

**INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
FRANKLIN COUNTY AND CITY OF CONNELL
FOR GENERAL SERVICES**

THIS AGREEMENT is made and entered into by and between Franklin County (Hereinafter "Franklin") with its principal offices located at 1016 North 4th Avenue, Pasco, Washington, 99301 by and for the Franklin County Public Works Department, and City of Connell, (Hereinafter "Connell") with its principal offices located at 104 East Adam Street, Connell, Washington, 99326 by and for the City of Connell Public Works Department pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

**ARTICLE I
AUTHORITY**

Chapter 39.34 RCW (short title: "Interlocal Cooperation Act") provides for any power or powers, privileges or authority exercised or capable of exercise by any agency, political subdivision, or unit of local government of this state to be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States.

**ARTICLE II
PURPOSE**

The purpose of this Agreement is to set forth the terms and conditions under which the City of Connell and Franklin County may provide services to the other party; services rendered shall be with the coordination of both governing parties' respective Public Works Departments.

**ARTICLE III
ADMINISTRATION AND ORGANIZATION**

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.

Franklin representative shall be the Public Works Director or his/her authorized designee. The County Administrator shall be the signing authority for Franklin for all task assignments pursuant to this Agreement.

Connell's representative shall be the Mayor or his/her authorized designee.

This Agreement is entered into pursuant to RCW 39.34 as an interlocal agreement between the parties. Each party shall be solely responsible for all costs, materials, supplies and services necessary for their performance under the terms of this Agreement. All property and materials secured by each party in the performance of this Agreement shall remain the sole property of that party. All funding incident to the fulfillment of this Interlocal Agreement, shall be borne by each party necessary for the fulfillment of their responsibilities under the terms of this Agreement. No special budgets or funds are anticipated, nor shall be created incident to this Interlocal

Cooperation Agreement. It is not the intention that a separate legal entity be established to conduct the cooperative undertakings, nor is the acquisition, holding, or disposing of any real or personal property anticipated under the terms of this Agreement.

A copy of this interlocal Agreement shall be filed with the Franklin County Auditor, or posted on the City or County's website as provided by RCW 39.34.

**ARTICLE IV
DURATION AND RENEWAL OF AGREEMENT**

This Agreement shall be effective when executed by both parties and shall continue unless terminated in writing by either party.

This Agreement shall provide for the use of labor, equipment, and materials of one agency to perform work for the other agency. The exact scope of each task shall be defined through individual written task orders approved by both agencies as supplement attached hereto and incorporated herein to this Agreement by reference.

**ARTICLE V
COMPENSATION TO THE COUNTY**

Connell hereby agrees to reimburse Franklin for the costs of the work performed or equipment rented, based on actual cost. Actual cost of equipment shall be as determined by the Franklin's Equipment Revolving and Rental Rate for each such item used. Labor shall be based on the actual cost of labor, plus all costs for fringe benefits, including, but not limited to, Social Security, retirement, industrial insurance (Labor and Industries), prorated sick leave, holidays and vacation times, and group medical insurance. In addition, indirect costs shall be added for overhead expenses for accounting, billing and administrative services at the county's indirect rate used to bill for administration. A certified statement of the costs shall be provided within thirty (30) days of service or equipment rental. The amount invoiced shall be paid to the Franklin County Public Works Department within thirty (30) days of billing.

Franklin hereby agrees to reimburse Connell for the costs of the work performed by Connell, based on the actual cost of labor; equipment rental; engineering; and/or materials used in the maintenance work involved; 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. In addition therein, ten (10%) of the total costs shall be added for overhead costs for accounting and billing and administrative services; provided, that Connell shall submit to Franklin a certified statement of the costs and within thirty (30) days thereafter Franklin shall pay to Connell the amount of said statement.

**ARTICLE VI
PERFORMANCE OF AGREEMENT**

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 limitations, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.

COMPLIANCE WITH STANDARDS AND SPECIFICATIONS. All work shall be completed per the standards and specifications of the party owning the respective property. If there is no local standard or specification for the work to be performed, the acting party shall comply with WSDOT standards and specifications. If there is no WSDOT standard or specification, the acting party may complete the work as it would to its own property.

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 materials for the applicable retention period under federal and Washington state law.

ON-SITE INSPECTIONS Either party or its designee may conduct on-site inspections to determine whether equipment is being used in a manner acceptable to the party loaning the equipment and with federal, state, and local laws, rules, regulations, and ordinances.

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.

IMPROPER INFLUENCE The parties acknowledge that RCW 42, the statute governing public employees' behavior, prohibits influencing the granting of contracts for personal gain.

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.

NOTICE Except as set forth elsewhere in this Agreement, except for service of process, notice to Franklin shall be to the County Engineer, Franklin County Public Works Department, Pasco, Washington 99301, and to the Franklin County Board of Commissioners, 1014 North Fourth Avenue, Pasco, Washington 99301. Notice to Connell for all purposes under this Agreement shall be to the Connell Director of Public Works, PO Box 1200, Connell, Washington 99336, and the Connell City Council, PO Box 1200, Connell, Washington 99326.

ARTICLE VII INDEMNIFICATION

Franklin agrees to and shall defend, indemnify, and hold harmless Connell, its appointed and elective officials, officers, agents, and employees, from and against all loss or expense, including, but not limited to judgments, settlements, attorney's fees, and costs by reason of any and all claims and demands upon the City, its elected or appointed officials, officers, agents, or employees for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons and on account of damage to property. Including loss of use thereof, when such injury to persons or damage to property is due to the negligence of Franklin, its elected officials, officers, employees, or their agents, except when such injury or damage shall have been occasioned by the sole negligence Connell, its appointed or elected officials, officers, agents, or employees. IT is further provided that no liability shall attach to the City by reason of entering into this Agreement, except as expressly provided herein.

Connell agrees to and shall defend, indemnify, and hold harmless Franklin, its appointed and elective officers, agents, and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon Franklin, its elected or appointed officials, agents, or employees for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons and on account of damage to the property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of Connell, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of Franklin, its appointed or elected officials, agents, or employees. It is further provided that no liability shall attach to Franklin by reason of entering into this contract, except as expressly provided herein.

**ARTICLE VIII
DISPUTES**

GOVERNING LAW AND VENUE This Agreement shall be governed exclusively by the laws of the State of Washington. The Franklin County Superior Court shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.

DISPUTES Any dispute will be first discussed between the County Engineers or Directors of Public Works, or their delegate(s), and a third party chosen by the two engineers\public works directors to see if a resolution can be reached. This group may suggest mediation.

MEDIATION The parties may engage in mediation at any time to resolve disputes. The site of any non-judicial hearing or action, of whatever nature or kind regarding this Agreement, will be conducted in Pasco, Washington, unless otherwise agreed by the parties.

ATTORNEY'S FEES If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney's fees incurred in that action, mediation, or other proceeding.

**ARTICLE IX
GENERAL PROVISIONS**

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 by Franklin County'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.

Task assignments, insofar as they are considered changes, modifications, or amendments, shall be exempt from adoption by resolution of Franklin's legislative authority, instead being adopted by signature of Franklin's County Administrator, per Article III – Administration and Organization.

ASSIGNMENT Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, subcontracting, or other means, except via written amendment. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

TERMINATION Any party 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 other party's last known address for the purposes of giving notice, per Article VI of this agreement, as hereafter amended. If the Agreement is 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 termination date. Within thirty (30) days of the effective termination date, a final certified statement of costs incurred shall be submitted for all services or equipment rental. The amount shall be paid to the Franklin County Public Works Department within thirty (30) days of billing.

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 applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end, the terms and condition of this Agreement are declared severable.

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.

FILING This Agreement shall be filed pursuant to RCW 39.34.040.

FRANKLIN COUNTY BOARD OF
COMMISSIONERS

Brad Peck - Absent

Chairman

[Signature]

Chairman Pro-tem

[Signature]

Member

CONNELL CITY COUNCIL

Bruce A Blackwell

Mayor

[Signature]

Mayor Pro-tem

Ray J. Minion

Councilmember

Kathryn Selous

Councilmember

Councilmember

Councilmember

ATTEST:

By: [Signature]

Clerk of the Board

ATTEST:

By: [Signature]

Clerk of the Board

APPROVED AS TO FORM:

By: [Signature]

Deputy Prosecuting Attorney

APPROVED AS TO FORM:

By: [Signature]

TASK ORDER AGREEMENT #1

BETWEEN FRANKLIN COUNTY AND THE CITY OF CONNELL

PURSUANT TO

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN FRANKLIN COUNTY AND CITY OF CONNELL FOR USE OF EQUIPMENT AND/OR SERVICES OF DEPARTMENT OF PUBLIC WORKS

This Agreement is made and entered into pursuant to the provisions of Interlocal Cooperative Agreement between Franklin County (hereinafter County) and City of Connell (hereinafter City) for Use of Equipment and/or Services of Department of Public Works.

I. RECITALS

WHEREAS, the County Public Works Department is certified by the Washington State Department of Transportation to inspect, manage, document, and otherwise administer Federally Funded construction contracts, and also owns certain types of specialized equipment used for inspection and quality control of construction projects; and,

WHEREAS, the City has Federal Funds for the construction of certain bituminous surface arterial roadways, but is not certified to administer the contracts for the construction said facilities; and,

WHEREAS, the City, as well as the County, will benefit from the use of County personnel, equipment, and expertise in the inspection, management, documentation, and administration of the City's Federally Funded construction contract; and,

WHEREAS, the County and the City have entered into an Interlocal Agreement for Reimbursable Work performed by the County in accordance with the provisions of Chapter 39.34 RCW; **Now, therefore the County and the City, through their respective legislative bodies, do hereby agree as follows:**

II. DETAILED SCOPE OF WORK

PURPOSE OF AGREEMENT: The purpose of this agreement is to identify the scope and extent of services to be provided by the County to the City for construction inspection and contract administration of the City's **Columbia Ave Pavement Restoration** construction project, hereinafter identified as the "project". All terms and conditions of the above referenced Interlocal Agreement shall remain in full force and effect. The Engineering Division of the Franklin County Public Works Department, acting under their Certification of Acceptance Qualification Agreement with the Washington State of Transportation, shall provide all services necessary to comply with the requirements of the Federal Highway Administration and Washington State Department of Transportation for administration of the construction of the City's Federally Funded construction project identified herein.

STANDARDS AND REFERENCES: The County will inspect and administer the project construction in accordance with the rules, regulations, and procedures as required by the Federal Highway Administration (FHWA), Washington State of Department of Transportation (WSDOT), and the laws of the State of Washington. In general, these rules, regulations, and procedures are documented in the following publication. The latest editions of these publications shall be used:

- Standard Specification for Road, Bridge, and Municipal Construction, 2014 English Edition, published by WSDOT and Washington State Chapter APWA.
- Local Agency Guideline (M36-63), latest revision, published by WSDOT. (LAG Manual)
- Construction Manual (M 41-01), latest revision, published by WSDOT.

DETAILED RELATIONSHIPS, SERVICES, AND PRODUCTS:

Project Documentation: Unless specifically noted otherwise, the County shall maintain original copies of all project documentation in the County’s project files. Duplicate copies shall be transmitted to the City’s project manager as indicated below. After the project has been completed, and has received Project Management Review, if required by WSDOT, all project documentation files maintained by the County shall be returned to the City.

Management Coordination: The County and City shall, by exchange of letters, identify the key management personnel with responsibility for the project.

Project Design: The City shall be solely responsible for the conceptual and physical design of the project, and the specification of all construction and materials to be incorporated into the project.

Plan Review: The County shall perform a detailed review of the Plans, Specifications, and Estimates (PS&E) for the project to the extent that the PS&E conforms to the requirements of FHWA and WSDOT. The City will be provided with a written listing of all discrepancies discovered by the County during the review. The City shall be responsible for correcting, or causing the discrepancies to be corrected.

Contract Review: The City shall be responsible to ensure that the contract provisions are acceptable to the City’s Legal Counsel. The City shall provide written verification to the County that the contract documents are acceptable to the City, and that the City is authorized to proceed with Advertising for bids.

Permits: The City will verify that it has applied for, and received all necessary permits, and will provide copies of all permits to the County. The City will insure that all permits are currently in force, and will make application for time extensions of permits that have expired. The County shall be promptly notified in the event that an expired permit will not be renewed, or that permit conditions have changed. City shall be responsible for making any plan revisions necessary to comply with the changed permit conditions.

Right of Way: The City has acquired all necessary right of way for the project, and will be responsible for obtaining the Right of Way Certification from WSDOT, if applicable.

Federal Aid Agreement/Fund Obligation: The City will be responsible for Obligating Federal Aid Construction Funds through WSDOT by executing the appropriate Local Agency Agreement and/or Supplement thereto.

Construction Authorization: The City will transmit a request for Construction Authorization to WSDOT along with the required number of copies of the project PS&E. A copy of this request will be transmitted to the County.

Prevailing Wages, Lnl Debarment, EPLS, Training, Equal Employment Opportunity, and Minority Business Enterprises: The City will be responsible for ensuring contractor compliance with these regulations. Compliance will be documented in accordance with the provisions of the LAG and

Construction Manuals. The City will review the project PS&E to ensure that all necessary contract provisions are included in the Contract Documents. The contractor, and all subcontractors, will be required to submit a "Notice of Intent to Pay Prevailing Wages" to the Washington State Department of Labor and Industries naming the City as the Contracting Agency. Copies of the Notices of Intent shall be provided to the County by the City.

Advertisement for Bids: Once Construction Authorization is received from WSDOT, the City will notify the County by copy of the authorization. The County shall then authorize the City in writing to proceed with the advertisement for bids. Upon such authorization the City will establish a bid opening date that provides for a minimum advertisement period of three weeks from the date of the first legal publication as required by the LAG Manual. The City will also arrange for a minimum of two advertisements to be posted in the official legal publication of the City, as well as the Seattle Daily Journal of Commerce.

Opening and Review of Bids: The County and the City shall mutually agree on the place for receipt and opening of the bids. All bids shall be received at the time and place specified in the bid documents and advertisements, and opened and read aloud as required by the LAG Manual. After opening and reading bids, the County shall take custody of the bids and review them for accuracy and completeness as required by the LAG Manual. The County shall also prepare a bid tabulation showing all items of work and the bid amounts for each item, the extended amounts for each item and the total amount of the bid. The bid tabulation shall also contain the Engineer's Estimate in the same manner. A copy of the bid tabulations will be transmitted to the City and additional copies will be made available for public inspection after the Award of the contract.

Award of the Contract: Once the bids have been reviewed and tabulated and the lowest responsive bidder has been identified, the County will make a recommendation for award of the contract to the lowest responsive bidder and prepare a resolution for signature by the City's governing body awarding the contract to the lowest responsive bidder. The City shall be responsible for submitting the recommendation and Award Letter to their governing body for approval. A copy of the signed Award Letter shall be returned to the County for inclusion in the project records. The City will prepare and transmit to the successful bidder the original executed Award Letter and three (3) original copies of the agreement for signature by the successful bidder.

Execution of Contract, Performance and Payment Bond, and Insurance: As per the contract, the City will request from the successful bidder a performance bond and payment bond in the full amount of the contract and a certificate of insurance showing the City and the County as named co-insured. Upon receipt of the signed original contracts, satisfactory performance bond, payment bond, and insurance; the three original agreements signed by the successful bidder will be forwarded to the City for execution by their designated official. The City shall return two (2) fully executed copies of the original Contract to the County. The County will include one (1) original in the project records and return one (1) original to the contractor. The County will also provide the City with copies of the Performance Bond, Payment Bond, and Certificate of Insurance.

Preconstruction Conference: At such time as the agreement has been executed, the City shall schedule a preconstruction conference. The City shall notify all affected parties of the time and place of the conference and invite each party to attend. At a minimum, the invited parties shall include: the County,

the City, Contractor, WSDOT, and affected utilities. The City shall conduct the conference in accordance with the LAG Manual procedures, and shall take and prepare minute of the conference for distribution to the parties.

Notice to Proceed: At the preconstruction conference, the City shall transmit to the contractor a Notice to Proceed establishing the construction start date and computed completion date.

Materials Control and Contract Documentation: During the life of the contract, the City shall be responsible for preparing and maintaining all necessary reports, documents, records, and estimates in accordance with the requirements of WSDOT as set forth in the WSDOT Construction Manual as modified by the LAG Manual. And shall perform all required quality control inspection and administrative tasks necessary to comply with WSDOT and FHWA requirements.

Construction Surveys: The City shall perform all necessary construction surveying required for completion of the project.

Changed Conditions: Change Orders will normally be required to address changed conditions. The County representative with responsibility for the project shall be authorized to execute change orders on behalf of the City to the extent that the sum of all change orders so executed should not exceed ten percent of the original contract amount. In event that a change order will cause the ten percent limit to be exceeded, the County shall negotiate the change order with the contractor and present the negotiated change order to the City for authorization.

Increased/Decreased Quantities: The bid quantities shown on the proposal form for the contract are based on the engineers estimate. The actual quantities used may vary from the estimated quantities. The City shall notify the County of any increased quantities that exceed ten percent of the estimated quantity and the reason for the increase. Should any item of work increase or decrease by more than twenty-five percent that item of work qualifies for an equitable price adjustment. Any such equitable price adjustment shall be made by change order. If an equitable price adjustment is required, the City shall negotiate the price adjustment, prepare the change order, and forward the change order to the County for approval. Notwithstanding the provisions identified under "Change Orders", the county shall not be authorized to approve any change order involving an equitable price adjustment.

Progress Payments and Retainage: The City shall request that the contractor establish a monthly cut off date for pay estimates. The City shall prepare a monthly pay estimate for the contract. The pay estimate shall provide general contract information and information for each item of work regarding the BARS Work Code, contract quantity, quantity for the period, quantity to date, monetary amount for the period and monetary amount to date. The pay estimate will be forwarded to the contractor for approval and signature, and will then be forwarded to the City for payment. The contractor approved pay estimate will be forwarded to the County within five(5) working days from contractor signature.

Federal Aid Billings: The City shall be solely responsible for preparing and submitting Federal Aid progress billings to WSDOT.

Contract Completion: Upon a finding by the City that the work is physically complete, the following procedure shall be used:

- 1) The City will provide a letter to the Contractor notifying the Contractor that the work is Physically Complete and establishing the date of Physical Completion of the work. The letter will also notify the Contractor that all obligations under the contract must be satisfied in order to make the final payment on the contract. And, that the contractor and all sub-contractors are responsible for submitting their completed "Affidavit of Wages Paid" to the Washington State Department of Labor and Industries. The City shall also send a copy of this letter to the County.
- 2) Within 15 days of the notice of Physical Completion to the Contractor, the City shall notify WSDOT Local Programs and arrange for final inspection by the Regional Local Programs Engineer. The County shall be notified of the date of the final inspection and invited to attend.
- 3) The City shall prepare the "Notice of Completion of Public Works Contract" and submit the completed form to the required State agencies. The City shall also send a copy of the notice to the County.
- 4) Upon satisfactory final inspection and receipt by the County of all necessary and required documentation from the contract, the City will prepare and forward to its governing body a resolution accepting the project for their approval. Once the governing body has accepted the work performed by the Contractor, the City will prepare a letter of Project Completion with verbiage that "Per RCW 39.08.030, the bonds are to remain in effect for thirty (30) days from the acceptance of the work by the affirmative action of the governing body for any claims against the bonds". The City will forward a copy of the Resolution and Project Completion letter to the County.

In the event that a claim or lien has been filed against the contract bonds, the County shall assist the City, as far as practical, with the resolution of the claim or lien.

Project Management Review: If selected by WSDOT for Project Management Review, the County shall provide representation and the project records for the review process. Any deficiencies in the project records indentified by the review shall be corrected by the County.

Reimbursement of Costs by City: City shall reimburse County for all costs of direct and indirect labor (including fringe benefits), administration, equipment rental, engineering, materials, and supplies for the Public Works performed pursuant to this agreement. The total amount of reimbursement for work covered shall be limited to an amount not exceeding ten percent of the total construction cost for the project, unless otherwise agreed to by both parties under an amendment to this agreement.

FRANKLIN COUNTY


County Administrator

6/30/15
Date

CITY OF CONNELL


Mayor or Authorized Designee

6-29-15
Date

SUPPLEMENT #1

to

TASK ORDER NUMBER #1

Franklin County Public Works desires to supplement Task Order Number #1 entered in to with the City of Connell, Washington and executed on June 30, 2015.

All provisions in the Task Order Number #1 between Franklin County and the City of Connell remain in effect except as expressly modified by this supplement.

SECTION II. DETAILED SCOPE OF WORK

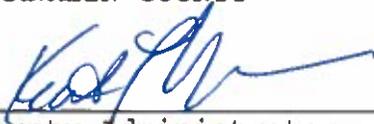
Delete and replace on page 2 of 5 in Standards and References section:

Standard Specification for Road, Bridge and Municipal Construction, 2014 2016 English Edition, published by WSDOT and Washington State Chapter APWA.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to Franklin County Public Works for final action.

FRANKLIN COUNTY

CITY OF CONNELL



County Administrator



Mayor or Authorized Designee

2/3/16

Date

2-17-16

Date