

INTERLOCAL AGREEMENT

AMONG

**YAKIMA COUNTY, WASHINGTON
KITTITAS COUNTY, WASHINGTON
Klickitat County, WASHINGTON
SKAMANIA COUNTY, WASHINGTON**

TO ESTABLISH THE

SOUTH CENTRAL WORKFORCE DEVELOPMENT COUNCIL

AS A

WASHINGTON NON-PROFIT CORPORATION

AND TO DESIGNATE THE

**SOUTH CENTRAL WORKFORCE DEVELOPMENT COUNCIL
AS THE FISCAL AND ADMINISTRATIVE AGENT OF
THE SOUTH CENTRAL CONSORTIUM**

WHEREAS, the Congress of the United States has enacted the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, (WIOA) to amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes; and

WHEREAS, the counties of Yakima, Kittitas, Klickitat and Skamania constitute a jurisdiction as a Workforce Development Area (Workforce Development Area IX) pursuant to the Governor’s approval dated July 1, 2015; and

WHEREAS, the WIOA provides in WIOA Section 106 (a) and (b) Local Provisions.— During the first 2 full program years following the date of enactment of this Act, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2-year period preceding the date of enactment of this Act, performed successfully, and sustained fiscal integrity,; and

WHEREAS, the Interlocal Cooperation Act of 1967, Chapter 39.34, RCW, permits local governmental units to cooperate and to provide services and facilities in a manner which will accord best with the geographic, economic, demographic and other factors influencing the development of local communities; and

WHEREAS, by Interlocal Agreement, the counties of Yakima, Kittitas, Klickitat, and Skamania have formed the South Central Consortium to oversee workforce activities; and

WHEREAS, the WIOA requires the establishment of a Workforce Development Council to provide policy guidance and oversight with respect to local and regional plan for the local Workforce Development Area; and

WHEREAS, RCW 39.34.030(3)(b) provides that public agencies are authorized to create a non-profit corporation comprised only of public agencies for the purpose of implementing the counties' activities through a joint undertaking; and

WHEREAS, counties of Yakima, Kittitas, Klickitat, and Skamania now have agreed that in order to jointly implement and operate workforce investment activities and in order to allow the Workforce Development Council to receive tax exempt funds from sources other than the federal government, it is appropriate form the Workforce Development Council as a non-profit corporation;

NOW, THEREFORE, counties of Yakima, Kittitas, Klickitat, and Skamania hereby authorize the establishment of the South Central Workforce Development Council as a non-profit corporation under the laws of the State of Washington, and designate the South Central Workforce Development Council as the fiscal and administrative agent of the South Central Consortium as follows:

I. Formation of a Non-profit Corporation, known as the South Central Workforce Development Council

- A. The Workforce Development Council shall be incorporated pursuant to the authority provided in RCW 39.34.030(3)(b) as a Washington non-profit corporation known as the South Central Workforce Development Council ("SCWDC").
- B. The four counties of Yakima, Kittitas, Klickitat and Skamania shall be the only members of the SCWDC.
- C. The four counties shall fulfill their responsibilities as members of the SCWDC through the South Central Consortium, previously established by Interlocal Agreement among the four counties.

II. Powers of the four county members

- A. Operational Responsibilities The four counties, acting through the South Central Consortium shall:
 - 1. Approve the bylaws of the corporation;
 - 2. Appoint the board of directors of the SCWDC pursuant to nomination and appointment processes established under WIOA and regulations promulgated thereunder, and in accordance with the nomination process prescribed by the SCWDC bylaws;

3. Approve or reject the recommendation of the board of directors for employment or termination of the SCWDC's Executive Director;
4. Approve the SCWDC's five year strategic and operational plan;
5. Make recommendations on and approve the SCWDC's selection of workforce service providers; and
6. Attend meetings of the SCWDC, as provided in section VII below.

B. Corrective Action

The four counties, acting through the South Central Consortium shall have the power to resolve differences with the SCWDC and ultimately dissolve the corporation pursuant to the procedures set forth in section VIII below.

III. Responsibilities of the SCWDC

- A. Pursuant to the regulations of WIOA and in compliance with the requirements established by the Governor of the State of Washington, SCWDC shall develop the local and regional plan for the review and concurrence by the Consortium. Upon the approval and signatures of the Chair of the SCWDC board of directors and the Chief Elected Official (CEO) of the South Central Consortium, the five year strategic and operational plan will be submitted to the Governor of the State of Washington for approval.
- B. SCWDC shall comply with the Workforce Innovation and Opportunity Act of 2014, referred to as the WIOA and federal rules and regulations. (WIOA Title I) and its regulations; the Wagner-Peyser Act as amended and applicable; and other applicable Federal laws and regulations; and the implementing State of Washington Provisions, as issued, for counties comprising "Workforce Development Areas" under the WIOA Public Law.
- C. SCWDC shall develop annual budgets for itself and for the programs as described in the local and regional plan and pursuant to the WIOA.
- D. SCWDC shall provide policy guidance and direction on all matters pertaining to the provision of services under the WIOA.
- E. SCWDC will monitor and evaluate the training programs operated within the Workforce Development Area. SCWDC reports shall be distributed in a timely manner.
- F. The SCWDC board of directors shall provide oversight to the activities of staff, and the Annual Budget, and will provide guidance and supervision to the Executive Director, who in turn shall employ and set working conditions for SCWDC staff.
- G. SCWDC shall select workforce service providers and training providers as appropriate to carry out the purposes of the WIOA and according to the procedures set forth in the local and regional plan.

- H. SCWDC shall solicit the input and participation of the local business community in the provision of program services to eligible residents of the Workforce Development Area.
- I. SCWDC may solicit and accept grants and donations from sources other than Federal funds.
- J. SCWDC shall assist the Governor in developing statewide employment statistics.
- K. SCWDC shall procure and maintain fixed assets and expendable supplies necessary for program operation.
- L. SCWDC shall collect and dispose of program income generated by program activities pursuant to 20 CFR Part 652, New OMB Uniform Guidance (referred to as the “Super Circular”).
- M. SCWDC shall procure audits of funds as required under the WIOA and shall resolve any questions arising from these audits.
- N. SCWDC shall develop and manage a system to hear and resolve grievances brought by participants, vendors, and other interested parties as required by the WIOA.
- O. Other duties as prescribed by the WIOA.

IV. Designation of the SCWDC as fiscal agent

A. Designation of Local Grant Sub recipient and Local Fiscal Agent

In accordance with Section 106(b)(1)(B) of the WIOA, and in accordance with the Interlocal Cooperation Act of 1967 (Chapter 39.34, Revised Code of Washington) the SCWDC is designated as the local grant sub recipient and local fiscal agent. The SCWDC shall perform all of the functions assigned by the WIOA to the local grant sub recipient and local fiscal agent. This designation is effective July 1, 2015 and shall be in force unless terminated or revised according to provisions section IV. 2 below.

B. Withdrawal of Designations

1. Local fiscal agent

The Consortium retains the right in its sole discretion to withdraw the designation of the SCWDC as local fiscal agent if the Consortium determines that a breach of this designation has occurred and the Consortium has exercised due process to resolve the matter formally by following the Corrective Action producers set forth below in section VIII, below, before withdrawing the designation as fiscal agent. Upon such withdrawal, the Consortium shall assume all duties of the SCWDC as local fiscal agent until such time as it designates another entity to act on behalf of

the Consortium, and the Consortium shall indemnify and hold harmless the SCWDC for the Consortium's negligent acts or omissions after the effective date of withdrawal.

2. Local grant sub recipient

The Consortium retains the right in its sole discretion to withdraw the designation of the SCWDC as local grant sub recipient if the Consortium determines that a breach of this designation has occurred and the Consortium has exercised due process to resolve the matter formally by following the Corrective Action producers set forth below in section VIII, below, before withdrawing the designation as local grant sub recipient. Upon withdrawal of designation of the SCWDC as local grant sub recipient, the Consortium shall assume all duties of the SCWDC as local grant sub recipient, including but not limited to all contractual obligations that the SCWDC has undertaken as local grant sub recipient, until such time as it designates another entity to act on behalf of the Consortium, and the Consortium shall indemnify and hold harmless the SCWDC for the Consortium's negligent acts or omissions after the effective date of withdrawal.

C. Adoption of the WIOA Local and Regional Plan

The SCWDC shall provide the Consortium a copy of the draft annual plan when it is sent out for public comment, and a copy of all proposed or adopted changes to the annual plan. The SCWDC shall also provide the Consortium a copy of the final, proposed annual plan no later than 15 days before the date of the required submittal to the State.

D. Adoption and Administration of the WIOA Budget

1. At the beginning of the SCWDC's fiscal year, the SCWDC shall provide the Consortium a proposed WIOA annual budget for comment. The SCWDC shall apply the funds received under the WIOA in accordance with the approved budget, together with any changes requested by the Consortium and adopted by the SCWDC.
2. The SCWDC shall notify the Consortium prior to filing any application for a grant that is available to the SCWDC as the Consortium's designee under the WIOA. This notification may be provided verbally or in writing.

E. Internal Review

Until July 1, 2015 the SCWDC shall maintain the internal review process set forth in the Interim Agreement in effect since July 3, 2000. After July 1, 2016, the SCWDC will arrange for an independent audit at least annually, and will provide copies of the results of each audit to the Consortium.

F. Single Audit Requirement

Once per fiscal year, the SCWDC shall have an independent audit conducted of its financial statement and condition. The audit shall comply with the requirements of GAAS (general accepted auditing standards); GAO's Standards for Audits of Governmental Organizations, Programs, Activities, and Functions; and Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 et. seq., and the U.S.D. Department of Labor Uniform Administrative Requirements, Cost Principles, and Audit Requirements adopting the OMB rule with DOL exceptions, 2 CFR Part 2900 et. seq. (hereafter, "OMB Uniform Guidance and DOL exceptions"), the Contractor shall maintain records that identify all federal funds received and expended, as amended, and as applicable. The SCWDC shall provide a copy of the audit report to the Consortium no later than six months after the end of the SCWDC's fiscal year. The SCWDC shall provide to the Consortium its response and corrective action plan for all findings and reportable conditions contained in its audit. When reference is made in its audit to a "Management Letter" or other correspondence made by the auditor, the SCWDC shall provide to the Consortium copies of those communications and the SCWDC's response and corrective action plan.

G. Deposit and Disbursement of WIOA funds

All funds made available to the Local Area pursuant to the WIOA and other federal or state programs overseen by the Consortium and SCWDC shall be deposited into an account or accounts created and maintained by the local fiscal agent. All funds shall be deposited in an institution that is guaranteed by the FDIC or FSLIC. The local fiscal agent will disburse all funds for workforce investment activities at the direction of the SCWDC, in accordance with the requirements of the WIOA.

H. Copies of Reports

The SCWDC shall provide the Consortium with copies of all reports that the SCWDC provides to the full Board of the SCWDC and all other reports that the Consortium may request in writing with reasonable, advance notification.

I. Maintenance of Records

1. The SCWDC shall maintain accounts and records, including personnel, property, financial, and programmatic records and other such records as may be deemed necessary by the Consortium to ensure proper accounting for all WIOA and other federal or state funds overseen by the Consortium and SCWDC and in compliance with this designation.

2. These records shall be maintained for a period of six (6) years after termination of this designation unless permission to destroy them is granted by the office of the Archivist in accordance with Revised Code of Washington (RCW) Chapter 40.14.

V. Indemnification and Insurance

A. The Consortium assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by or on behalf of the SCWDC any of its employees, or any other person or entity by reason of this designation, except as set forth herein regarding withdrawal of designation. The SCWDC shall protect, defend, indemnify, and save harmless the Counties of Yakima, Kittitas, Klickitat and Skamania and the CEO and any of their officers, agents, and employees from and against any and all claims, costs, or losses whatsoever occurring or resulting from: (1) The SCWDC's failure to pay any such compensation, wages, benefits, or taxes, or (2) the supplying to the SCWDC of work, services, materials, or supplies by any council employees or other suppliers in connection with or support of the performance under this designation, except as set forth herein regarding withdrawal of designation.

B. The SCWDC is financially responsible for and, following an audit exception, shall repay the Consortium all amounts indicated therein that the Consortium is required to pay due to the negligence, intentional act, or failure, for any reason, of the SCWDC, its officers, employees, agents, or representatives to comply with the conditions of this Agreement, the WIOA or any rules or regulation promulgated there under. This duty to repay the Consortium shall not be diminished or extinguished by the expiration or prior termination of this Agreement.

C. The SCWDC shall protect, defend, indemnify, and save harmless the Consortium, the Counties, and their respective officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of, or in any way resulting from, any negligent acts or omissions of the SCWDC or any of its officers, employees, or agents under this designation, except as set forth herein regarding withdrawal of designation. The SCWDC's obligation under this subparagraph extend to any claim, demand, or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the SCWDC, after mutual negotiation with the Consortium will consider entering into a separate agreement that waives, as respects the Consortium and the Counties only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the Consortium or Counties incur any judgment, award, or cost, including attorneys' fees to enforce the provisions of this article, and all such fees, expenses, and costs shall be recoverable from the SCWDC.

D. Claims shall include, but not be limited to, assertions that use of transfer of software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in unfair trade practice.

E. The SCWDC shall procure and maintain for the duration of this designation, insurance against claims for injuries to persons or damages to property that may arise from, or in connection with, the performance of work by the SCWDC or any of its agents, representatives and employees. The Consortium shall be named as an addition insured on all policies. The SCWDC shall also require each of its subcontracts (except governmental entities such as the City, County and State) to procure and maintain similar liability insurance and to provide to the SCWDC separate certificates of insurance and policy endorsements for each subcontractor as evidence of compliance with this insurance requirement. The cost of such insurance shall be paid by the SCWDC or subcontractor. The SCWDC's insurance coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the Consortium.

F. The SCWDC shall furnish the Consortium with certificates of insurance and endorsements to demonstrate the acquisition and maintenance by the SCWDC and its subcontractors of the insurance coverage required under this Designation.

VI. Non discrimination and conflict of interest

A. The SCWDC shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to non-discrimination.

B. The SCWDC shall comply with the conflict of interest provisions of the WIOA.

VII. Consortium Participation in Council Activities

The Consortium and its representatives are entitled to attend all meetings of the SCWDC including but not limited to the full SCWDC, the Executive Committee and all committees and workgroups, provided that the SCWDC may exclude the Consortium and its representatives from any portion of a meeting regarding relations with the Consortium or a dispute arising between the SCWDC and the Consortium. The Consortium and its representatives shall have the right to speak and to make written comments, but shall not have a vote at SCWDC meetings.

VIII. Corrective Action

A. If the Consortium determines that a breach of the conditions of the formation of the SCWDC as a non-profit corporation or designation of the SCWDC as the Consortium's fiscal and administrative agent has occurred that may be sufficient to cause the Consortium to revoke the SCWDC's designation as local grant sub recipient, or to dissolve the non-profit corporation, the Consortium shall first attempt to resolve the matter informally by verbally notifying the SCWDC of the alleged breach, and then scheduling a meeting to discuss and attempt to resolve the matter.

B. If the Consortium is not satisfied with the informal resolution process, it shall notify the SCWDC in writing of the specific nature of the breach, and the SCWDC shall respond in writing within ten (10) business days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for coming into compliance, which date shall not be more than fifteen (15) business days from the date of the SCWDC's response, unless the Consortium in its sole discretion grants in writing an extension of the number of days to complete the corrective action plan.

C. The Consortium will notify the SCWDC in writing of the Consortium's determination as to the sufficiency of the SCWDC's corrective action plan, which determination of sufficiency shall be at the sole discretion of the Consortium. If the Consortium notifies the Council that the correction action plan is insufficient or has not been completed, within fifteen (15) business days of said notification, an in-person meeting shall be held between the Consortium and representatives of the Board of the SCWDC to discuss and attempt to resolve the dispute. In the event that the SCWDC does not respond within the appropriate time with a corrective action plan, or the SCWDC's corrective action plan is determined by the Consortium to remain insufficient following the in-person meeting, the Consortium may revoke its designation of local grant recipient, or act to dissolve the non-profit corporation by giving at least thirty (30) business days' written notice to the SCWDC.

Effective this ____ day of ____, 2016.

Interlocal Agreement with Kittitas, Klickitat
and Skamania County to Establish the
South Central Workforce Development Council
as a Washington Non-Profit Organization and
Designate SCWFDC as the Fiscal Agent of the
South Central Consortium

DONE this 5th day of July, 2016

BOARD OF YAKIMA COUNTY COMMISSIONERS



Attest: Tiera L. Girard
Clerk of the Board

BOCC204-2016
July 5, 2016

Approved as to form:

Deputy Prosecuting Attorney

WSBA #135001

Michael D. Leita, Chairman

Kevin J. Bouchey, Commissioner

J. Rand Elliott, Commissioner

*Constituting the Board of County Commissioners
for Yakima County, Washington*

RECEIVED

JUL 08 2016

BY SCWDC


BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON
Approved this 2nd day of August, 2016.

Approved As To Form

Legal Counsel
Kittitas County





Commissioner



Commissioner



Commissioner


attest

Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
Klickitat County, Washington


Approved this 21st day of June, 2016.


Absent

Approved As To Form



Legal Counsel
Klickitat County

Commissioner



Commissioner


Commissioner

BOARD OF COUNTY COMMISSIONERS
SKAMANIA COUNTY, WASHINGTON

Approved this 12th day of July, 2016.

Approved As To Form



Legal Counsel
Skamania County



Commissioner



Commissioner



Commissioner

