

KITTITAS COUNTY
DEPARTMENT OF PUBLIC WORKS

AGENDA STAFF REPORT

AGENDA DATE: December 19, 2017

ACTION REQUESTED: Authorize an Interlocal Agreement with Kittitas County Conservation District Updating the County's 2009 Wildland Fire Protection Plan

BACKGROUND: Kittitas County Conservation District (KCCD) completed the 2009 Kittitas County Wildland Fire Protection Plan for Public Works. Public Works is currently updating the County's 2012 Hazard Mitigation Plan (HMP). Public Works desires having KCCD update the 2009 Wildland Fire Protection Plan as a part of the HMP update process.

INTERACTION: Public Works

RECOMMENDATION: Authorize the interlocal agreement.

HANDLING: Return two original to Public Works

ATTACHMENTS: Exhibit 1: Interlocal Agreement for Updating the Kittitas County Wildland Fire Protection Plan

LEAD STAFF: Mark R. Cook, Director

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

RESOLUTION NO. 2017 - _____

**TITLE: INTERLOCAL AGREEMENT WITH KITTITAS COUNTY CONSERVATION
DISTRICT UPDATING THE 2009 KITTITAS COUNTY WILDFIRE PROTECTION
PLAN**

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 (County) and the Kittitas County Conservation District (District) are public agencies within the meaning of Chapter 39.34 RCW; and

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

WHEREAS: The County is updating the 2012 Hazard Mitigation Plan and desires updating the 2009 County Wildfire Protection Plan; and

WHEREAS: The District worked completing the plan for the County in 2009; and

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners, in the best interest of the public, does hereby enter into an interlocal agreement with the District updating the 2009 Kittitas County Wildfire Protection Plan.

DATED this 19th day of December, 2017, at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Paul Jewell, Chairman

Attest:

Clerk of the Board- Julie Kjorsvik

Laura Osiadacz, Vice-Chairman

Deputy Clerk of the Board- Mandy Buchholz

Obie O’Brien, Commissioner

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN KITTITAS COUNTY AND
KITTITAS COUNTY CONSERVATION DISTRICT

FOR COUNTY WILDFIRE PROTECTION PLAN UPDATE

THIS AGREEMENT is made and entered into this _____ day of _____, 2017, 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 District, at the request of the Board of County Commissioners, assisted with completion of the Kittitas County Wildfire Protection Plan in 2009;

WHEREAS, Kittitas County is completing an update of the Multi-Jurisdictional Hazard Mitigation Plan approved in 2012;

WHEREAS, the County Wildfire Protection Plan is a component of the Multi-Jurisdictional Hazard Mitigation Plan;

WHEREAS, the County and the District desire to update the County Wildfire Protection 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 updating the Kittitas County Wildfire Protection Plan (CWPP).
2. ADMINISTRATION. No new separate legal or administrative entity is created to administer the provisions of this Agreement.

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

Anna Lael, District Manager
Kittitas County Conservation District
2211 W Dolarway Road, Ste 4
Ellensburg, WA 98926
Phone: (509) 925-3352 ext. 207
Fax: (888) 546-0825

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

Mark Cook, Director
Kittitas County Public Works
411 N Ruby Ste 1
Ellensburg WA 98926
Phone: (509) 962-7523
Fax: (509) 962-7663

3. SCOPE. This agreement contemplates that the District will:
 - a. Lead and facilitate the Kittitas County CWPP Update Steering Committee convened for the purpose of updating the 2009 CWPP document
 - b. Update the County Wildfire Protection Plan;
 - i. Update will be compatible with FEMA requirements for Hazard Mitigation Plans, and adhere to the guidelines of the National Fire Plan, the Healthy Forests Restoration Act (2003) and the National Cohesive Wildland Fire Management Strategy.
 - ii. Update will assess wildfire risks, collect data for those risks, and analyze the data with the expressed intent to reduce the potential for wildfires that are a threat to people, structures, and infrastructure.
 - iii. Identify prioritized areas for hazardous fuel reduction treatments and build on existing efforts to restore healthy forest conditions.
 - c. Present a final version to the Kittitas Board of County Commissioners with a recommendation from the Steering Committee to adopt the Kittitas County CWPP Update.

4. COMPENSATION BY THE COUNTY TO THE DISTRICT
 - a. The County will reimburse the District for costs associated with updating the County Wildfire Protection Plan.
 - b. Allowable costs are detailed in the estimated budgets (Attachment A).
 - c. Payment by the County to the District shall be made within thirty (30) days after billing by the District.
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: _____
Chairman, Board of Supervisors

Dated: _____

KITTITAS COUNTY BOARD OF COMMISSIONERS

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

Board Chair

Dated: _____

Vice Chair

Commissioner

ATTEST: _____
Julie Kjorsvik, Clerk of the Board

Approved as to Form:

Deputy Prosecuting Attorney

Attachment A

Estimated Budget

Staff	Rate	Hours	Salary/Wage	Fringe Benefits
Rose Shriner, GIS Specialist	\$21.83/HR	300 hrs	\$6,549	\$3,978
Anna Lael, District Manager	\$33.65/HR	80 hrs	\$2,692	\$1,581
Miranda Nash, Financial Manager	\$18.54/HR	16 hrs	\$297	\$189
Subtotals			\$9,538	\$5,748
Indirect Rate		24.21%	\$15,285	\$3,701
Goods & Services (printing costs, room rentals, etc.)				\$1,014
TOTAL				\$20,000