

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF OLYMPIA, THE CITY OF LACEY, THE CITY OF YELM, AND THE SQUAXIN ISLAND
TRIBE TO ESTABLISH THE BUDD/DESCHUTES WATERSHED ENVIRONMENTAL STEWARDSHIP
COALITION**

INTERLOCAL AGREEMENT

This Interlocal Agreement is entered into by and between the City of Olympia (“Olympia”), the City of Lacey (“Lacey”), and the City of Yelm (“Yelm”), collectively the “Cities,” each a Washington non-charter code city, and the Squaxin Island Tribe, a federally recognized Indian tribe (“Squaxin”). The Cities and Squaxin are referred to collectively as the “Members.”

RECITALS

Whereas RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities;

Whereas pursuant to RCW 39.34.080, each Member is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: provided, that such contract must be authorized by the governing body of each Member to the contract and must set forth its purposes, powers, rights, objectives, and responsibilities of the contracting Members;

Whereas the Members entered into a Memorandum of Agreement (“MOU”) in 2011 to jointly create a coalition to implement the commitments stated in the MOU, including for the Cities to fund the design, project management, and construction of a restoration project or projects within the Deschutes River/Budd Inlet Watershed (“Watershed”) with seed money of \$500,000 (“Seed”); to collectively pursue grants and to leverage the Seed as match [MOU ¶ 6 a iii], and to develop a long-term strategic plan [MOU ¶ 6 d];

Whereas the Cities have implemented the agreed upon short-term water-rights mitigation projects on tax parcel #22629220202, the Deschutes Ranch property (formerly known as the Smith Ranch Property) purchased by the Cities in May 2011. [MOU ¶ 6 b and c] and have consulted with the Tribe on the implementation of water rights mitigation projects;

Interlocal Agreement between
City of Olympia, City of Lacey, City of Yelm, and the Squaxin Island Tribe
to Establish the Budd/Deschutes Watershed Environmental Stewardship Coalition

Whereas the Members hereby reaffirm the expressions, objectives, and commitments stated in the MOU.

Whereas the Cities will be performing mitigation actions within the Watershed because of acquiring certain water rights within the Watershed. [MOU Whereas ¶ 3]

Whereas implementation of the Coalition will take ongoing coordination and collaboration across governmental entities, including but not limited to the Members, non-profit organizations, and other stakeholders;

Whereas the Members understand the critical importance of establishing the governmental and financial structure to support the timely implementation of the Coalition; and

Whereas the Members desire to build on the collaboration expressed in the MOU and establish an interjurisdictional governance framework for implementation of the Coalition.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Members agree as follows:

1. Intent

The Budd/Deschutes Watershed Environmental Stewardship Coalition (the “Coalition”) is a consortium of Members that come together to act on habitat degradation within the Watershed and support habitat and water right mitigation efforts within the Watershed, with the ultimate goal of steadily improving the biological health of the Watershed. [MOU Whereas ¶ 6].

The Coalition is dedicated to fostering the recovery of an abundance of natural resources and the requisite environmental quality at the level necessary to support the culture and traditions of Tribal members, including fishing and shellfish harvest, and that improves the quality of life for all residents of the region. [MOU ¶ 3]

The Coalition provides a mechanism through which its Members can learn, explore, collaborate, incubate, coordinate, and communicate policies and best practices that Member leadership can decide to advance collectively or singularly. The Coalition is made up of an Executive Committee of Member representatives and a staff-level Implementation Work Group. [MOU ¶ 5]

The Members intend to work together to coordinate water right mitigation actions. [MOU ¶ 5]

The Coalition will develop a long-term strategic plan to achieve its mission. [MOU ¶ 6 d]

The Coalition may expand beyond the initial Members. It is the intent to invite others to join the Coalition. At a minimum, the State of Washington, other jurisdictions, quasi-governmental entities, and non-profit organizations may be invited to join the Coalition and engage in environmental protections and restoration efforts within the Watershed. [MOU #4] Invitees may be asked to join the Coalition as New Members or Associates. New Members will participate at the Executive Committee level with full voting rights and share in some portion of funding for implementation of mitigation actions and are referred to interchangeably in this Agreement as “Members.” Associates are non-voting, ex-officio participants in the Coalition that provide subject matter expertise or other support and are excluded from the term “Members” as used in this Agreement.

2. Policy Focus – Restoration

Each of the Members is engaged in work to support regional habitat restoration and water right mitigation efforts. By working together, the Coalition can create coordinated policies, increase efficiencies, leverage resources, educate and engage the community, and provide better services related to these issues. This Coalition work also fosters linkages between related regional, state, and federal programs.

a. Guiding Principles

The Coalition embraces these guiding principles:

The Coalition anticipates, identifies, and solves nascent and long-term habitat degradation issues.

The Coalition supports regional restoration and water rights mitigation efforts.

The Coalition makes decisions by consensus, that is, no Member disagrees.

The Coalition reaches across jurisdictional boundaries to maximize resources and develop effective public policy.

The Coalition improves coordination and communication between its Members and stakeholders creating greater efficiencies, delivering desired outcomes, and providing better service.

Each Member retains its autonomy and voluntarily makes and implements Coalition agreements.

The Coalition creates alignment and efficiency, adding value to each Member's functions, for each policy issue that it tackles.

The Coalition operates under the goal of open and transparent communication, including communication outcomes in a clear and coherent manner to stakeholders.

3. Scope of Agreement/Work

- a. Executive Committee. Each Member shall appoint one representative and one alternate representative to serve as the points of contact for purposes of representing the Member's interests in this Agreement and to formally serve on the Executive Committee. [MOU ¶ 7] The Member representatives on the Executive Committee will conduct business on a consensus basis.

Through Executive Committee participation, Member representatives learn about issues of significance and commit to sharing insights in other forums, including Member governing bodies and local stakeholder groups. When engaging as an Executive Committee, Member representatives commit to advancing Coalition interests and understanding, informed by their local experience and responsibilities. The Executive Committee is responsible for reviewing and finalizing work products of the supporting staff-level Implementation Work Group and recommending approval to each Members' respective governing bodies.

- b. By-Laws. The Coalition shall adopt by-laws to govern such matters as operating procedures, officers, and other parties joining the Coalition.
- c. Project Implementation.
 - i. The Coalition shall identify, select, and fund the design, project management and construction of a restoration project or projects within the Watershed. The Coalition shall emphasize environmental protections and restoration efforts with mid- and long-term project implementation. Implementation and funding of projects will require a separate agreement.
 - ii. The Executive Committee shall assign a project manager and fiscal agent for each project, on a project-by-project basis.

- iii. The Cities shall be open to participation by other jurisdictions and organizations to propose and then implement additional restoration projects on tax parcel ##22629220202, the Deschutes Ranch property, purchased by the Cities in May 2011. [MOU ¶ 6 b and c]. The Cities shall consult with the Tribe before approving or denying a proposal or in setting any necessary conditions. [MOU ¶ 3 c]
- d. Strategic Planning. The Coalition shall develop a long-term strategic plan. The strategic plan will be re-evaluated and updated, as needed, based on the best available science, monitoring data and new or evolving conditions. Each Member shall contribute to the costs of developing and updating the strategic plan. Planning costs will be determined by the Implementation Work Group and approved by the Executive Committee. [MOU ¶ 6 d]
- e. Seed Monies from the Cities. The Cities shall collectively provide \$500,000 Seed towards the design, project management, and construction of a restoration project or projects within the Watershed. Each of the three cities will appropriate a one-third share (\$166,667) to a dedicated escrow fund to be used for Watershed restoration purposes. The Cities shall invest the fund in an interest-bearing account as authorized by RCW 35.39.030 and RCW 35.39.034. The Coalition shall leverage the Seed funding provided by the Cities to collectively pursue grants for a project or projects within the Watershed by using the Seed as a match. Yelm shall serve as the fiscal agent for purposes of the Cities' Seed investment.
- f. Assistance from the Tribe. The Tribe shall provide restoration project ideas, assist with project development, provide technical input, and review, and support the permitting and implementation of a project or projects that the Parties jointly select. [MOU ¶ 6 a iii]
- g. Administrative Support. The Member government whose representative is serving as Chair of the Coalition is responsible for providing administrative support to the Coalition during the time that its representative serves as Chair. Administrative support includes, at a minimum, administrative tasks associated with the Executive Committee and any Coalition Committees that may be established (e.g., meeting planning, agenda setting, public notice, record keeping, budget reports) and the preparation of a Coalition Annual Report. Additional administrative support will be determined during the establishment of the Coalition's annual work plan.

The Executive Committee may cooperatively establish and fund a coordinator to assume the administrative support tasks described above.

4. Rights of Ownership – Property – Final Products

The Coalition shall not acquire any tangible property, including personal property or real property. All products or intangible property that result from the work outlined in this Agreement will be jointly owned by the Members. Such joint ownership will continue after termination or expiration of this Agreement.

5. New Members and Associates

New Members or Associates may join the Coalition following a written invitation from the Executive Committee.

6. New Member Admission

New Membership is contingent on the New Member signing an acknowledgment stating that the New Member agrees to be bound by the terms and conditions of this Agreement, the Coalition's By-Laws, and the conditions, if any, for joining (for example, cost-sharing). It is the intent of this provision to allow New Members to join without the need for an amendment to this Agreement.

7. Member Withdrawal

A Member may voluntarily withdraw from the Coalition. For Coalition budgeting purposes, a Member that intends to withdraw must provide written notice of withdrawal to the Coalition and all other Members no later than June 30th of any calendar year, and the withdrawal is only effective on January 1st of the following calendar year.

8. Indemnification & Insurance

Each Member shall defend, indemnify, and hold the other Members, their officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including reasonable attorney fees, arising out of or in connection with the indemnifying Member's performance of this Agreement, including injuries and damages caused by the negligence of the indemnifying Member's officers, officials, or employees.

Each Member agrees to jointly defend, indemnify, and hold any New Member, their officers, officials, employees, and volunteers harmless from all claims, injuries, damages, losses, or suits including reasonable attorney fees, arising out of or in connection with the Coalition's work predating the New Member's admission to the Coalition.

9. No Separate Legal Entity Created

This Agreement creates no separate legal entity.

10. Duration of Agreement

This Agreement is effective on the date of its entry into force pursuant to ¶ 15 below and terminates upon completion of the tasks necessary to accomplish the purpose of the Agreement, unless sooner terminated by the Members as provided herein.

11. Dispute Resolution

- a. Step One – Negotiation. In the event of a dispute concerning any matter pertaining to this Agreement, the Members involved shall attempt to address their differences by informal negotiation. The Member perceiving a dispute or disagreement persisting after informal attempts at resolution shall notify the other Members in writing of the general nature of the issues. The letter must be identified as a formal request for negotiation and must propose a date for representatives of the Members to meet. The other Members shall respond in writing within ten (10) business days. The response must succinctly set out that Member's view of the issues or state that there is no disagreement. The Members shall accept the date to meet or shall propose an alternate meeting date not more than ten (10) business days later than the date proposed by the Member initiating dispute resolution. The representatives of the Members shall meet to resolve the dispute. If a resolution is reached the resolution will be memorialized in a memorandum signed by all Members which becomes an addendum to this Agreement. Each Member bears the cost of its own attorneys, consultants, and other Step One expenses. Negotiation under this provision may not exceed 90 days from the date of the notification of the dispute. If a resolution is not reached within 90 days, the Members shall proceed to mediation. [MOU ¶ 12 a]
- b. Step Two – Mediation. If the dispute has not been resolved by negotiation within 90 days of the initial letter proposing negotiation, any Member may demand mediation. The mediator must be chosen by agreement. Each Member bears the cost of its own attorneys, consultants, and other Step Two expenses. The

Members to the mediation shall share the cost of the mediator. A successful mediation will result in a memorandum agreement which becomes an addendum to this Agreement. Mediation under this provision may not exceed 90 days from the date of the demand for mediation. If the mediation is not successful within 90 days, the Members may proceed to litigation. [MOU ¶ 12 b].

- c. Step Three – Litigation. Unless otherwise agreed by the Members in writing, Step One and Step Two must be exhausted as a condition precedent to filing of any legal action. A Member may initiate an action without exhausting Steps One or Two if the statute of limitations is about to expire and the Members cannot reach a tolling agreement, or if either Member determines the public health, safety, or welfare is threatened.

12. Termination of Agreement

This Agreement may be terminated upon mutual agreement of the Members.

13. Interpretation and Venue

This Agreement is governed by the laws of the State of Washington as to interpretation and performance. Venue for enforcement of any provisions is the Superior Court of Thurston County, subject to the dispute resolution process in ¶ 11 having been exhausted or dispensed with by agreement.

14. Entire Agreement

This Agreement sets forth all terms and conditions agreed upon by the Members and supersedes all prior agreements oral or otherwise with respect to the specific subject matter addressed herein.

15. Recording

Prior to its entry into force, the City of Olympia shall file this Agreement with the Thurston County Auditor's Office, or this Agreement must be posted upon the Members' websites as provided by RCW 39.34.040.

16. Counterparts

This Agreement may be executed in counterparts, and all such counterparts once so executed together constitute one final agreement, as if one document had been signed

by all Members, and each such counterpart, upon execution and delivery, is a complete original, binding on the Members. A faxed or email copy of an original signature has the same force and effect as the original signature.

17. Notice

Any notice required under this Agreement must be to the Member at the address listed below and becomes effective three days following the date of deposit with the United States Postal Service. The address for notice to New Members must be disclosed in the acknowledgement required by Section V of this Agreement.

CITY OF OLYMPIA:

Attn: Jesse Barham, Water Resources Director
Re: Budd/Deschutes Watershed Coalition
PO Box 1967
Olympia, WA 98507-1967
jbarham@ci.olympia.wa.us
Phone (360) 753-8164

CITY OF LACEY:

Attn: Water Resources Manager
Re: Budd/Deschutes Watershed Coalition
420 College St. SE
Lacey, WA 98503
Phone (360) 491-5600

CITY OF YELM:

Attn: Cody Colt, Public Services Director
Re: Budd/Deschutes Watershed Coalition
901 Rhoton Road
Yelm, WA 98597
codyc@yelmwa.gov
Phone (360) 458-8412

SQUAXIN ISLAND TRIBE:

Attn: Scott Steltzner,
Re: Budd/Deschutes Watershed Coalition
200 Billy Frank Jr Way
Shelton, WA 98584
ssteltzner@squaxin.us
Phone (360) 432-3803

This Agreement is hereby entered into between the Members:

CITY OF OLYMPIA

Steven J. Burney, City Manager

Date: _____

Approved as to form:

Michael M. Young
Michael Young, Deputy City Attorney

Date: 06/09/2023

CITY OF LACEY

Rick Walk, City Manager

Date: _____

Approved as to form:

David Schneider, City Attorney

Date: _____

CITY OF YELM

Todd Stancil, City Administrator

Date: _____

Approved as to form:

Brent Dille, City Attorney

Date: _____

SQUAXIN ISLAND TRIBE

Marvin Campbell, Tribal Administrator

Date: _____

Approved as to form:

Amalia Walton, Tribal Attorney

Date: _____