

INTERGOVERNMENTAL LAND USE PLANNING AGREEMENT
BETWEEN FERRY COUNTY, OKANOGAN COUNTY, THE CITIES OF OMAK AND
OKANOGAN, THE TOWNS OF COULEE DAM, ELMER CITY AND NESPELEM AND
THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

I. PREAMBLE

THIS AGREEMENT is entered into between the Confederated Tribes of the Colville Reservation (Tribes) and Okanogan County and Ferry County (Counties), and the cities of Omak and Okanogan, the towns of Coulee Dam, Elmer City and Nespelem (Municipalities) each acting in their representative capacity. The Tribes is authorized to enter into this Agreement pursuant to Article V, Section 1(a) of the Colville Tribal Constitution. The Counties and Municipalities are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, RCW Chapter 39.34, which permits political subdivisions of the State to enter into cooperative agreements with Indian tribes for their mutual advantage and cooperation. The parties have determined that it is in their mutual interest to cooperate and coordinate land use planning and zoning within their respective jurisdictions and, if possible, to develop a uniform comprehensive plan and set of land use regulations for the Colville Indian Reservation.

II. RECITALS

- A. The Tribes, the Municipalities and the Counties recognize the opportunity for and advantages of cooperating in developing a uniform comprehensive plan and land use regulatory scheme for the Colville Reservation because:
- 1). intergovernmental cooperation is necessary to achieve a desired consistency between the Ferry County Comprehensive Plan, the Okanogan County Comprehensive Plan, the comprehensive plans for the Municipalities and the Colville Tribes Planning Guidelines; and,
 - 2). intergovernmental planning will more likely produce a plan which effectively manages growth and development, protects natural resources, provides public facilities and services and stimulates economic development; and,

- 3). intergovernmental cooperation will increase the efficiency and reduce the costs of planning for the area because it will avoid duplicating the efforts of their jurisdictions and their citizens; and,
 - 4). interjurisdictional planning will promote a more predictable and certain process and produce more understandable and long lasting policies for residents, property owners, developers, and other agencies and jurisdictions; and,
 - 5). interjurisdictional cooperation will increase the visibility of their planning efforts making their decisionmaking more understandable to the public; and,
 - 6). by sharing knowledge, information and resources, the parties will better understand each others' interests, concerns and needs in those areas in which they have a mutual interest; and,
 - 7). intergovernmental cooperation will lay the foundation for future cooperation in land use and capital improvement project planning, development review and natural resources protection.
- B. Each of the parties has an obligation as governments to ensure that adequate planning is undertaken within their respective jurisdictions and that it is in the interest of the residents of Okanogan and Ferry Counties, the Municipalities, and the Colville Reservation, that a coordinated regional planning process be established whereby the Tribes, Municipalities and the Counties cooperate and share resources in the promotion of land use planning.
- C. The Colville Reservation was established by Executive order by President Grant on July 2, 1872, as an exclusive homeland for the Colville Tribes and a place to preserve and protect their culture and way of life. The Colville Business Council, as the governing body of the Tribes has an obligation to preserve and protect that homeland for the benefit of the Indians living there.
- D. EPA has approved the Tribes for "treatment as a state" under sections 106, 319 and 518 of the Clean Water Act (CWA). The Tribes was designated as the management agency under section 208 of the CWA in 1985 and has operated a comprehensive non-point source pollution control program since then. The Tribes is also the

first and only Indian tribe in the Nation whose water quality standards have been promulgated as controlling federal standards for the Colville Reservation.

- E. The Tribes has assumed regulatory jurisdiction for all lands within the exterior boundaries of the Colville Reservation, regardless of ownership type, and the Municipalities and Counties have assumed regulatory jurisdiction for those lands held in fee title lying within the exterior boundaries of the Colville Reservation. It is recognized that these jurisdictional claims may be in conflict in individual cases, and nothing in this agreement is intended to resolve competing jurisdictional claims. Nevertheless, the parties agree it is in everyone's best interest to immediately proceed with a mutual, cooperative planning effort.
- F. The Tribes currently has an Interim Land Use Development Ordinance and a Comprehensive Land Use Policy Guide; Ferry County has a Comprehensive Plan and no zoning ordinance; Okanogan County has a Comprehensive Plan and Zoning Ordinance which designates the Colville Indian Reservation within the minimum requirement district; and, each municipality either presently has a comprehensive plan and implementing regulations, is presently working on the same or is in the process of updating and revising existing documents. Each of the parties enforces various other laws which also impact land use within their respective jurisdictions. Representative examples include the Uniform Building Code, Washington State Energy Code, Platting and Sub-Division Ordinances, Solid Waste Management and On-Site Waste Disposal Ordinances and Flood Control and Shoreline Management Ordinances.
- G. This Agreement shall not be considered or construed to grant or cede any jurisdiction to the State of Washington, the Counties, the Municipalities, or any other governmental entity by the Tribes, or to grant or cede any jurisdiction to the Tribes or any governmental entity by the State of Washington, Municipalities or Counties for the substantive purposes set out in this Agreement, or for any other purpose. This Agreement shall not be considered or construed to be a recognition by the Tribes of the State's jurisdiction on the Colville Reservation and shall not be construed to be a recognition by the State of any tribal jurisdiction on the Colville Reservation.

- H. The United States Supreme Court's recent decision in Brendale v. Yakima Indian Nation underscores the merit and necessity for intergovernmental cooperation.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS;

III. COORDINATING COMMITTEE

3.1 Establishment

The Tribes, the Municipalities and the Counties recognize the desirability of establishing a forum to provide for discussion, consultation and cooperation of intergovernmental planning matters. The Coordinating Committee is hereby created and shall consist of eight (8) members.

3.2 Composition of Coordinating Committee

The Tribes, Ferry County, Okanogan County and the Municipalities shall each appoint two (2) members to the Committee. The Director or designee of each of the party's respective planning departments shall be one of the appointees and no practicing attorney shall serve except in an advisory capacity. The Committee members shall serve until such time as this Agreement is terminated or they are substituted or removed by the Colville Business Council, County Commissioners or Council of Mayors as the case may be.

3.3 Purpose and Duties

The Committee's primary purpose shall be to reach consensus on the development of a workable comprehensive land use plan and regulatory system for all lands of the Colville Reservation, including Indian lands (as defined in 18 USC §1151) on the North Half and the former Moses Columbia Reservation, for adoption by the respective governments. To that end the Committee shall:

- 1.) Study the current Comprehensive plans of the parties and develop processes and protocols that will guide all planning decisions.
- 2.) Draft recommendations to the governments on how to amend their Plans to make them consistent with each other.
- 3.) Schedule joint public hearings to solicit input from the community on the Committee's recommendations once consensus has been reached.

- 4). Develop a mechanism for processing all permits applicable to development activities on the Reservation.
- 5). Report on the efficacy of establishing a joint zoning board and/or appeal process applicable to fee land development activities on the Reservation.
- 6). Establish a timeline setting forth target dates to accomplish the goals of the Committee as set forth above.

3.4 Meetings

The Coordinating Committee shall meet quarterly or as often as necessary to accomplish its mandate. Each of the Parties commits resources sufficient to enable its appointees to fulfill the Committee's obligations under this Agreement.

3.5 Recommendations By the Committee

The Coordinating Committee shall, from time to time, make recommendations to the Parties for amendments to this Agreement which may be necessary to fulfill its purpose.

IV. INTERIM COORDINATION

4.1 Necessity

The Parties recognize the need to coordinate current and future planning, pending formal adoption of a reservation wide comprehensive plan and regulatory process as contemplated by this Agreement.

4.2 Current Permits

Within thirty (30) days from the signing of this Agreement the Parties shall exchange copies of all existing permits issued and pending relating to Reservation lands.

4.3 Trust Lands

The Municipalities and Counties will be treated as a consulted agency as that term is defined by the State Environmental Policy Act (SEPA) RCW 43.21C.030(d).

4.4 Fee Lands

The Parties shall establish processes and protocols for all applications proposing any type of development activity on Reservation fee lands.

4.5 Lands Adjoining the Reservation

The Tribes shall be treated as a consulted agency under SEPA for any development activity on lands adjoining the Reservation in addition to any existing adjacent landowner's privilege and notification rights it may have from the Counties and Municipalities. The Counties, Municipalities and landowners adjacent to land subject to tribal development activity shall similarly be notified whether on or off the Reservation.

V. Effective Date, Amendment and Termination

This Agreement shall be effective when executed by the Parties. This Agreement may not be amended except by written agreement of the Parties and shall continue in effect until terminated by joint agreement of the Parties. Provided, any party may terminate its participation in the Agreement by giving sixty (60) days written notice to the other Parties.

This Agreement consisting of seven (7) pages is executed by the persons signing below who warrant that they have the authority to execute this Agreement.

FERRY COUNTY

By: Mary Bunn
Title: Chair

Date: 12-21-92

OKANOGAN COUNTY

By: Boyd Walter
Title: Chairman

Date: 10-22-92

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

By: E. Palumbo
Title: Chairman

Date: 10/21/92

MUNICIPALITIES

By: Frank B. Anderson Date: 10-21-92

Title: Mayor

By: R. B. Guntun Date: 10-21-92

Title: MAYOR

By: Carolyn Clayton Date: 10-22-92

Title: Mayor

By: Walt Smith Date: 11. 12-92

Title: Mayor

By: Richard Spence Date: 12-3-92

Title: Mayor - Elmer City

APPROVED AS TO FORM:

By: [Signature] FIPA Date: 12/21/92
Ferry County

By: _____ Date: _____

By: _____ Date: _____

By: _____ Date: _____

By: _____ Date: _____

By: _____ Date: _____