

INTERGOVERNMENTAL COOPERATION AGREEMENT

**BETWEEN KITTITAS COUNTY AND
KITTITAS COUNTY CONSERVATION DISTRICT**

FOR VOLUNTARY STEWARDSHIP PROGRAM

THIS AGREEMENT is made and entered into this 20th day of October, 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.

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;

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

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

WHEREAS, the District's mission is to provide leadership, technical, educational and financial assistance to landowners and land users in their utilization and management of natural resources;

WHEREAS, the District serves the citizens of the community (county, state, country) to ensure the long term use of natural resources in an economically, socially and environmentally sustainable manner using non-regulatory, voluntary approaches;

WHEREAS, the Washington State Legislature, through ESHB 1886, created a Voluntary Stewardship Program ("VSP") for protection of critical areas in areas of agricultural activities;

WHEREAS, the Kittitas County Board of County Commissioners approved Ordinance No. 2011-012, An Ordinance Electing to Participate in the Voluntary Stewardship Program (RCW 36.70A.705), identifying and nominating the Upper Yakima watershed and the Alkali-Squilchuck watershed as state priority watersheds, and electing to have Kittitas County proceed with implementation of the requirements of the Voluntary Stewardship Program once the Washington State Legislature provides adequate funding for such activity;

WHEREAS, the Washington State Legislature appropriated \$7,600,000 in the Washington State Conservation Commission's 2015-2017 budget for implementation of the Voluntary Stewardship Program;

WHEREAS, the Voluntary Stewardship Program implementation requires that Kittitas County designate an organization to lead a Watershed Group to seek input from agriculturalists, landowners, tribes, local environmental groups, agencies and other involved parties and to write a work plan that sets goals and benchmarks for protection and enhancement of critical areas;

WHEREAS, the District has the technical expertise to lead the Watershed Group and complete the watershed plans and desires to do so;

WHEREAS, Kittitas County intends to designate the District as the organization that will coordinate the Watershed Group (RCW 36.70A.715), after the Washington State Conservation Commission makes funds available to the County.

NOW, THEREFORE, the parties agree as follows:

1. PURPOSE. The purpose of this Agreement is to acknowledge and facilitate the parties' mutual interest in implementing the Voluntary Stewardship Program.
2. ADMINISTRATION. No new separate legal or administrative entity is created to administer the provisions of this Agreement.

- a. The District's point of contact for purposes of this Agreement shall be as follows:

Anna Lael, District Manager
Kittitas County Conservation District
2211 W Dolarway Road, Ste 4
Ellensburg, WA 98926
Phone: (509) 925-3352
Fax: (888) 546-0825

- b. The point of contact for the Kittitas County shall be as follows:

Doc Hansen
Kittitas County Community Development Services
411 N Ruby Ste 2
Ellensburg WA 98926
Phone: (509) 962-7506
Fax: (509) 962-7682

3. SCOPE. This agreement contemplates that the District will:
 - a. Contract with Kittitas County for Washington State Conservation Commission funding in an amount not to exceed \$136,000 in Fiscal Year 2016 and \$120,000 in Fiscal Year 2017 (Attachment A);

- b. Lead and facilitate the Watershed Group for the Upper Yakima watershed and the Alkali-Squilchuck watershed; and
- c. Write the Work Plan(s) for the Upper Yakima watershed and the Alkali-Squilchuck watershed.
- d. The Voluntary Stewardship Program Work Plan and watershed group duties will be developed consistent with RCW 36.70A.720.
- e. The Watershed Group in conjunction with the District will submit the work plan by date to be determined in Scope of Work.

4. COMPENSATION BY THE COUNTY TO THE DISTRICT

- a. The County will reimburse the District for costs associated with implementing the Voluntary Stewardship Program not to exceed the state funding.
- b. Allowable costs are detailed in the budget (Attachment A).
- c. Payment by the County to the District shall be made within thirty (30) days after billing by the District.
- d. The District will not commence work until the County has received funding from the Commission.

5. DURATION OF AGREEMENT – TERMINATION. This Agreement shall remain in force until cancelled by either party in writing. The District reserves the right to cancel this Agreement in the event of the County's nonpayment of reimbursable costs billed by the District to the County, upon thirty (30) days written notice by the District to the County, sent certified mail, return receipt requested.

6. RELATIONSHIP OF THE PARTIES. No agent, employee or representative of the County shall be deemed to be an agent, employee or representative of the District for any purpose, and the employees of the County are not entitled to any of the benefits the District provides to District employees. No agent, employee or representative of the District shall be deemed to be an agent, employee or representative of the County for any purpose, and the employees of the District are not entitled to any of the benefits the County provides to County employees.

7. 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.

8. 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.

9. 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.
10. INDEMNIFICATION. The County and the District shall defend, indemnify and hold each other harmless from and against any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from, or connected with, services performed or to be performed under this contract to the fullest extent permitted by law whether arising from contract liability(ies) or otherwise.

This mutual duty to indemnify shall not apply to liability from damages arising out of bodily injury to persons or damages to the property caused by, or resulting from, the sole negligence of either the County or the District, or their respective officers, agents, and employees.

This mutual duty to indemnify for liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of either the County's or the District's agents or employees, subcontractors and suppliers, shall apply only to the extent of negligence of the damages caused by or resulting from the concurrent negligence of the County's or the District's agents, employees, subcontractors and suppliers.

The County and the District specifically and expressly waive any immunity that may be granted under the Washington State Industrial Act, Title 51, RCW. Further, the indemnification obligation under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, benefits payable to or by any third party under Worker's Compensation Acts, Disability Benefits Acts, or other employee benefit acts.

This mutual duty to defend, indemnify, and hold harmless shall include all related costs, reasonable attorney fees, court costs and related expenses asserted against or incurred by either party, or their officers, agents and employees.

The parties hereby certify that these indemnification provisions were mutually negotiated and agreed to by the parties.

11. 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.
12. 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.
13. GOVERNING LAW AND VENUE.
 - a. This Agreement shall be governed by the laws of the State of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. The venue of any action brought hereunder 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.
14. ORDER OF PRECEDENCE. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:
 - a. Applicable federal and state of Washington statutes, regulations, and rules.
 - b. Mutually agreed upon written amendments to this Agreement.
 - c. This Agreement.
 - d. Statement of Work and Budget.
 - e. Any other provisions of this Agreement, including materials incorporated by reference.
15. FUNDING AVAILABILITY. Kittitas County's ability to make payments is contingent on availability of funding. In the event funding from the state is

withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this agreement, Kittitas County, at its sole discretion, may elect to terminate the Agreement, in whole or part, for convenience or to renegotiate the agreement subject to new funding limitations and conditions. Kittitas County may also elect to suspend performance of the agreement until Kittitas County determines the funding insufficiency is resolved. Kittitas County may exercise any of these options with no notification restrictions.

16. PROPERTY. Unless otherwise specifically agreed by the parties in writing, all property, personal or real, utilized by the parties hereto in the execution of this Agreement shall remain the property of that party initially owning it.
17. TERMINATION FOR CAUSE. If for any reason, either party does not fulfill in a timely manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.
18. SEVERABILITY. Any provision of this Agreement, which is prohibited or unenforceable, shall be ineffective to the extent of such prohibition or unenforceability, without affecting the validity or enforcement of the remaining provisions.
19. RECORDS MAINTENANCE. The parties to this Agreement shall each maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of service(s) described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by both parties, the Office of the State Auditor, and federal officials so authorized by law.
20. OFFICIAL RECORD-KEEPING. The District will keep the official project records and make them available to the County for record keeping associated with the development and approval of the VSP Work Plan(s).
21. 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. The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.
22. FILING. Executed copies of this Agreement shall be filed as required by RCW 39.34.040 prior to this Agreement becoming effective.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

KITTITAS COUNTY CONSERVATION DISTRICT

2211 W Dolarway Road, Ste 4
Ellensburg, WA 98926

By: *Markle Moore* Dated: 11/12/2015
Chairman, Board of Supervisors

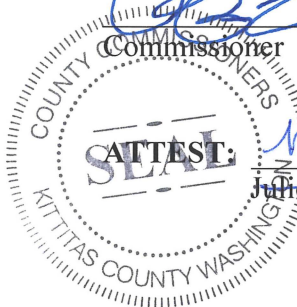
KITTITAS COUNTY BOARD OF COMMISSIONERS

205 West 5th Avenue, Room 108
Ellensburg, WA 98926

Sam Bault Dated: 10/20/15
Board Chair

Chris JTB
Vice Chair

[Signature]
Commissioner



ATTEST:

Nancy Buchholz
Julie Kjorsvik, Clerk of the Board
[Signature]

Approved as to Form:

Deputy Prosecuting Attorney

Attachment A

Fiscal Year 2016 Budget

Kittitas County Conservation District				
Staff Wages and Benefits	Hrs/mo.	Composite Rate	Per month	12 month Contract total
District Manager	24.00	\$47.95	\$1,150.80	\$13,809.60
Financial Manager	2.00	\$33.23	\$66.46	\$797.52
GIS Specialist	8.00	\$38.59	\$308.72	\$3,704.64
Project Manager	8.00	\$36.86	\$294.88	\$3,538.56
Resource Technician	8.00	\$34.05	\$272.40	\$3,268.80
VSP Coordinator	164.00	\$35.94	\$5,894.16	\$70,729.92
Total Salary and Benefits				\$95,849.04
Indirect costs	Monthly Wages	Rate	Per month	12 month Contract total
Indirect costs	\$ 7,987.42	25.00%	\$1,996.86	\$5,990.57
Total Indirect Costs				\$5,990.57
Travel	Miles	Rate	Per month	12 month Contract total
Travel (estimated miles)	40.00	\$0.575	\$23.00	\$276.00
Total Travel				\$276.00
Goods & Services				12 month Contract total
Outreach Materials			\$1,000.00	\$1,000.00
Printing Costs			\$1,500.00	\$1,500.00
Postage			\$300.00	\$300.00
Meeting Room			\$1,380.00	\$1,380.00
Miscellaneous			\$500.00	\$500.00
Total Salary and Benefits				\$4,680.00
Professional Services				12 month Contract total
Facilitation	16.00	\$150.00	\$2,400.00	\$28,800.00
Total Professional Services				\$28,800.00
TOTAL BUDGET				\$135,595.61