AMENDMENT TO SERVICE AGREEMENT

AMENDMENT NO. 1
TO
SERVICE AGREEMENT

SA NO. 14 - 021

WSU Extension-Douglas County

1. **PARTIES:** The undersigned parties entered in the Service/Independent Contractor Agreement dated December 17, 2013.

2. **SCOPE OF SERVICES:**
The parties agree to add to the scope of services described in that Agreement the amended services described in Exhibit A, which is attached hereto and incorporated by this reference.

3. **DELIVERABLES:** Contractor will bill separately for work related to purple loosestrife control and provide a separate report indicating the release dates and locations and numbers of biological controls released at each site.

4. **PAYMENTS:**
Payments for services will be on a time and material basis, with the total cost of this Amendment not to exceed $5,000, for a total contracted cost of $25,000.

5. **EFFECTIVE DATE:** The Effective Date of this Amendment is May 20, 2014. The project shall be completed by November 1, 2014.

6. **TERMS:** All other terms and conditions of the Service Agreement shall remain in full force and effect.

WASHINGTON STATE UNIVERSITY EXTENSION

By [Signature]
Margaret Viebrock
Director, WSU Extension/Douglas County

Date: 5/20/14

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

By [Signature]
Von Pope, Wildlife Program Manager

Date: 5/20/14
EXHIBIT A - SCOPE OF SERVICES

1. The project to be performed is described as follows: Contractor shall collect and release the biological control agents (Galerucella calmaniensis and/or Nanophyes marmoratus) for purple loosestrife control at one or more suitable sites within 100 ft. of known S. diluvialis sites along Rocky Reach Reservoir (Figure 1). The Contractor may subcontract or assign other entities to conduct or assist with this Service. Timing of releases will take into consideration the phenology of purple loosestrife at the suitable release sites. Releases may occur at different times and intervals so as to give the biological control agents the opportunity to become established at the proposed release sites. S. diluvialis locations shown in Figure 1 are confidential and shall not be made available to any party.

2. Potential release areas are shown in Figure 1. Suitable sites will be determined by District staff and the Contractor and need to have enough purple loosestrife to support a biological population. The number and location of release sites may change depending on phenology, cover, and availability of biological control agents.

3. The Contractor shall mark release sites with GPS and photo each release site and include this documentation with the final report and invoice to the District. A final summary report shall be provided to the District and the Ute Ladies Tresses Subcommittee of the Rocky Reach Wildlife Forum. Draft report due to the District in Word format by August 30, 2014, final report due to the District in Word format by October 31, 2014. Final report will include; the number and location of release sites, dates of release, and approximate number of biological control agents released at each site.
Figure 1. Potential release sites for biological control of purple loosestrife.
SERVICES/INDEPENDENT CONTRACTOR AGREEMENT

WASHINGTON STATE UNIVERSITY EXTENSION
SA No. 14 - 021

1. PARTIES
Public Utility District No. 1 of Chelan County, Washington (hereinafter "District") has retained Washington State University Extension, (hereinafter "Contractor") a municipal corporation in the State of Washington, to perform services for the District pursuant to the following terms and conditions of this Services/Independent Contractor Agreement ("Agreement").

2. DEFINITIONS
Acceptance: Notice from District to Contractor that a Deliverable or Service has been completed in accordance with this Agreement.
Deficient or Deficiency: A failure of a Deliverable or an omission, defect or deficiency in a Deliverable, which causes it not to conform to its Specifications, documentation or this Agreement to the District's satisfaction.
Deliverables: Contractor's products which result from the Services and which are prepared for District (either independently or in concert with District or third parties) during the course of Contractor's performance under this Agreement.
Specifications: The technical and other written specifications, directions and Deliverables that define the requirements between District and the Contractor.

3. SCOPE OF SERVICES AND DELIVERABLES
The Services to be performed and the Deliverables to be provided by the Contractor are described in the Scope of Services attached as Exhibit A and by this reference herein incorporated. District shall have the right to review and test the Deliverables following Contractor's delivery of each to District to determine whether the Deliverables conform to the requirements of the Agreement and to District's satisfaction. The District may either: reject a Deliverable if it is Deficient or contains a Deficiency, or Accept each Deliverable ("Acceptance"). If the District rejects the Deliverables, Contractor shall, at District's request, promptly correct all such Deficiencies and, thereafter, District shall again have the opportunity to review and test the Deliverables. If Contractor is not able to correct all Deficiencies in the Deliverables within 30 days following their receipt by District, District shall have the right to terminate this Agreement, which termination shall be deemed due to Contractor's default.

4. PAYMENT
Unless otherwise agreed and set forth in any exhibits hereto, the District will pay the Contractor monthly for undisputed amounts based on Services performed in accordance with the terms of this Agreement and as itemized on a correct written invoice to the District, as verified by the District Project Leader. All correspondence and invoices should be plainly marked with the SA number referenced above. Invoices may be delivered or mailed to Von Pope, Public Utility District No. 1 of Chelan County, 327 N. Wenatchee Ave., P. O. Box 1231, Wenatchee, WA 98807. Contractor shall bill the District on a monthly basis with net payment due forty-five (45) days from the date that the correct invoice is received by the District. However, in no event shall the total amount of compensation to be paid by the District for said services, including all fees and costs incurred by the Contractor in the performance of this Agreement, exceed the amount authorized by the District. If Contractor fails to deliver Deliverables or to provide...
Services which satisfy Contractor's obligations hereunder, District shall have the right to withhold any and all payments due hereunder to Contractor, without work stoppage by Contractor, until such failure to perform is cured.

A rate schedule is included in Exhibit A. The same may be modified only in writing executed by both parties. The Contractor shall charge only reasonable expenses. For example, air travel shall be coach fare only. If the Contractor charges for the use of equipment, computers or other items, the same must be included and agreed upon in advance in Exhibit A.

5. RELATIONSHIP OF PARTIES
The parties intend that an independent contractor relationship will be created by this Agreement. The conduct and control of the Services and safety measures required by the Services lies solely with the Contractor. The Contractor is not to be considered an agent or employee of the District for any purpose and the Contractor is not entitled to any of the benefits that the District provides for the District's employees. It is understood that the Contractor is free to contract for similar services to be performed for other parties while it is under contract with the District, provided that any services for others does not prevent the Contractor from fulfilling all the Contractor's obligations pursuant to this Agreement.

Contractor, as an independent contractor, understands and acknowledges that it is not entitled and does not desire to be covered by any payroll taxes or other fringe benefits. Contractor agrees to pay its own social security taxes, income taxes and other health insurance benefits.

6. DURATION AND TERMINATION
The Agreement shall be terminated by any of the following events: (a) death or dissolution of the Contractor, (b) failure by Contractor to comply with any applicable laws or District policies (c) mutual agreement of the parties, (d) District giving the Contractor not less than fifteen (15) days written notice of termination, (e) failure of Contractor to cure any material breach within seven (7) days of receipt of written notice from the District. The District may at any time stop performance of Services without terminating the Agreement. Otherwise, this Agreement shall remain in force until the Services contemplated hereunder are completed to the satisfaction of the District.

7. INDEMNITY
The Contractor covenants and agrees that it will indemnify and hold harmless the District and any and all of the District’s officers, principals, agents and employees, from any liability, loss, damage, cost, charge or expense, whether direct or indirect and whether occasioned by injury or loss to persons or property, to which the District or said other indemnitees may be put or subject by reason of any act, action, negligence, omission or default under the Agreement on the part of the Contractor or any subcontractor or any of the Contractor's or subcontractor's officers, principals, agents or employees. With regard to any claim based on the concurrent negligence of the indemnitee, their agent or employee, and the indemnitee, the indemnitee’s liability under this section shall apply to the full extent of the negligence of the indemnitee, their agent or employee. This indemnity obligation specifically includes liability or alleged liability that may arise from injury or loss suffered by any employee of the Contractor or any subcontractor regardless of any immunity provided by the Washington Industrial Insurance Act, RCW Title 51, or any other applicable law. THE TERMS OF THIS SECTION, SPECIFICALLY INCLUDING THE PRECEDING WAIVER OF IMMUNITY, SHALL BE DEEMED MUTUALLY NEGOTIATED
TO THE FULLEST EXTENT ALLOWED BY THE LAWS OF WASHINGTON APPLICABLE TO THE DISTRICT.

8. CONDITIONS OF SERVICES AND NON-INTERFERENCE
The Contractor has informed itself fully of all conditions relating to the Services to be provided. Insofar as possible the Contractor must employ such methods or means as will not cause any interruption of or interference with the work of the District or any other contractor.

9. INSURANCE
The Contractor shall, at its own expense, provide for the payment of workers' compensation benefits to employees employed on or in connection with the Services covered by this Agreement, in accordance with the laws of the state in which the services are to be done. The Contractor shall also, at its own expense, provide for minimum insurance coverage as follows: general liability in the amount of $1,000,000, employer's liability in the amount of $1,000,000. This insurance shall be in effect prior to performing any Services under this Agreement and shall remain in effect for the duration of the Services covered by the Agreement. Additional insurance requirements or conditions may be added by amendment and the District, at its discretion, may require Contractor to provide evidence of such insurance. These insurance requirements shall not be deemed to limit the Contractor's liability to the District or any third party.

10. STANDARD OF PERFORMANCE
Contractor will perform the Services with the level of skill, care and diligence normally provided by and expected of persons performing services similar to and like those to be performed pursuant to this Agreement. Contractor understands and acknowledges that the District will be relying upon the accuracy, competence and credibility and the completeness of the Services to be provided hereunder. All personnel shall be fully qualified and authorized to perform the Services.

11. WORK PRODUCT
All data, designs, drawings, calculations, information obtained, materials information and the results of all Services performed by Contractor hereunder shall be considered work for hire and shall become the property of the District upon completion of the Services provided and shall be delivered to the District prior to final payment.

12. SAFETY
The Contractor and any subcontractors shall take all safety precautions necessary for the prevention of accidents, and shall, at a minimum, comply with all laws and regulations with regard to this matter.

13. ASSIGNMENT/SUBCONTRACT
The Contractor shall not assign this Agreement or any part thereof. Contractor may subcontract any services it deems necessary.

14. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS, RULES AND DISTRICT POLICIES
Contractor shall comply with all applicable federal, state and local laws and regulations, all of which are deemed to be incorporated into this Contract as if fully set forth. Additionally,
Contractor shall comply with the District’s Security policies and Violence in the Workplace policy, copies of which will be provided to Contractor upon request.

15. APPLICABLE LAW AND ATTORNEY FEES
This Agreement shall be construed, for all purposes, solely and exclusively in accordance and pursuant to the laws of the State of Washington and the rights and obligations of District and Contractor shall be governed by the laws of the State of Washington. Venue for any action filed to enforce or interpret the provisions of this Agreement shall be in Chelan County or Douglas County Superior Court, Chelan County, Washington. In the event of litigation to enforce the provisions of this contract, the substantially prevailing party shall be entitled to reasonable attorney’s fees and costs in addition to any other relief allowed.

16. ENTIRE AGREEMENT
This instrument and any exhibits hereto contain the entire and final Agreement of the Parties.

17. WAIVER OF BREACH
The waiver by either party of the breach of any provision of this Agreement by the other party must be in writing and shall not operate or be construed as a waiver of any subsequent breach by such other party.

18. NOTICES
Any notices shall be effective as personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the following addresses:

Chelan County PUD
Attn: Von Pope
P. O. Box 1231
327 N. Wenatchee Avenue
Wenatchee, WA 98807
Phone: (509) 661-4625
Fax: (509) 661-8108

WSU Extension – Douglas County
Attn: Dale Whaley
PO Box 550
203 S. Rainier Street
Waterville, WA 98858
Phone: (509) 745-8531
Fax: (509) 745-8619

19. AUTHORIZED SIGNATURES
Each individual executing this Agreement warrants he/she is fully authorized to bind his/her principal to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the 11th day of December 2013.

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

By
Von Pope
Wildlife Program Manager

WASHINGTON STATE UNIVERSITY EXTENSION

By
Margaret Viebrock
Director, WSU Extension – Douglas Co.
SA NO. 14 - 021
EXHIBIT A - SCOPE OF SERVICES, RATES AND PROJECT LEADERS

The Contractor executed Services/Independent Contractor Agreement dated the 1st day of December 2013. Pursuant to the Agreement, the Contractor agrees to perform the Services described below at the hourly rates or price set forth below to increase the population of biological control insects in an effort to reduce the spread of Dalmation toadflax and diffuse knapweed within the Rocky Reach Wildlife Area (RRWA).

1. PROJECT DESCRIPTION.
The Contractor agrees to perform the following Services:

a. Services on the project shall begin on April 1, 2014, and the project shall be completed on November 1, 2014.

b. Per Section 4.2.5 of the Rocky Reach Settlement Agreement, Chelan PUD shall, in consultation with the Rocky Reach Wildlife Forum, implement an integrated noxious weed control program within the Rocky Reach Wildlife Area. The purpose of this project is, in part, to release biological controls for noxious weeds within the Rocky Reach Wildlife Area as prescribed in the Rocky Reach Integrated Terrestrial Invasive Plant Control Plan.

The project to be performed is described as follows: Contractor shall collect biological control insects Mecinus janthinus, Cyphocleonus achates, and Larinus manutus for release at multiple locations within the RRWA between Burch Mountain and the Entiat River on the Chelan County side of Rocky Reach Reservoir. The Contractor may subcontract or assign other entities to conduct or assist with this work. Timing of releases will take into consideration the phenology of Dalmation toadflax and diffuse knapweed at the proposed release sites. Releases may occur at different times and intervals so as to give the biological control agents the opportunity to become established at the proposed release sites.

Target release areas chosen by the Rocky Reach Wildlife Forum are shown in Figure 1. Releases should occur within or near the Rocky Reach Wildlife Area boundary (Figure 1). The number and location of release sites may change depending on phenology, cover, and availability of biological control agents.

The Contractor shall mark release sites with GPS and photo each release site and include this documentation with the final report and invoice to the District. A draft and final summary report shall be provided to the District stating the number and location of release sites, dates of release, and approximate number of biological control agents released at each site.

- Draft report due to the District in Word format by August 30, 2014
- Final report due to the District in Word format by October 31, 2014

2. BILLING RATES.
a. The total amount of compensation to be paid by the District for said services shall not exceed $20,000 (inclusive of all fees and costs incurred by the Contractor in the performance of this Agreement).
b. All undisputed and correct Contractor invoices shall be submitted to the District no later than December 1, 2014.

3. **PROJECT LEADERS.**
The District's Project Leader is Von Pope, who may be reached by phone at (509) 661-4625, by fax at (509) 661-8108, and by email at von.pope@chelanpud.org.

The Contractor's Project Leader is Dale Whaley, who may be reached by phone at (509) 754-8531, fax at (509) 745-8619, and by email at dwhaley@wsu.edu.
Figure 1. Potential release sites for Dalmatian toadflax biological control agents within the RRWA.

*Areas likely to be infested with toadflax (south, south-southeast, and south-south west slopes, shown in orange.*