

FRANKLIN COUNTY RESOLUTION NO. 2020-090

BEFORE THE BOARD OF COMMISSIONERS OF FRANKLIN COUNTY, WASHINGTON

RE: INTERLOCAL COOPERATIVE AGREEMENT BETWEEN FRANKLIN COUNTY AND THE TOWN OF WASHTUCNA FOR GENERAL EQUIPMENT AND/OR SERVICES THROUGH THE DEPARTMENT OF PUBLIC WORKS

WHEREAS, pursuant to RCW 39.34, local governmental units are permitted to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Franklin County and the Town of Washtucna desire to provide equipment and/or services through the Department of Public Works; and

WHEREAS, pursuant to RCW 36.01.010 and RCW 36.32.120 the legislative authority of each county is authorized to enter into contracts on behalf of the County and have the care of County property and management of County funds and business; and

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and desires to enter into the attached agreement as being in the best interest of Franklin County;

NOW, THEREFORE, BE IT RESOLVED that the Franklin County Board of Commissioners, hereby approves the attached Interlocal Cooperative Agreement between Franklin County and the Town of Washtucna for General Equipment and/or Services through the Department of Public Works.

Dated this 7 day of April.

BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON

Brad Peck  
Chair

Approved by Brad Peck  
telephonically

Cliff Quisenberry  
Chair Pro Tem

Cliff Quisenberry  
Member

Attest:

Karin Mulham  
Clerk of the Board

**INTERLOCAL COOPERATIVE AGREEMENT  
BETWEEN FRANKLIN COUNTY AND THE TOWN OF WASHTUCNA  
FOR GENERAL SERVICES**

THIS AGREEMENT is made and entered into by and between Franklin County (Hereinafter "County") with its principal offices located at 1016 N 4th Avenue, Pasco, Washington, 99301, by and for the Franklin County Public Works Department, and the Town of Washtucna, (Hereinafter "the Town") with its principal offices located at 165 S. Main Street, Washtucna, WA 99371, by and for the Town of Washtucna Public Works Department, 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 the Town and County may provide services to the other party; services rendered shall be with the coordination of both governing parties' respective Public Works Departments.

**ARTICLE II  
ADMINISTRATION AND ORGANIZATION**

- 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 County's representative shall be the County Engineer or his/her authorized designee. The County Engineer shall be the signing authority for the County for all Task Assignments pursuant to this Agreement.
- 2.03 The Town's representative shall be the Mayor or his/her authorized designee.
- 2.04 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 Town or County's website as provided by RCW 39.34.

### **ARTICLE III DURATION AND RENEWAL OF AGREEMENT**

- 3.01 **DURATION AND RENEWAL.** This Agreement shall be effective when executed by both parties' authorized representatives and shall continue unless terminated in writing by either party. Thereafter, this Agreement shall automatically renew annually on January 1<sup>st</sup> unless terminated by either party.
- 3.02 **SCOPE OF WORK.** 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 a supplement attached hereto and incorporated herein to this Agreement by reference.

### **ARTICLE IV COMPENSATION**

- 4.01 **COMPENSATION.** The Town hereby agrees to reimburse the County for the costs of the work performed by Franklin, 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, thereto, thirteen percent (13%) of the total costs shall be added for overhead costs for accounting and billing and administrative services; provided, that the County shall submit to the Town a certificate statement of the costs and within thirty (30) days thereafter the Town shall pay to the County the amount of said statement.

The County hereby agrees to reimburse the Town for the costs of the work performed by the Town, 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, thereto, thirteen percent (13%) of the total costs shall be added for overhead costs for accounting and billing and administrative services; provided, that the Town shall submit to the County a certificate statement of the costs and within thirty (30) days thereafter the County shall pay to the Town the amount of said statement.

**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 **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 its own property.
- 5.03 **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 subjected 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 law.
- 5.04 **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.
- 5.05 **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.
- 5.06 **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.
- 5.07 **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.
- 5.08 **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.

- 5.09 **NOTICE.** Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to the Town shall be to the Mayor and Town of WASHTUCNA Clerk/Treasurer 165 S. Main Street, Washtucna, Washington, 99371  
Notice to the County for all purposes under this Agreement shall be to: Franklin County Public Works Director, 3416 Stearman Avenue, Pasco, Washington 99301 and the Franklin County Commissioners 1016 North Fourth Avenue, Pasco, Washington 99301.

## **ARTICLE VI INDEMNIFICATION**

- 6.01 **INDEMNIFICATION.** The County agrees to and shall defend, indemnify, and hold harmless the Town, 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 Town, 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 the County, its elected officials, officers, employees, or their agents, except when such injury or damage shall have been occasioned by the sole negligence of the Town, its appointed or elected officials, officers, agents, or employees. It is further provided that no liability shall attach to the Town by reason of entering into this Agreement, except as expressly provided herein.

The Town agrees to and shall defend, indemnify, and hold harmless the County, 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 County, 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 the Town, its elected officials, officers, employees, or their agents, except when such injury or damage shall have been occasioned by the sole negligence of the County, its appointed or elected officials, officers, agents, or employees. It is further provided that no liability shall attach to the County by reason of entering into this Agreement, except as expressly provided herein.

## **ARTICLE VII DISPUTES**

- 7.01 **TIME.** Time is of the essence of this Agreement.
- 7.02 **GOVERNING LAW AND VENUE.** In the event of a dispute regarding the enforcement, breach, or interpretation of this Agreement, the Town's Mayor and the County Administrator shall first meet in a good faith attempt to resolve such dispute. In the event they are unable to resolve such dispute, either individually or with the assistance of a mediator, the dispute shall be resolved by arbitration pursuant to RCW 7.04A; with venue being placed in Franklin County, Washington; with all parties waiving the right of a

jury trial upon *de novo* appeal, if any; and the substantially prevailing party being awarded its attorney fees and costs as additional award and judgment against the other.

#### **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.

Task assignments, insofar as they are considered changes, modifications, or amendments, shall be exempt from adoption by resolution of the County's legislative authority, instead being adopted by signature of the County Engineer, per Item 2.02.

- 9.02 **ASSIGNMENT.** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, 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 applications 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 will be 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 **FILING.** This Agreement shall be filed pursuant to RCW 39.34.040.

IN WITNESS WHEREOF, the parties have executed this Agreement this 17 day of March, 2020.

APPROVED:

BOARD OF COUNTY COMMISSIONERS,  
FRANKLIN COUNTY, WASHINGTON

Brad Peck  
Chair  
**Approved by Brad Peck**

telephonically  
Chair Pro Tem

Art Widner  
Member

ATTEST:

By: Karin Melham  
Clerk of the Board

APPROVED AS TO FORM:

By: [Signature]  
Prosecuting Attorney

APPROVED:

TOWN COUNCIL,  
TOWN OF WASHTUCNA, WASHINGTON

By: [Signature]  
Mayor

ATTEST:

By: [Signature]  
Clerk/Treasurer

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Town Attorney