

**INTERLOCAL AGREEMENT (ILA) BETWEEN  
WHITMAN COUNTY, THE CITIES OF PULLMAN, COLFAX, PALOUSE,  
ALBION, MALDEN, ROSALIA, AND TEKOA,  
FOR COOPERATIVE SHORELINE MASTER PROGRAMS UPDATE**

This Interlocal Agreement ("Agreement") is entered into under the authority of the Interlocal Cooperation Act, Chapter 39.34 Revised Code of Washington by and between Whitman County and the cities and/or local jurisdictions of Albion, Colfax, Malden, Rosalia, Tekoa, Palouse, Pullman, (the "parties"). No new or separate legal or administrative entity is created by this Agreement.

**Recitals**

WHEREAS, pursuant to Chapter 39.34 RCW (Interlocal Cooperation Act), one or more public entities may contract with one another to perform government functions or services which each is by law authorized to perform; and

WHEREAS, pursuant to the Shoreline Management Act, Chapter 90.58 RCW, Whitman County, and the cities within Whitman County having regulated shorelines within their jurisdictional boundaries, which are Albion, Colfax, Malden, Rosalia, Tekoa, Palouse, and Pullman, are required to update their Shoreline Master Programs (SMPs) by December 1, 2015; and

WHEREAS, participation in planning for regulated shorelines outside their jurisdictional boundaries is in the public interests of the parties; and

WHEREAS, dependent upon funding to be provided by the legislature in July 2013, the Washington State Department of Ecology (Ecology) is expected to provide a grant pursuant to Chapter 90.58 RCW to update the required SMPs; and

WHEREAS, because shorelines cross jurisdictional boundaries, regulation of shoreline protection, public access to the shoreline, and development in and adjacent to the shorelines is best achieved through cooperative and collaborative planning; and

WHEREAS, funding and timing efficiencies and economies of scale in use of expected grant funds can be realized by cooperative and collaborative shoreline planning;

WHEREAS, by and through this ILA, the parties shall form a Shoreline Coalition for the purposes of development and adoption of Shoreline Master Programs;

**Agreement**

In consideration of the mutual promises contained herein, the Parties to this Agreement agree as follows:

- 1. Adoption of Recitals.** The recitals set forth above are hereby adopted as the factual basis for this Agreement.

2. **Purpose.** The purpose of this Agreement is to set forth:

- a. An administrative structure;
- b. Mutually agreed-upon goals; and
- c. Identified tasks and responsibilities necessary for the cooperative shoreline master programs updates using expected Department of Ecology grant funds as set forth in the recitals of this Agreement.

3. **Administrative Structure – Joint Board.** This Agreement does not establish a separate legal entity to carry out the cooperative shoreline master programs updates as specifically set forth herein. The following paragraphs provide for a joint board and administrator responsible for the project and undertaking set forth herein.

a. **Project Management Team.** A Project Management Team consisting of a representative from each of the jurisdictions included in the Coalition.

b. **Project Manager.** Whitman County Planner or his/her designee is the Project Manager designated to administer this Agreement.

c. **Communications.** The Project Manager and Project Management Team will communicate via in-person meetings, telephone or e-mail to relay information, answer questions, or raise concerns. All Parties will respond promptly to communications. The Project Manager will attempt to ensure that information related to the project is timely provided to the Parties, between the Parties, and between the Parties and the Washington State Department of Ecology.

d. **Documents to be Provided.** The Project Manager will cause to be distributed to each Party an electronic copy, or where electronic copies are not efficacious, one (or more if necessary) hard copies of review documents and deliverables.

e. **Decision-Making.** Decision making shall occur as a collaborative effort of the Coalition, however, Whitman County shall retain the sole decision making authority for the purposes of administering the Department of Ecology grant and the administration of this agreement. Any decisions that need to be made shall be documented and retained by the Project Manager.

f. **Records.** The Project Manger will keep the official project records and make them available to the Project Management Team.

4. **Agreed-Upon and Mutual Goals.** The Parties agree to the following mutually agreed-upon goals necessary for cooperative shoreline master programs updates:

- a. It is the intent of the Parties to develop consistent SMPs; and
- b. Each Party will cooperate to carry out the terms of the grant agreement with Ecology; and
- c. The Parties hereby establish the following priorities, in order of priority, regarding use and disbursement of grant funds:

1. Shoreline inventory;
2. Shoreline analysis;
3. Shoreline characterization;
4. Shoreline environmental designs;
5. Cumulative Impacts Assessment/No Net Loss Demonstration;
6. Identification of Restoration Opportunities; and
7. Public Involvement.

d. The Parties will jointly establish countywide shoreline goals, and a regional approach to public participation, the SMP inventory, analysis, characterization, and identification of restoration opportunities.

e. To the extent reasonably possible, the Parties will jointly develop shoreline environmental designations, a restoration plan, shoreline policies and regulations, and cumulative impacts assessment/no net loss demonstration. These designations, restoration plans, shoreline policies and regulations, and impacts assessment/not net loss demonstration shall, to the extent reasonably possible, respect the individual circumstances unique to the individual Coalition jurisdictions.

#### **5. Identified Tasks and Responsibilities.**

a. The Project Management Team shall jointly develop an agreed-upon Scope of Work to be submitted to the Department of Ecology as documentation required to receive expected grant funds for cooperative shoreline master programs updates. Each Party may have unique needs based on the condition of its shorelines or adjacent land uses, prior planning or data collection, political framework, or other situation. Those needs will be addressed in the final Scope of Work and funding under the Ecology grant. *A copy of the most current draft of the agreed-upon Scope of Work/SMP Planning Process is attached hereto as Exhibit "A".*

b. The Parties hereby designate Whitman County as the "Recipient" of any Department of Ecology Shoreline Management Act grant funds made available to the Parties for purposes of cooperative development of update Shoreline Master Programs.

c. As Recipient of Department of Ecology grant funds, Whitman County will be responsible to the Department of Ecology for administration of the grant, and for submission to the Department of Ecology of all required deliverables, reports, and accounting for funds as required by the grant agreement.

d. Whitman County will issue a Request for Proposals for technical consultant services necessary to implement the agreed-upon Scope of Work. If grant funds are obtained from the Department of Ecology, Whitman County will enter into any necessary contracts for performance of such technical consultant services, using funds obtained from the grant.

e. Each party will take legislative action to adopt a locally-adapted SMP and submit it to Ecology for approval as required.

**6. Agreement Term.** This Agreement shall become effective upon the date it is signed by the Whitman County Board of County Commissioners (BOCC), with each participant having already signed the agreement. It shall remain in effect through December 1, 2015.

**7. Termination of Agreement.** Any Party may choose to terminate its participation in this Agreement by notifying the other parties in writing thirty (30) days prior to termination. Termination of participation shall not entitle a party to assert any claim to unexpended Ecology grant funds. Any terminating party shall continue to be entitled to work products generated pursuant to this Agreement through the termination date of this Agreement.

**8. Extensions.** *The term of this Agreement may be extended for one additional year until December 1, 2016,* by mutual agreement of all Parties, if necessary to complete work under the grant. The County Administrator and the Executive Officer of each other Party are authorized to approve and execute such a one year extension without further authorization from the legislative body of each Party.

**9. Cost of Service.** No party will charge another party for services rendered under this Agreement except as provided for under separate agreements.

**10. Billing Method and Process.** Any billing for services rendered under this Agreement will be carried out and processed in accordance with separate agreements for those services.

**11. Dispute Resolution.** Any dispute between the Parties regarding the delivery of services under this Agreement or the alleged breach of such Agreement which cannot be resolved pursuant to Section 3E may be submitted to mediation, with agreement of the parties to the dispute.

**12. Independent Contractor.** The Parties are and shall at all times be deemed to be independent contractors in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between the Parties. Each Party shall retain all authority for provision of services, standards of performance, discipline and control of personnel, and other matters incident to its performance of services pursuant to this Agreement. Nothing in this Agreement shall make any employee of any Party an employee of any other Party for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

**13. Hold Harmless – Indemnification.** It is understood and agreed that each Party will be responsible for its own negligence and will, to the extent of its negligence, indemnify and hold harmless the other Parties from any and all claims, losses, or causes of action, suits and actions in equity of any kind.

**14. Attorneys fees and costs.** All parties shall bear their own attorneys fees and costs of enforcing the rights and responsibilities under the contract.

**15. Assignment and Subcontracting.** No Party shall transfer, assign, or subcontract, in whole or in part, any or all of its respective rights or obligations under this Agreement without the prior written consent of the other Parties.

**16. No Third-Party Beneficiary.** The Parties do not intend by this Agreement to assume any contractual obligations to anyone other than each other. The Parties do not intend to create any third-party beneficiary to this Agreement.

**17 Notice.** Any notices to be given under this Agreement shall, at minimum, be delivered postage prepaid and addressed to:

To the Board of County Commissioners:

Board of County Commissioners  
Whitman County Courthouse  
P.O. Box 430, Colfax, WA 99111

Attention: \_\_\_\_\_

To the Whitman County Planner

To the City of Pullman

Attention: \_\_\_\_\_

To the Town of Albion

Attention: \_\_\_\_\_  
To the City of Colfax

Attention: \_\_\_\_\_

To the Town of Malden

Attention: \_\_\_\_\_

To the City of Rosalia

Attention: \_\_\_\_\_

To the City of Tekoa

Attention: \_\_\_\_\_

To the Town of Palouse

Attention: \_\_\_\_\_

To the City of Pullman

Attention: \_\_\_\_\_

The name and address to which notices shall be directed may be changed by any Party giving the other Parties notice of such change as provided in this section.

**18. Waiver.** No waiver by any Party of any term or condition of this Agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

**19. Interlocal Cooperation Act Compliance.** This is an Agreement entered into pursuant to Chapter 39.34 RCW. Its purpose is as set forth in Section 2. Its duration is as specified in Section 6 (Term). Its method of termination is set forth in Section 7. Its manner of financing and of established and maintaining a budget therefore is described in Section 5 (Identified Tasks and Responsibilities), and Section 9 (Cost of Service) and 10 (Billing Method and Process). No real or personal property shall be acquired pursuant to this Agreement that will need to be disposed of upon partial or complete termination of this Agreement.

**20. Entire Agreement.** This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein and no prior Agreements shall be effective to the contrary.

**21. Amendment.** The provisions of this Agreement may be amended with the mutual consent of the Parties. No additions to, or alterations of, the terms of this

Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of the parties.

**22. Counterparts.** This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**23. Document Execution and Filing.** The Parties agree that there shall be two (2) duplicate originals of this Agreement prepared and distributed for signature by the necessary officials of each Party. Each Party who executes this Agreement shall cause the two executed originals to be returned to the Project Manager, who shall cause one executed original be filed with the Whitman County Auditor, retain one original for its records, and distribute conformed copies to the designated agents of the parties set forth in Section 17. The Clerk of the Board of County Commissioners shall cause a copy of this Agreement to be posted on the County website pursuant to Chapter 32, Laws of Washington 2006 (RCW 39.34.040). Upon filing with the Whitman County Auditor of the signed original, and posting of a copy on the County's website, such signed original shall constitute an Agreement binding upon the parties.

**24. Ratification.** Acts taken in conformity with this Agreement prior to its execution are hereby ratified and confirmed.

**25. Severability.** If any term, provision, covenant or condition of this Agreement shall be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Agreement shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby. To this end, the provisions of this Agreement are declared to be severable.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed in its respective name by its duly authorized officers.

To the City of Colfax

Mayor or designee: \_\_\_\_\_ Signed on (date) \_\_\_\_\_.

To the Town of Malden

Mayor or designee: \_\_\_\_\_ Signed on (date) \_\_\_\_\_.

To the City of Rosalia

Mayor or designee: \_\_\_\_\_

Signed on (date) \_\_\_\_\_.

To the City of Tekoa

Mayor or designee: \_\_\_\_\_

Signed on (date) \_\_\_\_\_.

To the Town of Palouse

Mayor or designee: \_\_\_\_\_

Signed on (date) \_\_\_\_\_.

To the City of Pullman

Mayor or designee: \_\_\_\_\_

Signed on (date) 4-10-13.

WHITMAN COUNTY BOARD OF COUNTY COMMISSIONERS:

Signed on (date) \_\_\_\_\_.

\_\_\_\_\_  
Commissioner Art Swannack

\_\_\_\_\_  
Commissioner Dean Kinzer

\_\_\_\_\_  
Commissioner Michael Largent



**Exhibit "A"**  
**SCOPE OF WORK**

Please refer to the Washington State Department of Ecology website for more detail about requirements and deliverables. The project consultant will work with the coalition and ECY staff to provide updated SMPs for Whitman County, Cities of Albion, Colfax, Malden, Palouse, Pullman, Rosalia, Tekoa. Shoreline Management Act and SMP guidelines provide direction for using existing data and no new data or original research is expected to be generated as part of the update process unless specifically called for in order to meet the requirements of the grant agreement with Ecology. This project will be phased. The consultant team will be hired to provide specific elements in Phases 1-6. Draft work products will be submitted to the project manager who will submit to ECY for review and comment.

- Phase 1. Identify preliminary shoreline jurisdictions; develop public participation program;
- Phase 2. Conduct shoreline inventory & analysis and characterization;
- Phase 3. Develop draft shoreline environmental designations, policies and regulations;
- Phase 4. Prepare restoration plan; develop Cumulative Impacts Analysis, No Net Loss Report, and revisit Phase 3 products as necessary
- Phase 5. Conduct local approval processes and submit updated SMPs for ECY approval;
- Phase 6. Ecology conducts state approval process.

**REQUIRED SERVICES AND PRODUCTS**

- A. Phase 1: Identify Preliminary Shoreline Jurisdictions, Develop Public Participation Plan, including the following tasks:**
  - 1. Preliminary Shoreline Jurisdiction. Prepare a Whitman County's shoreline map to incorporate water bodies that exceed the jurisdictional threshold but are not included in the current SMP. Whitman County has no GIS layer of its shoreline areas, this map will be used as the base map for the update process.
  - 2. Public Participation Plan and Implementation. Develop a public participation plan that is consistent with SMA and SMP guidelines and includes strategies for individual cities and rural Whitman County. The coalition, or designee, will review the draft plan, provide comments, and approve the final document.

3. Provide related materials and assist in implementing the Plan at the individual jurisdiction and County levels.
4. SMP Checklist. Document how the Phase 1 work products comply with the SMP guidelines by completing the relevant sections of the SMP submittal checklist.

**B. Phase 2: Shoreline Inventory, Analysis and Characterization**

1. Shoreline Inventory & Characterization of the ecosystem-wide processes. This characterization will include:
  - a. Shoreline Inventory. Prepare a complete digital draft list of the inventory data sources, digital maps of the inventory information and a complete shoreline inventory. Revise as requested by the coalition or ECY.
  - b. The basic geographic context including geology, soils, topography, climate, vegetation and drainage patterns, and fish and wildlife habitats.
  - c. The location and nature of major land uses and trends.
  - d. Identification of ongoing impacts to the shoreline environment that can be addressed through the SMP and what issues are being addressed through other planning and regulatory implementation.
  - e. Identification of channel migration zones in appropriate locations, including technical documentation of methods and results.
2. Characterizations of shoreline functions and reach analysis. The shoreline will be separated into reaches based on land use and ecological processes. A detailed analysis will be conducted that includes a narrative with reference to maps at the reach level. This characterization will include:
  - a. Detailed characterization of the physical, biological and land use components within the shoreline jurisdiction.
  - b. Evaluation and assessment of the shoreline ecological function based on current scientific understanding of the relationship between the conditions of the ecosystem-wide processes and conditions within the shoreline jurisdiction.
  - c. The location and nature of known pertinent regulatory activities (e.g. TMDL, ESA listings, and contaminated sites).
3. Identification of potential protection and restoration areas. Opportunities will be identified for protection/restoration of upland and adjacent areas essential for maintaining the shorelines ecological form and function.
4. Analyze shoreline use and public access. The methodology and specifications/parameters will be agreed to by the coalition, or its designee, ECY and the consultant team prior to the analysis. Particular attention should be given to the

significant pressure placed on public access locations by seasonal tourism. The consultant will prepare:

- a. An analysis of current public use sites and sites that provide an opportunity for additional future public access.
  - b. An analysis of current and projected shoreline use patterns and potential use conflicts.
  - c. Estimates of future demand for shoreline space consistent with WAC 173-26-201(3)(d)(ii) requirements.
  - d. An analysis of opportunities for appropriate shoreline (SMA preferred) uses and potential conflicts, based on current use patterns and projected trends.
5. Summarize characterization and analysis findings and make recommendations. This will include a report and map portfolio that summarizes the assembled information and data as it relates to the development of an effective SMP. The report will present findings and recommendations, and will include the stand alone subtask work products as appendices. The consultant will provide 10 copies of the draft report for review by the coalition for their review and comment prior to finalization of the document.
6. SMP Checklist. Document how the Phase 2 work products comply with the SMP Guidelines by completing the relevant sections of the SMP submittal checklist.

**C. Phase 3: Develop Draft Shoreline Environmental Designation, Policies and Regulations.**

This Phase of the SMP Update will be done jointly as much as possible, but will require separate Cumulative Impacts Analysis for each of the jurisdictions in the coalition.

To the extent possible, the coalition will jointly develop shoreline policies, regulations, and standards and shoreline environment designations with environment-specific policies, regulations, and standards. The consultant and coalition may utilize a technical advisory or citizen advisory group to assist in incorporating the public vision in the development of these shoreline policies, regulations, and standards. Acknowledging that local variations in policies, regulations, and standards is likely, it is the intent of the coalition that the SMPs maintain the greatest degree of consistency possible.

1. Conduct a community visioning process for countywide, UGAs and individual cities that are based on SMA policy and inventory/characterizations. A community visioning process will be conducted countywide and for each coalition jurisdiction including the urban growth areas to determine what citizen goals and aspirations are in the context of the preliminary findings of the

shoreline inventory and characterization. A memo summarizing the results of the visioning process will be prepared and submitted to the coalition.

2. Develop countywide shoreline goals. Countywide shoreline goals applicable to all coalition jurisdictions will be developed to comply with the SMA and SMP Guidelines, and reflect the public visioning process.
3. Develop shoreline environment designations that comply with the SMP Guidelines and reflect the findings of the shoreline inventory and characterization and the public visioning process where applicable.
4. Develop specific use policies, regulations and standards for the different environments designations as appropriate which comply with SMA and the SMP Guidelines and reflect the public visioning process. The draft environment designation specific use policies and regulations will identify:
  - a. Shoreline use policies and regulations that implement the goals developed in task 2.
  - b. Which shoreline uses are prohibited and which are allowed by substantial development permit or conditional use permit.
  - c. Bulk dimensional standards (buffers, setback, density, etc.).
  - d. Any local policies or regulations adopted by reference, if relied upon to satisfy SMA or SMP Guidelines requirements.
5. Develop Shoreline modification activity policies, regulations and standards. Shoreline modification activity policies, regulations, and standards will be developed to comply with SMA and the SMP Guidelines, and reflect the public visioning process. The draft shoreline modification activity policies and regulations will identify:
  - a. Shoreline modification activity policies and regulations that implement the goals.
  - b. Which shoreline modification activities are prohibited and which are allowed by shoreline substantial development permit or conditional use permit.
  - c. Bulk dimensional standards (buffers, setbacks, density, etc.).
  - d. Shoreline modification activity standards.
  - e. Any local policies or regulations adopted by reference, if relied upon to satisfy SMA or SMP Guidelines requirements.
6. Conduct Case Studies. Case studies will be used as appropriate to evaluate and communicate to the public the effects of proposed goals, policies, regulations and standards. The case studies should focus on the topics or issues the community is most concerned about (i.e. docks, shoreline stabilization, buffers, etc.) as demonstrated through the visioning process.
7. Develop SMP administrative provisions. Draft provisions for SMP administration, including necessary elements for permit administration,

compliance, and enforcement. Generic provisions will be adapted to fit the permitting procedures of each jurisdiction. This may also require amendments to existing Critical Areas Ordinances for consistency with the draft SMP policies

8. SMP Checklist. Document how the Phase 3 work products comply with the SMP Guidelines by completing the relevant sections of the SMP submittal checklist.

**D. Phase 4 Prepare Restoration Plan; Develop Cumulative Impacts Analysis, No Net Loss Report, and revisit Phase 3 products as necessary.**

This Phase of the SMP Update will be done jointly as much as possible, but will require separate Cumulative Impacts Analysis and Restoration Plan for each of the jurisdictions in the coalition.

1. Prepare preliminary cumulative impacts analysis. The consultant will analyze the cumulative impacts of existing SMPs to identify deficiencies and opportunities within them.
2. Cumulative impacts analysis. The consultant will analyze the cumulative impacts of future uses and the development allowed by the proposed SMP.
3. Restoration Planning. The findings from the completed analyses will be used by the consultant to develop a restoration plan. The plan will establish overall goals, objectives, and priorities in each shoreline area for the restoration of ecological functions. Current and ongoing programs that contribute to achieving these goals, as well as additional projects necessary for a successful restoration plan will be identified. The restoration plan should include an implementation strategy, including funding, timelines, and benchmarks for monitoring success. Identification of specific prioritized restoration projects should be included as an appendix to the SMP.
4. SMP Checklist. Document how the Phase 4 work products comply with the SMP Guidelines by completing the relevant sections of the SMP submittal checklist.

**E. Phase 5 Conduct Local Approval Process and Submit Updated SMPs for Ecology approval.**

Each jurisdiction will conduct its own local approval process and submit its adopted SMP to Ecology for approval. The Consultant will attend public workshops and hearings to provide necessary expertise, particularly with respect to the scientific aspects of the project and maintaining consistency among the individual jurisdictions' SMPs.

**F. Phase 6 Ecology Conducts State Approval Process.**

The consultant will be available to assist staff in responding to comments that may be generated through Ecology's approval process and maintaining consistency among the individual jurisdictions' SMPs.

**Approximate Timeline (subject to DOE contract and subject to change):**

|                        |                          |
|------------------------|--------------------------|
| RFP Issued:            | Undetermined             |
| RFP's Due by:          | Undetermined             |
| RFP Opening:           | Undetermined             |
| BOCC Contract Award:   | Undetermined             |
| Final Contract Signed: | Undetermined             |
| Work to Commence:      | Upon Contract Acceptance |
| Work Completed:        | June 30, 2016            |
| Adoption Completed:    | June 30, 2016            |