

INTERLOCAL AGREEMENT

For the Snoqualmie and South Fork Skykomish Watersheds within
Water Resource Inventory Area 7

PREAMBLE

THIS AGREEMENT ("Agreement") is entered into pursuant to Chapter 39.34 Revised Code of Washington ("RCW") by a portion or all of the eligible governments signing this Agreement that are located in King County, lying wholly or partially within the Snoqualmie and South Fork Skykomish Watersheds and within the management area of Water Resource Inventory Area 7 ("WRIA 7"), political subdivisions of the State of Washington, or federally recognized Indian tribes (collectively, "Parties");

WHEREAS, the Parties share interests in and responsibility for addressing long-term watershed planning and conservation for the majority of the Snoqualmie and South Fork Skykomish Watersheds for the purposes of implementing the Snohomish River Basin Salmon Conservation Plan ("WRIA 7 Plan") and improving watershed health in the King County portion of the basin; and

WHEREAS, Puget Sound Chinook salmon and bull trout, including the Snoqualmie and South Fork Skykomish populations, were listed as threatened under the Endangered Species Act (ESA) in 1999 and the steelhead trout were listed as threatened under ESA in 2007; and

WHEREAS, the Parties recognize their participation in the efforts to implement the WRIA 7 Plan demonstrates a commitment to work proactively to address the ESA listings; and

WHEREAS, the Parties recognize achieving WRIA 7 salmon recovery and watershed health goals requires a recommitment to, and acceleration of, the collaborative implementation and funding of salmon and watershed conservation actions; and

WHEREAS, some of the Parties under the terms of an interlocal agreement for the years 2001-2005 contributed to the development of the Snohomish River Basin Salmon Conservation Plan and want to continue providing efficient participation in the implementation of such plan; and

WHEREAS, the Parties took formal action in 2005 to ratify the WRIA 7 Plan; and

WHEREAS, the Parties have executed the 2006-2010 Interlocal Agreement and a 2011-2015 extension and amendment to the Interlocal Agreement to implement the WRIA 7 Plan and improve watershed health; and

WHEREAS, the Parties continue to seek information on watershed conditions and salmon conservation and recovery needs to inform local decision-making bodies regarding actions in response to listings under the Endangered Species Act ("ESA"); and

WHEREAS, the Parties have completed the first 10 years of WRIA 7 Plan implementation by prioritizing and contributing resources and funds for implementing projects and programs to protect and restore salmon habitat and watershed health; and

WHEREAS, the Parties wish to continue this effort for identifying, coordinating and implementing habitat, water quality, flood hazard reduction, and water quantity projects at the watershed level under the terms of an interlocal agreement; and

WHEREAS, the Parties continue to have interest in achieving multiple benefits by integrating salmon recovery and watershed health projects and programs with other important resource considerations such as agriculture, forestry, biodiversity, wildlife, open space and recreation; and

WHEREAS, the Parties' goals include the preservation of the Snoqualmie Valley's rural character while strengthening vibrant cities; and

WHEREAS, the Parties recognize and respect the present-day and historical importance of the watershed and its resources to tribal culture, economy and customs; and

WHEREAS, the Parties recognize and value the present-day and historical connection of its cities and unincorporated communities to the river and the natural resources of the Snoqualmie watershed; and

WHEREAS, the Parties have an interest in participating in the Snohomish Basin Salmon Recovery Forum and other salmon recovery groups; and

WHEREAS, the Parties have an interest in supporting implementation of the Puget Sound Partnership Action Agenda to restore the health of the Puget Sound as it relates to salmon recovery and watershed health; and

WHEREAS, the Parties recognize that addressing watershed issues and implementing salmon conservation and recovery actions may be carried out more efficiently if done on a cooperative basis.

NOW, THEREFORE, the Parties hereto do mutually covenant and agree as follows:

MUTUAL CONVENANTS AND AGREEMENTS

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meaning provided for below:
 - 1.1 **ELIGIBLE GOVERNMENTS:** The governmental entities eligible for participation in this Agreement are King County; federally recognized Indian tribes located within WRIA 7; the Cities of Carnation, Duvall, North Bend, Snoqualmie, and Sammamish; and the Town of Skykomish.
 - 1.2 **SNOQUALMIE WATERSHED FORUM:** The "*Snoqualmie Watershed Forum*" created herein, the governing body responsible for implementing this Agreement,

is comprised of designated representatives of eligible governments who have authorized the execution of and become Parties to this Agreement.

- 1.3 **SNOHOMISH BASIN SALMON RECOVERY FORUM:** The “*Snohomish Basin Salmon Recovery Forum*” (hereinafter referred to as “the Recovery Forum”) is the cooperative body comprised of local governments, the Tulalip Tribes, special districts, and stakeholder representatives from throughout WRIA 7.
 - 1.4 **Snohomish River Basin Salmon Conservation Plan:** The “Snohomish River Basin Salmon Conservation Plan” (hereinafter referred to as “the Salmon Conservation Plan”) is the document and any subsequent updates adopted by the Recovery Forum, developed by the Snohomish Basin Salmon Recovery Forum outlining actions for salmon recovery in response to listings of chinook and bull trout under the ESA.
 - 1.5 **SERVICE PROVIDER(S): Service Provider(s)** , as used herein, means that entity which supplies staffing or other resources to and for the *Snoqualmie Watershed Forum*, in exchange for payment. The **Service Provider(s)** may be a party to this agreement.
 - 1.6 **STAKEHOLDERS.** “**Stakeholders**” refers to those public and private entities within the WRIA 7 who reflect the diverse interests integral for planning for recovery of the listed species under the ESA, which may include but is not limited to agriculture, environmental and business interests.
2. **PURPOSES.** The purposes of this Agreement include the following:
- 2.1 To provide a mechanism and governance structure for the protection and restoration of the health of the Snoqualmie and South Fork Skykomish watersheds.
 - 2.2 To provide a mechanism for sharing information, facilitating multiple benefit projects and programs, and coordinating local efforts to address issues with watershed-wide implications, including but not limited to habitat restoration and protection, flood hazard reduction, surface and groundwater quality, and water quantity.
 - 2.3 To provide a mechanism and governance structure for the joint implementation of the Salmon Conservation Plan particularly related to the King County portions of WRIA 7 including important work along waterways that support salmon populations, including those areas above anadromous barriers such as above Snoqualmie Falls. This work is intended to inform local decision-makers about actions needed to respond to issues arising out of listings under the ESA.

- 2.4 To develop and articulate Snoqualmie Watershed-based positions on key issues during the implementation and adaptive management of the Salmon Conservation Plan. The Parties retain the right to submit comments on behalf of their individual governments.
- 2.5 To provide a mechanism for cooperative review and implementation of policies, programs and regulations to support salmon recovery, and to inform land use planning, incentive programs and outreach efforts.
- 2.6 To provide for the ongoing participation of citizens and other stakeholders in salmon recovery and other watershed efforts and to ensure continued public outreach efforts to educate and garner support for current and future watershed and ESA efforts.
- 2.7 To provide a mechanism for securing technical assistance and funding from federal, state and other agency sources.
- 2.8 To provide a mechanism for the implementation of other multiple benefit projects such as habitat, surface and groundwater quality, water quantity, flood hazard reduction projects with other local, regional, tribal, state, federal and non-profit funds as may be contributed to or secured by the ***Snoqualmie Watershed Forum***. Such projects may also include actions to benefit agricultural lands or other important resource lands, provided that such actions stem from integrated multi-objective planning efforts in the watershed.
- 2.9 To annually recommend projects for grant funding by the King County Flood Control District through the District's Cooperative Watershed Management grant program.
- 2.10 To provide a framework for cooperation and coordination among the Parties on issues relating to the WRIA 7 or sub-WRIA 7 basin planning or to meet the requirement of a commitment by any Party to participate in WRIA 7 based or watershed basin planning in response to any state or federal law which may require such participation as a condition of any funding, permitting or other program of state or federal agencies, at the discretion of such Party.

It is not the purpose or intent of this Agreement to create, supplant, preempt or supersede the authority or role of any jurisdiction, governmental entity or natural resource policy body.

- 3. **EFFECTIVE DATE AND TERM.** This Agreement shall become effective on January 1, 2016, provided it has been executed by King County and at least two (2) of the eligible member cities, towns, or tribes within the King County portion of WRIA 7, as authorized

by each government's governing body. Once effective, this Agreement shall remain in effect for a term of ten (10) years; provided, however, that this Agreement may be extended for such additional terms as the Parties may agree to in writing, with such extension being effective upon its execution by King County and at least two (2) of the eligible member cities, towns, or tribes within the King County portion of WRIA 7. Such extension shall bind only those Parties executing the extension. Provisions for termination of membership under this agreement are in Section 8.

It is not the purpose or intent of this Agreement to prevent the Parties from entering into a WRIA 7-wide agreement at some future date prior to the end of the initial term of this Agreement.

4. **ORGANIZATION AND MEMBERSHIP OF THE SNOQUALMIE WATERSHED FORUM.**

The parties to this Agreement hereby establish a ***Snoqualmie Watershed Forum*** to serve as the formal governance structure for carrying out the purposes of this Agreement.

4.1 Each Party to this Agreement shall appoint one (1) elected official to serve as its primary representative, and one alternate representative to serve on the ***Snoqualmie Watershed Forum***. If the Parties appoint a non-elected official as an alternate, that Party must designate in writing on the jurisdiction's letterhead whether the non-elected official can vote on behalf of that Party.

4.2 In addition to the representatives of each of the Parties, the ***Snoqualmie Watershed Forum*** shall also include five (5) ex-officio members to increase the representation of citizens and partner organizations within the ***Snoqualmie Watershed Forum***. The five ex-officio representatives shall be appointed as follows: 1) one citizen appointed by the Snoqualmie Valley Government's Association; 2) two citizen residents of Council District 3 appointed by the King County Executive; 3) one representative of the King Conservation District (KCD) appointed by the KCD Board of Supervisors; and 4) one representative from a nonprofit organization appointed by the Snoqualmie Watershed Forum. Ex-officio members participate in consensus decision making but do not participate in voting in the event consensus cannot be reached. The Forum may elect to add additional ex-officio members without amending the ILA, provided that any such addition has been discussed during at least one regular meeting of the Forum prior to the meeting where the final decision is made, with opportunity provided for public comment. The decision to add an ex-officio member is subject to the provisions of Section 5.

- 4.3 Snoqualmie Watershed Forum members shall serve a term of four years, or the remainder of their elected term (if appropriate), whichever is shorter. **Snoqualmie Watershed Forum** ex-officio members shall have appointed representatives whose terms shall be as follows: the three ex-officio member representatives appointed by the Snoqualmie Valley Governments Association and by the King County Executive shall each serve a term of four years; the ex-officio member representative appointed by the King Conversation District shall serve a term of four years; and the ex-officio member representative appointed by the Snoqualmie Watershed Forum shall serve a term of two years.
- 4.4 The services cost-shared under this agreement shall be provided to the **Snoqualmie Watershed Forum** by the **Service Provider**, currently King County Department of Natural Resources and Parks. The **Snoqualmie Watershed Forum** shall enter into a Memorandum of Understanding with the **Service Provider**, which shall set out the understanding of expectations for services to be provided and a method of regular consultation between the **Service Provider** and the **Snoqualmie Watershed Forum** concerning the performance of services hereunder.
- 4.5 The Service Provider will meet with staff from each of the Parties at least once annually prior to October 1 to coordinate the development of a draft work program and budget for consideration by the **Snoqualmie Watershed Forum** for the following calendar year.
- 4.6 The **Snoqualmie Watershed Forum** shall, by October 1 of each year, establish an annual budget that provides for the level of funding and total resource obligations of the Parties for the following calendar year. For non-tribal Parties, such obligations are to be allocated on a proportional basis based on the average of the population, assessed valuation and geographic area attributable to each Party to this Agreement, in accordance with the formula set forth in Exhibit A. The Exhibit A data shall be updated every third year, as more current data becomes available, by the Service Provider and approved by the Snoqualmie Watershed Forum. Exhibit A shall be automatically amended, without further action of the Parties, to reflect this updated data upon distribution of such data to the Parties in writing. When a federally recognized Indian tribe becomes party to this Agreement, the tribe's initial cost share shall be determined jointly by the Parties and will be included in Exhibit A. Tribal cost share(s) shall also be re-evaluated at the same three-year intervals. The weight accorded to the tribe's vote for weighted voting pursuant to Section 5 for any given year shall

correspond to the tribe's cost share for that year relative to the cost shares contributed by the other Parties for that year.

- 4.7 The ***Snoqualmie Watershed Forum*** shall oversee the expenditure of budgeted funds and shall allocate the utilization of resources contributed by each Party or obtained from other sources in accordance with the approved annual work program.
 - 4.8 The ***Snoqualmie Watershed Forum*** shall review and evaluate annually the performance of the Service Provider to this Agreement, and shall provide for whatever actions are necessary to ensure that quality services are efficiently, effectively and responsibly delivered in the performance of the purposes of this agreement.
 - 4.9 The ***Snoqualmie Watershed Forum*** may contract with similar watershed forum bodies, including the ***Recovery Forum*** or any other entities for any lawful purpose related hereto. The Parties may choose to create a separate legal or administrative entity under applicable state law, including without limitation a nonprofit corporation or general partnership, to accept private gifts, grants or financial contributions, or for any other lawful purposes.
 - 4.10 Those Parties that are members of the ***Recovery Forum*** shall participate in regular meetings of the ***Recovery Forum*** to the extent possible in light of constraints on the availability of staff and elected officials. The ***Snoqualmie Watershed Forum*** may elect to designate a representative of the Parties to participate in the Recovery Forum on a regular basis.
 - 4.11 The ***Snoqualmie Watershed Forum*** shall adopt rules and procedures that are consistent with its purposes as stated herein and are necessary for its operation.
5. **VOTING.** The ***Snoqualmie Watershed Forum*** shall make decisions, approve scope of work, budget, priorities and any other actions necessary to carry out the purposes of this Agreement as follows:
- 5.1 Decisions shall be made using a consensus model as much as possible that includes all Forum members. Each member agrees to use its best efforts and exercise good faith in consensus decision-making. Consensus may be reached by unanimous agreement of the members. If unanimous agreement of members cannot be reached then the Parties may reach a decision by a majority recommendation with a minority report. Any Party who does not accept a majority decision may request weighted voting as set forth below.
 - 5.2 During the course of decision-making, a ***Snoqualmie Watershed Forum*** member may call for a non-binding "roll call" vote.

- 5.3 In the event consensus cannot be achieved, as determined by rules and procedures adopted by the **Snoqualmie Watershed Forum**, the **Snoqualmie Watershed Forum** shall take action on a dual-majority basis, as follows:
- 5.3.1 Each Party, through its appointed representative, may cast its weighted vote in connection with a proposed **Snoqualmie Watershed Forum** action.
- 5.3.2 The weighted vote of each Party in relation to the weighted votes of each of the other Parties shall be determined by the percentage of the annual contribution made by each Party as set in accordance with Section 4.6 in the year in which the vote is taken.
- 5.3.3 For any action subject to weighted voting to be deemed approved, an affirmative vote must be cast by both a majority of the Parties and by a majority of the weighted votes of the Parties. No action shall be valid and binding on the Parties until it shall receive majority votes of both the total number of Parties and of the Parties representing a majority of the annual budget contribution for the year in which the vote is taken.

6. OBLIGATIONS OF PARTIES; BUDGET; FISCAL AGENT; RULES.

- 6.1 Each Party shall be responsible for meeting only its individual obligations hereunder as established in the annual budget adopted by the **Snoqualmie Watershed Forum** under this Agreement, including all such obligations related to the **Snoqualmie Watershed Forum** funding, technical support, and participation in related planning, and activities as set forth herein. It is anticipated that separate actions by the legislative bodies of the Parties will be necessary from time to time in order to carry out these obligations.
- 6.2 During the term of this Agreement, the primary individual obligations of the Parties will be to participate in the **Snoqualmie Watershed Forum** and provide funding in support of the **Snoqualmie Watershed Forum**. Staff from each of the Parties shall meet periodically to, develop a proposed annual work program, coordinate implementation of the Salmon Conservation Plan and other watershed actions, and develop proposals for consideration by the **Snoqualmie Watershed Forum**.
- 6.3 No later than October 1 of each year of this Agreement, the **Snoqualmie Watershed Forum** shall adopt a budget, including its overhead and administrative costs, for the following calendar year. The budget shall propose the level of funding and other (e.g., staffing) responsibilities of the individual Parties for the following calendar year and shall propose the levels of funding

and resources to be allocated to specific prioritized planning activities within the Snoqualmie Watershed and WRIA 7. The Parties shall thereafter take whatever separate legislative or other actions as may be necessary to address such individual responsibilities under the proposed budget, and shall have done so no later than the end of the fiscal year. Parties to this Agreement may elect to secure grant funding to meet their individual obligations.

6.4 Funds collected from the Parties or other sources on behalf of the ***Snoqualmie Watershed Forum*** shall be maintained in a special fund by King County as fiscal agent and as *ex officio* treasurer on behalf of the ***Snoqualmie Watershed Forum*** pursuant to rules and procedures established and agreed to by the ***Snoqualmie Watershed Forum*** and King County.. Such rules and procedures shall set out billing practices and collection procedures and any other procedures as may be necessary to provide for its efficient administration and operation.

6.5 Any Party may inspect and review all records maintained in connection with such fund at any reasonable time.

7. **LATECOMERS.** Governments located in King County lying wholly or partially within the management area of WRIA 7 which have not become a Party to this Agreement within twelve (12) months of the effective date of this Agreement may become a Party by obtaining written consent of all the voting members of the Snoqualmie Watershed Forum. The provisions of Section 5 otherwise governing decisions of the ***Snoqualmie Watershed Forum*** shall not apply to this section. The voting members of the ***Snoqualmie Watershed Forum*** and any governments seeking to become a Party shall jointly determine the terms and conditions under which the government may become a Party, which terms and conditions shall include payment by such government to the ***Snoqualmie Watershed Forum***, of the amount determined jointly by the voting members of the ***Snoqualmie Watershed Forum*** and the government to represent such government's fair and proportionate share of all costs associated with activities undertaken by the ***Snoqualmie Watershed Forum*** as of the date the government becomes a Party. Any government that becomes a Party pursuant to this section shall thereby assume the general rights and responsibilities of all other Parties to this Agreement.

8. **TERMINATION.**

8.1 The obligations of any Party under this Agreement may be terminated by that Party, through action of its governing body, only upon notice to the other Parties by not later than December 1st for termination effective January 1 of the following

year. The terminating Party shall remain fully responsible for meeting all of its funding and other obligations through the end of the calendar year in which such notice is given, together with any other costs that may have been incurred on behalf of such terminating Party up to the effective date of such termination. It is possible that the makeup of the Parties to this Agreement may change from time to time. Regardless of any such changes, the Parties choosing not to exercise the right of termination shall each remain obligated to meet their respective share of the obligations of the ***Snoqualmie Watershed Forum*** as reflected in the annual budget.

8.2 This Agreement may be terminated in its entirety at any time by the written agreement of all Parties.

9. **HOLD HARMLESS AND INDEMNIFICATION.** To the extent permitted by state law as to city and county governments, and federal law as governing to tribes, and for the limited purposes set forth in this Agreement, each Party shall protect, defend, hold harmless and indemnify the other Parties, their officers, elected officials, agents and employees, while acting within the scope of their employment as such, from and against any and all claims (including demands, suits, penalties, liabilities, damages, costs, expenses, or losses of any kind or nature whatsoever) arising out of or in any way resulting from such Party's own negligent acts or omissions related to such Party's participation and obligations under this Agreement. Each Party to this Agreement agrees that its obligations under this subsection extend to any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Parties only, any immunity that would otherwise be available against such claims under the industrial insurance act provisions of Title 51 RCW. In the event that either Party incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this Section, all such fees, expenses, and costs shall be recoverable from the responsible Party to the extent of that Party's culpability. The provisions of this Section shall survive and continue to be applicable to Parties exercising the right of termination pursuant to Section 8.

10. **NO ASSUMPTION OF LIABILITY.** In no event do the Parties to this Agreement intend to assume any responsibility, risk or liability of any other Party to this Agreement or otherwise with regard to any Party's duties, responsibilities or liabilities under the ESA, or any other act, statute, regulation, or ordinance of any local municipality or government, the State of Washington, or the United States.

11. **VOLUNTARY AGREEMENT.** This Agreement is voluntary and is acknowledged and agreed that no Party is committing to adopt or implement any actions or recommendations that may be contained in the ***Salmon Conservation Plan*** developed pursuant to this Agreement.
12. **NO PRECLUSION OF ACTIVITIES OR PROJECTS.** Nothing herein shall preclude any one or more of the Parties from choosing or agreeing to fund or implement any work, activities or projects associated with any of the purposes hereunder by separate agreement or action, provided that any such decision or agreement shall not impose any funding, participation or other obligation of any kind on any Party to this Agreement which is not a party to such decision or agreement.
13. **NO THIRD PARTY RIGHTS.** Nothing contained in this Agreement is intended to, nor shall it be construed to, create any rights in any third party, including without limitation the Recovery Forum, National Oceanic and Atmospheric Administration - Fisheries, United States Fish and Wildlife Service, any agency or department of the United States, or, the State of Washington, or to form the basis for any liability on the part of the ***Snoqualmie Watershed Forum*** or any of the Parties, or their officers, elected officials, agents and employees, to any third party.
14. **AMENDMENTS.** This Agreement may be amended, altered or clarified only by the unanimous consent of the Parties to this Agreement, and requires authorization and approval by each Party's governing body.
15. **COUNTERPARTS.** This Agreement may be executed in counterparts.
16. **APPROVAL BY PARTIES' GOVERNING BODIES.** This Agreement has been authorized and approved for execution by each Party's governing body.
17. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement among the Parties, and supersedes all prior negotiations, representations, and agreements, oral or otherwise, regarding the specific terms of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates indicated below:

Approved as to form:

KING COUNTY

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

CITY OF CARNATION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

CITY OF DUVALL

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

CITY OF NORTH BEND

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

CITY OF SNOQUALMIE

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

SNOQUALMIE TRIBE

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

TOWN OF SKYKOMISH

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

TULALIP TRIBES

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____