

**AGREEMENT FOR WEED CONTROL ON LAND OWNED BY  
OR UNDER THE CONTROL OF PACIFIC COUNTY**

**THIS AGREEMENT** ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 (the "Commencement Date"), by and between PACIFIC COUNTY DEPARTMENT OF VEGETATION MANAGEMENT (the "COUNTY") and COASTAL AG LLC (the "CONTRACTOR") for the control and eradication of noxious weeds on public and private lands.

WHEREAS, this Agreement is in the public interest as the presence of invasive weeds threatens wildlife habitat and provides a source for renewed infestation of other private and public lands. Effective eradication of noxious weeds requires concerted effort on both public and private lands to protect our natural resources; and

WHEREAS, the CONTRACTOR and its agents desire to perform activities to eradicate and/or control noxious weeds or other weeds as requested by Pacific County, WA. These activities are authorized and carried out under one or more of the following chapters: 17.04 RCW, 17.06 RCW, 17.10 RCW, and 17.24 RCW; and

WHEREAS, the COUNTY is interested in and benefits from the eradication and/or control of the weeds; and

WHEREAS, the COUNTY and the CONTRACTOR desire to memorialize an agreement for the purpose of weed eradication/management on COUNTY-owned properties.

**IT IS HEREBY AGREED AS FOLLOWS:**

1. **Scope of Work and Location.** CONTRACTOR will perform the work necessary to eradicate and/or control noxious weeds or other weeds as requested by the COUNTY. This work shall be performed as needed at sites to be designated by the COUNTY during the term of this Agreement. The treated sites will be monitored for efficacy of the application and retreatment as necessary to achieve the goals of the COUNTY.
2. **Term.** This Agreement shall be effective from the Commencement Date until December 31, 2022, or until this Agreement is terminated by the COUNTY, whichever occurs first. This Agreement shall be terminable at will by the COUNTY upon written notice to the CONTRACTOR.
3. **Payment Terms.** All work performed by CONTRACTOR in accordance with this Agreement will be billed at \$100/hour plus cost of pesticides and products (surfactants) used in the application (unless provided by COUNTY). Invoices, with all supporting documentation (including cost of pesticides and products), will be submitted at two-week intervals for any work performed. CONTRACTOR has the right to submit invoices less frequently when the amount of work is under five (5) hours in a two-week period.
4. **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 CONTRACTOR are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the CONTRACTOR agrees to make them promptly available to the COUNTY. If the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR (a) of the request and (b) of the date that such information will be released to the requester unless the CONTRACTOR obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the CONTRACTOR 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 CONTRACTOR to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the CONTRACTOR for releasing records not clearly identified by the CONTRACTOR as confidential or proprietary. The COUNTY shall not be liable to the CONTRACTOR for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

CONTRACTOR agrees to indemnify and, to the greatest extent legally possible, to hold harmless the COUNTY in any action by a third party due to the negligence, recklessness or intentional actions by the CONTRACTOR relating to its performance of this Agreement. This includes any lawsuit filed by a third party for the COUNTY's allegedly improper release of confidential or proprietary information pursuant to a public records request.

5. **Indemnification/Hold Harmless.**

- A. **Indemnification by Contractor.** To the fullest extent permitted by law, the CONTRACTOR 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 CONTRACTOR, its employees, agents or volunteers or CONTRACTOR'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 Agreement; or 3) are based upon the CONTRACTOR'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the CONTRACTOR 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 CONTRACTOR shall not be limited in any way by the Washington State Industrial Insurance Act RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the CONTRACTOR hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the CONTRACTOR are a material inducement to COUNTY to enter into the Agreement, are reflected in the CONTRACTOR'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 CONTRACTOR's indemnity obligations under the Agreement.
- C. **Survival of Contractor's Indemnity Obligations.** The CONTRACTOR agrees all CONTRACTORS's indemnity obligations shall survive the completion, expiration or termination of this Contract.

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

- A. **General Liability Insurance.** CONTRACTOR shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, 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.** CONTRACTOR shall maintain professional liability insurance that covers the services to be performed in connection with this Agreement, 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 Agreement and CONTRACTOR agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.
- C. **Workers' Compensation Insurance.** CONTRACTOR shall, at its own expense, maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

CONTRACTOR shall submit to COUNTY, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of COUNTY, its officers, agents, employees and volunteers.

- D. **Waiver of Subrogation.** All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow CONTRACTOR or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONTRACTOR 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.** CONTRACTOR 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 Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.
- F. **Additional Insured.** CONTRACTOR must name the COUNTY as an additional insured for the policies described in Paragraph 6 herein. The CONTRACTOR agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that CONTRACTOR's liability insurance policy shall so state.
- G. **Strict Compliance.** Payments due to the CONTRACTOR under this Agreement are expressly conditioned upon the CONTRACTOR's strict compliance with all insurance requirements under this Agreement. Payment to the CONTRACTOR shall be suspended in the event of non-compliance. Upon receipt of evidence of full compliance, payments not otherwise subject to withholding or set-off will be released to the CONTRACTOR.

7. **Compliance with Laws.** CONTRACTOR shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting or relating to the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination, and licensing laws and regulations.

8. **Independent Contractor.** The parties agree that CONTRACTOR is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither CONTRACTOR nor any employee, subcontractor, supplier or agent of CONTRACTOR shall be entitled to any benefits accorded COUNTY employees by virtue of the services provided under this Agreement. COUNTY shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, or otherwise assuming the duties of an employer with respect to CONTRACTOR or any employee of CONTRACTOR.

9. **Dispute Resolution.**

A. **Attorney Fees.** If either party files suit to enforce this Agreement, the parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit.

B. **Disputes.** Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Agreement, 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 CONTRACTOR shall be decided by the COUNTY'S Agreement representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Agreement representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to the paragraph below titled "**Choice of Law, Jurisdiction and Venue.**"

**Choice of Law, Jurisdiction and Venue.** This Agreement has been and shall be construed as having been made and delivered within Pacific County, Washington and it is agreed by each party hereto that this Agreement 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 Agreement shall be instituted and maintained only in the courts of competent jurisdiction in Pacific County, Washington.

10. **Notices.** All notices required or permitted under this Contract shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, certified mail, return receipt requested, addressed as follows:

**To the COUNTY:**

Pacific County Department of Vegetation Management  
P.O. Box 68  
South Bend, WA 98586

**To the CONTRACTOR:**

Coastal Ag LLC  
12507 Y Place  
Long Beach, WA 98631

11. **Severability.** If a court of competent jurisdiction holds any part, term or provision of this Agreement 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 Agreement did not contain the particular provision held to be invalid. If any provision of this Agreement 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 Agreement so that the original intent and purpose of the Agreement no longer exists, the COUNTY may, in its sole discretion, terminate this Agreement.

12. **Assignment.** This Agreement cannot be assigned, transferred, or any portion subcontracted hereunder without the COUNTY's prior written permission. If the COUNTY consents to the assignment or delegation of all or any part of CONTRACTOR's obligations under this Agreement, CONTRACTOR will remain liable for performance by the permitted assignees or delegates according to the terms and conditions of this Agreement.
13. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same Agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or other electronic means shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.
14. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the COUNTY and the CONTRACTOR and supersedes all prior negotiations, representations, or agreements written or oral. This Agreement may be amended only in writing signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the date first set forth above.

COASTAL AG LLC

BOARD OF COUNTY COMMISSIONERS  
PACIFIC COUNTY, WASHINGTON

\_\_\_\_\_  
Chase Metzger, Owner/Operator

\_\_\_\_\_  
Lisa Olsen, Chair

APPROVED AS TO FORM

\_\_\_\_\_  
Frank Wolfe, Commissioner

\_\_\_\_\_  
Prosecutor's Office

\_\_\_\_\_  
WSBA #

\_\_\_\_\_  
Mike Runyon, Commissioner

ATTEST

\_\_\_\_\_  
Amanda Bennett  
Clerk of the Board

\_\_\_\_\_  
Date