INTERLOCAL COOPERATION AGREEMENT
BETWEEN KITTITAS COUNTY AND THE KITTITAS COUNTY CONSERVATION DISTRICT FOR MANAGING THE PRE-DISASTER MITIGATION GRANT

THIS AGREEMENT is made and entered into this _____ day of _____, 2015, between KITTITAS COUNTY, a political subdivision of the State of Washington, and the KITTITAS COUNTY CONSERVATION DISTRICT ("the District"), a political subdivision of the State of Washington. Both entities may be referred to in this Agreement collectively as "Parties" or individually as "Party".

WITNESSETH:

WHEREAS, the Interlocal Cooperation Act, as amended, and codified in Chapter 39.34 of the Revised Code of Washington ("RCW"), provides for public agencies to enter into agreements for joint or cooperative action authorized under that chapter; and

WHEREAS, the County and the District are public agencies within the meaning of chapter 39.34 RCW; and

WHEREAS, Chapter 89.08 RCW specifically provides for the District to enter into interlocal agreements; and

WHEREAS, the County and the District are actively working to provide assistance to landowners and managers to address fuels reduction and defensible space projects in delineated wildfire hazard areas; and

WHEREAS, the County, through the Kittitas County Fire Marshal's Office, has applied for a grant from the Federal Emergency Management Agency (the "grant sponsor") to conduct a fuels reduction and defensible space project to mitigate wildfire hazards in Kittitas County (the "Pre-Disaster Mitigation Grant" or the "grant", which is made a part of this Agreement and attached hereto as Exhibit "A"; and

WHEREAS, the District has coordinated and implemented numerous fuels reduction and defensible space projects in Kittitas County over the last 5 years; and

WHEREAS, the District has the administrative and technical expertise to implement the proposed project described in the grant; and

WHEREAS, the work to be performed by the District under the grant involves an approved collaborative effort between the District and the County; and

NOW, THEREFORE, for and in consideration of the promises and conditions set forth herein, and other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. PURPOSE. The purpose of this Agreement is to acknowledge and facilitate the parties' mutual interest in completing the project described herein.

2. SCOPE OF WORK.

   a. The District shall fulfill the obligations set forth in the Pre-Disaster Mitigation Grant between the grant sponsor and the County, including but not limited to:

      i. Provide the necessary personnel, facilities, equipment, materials and data to perform the work in accordance with the grant.

      ii. Facilitate fuels reduction project and landowner educational activities regarding defensible space and fuels reduction.

      iii. Provide the required 25% matching funds or in-kind contribution for the grant.

      iv. Develop and implement recommended and grant eligible practices for wildfire mitigation in Kittitas County.

      v. Provide on-site threat assessments for property owners in Kittitas County that are interested in participation in the fuels reduction program.

      vi. Implement a fuels reduction and vegetation management plan when on-site threat assessment determines this course of action is needed to create defensible space.

      vii. Provide work crews to remove and reduce potential fuels according to the fuels reduction and vegetation management plan.

      viii. Provide administration and project oversight for compliance with Pre-Disaster Mitigation Grant requirements.

      ix. Assist the County in meeting the goals of the Pre-Disaster Mitigation Grant.

   b. Performance by the District under this Agreement shall conform in all respects to the requirements of the grant and applicable federal and state regulations.

3. ADMINISTRATION. Pursuant to RCW 39.34.030(4)(a), the administrator for this agreement shall be the point of contact for the County designated in Section 3(a). No new separate legal or administrative entity is created to administer the provisions of this Agreement. Unless otherwise specifically agreed by the parties in writing, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall

remain the property of that party initially owning it. All notices required by this Agreement shall be made in writing, to the below listed points of contact.

a. The point of contact for the County shall be as follows:

Brenda Larsen, Fire Marshal
Kittitas County Fire Marshal's Office
411 N Ruby St.
Ellensburg WA 98926
Phone: (509) 962-7000
Fax: (509) 962-7663

b. The point of contact for the District shall be as follows:

Suzanne Wade, Firewise and Fuels Reduction Coordinator
Kittitas County District
607 E. Mountain View
Ellensburg, WA 98926
Phone: (509) 925-8585
Fax: (509) 925-8591

4. INSPECTION. The County has the right, upon reasonable advance notice, to inspect or otherwise evaluate the work performed by the District. In the event that deliverables are not provided or services are not performed in accordance with the specifications and instructions of the County, the County may require the District to remedy the deficiency. The cost of replacement or correction shall be at the District's sole expense. If the District fails to remedy the deficiencies, the County may terminate the Agreement in accordance with Section 7 of this Agreement.

5. REIMBURSEMENT BY THE COUNTY TO THE DISTRICT.

a. The County will reimburse the District for costs associated with implementing the grant not to exceed the grant funding amount.

b. Allowable costs are detailed in the grant budget (which is made a part of this Agreement and attached hereto as Exhibit "B").

c. The District will submit invoices for reimbursement at least quarterly, but not more than monthly. Invoices will contain language certifying the validity of reported expenditures and be signed by an authorized official of the District.

d. Payment by the County to the District shall be made within thirty (30) days after billing by the District.

e. In order to receive reimbursement, all work performed by District shall comply with the terms and conditions of the grant and meet established U.S. Department of Agriculture Natural Resource Conservation Service/Washington State Department of Natural Resources ("NRCS/DNR") standards.

f. The District assumes sole responsibility for reimbursement to the grant sponsor the amount of any expenditures disallowed should an authorized agency rule through audit exception, or some other appropriate means, that expenditures of the District were not made in compliance with the regulations of the grant sponsor or the provisions of this Agreement.

6. TERM OF AGREEMENT. This Agreement shall commence on January 9, 2015 and terminate on January 9, 2016.

The District is not obligated to continue work or provide services and the County is not obligated to compensate the District for expenses incurred or commitments made before the commencement date or after the termination date.

7. TERMINATION.

a. Either party has the right to terminate this Agreement for any reason by giving thirty (30) days written notice of intent to terminate. Upon receipt of such notification, the District shall cease incurring costs under this Agreement and take action to cancel all outstanding obligations.

b. In the event of termination of the grant, this Agreement shall automatically terminate as of the termination date of the grant.

c. In the event that the District commits any breach of or defaults on any of the terms or conditions of this Agreement or the grant, and also fails to remedy such default or breach within ten (10) days of receipt of written notice thereof from the County, the County may, at its option and in addition to any other remedies which it may have at law or in equity, terminate the whole or any part of this Agreement, and such termination shall be effective on the date of the District's receipt of such written notice.

8. RELATIONSHIP OF THE PARTIES.

a. The work performed by the District pursuant to this agreement shall be furnished by the District as an independent contractor and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the District as an independent contractor.

b. The District acknowledges that the entire compensation for this Agreement is specified herein and the District is not entitled to any County benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to Kittitas County employees.

c. The District will defend, indemnify and hold harmless the County, its Additional Insured's, officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

9. LOCAL, STATE AND FEDERAL TAXES. The District shall pay all applicable use tax, sales tax, income tax, and FICA (social security) and Medicare taxes incurred while performing services under this Agreement. The County is not responsible for and will not withhold FICA from payments to the District or make FICA payments on behalf of the District; withhold state or federal income tax from payments to the District; or make any unemployment compensation contribution on behalf of the District.

10. NON-DELEGATION / NON-ASSIGNMENT. Neither party may delegate the performance of its contractual obligation hereunder to a third party, unless mutually agreed in writing. Neither party may assign this Agreement without the written consent of the other party.

11. COMPLIANCE WITH LEGAL REQUIREMENTS. Each party shall comply with all federal, state and local laws, rules, regulations and ordinances applicable to the performance of this Agreement, including without limitation, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.

12. HOLD HARMLESS. Each party shall be liable and responsible for the consequences of any negligent or wrongful act or failure to act on the part of itself and its employees. Neither party assumes responsibility to the other party for the consequences of any act or admission of any person, firm or corporation not a party to this agreement.

13. INDEMNIFICATION. The District agrees to and shall defend, indemnify and hold harmless the County, its Additional Insured's, appointed and elective officers, agents and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its Additional Insured's, its elected or appointed officials, agents, or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the District, its sub-Contractors, its officers,

employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its Additional Insured's (meaning the County, its successors and assigns, and the respective directors, officers, employees, agents and representatives of the County and its successors and assigns), appointed or elected officials, agents, or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties hereby certify that these indemnification provisions were mutually negotiated and agreed to by the parties.

14. INSURANCE. The District shall provide and maintain for the duration of this Agreement, comprehensive general liability insurance and/or equivalent self-insured retentions, including the foregoing contractual liability, with a combined single limit of at least $1,000,000 per occurrence and $3,000,000 in aggregate. Such insurance will fully protect the District against any and all liability and claims for damages sustained by any person or entity, caused by, arising from, or resulting from the performance of the District under this Agreement. The District shall promptly notify the County of any claim against the District, which relates to the District's performance under this Agreement.

The District shall furnish the County a Certificate of Insurance with Endorsement or Statement of Self-Insurance as evidence that policies providing insurance required by this Agreement are in full force and effect. The District hereby waives all rights of recourse, including any right to which another may be subrogated, against Kittitas County for personal injury, including death, and property damage. The District's insurance policies or self-insurance required above shall be primary insurance and shall be non-contributing with any other insurance maintained by Kittitas County.

15. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.

a. This Agreement may be changed, modified, amended or waived only by written agreement signed by the parties and adopted by the Kittitas County Board of Commissioners and the District.

b. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission.

c. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

16. INTERPRETATION. This Agreement has been submitted to the review of all parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accord with its words, without consideration or weight given to its being drafted by any party or its counsel. All words used in the singular shall include the plural; the present

tense shall include the future tense; and the masculine gender shall include the feminine and neuter gender.

17. GOVERNING LAW AND VENUE.

a. This Agreement shall be governed by the laws of the State of Washington, and venue shall be in Kittitas County, Washington.

b. If any legal action or other proceeding is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney fees incurred in that action or proceeding.

18. SEVERABILITY. Any provision of this agreement, which is prohibited or unenforceable, shall be ineffective to the extent of such prohibition or un-enforceability, without affecting the validity or enforcement of the remaining provisions.

19. ENTIRE AGREEMENT. This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

20. FILING. This Agreement shall be filed with the Kittitas County Auditor's Office or, alternatively, listed by subject on each or either party's web site or other electronically retrievable public source pursuant to RCW 39.34.040.

21. DEBARMENT CERTIFICATION.

The District certifies that it:

a. Is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

b. Has not within a three-year period preceding the execution of this contract with Kittitas County, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice.

c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in sub-paragraph (b) of this section.

d. Has not within a three-year period preceding the preceding the execution of this contract with Kittitas County had one or more public transactions (Federal, State, or local) terminated for cause of default.

22. NONDISCRIMINATION.

a. The District certifies that in the performance of this Agreement, the District will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The District shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The District shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

b. The District certifies that in the performance of this Agreement, the District will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap.

c. If any assignment and/or subcontracting has been authorized by the County, said assignment or subcontract shall include appropriate safeguards against discrimination. The District shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

23. AUDIT AND ACCESS TO RECORDS.

a. The District agrees to maintain books and records pertaining to all costs incurred in such detail as will properly document all expenses for which reimbursement is

claimed. The books of account, documents, paper and records of the District which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions, shall at all times be available for inspection and review by the County, grant sponsor, or independent auditors.

b. All such records pertinent to this Agreement and work undertaken pursuant to this Agreement shall be retained by the District for a period of six years after the final expiration date of this Agreement or any amendments hereto, or as described in 2 CFR 215.53, whichever is longer, unless a longer period is required to resolve audit findings or litigation. In such cases, the parties may expressly agree by an amendment or separate agreement for such longer period for record retention.

c. The parties agree to comply with audit provisions applicable to Federal agency grantees, including Office of Management and Budget (OMB) Circulars A-21, A-110, A-133 or A-128, as applicable. If applicable, the District will complete and return the subcontractor's compliance form with Circular A-133, on an annual basis.

d. The District shall be responsible for conducting any audit required by the grant sponsor, in the time and manner prescribed by the grant sponsor. The District shall furnish a copy to the County of any such required audit.

24. SAVINGS CLAUSE. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of this Agreement and any statute, law, public regulation or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only the extent necessary to bring it within legal requirements.

IN WITNESS WHEREOF, the above and foregoing Interlocal Agreement has been executed in duplicate by the parties hereto and made effective on the day and year first above written:

KITTITAS COUNTY CONSERVATION DISTRICT
607 East Mountain View
Ellensburg, WA 98926

By: _____ Dated: _____
Chairman, Board of Supervisors

KITTITAS COUNTY BOARD OF COMMISSIONERS
205 West 5th Avenue, Room 108
Ellensburg, WA 98926

_____ Dated: _____
Gary Berndt, Chairman

_____ Dated: _____
Obie O'Brien, Vice-Chairman

_____ Dated: _____
Paul Jewell, Commissioner

Approved as to Form:

ATTEST: _____ _____
Julie Kjorsvik, Clerk of the Board Michael P. Nigrey
Deputy Prosecuting Attorney

EXHIBIT "A"

PRE-DISASTER MITIGATION GRANT

EXHIBIT "B"

PRE-DISASTER MITIGATION GRANT BUDGET