

**IAA No. C1400204**

**INTERAGENCY AGREEMENT (IAA)**

**BETWEEN**

**THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY**

**AND**

**KITTITAS COUNTY**

**THIS INTERAGENCY AGREEMENT** is made and entered into by and between the STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, hereinafter referred to as "ECOLOGY," and Kittitas County hereinafter referred to as the "County," pursuant to the authority granted by Chapter 39.34 RCW.

**IT IS THE PURPOSE OF THIS AGREEMENT** to provide funds to the County in order to provide the County professional hydrogeologic consulting services for participating in the Upper Kittitas County Groundwater Study Advisory Committee. The Emergency Rule WAC 173-539A requires ECOLOGY to implement a comprehensive ground water study for the area known as upper Kittitas County.

**THEREFORE, IT IS MUTUALLY AGREED THAT:**

To achieve these purposes ECOLOGY will support costs incurred by the County up to the amount of \$38,514.23 that are expected prior to December 31, 2014. It is further agreed that there is no intent to expand any obligation not otherwise contained within the Emergency Rule WAC 173-539A.

**1) STATEMENT OF WORK**

The County shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Appendix A, attached hereto and incorporated herein.

**2) PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of performance of this IAA shall commence on July 1, 2013 and be completed by the County by December 31, 2014, unless terminated sooner as provided herein. Amendments extending the period of performance, if any, shall be at the sole discretion of ECOLOGY.

### **3) PAYMENT**

Compensation for the work provided in accordance with this IAA has been established under the terms of RCW 39.34.130, and in accordance with Governor's Executive Order 10-07 and RCW 39.26.180(3). This is a performance-based contract, in which payment is based on the successful completion of expected deliverables. The parties have determined that the cost of accomplishing the work herein will not exceed \$38,514.23. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount. Compensation for services shall be based on the terms set forth in accordance with the tasks listed in Appendix A, Statement of Work and Budget, which is attached hereto and incorporated herein. ECOLOGY will not make payment until it has reviewed and accepted the completed work.

### **4) BILLING PROCEDURE**

The County shall submit invoices to ECOLOGY for payment. All invoices are to be delivered to the attention of at the following address: Rose Bennett, Water Resources Program PO Box 47600, Olympia, WA 98504-7600. Invoices may be submitted on a monthly basis or at the completion of the work.

Each invoice shall reference this Agreement (IAA) number and clearly identify the items related to performance under this Agreement. All expenses invoiced shall be supported with copies of invoices paid. Upon expiration of this Agreement, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier. Payment will be within 30 days of receipt of properly completed invoice.

Payment for approved and completed work will be issued through Washington State's Department of Enterprise Services Statewide Payee Desk. To receive payment you must register as a state-wide vendor by submitting a state-wide vendor registration form and an IRS W-9 form at website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. If you have questions about the vendor registration process you can contact DES at the Payee Help Desk at (360) 407-8180 or email [payeehelpdesk@des.wa.gov](mailto:payeehelpdesk@des.wa.gov).

### **5) ALTERATIONS AND AMENDMENTS**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **6) SUBCONTRACTORS**

The County agrees to take complete responsibility for all actions of any Subcontractor used under this Agreement for the performance. When federal funding is involved there will be additional subcontractor requirements and reporting.

Prior to performance, the County shall identify subcontractor(s) who will perform services in fulfillment of Agreement requirements, including their name, the nature of services to be performed, address, telephone, WA State Department of Revenue Registration Tax number (UBI), federal tax identification number (TIN), and anticipated dollar value of each subcontract.

### **7) ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

## **8) DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner. Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms, and applicable statutes and rules, and then make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. The cost of resolution will be borne by each party paying its own cost. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

## **9) FUNDING AVAILABILITY**

ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this Agreement, ECOLOGY, 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. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification restrictions.

## **10) GOVERNING LAW AND VENUE**

This Agreement is entered into pursuant to and under the authority granted 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. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

## **11) INDEPENDENT CAPACITY**

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

## **12) 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 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.

## **13) 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

the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

#### **14) RIGHTS IN DATA**

Unless otherwise provided, data which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by ECOLOGY. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

#### **15) SEVERABILITY**

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

#### **16) TERMINATION FOR CAUSE**

If for any cause, either party does not fulfill in a timely and proper 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.

#### **17) TERMINATION FOR CONVENIENCE**

Either party may terminate this Agreement upon thirty (30) days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

#### **18) WAIVER**

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

**19) AGREEMENT MANAGEMENT**

The representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The ECOLOGY Representative is:	The County Representative is:
Name: Mark Kemner Water Resources Program Address: 15 West Yakima Avenue, Suite 200 Yakima, WA 98902-3452  Phone: (509) 454-4258 Email: mkem461@ecy.wa.gov Fax: (509) 575-2809	Name: Paul Jewell Kittitas County Commissioner Address: 205 West 5 <sup>th</sup> Avenue, Suite 108 Ellensburg, WA 98926  Phone: (509) 962-7508 Email: paul.jewell@co.kittitas.wa.us Fax: (509) 962-7679

**20) ALL WRITINGS CONTAINED HEREIN**

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.

**IN WITNESS WHEREOF**, the parties have executed this Agreement.

**State of Washington  
Department of Ecology**

**Kittitas County**

 5-20-14  
\_\_\_\_\_  
Signature Date

 5/16/14  
\_\_\_\_\_  
Signature Date

Tom Loranger

Paul Jewell

Water Resources Program Manager

Commissioner

Approved as to form:  
Attorney General's Office

## **APPENDIX A**

### **STATEMENT OF WORK**

#### **Work Products expected July 1, 2013 to December 31, 2014**

Task 1 – Obtain professional hydrogeologic consulting services for participating in the Upper Kittitas County Groundwater Study Advisory Committee (Committee). Participate in start up meetings, review draft scope of work prepared by the USGS dated October 3, 2010 and provide written comments to ECOLOGY by the requested deadline.

Task 2- Participate on the Committee as the County's independent professional Hydrogeologist. Attend all meetings, review Committee materials, and as may be necessary, develop and prepare written materials as the County's independent professional Hydrogeologist.

Task 3 – Administration and Project Management. Manage and administer contract. Track expenses against budget and prepare monthly invoices. Track and report progress on deliverables throughout the contract period. Manage on the ground efforts and subcontractors associated with project development and implementation. Provide overall project oversight and direct project tasks as required.