INTERAGENCY AGREEMENT
BETWEEN
THE WASHINGTON STATE DEPARTMENT OF AGRICULTURE
AND
KITTITAS COUNTY
AND ITS AGENT
THE KITTITAS COUNTY HORTICULTURAL PEST AND DISEASE BOARD

THIS AGREEMENT is made and entered into by and between the Washington State Department of Agriculture, hereinafter referred to as "WSDA," and Kittitas County, hereinafter referred to as "Kittitas County."

IT IS THE PURPOSE OF THIS AGREEMENT to provide Kittitas County and its agent, the Kittitas County Horticultural Pest and Disease Board, funding for the control and eradication of apple maggot *(Rhagoletic pomonella)* within Kittitas County, Washington, which is within the boundaries of the Fruit and Vegetable Inspection District Two as defined in WAC 16-390-010.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK

Kittitas County through its agent, the Kittitas County Horticultural Pest and Disease Board, shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Attachment "A" which is attached hereto and incorporated herein.

PERIOD OF PERFORMANCE

Regardless of the date of signature and subject to its other provisions, this Agreement shall commence on July 1, 2013 and be completed on or before June 30, 2015, unless terminated sooner as provided herein.

PAYMENT

Compensation for the work provided in accordance with this Agreement has been established under the terms of RCW 39.34.130. The parties have determined that the cost of accomplishing the work herein will not exceed $17,000.00. Only reasonable costs incurred directly related to the Kittitas County Apple Maggot Eradication and Control Program will be reimbursed to Kittitas County under this Agreement. WSDA will not authorize reimbursement for administrative overhead charges.

Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree in writing to a higher amount prior to the commencement of any work that will cause the maximum payment to be exceeded. Compensation for service(s) shall be as set forth in accordance with the budget in Attachment "B" which is attached hereto and incorporated herein.

BILLING PROCEDURE

Kittitas County shall submit properly completed invoices quarterly to the WSDA Agreement administrator. Reference WSDA Contract Number K1259 on all invoices. Payment to Kittitas County for approved and completed work will be made by warrant or account transfer by WSDA within 30 days of receipt of the properly completed 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. In no case can this be more than 10 days past the end of the biennium.

RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. Documents must also support performance and costs of any nature expended in the performance of this Agreement. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents and other material relevant to this Agreement will be retained for six years after expiration of the Agreement and the Office of the State Auditor, federal auditors and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond, consistent with applicable laws. 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.

RIGHTS IN DATA

Unless otherwise provided, data that originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by WSDA. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

TERMINATION

Either party may terminate this Agreement upon 30 days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of the Agreement prior to the effective date of termination.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days of receipt of written notice. If the failure or violation is not corrected, this Agreement may be terminated immediately upon receipt of written notice of the aggrieved party to the other.

CONFLICT OF INTEREST

WSDA may, by written notice to Kittitas County, terminate this Agreement if it is found after due notice and examination by the Director of the Department of Agriculture, and/or the designee authorized in writing to act on the Director's behalf, that there is a violation of the State Ethics Law, chapter 42.52

RCW; or any similar statute involving Kittitas County in the procurement of or performance under this Agreement. Unless stated otherwise, the signatory of this Agreement is the Director's designee.

In the event this Agreement is terminated as provided above, WSDA shall be entitled to pursue the same remedies against Kittitas County and its agent, the Kittitas County Horticultural Pest and Disease Board, as it could pursue in the event of a breach of the Agreement by Kittitas County or its agent, the Kittitas County Horticultural Pest and Disease Board. The rights and remedies of WSDA provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Director of the Department of Agriculture, and/or the designee authorized in writing to act on the Director's behalf, makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Agreement.

SAVINGS

WSDA may unilaterally terminate all or part of this contract, or may reduce its plan of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this Agreement.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties, and judgment may be entered in Thurston County superior court pursuant to Chapter 7.04 RCW.

LICENSING, BONDING, INDUSTRIAL INSURANCE AND OTHER INSURANCE COVERAGE

Kittitas County and its agent, the Kittitas County Horticultural Pest and Disease Board, shall ensure that all contractors hired to perform services under this Agreement shall comply with all applicable licensing and bonding requirements for the type of service to be performed, and with the provisions of Title 51, Industrial Insurance. Kittitas County and its agent, the Kittitas County Horticultural Pest and Disease Board, shall also ensure that all contractors provide proof of an adequate amount of commercial general liability insurance coverage for the activities to be performed under any subcontract.

GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. In the event of a lawsuit involving this contract, venue shall be proper only in Thurston County, Washington.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

a. Applicable state and federal statutes and rules;
b. Plan of work (Attachment A);
c. Budget (Attachment B); and
d. Any other provisions of the Agreement, including material incorporated by reference.

ASSIGNMENT
The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

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 writing signed by an authorized representative of the party and attached to the original Agreement.

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.

ALL WRITINGS CONTAINED HEREIN
This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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 WSDA is:

Jim Marra, Acting Pest Program Manager
Washington State Dept. of Agriculture
Plant Protection Division
PO Box 42560
Olympia, Washington 98504-2560
(360) 902-2071
jmarra@agr.wa.gov

The Agreement administrator for Kittitas County is:

Urban B. Eberhart, Chair
Kittitas County Hort. Pest & Disease Bd.
1601 Lawrence Road
Ellensburg, Washington 98926
(509) 201-0776
urbaneberhart@gmail.com

And/or

Judy Pless, Financial Officer
Kittitas County
205 West Fifth, Room 105
Ellensburg, Washington 98926
(509) 962-7502
judy.pless@co.kittitas.wa.us

All communications between the parties relating to this Agreement and any billings and payments will be directed to those persons. Either party may change administrators by notifying the other in writing. **IN WITNESS WHEREOF,** the parties have executed this Agreement.

STATE OF WASHINGTON
DEPT. OF AGRICULTURE

By: _____

Title: Brad White, Ph.D., Acting Asst. Director

Date: _____

KITTITAS COUNTY

By: _____

Title: Obie O'Brien, Chairman Board Co Commissioners

Date: _____

By: _____

Title: Paul Jewell, Commissioner

Date: _____

By: _____

Title: Gary Berndt, Commissioner

Date: _____

By: _____

Title: Julie Kjorsvik, Clerk of the Board

Date: _____

By: _____

Title: _____

Date: _____

ATTACHMENT A
Plan of Work
Kittitas County
and its agent the Kittitas County Horticultural Pest and Disease Board
Apple Maggot Control and Eradication
July 1, 2013 to June 30, 2015

Kittitas County will conduct pest prevention/control activities on apple maggot *(Rhagoletis pomonella)* in Kittitas County, Washington in accordance with chapter 15.09 RCW. This effort is focused on containing existing populations identified by WSDA, preventing establishment and possible spreading to adjacent areas and eradicating new infestations where possible. WSDA will conduct an apple maggot detection program in Kittitas County and will provide a list of all new positive sites to the Kittitas County Horticultural Pest and Disease Board Control Coordinator (hereafter known as the control coordinator).

Kittitas County will contract for apple maggot control services for infestations known or discovered in Kittitas County. The Kittitas County control coordinator and contractor(s) will use an integrated pest management approach that incorporates tree and/or fruit removal, and insecticide application. Kittitas County will ensure contracting procedures are in compliance with all applicable laws, rules, regulations, and ordinances. All control methods employed will be consistent with the rules and regulations of Washington State and Kittitas County. No tools or equipment will be purchased as a part of this agreement.

Any contractor(s) providing apple maggot control services will be required to work closely with the control coordinator. The control coordinator will consult with the WSDA project entomologist based in Yakima or his/her supervisor, or the Pest Program Manager in Olympia, prior to apple maggot control activity (including insecticide application) at any site. The contractor(s) will be available to be active in the field from approximately July 10 through September 30, 2013 and July 10 through September 30, 2015. The apple maggot flight season, control methods available and site conditions may cause these dates to vary slightly.

DELIVERABLES

On or before December 15, 2013, and again on or before December 15, 2015, the control coordinator will submit a written report to the WSDA Agreement administrator, documenting, at a minimum, the following information for each site on which apple maggot control activity occurs: location of site, date(s) of the control effort(s), type of control effort (i.e. tree removal, fruit removal, insecticide application) and results insofar as can be determined of the control effort. Copies of all commercial pesticide application records will be attached to the report. All reports of unusual or unanticipated effects on the environment and reports of negative human health effects shall also be reported to WSDA immediately upon discovery.

The Kittitas County Apple Maggot Control and Eradication Program will be coordinated with state, local, and private control efforts.

ATTACHMENT B
Budget
Kittitas County
and its agent the Kittitas County Horticultural Pest and Disease Board
Apple Maggot Control and Eradication
July 1, 2013 to June 30, 2015

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1. Contracted services for control measures $17,000.00

Total $17,000.00

Reimbursement for travel expenditures shall not exceed allowable costs as set forth in Washington State travel regulations, contained in the Office of Financial Management State Administrative and Accounting Manual, Chapter 10, Section 90.