

**PEND OREILLE COUNTY  
NEWPORT, WASHINGTON**

**RESOLUTION NO. 2022- 71**

**SHORELINE MASTER PROGRAM UPDATE-INTERLOCAL AGREEMENT  
WITH CITY OF NEWPORT**

**WHEREAS**, Chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes public agencies to enter into agreements for mutually advantageous joint or cooperative action; and

**WHEREAS**, Pend Oreille County and the City of Newport and Towns of Cusick, Ione, Metaline, and Metaline Falls (Municipalities) are public agencies within the meaning of Chapter 39.34 RCW; and

**WHEREAS**, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Pend Oreille County, Washington ("the Board") has the care of county property and the management of county funds and business; and

**WHEREAS**, the Washington State Department of Ecology has provided grant funding for the County and Municipalities; and

**WHEREAS**, the Board feels that the best interest of the public will be served by entering into said agreement with those municipalities.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the Pend Oreille County Board of Commissioners that the agreement, which is attached hereto and incorporated herein, be established and adopted.

**ADOPTED** this 27 day of June, 2022.

**BOARD OF COUNTY COMMISSIONERS  
PEND OREILLE COUNTY, WASHINGTON**

  
\_\_\_\_\_  
John Gentle, Chair

  
\_\_\_\_\_  
Robert Rosencrantz, Vice-Chair

  
\_\_\_\_\_  
Brian Smiley, Member

ATTEST:

  
\_\_\_\_\_  
Crystal Zieske, Clerk of the Board

NP 2022-15  
R-2022-71

**INTERLOCAL AGREEMENT BETWEEN PEND OREILLE COUNTY  
And the TOWNS OF CUSICK, IONE, METALINE, and METALINE FALLS  
And the CITY OF NEWPORT FOR  
REGIONAL SHORELINE MASTER PROGRAM UPDATE PROCESS**

**AGREEMENT SPECIFIC TO THE CITY OF NEWPORT AND PEND OREILLE  
COUNTY**

THIS INTERLOCAL AGREEMENT ("Agreement") is entered under the authority of the Interlocal Cooperation Act, Chapter 39.34.RCW between Pend Oreille County and the Towns of Cusick, Ione, Metaline and Metaline Falls and the City of Newport.

**WHEREAS**, pursuant to Chapter 39.34 RCW, 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**, the Washington State Shoreline Management Act (RCW 90.58) and its associated rules (WAC 173-26) require local governments to administer shoreline master programs that include policies and regulations that govern designated shorelines within their respective jurisdictions; and

**WHEREAS**, Pend Oreille County and the Towns of Cusick, Ione, Metaline and Metaline Falls and the City of Newport are required to update their shoreline master programs by June 30, 2023; and

**WHEREAS**, the Washington State Legislature has provided funding through the Washington State Department of Ecology ("Ecology") for local governments to update their shoreline master programs; and

**WHEREAS**, Pend Oreille County and the Towns of Cusick, Ione, Metaline and Metaline Falls and the City of Newport have agreed to coordinate to update their shoreline master programs using grant funding from Ecology; and

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

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

**NOW THEREFORE**, the parties 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:

- 2.1 Administrative responsibilities;
- 2.2 Agreed-upon goals; and
- 2.3 Identified tasks and responsibilities for cooperative shoreline master program updates.

## 3. ADMINISTRATIVE RESPONSIBILITIES

This Agreement does not establish a separate legal entity to carry out the cooperative shoreline master program updates undertaken herein. The following paragraphs identify administrative responsibilities for cooperative shorelines master program updates.

- 3.1 Project Manager. Pend Oreille County is the Project Manager designated to administer this Agreement.
- 3.2 Lead Agency. Pend Oreille County will take the Lead Agency Status for this project, which includes the responsibility for all Consultant Contract Administration, Grant Administration and SEPA activities.
- 3.3 Communications. The Project Manager and the other Parties will communicate via in-person meetings, telephone or email to relay information, answer questions, or raise concerns. All parties will respond promptly to communications. The Project Manager will ensure that information related to the project is timely provided to the Parties, between the Parties, and between the Parties and Ecology.
- 3.4 Documents to be Provided. The Project Manager will distribute to each Party an electronic copy of review documents and deliverables.
- 3.5 Record-Keeping. The Project Manager will keep the official project records and make them available to each jurisdiction for record keeping associated with the adoption of each jurisdiction's local shoreline master program.

## 4. AGREED-UPON GOALS

The Parties agree to the following goals necessary for cooperative shoreline master program updates:

- 4.1 It is the Parties' intent to develop consistent shoreline master programs.

- 4.2 Each Party will cooperate to carry out the terms of the grant agreement with Ecology.
- 4.3 The Parties will jointly establish countywide shorelines goals, a regional approach to public participation, the shoreline master program inventory, analysis, characterization, and identification of restoration opportunities.
- 4.4 To the extent possible, the Parties will jointly develop shoreline environmental designations, a restoration plan, shoreline policies and regulations, and cumulative impacts assessment/no net loss demonstration.

## **5. IDENTIFIED TASKS AND RESPONSIBILITIES**

- 5.1 The Parties hereby designate Pend Oreille County as the "Recipient" of a portion of the Ecology Shoreline Management Act grant funds made available to the Parties for purposes of cooperative development of an updated shoreline master program(s) for each of the separate jurisdictions. The amounts of those funds shall be as set forth below in sections 5.2 and 5.3.
- 5.2 The anticipated grant funds available from Ecology for all participating jurisdictions within this Agreement will not exceed Eleven Thousand Two Hundred Dollars (\$11,200.00) for the fees, services and materials of the Consultant contract and reimbursable expenses for the participating jurisdictions.
- 5.3 Each participating jurisdiction will enter into a separate interlocal Agreement with Pend Oreille County. The combined funding of all jurisdictions, including Pend Oreille County's portion, from Ecology will be One Hundred Forty Thousand Dollars (\$140,000.00). As party to this Agreement, the City of Newport agrees to provide to Pend Oreille County (as Lead Agency) the following amounts from the Ecology grant towards the Consultant budget: Eleven Thousand Two Hundred Dollars (\$11,200.00).
- 5.4 As recipient of Ecology grant funds, Pend Oreille County will be responsible to Ecology for administration of the grant, and for submission to Ecology of all required deliverables, reports and accounting for funds as required by the grant agreement, including an updated shoreline master program satisfactory to each of the separate jurisdictions.
- 5.5 Pend Oreille County shall work with the other jurisdictions to develop an appropriate approach to produce each jurisdiction's shoreline master

program. Pend Oreille County will also work with other interests participating in the shoreline master program update regarding the general direction of the effort.

- 5.6 As recipient of Ecology grant funds and as the Project Manager for this shoreline master program process, Pend Oreille County is responsible for the preparation of a shoreline master program that meets the State's procedural and substantive requirements. Pend Oreille County will provide staff and consultant services to the participating jurisdictions for their local shoreline master program adoption process. The participating jurisdictions are responsible for providing limited staff assistance in gathering necessary background information, performing review of draft policies and deliverables and for coordinating with Pend Oreille County for the program adoption process.
- 5.7 As a recipient of Ecology grant funds and as the Project Manager for this shoreline master program process, Pend Oreille County will have the lead role in conducting public participation that is designed to engage the public within the participating jurisdictions. A Public Participation Program will be developed as part of this process. The participating jurisdictions are responsible for coordinating with and assisting Pend Oreille County in those public participation efforts and may opt to conduct additional public participation within its own jurisdiction.
- 5.8 Upon receipt of commitment of grant funds from Ecology, Pend Oreille County will contract for performance of those technical consultant services, using the funds obtained from the grant.
- 5.9 Pend Oreille County shall manage the consultant work for the cooperative shoreline master program updates.
- 5.10 Pend Oreille County and each participating jurisdiction will take legislative action to adopt its own locally adopted shoreline master program. Changes, if any, required as a result of the Ecology approval process (WAC 173-26-120) are the sole responsibility of each individual jurisdiction in accordance with WAC 173-26-120(3)(b).
- 5.11 Pend Oreille County may unilaterally terminate all or part of this Agreement or may reduce its scope of work and budget if there is a reduction in funds by the source of those funds. The Agreement shall terminate (10) ten days from the date of mailing of such termination for lack of funds. Pend Oreille

County shall not be responsible for payment of any activities or expenses incurred after the (10) ten-day notice of Agreement termination.

## **6. TERM**

This Agreement shall become effective upon the date it is authorized by the governing body of each municipal corporation. It shall remain in effect through June 30, 2023, unless terminated earlier as provided herein.

## **7. TERMINATION**

Any Party may choose to terminate its participation in this Agreement by notifying the other parties in writing (30) thirty days prior to termination. The terminating party shall have access to unexpended Ecology grant funds in accordance with Ecology rules and procedures. Any terminating party shall continue to be entitled to work products generated pursuant to this Agreement through the termination date of this Agreement.

## **8. DISPUTE RESOLUTION**

Any dispute between the Parties regarding the delivery of services under this Agreement or any other controversy or claim arising out of or relating to this Agreement or the alleged breach of such Agreement which cannot be resolved may be submitted to mediation.

## **9. 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 an 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, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

## **10. 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 and hold harmless the other Parties from any and all claims, losses, or causes of action, suits, and actions in equity of any kind.

## **11. ATTORNEY FEES AND COSTS**

All Parties shall bear their own attorney's fees and costs of enforcing the rights and responsibilities under this Agreement.

## **12. 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 there be any third-party beneficiary to this Agreement.

## **13. WAIVER**

No waiver by any Party of any term or condition of this Agreement incorporated into 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.

## **14. 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. Its method of termination is set forth in Section 7. Its manner of financing and of establishing and maintaining a budget therefore is described in the Grant Agreement in Section 15. 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. Filing of the Agreement by the Parties is set forth in Section 17.

## **15. ENTIRE AGREEMENT**

This Agreement, which incorporates the terms and conditions of the draft Grant Agreement for this project between the Washington State Department of Ecology and Pend Oreille County, governs and binds the parties hereto and contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior Agreement shall be effective to the contrary.

## **16. 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.

## **17. DOCUMENT EXECUTION AND FILING**

In accordance with RCW 39.34.040, the City of Newport shall file this Agreement with its City Clerk and place it on its web site or other electronically retrievable public source. Pend Oreille County shall file this Agreement with its County Auditor or place it on its web site or other electronically retrievable public source.

## **18. RATIFICATION**

Acts taken in conformance with this Agreement prior to its execution are hereby ratified and affirmed.

**19. SIGNATURES**

In witness thereof, the undersigned parties have caused this Agreement to be executed as authorized by each party's governing body on the dates indicated below.

**BOARD OF COUNTY COMMISSIONERS  
PEND OREILLE COUNTY, WASHINGTON**

Dated this 27 day of June, 2022



John Gentle, Chair



Robert Rosencrantz, Vice-Chair



Brian Smiley, Commissioner

ATTEST:



Crystal Zieske, Clerk of the Board

**CITY OF NEWPORT  
PEND OREILLE COUNTY, WASHINGTON**

Dated this 2nd day of May, 2022



Keith Campbell, Mayor

ATTEST:



Nickole North, Clerk-Treasurer