

PUBLIC HEALTH INTER-JURISDICTIONAL
MUTUAL AID AGREEMENT

This Public Health Inter-Jurisdictional Mutual Aid Agreement (“Agreement”) is made and entered into by the signatory Health Department or signatory Health District, or signatory County within the State of Washington that operates a public health department or division within its county government, (“Party HD”) individually with all other signatory Party HDs legally joining the Agreement.

PURPOSE

The undersigned Party HDs confront numerous threats to public health, including but not limited to, Public Health Incidents, Emergencies and/or Disasters that could overwhelm the capabilities of an immediate local or regional response. None of the Party HDs to this Agreement possesses all of the necessary resources to cope with every possible Public Health Incident, Emergency or Disaster by itself, and a more efficient, effective response can best be achieved by the application and leveraging of collective resources.

Each Party HD desires to voluntarily aid and assist each other by the interchange of public health resources and services in the event that a Public Health Incident, Emergency or Disaster situation should occur. The Party HDs find it necessary and desirable to execute this Agreement for the interchange of such mutual Assistance on a county, regional and/or statewide basis.

The Party HDs to this Agreement have determined it is in their collective best interest to develop and implement a Plan, and incorporate mutual aid response into their existing emergency response plans. Training and exercising Mutual Aid protocols, in advance of a Public Health Incident, Emergency or Disaster, will enhance the efficiency and effectiveness of each responding party.

The Party HDs desire to cooperate with one another to receive state and/or federal resources provided such cooperation does not compromise a Party HD’s public health response. The Party HDs desire to engage in frequent consultation and to allow free exchange of information, plans, and resource records related to Assistance activities.

ARTICLE I

DEFINITIONS

Assisting Party HD: A Party HD providing Assistance to a Requesting Party HD from another jurisdiction that has requested Assistance to confront a Public Health Incident, Emergency or Disaster.

Assistance: Assistance means personnel, equipment, materials, supplies, facilities, services, and/or related resources.

Authorized Representative: The person or persons designated by each Party HD in the Plan to request Assistance from or grant Assistance to another Party HD pursuant to the terms of this Agreement.

Mutual Aid: A prearranged written Agreement and Plan whereby Assistance is requested and may be provided between two or more jurisdictions during a Public Health Incident, Emergency or Disaster under the terms of this Agreement.

Period of Assistance: The period of time beginning with the departure of any personnel, equipment, materials, supplies, services, and/or related resources of the Assisting Party HD from any point for the purpose of traveling to provide Assistance exclusively to the Requesting Party HD, and ending on the return of all of the Assisting Party HD's personnel, equipment, materials, supplies, services, and/or related resources to their regular place of work or assignment, or otherwise terminated through written or verbal notice of the Authorized Representative of the Assisting Party HD. With respect to facility use, the Period of Assistance shall commence on the date agreed upon between the Requesting and Assisting Party HD and shall end when the Requesting Party HD returns possession of the facility to the Assisting Party HD, or when otherwise terminated through written or verbal notice of the Authorized Representative of the Assisting Party HD.

Plan: a written public health inter-jurisdictional Mutual Aid Plan that meets the requirements set forth in Article VII.

Public Health Incident, Emergency, or Disaster: Any occurrence, or threat thereof, whether natural or caused by man, in war or in peace, to which any Party HD may respond pursuant to its authority under chapter 70.05 or 70.46 RCW, or other applicable law, and that, in the judgment of the Requesting Party HD, results or may result in circumstances sufficient to exceed the capabilities of immediate local or regional public health response.

Requesting Party HD: A Party HD that has requested Assistance from a Party HD from another jurisdiction participating in this Agreement.

ARTICLE II

IMPLEMENTATION

This Agreement shall become effective immediately upon its execution by any two Party HDs. After the first two such executions, this Agreement shall become effective as to any other Party HD in the State of Washington upon its execution by such Party HD. The Agreement shall remain in effect as between each and every Party HD until participation in this Agreement is terminated by a withdrawing Party HD in writing pursuant to Article XVII. Termination of participation in this Agreement by a withdrawing Party HD shall not affect the continued operation of this Agreement as between the remaining Party HDs.

ARTICLE III

PARTICIPATION

The Party HDs have a desire to be of help to one another in response to a request for Assistance related to a Public Health Incident, Emergency or Disaster. The Party HDs agree that this Agreement, however, does not create a legal duty to provide Assistance. The Party HDs agree that any and all actions taken pursuant to this Agreement shall be voluntary and in each Party HD's sole discretion. A Party HD may elect to voluntarily furnish such Assistance to another Party HD as is available, and shall take into consideration whether such actions might unreasonably diminish its capacity to provide basic public health services to its own jurisdiction.

ARTICLE IV

HOW TO INVOKE ASSISTANCE

The Authorized Representative of a Party HD may request Assistance of another Party HD by contacting the Authorized Representative of that Party HD. The provisions of this Agreement shall only apply to requests for Assistance made by and to Authorized Representatives or their designee. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing before the Period of Assistance begins to the extent it is practical.

ARTICLE V

LIABILITY RELATED TO DELAY OR FAILURE TO RESPOND

No Party HD shall be liable to another Party HD for, or be considered in breach of or default under this Agreement on account of any delay in or failure to perform any obligation under this Agreement, except to make payment as specified herein.

Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party. This Agreement shall not confer any right or remedy upon any person other than the Party HDs. This Agreement shall not release or discharge any obligation or liability of any third party to any Party HD.

ARTICLE VI

WITHDRAWAL FROM ASSISTANCE

An Assisting Party HD may withdraw Assistance by giving verbal or written notice to the Requesting Party HD. Each Assisting Party HD that is providing Assistance to a Requesting Party HD agrees to give reasonable notice to the Requesting Party HD under the circumstances as they exist at the time before withdrawing Assistance. No Party HD shall be liable to another Party HD for, or be considered in breach of or default under this Agreement on account of, any withdrawal of assistance.

ARTICLE VII

PLANNING, MEETING AND TRAINING

Party HDs are expected to:

- 1) ensure that other Party HDs have their most current contact information;
- 2) participate in scheduled meetings to coordinate operational and implementation matters, and
- 3) participate in the creation of a public health inter-jurisdictional Mutual Aid Plan that will contain, among other things, current contact information, inventory of resources available for Assistance, training planning, and agreed upon forms to be used related to this Agreement.

Party HDs agree to incorporate protocols related to this Agreement into regular emergency preparedness exercises and trainings, and will train in accordance with the Plan. Requesting Party HDs agree to provide "Just In Time Training" during Public Health Incidents, Emergencies or Disasters on their policies, procedures and protocols for Assisting Party HD personnel. Party HDs agree to exchange their emergency preparedness plans, and other documents that may be beneficial in preparing personnel from another Party HD to respond to a request for Assistance.

ARTICLE VIII

COMMAND AND CONTROL

Resources from the Assisting Party HD shall be under the operational control of the Requesting Party HD's public health leadership. All personnel provided by an Assisting Party HD will be under the authority of the Local Health Officer in the Requesting Party HD. The Party HDs intend to follow the National Incident Management System's "Incident Command System" when such system is activated.

ARTICLE IX

ASSISTING PARTY EMPLOYEES

Employees of an Assisting Party HD shall at all times while performing Assistance continue to be employees of the Assisting Party HD for any purpose. Wages, hours and other terms and conditions of employment of Assisting Party HD shall remain applicable to all of its employees who perform Assistance under this Agreement. Assisting Party HD shall be solely responsible for payment of its employees' wages, any required payroll taxes and any benefits or other compensation. Requesting Party HD shall not be responsible for paying any wages, benefits, taxes or other compensation to Assisting Party HD's employees.

ARTICLE X

INJURY COMPENSATION AND DEATH BENEFITS

Each Party HD shall provide for the payment of Workers' Compensation benefits to its own injured personnel and/or to representatives of its own personnel in case such personnel sustain injuries or are killed while rendering aid under this Agreement, in the same manner and on the same terms as if the injury or death were sustained within its own jurisdiction. Nothing in this Agreement shall abrogate or waive any Party HD's right to reimbursement or other payment available from any local, state or federal governments or abrogate or waive the effect of any waiver, indemnity or immunity available to a Party HD under local, state or federal law or other governmental action. To the extent that such reimbursement, payment, waiver, indemnity or immunity does not apply, then each Party HD shall remain fully responsible as employer for all taxes, assessments, fees, premiums, wages, withholdings, Workers' Compensation, and other direct and indirect compensation, benefits, and related obligations with respect to its own employees. Each Party HD shall provide Workers' Compensation in compliance with the statutory requirements of the State of Washington.

ARTICLE XI

REIMBURSEMENT OF COSTS AND CONDITIONS OF LOAN

The Requesting Party HD agrees to reimburse the Assisting Party HD for the costs of personnel, equipment, materials, supplies, facilities, services, and/or related resources used during the Period of Assistance on the basis of mutually accepted costs associated with these resources. When an Assisting Party HD deploys employees under the terms of this Agreement to a Requesting Party HD, the Assisting Party HD will be reimbursed by the Requesting Party HD equal to the Assisting Party HD's full cost, including employee's salary or hourly wages, call back or overtime costs, benefits and overhead, and consistent with the Assisting Party HD's personnel union contracts, if any, or other conditions of employment. Reusable materials and supplies that are returned to the Assisting Party HD in clean, damage free condition, excepting normal wear and tear, shall not be charged to the Requesting Party HD and no rental fee shall be charged. The Assisting Party HD shall determine whether items are returned in clean and damage free condition, and any items found to be damaged shall be treated as partially consumed and/or as non-returnable materials and supplies. The Assisting Party HD shall be entitled to receive payment for the cost of repair or replacement of damaged and consumed materials and supplies. The Assisting Party HD shall send the Requesting Party HD an invoice or invoices for all valid Assistance Costs and the Requesting Party HD shall pay the invoice(s) within sixty (60) days of receipt of each invoice.

ARTICLE XII

WORKER REGISTRATION, LIABILITY AND DISPUTE RESOLUTION

1. **WORKER REGISTRATION AND LIABILITY.** The Party HDs to this Agreement agree that each will take all actions necessary to qualify and maintain qualification of its own personnel, employees and volunteers as emergency workers, or covered volunteer emergency workers, as appropriate, pursuant to RCW 38.52 et seq., WAC 118-04 et seq., and any other applicable statute, regulation or law. The Party HDs agree that prior to invoking a request for Assistance under this Agreement, the Requesting Party HD, through its local department of emergency management, will request the issuance of a mission number from the Washington military department, emergency management division. A Party HD may condition its willingness to respond and the continuance of its response under this Agreement on the issuance of a mission number, and compliance with RCW 38.52 et seq., WAC 118-04 et seq., or other law, by the Assisting and Requesting Party HDs.
2. In the event local, state and/or federal governments or laws provide waiver, immunity, indemnification, reimbursement or other payment related to liability that would otherwise be the responsibility of a Party HD, then such waiver, immunity, indemnification, reimbursement or other payment shall limit a Party HD's liability. The Party HDs agree to exhaust their rights to waiver, immunity, indemnification, reimbursement or other payment from local, state, and/or federal governments. However, to the extent that local, state or federal governments or laws do not provide complete waiver, immunity, indemnification, reimbursement or other payment related to Party HD liability, then the following provisions will apply:
 - A. Each party to this Agreement shall be legally responsible for its own acts and omissions arising under this Agreement, and that of its respective appointed and elected officials, employees, officers, agents, agencies, assigns and representatives. Each party agrees to defend, indemnify, and hold harmless the other party, and its respective appointed and elected officials, employees, officers, agents, agencies, assigns and representatives from and against any and all liability, loss, cost, damage and expense arising or alleged to have arisen directly or indirectly out of or in consequence of the performance of this Agreement by the indemnitor.
 - B. **GROSS NEGLIGENCE OR WILLFUL OR WANTON MISCONDUCT.** Any Party HD shall not be required under this Agreement to release, indemnify, hold harmless or defend any other Party HD from any claim, loss, harm, liability, damage, cost or expense caused by or resulting from the activities of any Party HD's officers, employees, or agents acting in such a manner that constitutes willful misconduct, gross negligence or bad faith.
 - C. **LIABILITY FOR PARTICIPATION.** In the event of any liability, claim, demand, action or proceeding, of whatever kind or nature arising out of the rendering of Assistance through this Agreement, the Requesting Party HD agrees, to

indemnify, hold harmless, and defend, to the fullest extent of the law, each signatory to this Agreement, whose only involvement in the transaction or occurrence which is the subject of such claim, action, demand, or other proceeding, is the execution and approval of this Agreement.

- D. LITIGATION PROCEDURES. Party HD's personnel shall cooperate and participate in legal proceedings if so requested by another Party HD, and/or required by a court of competent jurisdiction.
- E. TORT CLAIMS ACT. No provision of this Agreement shall remove from any Party HD any protection provided by any applicable Tort Claims Act.
- F. WAIVER OF RIGHTS. Any waiver at any time by any Party HD of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay in asserting or enforcing any right, except those related to the statutes of limitations, shall not constitute or be deemed a waiver.

- 3. DISPUTE RESOLUTION. If a dispute between the parties to this Agreement arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through direct discussions, the Party HDs agree to first endeavor to settle the dispute in an amicable manner by mediation. Thereafter, any unresolved controversy or claim arising out of or related to this Agreement, or breach thereof, may be settled in a court having jurisdiction thereof. The Party HDs may seek to resolve disputes pursuant to mediation or arbitration, but are not required to do so.

ARTICLE XIII

LICENSES AND PERMITS

When invoking Assistance, the Requesting Party HD shall define as precisely as possible the licensure requirements of personnel being requested from the Assisting Party HD. The Assisting Party HD agrees to exercise reasonable diligence in verifying personnel's licensure and in responding to the specific licensure requirements requested by the Requesting Party HD.

ARTICLE XIV

RECORD KEEPING

Time sheets and/or daily logs showing hours worked and equipment and materials used or provided by the Assisting Party HD will be recorded on a shift by shift basis by the Requesting Party HD and/or the loaned employee(s) and will be provided to the Assisting Party HD as needed. Additionally, the Assisting Party HD will provide shipping records for materials, supplies, equipment and/or related resources, and the Requesting Party HD is responsible for any required documentation of use of materials, supplies, equipment, facilities, services, and/or related resources for state or federal reimbursement. Under all circumstances, the Requesting Party HD remains responsible for ensuring that the amount and quality of all documentation is adequate to enable state or federal reimbursement.

ARTICLE XV

OTHER OR PRIOR AGREEMENTS

This Agreement is not intended to be exclusive among the Party HDs. Any Party HD may enter into separate agreements with any other entity. No such separate agreement shall terminate any responsibility under this Agreement.

ARTICLE XVI

EFFECT OF DECLARATION OF EMERGENCY

The Party HDs recognize that state or federal declarations of emergency, or orders related thereto, may supercede the arrangements made or actions taken for rendering Assistance pursuant to this Agreement.

ARTICLE XVII

MODIFICATION/TERMINATION OF AGREEMENT

No provision of this Agreement may be modified, altered or rescinded by any individual Party HD without the unanimous concurrence of the Party HDs. Modifications to this Agreement must be in writing and will become effective upon the approval of the modification by Party HDs. Modifications must be signed by each Party HD.

A Party HD opting to terminate this Agreement shall provide written termination notification to the Authorized Representatives of all Party HDs. Notice of termination becomes effective upon receipt by all Authorized Representatives. Any terminating Party HD shall remain liable for all obligations incurred during its Period of Assistance until the obligation is satisfied.

ARTICLE XVIII

ENTIRE AGREEMENT

This Agreement constitutes the entire agreement amongst the Party HDs.

ARTICLE XIX

SUCCESSORS AND ASSIGNS

This Agreement is not transferable nor assignable, in whole or in part, and any Party HD may terminate its participation in the Agreement pursuant to Article XVII.

ARTICLE XX

GOVERNING LAW

This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington.

ARTICLE XXI

INVALID PROVISION

The provisions of this Agreement are severable. If any portion of this Agreement is determined by a court to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

ARTICLE XXII

NOTICES

Except as otherwise provided herein, any notice, demand, information, report, or item otherwise required, authorized or provided for in this Agreement shall be given in writing and shall be deemed properly given if (i) delivered personally, (ii) transmitted and received by telephone facsimile device and confirmed by telephone, (iii) sent by United States Mail, postage prepaid, to the Authorized Representatives of all affected Party HDs at the address designated by such Authorized Representative, or (iv) sent by email with electronic signature of the Party HD's Authorized Representative.

ARTICLE XXIII

NO DEDICATION OF FACILITIES

No undertaking by one Party HD to the other Party HD under any provision of this Agreement shall constitute a dedication of the facilities or assets of such Party HD, or any portion thereof, to the public or to the other Party HD. Nothing in this Agreement shall be construed to give a Party HD any right of ownership, possession, use or control of the facilities or assets of the other Party HD.

ARTICLE XXIV

NO PARTNERSHIP

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership among the Party HDs or to impose any partnership obligation or liability upon any Party HD. Further, no Party HD shall have any undertaking for or on behalf of, or to act as or be an agent or representative of, or to otherwise bind any other Party HD.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes hereof, a facsimile copy of this Agreement, including the signature pages hereto, shall be deemed to be an original.

IN WITNESS WHEREOF, this Agreement has been executed and approved and is effective and operative as to each of the Party HDs as herein provided.

Kittitas County Public Health Department

By: _____

Caroline Bambrick

Its: _____

Administration

Date: _____

8/27/09