INTERLOCAL AGREEMENT BETWEEN
CITY OF ELLENSBURG
AND
KITTITAS COUNTY NOXIOUS WEED CONTROL BOARD

This Interlocal Agreement is made and entered into this _____day of _____ 2014, by and between Kittitas County through the Kittitas County Noxious Weed Control Board (hereinafter the "Weed Control Board" or "Board"), and the City of Ellensburg, a Washington municipal corporation (hereinafter the "City").

WHEREAS, the City desires to contract with the Weed Control Board, and the Weed Control Board agrees, to have the Board perform noxious weed control services on City public rights of way and within the non-park areas of the City's property ownership, and

WHEREAS, this Agreement for cooperative services is authorized by the provisions of Chapter 39.34 RCW, the Interlocal Cooperation Act,

NOW, THEREFORE, it is hereby agreed as follows:

1. Statement of Work. The Weed Control Board shall perform such services and accomplish such tasks, including the furnishing of all labor, equipment, materials and supplies and otherwise do all things as are necessary for or incidental to the weed control work, or contract for those services necessary to carry out the Board's work under the terms of this Agreement. The weed control services shall be performed on the City public rights of way and within the non-park areas of the City's property ownership.

2. Duration and Period of Performance. The term of this Agreement shall be from its effective date through December 31, 2018, unless terminated as provided in Section 16. Subject to its other provisions, the period of performance of this Agreement shall commence on March 15, 2014, and be completed by December 31 of each year this agreement remains in force and effect.

3. Payment. Compensation for the work provided in accordance with this Agreement has been established under the provisions of Chapter 39.34 RCW. The parties have determined that the cost of accomplishing the work herein will not exceed $10,000.00 per fiscal year for labor, equipment, materials and supplies, including any work subcontracted by the Board. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree in writing to a higher amount.

4. Billing Procedure. The Weed Control Board shall submit invoices for services as soon as possible after individual work performances. Invoices are to be sent to: Ellensburg Public Works Department, 501 N. Anderson St., Ellensburg, WA 98926, Attn: John Akers. Payment to the Weed Control Board for approved and completed work will be made within 30 days of receipt of the invoice. Upon expiration of the Agreement, any claim for payment not already made shall be

submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

5. Contract Management. The Agreement administrator for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Agreement administrator for the Weed Control Board is: Todd Davis, 507 N. Nanum Street, Room 26, Ellensburg, WA 98926. Telephone: 509-962-7007.

The Agreement administrator for the City of Ellensburg is: John Akers, 501 North Anderson Street, Ellensburg, WA 98926. Telephone: 509-962-7101.

6. Maintenance of Records. Each party hereto agrees to maintain books, records and documents using accounting procedures which accurately reflect all direct and indirect costs related to the performance of services described herein. Each party may examine the other party's books and records to verify the accuracy of invoices. Each party's fiscal management system shall include the capability to provide accurate and complete disclosure of all costs invoiced under this Agreement. All books, records, documents and other materials relevant to this agreement will be retained for six years after expiration of the Agreement, and the Office of the State Auditor and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

7. Indemnification. Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions, or those of its officers, agents or employees to the fullest extent provided by law, and further agrees to save, indemnify, defend and hold harmless the other party from any and all such liability arising out of the performance of this Agreement. In the case of negligence of more than one party, any damages allowed shall be levied in proportion to the percentage of the negligence attributable to each party. This indemnification paragraph shall survive the termination of this Agreement.

8. Assignment. This Agreement cannot be assigned, transferred or any portion subcontracted by either party hereto without the prior written consent of the other party, which consent shall not be unreasonably withheld.

9. Future Support. Neither party to this Agreement makes any commitment to future support and assumes no obligation for future support of any activity contracted for herein, except as may be expressly set forth in this Agreement.

10. Compliance with Laws. Each party hereto, in its performance of this Agreement, agrees to comply with all applicable local, State, and Federal laws and ordinances.

11. Relationship of the Parties.

A. No agent, employee or representative of the Board shall be deemed to be an agent, employee or representative of the City for any purpose, and the employees of the Board are not entitled to any of the benefits the City provides to City employees. No agent, employee or representative of the City shall be deemed to be an agent, employee or representative of the Board for any purpose, and the employees of the City are not entitled to any of the benefits the Board provides to Board employees.

B. In the performance of the work herein contemplated, the party performing the work is an independent contractor with the authority to control and direct the performance of the details of the work; however, the work contemplated herein shall be subject to the general rights of inspection and review of the party requesting the work be done, to secure the satisfactory completion thereof.

12. Disputes. If a dispute arises between the parties concerning this Agreement, the director of the City's public works department and the administrator of the Weed Control Board shall attempt to resolve the dispute. If they are unsuccessful, the dispute shall be referred to the City Manager and the Chair of the Weed Control Board for resolution. If not resolved by the City Manager and the Chair within (30) days of referral, either party may pursue court action under paragraph 13 below.

13. Jurisdiction. Any legal dispute between the parties to this Agreement shall be governed by the laws of the State of Washington, and any action to enforce this Agreement shall be brought in Kittitas County, Washington.

14. Modification. The provisions of this Agreement may be modified or amended only by written mutual written agreement of the parties, executed by personnel authorized to bind each of the parties.

15. Waiver. A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

16. Termination. This Agreement shall remain in full force and effect until terminated on December 31, 2018, by mutual written agreement of the parties, or by written notice of termination given by one party to the other at least thirty (30) days prior to the date of such termination.

17. Agreement Not For Benefit of Third Parties. This Agreement is entered into solely for the benefit of the parties hereto and vests no rights in, or is it enforceable by, any third parties.

18. Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such

remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

19. Filing. This Agreement shall be filed with the Kittitas County Auditor, or, alternatively, listed by subject on each or either party's web site or other electronically retrievable public source pursuant to RCW 39.34.040.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

KITTITAS COUNTY
NOXIOUS CONTROL WEED BOARD

_____
Mary Morgan, Chair

CITY OF ELLENSBURG

_____
Rich Elliott, Mayor

Attest:

_____
Clerk

Approved as to form:

_____

Approved as to form:

_____
City Attorney