain vehicles.
- 2.4 **Installation of Utilities.** The installation or relocation of new public or private overhead utilities, including electric, telephone, or other communications services over or within the Protection Area, is prohibited. Existing utilities within the Protection Area as of the execution of this CAPA may be maintained, repaired, removed, or replaced at their current location. Installation, repair, and maintenance of underground utilities such as electric, gas, water, and sewer lines may be permitted within the Protection Area.
- 2.5 **Construction.** Construction of new buildings, structures, impervious surfaces, pervious surfaces, or other man-made improvements.
- 2.6 **Waste Disposal.** Dumping, collecting, recycling, accumulating, and storing of trash, refuse, waste, sewage, or other debris.
3. **Access.** No public right to access is conveyed by this CAPA. Grantor maintains the right to prevent trespass and to control access by the public.
4. **Recreational Uses.** Undeveloped passive recreational uses, such as hiking, bird watching, and fishing are permitted as long as such uses do not impact the functions and values of the critical area. This allowance does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to or alteration of a critical area shall be restored, rehabilitated, or replaced at the Grantor's expense.
5. **Enforcement.** Any person conducting or authorizing any activity in violation of this CAPA, the provisions of critical areas regulations, or any other applicable local, state or federal regulations shall be subject to the City of Bonney Lake's code enforcement provisions and any other applicable penalties.

6. **Limited Entry.** The City is granted the right to enter upon the Property for purpose of conducting all necessary inspection and observations within the areas of the Protection Area that are in plain view. The City’s right to enter is for the limited purpose of determining compliance with the terms of this CAPA, the critical areas regulations, and other applicable local, state or federal regulations. The City’s entrance as provided for herein, shall be at times and under conditions that are reasonable, giving advance notice and due respect to Grantor’s peace, solitude and quiet enjoyment of the Property.

7. **Responsibilities of Grantor Not Affected.** Other than as specified herein, this CAPA is not intended to impose any legal or other responsibility on the City, or in any way affect any existing obligations of Grantor as the owner of the Property. For example:
 - 7.1 **Taxes.** Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property to include the Protection Area.

 - 7.2 **Upkeep and Maintenance.** Grantor shall continue to be solely responsible for the upkeep and maintenance of the Protection Area consistent with this CAPA and the applicable City, State, and Federal laws and regulations.

8. **Hold Harmless.** The Grantor agrees to defend, indemnify and save harmless the City of Bonney Lake, its officers, agents, and employees from any and all claims of every nature whatsoever, real or imaginary, which may be made against the City, its officers, agents, or employees for any damage to property or injury to any person arising out of the maintenance of said CAPA over said owner’s property or the actions of the undersigned owner in carrying out the responsibilities under this agreement, excepting there from only such claims as may arise solely out of the gross negligence of the City of Bonney Lake, its officers, agents, or employees. It is expressly understood that the indemnification provision set forth in this paragraph shall apply to any fee owner of the Property described in Exhibit 1 for claims arising during the term of their respective ownership.

9. **Term.** The rights and obligations set forth herein run with the Property and are binding upon and inure to the benefit of Grantee, their successors and assigns and all those who might take an interest in the Property.

Grantor:

ACCEPTED BY:
CITY OF BONNEY LAKE

Date

by _____

STATE OF WASHINGTON)

) SS.

County of Pierce)

On this day personal appeared before me _____ to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledge that (s)he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this ___ day of _____.

Print Name: _____

Notary Public in and for the State of

Washington, residing at: _____

My commission Expires: _____