

**INTERLOCAL COOPERATION AGREEMENT FOR
PRESCRIBED BURNING AND RELATED SERVICES
BETWEEN
THE CHELAN COUNTY NATURAL RESOURCES DEPARTMENT AND CHELAN
COUNTY FIRE PROTECTION DISTRICT #1**

This interlocal agreement (hereinafter, the "Agreement") is entered into under the authority of the Interlocal Cooperation Act, Chapter 39.34 RCW, between the Chelan County Natural Resources Department (hereinafter "the County"), a municipal corporation under the laws of the State of Washington, and Chelan County Fire Protection District #1 (hereinafter "CCFD1"), collectively referred to hereinafter as "the Parties" in the Prescribed Burning Agreement. This Agreement is effective March 31st, 2021.

RECITALS

1. Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities.
2. Chelan County applied for and received funds from the Washington Department of Natural Resources Forest Health and Resiliency Division providing funding for the Prescribed Burning Project (hereinafter the "project"). These funds will be used to implement prescribed fire treatments on units that have been previously prepared with mechanical treatments and establishment of fire lines, within Chelan County and in particular within the Stemilt Basin (hereinafter "the grant project area"). The current DNR funding for prescribed burning is active through November 30, 2021, but the County intends to request additional funding to continue undertaking prescribed burning activities in the project area beyond this date.
3. The County desires to provide administration and management of the grant funding provided for prescribed burning including reimbursement processing, quarterly reporting and other administrative responsibilities required within the grant contract, and those incorporated herein. The County will be responsible for planning and administration related to prescribed burning, including unit identification, Burn Plan and permitting, smoke management, public outreach, and reporting.
4. The County desires to contract with CCFD1 for certain activities including, but not limited to coordination of staff resources, prescribed burn implementation utilizing leadership from qualified fire personnel, and technical assistance determining fuel moisture and unit readiness for burning. These activities will occur as CCFD1 workload capacity allows, and will take lower priority than scheduled or unscheduled normal CCFD1 duties.
5. The County desires to reimburse CCFD1 for activities outlined in this agreement, at current fully encumbered staff rates for all staff activity related to the Prescribed Burning Project.
6. The County and CCFD1 each have the training, staff, and capabilities to carry out their respective duties set forth in this Agreement.

NOW, THEREFORE, in exchange for the mutual consideration of the terms, conditions, and covenants contained herein, the Parties AGREE as follows:

AGREEMENT

Section 1. Purpose. The purposes of this Agreement are as follows: (i) To set forth the Parties' respective agreements for prescribed burning services from and after **March 31st, 2021**; and (ii) to set forth the compensation the County will reimburse CCFD1 for performing the activities specified in this Agreement.

Section 2. Term. This Agreement shall commence **March 31st, 2021** (the "Effective Date") and shall remain in effect until **March 31st, 2026** or until terminated by the Parties as set forth herein.

Section 3. Provision of Contract Activities and Related Services.

3.1 CCFD1 shall perform the activities related to the prescribed burning, including coordination of staff resources, prescribed burn implementation utilizing leadership from qualified fire personnel, and technical assistance determining fuel moisture and unit readiness for burning. Specifically, the Parties agree as follows:

(i) **Site Assessments:** DNR, CCFD1, and the County will collect information on site conditions in prescribed burn units for several weeks prior to a burn window to assess receptiveness of unit fuels to prescribed fire. CCFD1 shall inspect the burn boundaries to ensure adequate confinement and adherence to burn permit provisions.

(ii) **Coordination of Qualified Personnel:** CCFD1 will establish minimum personnel commitments and adequate qualifications for implementation of a prescribed burn prior to initiating a mission. CCFD1 may use prescribed burn missions to maintain or enhance personnel qualifications.

(iii) **Burn Implementation:** CCFD1 will provide leadership in the form of RXB2 and Ignition Boss for implementation of prescribed burning, as well as providing additional firefighter and equipment support as resources allow. Prescribed burn teams will include interagency resources provided by DNR and, therefore, CCFD1's leadership duties will include managing inter-agency burn crews. The County will be responsible for coordinating resources outside of CCFD1 prior to burn implementation.

(iv) **Communications:** The County and CCFD1 will include one another on communications with the Washington Department of Natural Resource or other prescribed burn organizations that may become involved.

(v) **Grant Contract Costs:** All costs will be tracked completely and accurately by CCFD1 and the County through internal budget tracking. All expenditures will be invoiced and tracked according to the agreement for re-imbusement of staff wages, usage of equipment and supplies.

Section 4. Compensation Requirements.

4.1 In consideration of the services provided by CCFD1, the County shall reimburse CCFD1 at current, fully encumbered staff wages and expenses, including, without limitation, overtime premiums, the cost of supplies, and equipment according to the Washington State Wage and

Equipment Rate Guide. Project budgets using current staff wages and equipment rates with limits of exceedance will be included in project-specific Work Order Agreements.

4.2 Each project mutually undertaken by CCFD1 and the County will be entered under a Work Order Agreement falling under this Inter-local Cooperation Agreement. Each Work Order Agreement will provide the specifics related to an individual project, including scope of work, tasks, scheduling, and staff and equipment rates and projected hours. The Work Order Agreement will provide a limit of exceedance to ensure the County can reimburse CCFD1 for work completed on projects, but in no way binds CCFD1 to complete the tasks or time projections included in the Work Order with the understanding that regular CCFD1 duties take priority over the completion of the work included in the Work Order. The County will collaborate with CCFD1 to develop each Work Order Agreement prior to initiating project work. Work Order Agreements may be modified subject to agreement of the parties through an express amendment.

Each Work Order Agreement will contain the following information:

- a. Project Title
- b. Project Description
- c. Project Schedule
- d. Scope of Work
- e. Project Coordinator Information
- f. Project Budget and Limit of Exceedance
- g. Signatures

Invoicing: CCFD1 will provide invoices to the County no later than 30 days following burn implementation. CCFD1 will include detailed timesheets and expenditure documentation (receipts) with all invoicing to the County. All invoices will be sent as follows;

Via email: Sofia.bjorklund@co.chelan.wa.us, CC: erin.mckay@co.chelan.wa.us

Via mail: Chelan County Natural Resources Department
Attn: Sofia Bjorklund and Erin McKay
411 Washington Street, Suite 201
Wenatchee, WA 98801

Reimbursement: CCFD1 agrees to track all its own expenses related to the project including staff time for unit and fuel moisture assessment, staff coordination, and burn implementation. The County will issue reimbursement to CCFD1 once the invoicing has been approved. Additional expenses such as equipment rates may be mutually agreed upon by the Parties as needed.

Not to exceed funding: Funds allocated to CCFD1 are on an as-needed basis and there is no limit of exceedance for this agreement. The County is responsible for ensuring adequate funding is available prior to requesting project activities from CCFD1.

Section 5. Documentation:

5.1. It is the responsibility of CCFD1 to completely and accurately document all its own project elements. CCFD1 will properly maintain and retain all its own required documentation for 6 years post project completion. CCFD1 will provide any of its own project documentation upon request.

5.2. Any photos taken for the fulfillment of site assessments will be properly labeled with the date and a clear identifier to associate the photo with the applicable property photo location (i.e. Date,

Parcel Number, Front/Back/Side) OR be attached to data from which the above information is readily accessible.

Section 6. Termination

6.1 This Agreement shall terminate: (i) on March 31st, 2026, or (ii) by mutual, written agreement of the Parties. In the event that this agreement is terminated prior to the end of its term, the ownership of any equipment or supplies acquired shall be governed by the Grant Contract and Section 10 of this agreement.

6.2 Notwithstanding the above and in addition to any other remedies which may be available at law or equity, in the event of any material breach of this Agreement (the "Default") by a party (the "Defaulting Party"), the party not in default (the "Non-Defaulting Party") shall have the right to give the Defaulting Party a written notice thereof (the "Notice of Default"), whereby such notice must state the nature of the Default in reasonable details and request that the Defaulting Party cure such Default within thirty (30) days. If such Default is not cured within thirty (30) days after receipt of a Notice of Default on the Defaulting Party or such Default cannot be cured, the Non-Defaulting Party may, at its sole discretion, terminate this Agreement by written notice effective upon receipt.

6.3 CCFD1 may terminate this Agreement at any time for any reason whatsoever, at its sole discretion, with sixty (60) days' written notice to the County.

6.4 In the event of termination for any reason, CCFD1 shall be compensated and reimbursed for expenses incurred to the termination date plus its reasonable closeout costs.

Section 7. Administration. The CCFD1 Fire Chief or designee shall serve as Administrator of this Agreement for CCFD1 and the Director of the County Natural Resources Department or designee shall serve as Administrator of this Agreement for the County.

Section 8. Release, Indemnification, and Hold Harmless Agreement.

8.1 To the extent permitted by law, CCFD1 agrees to protect, indemnify, and hold the County harmless from and against any and all injury or damage to the County or its property, and also from and against all claims, demands, and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with, or arising out of work performed under the terms hereof, caused by the negligence of CCFD1, its agents, employees, or representatives. CCFD1 shall also indemnify and hold the County harmless from any wage, overtime, or benefit claim of any of its own employee, agent, or representative performing services under this Agreement. CCFD1 further agrees to fully indemnify the County from and against any and all costs of defending any such claim or demand to the end that the County is held harmless therefrom. This paragraph shall not apply to damages or claims resulting from the sole negligence of the County. In situations involving the concurrent negligence of the County or its employees, CCFD1's indemnification shall be limited to its percentage of fault.

8.2 To the extent permitted by law, the County agrees to protect, indemnify, and hold CCFD1 harmless from and against any and all injury or damage to CCFD1 or its property, and also from and against all claims, demands, and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with, or arising out of work performed under the terms hereof, caused by the negligence of the County, its agents, employees, or representatives. The County shall also indemnify and hold CCFD1 harmless from any wage, overtime, or benefit claim of any County employee, agent, or representative performing services under this Agreement.

The County further agrees to fully indemnify CCFD1 from and against any and all costs of defending any such claim or demand to the end that CCFD1 is held harmless therefrom. This paragraph shall not apply to damages or claims resulting from the sole negligence of CCFD1. In situations involving the concurrent negligence of CCFD1 or their employees, the County's indemnification shall be limited to its percentage of fault.

Section 9. No Employment Relationship Created. The County and CCFD1 agree that nothing in this agreement shall be construed to create an employment relationship between any employee, agent, representative or contractor of the County, or between the County and any employee, agent, representative or contractor of CCFD1.

Section 10. Supply Acquisition, Retention, and Disposition. Any supplies acquired by either Party in furtherance of its obligations pursuant to this Agreement, shall remain within the sole and exclusive ownership of the acquiring Party following the termination or expiration of this Agreement.

Section 11. Notices. Notices to CCFD1 shall be sent to the following addresses:

Chelan County Fire Protection District No. 1
Attn: Fire Chief
P.O Box 2106
Wenatchee, WA 98807

Notices to the County shall be sent to the following address:

Chelan County Natural Resources
Attn: Director
411 Washington St. Suite 201
Wenatchee, WA 98801

or to such other address as any Party hereto may from time to time designate in writing and deliver in a like manner.

Section 12. No Preferential Service. CCFD1 shall assign the resources available to it to the extent workload capacity allows and subject to its sole discretion. Performance of work under this Agreement will not take priority over other scheduled or unscheduled CCFD1 duties and work.

Section 13. No Assumption of Liabilities or Obligations. Except as expressly set forth herein, neither party shall be liable for any debts or obligations of the other.

Section 14. Insurance. For the duration of this Agreement, each party shall maintain insurance as follows:

14.1 Each party shall maintain its own insurance policy insuring damage to its own real and personal property.

14.2 CCFD1 shall maintain an insurance policy insuring against liability arising out of its work or operations performed under this Agreement in an amount not less than Five Million Dollars (\$5,000,000) per occurrence with a deductible of not more than Thirty-five Thousand Dollars (\$35,000).

14.3 Chelan County is a member of the Washington Counties Risk Pool, and such membership satisfies the insurance requirements of this section.

Section 15. Cross Release. *Intentionally Omitted.*

Section 16. Dispute Resolution.

16.1 Non-Binding Mediation. It is the desire of the County and CCFD1 to resolve all disputes between them without litigation. In the event a dispute arises between the parties regarding this Agreement, either party (first party) may submit the issue to mediation by selecting a mediator and notifying the other party (second party) of the selection. The second party shall either approve such mediator and proceed to mediation or select an alternate mediator. Second party shall notify the first party of such acceptance or selection within seven days of the first notification. Upon receiving notification of the selection of an alternate mediator, the first party shall then approve the mediator and proceed to mediation or reject the alternate mediator. First party shall notify second party of such approval or rejection within seven days of receipt of the notice from second party. In the case of rejection, the first two selected mediators shall select a third mediator. The third mediator shall mediate the dispute. The mediator shall be familiar with real properties in the Chelan County area. The mediator shall not be related by blood or marriage to any agent, employee, or elected official of either party and shall have no economic interest direct or indirect with either party. Mediation shall take place within as soon as possible after the mediator has been selected.

16.2 Litigation. In the event either party herein finds it necessary to bring an action against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement by reason of any breach or default hereunder or thereunder, the laws of the State of Washington shall govern the action. The party prevailing in any such action or proceeding shall be paid its reasonable costs and attorney fees incurred by that party, and in the event any judgment is secured by such prevailing party, reasonable costs and attorney fees of collection shall be included in any such judgment. The parties expressly waive their right to federal court and a jury.

Section 17. Filing. The County shall, after this Agreement is executed by both Parties, but before the Effective Date, record this Agreement with the Chelan County Auditor or post it on its website.

Section 18. No Third-Party Beneficiary Created. Nothing in this Agreement, whether expressed or implied, is intended to confer any right, remedy or other entitlement upon any person other than the Parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any Party hereto. Nothing herein shall be construed as creating an exception to the Public Duty Doctrine.

Section 19. Waiver. Waiver by any Party of the right to strict performance of any provision of this Agreement or any breach thereof shall not constitute a waiver of any other provision or breach.

Section 20. Severability. In the event that any sentence, clause or provision of this Agreement is held invalid or otherwise unenforceable by a court of competent jurisdiction, such invalidation shall not affect any other sentence, clause or provision hereof.

Section 21. No Separate Entity Created. No separate legal entity is formed by this Agreement.

Section 22. Counterparts. This Agreement may be executed in counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same agreement.

Section 23. Drafting. Each party has fully participated in the drafting of this Agreement. Therefore, the Agreement shall be construed according to its fair meaning without regard to which party drafted a particular provision.

Section 24. Further Cooperation. The Parties shall cooperate in good faith and execute such documents as necessary to effectuate the purposes and intent of this Agreement.

CHELAN COUNTY FIRE PROTECTION
DISTRICT # 1

CHELAN COUNTY NATURAL
RESOURCES DEPARTMENT

Dated 3/23/21

Ms. J. N. N.S.
FIRE CHIEF

3/10/2021
Date

[Signature]
Mike Kaputa; DIRECTOR

ATTEST:

[Signature]
DISTRICT SECRETARY

3/10/2021
Date

BOARD OF CHELAN COUNTY
COMMISSIONERS

[Signature]
BOB BUGERT, CHAIRMAN



ATTEST:

[Signature]
Clerk of the Board