

**INTERLOCAL COOPERATION AGREEMENT BETWEEN PEND OREILLE COUNTY AND  
SPOKANE COUNTY**

**RELATING TO REIMBURSEMENT FOR COSTS ASSOCIATED WITH PARTICIPATION IN  
THE WRIA 55-LITTLE SPOKANE WATER BANK PHASE II PROJECT**

THIS INTERLOCAL COOPERATION AGREEMENT (“Agreement”) is made and entered into by and between Pend Oreille County, a political subdivision of the State of Washington, hereinafter referred to as "Pend Oreille County" and Spokane County, a political subdivision of the State of Washington, hereinafter referred to as "Spokane County", and jointly referred to as “the Parties.”

**RECITALS**

A. Pend Oreille County is a political subdivision of the State of Washington; and constitutes a public agency as defined in RCW 39.34.020(1).

B. Spokane County is a political subdivision of the State of Washington; and constitutes a public agency as defined in RCW 39.34.020(1).

C. Pursuant to RCW 39.34.030, any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state; and towards that end, any two or more public agencies may enter into agreements with one another for joint or cooperative action.

D. Spokane County, Pend Oreille County, and Stevens County executed a Memorandum of Understanding on October 21, 2015 that specifies the intent to participate collaboratively in water resource planning as it relates to issues of mutual interest, and to move forward in the establishment of a water bank in WRIA 55.

E. Spokane County has received a Water Resources Watershed Plan Implementation and Flow Achievement Grant (Grant) from the Washington Department of Ecology for the WRIA 55-Little Spokane Water Bank Phase II project (Project)

F. The Parties desire, pursuant to the terms and conditions of this Agreement, that Spokane County provide reimbursement from the Grant to Pend Oreille County for costs associated with Pend Oreille County participation in the Project.

**IT IS, THEREFORE, MUTUALLY AGREED THAT:**

**SECTION 1: STATEMENT OF WORK**

Pend Oreille County shall furnish the necessary personnel and services and otherwise do all things necessary for or incidental to the performance of the work set forth in Exhibit A attached hereto and incorporated herein.

**SECTION 2: PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of Performance of this agreement shall commence on January 1, 2016, and be completed by June 30, 2017 unless terminated sooner as provided herein.

**SECTION 3: CONSIDERATION**

Spokane County shall pay Pend Oreille County for those services provided herein as follows:

Spokane County shall pay to Pend Oreille County all allowable and allocable costs incurred as evidenced by proper invoice of Pend Oreille County submitted on a timely basis, insofar as those allowable and allocable expenses are for such purposes, and in accordance with the budget, included in Exhibit A attached hereto and incorporated herein.

**SECTION 4: BILLING PROCEDURE**

Spokane County will reimburse Pend Oreille County up to the total amount agreed to under the terms of this agreement, on a time and materials basis.

Claims for payment submitted by Pend Oreille County to Spokane County for costs due and payable under this agreement that were incurred prior to the expiration date shall be paid by Spokane County if received by Spokane County within 30 days after the expiration date.

**SECTION 5: RECORDS MAINTENANCE**

Pend Oreille County and Spokane County shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of the Parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. Pend Oreille County will retain all books, records, documents, and other material relevant to this agreement for five 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.

**SECTION 6: CONTRACT MANAGEMENT**

The PARTIES hereby appoint the following individuals, or their designees, as their representatives for the purpose of ensuring that the provisions of the Agreement are satisfied:

PEND OREILLE COUNTY: Mike Lithgow

SPOKANE COUNTY: Mike Hermanson

**SECTION 7: INDEMNIFICATION**

Spokane County shall protect, defend, indemnify, and hold harmless Pend Oreille County, its officers, officials, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property) Spokane County will not be required to indemnify, defend, or save harmless Pend Oreille County if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of Pend Oreille County. Where such claims, suits, or actions result from the concurrent negligence of both Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

To the extent allowed by law, Pend Oreille County agrees to protect, defend, indemnify, and hold harmless Spokane County its officers, officials, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments and/or awards of damages (both to persons and/or property). Pend Oreille County will not be required to indemnify, defend, or save harmless Spokane County if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of Spokane County. Where such claims, suits, or actions result from the concurrent negligence of both Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

Spokane County agrees that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any Spokane County employees or agents while performing work authorized under this Agreement. For this purpose, Spokane County, by mutual negotiation, hereby waives with respect to Pend Oreille County only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions of chapter 51.12 RCW.

These indemnifications and waiver shall survive the termination of this Agreement.

No officer or employee of Pend Oreille County or Spokane County shall be personally liable for any act, or failure to act, in connection with this Agreement, it is understood that in such matters they are acting solely as agents of their respective agencies.

#### **SECTION 8: AGREEMENT ALTERATIONS AND AMENDMENTS**

Spokane County and Pend Oreille County may mutually amend this agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind Pend Oreille County and the Utilities Director or his designee for Spokane County.

#### **SECTION 9: TERMINATION**

Except as otherwise provided in this Agreement, either party may terminate this agreement upon 30 days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.

#### **SECTION 10: SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, Spokane County may terminate the contract under the "Termination" clause, subject to re—negotiation under the new funding limitations and conditions.

#### **SECTION 11: ORDER OF PRECEDENCE**

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- a) Applicable Federal and State Statutes and Regulations;
- b) Special Terms and Conditions;
- c) General Terms and Conditions;

- d) Statement of Work; and
- e) Any other provisions of the contract whether incorporated by reference or otherwise.

#### **SECTION 12: 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.

#### **SECTION 13: VENUE**

Any litigation regarding this agreement or arising out of the performance of this agreement shall be commenced and maintained only in competent courts of jurisdiction within Spokane County, Washington.

#### **SECTION 14: COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

#### **SECTION 15: PERSONAL/REAL PROPERTY/NO JOINT BOARD**

No real or personal property will be transferred as part of this Agreement. No joint board will be created to administer the provisions of this Agreement.

#### **SECTION 16: MISCELLANEOUS**

- A. **Non-Waiver.** No waiver by either party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.
- B. **Assignment.** Neither party may assign its interest in this Agreement without the express written consent of the other party.
- C. **Compliance with Laws.** The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.
- D. **Nondiscrimination.** In the performance of this Agreement, the Parties shall not discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, age or the presence of any sensory, mental status, age or the presence of any sensory, mental or physical handicap in employment or application for employment or in the administration or delivery of service or any other benefits under the Agreement.

#### **SECTION 17: CHAPTER 39.34 RCW REQUIRED CLAUSES**

- A. **Purpose.** To provide reimbursement to Pend Oreille County for costs associated with participation in the Little Spokane Water Bank Phase II project.

- B. **Duration.** See Section 2 above.
- C. **Organization of Separate Entity and Its Powers.** No new entities are created by this Agreement.
- D. **Responsibilities of the Parties.** See provisions above.
- E. **Agreement to Be Filed.** The Parties shall each record an original of this Agreement with their respective county auditors.
- F. **Financing.** See Sections 3 and 4 above.
- G. **Termination.** See Section 9 above.
- H. **Property upon Termination.** No real or personal property will be transferred as part of this Agreement. No joint board will be created to administer the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereby execute the above agreement:

SPOKANE COUNTY:

By \_\_\_\_\_  
Kevin Cooke, PE, Utilities Director

Date: \_\_\_\_\_

PEND OREILLE COUNTY:

By Absent  
Mike Manus, Chair

Date: —

By Karen Skoog  
Karen Skoog, Vice-Chair

Date: 6-6-16

By Stephen Kiss  
Stephen Kiss, Member

Date: 6/6/2016

**Exhibit A**  
**Scope of Work**  
**PEND OREILLE COUNTY PARTICIPATION IN THE WRIA 55 LITTLE SPOKANE WATER BANK PHASE II PROJECT**

This scope of work describes the participation of Pend Oreille County staff or a consultant working on behalf of Pend Oreille County in the WRIA 55 Water Bank Phase II project (Project). Spokane County has received a grant from the Washington Department of Ecology for the Project, is the grant administrator and project manager, and has contracted with a consultant to carry out tasks detailed in the project scope of work. Participation of Pend Oreille County staff or a consultant working on behalf of Pend Oreille County is necessary for Pend Oreille County elected officials to effectively participate in the project and to communicate with Pend Oreille County residents. The project includes two main tasks: 1) stakeholder collaboration and public involvement, and 2) development of a water bank operational framework. The following tasks describe Pend Oreille County participation in the Project.

**Task 1: Stakeholder Collaboration & Public Involvement**

- 1a – *Policy Advisory Group*:** Pend Oreille County staff or consultant will attend Policy Advisory Group meetings, review project documents, and provide support to the Pend Oreille County elected officials
- 1b – *Public Outreach*:** Pend Oreille County staff or consultant will attend public meetings and/or workshops within WRIA 55 to provide information related to establishment and operation of the water bank and other associated projects. Pend Oreille County staff or consultant will respond to inquiries from Pend Oreille County residents, Pend Oreille County media outlets, Pend Oreille County interest groups, and other as appropriate. Pend Oreille County staff or consultant will prepare mailers to Pend Oreille County watershed property owners related to project activities as Pend Oreille County deems necessary.
- 1c – *Water Right Acquisition Outreach*:** Pend Oreille County staff or consultant will provide assistance to the project consultant as needed related to water right acquisition activities in Pend Oreille County.

**Task 2: Water Bank Operational Framework**

- 1a – *Development of institutional framework*:** Pend Oreille County staff or consultant will provide input related to Pend Oreille County in the development of the water bank institutional framework. Pend Oreille County staff or consultant will review documents and provide information as appropriate. Pend Oreille County staff or consultant will provide support to Pend Oreille County elected officials related to the development of an institutional framework.
- 1b – *Development of scientific framework*:** Pend Oreille County staff or consultant will provide input related to Pend Oreille County in the development of the water bank scientific framework. Pend Oreille County staff or consultant will review documents and provide information as appropriate. Pend Oreille County staff or consultant will provide support to Pend Oreille County elected officials related to the development of a scientific framework.

**Budget: \$11,000, on a time and materials basis.**

<b>Pend Oreille County</b>	<b>\$</b>
<b>Consultant</b>	<b>\$</b>
<b>TOTAL</b>	<b>\$ 11,000</b>