

RESOLUTION NO. 2019-09

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE INTERLOCAL COOPERATIVE AGREEMENT BETWEEN BENTON CITY AND BENTON COUNTY FOR CONTRACT ADMINISTRATION OF SEAL COAT ON SELECT ROADS THROUGH THE PUBLIC WORKS DEPARTMENT

WHEREAS, Chapter 39.34 RCW authorizes two or more public entities to contract with each other to perform functions that each may individually perform; and

WHEREAS, the City of Benton City has identified its need for the seal coating of certain City streets within its City limits; and

WHEREAS, Benton County has the capabilities to act as Contract Administrator to execute, for the convenience and benefit of the City, a contract for the seal coating of certain City streets, in conjunction with Benton County's 2019 Bituminous Surface Treatment Program; and

WHEREAS, the City of Benton City and Benton County have negotiated and agree to enter into an Interlocal Cooperative Agreement for the execution and administration of a contract for the seal coating of certain City streets; 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 Contract Administration of Seal Coat on Select Roads Through the Public Works 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.

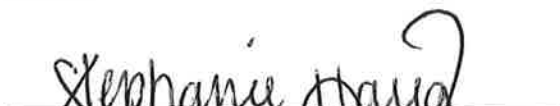
ADOPTED this 16 day of April 2019, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 16 day of April 2019.


Resolution 2019-09 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 16 day of April 2019.


Linda Lehman, Mayor

Attest:

Approved as to Form:


Stephanie Haug, MMC
City Clerk/Treasurer


Kerr Ferguson Law, PLLC
City Attorney

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN CITY OF BENTON CITY AND BENTON COUNTY
FOR CONTRACT ADMINISTRATION OF SEAL COAT ON SELECT ROADS
THROUGH THE PUBLIC WORKS DEPARTMENT**

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Benton City, whose address is P.O. Box 70, Benton City, Washington, 99320 (hereinafter "the City") and Benton County, whose address is P. O. Box 1001, Prosser, Washington, 99350 (hereinafter "Benton County").

WHEREAS, in the interest of public safety and motor vehicle traffic safety, the City desires to have Benton County seal coat certain city streets as defined in **Exhibit "A"**, in conjunction with Benton County's 2019 Bituminous Surface Treatment Program; and

WHEREAS, the parties hereto agree that Benton County should act as the Contract Administrator pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 through RCW 35.21.740 and in furtherance thereof, Benton County will execute the contract for the convenience and benefit of the City.

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

1. Contract Administration. Benton County agrees to administer and oversee implementation of the bituminous surface treatment of certain city streets as defined in **Exhibit "A"**, attached hereto and by this reference incorporated herein. Benton County contract administration responsibilities will include the following:

- A. The preparation of plans, specifications, estimates, and bid solicitation documents.
- B. The selection of a contract in accordance with all federal, state, and local laws and bidding requirements.
- C. The execution of the Bituminous Surface Treatment 2019 contract and administration oversight of contract implementation.
- D. The submission to the City of a certified statement setting forth all of Benton County's labor, engineering services, equipment, supplies and expenses involved in project design and contract administration.
- E. Certify all payrolls to ensure that the amounts are appropriate for the local area and in compliance with all federal, state and local laws.

F. Ensure that the contractor complies with all provisions of the seal coat contract and that all work is performed in accordance with Washington State Department of Transportation and Federal Highway Administration rules, regulations, and standards.

2. Responsibilities of the City of Benton City: The City shall have the following duties and responsibilities under this Agreement:

- A. Approve specifications, plans, estimates, bid documents, and contract provisions for work on City Streets.
- B. Pay directly to Benton County all amounts set forth in certified statements of Benton County's labor, engineering services, equipment, supplies, and expenses involved in project design and contract administration allocated to the specific project described herein within thirty (30) days of receipt of a certified statement of these documents.
- C. City shall have all streets, listed in **Exhibit "A"**, prepared prior to the bituminous surface treatment operations. This work shall be completed by **July 12, 2019**.
- D. City shall locate and cover all monuments, manholes, water/sewer valves, and irrigation valves during the bituminous surface treatment operations for the roads listed in **Exhibit "A"**.

3. 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). The City agrees to assume and accept Benton County's contract obligations arising out of the City's portion of the Bituminous Surface Treatment 2017 contract to be executed between Benton County and the contractor, notwithstanding the fact that Benton County will actually sign said contract for the convenience and benefit of the City. The City shall not at any time allow Benton County to become responsible for actual payment of any amounts due to the contractor under the City's portion of the Bituminous Surface Treatment 2019 contract regardless of whether any dispute may arise with said contractor.
- 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). Benton County shall not at any time allow the City to become responsible for actual payment of any amounts due to the contractor under Benton County's portion of the Bituminous Surface Treatment 2019 contract regardless of whether any dispute may arise with said contractor.
- C. Each party shall defend, protect, and hold harmless the other party: from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of that party's employees and agents while performing this Agreement. In case of joint

negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party.

4. Duration of Agreement. The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2019.

5. Termination of Agreement. This Agreement may be terminated by either party at any time, by providing written notice to the designated contacts for each party identified in Section 13 of this Agreement. This written notice must be served on the other party thirty days (30) before the date of termination.

6. 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.

7. 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.

8. 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.

9. INTERLOCAL COOPERATION ACT PROVISIONS. All vehicles, equipment, inventory and any improvement thereon or fixtures purchased by the City, shall remain the sole property of the City. All vehicles, equipment, inventory and any improvements thereon or fixtures purchased by Benton County, shall remain the sole property of Benton County, except as specifically provided within the terms of this 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 the City's or Benton County's website as required by RCW 39.34.040.

10. Entire Agreement. This Agreement, including **Exhibit "A"** 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. This Agreement cannot be orally modified, and any proposed changes that are mutually agreed upon must be incorporated by written amendment hereto.

11. 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.

12. Litigation. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.

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

To Benton County:
Benton County Public Works Department
P.O. Box 1001
Prosser, WA 99350-0954

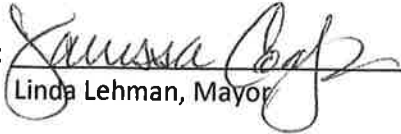
To City of Benton City:
City of Benton City
P.O. Box 70
Benton City, WA 99320

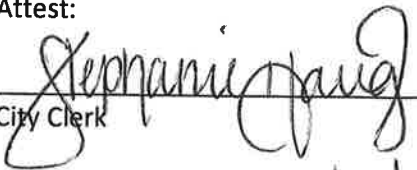
14. Filing of Agreement. Executed copies of this Agreement shall be filed as required by RCW 39.34.040 prior to this agreement becoming effective.

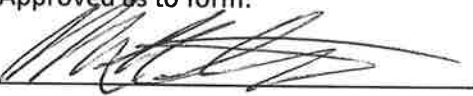
15. Evidence of Authority. Upon execution of this Agreement, the City shall provide Benton County and Benton County shall provide the City with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached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

This section intentionally left blank.

CITY OF BENTON CITY, WASHINGTON

By: 
Linda Lehman, Mayor

Attest:

City Clerk
Date: 4/16/19

Approved as to form:

Attorney
Date: 4/16/2019

BENTON COUNTY, WASHINGTON

By: _____
Chairman
Board of County Commissioners

Attest:

Clerk of the Board
Date: _____

Approved as to form:

Benton County Deputy Prosecuting Attorney
Date: _____

EXHIBIT "A"

Road Number	Road Name	BMP	EMP	Length	Type	Pickup Broom	Lane Width
Benton City	Jacobs Road	City limits	Fields Road	0.9	BST	-	14.00
Benton City	Jacobs Road, Kiona Road	Interchange	Benton Road	0.4	BST	-	12.00
Benton City	Highland Road	City limits	City limits	0.25	BST	-	12.00