

RESOLUTION NO. 2017-42

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE INTERLOCAL COOPERATIVE AGREEMENT WITH BENTON COUNTY FOR GENERAL EQUIPMENT AND/OR SERVICES

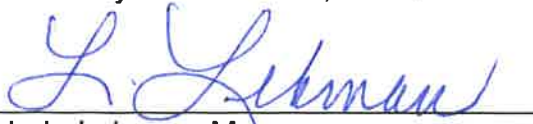
WHEREAS, the City of Benton City has found that there is a benefit to the City in entering into an Interlocal Cooperative Agreement with the Benton County Road Department for the sharing of general equipment and/or services between the parties. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the Interlocal Cooperative Agreement Between the City of Benton City and Benton County for General Equipment and/or Services Through the Road Department, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and to take all necessary steps required to complete this transaction.

ADOPTED this 19 day of December, 2017, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 19 day of December, 2017.

Resolution 2017- 42 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 19 day of December, 2017.



Linda Lehman, Mayor

Attest:



Stephanie Haug, MMC
City Clerk/Treasurer

Approved as to Form:



Kerr Law Group
City Attorney

FILED FOR RECORD AT REQUEST OF:

City of Benton City, Washington

WHEN RECORDED RETURN TO:

City of Benton City
PO Box 70
Benton City WA 99320

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN CITY OF BENTON CITY AND BENTON COUNTY
FOR GENERAL EQUIPMENT AND/OR SERVICES
THROUGH ROAD DEPARTMENT**

This agreement is made and entered into by and between City of Benton City (Hereinafter "Benton City") and Benton County (Hereinafter "Benton"), pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

**ARTICLE I
PURPOSE**

- 1.01 **PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions under which Benton, through its Road Department, and Benton City will temporarily provide equipment and/or services to the other party. Neither Benton nor Benton City are required under this Agreement to provide equipment or services to the other party in the event that the party from whom the equipment or services are sought does not have the equipment or services available, or determines, in its sole discretion, that providing the requested equipment or services would not be in its best interest. No new or separate legal or administrative entity is created by this Agreement.

**ARTICLE II
ADMINISTRATION**

- 2.01 **ADMINISTRATOR.** The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In

the event such representatives are changed, the party making the change shall notify the other party.

- 2.02 Benton City's representative shall be the Mayor of Benton City.
- 2.03 Benton's representative shall be the County Engineer.
- 2.04 Requests for rental of equipment or performance of work shall be submitted by the requesting agency to the agency providing the equipment or work in writing. Written requests shall be submitted prior to rental of equipment or performance of work. In the event that circumstances do not permit a written request to be submitted, the representative for the agency providing equipment or work may waive this requirement, providing that a written request, along with an explanation of the circumstances for the waiver, be provided as soon as is practical.

**ARTICLE III
DURATION AND RENEWAL OF AGREEMENT**

- 3.01 **DURATION AND RENEWAL.** This Agreement shall be effective when executed by both parties and shall continue through December 31, 2020. The obligation to provide compensation for the use of equipment or service provided during the term of this Agreement shall survive this Agreement's termination or expiration.

**ARTICLE IV
COMPENSATION**

- 4.01 **COMPENSATION.** Both parties hereby agree to reimburse the other for the costs of the work performed or equipment rented, as requested by one agency herein to the other agency herein and shall be based on the actual cost of labor, equipment, plus all costs for fringe benefits to labor, including but not limited to, Social Security, retirement, industrial and medical aid costs, prorated sick leave, holidays and vacation time, and group medical insurance. Also, an additional five percent (5%) of the total costs shall be added for overhead expenses for accounting, billing, and administrative services, after a certified statement of the costs is provided within thirty (30) days of the service or equipment rental. The amount shall be paid within thirty (30) days after billing.

**ARTICLE V
PERFORMANCE OF AGREEMENT**

- 5.01 **COMPLIANCE WITH ALL LAWS.** Each party shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the performance of this

Agreement, including without limitation, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.

- 5.02 **MAINTENANCE AND AUDIT OF RECORDS.** Each party shall maintain books, records, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by either party or its designee, and the Washington State Auditor's Office. Each party shall retain all such books, records documents, and other material for the applicable retention period under federal and Washington law.
- 5.03 **ON-SITE INSPECTIONS.** Either party or its designee may evaluate the performance of this Agreement through on-site inspection to determine whether performance is in compliance with the standards set forth in this Agreement and in compliance with federal, state, and local laws, rules, regulations, and ordinances.
- 5.04 **TREATMENT OF ASSETS AND PROPERTY.** No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- 5.05 **IMPROPER INFLUENCE.** Each party agrees, warrants, and represents that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.
- 5.06 **CONFLICT OF INTEREST.** The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.
- 5.07 **ASSIGNMENT AND SUBCONTRACTING.** No portion of this Agreement may be assigned or subcontracted to any other individual, firm, or entity without the express and prior written approval of both parties authorized representatives.
- 5.08 **NOTICE.** Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to Benton shall be to the County Engineer, P.O. Box 1001, Prosser, Washington 99350; and to the Benton County Commissioners, P.O. Box 190, Prosser, Washington 99350. Notice to Benton City for all purposes under this Agreement shall be to the Mayor of the City of Benton City, P.O. Box 70, Benton City, Washington 99320, and the Benton City City Council, P.O. Box 70, Benton City, Washington 99320.

**ARTICLE VI
INDEMNIFICATION**

6.01 **INDEMNIFICATION.** Benton shall indemnify Benton City, its officers, agents, and employees, from and against any claim, action, judgment, damages, losses and expenses, arising from Benton City providing equipment or services under this Agreement; provided, to the extent the claim, action, judgment, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of Benton City, its officers, agents, or employees, Benton's indemnification obligation hereunder shall be limited to its proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

Benton City shall indemnify Benton, its officers, agents, and employees, from and against any claim, action, judgment, damages, losses and expenses, arising from Benton providing equipment or services under this Agreement; provided, to the extent the claim, action, judgment, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of Benton, its officers, agents, or employees, Benton City's indemnification obligation hereunder shall be limited to its proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

**ARTICLE VII
DISPUTES**

7.01 **DISPUTE RESOLUTION; GOVERNING LAW; VENUE.** In the event of a dispute regarding the enforcement, breach or interpretation of this Agreement, the parties shall first meet in a good faith effort to resolve such dispute. In the event the dispute cannot be resolved by agreement of the parties, said dispute shall be resolved by arbitration pursuant to RCW 7.04A, as amended, with all parties waiving the right of a jury trial upon de novo review. Venue shall be placed in Benton County, Washington, the laws of the State of Washington shall apply, and each party shall pay its own attorney fees and related costs. Arbitration costs incurred mutually, including but not limited to the cost of an arbitrator, shall be equally shared between the parties.

**ARTICLE VIII
TERMINATION**

8.01 **TERMINATION.** Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable

only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

ARTICLE IX GENERAL PROVISIONS

- 9.01 **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.** The Agreement may be changed, modified, amended or waived only by written agreement signed by the parties' authorized representatives and adopted by resolution of each party's legislative authority. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- 9.02 **ASSIGNMENT.** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further subcontract or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.
- 9.03 **SEVERABILITY.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or application of this Agreement which can be given effect without the invalid term, condition or application. To this end the terms and conditions of this Agreement are declared severable.
- 9.04 **ENTIRE AGREEMENT.** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. 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.
- 9.05 **INTERLOCAL COOPERATION ACT PROVISIONS.** All vehicles, equipment, inventory and any improvement thereon or fixtures purchased by Benton City, shall remain the sole property of Benton City. All vehicles, equipment, inventory and any improvements thereto and non-fixture improvements to the premises purchased by Benton, shall remain the sole property of Benton. All Benton City personnel utilized in the fulfillment of this Agreement shall be solely within the supervision, direction and control of Benton City and shall not be construed as "loan servants" or employees of Benton. The Mayor of the City of Benton City, Washington, shall be designated as the Administrator of this Interlocal Agreement.

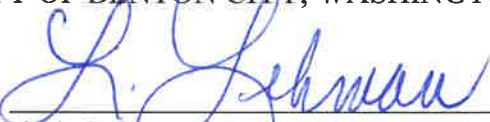
No independent special budget or funds are anticipated, nor shall be created without the prior written agreement of the parties. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquiring, holding, or disposing of real or personal property other than as specifically provided within the terms of this Agreement.

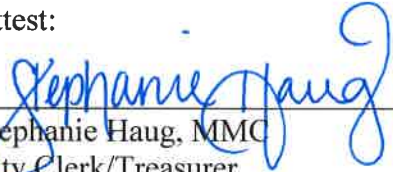
A copy of this Agreement shall be filed with the Benton County Auditor's office or posted on Benton City's or Benton's website as required by RCW 39.34.040..

9.06 EVIDENCE OF AUTHORITY. Upon execution of this Agreement, Benton City shall provide Benton and Benton shall provide Benton City with a certified copy of the resolution, ordinance, or other authority to execute this Agreement pursuant to RCW 39.34.030(2), and said documents shall be attached hereto and incorporated herein as Exhibit A (Benton City) and Exhibit B (Benton).


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 BENTON CITY, WASHINGTON

By: 
Linda Lehman, Mayor

Attest:

Stephanie Haug, MMC
City Clerk/Treasurer

Date: 12/19/17

Approved as to form:

Attorney Leland B. Kerr

Date: 12/19/17

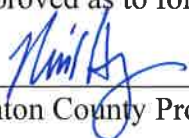
BENTON COUNTY, WASHINGTON

By: 
Chairman
Board of County Commissioners

Attest:

Clerk of the Board

Date: 1-30-2018

Approved as to form:

Benton County Prosecuting Attorney

Date: 1/16/18

RESOLUTION NO. 2017-42

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE INTERLOCAL COOPERATIVE AGREEMENT WITH BENTON COUNTY FOR GENERAL EQUIPMENT AND/OR SERVICES


WHEREAS, the City of Benton City has found that there is a benefit to the City in entering into an Interlocal Cooperative Agreement with the Benton County Road Department for the sharing of general equipment and/or services between the parties. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

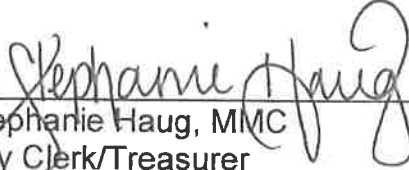
That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the Interlocal Cooperative Agreement Between the City of Benton City and Benton County for General Equipment and/or Services Through the Road Department, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and to take all necessary steps required to complete this transaction.

ADOPTED this 19 day of December, 2017, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 19 day of December, 2017.

Resolution 2017- 42 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 19 day of December, 2017.


Linda Lehman, Mayor

Attest:


Stephanie Haug, MMC
City Clerk/Treasurer

Approved as to Form:



Kerr Law Group
City Attorney

EXHIBIT B

RESOLUTION

2018 055

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY WASHINGTON:

IN THE MATTER OF APPROVING AN INTERLOCAL AGENCY AGREEMENT BETWEEN THE CITY OF BENTON CITY AND BENTON COUNTY

WHEREAS, Chapters 36.01 and 36.32 RCW allows the Board to enter into agreements on behalf of Benton County; and

WHEREAS, Chapter 39.34 RCW allows public agencies in Washington State to enter into interlocal agency agreements (ILAs) for the joint use of services, personnel, materials, and equipment; and

WHEREAS, the City of Benton City ("Benton City") has expressed interest in entering into an ILA with Benton County for the use of services and equipment; and

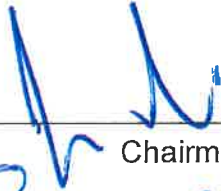
WHEREAS, a draft ILA, reviewed and approved to form by the Benton County Prosecuting Attorney's Office, was signed by the City Council of Benton City on December 19, 2017; and

WHEREAS, the Public Works Administrator recommends that the Board approve of and sign the proposed ILA with Benton City, finding such to be beneficial to Benton County; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners concurs with the recommendation of the Public Works Administrator and hereby approves of the proposed ILA with Benton City; and

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby authorizes the Chairman to sign said ILA with Benton City on behalf of Benton County.

Dated this 30th day of January, 2018.



Chairman of the Board



Chairman Pro-Tem



Member

Attest: 

Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington