

**INTERLOCAL AGREEMENT BETWEEN THURSTON COUNTY
AND THE CITIES OF LACEY, OLYMPIA, AND TUMWATER
IMPLEMENTING A REGIONAL ENVIRONMENTAL EDUCATION PROGRAM**

THIS AGREEMENT ("Agreement") is made and entered into by and between Thurston County, a subdivision of the State of Washington, hereinafter, "COUNTY" and the Cities of Lacey, Olympia and Tumwater, municipal corporations, hereinafter, "CITIES", collectively referred to as the "PARTNERS".

WHEREAS, the Federal Clean Water Act, 33 U.S.C. § 1251 et seq. and the Phase II Stormwater Final Rule promulgated by the U.S. Environmental Protection Agency ("EPA") require the operators of certain municipal separate stormwater sewer systems ("MS4") to obtain National Pollutant Discharge Elimination System ("NPDES") permit coverage; and

WHEREAS, in Washington State, the EPA has delegated authority for the Federal Clean Water Act, including development and administration of the Phase II municipal stormwater management program, to the Washington State Department of Ecology ("Ecology"); and

WHEREAS, the Washington State Department of Ecology requires owners or operators of a municipal separate storm sewer system to obtain coverage under a Western Washington Phase II Municipal Stormwater Permit (PERMIT); and

WHEREAS, Thurston County and the Cities of Lacey, Olympia and Tumwater have all applied for separate coverage under the PERMIT; and

WHEREAS, mutual benefits will accrue to the parties hereto and the people which each serves in the cooperative implementation of the Regional Education Partnership ("PARTNERSHIP"), and

WHEREAS, the Interlocal Cooperation Act, chapter 39.34 RCW, further authorizes the parties hereto to enter into this Agreement; and

WHEREAS, Permittees are required by PERMIT Section S5.C.1 to provide stormwater education and outreach programs designed to achieve measurable reductions in behaviors that cause or contribute to adverse stormwater impacts; and

WHEREAS, coordination among Permittees with adjoining or shared geographic areas is encouraged by Washington State Department of Ecology and enhances access to federal, state, and other financial and technical support; and

WHEREAS, customers of the PARTNERSHIP share media sources and would benefit from consistent messaging across city and county boundaries; and

WHEREAS, municipal resource efficiency is increased and cost savings are realized through sharing expertise, expenses, and staff time to gain economies of scale and avoid duplication; and

WHEREAS, Thurston County, and the cities of Lacey, Olympia, and Tumwater desire to continue working together under a PARTNERSHIP to coordinate joint development and implementation of stormwater education and outreach program;

NOW, THEREFORE, IT IS MUTUALLY AGREED BY THE PARTNERS:

- A. PURPOSE.** The purpose of this Agreement is to provide a mechanism through which the PARTNERS voluntarily collaborate in the development, implementation and funding of stormwater education and outreach messages, materials, activities and program assessment tools for the general public, businesses and other target audiences as required by the PERMIT and other stormwater needs.
- B. AGREEMENT SCOPE.** The PARTNERS shall prepare an annual Work Plan to describe regional stormwater education and outreach project and program priorities, coordination, and jurisdictional roles and responsibilities. The annual Work Plan shall be reviewed and approved in writing by the PARTNERSHIP managers each year, and should occur no later than August 31st of the preceding year to ensure sufficient time to allocate resources to carry out the Work Plan. In the event an annual Work Plan is not approved prior to December 31st of the preceding year, this Agreement shall terminate unless the PARTNERS agree to an extension by which the annual Work Plan shall be reviewed and approved.
- C. RELATIONSHIP OF THE PARTNERS.** The PARTNERS agree that they intend to act cooperatively pursuant to the authority of chapter 39.34 RCW to accomplish the purposes recited herein. No separate legal entity is created by this Agreement. This Agreement shall be administered jointly by the Cities and the County.
- D. PAYMENT AND FUNDING.** Each PARTNER shall provide funds necessary for the execution of the annually updated Work Plan, at a cost not to exceed levels defined in Section J.

For purposes of this Agreement, the approval and adoption of the respective annual stormwater program budgets by the County and Cities will serve as the commitment to fund each PARTNERS share of the Work Plan.

- E. COUNTY AND CITY STAFF REPRESENTATIVES.**
- a. The managers, identified below, shall meet semi-annually, at a minimum, to discuss overall management and direction of the PARTNERSHIP, and review and adopt the Work Plan prepared by staff. The managers shall represent their jurisdictions in all matters pertaining to the projects and services rendered under this Agreement.
 - b. Maximum staff allocations shall be defined by the level of effort and resource availability required to fulfill the adopted annual Work Plan. These allocations represent the full capacity of each jurisdiction to contribute to a regional Work Plan.
 - c. Following a change of representative, PARTNERS will inform each of the other parties in writing within thirty (30) calendar days.
 - d. Any written correspondence shall be delivered to the addresses shown below.

Agency:	Lacey	Olympia	Tumwater	Thurston County
Manager:	Peter Brooks, Water Resources Manager	Joe Roush, Environmental Services Manager	Dan Smith, Water Resources Program Manager	Mark Biever, Interim Water Planning Program Manager
Mailing Address:	420 College Street Lacey, WA 98503	PO Box 1967 Olympia, WA 98507	555 Israel Road SW Tumwater, WA 98501	2000 Lakeridge Drive SW Olympia, WA 98502

F. REPORTING. For each year this Agreement is in effect, the PARTNERS will jointly report the progress and results of work conducted under this Agreement by January 31st of the following year in a manner that is mutually useful in the fulfillment of PERMIT reporting requirements for public education activities, as specified in PERMIT Section S9.E.2.c.

G. RESPONSIBILITIES OF THE PARTNERS. It is mutually understood that PARTNERS agree to the following:

- a. Each of the PARTNERS will be independently responsible for the management and implementation of the projects and programs outlined for the respective jurisdiction(s) in the Work Plan.
- b. The Work Plan shall define staffing commitments and an estimated budget, including material, incentive, contracted services, and supply expenses for all costs to be shared by the Partners.
- c. Non-staff costs shall be allocated proportionately based on the residential population of each jurisdiction as follows:¹

Jurisdiction	Population (Year)	Percentage²
City of Lacey	50,170 (2018)	25%
City of Olympia	52,490 (2018)	26%
City of Tumwater	23,830 (2018)	12%
Thurston County	76,080 (2018)	37%
Total	202,570	100%

- d. In the event the lead jurisdiction for a task, project or program outlined in the Annual Work Plan pays a vendor or contractor for materials or services in full, the lead jurisdiction shall invoice the PARTNERS based on the cost allocation percentages listed in Section G.c. above, so as to ensure equity among the jurisdictions. Invoices shall contain supporting documentation necessary for payment authorization.

¹The population figures shall be updated upon this AGREEMENT's renewal.

²Percentages shown are based on the full participation of all PARTNERS.

- e. It is mutually understood that the PARTNERS will independently provide administrative services and act as financial manager for this Agreement. Where separate professional service contracts are engaged, the lead jurisdiction shall manage the contract and allocate costs to the PARTNERS as outlined in Section G.c. of this Agreement.

H. REIMBURSEMENT. PARTNERS shall pay the lead jurisdiction for actual expenses, not including staff time, upon presentation of a properly executed invoice. Costs shall be charged based on the cost allocation percentages listed in Section G.c. above and paid up to the maximum annual level agreed to in Section J of this Agreement. Reimbursement requests shall not be made more than once per month. PARTNERS shall pay the lead jurisdiction within thirty (30) days of receipt of a properly executed invoice with supporting documentation.

I. ASSIGNMENT. The PARTNERS may assign or subcontract any portion of the services provided within the terms of this Agreement. All terms and conditions of the Agreement shall apply to any approved subcontract or assignment related to this Agreement.

J. ESTIMATED COST AND FINANCING: For consideration of this Agreement, the PARTNERS shall plan activities under the abovementioned Work Plan, such that estimated total costs do not exceed the Maximum Annual Cost Allocation identified below:

Jurisdiction	Maximum Annual Cost Allocation	Agreement Maximum
Thurston County	\$33,300	\$199,800
Lacey	\$22,500	\$135,000
Olympia	\$23,400	\$140,400
Tumwater	\$10,800	\$64,800
TOTAL	\$90,000	\$540,000

- a. Each party shall make a good faith effort to participate at the funding levels necessary to fund the pro-rata share of the Agreement's Work Plan, as permitted by the adoption and approval of the annual budget. In the event a PARTNER fails to secure the necessary funding, refer to Section K – REALLOCATION OF FUNDS DUE TO BUDGET REDUCTION hereafter.
- b. In the event additional funds are necessary due to increased programmatic needs or level of effort, as requested by the Partners, each jurisdiction shall secure additional funds independently, or jointly through a grant application, and amend this section.

K. REALLOCATION OF FUNDS DUE TO BUDGET REDUCTION: Should a PARTNER fail to secure adequate funding for any or all of the elements outlined in the Work Plan, the PARTNER shall:

- a. Provide written notice to the PARTNERS within thirty (30) calendar days of its budget adoption.

- b. The PARTNERSHIP Managers agree to meet within fourteen (14) calendar days thereafter to discuss the impacts of such a budget reduction. As participation for each PARTNER is contingent upon final budget approval and adoption, the PARTNERS may elect to redistribute costs or eliminate specific program elements as needed, provided that the participating PARTNERS do not exceed the maximum amounts indicated in Section J: ESTIMATED COST AND FINANCING, unless otherwise agreed upon in writing through either subsequent agreements or addendums to this Agreement.
- L. DURATION.** This Agreement shall be retroactive to January 1, 2019 and shall terminate on December 31, 2024, subject to amendment, and may be extended upon written agreement of the PARTNERS.
- M. HOLD HARMLESS AND INDEMNIFICATION.** All PARTNERS shall accept responsibility for any and all liability arising from acts of its own officers, employees, agents and contractors to the extent provided by law.
- a. Each party agrees to indemnify, defend, and hold harmless the other party, and its officers, agents, and employees for all claims (including demands, suits, penalties, losses, damages or costs of any kind whatsoever) including costs, expenses and reasonable attorney's fees, to the extent such a claim arises or is caused by the indemnifying party's own negligence or that of its officers, agents, or employees in performance of this Agreement.
- b. Nothing contained in this section of this Agreement shall be construed to create a liability or a right of indemnification in any third party.
- c. This section shall survive the expiration of this Agreement.
- N. SETTLEMENT OF DISPUTES.** In the event that a dispute arises under this Agreement, written notification of the nature of the dispute will be provided to the representatives designated in Section E, herein. If resolution cannot be achieved by the representatives, the department or division director of each party shall meet and attempt to resolve the dispute. In the event the parties are unable to resolve the dispute in this manner, the dispute may be resolved by mediation or arbitration if the parties mutually agree in writing. If there is no agreement for alternate dispute resolution, any party may file a lawsuit in a court of competent jurisdiction according to the terms of this Agreement.
- O. ENTIRE AGREEMENT.** The parties agree that this Agreement is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded.
- P. AMENDMENTS.** The parties hereby further agree that this Agreement cannot be amended or modified without the written concurrence of all parties.
- Q. ADMISSION OF ADDITIONAL PARTIES.** Additional parties may be added to this Agreement upon such terms and conditions as determined by the PARTNERS. The admission of such additional parties shall be by written addendum to this Agreement, signed by the PARTNERS and the new party.
- R. TERMINATION.** Any party to this Agreement may terminate this Agreement by giving the other parties at least sixty (60) days advance written notice. If this Agreement is so terminated, the parties shall be liable only for performance

rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. The hold harmless and indemnification provisions of this Agreement shall survive termination or expiration of this Agreement.

- S. **WAIVER**. A failure by any party to this agreement to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing signed by an authorized representative of the party and attached to the original Agreement.
- T. **VENUE**. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Pierce or Lewis County, Washington.
- U. **COUNTERPARTS**. This Agreement may be executed in counterparts, and all such counterparts once so executed shall together be deemed to constitute one final agreement, as if one document had been signed by all PARTNERS, and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding on the PARTNERS. A faxed or email copy of an original signature shall be deemed to have the same force and effect as the original signature.
- V. **SEVERABILITY**. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

Each party has caused this Agreement to be signed by its duly authorized officer or representative as of the date set forth below its signature.

SIGNATURE PAGES FOLLOW

CITY OF LACEY

City Manager

Date: _____

APPROVED AS TO FORM

City Attorney

ATTEST:

City Clerk

CITY OF OLYMPIA

City Manager

Date: _____

APPROVED AS TO FORM:



City Attorney

ATTEST:

City Clerk

CITY OF TUMWATER

Mayor

Date: _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

THURSTON COUNTY BOARD OF COUNTY COMMISSIONERS

Chair

Date:

Vice-Chair

Date:

Board Member

Date:

ATTEST:

Clerk

APPROVED AS TO FORM:

PROSECUTING ATTORNEY
Jon Tunheim

Deputy Prosecuting Attorney