

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONSENT AGENDA REQUEST

TO: Board of County Commissioners
Mark McCauley, County Administrator

FROM: Sophie DeGroot, Noxious Weed Control Coordinator

DATE: November 25, 2024

SUBJECT: Public Utility District #1 Noxious Weed Control

STATEMENT OF ISSUE:

Jefferson PUD manages hundreds of acres of land across Jefferson County. Many of these parcels are home to the infrastructure that serves Jefferson County residents water and power, meaning that these areas are heavily disturbed. Without proper management of these areas, weed infestations can be moved from site to site and if seldom visited, may be unknown for many years. Continuing a relationship with PUD means better monitoring and control of sites before control becomes unfeasible.

The majority of funds will go towards removing Scotch broom (*Cytisus scoparius*) from the main PUD corridor between Port Townsend and Anderson Lake. This area consists of over 75 acres. The Scotch broom in this area is quickly outcompeting the diverse landscape of native plants. By managing it through this contract, we can fight to keep this area a native pollinator and forage space.

ANALYSIS:

This contract is in its 5th year. Primarily, Washington Conservation Corps crews have preformed the manual labor to pull and dispose of Scotch broom from the site. This year, PUD has increased their monetary contribution in order to support the Weed Board's ability to spot treat weeds with herbicide across more of their properties to aid in management of additional lands and weed infestations.

FISCAL IMPACT:

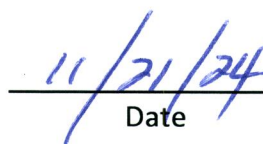
The contract period of performance runs from January 1, 2025 through December 31, 2027. The contract amount is \$30,000 per year, for 3 years, paid to the Weed Board for Noxious Weed Control. This contract is funded entirely by the PUD.

RECOMMENDATION:

I recommend the approval of this contract by the Board of County Commissioners.

REVIEWED BY:


Mark McCauley, County Administrator


Date

CONTRACT REVIEW FORM
(INSTRUCTIONS ARE ON THE NEXT PAGE)

Clear Form

CONTRACT WITH: Jefferson County Public Utility District #1

Contract No: NW-0524

Contract For: Noxious Weed Control

Term: Jan 1, 2025 - Dec 31, 2027

COUNTY DEPARTMENT: WSU Ext - Noxious Weed Control Board

Contact Person: Sophie DeGroot

Contact Phone: 360-316-9332

Contact email: sdegroot@co.jefferson.wa.us

AMOUNT: \$90,000 (\$30,000 per year)

Revenue: \$90,000

Expenditure:

Matching Funds Required:

Sources(s) of Matching Funds

Fund # 109

Munis Org/Obj

PROCESS:

- ☒ Exempt from Bid Process
- ☐ Cooperative Purchase
- ☐ Competitive Sealed Bid
- ☐ Small Works Roster
- ☐ Vendor List Bid
- ☐ RFP or RFQ
- ☐ Other:

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.55.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐

Signature

Date

18 NOV 2024

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐

Signature

Date

18 NOV 2024

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 11/21/2024.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 11/21/2024.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL

**INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
PUBLIC UTILITY DISTRICT #1 OF JEFFERSON COUNTY and
JEFFERSON COUNTY on behalf of
JEFFERSON COUNTY NOXIOUS WEED CONTROL BOARD**

This Agreement is made and entered into by and between Public Utility District #1 of Jefferson County, 310 Four Corners Road, Port Townsend, Washington, 98368, hereinafter referred to as “PUD” and Jefferson County on behalf of the Jefferson County Noxious Weed Control Board, 121 Oak Bay Road, Port Hadlock, Washington, 98339, hereinafter referred to as “County.” For the purposes of this Agreement, it is understood that all references to the PUD or County also include any appointed designee(s).

WHEREAS, the PUD operates and maintains the County’s public utility infrastructure in order to provide reliable, efficient, and safe transportation of water and electricity to residents of Jefferson County, and

WHEREAS, the County has a stated mission “To protect lands within Jefferson County from the degrading impacts of noxious weeds by educating residents, property owners, land managers, and public agencies in how to serve as responsible stewards and aid in the protection and preservation of the land, water, and natural resources;” and

WHEREAS, the County has identified certain noxious weeds requiring control on PUD lands; and

WHEREAS, control of noxious weeds on PUD lands benefits the PUD through compliance with the legal responsibilities regarding noxious weed control as described in Chapter 17.10 RCW, as well as reducing the chance of lethal poisoning of people or animals and the buildup of toxic material, and

WHEREAS, the initial proposal regarding this agreement was present to the PUD Board of Commissioners in 2018, and

NOW, THEREFORE, this Agreement is entered into under the Washington Interlocal Cooperation Act (Chapter [39.34](#) RCW), which permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governments to provide services and facilities in an efficient manner. The PUD and County will be referred to as “The Parties” and agree as follows:

1. Purpose of Agreement. The purpose of this Agreement is to define the obligations of both Parties related to the control of noxious weeds on PUD property for the term of the Agreement. The Parties agree that no more than Thirty Thousand Dollars (\$30,000), annually, shall constitute the full financial obligation of the PUD with respect to this Agreement.

2. Term of Agreement. This Agreement shall have a term commencing on January 1, 2025 until December 31, 2027, a period of approximately three years, unless either Party initiates termination as provided in Paragraph 7 of this Agreement. The Parties may agree to extend the

term of this Agreement; provided, that any extension must be executed in writing by the Parties prior to the end of the term of the Agreement.

3. **Obligations of the County.** The County will, within the limitations of this agreement, perform the following:

- A. The County will provide employees, contractors or other agencies with appropriate personnel and equipment to control noxious weed infestations effectively, as described in WAC 16-750-003, within PUD limits, to the extent allowed by the budget described in this Agreement.
- B. If using herbicides, the County will conduct the work with properly licensed and trained staff or contractors and comply with all applicable laws with respect to the storage and application of herbicides.
- C. The County will provide an annual report to the PUD each year of the Agreement to detail work accomplished, as well as goals and priority sites and species for the following year, as well as participate in at least one meeting per year to review deliverables, priorities, and methods.
- D. The County will invoice the PUD for work performed under this Agreement, recognizing the budgetary limits of this Agreement.

4. **Obligations of the PUD.** The PUD will, within the limitations of this agreement, perform the following:

- A. The PUD will pay all invoices submitted by the County in performing its obligations under this agreement, up to the amount specified in the Agreement, which is \$30,000, annually. The PUD shall pay any properly submitted invoice within thirty days after receipt.
- B. The PUD will permit Weed Control Board volunteer staff, contractors, or other agencies access to and occupation of PUD property for the purpose of removing noxious weeds.
- C. The PUD will report locations of noxious weeds to Weed Control staff when found.

5. **Contact Persons.** The parties stipulate that the following persons shall be the contact person for their respective jurisdiction.

- A. PUD:
Kevin Streett
PUD General Manager
193 Otto St
Port Townsend, WA 98368
(360) 302-1700

kstreett@jeffpud.org

B. County:

Sophie DeGroot
County Noxious Weed Board Coordinator
121 Oak Bay Road
Port Hadlock, WA 98339
(360) 316-9332
sdegroot@co.jefferson.wa.us

6. **Modification.** Either party may request changes to the provisions contained in this Agreement. Such changes shall be mutually agreed upon and incorporated by written amendment to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties hereto.

7. **Termination of Agreement.** Either party may terminate this Agreement by giving at least thirty (30) days written notice to the other, to the contact person identified in the Agreement. The written notice shall specify the effective date of the termination, which shall be at least thirty (30) days thereafter.

8. **Records Retention and Audit.** During the term of this Agreement and for a period not less than six (6) years from the date of final payment by the PUD, the records and accounts pertaining to Agreement and accounting therefore are to be kept available for inspection and audit by the County and the state and copies of all records, accounts, documents, or other data pertaining to this Agreement will be furnished upon request. All other records will follow state records retention schedules for election records. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

9. **Filing of Agreement.** Executed copies of this Agreement shall be filed as required by RCW 39.34.040.

10. **Mutual Indemnity.** For its comparative liability, each Party agrees to indemnify, defend and hold the other Party, its officers, officials, employees, agents and volunteers (and their marital communities), harmless from and against any 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 are alleged or proven to be caused by an act or omission, negligent or otherwise, of its officers, officials, employees, agents or volunteers (and their marital communities). A Party shall not be required to indemnify, defend, or hold the other Party or its officers, officials, employees, agents and volunteers (and their marital communities) harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party or its officers, officials, employees, agents or volunteers. If any concurrent act

occurs or omission of the Parties and their officers, officials, employees, agents and volunteers, negligent or otherwise, these indemnity provisions shall be valid and enforceable only for the comparative liability of each Party and its officers, officials, employees, agents or volunteers. The Parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages are adjudicated. If any claim is resolved by voluntary settlement and the Parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration. The indemnification obligations of the Parties shall not be limited by the Washington State Industrial Insurance Act, Title 51 RCW, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act. Each Party expressly waives any immunity afforded by such acts to the extent required by a Party's obligations to indemnify, defend and hold harmless the other Party, its officers, officials, employees, agents and volunteers (and their marital communities). A Party's waiver of immunity does not extend to claims made by its own employees directly against that Party as employer. The indemnity provisions of this section are a material inducement to enter into this Agreement and have been mutually negotiated. This section shall survive the expiration or termination of this Agreement.

11. **County as Independent Contractor.** The County is an independent contractor for the purposes of the services provided to the PUD under this Agreement.

- A. The County is not as an agent, an employee or a servant of the PUD.
- B. The County specifically has the right to direct and control County's own activities and over all of its subcontractors, employees, agents and representatives in providing the agreed services in accordance with the specifications set out in this Agreement.
- C. The County or its subcontractors shall perform the contracted work.
- D. The County acknowledges that the entire compensation for this Agreement is in the compensation provisions of this Agreement and County employees, subcontractors, or agents are not entitled to any PUD benefits, including, but not limited to: retirement, vacation pay; holiday pay; sick leave pay; medical, dental or other insurance benefits; fringe benefits; or any other rights or privileges afforded to PUD employees.
- E. The County agrees to file all necessary governmental documents, including tax returns, reflecting income status as an independent contractor for services rendered to the PUD under this Agreement.
- F. Should any governmental agency audit the files and request information on either the County or the PUD, the County and the PUD agree to furnish immediately the requesting party with any records, including tax returns, relating to the services rendered under this Agreement.
- G. No subcontractor, employee, agent or representative of the County will be or be deemed to be, or act or purport to act, as an employee, agent or representative of the PUD.

11. **Compliance with Laws.** Each Party accepts responsibility for compliance with federal, state, or local laws.

12. **Survival.** Those provisions of this Agreement that by their sense and purpose should survive the term of this Agreement shall survive the term of this Agreement. Without limiting the generality of the preceding sentence, and for the avoidance of doubt, the provisions that survive the term of this agreement include: (a) controlling law; (b) records retention; and, (c) indemnification.

13. **Severability.** Any provision of this Agreement held to be prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability, without invalidating the remaining provisions or affecting the validity or enforcement of such provisions.

14. **Right of Entry.** County staff may enter upon PUD property to conduct weed control activity. County staff shall record when and where work was performed and shall make these records available to the PUD.

15. **General Provisions.**

- A. No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
- B. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement.
- C. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.
- D. This Agreement shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns.
- E. The Parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement is to benefit any person or entity who is not a Party.
- F. This Agreement may be amended or supplemented only by a writing signed by duly authorized representatives of all the Parties.
- G. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the Parties shall not affect the validity of this Agreement, so long as all the Parties execute a counterpart of this Agreement.
- H. The Parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.

- I. Any provision of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses.
- J. It is understood and agreed this Agreement is entered into in the State of Washington. This Agreement shall be governed by and construed under the laws of the United States, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents. No Party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Agreement.
- K. The venue for any legal action shall be solely in the appropriate state court in Jefferson County, Washington, subject to the venue provisions for actions against counties in RCW 36.01.050.
- L. Each Party shall be responsible for its own compliance with the Washington Public Records Act, Chapter 42.56 RCW (as may be amended). This Agreement, once executed, will be a "public record" subject to production to a third Party if it is requested under the Chapter 42.56 RCW.
- M. No Party may sell, transfer or assign any rights or benefits under this Agreement without the written approval of all the Parties.

(Signatures Follow on Next Page)

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed, such parties acting by their representatives being thereunto duly authorized.

PUBLIC UTILITY DISTRICT #1 OF JEFFERSON COUNTY

Kevin Streett, PUD General Manager

Date

JEFFERSON COUNTY WASHINGTON

Board of County Commissioners
Jefferson County, Washington

BY: _____
Kate Dean, Chair Date

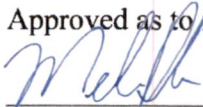
BY: _____
Greg Brotherton, Commissioner Date

BY: _____
Heidi Eisenhour, Commissioner Date

SEAL:

ATTEST: _____
Carolyn Gallaway, CMC Date
Clerk of the Board

Approved as to form only:

 for 11/21/2024
Philip C. Hunsucker Date
Chief Civil Deputy Prosecuting Attorney