

**KITTITAS COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA STAFF REPORT**

AGENDA DATE: September 6, 2016

ACTION REQUESTED: Approve the Addendum to the Professional Services Agreement between Kittitas County and WSAC.

BACKGROUND: The County has a contract in place with DOE to provide funding for facilitation of the Counties Columbia River Policy Advisory Group through Neil Aaland and WSAC. The County then contracts with WSAC to provide the funding and WSAC contracts with Neil Aaland. This is a function of the Chairmanship for the WSAC group which is a role that Commissioner Jewell fulfills. Our County with DOE provides funding through 6/30/2017 but our contract with WSAC expired 6/30/2016. The Addendum extends the contract with WSAC through 6/30/2017 to match the contract with DOE.

INTERACTION: Commissioner Paul Jewell worked with the County Prosecutor's Office in drafting the Addendum (SR #34737).

RECOMMENDATION: Approve the Addendum as presented

HANDLING: 1 – Clerk of the Board
1 – WSAC

ATTACHMENTS:

- Addendum to PSA
- SR #34737
- Original PSA with WSAC approved on 12/15/2015
- DOE IAA No. C160082 approved on 11/17/2015

LEAD STAFF: Commissioner Paul Jewell

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

WHEREAS, Kittitas County ("County") and the Washington State Association of Counties ("WSAC") entered into a professional services agreement dated December 15, 2015; and

WHEREAS, the tasks contemplated in that professional services agreement are not yet completed, nor the funds that were allocated yet spent; and

WHEREAS, section 12 of the general conditions section provides for written amendment; and

WHEREAS, the County and WSAC wish to amend the termination date, found in Exhibit "A", to June 30, 2017; and

WHEREAS, the County and WSAC intend all other terms and conditions of the agreement to remain in full force and effect.

County and WSAC hereby amend the professional services agreement, dated December 15, 2015, by extending the termination date to July 30, 2017, and leaving all other terms and conditions in full force and effect.

IN WITNESS WHEREOF, the parties have executed this amendment this 16th day of Sept, 2016.

APPROVED:

THE WASHINGTON STATE
ASSOCIATION OF COUNTIES



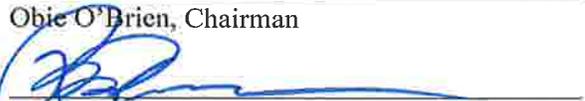
Signature of Signatory

Date: 8/24/16

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON



Obie O'Brien, Chairman



Paul Jewell, Vice-Chairman



Laura Osiadacz, Commissioner



Attest:



Clerk of the Board

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WHEREAS, the tasks contemplated in that professional services agreement are not yet completed, nor the funds that were allocated yet spent; and

WHEREAS, section 12 of the general conditions section provides for written amendment; and

WHEREAS, the County and WSAC wish to amend the termination date, found in Exhibit "A", to June 30, 2017; and

WHEREAS, the County and WSAC intend all other terms and conditions of the agreement to remain in full force and effect.

County and WSAC hereby amend the professional services agreement, dated December 15, 2015, by extending the termination date to July 30, 2017, and leaving all other terms and conditions in full force and effect.

IN WITNESS WHEREOF, the parties have executed this amendment this 10th day of Sept. 2016.

APPROVED:

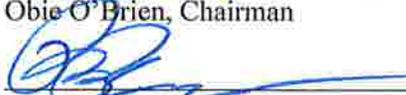
THE WASHINGTON STATE
ASSOCIATION OF COUNTIES

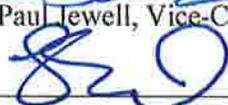


Signature of Signatory
Date: 8/24/16

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON



Obie O'Brien, Chairman


Paul Jewell, Vice-Chairman


Laura Osiadacz, Commissioner





Clerk of the Board

Mandy Buchholz

From: Paul Jewell
Sent: Wednesday, August 24, 2016 4:41 PM
To: Mandy Buchholz
Subject: FW: Prosecutor Service Request | 34737 | WSAC Contract Extension Form

Here is the PA's approval.

From: no-reply_ServiceRequests@co.kittitas.wa.us [mailto:no-reply_ServiceRequests@co.kittitas.wa.us]
Sent: Wednesday, August 24, 2016 2:35 PM
To: Paul Jewell
Cc: Judy Pless
Subject: Prosecutor Service Request | 34737 | WSAC Contract Extension Form

Paul Jewell,

We have made an update to your service request.

A copy is displayed below. As we continue to work on your request you will receive additional notifications.

Please review the issue fields as they may contain a request for something necessary to continue working on the request.

Note: This email was sent from an unmonitored account. Please do not reply to this email. To respond, please update your service request on CAMAS using the link below.

Request #34737 - WSAC Contract Extension Form

Initial request:

Attached are two contracts. One is with DOE for facilitation of the WSAC Columbia River Counties group. The other is with WSAC to provide the facilitator. In effect, this is simply pass-through funding to WSAC as I am the Chairman of this committee. The DOE contract expires 6/30/17 but the WSAC contract expires 6/30/16. We have not expended all the funds and we need the contract for WSAC to be expended to the 6/30/17 date. Please write up an extension amendment to the contract for WSAC and the BOCC to execute.

Latest update:

Rebecca Schoos 8/24/2016 12:00:00 AM

Resolution:

Uploaded Addendum to December 15, 2015 PSA re termination date.

Status:

Open

Assigned to:

Neil Caulkins

Priority:

Soon

Due date:

8/26/2016 5:00:00 PM

[Update or cancel your request](#)

Notice: All email sent to this address will be received by the Kittitas County email system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

message id: 38eb45916c6dcbdac24bb8719d004a14

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made by and between Kittitas County (hereinafter "the County") and the Washington State Association of Counties (hereinafter collectively "Contractor"). The County and Contractor agree as follows:

General Conditions; Exhibit A (Scope of Work and Budget); Exhibit B (Proof of Insurance).

copies of which are attached hereto and incorporated herein by this reference as fully as if set forth herein.

The term of this Agreement shall commence on the date of last execution of this agreement indicated on the following signature sheet and continue until completion of the project as described in Exhibit A (Scope of Work and Budget). Any party may terminate this Agreement by giving thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph.

Contractor acknowledges and by signing this Agreement agrees that the Indemnification provisions set forth in Paragraphs 7 (Independent Contractor), 9 (Taxes), 15 (Defense and Indemnity Agreement), 21 (Patent/Copyright Infringement) and 24 (Confidentiality), are totally and fully part of this Agreement and have been mutually negotiated by the parties.

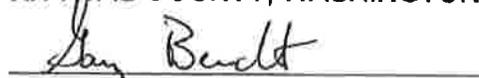
IN WITNESS WHEREOF, the parties have executed this Agreement this 15th day of Dec., 2015.

APPROVED:

THE WASHINGTON STATE
ASSOCIATION OF COUNTIES

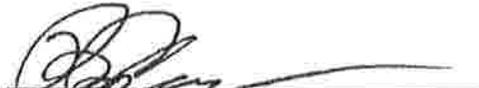

Signature of Signatory
Date 12/25/15

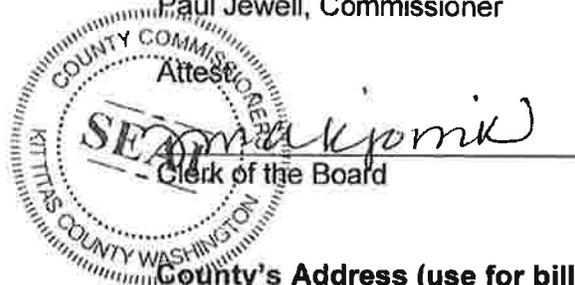
BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON


Gary Berndt, Chairman

ABSENT

Obie O'Brien, Vice-Chairman


Paul Jewell, Commissioner



Contractor Address:

Washington State Association
Of Counties
206 10th Avenue SE
Olympia, WA 98501

County's Address (use for billing):

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

Project Contact:

Karlyn Shannon, CPA
Finance & Administration Director

Project Contact:

Paul Jewell
Kittitas County Commissioner

GENERAL CONDITIONS

1. Scope of Contractor's Services:

Contractor agrees to provide to the County services and any materials set forth in the project narrative identified in Exhibit "A" during the Agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Performance of Work:

Contractor shall perform work in accordance with, and shall comply with, all of the provisions of this Agreement. All work shall comply with applicable codes and ordinances.

3. Schedule of Performance:

Unless directed otherwise by the County, Contractor shall perform the work in accordance with any schedules made a part of this Agreement.

4. Definitions:

- 4.1 "Additional Insured's" means the County, its successors and assigns, and the respective directors, officers, employees, agents and representatives of the County and its successors and assigns.
- 4.2 "Support" means the following: Contractor's directors, officers, employees, agents and representatives; and sub-Contractors of any tier; the respective directors, officers, employees, agents and representatives of these sub-Contractors of any tier; and any other person or entity acting under the direction or control of, or on behalf of, Contractor or any Contractor's sub-Contractors of any tier in connection with or incident to the performance of the Work or this Agreement.
- 4.3 The "Work" means all of the duties listed in Exhibit A and the performance of all other obligations, under this Agreement by Contractor or its Support.

5. Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B". Where Exhibit "B" requires payments by the County, payment shall be based upon billings, supported unless otherwise provided in Exhibit "B", by documentation of units of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless specifically stated in Exhibit "B" or approved in writing in advance by the Kittitas County Board of Commissioners, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in performance of this Agreement.

Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, through the County voucher system, for the Contractor's service pursuant to the fee schedule set forth in Exhibit "B".

6. Assignment and Subcontracting:

No portion of this Agreement may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

7. Independent Contractor:

The Contractor's services shall be furnished by the Contractor 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 Contractor as an independent Contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor 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.

Contractor 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.

8. No Guarantee of Employment:

The performance of all or part of this Agreement by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any sub-Contractor or any employee of any sub-Contractor by the County at the present time or in the future.

9. Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to make withholding for any taxes other than income taxes (i.e. Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

10. Regulations and Requirement:

This Agreement shall be subject to all laws, rules and regulations of the United States of America, and State of Washington, and political subdivisions of the State of Washington, and to any other provisions set forth herein or in the attached exhibits.

11. Right to Review:

This contract is subject to review by any Federal or State auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluation by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for 6 years after contract termination, and shall make them available for such review, within Kittitas County, State of Washington, upon request.

12. Modifications:

- 12.1 Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.
- 12.2 The County may, at any time, by written notice thereof to Contractor ("Change Notice") makes changes in the Work within the general scope of this Agreement, including, but not limited to: (a) changes in, revisions to, substitutions for, additions to or deletions of any Work; (b) changes in schedule; and (c) acceleration, deceleration or suspension of performance of any Work.
- 12.3 If any change in the Work causes an increase or decrease on Contractor's cost of, or the time required for, performance of the Work, an equitable adjustment in the compensation to Contractor and in the schedule for the performance of the Work shall be made to reflect such an increase or decrease.
- 12.4 Notwithstanding any dispute or delay in arriving at a mutually acceptable equitable adjustment, Contractor shall proceed in accordance with all Change Notices. Contractor must, within thirty (30) days after receipt of any

Change Notice that does not set forth any acceptable adjustment, submit to the County a written statement setting forth any adjustment claimed.

- 12.5 If any change results in a decrease in the Work performed, Contractor shall be entitled to compensation associated with changing the Work, such as revising design already completed, revising calculations already performed, and revising documents.

13. Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the County's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

14. Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion that such termination is in the best interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. In the event of such termination, an equitable adjustment shall be made in the compensation payable to Contractor.

An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

15. Defense & Indemnity Agreement:

The Contractor 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 Contractor, its sub-Contractors, its elected 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, 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.

16. Industrial Insurance Waiver:

With respect to the performance of this Agreement and as to claims against the County, its Additional Insured's, officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. **This waiver is mutually negotiated by the parties to this Agreement.**

17. Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Kittitas. This Agreement shall be governed by the law of the State of Washington.

18. Withholding Payment:

In the event the Contractor has failed to perform any obligation to be performed by the Contractor under this Agreement within the time set forth in this Agreement, then the County may, upon written notice, withhold all monies due and payable to Contractor, without penalty, until such failure to perform is cured or otherwise adjudicated.

19. Future Non-Allocation of Funds:

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. No penalty or expense shall accrue to the County in the event this provision applies.

20. Contractor Commitments, Warranties and Representations:

The Contractor represents and warrants to the County as follows:

- 20.1 The Contractor is duly incorporated, validly existing and in good standing under the laws of the State of Washington, and has all requisite corporate power and authority to enter into and to perform its obligations under this Agreement.

- 20.2 The Contractor has the authority to execute this Agreement, to make the representations and warranties set forth in it and to perform the obligations of the Contractor under this Agreement in accordance with its terms.
- 20.3 This Agreement has been validly executed by an authorized representative of the Contractor and constitutes a valid and legally binding and enforceable obligation of Contractor.
- 20.4 The Contractor has or will obtain prior to the commencement date such licenses, permits and other authorizations from federal, state and other governmental authorities, as are necessary for the performance of its obligations under this Agreement.
- 20.5 The Contractor is not in violation of any applicable law, ordinance or regulation the consequence of which will or may materially affect Contractor's ability to perform its obligations under this Agreement. The Contractor is not subject to any order or judgment of any court, tribunal or governmental agency which materially and adversely affects its operations or assets in the State of Washington, or its ability to perform its obligations under this Agreement.
- 20.6 None of the representations or warranties in this Agreement, and none of the documents, statements, certificates or schedules furnished or to be furnished by Contractor pursuant hereto or in connection with the performance of the obligations contemplated under this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements of fact contained therein not misleading.

21. Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County; to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

- 21.1 Contractor shall be notified promptly in writing by County of any notice of such claim.
- 21.2 Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement is made, provided no reduction in performance or loss results to the County.

22. Disputes:

22.1 General

Differences between the Contractor and the County, arising under and by virtue of the Agreement Documents shall be brought to the attention of the

County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, instructions, and decisions of the Kittitas County Commissioners shall be final and conclusive.

22.2 Notice of Potential Claims

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

22.3. Detailed Claim

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the completion of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or extension of time claimed to be due.

23. Ownership of Items Produced:

Contractor acknowledges and agrees that upon payment, the County shall own any and all work product prepared by the Contractor, and/or its consultants or sub-Contractors, in performance of the scope of work as described in Exhibit "A" of this Agreement. Notwithstanding anything to the contrary contained herein, all previously owned intellectual property of Contractor, and any know-how, methodologies or processes used by Contractor to provide the services or protect deliverables to the County, including without limitation, all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto, shall remain the sole and exclusive property of Contractor.

24. Confidentiality:

The Contractor, its employees, sub-Contractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the Kittitas

County Prosecuting Attorney or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceedings seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its Additional Insured's, officials, agents or employees from all loss or expense, including, but not limited to settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

25. Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the Contractor to the department head of the department for whom services are rendered, and to the Kittitas County Commissioners, 205 W 5th Ave, Suite 108, Ellensburg, WA 98926. Notice to the Contractor for all purposes under this Agreement shall be given to the address reflected on the signature page. Notice may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid.

26. Severability:

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

27. Miscellaneous:

- 27.1 The County's failure or delay to insist upon strict performance of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions, rights or remedies in that or any other instance; rather the same shall be and remain in full force and effect.
- 27.2 This Agreement embodies the entire Agreement between the County and Contractor, and supersedes any and all prior agreements, regarding the Work. No change, amendment or modification of any provisions of this Agreement shall be valid unless set forth in a written instrument signed by the party to be bound thereby.
- 27.3 The rights and remedies of the County set forth in any provision of this Agreement are in addition to and do not in any way limit any other rights of remedies afforded to the County by any other provisions of this Agreement, by any of Contractor's Support or by law.
- 27.4 The headings of sections and paragraphs of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

28. Waiver:

Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this Agreement shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

29. Survival:

The provisions of paragraphs 7, 9, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28, 30, and 31, 32 shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

30. Nondiscrimination:

30.1 The County is an equal opportunity employer.

30.2 Nondiscrimination in Employment

In the performance of this Agreement, the Contractor 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 Contractor 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 Contractor 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.

30.3 Nondiscrimination in Services

The Contractor 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.

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

31. Prevailing Wage:

Contractor shall pay the prevailing rate of wages to all workers, laborers, or mechanics employed in the performance of any part of the Work in accordance with RCW 39.12 and the rules and regulations of the Department of Labor and Industries. The schedule of prevailing wages rates for the locality or localities of the Work is determined by the Industrial Statistician of the Department of Labor and Industries. It is the Contractor's responsibility to verify the applicable prevailing wage rate. It is understood that the Contractor is responsible for obtaining and completing all required government forms and submitting same to the proper authorities.

Disputes regarding prevailing wage rates shall be referred for arbitration to the Director of the Department of Labor and Industries. The arbitration decision shall be final and conclusive and binding on all parties involved in the dispute as provided for by RCW 39.12.060.

32. Debarment Certification:

The Contractor certifies that it:

- 32.1 Is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- 32.2 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.
- 32.3 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 paragraph 32.2 of this section.
- 32.4 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.

33. Source of Funds

No portion of funds paid to Contractor for this work will be from a federal government source.

EXHIBIT A

SCOPE OF WORK and BUDGET

The purpose of this contract is for the support of County Commissioners/Watershed Planners for Project Development and Implementation for Columbia River Water Management Program (CRWMP) from July 1, 2015 until June 30, 2016.

The Contractor will provide assistance, commencing July 1, 2015, and will consult with the County and other members of the CRWMP as outlined below:

Task No.	Description	Estimated Frequency	Time Estimate	Budget
1	Provide staff support for quarterly meetings of Columbia Basin County Commissioners (the Commissioner's Policy Advisory Group) so they can participate in project development and implementation; this includes agenda coordination, preparing materials, attending the meeting, and coordinating meeting logistics. Deliverable: Agendas; briefing materials for each meeting; and documentation of recommendations and decisions from meetings.	4x/year	24 hrs x 8 quarters = 192 hrs	\$24,960
2	Work with County Commissioners to prepare policy recommendations that address the interests of counties affected by the CRWMP, and facilitate project development and implementation of water supply projects. Deliverables: Any briefing materials prepared for discussions, and documentation of any recommendations or decisions.	Ongoing	16 hrs/mo x 24 months = 384 hrs	\$49,920
3	Assist project and policy development by continuing to develop a strong working knowledge of Columbia Basin water supply and environmental issues including water storage, water conservation, water banking, water acquisition, federal Endangered Species Act-related issues, hydropower operations, and any other subjects deemed appropriate.	Ongoing	8 hrs/mo x 24 months = 192 hrs	\$24,960

4	Provide support to Eastern Washington watershed planners, particularly related to implementing projects in locally approved watershed plans. This includes assisting as needed with watershed plan and project issues.	Ongoing	4 hrs/mo x 24 months = 96	\$12,480
5	Represent or assist Commissioners, as appropriate, in forums related to the development of water supply and implementation of such projects in the Columbia River Basin. This may include topics such as the U.S./Canada Columbia River Treaty. Deliverable: Briefing material prepared for commissioners.	3 times per year	8 hrs x 6 events = 48 hrs	\$6,240
6	Prepare county PAG members for and attend the Policy Advisory Group meetings.	4x/year	12 hours x 8 quarters = 96 hrs	\$12,480
7	Develop strong working relationships with tribal governments, federal agencies, affected state agencies, and interested stakeholder groups.	Throughout	4 hours x 24 months = 96 hrs	\$12,480
8	Collaborate with Ecology staff to ensure that the interests of counties are fully considered as CRWMP implementation and project decisions are made.	Throughout	4 hours x 24 months = 96 hrs	\$12,480
9	Report in writing to Ecology, within ten days following the end of each calendar quarter, briefly describing activities in support of these deliverables.	Quarterly	1.5 hrs quarterly x 8 quarters = 12 hours	\$1,560
TOTAL:			1,212 hours	\$157,560

Budget:

Total staffing costs (Neil Aaland @\$130/hour)	\$157,560
Travel costs (assume \$300/month)	\$7,200
WSAC Indirect (12%)	\$18,907
Total Budget	\$183,667

EXHIBIT "B"

The Contractor shall secure and maintain in effect at all times during performance of the Work such insurance as will protect Contractor, its Support and the Additional Insured's from all claims, losses, harm, costs, liabilities, damages and expenses arising out of personal injury (including death) or property damage that may result from performance of the work or this Agreement, whether such performance is by Contractor or any of its Support.

All insurance shall be issued by companies admitted to do business in the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports unless otherwise approved by the County. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

The Contractor shall provide proof of insurance for:

- 1) Commercial General Liability Insurance.
 - Coverage limits not less than:
 - \$1,000,000 per occurrence per project
 - \$2,000,000 general aggregate
 - \$1,000,000 products & completed operations aggregate
 - \$1,000,000 personal and advertising injury, each offense
 - Certificate Holder – Kittitas County
 - The Certificate must name the County as additional insured as defined below
 - Sixty (60) days written notice from Contractor to the County of cancellation of the insurance policy.

- 2) Stop Gap/Employers Liability.
 - Coverage limits not less than:
 - \$1,000,000 each accident
 - \$1,000,000 disease – policy limit
 - \$1,000,000 disease – each employee
 - Thirty (30) days written notice from Contractor to the County of cancellation of the insurance policy.

- 3) Commercial Automobile Liability Insurance.
 - Automobile Liability for owned, non-owned, hired, and leased vehicles, with an MCS 90 endorsement and a CA 9946 endorsement attached if 'pollutants' are to be transported.
 - Coverage limits not less than:

- \$1,000,000 combined single limit
 - Thirty (30) days written notice from Contractor to the County of cancellation of the insurance policy.
- 4) Excess or Umbrella Liability.
- The Contractor shall provide Excess or Umbrella Liability coverage at limits of \$5,000,000 per occurrence and annual aggregate. This Excess or Umbrella Liability coverage shall apply, at a minimum, to both the Commercial General and Auto Insurance policy coverage.
 - This requirement may be satisfied instead through the Contractor's primary Commercial General and Automobile Liability coverage, or any combination thereof.
- 5) Workers' Compensation.
- Workers' Compensation in amounts required by law.

Contractor shall furnish the County a Certificate of Insurance with Endorsement as evidence that policies providing insurance required by this Agreement are in full force and effect, and name the County as additional insured, excluding i) Workers Compensation and ii) Commercial Automobile Liability, where County will not be named additional insured. Contractor hereby waives all rights of recourse, against Kittitas County for personal injury, including death, and property damage. Contractor's insurance policies required above shall be primary insurance and shall be non-contributing with any other insurance maintained by Kittitas County.

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee-owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as to any temporary structures, scaffolding and protective fences.

The Contractor shall have sole responsibility for ensuring the insurance coverage and limits required are obtained by subcontractors.

NOTE: No contract shall form until and unless a copy of the Certificate of Insurance with Endorsement, properly completed and in the amount required, is attached hereto.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

December 9, 2015

Mr. Paul Jewell
Kittitas County
205 West 5th Avenue
Ellensburg, Washington 98929-2887

RE: County Commissioners Support for Columbia River Water Management Program
C1600082

Dear Mr. Jewell:

I have enclosed a fully signed copy of Ecology Contract C16000821 between the Department of Ecology, Office of Columbia River and Kittitas County for your files. This contract is for the **County Commissioners Support for Columbia River Water Management Program.**

If you have any questions please call me at (360) 407-6456 or email me at ajos461@ccy.wa.gov.

Sincerely,

Alvin Josephy
Contract Coordinator

cc: Contract Files
Tom Tebb (OCR)





DEPARTMENT OF
ECOLOGY
State of Washington

IAA No. C1600082

INTERAGENCY AGREEMENT (IAA)

BETWEEN

THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY

AND

KITTITAS COUNTY

THIS INTERAGENCY AGREEMENT ("Agreement" or "IAA") 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 Contractor," pursuant to the authority granted by Chapter 39.34 RCW.

THE PURPOSE OF THIS AGREEMENT is for Kittitas County to provide support for the County Commissioners for project development and and implementation for the Columbia River Water Management Program..

WHEREAS, *the Office of Columbia River (OCR), Department of Ecology, has agreed that scheduling, planning and facilitation support is required to maintain the County Commissioners of the Columbia Basin working group as a function of the Columbia River Program (Program) and the Policy Advisory Group associated with that program. OCR has determined that for 2015-2017 to maintain continuity with the overall program, funding should be provided through the Program.*

WHEREAS, *It was the intent of all parties to start performance on July 1, 2015. However, due to budget concerns that agreement was not processed until October, 2015. With that in mind, the effective date of this agreement is July 1, 2015.*

THEREFORE, IT IS MUTUALLY AGREED THAT:

1) STATEMENT OF WORK

Contractor 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, 2015**, or date of final signature, whichever comes later, and be completed by **June 30, 2017**, unless terminated sooner as

provided herein. Amendments extending the period of performance, if any, shall be at the sole discretion of ECOLOGY.

3) COMPENSATION

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 **\$183,667.00**. 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

Contractor shall submit state form, Invoice Voucher A19-1A for payment requests. Payment will be made within thirty (30) days of a properly completed invoice, form A19-1A, with supportive documentation. 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.

Invoices are to be sent to:

State of Washington Department of Ecology Attn: Al Josephy P.O. Box 47600 Olympia, WA 98504-7600
--

Invoices may be submitted on a monthly basis or at the completion of the work.

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 be registered as a state-wide vendor. To register submit 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.

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

Contractor 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, Contractor 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

Parties to this Agreement shall employ every effort to resolve a dispute themselves without resorting to litigation. In the event that a dispute arises under this Agreement that cannot be resolved among the parties, 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, unless restricted by law. The cost of resolution will be borne by each party paying its own cost. As an alternative to this process, if state agencies, 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. The parties may mutually agree to a different dispute resolution process.

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 State of Washington, 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) ASSURANCES

Parties to this Agreement agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

19) CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

20) 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.

21) 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 Kittitas County Representative is:
Name: Alvin Josephy Address: 300 Desmond Drive PO Box 47600 Olympia, WA 98504-7600 Phone: 360-407-6456 Email: ajos461@ecy.wa.gov	Name: Paul Jewell Address: 205 West 5 th Street Ellensburg, WA 98926-2887 Phone: 509-962-7508 Email: paul.jewell@co.kittitas.wa.us

22) 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
By

Polly Zehm 12/4/15
Polly Zehm Date

Polly Zehm
Print Name:

Title: Deputy Director

State of Washington
Kittitas County
By

Gary Berndt 11/17/15
Gary Berndt Date

Gary Berndt
Print Name:

BOCC Chairman
Title: Chair, BOCC

Approved as to form:
Attorney General's Office

APPENDIX A
STATEMENT OF WORK

Introduction

- *Brief description of intended outcome/work*

County Commissioners in the Columbia River Basin are important participants in the Department of Ecology’s Columbia River Water Supply Development Program (RCW 90.90). They represent local residents who are keenly interested in how the Program functions and strives to meet Program goals and requirements. It is important that Commissioners are supported in their efforts to understand and participate in the Program, be prepared to provide local perspectives to Ecology, and be able to explain the Program to their constituents. One key mechanism for accomplishing this is through quarterly meetings of Columbia Basin County Commissioners (the Commissioner’s PAG - Policy Advisory Group) so they can participate in project development and implementation. Under this agreement, Kittitas County will provide support for these efforts including agenda coordination, preparing materials, attending and providing staff support for the meeting, and coordinating meeting logistics.

- *Objectives*
 - *Support County Commissioners in eastern Washington to understand and participate in the Columbia River Water Supply Development Program (RCW 90.90)*
 - *Support the County Commissioner members of the Columbia River Policy Advisory Group (CR-PAG)*
 - *Assist Ecology by helping them with outreach to counties and providing feedback from counties to Ecology on specific Program issues*

Task No.	Description	Estimated Frequency	Time Estimate	Budget
1	Provide staff support for quarterly meetings of Columbia Basin County Commissioners (the Commissioner’s Policy Advisory Group) so they can participate in project development and implementation; this includes agenda coordination, preparing materials, attending the meeting, and coordinating meeting logistics. Deliverables: Agendas; briefing materials for each meeting; and documentation of recommendations and decisions from meetings.	4x/year	24 hrs x 8 quarters = 192 hrs	\$24,960
2	Work with County Commissioners to prepare policy recommendations that	Ongoing	16 hrs/mo x	\$49,920

	<ul style="list-style-type: none"> Address the interests of counties affected by the CRWMP Facilitate project development and implementation of water supply projects Deliverables: Any briefing materials prepared for discussions, and documentation of any recommendations or decisions.		24 months = 384 hrs	
3	Assist project and policy development by continuing to develop a strong working knowledge of Columbia Basin water supply and environmental issues including water storage, water conservation, water banking, water acquisition, federal Endangered Species Act-related issues, hydropower operations, and any other subjects deemed appropriate.	Ongoing	8 hrs/mo x 24 months = 192 hrs	\$24,960
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9	Report in writing to Ecology, within ten days following the end of each calendar quarter, briefly describing activities in support of these deliverables	Quarterly	1.5 hrs quarterly x 8 quarters = 12 hours	\$1,560
	TOTAL:		1,212 hours	\$157,560

State of Washington, Department of Ecology
IAA No. C1600082

BUDGET:

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Travel costs (assume \$300/month): \$7,200

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TOTAL: \$183,667