

Interlocal Agreement  
 Creation of a Sea Level Adaptation Working Group (SLAWG)  
 Between  
 Biddeford, Saco, Old Orchard Beach, Scarborough, and SMRPC  
 Draft 6 – 11 August 2010

<p><b>A. Whereas Statements– Preamble</b></p>	<ol style="list-style-type: none"> <li>1. <i>WHEREAS</i> the parties to this Agreement have the desire to obtain regionally-based, consensus advice on adapting to sea level rise, as has been observed and measured in Saco Bay; and</li> <li>2. <i>WHEREAS</i> the parties of the Agreement acknowledge that such sea level rise should be expected to continue, the parties wish to create a working group in order to develop recommendations to each municipality regarding the adoption of coordinated policies, ordinances, capital projects, management, and land acquisition for coastal wetland conservation, for adaption to sea level rise; and</li> <li>3. <i>WHEREAS</i> it is acknowledged by the parties of the Agreement that grant opportunities are increased when communities apply together for assistance, and that consulting costs may be lowered if communities engage in group purchases of expert services; and</li> <li>4. <i>WHEREAS</i> the parties of the Agreement feel that by combining their efforts, they may have greater influence on state or federal agencies involved in coastal management, than if each party acted individually; and</li> <li>5. <i>WHEREAS</i>, pursuant to the Maine Constitution, Art. VIII, Pt. 2 and 30-A MRSA Section 3001, municipal home rule authorizes such an agreement through a vote of the legislative body;</li> <li>6. <i>NOW</i>, therefore, the municipalities of Biddeford, Old Orchard Beach, Saco and Scarborough, and the Southern Maine Regional Planning Commission, for and in consideration of the mutual promises and agreements hereinafter stated and the performance thereof do hereby become parties to this Agreement and promise and agree as follows:</li> </ol>
<p><b>B. Purpose</b></p>	<p><b><u>Purpose.</u></b> The purpose of this Agreement is to establish a working group that is able to review the recent Coastal Hazard Resiliency Tools Project that has analyzed the problem of sea level rise, and then develop an action plan that will estimate regional vulnerabilities, identify regional objectives to address such vulnerabilities, and provide recommendations for regional solutions. The regional action plan shall establish the policy direction for implementing the duties of the working group, as set forth in this agreement.</p>
<p><b>C. Duties</b></p>	<p>Decision making of the SLAWG shall be based primarily upon information from the Coastal Hazard Resiliency Tools Project, funded by the Maine Coastal Program, and any updates prepared by the Maine Geological Survey and Southern Maine Regional Planning Commission. The group will also gather and study all of the best available data on Saco Bay issues, which has been</p>

produced by the communities, federal and state agencies, environmental groups, and universities. The SLAWG should also consult the Saco Bay Management Plan for guidance, but with deference to the fact that its recommendations are ten years old.

Upon the completion and adoption of a regional action plan, the Committee shall have all the powers necessary and incidental to implement this Agreement. The regional action plan shall establish the policy direction for the SLAWG, whose duties shall include, but not be limited to, the following:

1. Identification of any infrastructure vulnerable to storms and sea level rise such as culverts, storm drains, bridges or tide gates, as well as any natural areas at risk, such as saltwater marshes and adjacent uplands; using regional approaches to plan for improvements; and obtaining grants or appropriations for construction or conservation projects on a regional basis, or supporting individual municipal grant or appropriation requests for such projects.
2. Development of an action plan, following the purposes outlined in this agreement, while striking a balance between a policy of retreat from the coast and a policy of devising engineered solutions to work against coastal erosion.
3. Commenting on federal or state beach nourishment/erosion control efforts that affect one or more communities, including management or deposition of dredged materials.
4. Recommending the standardizing of floodplain management standards and building code interpretations across jurisdictions to improve resiliency of individual private structures.
5. Recommending standardizing of ordinance review standards affecting the shorelands adjacent to Saco Bay, as well as standardizing review and controls for water activities across jurisdictions, for structures and activities affected by sea level rise or coastal storms. Such water activities may or may not include land-based development, and could include aquaculture, marina, or green energy production projects.
6. Providing non-binding comments on various applications for development review affecting Saco Bay that may be vulnerable to sea level rise or coastal storms, to those individual review authorities having jurisdiction.
7. Coordinating with MS4 stormwater planning programs to comply with EPA and DEP requirements.
8. Coordinating with the Saco Bay Implementation Team in its efforts to devise a solution to the Camp Ellis jetty and erosion problems.
9. Coordinate with the New England Environmental Finance Center in its research on the economic impacts of sea level rise, and the estimation of costs and benefits of various adaptation strategies.
10. Limiting its scope to its defined region, which shall consist of any coastal estuaries, marshes and beaches subject to tidal influence and storm surges, whether by fresh or salt water, as well as any associated developed areas, roads, and other infrastructure, within the four municipalities that are parties to this Agreement.
11. Establishing by-laws to govern the conduct of its business and hearings; the by-laws shall be approved by each party.
12. Reporting to the Councils of each party municipality at least once a year about its activities and to present its annual budget.

**D. Administration:  
Membership,  
Quorum,  
Attendance,  
Meetings, Staff**

**Membership.**

A nine member working group, known as the Sea Level Adaptation Working Group (SLAWG) is hereby created, which shall act as the agent of the parties for the purposes of executing this Agreement. The membership of the SLAWG shall consist of the following:

- one (1) municipal planner or designee appointed from each municipal party;
- one (1) at-large citizen appointed from each municipal party.
- one (1) regional planner appointed by the Director of the Southern Maine Regional Planning Commission

A representative of the Maine Geological Survey, Department of Conservation, will attend meetings as time and funding permit, to provide scientific input into the SLAWG discussions. Terms of each member shall be set at the discretion of the appointing Town or City Council. The regional planner will recuse him or herself from any consideration, by the SLAWG, of any ordinance, plan, memo or other matter in which the SMRPC has been employed as a consultant in its preparation.

**Consensus.** The Committee shall strive to make all decisions based on unanimous consensus of all members present. Each municipality and the SMRPC must have at least one representative present at meetings, with a minimum total of five members, to constitute a quorum. Unanimous consensus means that all Committee members present at meetings agree to accept decisions made by the Committee. Should consensus not be reached on any matter, the final vote shall be indicated in the Committee's decision.

**Organization, Election of Officers.** Upon the effective date of this Agreement, or as soon thereafter as possible, the members of the SLAWG shall hold an organizational meeting. At this first meeting the Committee shall elect officers, including a Chairperson, Vice Chairperson, and Secretary/Treasurer. Officers shall serve for a term of two years, but may serve two consecutive terms as officers. If an officer resigns before the term has expired, the Committee may replace the officer by means of a special election.

The Southern Maine Regional Planning Commission (SMRPC) shall act as fiscal agent for the Committee, receiving and disbursing all funds as directed by the Committee over the signature of the Chairperson and Secretary.

**Meetings.** Meetings may be called by SMRPC, the Chairperson, or by any six members, by written or emailed notice of the time, place and business to be considered. All meetings shall be open to the public. Notice to all members and the media shall be at least 7 days unless the Chairperson determines there is an emergency, in which case the Chairperson may waive the 7 day requirement providing all members, or all parties are notified, and the provisions of 1 MRSA Section 406 are complied with. Each Municipality shall be responsible for posting meeting notices of the SLAWG according to State Statutes, and its own ordinances, rules, and practices. The SLAWG shall conduct public meetings at least four times a year.

<p><b>E. Adoption, Amendment of Agreement</b></p>	<p>Duration: This Agreement shall continue until fewer than 3 municipalities remain as parties.</p> <p>Effective Date: This Agreement shall take effect once it has been approved by the legislative bodies of all the parties, and signed by a designee of each party. A copy shall be filed with the Department of Conservation, the Maine State Planning Office Land Use Team and Coastal Program, and with the municipal clerks of each party municipality. Parties shall have until 1 October 2010 to approve the Agreement.</p> <p>Amendment: This Agreement may be amended by following the procedures established in the paragraph above, provided amendments shall not be required to change any information written in this Agreement applying to parties who fail to approve or who withdraw from this Agreement;</p> <p>The Committee shall file this Agreement for review by the Southern Maine Regional Planning Commission, and the Maine State Planning Office at least 30 days prior to the date of legislative action by any of the parties.</p>
<p><b>F. Parties</b></p>	<p>The Parties to this agreement shall be: City of Biddeford, Town of Old Orchard Beach, City of Saco, Town of Scarborough, and Southern Maine Regional Planning Commission.</p>
<p><b>G. Breach</b></p>	<p>A party shall be deemed to be in breach of this Agreement if it fails to appoint any Committee member as described in Article D, or if it fails to perform or comply with any of the terms, provisions, or conditions of this Agreement or of the by-laws of the Committee. The Committee shall give a party written notice of specific acts or omissions that constitute a breach. The party so notified shall have 30 days to conform. If the party fails to conform within the notice period, it shall be deemed to have withdrawn from the Agreement.</p> <p>Any party may withdrawal from this Agreement subject to the following:</p> <ol style="list-style-type: none"> <li>1. Withdrawal becomes effective no less than 30 days from the date upon which notice of the party's intent to withdraw is given to the Committee.</li> <li>2. Any payments due during the notice period shall be paid to the Secretary/Treasurer;</li> <li>3. Upon the effective date of withdrawal the withdrawing party shall lose all rights to benefits derived of the Agreement and to funds previously contributed.</li> <li>4. The withdrawing party shall pay to the Committee the entire amount of its share of any outstanding debts of the Committee.</li> </ol>
<p><b>H. Property</b></p>	<p>Title to any equipment acquired pursuant to the Agreement shall be held by the purchasing municipality, and insured thereby. Interests shall be in accordance with actual contributions by the parties to the purchase of such property, or if no party contributes, equally among party municipalities.</p> <p>The Committee shall be responsible for seeing that all property is maintained.</p>

	<p>Upon termination of this Agreement, disposition of property shall be as follows: All property bought or donated to the Committee for its use by one of the parties shall be returned to the donating/purchasing party. All other property shall be offered for sale at market value, first to the parties. If more than one party wishes to purchase the property, it shall be sold to the highest bidder. If no party wants it the property will then be sold to whoever offers the highest bid.</p> <p>Any funds remaining upon termination of this Agreement shall be divided equally among parties.</p>
<p><b>I. Funding</b></p>	<p>As a condition of entry into this Agreement, each party municipality has made a financial contribution of a cash and in-kind match during FY 2010, in fulfillment of the terms of the Regional Challenge Grant from the State Planning Office. This current grant and matching monies will fund the work of the SLAWG through December 31, 2010. Continuation of the work of the SLAWG will be dependent on available grant funding, and will only continue past December 31, 2010 should additional funding be available and any required local matches are contributed by the parties.</p> <p>The SMRPC shall act as employing party for the Committee. The employing party shall arrange for meeting space and administrative services to the Committee that are sufficient to hold meetings at least 4 times per year. The municipal parties shall contribute in-kind (non-cash) services, as per the terms of the grant terms, including administrative overhead, town planner staff time, meeting space, telephone and other communications, and actual cost of supplies, materials, vehicles, and equipment. The Town of Scarborough may submit its match to the Greater Portland Council of Governments to meet its obligation under any grant program, pursuant to instructions from any granting agency.</p> <p>The SLAWG shall appoint a Secretary/Treasurer from among its members, who also shall be an official of one of the municipal parties. The Secretary/Treasurer shall have the power and duty to oversee the work of the SMRPC to: collect, hold and disburse grant funds; maintain accurate and complete financial records; and prepare an annual financial report for submission to the SLAWG, Municipal Parties, and SPO on or before December 31 of each year. The Committee shall prepare an annual budget on or before December 31 of each year. The fiscal year shall be January 1 to December 31.</p> <p>The SMRPC shall employ a qualified public accountant to conduct an annual audit on the basis of auditing standards and procedures prescribed by the State of Maine</p>

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed:

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_  
For the City of Biddeford

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_  
For the City of Saco

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_  
For the Town of Old Orchard Beach

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_  
For the Town of Scarborough

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_  
For the Southern Maine Regional Planning Commission