

SOUTHEAST WASHINGTON AGING AND LONG TERM CARE COUNCIL OF GOVERNMENTS

INTERLOCAL AGREEMENT

The Agreement is intended to be entered into by the Counties of Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima, (the parties), pursuant to the provisions of the Interlocal Cooperation Act, Chapter 39.34 RCW. Each individual County Legislative body has reviewed, adopted, and hereby ratifies this Agreement, as indicated by the attached Signature Pages. WHEREAS, the parties have a mutual interest in forming a Council of Governments (COG) to facilitate the organization and operation of an Area Agency on Aging (AAA), designated Planning and Service Area number 9 (PSA 9), and

WHEREAS, the Older Americans Act of 1965, as now and hereafter amended, and Chapter 74.38 RCW provide for the establishment of Area Agencies on Aging within the regional areas within the state, now therefore,

IN CONSIDERATION of the mutual promises and covenants contained herein, the parties agree as follows;

- 1. PURPOSE:** The purpose of this Agreement is to form a Council of Governments (COG), to enable the parties to operate the Southeast Area Agency on Aging (AAA) within Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima Counties, to prepare an annual Area Plan for Programs on Aging, and administer grants for programs for older individuals and adults with disabilities. Each party agrees to cooperate in all respects in order to carry out the letter and spirit of this Agreement.
- 2. RIGHTS AND RESPONSIBILITIES OF MEMBER GOVERNMENTS:** In addition to all of the rights and responsibilities granted to member counties under this Agreement and through the Bylaws of the COG, including participation with the committee processes, member counties, and their respective member county governments, have the right and responsibility to determine the level of their county's participation in the governing of the COG.
- 3. ADMINISTRATION:** The parties jointly agree that the Southeast Washington Aging and Long Term Care COG, hereinafter referred to as the COG, shall, as its sole purpose, be the administrative body of the Southeast Washington Area Agency on Aging.

- A. Membership:** Each Participating Entity shall be represented by one designated member and may assign or appoint an alternate member to serve in the absence of a designated member.
 - B. Voting:** Each of the parties shall have an equal vote when the COG is conducting business.
 - C. Quorum:** A quorum of the Board shall consist of a total of not less than five (5) of the eight (8) members.
 - D. Meetings, Functions & Responsibilities:** Designated members of the COG shall be elected County Commissioners from each their respective counties. The COG shall establish a meeting schedule and meeting locations in its bylaws. The COG shall also promulgate bylaws governing the matters such as meeting format, quorum, voting, officers and other objectives as set forth in this Agreement.
- 4. FISCAL MANAGEMENT:** The COG shall ensure that itemized and detailed records are maintained, covering (a) aging program revenues received from whatever source for financial maintenance of the COG and all programs there under and (b) all expenditures incurred pursuant to adopted programs budgets. The COG shall conform to all fiscal requirements established by State or Federal law, including annual financial audits by the State Auditor's Office.

The COG shall maintain the existing State method for allocating program funds within the PSA. A quorum of designated members may amend this method through the voting protocols established in its bylaws but only for surplus allocated funds that will not be spent in a member county.

No member county or the state shall impose financial assessments to other counties for the purpose of supplanting or supplementing prior financial commitments. Any such action shall trigger dissolution of the Interlocal Agreement.

- 5. CONTRACTS:** The COG may contract generally and is authorized to enter into agreements with government agencies, private organizations and/or individuals, consistent with its purpose.

The COG delegates signing authority to the Director for contracts not exceeding \$25,000 and authorizes the Director to amend or modify existing contracts as necessary to comply with changes in requirements as mandated by county, state or federal policy/law.

The COG delegates the Executive Committee the ability to enter into contracts over \$25,000 and not exceeding \$100,000. The Executive Committee shall meet at regularly scheduled meetings, or via special meetings in compliance with RCW 42.30 et. seq. The Executive Committee membership shall have the ability to participate in the meetings held via GOTO

meetings software, with traditional public notice and access to these meetings and the GOTO conference at the ALTC Administrative office provided that at least one Executive Committee member is physically present to conduct the meeting.

The execution of Contracts over \$100,000.00 consideration shall require approval from a quorum of the designated members at each regular meeting or special meeting. In the event for the need for execution of a contract over \$100,000, prior to the next regular meeting, a majority vote of the board membership held via telephone or via GOTO meeting software shall authorize the Director to execute such contract on behalf of the COG. Such contract shall then be placed on a Consent Agenda at the next regular meeting of the designated members.

All contracts, leases and personal property shall be fully assumed by the COG on the effective date of this Agreement. Yakima County shall have no ownership, control or contractual liability as the former lead governmental sponsor of the Southeast ALTC.

- 6. INSURANCE, LIABILITY AND INDEMNIFICATION:** The COG will maintain liability insurance in the amount of a minimum of ten (10) million dollars per occurrence and ten (\$10) million dollars annual aggregate. Insurance coverage shall include coverage for personal injury, bodily injury, property damage, and contractual liability. The insurance provider shall be licensed in the State of Washington. The COG shall indemnify, protect, and hold the member counties harmless from and against all claims, injuries, damages, losses or suits including attorney fees arising from any negligent or intentional act or omission of the COG, its board members, directors, officers, and employees, agents and/or authorized subcontractor(s) which performing its duties under this agreement. In the event that such liability is not covered by the insurance, and/or exceeds the coverage amount, all counties participating as members of the COG shall be jointly and severally liable for any liability which may arise as a result of the operation of the COG.

Each member county shall hold harmless, indemnify and defend the COG, each and every other member county, their respective officers, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorney's fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, caused by or arising out of that party's errors or omissions in the performance of this Agreement, provided that party's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of or attributable to the negligence of another party(ies), or another party's(ies) officers, officials, employees or agents.

- 7. **NONDISCRIMINATION:** Each party and their respective representatives and employees agree that they shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, gender, sexual orientation, age, marital status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW Chapter 49.60) or the Americans with Disabilities Act (42 USC 12101 et seq). In the event that any participating government violates this provision, COG may terminate this Agreement immediately and bar the respective participating government and/or employee from performing any services for COG in the future.

- 8. **PERSONNEL:** The COG shall appoint and oversee, including all employment related issues, the Director for the Southeast Washington AAA. Recruiting, hiring and all other employment related issues of all other staff shall be the responsibility of the Director. All Southeast Washington AAA staff shall be considered employees of the COG. Nothing herein contained shall be construed to create a relationship of employer-employee between any member county and COG staff and member counties shall be neither liable nor obligated to pay COG staff sick leave, vacation pay, insurance, retirement or any other benefit of employment not to pay any social security or other tax which may arise as an incident of employment.

The COG shall grandfather all current employees and honor existing labor agreements as of the effective date of this agreement. The COG shall determine personnel guidelines, job descriptions, salary schedules and employee benefits as necessitated by changing requirements by the state or federal governments.

The Director is responsible for keeping a public record of all transactions, findings and determinations of the Council. The Director shall prepare the agenda of each meeting for approval of the Council, provide notice of meetings to members, arrange and prepare legal notices of hearings, attend to the correspondence of the Council and to such other duties as are normally carried out by the Director. The Director may appoint a designee for these purposes. The Director is a non-voting member.

- 9. **POWERS:** The COG shall approve an Area Plan for programs serving older individuals and adults with disabilities, establish a budget for funds appropriated by the state for administering the COG, contract for goods and services, expend funds for necessary services identified in the Area Plan, and any other powers expressly granted by the enabling legislation referred to heretofore in this agreement.

- 10. **ADVISORY COUNCIL:** The COG shall recognize the composition of the current Southeast AAA Advisory Council existing as of the effective date of the Agreement. All members of the Advisory Council shall be invited to continue in that capacity for the duration of existing

terms. The COG shall address in its bylaws the process for filling vacancies on the Advisory Council. Advisory Council membership and protocol shall be developed in compliance with the Aging and Disability Services Policies and Procedures Manual for AAA Operations, Chapter 4. The Advisory Council shall seek members from the community who are younger adults with disabilities who would be eligible for programs of the COG.

- 11. TERMINATION:** Any county wishing to withdraw from the COG may do so by giving one hundred-eighty days written notice to the other parties. The COG through a majority vote of a quorum of the designated members may terminate this Agreement in the event expected or actual funding from federal, state or other sources are withdrawn or substantially reduced in such a fashion as to make the continued operation of the COG not feasible. In such case, termination shall be effective upon notice of the termination.
- 12. PROPERTY DISPOSAL:** A party withdrawing from the COG shall not be entitled to retain property acquired by the COG. In the event of termination of the Agreement all property acquired by the COG which is not required to be returned to the State shall be disbursed to the COG members based on their population.
- 13. AMENDMENT:** This Agreement may be amended by written agreement of all of the parties.
- 14. DURATION:** This Agreement shall become effective on the date of last signature of the majority of the parties hereto and shall remain in effect until five years from January 1, 2015, unless terminated pursuant to Section 11 herein.
- 15. COUNTERPARTS:** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.
- 16. FILING:** Executed copies of the Agreement shall be filed or posted online as required by Section 39.34.040 and .050 of the Revised Code of Washington prior to this Agreement becoming effective.
- 17. NON-DELEGATION/NON-ASSIGNMENT:** No party may delegate the performance of any contractual obligation, to a third party, unless mutually agreed upon in writing. Neither party may assign this Agreement without the written consent of the other party.

18. SEVERABILITY: Any provision of this Agreement, which is prohibited or unenforceable, shall be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions or affecting the validity or enforcement of such provisions.

19. APPLICATION & FORMATION OF NON-PROFIT CORPORATION: The Designated members of the COG agree that if a majority membership of the COG agrees to move and attempt to form a non-profit public corporation, the Director shall be directed to take all reasonable steps to attempt to form a non-profit public corporation as defined in RCW 24.03 et. seq., including but not limited to filing of Articles of Incorporation with the Washington State Secretary of State with the intent of issuance of a Certificate of Incorporation by the Secretary of State. The potential non-profit public corporation shall be governed by of the same by-laws and contract terms that establish this COG agreement, and the Board of Directors of the non-profit public corporation shall be made of the same Board of Directors as the COG.

20. INTENT TO TRANSFER COG RESPONSIBILITY TO NON-PROFIT CORPORATION: The Designated members of the COG agree if application for the creation of a non-profit entity is approved by the Washington State Secretary of State's Office, as evidenced by issuance of a Certificate of Incorporation and filing of Articles of Incorporation with the Secretary of State, and by Washington State Department of Health and Human Services for approval as an AAA entity, that all assets, personnel and by-laws of this COG shall be transferred to the non-profit entity. The parties further agree that the non-profit entity shall be designated by the COG to operate the Southeast Area Agency on Aging (AAA) within Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima Counties, to prepare an annual Area Plan for Programs on Aging, and administer grants for programs for older individuals and adults with disabilities.

21. EFFECT OF FORMATION OF NON-PROFIT CORPORATION: TERMINATION OF COG: The Designated members of the COG agree that if the conditions are met as described in section 20 of this agreement, that the COG formed shall terminate and all rights and responsibilities of the COG shall be transferred to the non-profit corporation to serve and operate the Southeast Area Agency on Aging (AAA) within Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima Counties, to prepare an annual Area Plan for Programs on Aging, and administer grants for programs for older individuals and adults with disabilities.

22. EFFECT OF DENIAL OF APPLICATION FOR NON-PROFIT CORPORATION: The parties to this agreement agree that in the event of denial of AAA status application by Washington State DSHS, and/or denial of non-profit corporation status by the Washington State

Department of Secretary of State, that it shall operate as a COG for purposes of administration of the above services within Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima Counties, to prepare an annual Area Plan for Programs on Aging, and administer grants for programs for older individuals and adults with disabilities.

23. EFFECT OF LESS THAN ALL NAMED COUNTIES PARTICIPATING: The parties to this agreement agree that in the event of less than all eight (8) named counties agree to execute this agreement that this agreement shall be effective as to the Counties who chose to participate in this agreement and execute said agreement.

24. EXECUTION OF MULTIPLE ORIGINAL COUNTERPARTS: This agreement may be reproduced in any number of original counterparts. Each party need sign only one counterpart and when the signature pages are all assembled with one original counterpart, that compilation constitutes a fully executed and effective agreement among all the Participating Jurisdictions. In the event that fewer than all named parties execute this agreement, the agreement, once recorded as specified in Section 16 shall be effective as between the parties that have executed the agreement to the same extent as if no other parties had been named.

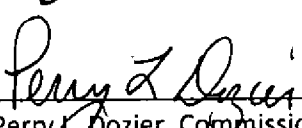
Southeast Washington Council of Governments
On Aging and Long Term Care
Interlocal Agreement

DATED: March 10, 2014


ATTEST:

BOARD OF WALLA WALLA COUNTY COMMISSIONERS


James K. Johnson, Chairman

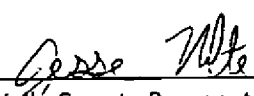

Perry L. Dozier, Commissioner


Gregory A. Tompkins, Commissioner


Connie R. Vinti, Clerk of the Board

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

Approved as to form only:


Walla Walla County Prosecuting Attorney