

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

RESOLUTION
NO. 2025-066

**AUTHORIZING BOARD OF COUNTY COMMISSIONERS CHAIR SIGNATURE ON AN
INTERLOCAL AGREEMENT BETWEEN KITTITAS COUNTY FLOOD CONTROL ZONE
DISTRICT AND ELLENSBURG WATER COMPANY**

- 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:** Kittitas County Flood Control District (KCFCZD) and the Ellensburg Water Company (EWC) are public agencies within the meaning of Chapter 39.34 RCW; and
- WHEREAS:** Kittitas County established a County-Wide Flood Control Zone District pursuant to Chapter 86.15 RCW for the purpose of addressing flood management needs within the county; and
- WHEREAS:** RCW 86.15.035 provides for flood control zone districts to participate in and expend revenue on cooperative watershed management arrangements and actions for purposes of water supply, water quality, and water resource and habitat protection and management; and
- WHEREAS:** Kittitas County established a County-Wide Flood Control Zone District pursuant to Chapter 86.15 RCW for the purpose of addressing flood management needs within the county; and
- WHEREAS:** Per an agreement by and between SSHI LLC, d/b/a D.R. Horton and Kittitas County effective November 2nd, 2021, D.R. Horton had agreed to remove flood deposited sediment from the EWC canal until January 24, 2025, or up until the flow restrictor at the Bender Road culvert was removed, whichever event occurred first; and
- WHEREAS:** The flow restrictor at the Bender Road culvert remains in place while the KCFCZD continues to work to construct the EWC siphon project; and
- WHEREAS:** The KCFCZD desires to compensate EWC for costs incurred to remove flood deposited sediment from the EWC canal until March 31, 2027, or up until the flow restrictor at the Bender Road culvert is removed, whichever event occurs first; and

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners, in the best interest of the public, does authorize Board of County Commissioners Chair Signature on an interlocal agreement between Kittitas County Flood Control Zone District and Ellensburg Water Company.

DATED this 18th day of March 2025, at Ellensburg, Washington.



Clerk of the Board- Julie Kjorsvik

Deputy Clerk of the Board- Mandy Buchholz

[Signature]

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

ABSENT

Laura Osiaiecz, Chairman

Cory Wright, Vice-Chairman

Brett Wachsmith, Commissioner

INTERLOCAL AGREEMENT BETWEEN KITTITAS COUNTY FLOOD CONTROL ZONE DISTRICT AND ELLENSBURG WATER COMPANY

This Interlocal Agreement is made and entered into this 18 day of March, 2025, by and between Kittitas County through the Kittitas County Flood Control Zone District (hereinafter the "KCFCZD") and the Ellensburg Water Company (hereinafter the "EWC").

RECITALS

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, KCFCZD and the EWC are public agencies within the meaning of chapter 39.34 RCW; and

WHEREAS, Kittitas County established a County-Wide Flood Control Zone District pursuant to Chapter 86.15 RCW for the purpose of addressing flood management needs within the county; and

WHEREAS, RCW 86.15.035 provides for flood control zone districts to participate in and expend revenue on cooperative watershed management arrangements and actions for purposes of water supply, water quality, and water resource and habitat protection and management; and

WHEREAS, per an agreement by and between SSHI LLC, d/b/a D.R. Horton and Kittitas County effective November 2nd, 2021 D.R Horton had agreed to remove flood deposited sediment from the EWC canal until January 24, 2025 or up until the flow restrictor at the Bender Road culvert was removed, whichever event occurred first; and

WHEREAS, the flow restrictor at the Bender Road culvert remains in place while the KCFCZD continues to work to construct the EWC siphon project; and

WHEREAS, the FCZD desires to compensate EWC for cost incurred to remove flood deposited sediment from the EWC canal until March 31, 2027 or up until the flow restrictor at the Bender Road culvert is removed, whichever event occurs first;

NOW THEREFORE, it is agreed as follows:

TERMS

1. **Legal Basis.** This Agreement is entered into pursuant to Chapter 39.34 (the Interlocal Cooperation Act), and Chapter 86.15 RCW (Flood Control Zone Districts).

2. **Purpose.** The purpose of this agreement is for the KCFCZD and the EWC to work cooperatively to manage flood deposited sediment in the EWC canal to remove flood deposited sediment from the EWC canal until March 31, 2027 or up until the flow restrictor at the Bender Road culvert is removed.
3. **Term of Agreement.** The term of this Agreement shall be from its effective date through March 31, 2027 or as otherwise agreed to by the parties as provided in Section 14 or terminated as provided in Section 16.
4. **Payment.** Payment shall be made on a reimbursable basis for costs up to \$4,000 per calendar year for costs incurred by the EWC to remove sediment within the EWC canal that results from flood overflow from Whiskey Creek running along Bender Road.
5. **Billing Procedure.** The EWC shall submit invoices monthly. Invoices are to be sent to: Kittitas County Department of Public Works, 411 North Ruby Street, Suite 1, Ellensburg, WA 98926, Attn: Arden Thomas, and will be paid within thirty (30) days of receipt by the Flood District. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within thirty (30) days after the expiration date or termination of the Agreement, whichever is earlier.
6. **Contract Management.** The Agreement Administrator 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 Agreement Administrator for the EWC: Larry Browne, 502 E 3rd Ave, Ellensburg, WA 98926. Telephone: 509-925-5498.

The Agreement Administrator for the KCFCZD: Arden Thomas, 411 North Ruby Street, Suite 1, Ellensburg, WA 98926. Telephone: 509-962-7523.

7. **Maintenance of Record.** Each party hereto agrees to maintain books, records and documents using accounting procedures which accurately reflect all direct and indirect costs related to the performance of services described herein. Each party may examine the other party's books and records to verify the accuracy of invoices. Each party's fiscal management system shall include the capability to provide accurate and complete disclosure of all costs invoiced under this Agreement. All books, records, documents and other materials relevant to this agreement will be retained for six years after expiration of the Agreement, and the Office of the State Auditor and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period. 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.


8. **Indemnification.** Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions, or those of its officers, agents or employees to the fullest extent provided by the law, and further agrees to save, indemnify, defend and hold harmless the other party from any and such liability arising out of the performance of this Agreement. In the case of negligence of more than one party, any damages allowed shall be levied in proportion to the percentage of the negligence attributable to each party. This indemnification paragraph shall survive the termination of this Agreement.
9. **Assignment.** This Agreement cannot be assigned, transferred or any portion subcontracted by either party hereto without the prior written consent of the other party, which consent shall not be reasonably withheld.
10. **Future Support.** Neither party to this Agreement makes any commitment to future support and assumes no obligation for future support of any activity contracted for herein, except as may be expressly set forth in this Agreement.
11. **Compliance with Laws.** Each party hereto, in its performance of this Agreement, agrees to comply with all applicable local, State and Federal laws and ordinances.
12. **Relationship of the Parties.** In the performance of the work herein contemplated, the party performing the work is an independent contractor with the authority to control and direct the performance of the details of the work; however, the work contemplated herein shall be subject to the general rights of inspection and review of the party requesting the work be done, to secure the satisfactory completion thereof.
13. **Jurisdiction.** Any legal dispute between the parties to this Agreement shall be governed by the laws of the State of Washington, and any action to enforce this Agreement shall be brought in Kittitas County, Washington.
14. **Modification.** The provisions of this Agreement may be modified or amended only by written mutual agreement of the parties, executed by personnel authorized to bind each of the parties.
15. **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.


16. **Termination.** This Agreement shall remain in full force and effect until terminated on March 31, 2027, by mutual written agreement of the parties, or by written notice of termination given by one party to the other at least thirty (30) days prior to the date of such termination.
17. **Agreement Not for Benefit of Third Parties.** This Agreement is entered into solely for the benefit of the parties hereto and vests no rights in, or is it enforceable by, any third parties.
18. **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.
19. **Filing.** This Agreement shall be filed with the Kittitas County Auditor, or, alternatively, listed by subject on each or either party's website or other electronically retrievable public source pursuant to Revised Code of Washington 39.34.040.

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

ELLENSBURG WATER COMPANY


Larry Browne, Superintendent

KITTITAS COUNTY


CORY WRIGHT, VICECHAIRMAN

Attest:



Attest:

[Signature]
Clerk of the Board

Approved as to Form:

County Prosecuting Attorney