INTERLOCAL COOPERATION AGREEMENT
SOLID WASTE BRUSH BANDIT

THIS AGREEMENT is made and entered into this 12th day of March 2013, by and between the City of Prosser whose address is 601 7th Street, Prosser, Washington 99353 (hereinafter "the City") and Benton County, whose address is P.O. Box 110, Prosser, Washington, 99350 (hereinafter "Benton County").

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 RCW provides for interlocal cooperation between government agencies; and

WHEREAS, Benton County Solid Waste is the owner of a Brush Bandit, purchased through a Coordinated Prevention Grant, and

WHREAS, the City of Prosser has requested the use of said Brush Bandit to conduct necessary maintenance on City owned property.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. **Purpose:** The purpose of this agreement is to establish mutual aid to the City of Prosser by enabling the City to utilize equipment owned by the Benton County Solid Waste Department so that the City can perform maintenance on City owned property.

2. **Responsibilities of Benton County:**

   A. Benton County shall be responsible for all maintenance of the Brush Bandit while it is in the County's possession or control, and shall store the Brush Bandit at a Benton County Maintenance Facility.

3. **Responsibilities of the City of Prosser:** The City shall have the following duties and responsibilities under this Agreement:

A. The City shall inspect the Brush Bandit upon arrival to ensure the Brush Bandit is in a working and safe condition, and that the fuel tank is full. The City shall be responsible for all maintenance of the Brush Bandit while it is in the City's possession or control.

B. The City shall arrange for the pickup and transport of the Brush Bandit to and from the Benton County Maintenance Facility. If the City requests delivery to or pickup from their site, they shall pay directly to Benton County all amounts set forth in certified statements of Benton County's labor expenses involved in delivering and/or picking up the Brush Bandit within thirty (30) days of receipt of a certified statement of these documents. The City shall make arrangements for the use of the chipper a minimum of three (3) working days before the date required; or a minimum of five (5) working days if transport by the County will be requested.

C. The City shall notify the County within twenty-four (24) hours of final use of the Brush Bandit, that the Brush Bandit is ready to be returned to the County.

D. The City shall be responsible for the cost of repairs for any damage done to the Brush Bandit during the time the Brush Bandit is under the control of the City. Under the control of the City is defined as from the time the Brush Bandit is picked up by the City or delivered to the City by the County to the time it is picked up by the County or returned by the City to the County's maintenance facility.

E. The Brush Bandit shall be returned to the County completely refueled.

4. **Representation, Warranties, and Indemnities:**

A. The City represents and warrants to Benton County that it has authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2).

B. Benton County represents and warrants to the City that it has the authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2).

C. The City shall defend, indemnify, and hold harmless the County from and against all claims resulting from or arising out of the performance of this Agreement, whether such claims arise from the acts, errors, or omissions of the City, subcontractors, third parties or Benton County, or anyone directly or indirectly employed by any one of them, or anyone for whose acts, errors, or omissions any of them may be liable; provided, however, that the City's duty does not extend to claims to the extent they arise from the intentional misconduct of Benton County or its elected officials, officers, or employees; and provided, however, that the

City's duty only extends to claims to the extent that they arise from acts occurring while the Brush Bandit is under the control of the City as defined in paragraph 3(D) of this agreement. The City waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington solely for the purposes of this provision and acknowledges it was mutually negotiated. This provision shall survive the termination of this agreement.

5. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2017.

6. **Termination of Agreement.** Either party may terminate this Agreement for any reason, by providing written notice to the designated contacts for each party identified in Section 15 of this Agreement. This written notice must be served on the other party within thirty days (30) of the date of termination.

7. **Renewal of Contract.** Upon agreement by each party, this contract may be renewed upon the same terms and conditions, for additional five-year contract periods for a maximum of ten additional years.

8. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement, which shall prove to be invalid, void, or illegal, shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.

9. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.

10. **Assignability.** The rights, duties, and other obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

11. **Interlocal Cooperation Act.** No special budget or funds are anticipated, nor shall be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquisition, holding, or disposing of real or personal property other than as specifically provided within the terms of this Agreement anticipated. The Benton County Solid Waste Specialist shall be designated as the Administrator of this Interlocal Agreement.

12. **Entire Agreement.** This Agreement and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the

Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto.

13. **Dispute Resolution.** It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation.

14. **Litigation.** In the event that any suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.

15. **Notices.** All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

To Benton County:	Donna Holmes, Solid Waste Specialist Benton County Solid Waste P.O. Box 110 Prosser, WA 99350-0110
To City of Prosser:	Public Works Director City of Prosser 601 7th Street Prosser, WA 99350

16. **Filing of Agreement.** Executed copies of this agreement shall be filed as required by Section 39.34.040 of the Revised Code of Washington prior to this agreement becoming effective.

17. **Evidence of Authority.** Upon execution of this Agreement, the City shall provide Benton County and Benton County shall provide the City with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "A"** (City) and **Exhibit "B"** (County).

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF PROSSER
WASHINGTON

By: _____
Mayor

Attest:

_____
City Clerk

Date: 3/13/2013

Approved as to form:

_____
Attorney, City of Prosser

Date:_____

BENTON COUNTY,
WASHINGTON

By: _____
Chairman, Board of County Commissioners

Attest:

_____
Clerk of the Board

Date: 3/26/13

Approved as to form:

_____
Deputy Prosecuting Attorney

Date: _____

CITY OF PROSSER, WASHINGTON
RESOLUTION NO. 13-1419

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PROSSER APPROVING INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF PROSSER AND BENTON COUNTY REGARDING THE SOLID WASTE BRUSH BANDIT.

WHEREAS, the City of Prosser must conduct regular maintenance on City owned property to control, remove, reduce, and dispose of excessive vegetative growth; and

WHEREAS, the City of Prosser does not have the necessary equipment to perform this type of maintenance operation for vegetative waste reduction; and

WHEREAS, Benton County Solid Waste does have the necessary equipment available and is the owner of a Brush Bandit; and

WHEREAS, the City has requested the use of the Brush Bandit to conduct the maintenance ooperation, and

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 RCW provides for interlocal cooperation between government agencies; and

WHEREAS, an Interlocal Agreement defining the responsibilities of the County and the City has been prepared and Approved as to Form by the Prosecuting Attorney's Office and Approved as to Form by the City of Prosser Attorney; and

WHEREAS, the Public Works Director has recommended approval of said Interlocal Agreement; and

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Prosser that it is the intent of the City Council that the Interlocal Agreement by and between the City of Prosser and Benton County for the City's use of the Benton County Solid Waste Brush Bandit is hereby approved and the Mayor is authorized to sign said agreement.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 12th day of March, 2013.

Paul Warden

MAYOR PAUL WARDEN

ATTEST:

RACHEL SHAW, CITY CLERK

CITY OF PROSSER
SEAL
STATE OF WASHINGTON

APPROVED AS TO FORM:

HOWARD SAXTON, CITY ATTORNEY