INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS AGREEMENT is made between Pacific County, a municipal corporation, hereinafter referred to as the "COUNTY" and **Pacific Conservation District**, a political subdivision of the State of Washington, hereinafter referred to as the "DISTRICT".

WHEREAS, in accordance with RCW 89.08.341 any government agency of the state and any local political subdivision of the state is authorized to make arrangements with any district through contract, wherever it believes that such arrangements will promote administrative efficiency or economy; and

WHEREAS, any local agency or political subdivision of the state is authorized, within the limits of funds available to it, to contribute funds, equipment, property or services to any district; and to collaborate with a district in jointly planning, constructing, financing or operating any work or activity provided for in such arrangements; now, therefore

IN CONSIDERATION OF the terms, conditions, covenants, and performances described herein, the parties hereto **HEREBY AGREE AS FOLLOWS:**

I. SERVICES TO BE PROVIDED BY THE DISTRICT

The DISTRICT shall perform such services and accomplish such tasks as are necessary to develop and implement programs that will get the best resource conservation management practices with assistance and funding from the COUNTY. Such services include, but are not limited to educating and assisting the public and landowners to improve the management of their property and natural resources.

The DISTRICT shall keep the state and Pacific County fully informed concerning the status and progress of the preparation of their resource conservation programs and plans.

II. SERVICES AND FUNDING TO BE PROVIDED BY THE COUNTY

The COUNTY shall perform such services and accomplish such tasks and shall provide funding as set forth hereinafter, as necessary to assist the DISTRICT described hereinabove.

III. DURATION OF AGREEMENT

The terms of this Agreement and the performance of the parties shall be deemed to have commenced the 1st day of January, 2015 and will terminate on the 31st day of December, 2015. This Agreement may be extended or terminated upon mutual agreement between the parties hereto and pursuant to the terms and conditions of this Agreement.

IV. FUNDING

General Statutory Operations Funding: The COUNTY shall provide the sum of seven thousand five hundred dollars ($7,500) to assist the DISTRICT in continuing its operations, as mandated by law. The funding set forth herein shall be provided to the DISTRICT and paid in one installment of $7,500. Payment will be processed following the approval of the contract by all parties.

V. REPORTING REQUIREMENT

The DISTRICT shall present an annual report to the COUNTY.

VI. ESTABLISHMENT AND MAINTENANCE OF RECORDS

In addition to the books, records, and files required to be maintained by the DISTRICT as set forth above, the DISTRICT agrees to maintain books, records, and documents, and to employ accounting procedures and practices, which accurately reflect all direct and indirect costs related to the performance of this Agreement. The DISTRICT shall retain all books, records, documents, and other materials relevant to this Agreement three (3) years after its expiration or termination for any reason.

The DISTRICT agrees that the COUNTY or its designee shall have full access and right to examine any of said books, documents, and other materials at all reasonable times during said period.

VII. COMPLIANCE WITH LAWS

The DISTRICT, in performance of this Agreement, agrees to comply with all applicable local, state, and federal laws or ordinances, including standards for licensing, certification, and operation of facilities, programs, and accreditation, licensing of individuals and any other standards or criteria as described in the Agreement to assure quality of services.

VIII. SAVINGS AND SEVERABILITY

If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, said provision(s), or portion(s) thereof, shall be deemed severable and the remainder of this Agreement shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

IX. INDEMNIFICATION/HOLD HARMLESS

a. **Indemnification by District.** To the fullest extent permitted by law, the DISTRICT agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any action or omission, negligent or otherwise, of the DISTRICT, its employees, agents or volunteers or DISTRICT's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) are based upon the DISTRICT'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the DISTRICT shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of the DISTRICT shall not be limited in any way by the Washington State Industrial Insurance Action RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the DISTRICT hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the DISTRICT are a material inducement to COUNTY to enter into the Contract, are reflected in the DISTRICT's compensation, and have been mutually negotiated by the parties.

b. **Participation County – No Waiver.** The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of DISTRICT's indemnity obligations under the Contract.

c. **Survival of District's Indemnity Obligations.** The DISTRICT agrees all DISTRICTS's indemnity obligations shall survive the completion, expiration or termination of this Contract.

X. INSURANCE

Without limiting the DISTRICT'S indemnification of COUNTY, and prior to commencement of this Contract, DISTRICT shall obtain, provide and maintain during the term of this Contract, policies or insurance of the type and amounts described below and in a form satisfactory to the COUNTY.

a. **General Liability Insurance.** DISTRICT shall maintain commercial general liability insurance with at least as broad as Insurance Services Office form CG 00 0, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

b. **Professional Liability (Errors & Omissions) Insurance.** DISTRICT shall maintain professional liability insurance that covers the services to be performed in connection with this Contract, in the minimum amount of $1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and DISTRICT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Contract.

c. **Workers' Compensation Insurance.** DISTRICT shall, at its own expense, maintain Workers' Compensation Insurance (statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000).

d. **Waiver of Subrogation.** All insurance coverage maintained or procured pursuant to this Contract shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow DISTRICT or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. DISTRICT hereby waives its own right of recovery against COUNTY, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

e. **Automobile Liability Insurance.** DISTRICT shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the DISTRICT arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hire, non-owned or rented vehicles, in an amount not less than 1,000,000 combined single limit for each accident.

The DISTRICT must name the COUNTY as an additional insured. <u>The DISTRICT agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that DISTRICT's liability insurance policy shall so state.</u>

XI. DEBARMENT CERTIFICATION

The DISTRICT hereby declares that it is not suspended or debarred from securing federal and/or state funds and shall remain so during the term of this Contract. Suspension and/or debarment of the DISTRICT from securing federal or state funds shall be cause for immediate termination of this Contract by the COUNTY.

XII. ATTORNEY'S FEES/COST OF SUIT AND VENUE

If either party files suit to enforce this Contract, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit. The parties agree that any suit pertaining to this Contract shall be filed in the Pacific County Superior Court.

a. **Disputes.** Differences between the DISTRICT and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due DISTRICT shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to **Choice of Law, Jurisdiction and Venue.**

b. **Choice of Law, Jurisdiction and Venue.** This Contract has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

c. **Severability.** If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

Should the COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

XIII. PUBLIC RECORDS ACT

This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the DISTRICT are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the DISTRICT agrees to make them promptly available to the COUNTY. If the DISTRICT considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the DISTRICT shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the DISTRICT and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY's sole obligations shall be to notify the DISTRICT (a) of the request and (b) of the date that such information will be released to the requester unless the DISTRICT obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the

DISTRICT fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.

The COUNTY has, and by this section assumes, no obligation on behalf of the DISTRICT to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the DISTRICT for releasing records not clearly identified by the DISTRICT as confidential or proprietary. The COUNTY shall not be liable to the DISTRICT for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

XIV. ENTIRE AGREEMENT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this _____ day of _____, 2015.

PACIFIC CONSERVATION DISTRICT

_____
Chair

_____
Secretary/Treasurer

DATED:_____

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

_____
Steve Rogers, Chair

_____
Lisa Ayers, Commissioner

_____
Frank Wolfe, Commissioner

ATTEST:

_____
Marie Guernsey, Clerk of the Board