

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

RESOLUTION NO. 2019 - 039

A Resolution to Authorize the Execution of an Amendment to an Interlocal Agreement Between
Kittitas County and Kittitas County Conservation District for Continuing Implementation of the
Voluntary Stewardship Program

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

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; and

WHEREAS, Kittitas County and the Kittitas County Conservation District previously executed an Interlocal Agreement for the purpose of developing a Voluntary Stewardship Program for Kittitas County through Resolution No. 2015-139; and

WHEREAS, the terms and conditions of said Interlocal Agreement provided that the parties may mutually amend the agreement in writing; and

WHEREAS, Kittitas County and the Kittitas County Conservation District previously amended an Interlocal Agreement for the purpose of developing a Voluntary Stewardship Program for Kittitas County through Resolution No. 2016-019; and

WHEREAS, Kittitas County and the Kittitas County Conservation District previously amended an Interlocal Agreement for continuing implementation of the Voluntary Stewardship Program for Kittitas County on August 21, 2017; and

WHEREAS, Kittitas County and the Kittitas County Conservation District are agreeable to such amendment under the terms and conditions of the amended Interlocal Agreement attached hereto, which shall replace the previously amended Interlocal Agreement approved on August 21, 2017 in its entirety; and

WHEREAS, the Board of County Commissioners of Kittitas County authorized the execution of this amended Interlocal Agreement by action taken at a regular meeting; and

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY ORDERED, that the Board of County Commissioners of Kittitas County, Washington authorizes the execution of the amended Interlocal Agreement with the Kittitas County Conservation District that is attached hereto and incorporated by this reference.

ADOPTED this 5th day of March, 2019

**BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**



Cory Wright, Chairman



Brett Wachsmith, Vice-Chairman

ABSENT

Laura Osiadacz, Commissioner



ATTEST:

APPROVED AS TO FORM:

- Clerk of the Board- Julie Kjorsvik
 Deputy Clerk of the Board- Mandy Buchholz



Neil Caulkins, Deputy Prosecuting Attorney

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN KITTITAS COUNTY AND
KITTITAS COUNTY CONSERVATION DISTRICT

FOR CONTINUING IMPLEMENTATION OF VOLUNTARY STEWARDSHIP
PROGRAM

THIS AGREEMENT is made and entered into this 5th day of March, 2019, 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);

WHEREAS, on November 17, 2015, the Kittitas County Board of County Commissioners acknowledged the receipt of funds through approval of a contract with the Washington State Conservation Commission for VSP Workplan Development.

WHEREAS, the Kittitas County Board of County Commissioners approved Resolution No. 2016-001, A Resolution formally designating the Kittitas County Conservation District as the lead entity of the VSP Watershed Group;

WHEREAS, the Kittitas County Board of County Commissioners approved Resolution No. 2016-019, A Resolution to Authorize the Execution of an Amendment to an Interlocal Agreement Between Kittitas County and Kittitas County Conservation District for the development of a Voluntary Stewardship Program

WHEREAS, the Kittitas County Board of County Commissioners signed an Amendment to an Interlocal Agreement Between Kittitas County and Kittitas County Conservation District for continuing implementation of the Voluntary Stewardship on August 21, 2017.

WHEREAS, the District has facilitated the Watershed Group and initiated the process of developing and writing of the Work Plan per RCW 36.70A.720;

WHEREAS, the Washington State Legislature appropriated \$7.6 million in the Washington State Conservation Commission's 2018-2019 budget for continuing implementation of the Voluntary Stewardship Program;

WHEREAS, the County and the District desire to continue the work of the Watershed Group in order to complete the Work Plan and begin implementation of the Work Plan;

NOW, THEREFORE, the parties agree as follows:

1. **PURPOSE**. The purpose of this Agreement is to acknowledge and facilitate the parties' mutual interest in continuing to implement 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 or 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 ext. 207
Fax: (888) 546-0825

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

Lindsey Ozbolt, Planning Official
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 \$218,000 in the 2018-2019 biennium (Attachment A);
 - i. Submit monthly reimbursement request to Kittitas County before the 10th day of the month
 - ii. Submit quarterly progress reports to the Washington State Conservation Commission and the County;
 - iii. Provide to the County, by February 25, 2019, so the County can report to the Commission's VSP Contract Manager, no later than March 1, 2019, an estimate of the final anticipated costs associated with the completion of this agreement through June 30, 2019.
 - b. Lead and facilitate the Watershed Group for the Upper Yakima watershed and the Alkali-Squilchuck watershed;
 - i. Develop Work Plan and watershed group duties consistent with RCW 36.70A.720.
 - ii. Submit the Work Plan for the Upper Yakima watershed and the Alkali-Squilchuck watershed for technical review and approval per RCW 36.70A.725 before August 2018.
 - c. After approval of the Work Plan by the Washington State Conservation Commission, continue to facilitate the Watershed Group and provide technical assistance as needed to begin implementation of the Work Plan.
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 Attachment A, including the actual costs for fiscal year 2018 and the budget for fiscal year 2019.
 - 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 authorization to incur costs 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 the 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 of 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:  Dated: 3/14/19
Chairman, Board of Supervisors

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


Board Chair

Dated: March 5, 2019


Vice Chair

ABSENT
Commissioner

ATTEST: 
Julie Kjorsvik, Clerk of the Board

Approved as to Form:

Deputy Prosecuting Attorney



Attachment A

Actual Expenditures for Fiscal Year 2018 and Budget for Fiscal Year 2019

Kittitas County Conservation District Completion of Watershed Plan					
Staff Wages and Benefits	Hrs/mo.	Composite Rate	Per month	12 month Contract Estimate	Actual Expenditures
District Manager	28.0	\$52.79	\$1,478	\$17,737	
Financial Manager	1.5	\$30.02	\$45	\$540	
GIS Specialist	40.0	\$34.70	\$1,388	\$16,656	
Project Manager	15.0	\$39.60	\$594	\$7,128	
Conservation Planner	15.0	\$36.18	\$543	\$6,512	
Resource Technician	15.0	\$29.57	\$444	\$5,323	
Total Salary and Benefits				\$53,897	\$43,323
Indirect costs	Monthly Wages	Rate	Per month	12 month Contract Estimate	
Indirect costs	\$ 4,491	25.00%	\$1,123	\$13,474	
Total Indirect Costs				\$13,474	\$10,831
Travel	Miles	Rate	Per month	12 month Contract Estimate	
Travel (estimated miles)	20.00	\$0.535	\$11	\$128	
Total Travel				\$128	\$543
Goods & Services				12 month Contract Estimate	
Outreach Materials (Production & Printing Costs)			\$2,000	\$2,000	
Postage			\$750	\$750	
Meeting Room (12 meetings)				\$1,200	\$1,200
Miscellaneous Supplies			\$250	\$250	
Total Goods & Services				\$4,200	\$3,995
Professional Services				12 month Contract Estimate	
Facilitation	4.00	\$100	\$400	\$4,800	
Document Production and Management Services	62.00	\$90	\$5,580	\$66,960	
Total Professional Services				\$71,760	\$72,155
TOTAL BUDGET			\$143,459	\$130,847	

Kittitas County Conservation District Implementation of Watershed Plan				
Staff Wages and Benefits	Hrs/mo.	Composite Rate	Per month	12 month Contract total
District Manager	23.0	\$56.90	\$1,309	\$15,704
Financial Manager	1.0	\$32.10	\$32	\$385
GIS Specialist	1.3	\$35.93	\$45	\$539
Project Manager	2.0	\$41.43	\$83	\$994
Conservation Planner	4.0	\$37.74	\$151	\$1,812
Resource Technician	70.0	\$32.55	\$2,279	\$27,342
District Engineer	0.0	\$62.95	\$0	\$0
Total Salary and Benefits				\$46,776
Indirect costs	Monthly Wages	Rate	Per month	12 month Contract total
Indirect costs	\$3,898	25.00%	\$975	\$11,694
Total Indirect Costs				\$11,694
Travel	Miles	Rate	Per month	12 month Contract total
Travel (estimated miles)	120.00	\$0.535	\$64	\$770
Total Travel				\$770
Goods & Services				12 month Contract total
Meeting Rooms			\$435	\$435
Printing and Mailing Costs			\$850	\$850
Website, ArcGIS On-Line Subscription, Map & Survey Portal			\$16,354	\$16,354
Equipment			\$10,000	\$10,000
Miscellaneous			\$273	\$273
Total Goods & Services				\$27,912
TOTAL BUDGET				\$87,153

Total Interlocal Agreement Budget \$218,000