

2021-006

FRANKLIN COUNTY RESOLUTION NO. \_\_\_\_\_

BEFORE THE BOARD OF COMMISSIONERS OF FRANKLIN COUNTY, WASHINGTON

RE: INTERLOCAL COOPERATIVE AGREEMENT BETWEEN FRANKLIN COUNTY AND WHITMAN COUNTY 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 Whitman County desire to provide equipment and/or services through the Department of Public Works; and

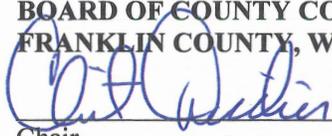
WHEREAS, pursuant to RCW 36.01.010 and RCW 36.32.120 the legislative authority of each county is authorized to enter into contracts on behalf of the County and have the care of County property and management of County funds and business; and

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;

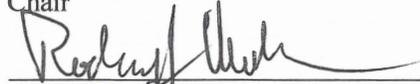
NOW, THEREFORE, BE IT RESOLVED that the Franklin County Board of Commissioners, hereby approves the attached Interlocal Cooperative Agreement between Franklin County and Whitman County for General Equipment and/or Services through the Department of Public Works.

Dated this 5th day of January, 2021.

BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON

  
\_\_\_\_\_

Chair

  
\_\_\_\_\_

Chair Pro Tem

**Brad Peck**  
Approved Telephonically

Member

Attest:   
Clerk of the Board

**INTERLOCAL COOPERATION AGREEMENT BETWEEN  
WHITMAN COUNTY AND FRANKLIN COUNTY**

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") is made and entered into by and between, Franklin County and Whitman County, both political subdivisions of the State of Washington and jointly referred to as "the Parties".

**I. RECITALS**

Whitman County is a political subdivision of the State of Washington; and constitutes a public agency as defined in RCW 39.34.020(1).

Franklin County is a political subdivision of the State of Washington; and constitutes a public agency as defined in RCW 39.34.020(1).

The Parties find it mutually beneficial to enter into this Agreement.

THEREFORE, it is mutually agreed that:

**II. PURPOSE**

The purpose of this Agreement is for Franklin or Whitman County to be able to provide labor, equipment, materials, services, or other goods to the other County, provided:

- A. No obligation in this Agreement shall limit Franklin County in fulfilling its responsibilities otherwise defined by law; and,
- B. No obligation in this Agreement shall limit Whitman County in fulfilling its responsibilities otherwise defined by law; and,
- C. No new separate legal or administrative entity is created to administer the provisions of this Agreement; and,
- D. This Agreement is intended for the benefit of the parties and is not intended to create any third party beneficiaries.

**III. SERVICES AND CONTRACT MANAGEMENT**

Either County may provide labor, equipment and materials (including contract, as requested by the other county, necessary for the completion of specific mutually agreed-to specific tasks. The scope of the services for individual work tasks shall be documented through a work order or written authorization from the requesting county to the supplying county. Agreement on the scope of services and compensation can only be established or modified in writing by mutual consent of the Parties.

The Parties hereby appoint the following individuals, or their designees, as their representatives for the purpose of managing the provisions of the Agreement:

**WHITMAN COUNTY:**

Mark Storey or Brandon Kruger  
Department of Public Works  
P.O. Box 430, Colfax, WA 99111 ph. 509-397-4622

**FRANKLIN COUNTY:**

Craig Erdman  
Department of Public Works  
3416 Stearman Avenue, Pasco, WA 99301-7104 ph. 509-545-6082

#### **IV. COMPENSATION**

The County receiving goods and service agrees to compensate the County supplying the goods and services, as requested by the supplying County. Reimbursement for such work will not be made until the services are accepted by the receiving County. The services shall be billed on the following basis:

##### **Staff:**

The actual cost of Staff Labor and Fringe Benefits, and an optional rate for overhead thereon based on the rate approved by each county's Board of County Commissioners for interagency or interdepartmental work (typically 10%).

##### **Equipment/Vehicles:**

Equipment rates are based on the rate approved by the Public Works Director and presented to the Board of County Commissioners for interagency or interdepartmental work. The rate for light vehicles (cars and pickups) shall be equal to or less than the rate approved by the Board of County Commissioners for interagency or interdepartmental vehicle charges.

##### **Materials/Supplies**

The actual cost of materials and supplies used in the project. Costs must be supported by invoice copy and an optional mark-up thereon or by a mutually agreed upon "fair market" value. Any markup shall be based on the rate approved by the Public Works Director for interagency or interdepartmental work, however the rate must be equal to or less than 15% of material cost.

All costs must be itemized by date, employee, hours worked, vendor, material, amount and overhead, if any. Supporting documentation of expenses or overhead and mark-up rate calculations shall be supplied to the receiving County upon request. No labor may be sub-let without prior approval of both Whitman and Franklin Counties.

The receiving County will make payment to the supplying County within 45 days of receipt of bill for requested services, provided the bill and supporting documentation clearly identify the services performed and costs incurred, and that the services as requested have been accomplished.

#### **V. ADMINISTRATION, AUDIT AND INSPECTION**

This Agreement will be mutually administered by both Whitman County and Franklin County. Both Counties will maintain records pursuant to this Agreement in accordance with generally accepted accounting principles and practices consistently applied. Each Counties records shall be available for inspection and audit by the other County and by the State Auditor's Office.

#### **VI. INDEPENDENT CONTRACTOR AND NONASSIGNMENT**

The services provided under this Agreement are considered by both parties to be those of an independent contractor. Employees of both Whitman and Franklin Counties are and will remain employees of their respective County. Neither County shall subcontract, assign or delegate any of the rights, duties or obligations covered by this Agreement to any other party without prior express written consent by the other County.

#### **VII. INDEMNIFICATION AND INSURANCE**

In the event of liability for injury to persons or property arising from any acts done, or failures to act, pursuant to this agreement by either or both parties, each party shall be liable for the actions or failures to act of the party's employees, or for their proportionate share of liability in the event that there are multiple causes or employees of both parties are determined to be at fault.

Both Whitman and Franklin counties shall carry, for the duration of this Agreement, a minimum of \$5,000,000 insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the their own County, its agents, representatives, employees or subcontractors.

## **VIII. AMENDMENT AND WAIVER**

Whitman and Franklin Counties may mutually agree to amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Counties. 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 past or future act, occurrence or omission.

## **IX. CHOICE OF LAW AND VENUE**

This Agreement will be governed by the laws of the State of Washington, both as to the interpretation and performance. Any action at law, suit in equity or other judicial proceeding for the enforcement of this Agreement may be instituted only in a court of competent jurisdiction in the State of Washington.

## **X. INTEGRATION CLAUSE**

This instrument embodies the whole Agreement of the parties. There are no promises, terms, conditions or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements, either oral or written, between parties.

## **XI. TERM AND TERMINATION**

This Agreement shall remain in full force and effect indefinitely unless otherwise modified or terminated as provided herein. The term of this Agreement shall commence December 1, 2020.

Either party may terminate this Agreement by giving the other party at least thirty (30) days advance written notice. If this Agreement is so terminated, the parties shall be liable only for performance in accordance with the terms of this Agreement up until the effective date of termination.

## **XII. PROPERTY AND EQUIPMENT**

Upon termination or non-renewal of this Agreement, all property purchased by either County in furtherance of this Agreement shall remain the property of that County. Any property loaned or borrowed through the course of this agreement shall be returned to its owner upon termination or non-renewal of this Agreement.

## **XIII. DISPUTES**

In the event that a dispute arises under this Agreement, it will be resolved in the following manner: Both Whitman and Franklin Counties will each individually appoint one member to a Dispute Board, and those two members will jointly appoint a third member. The Dispute Board will evaluate the dispute and make a determination of disposition of the dispute. The decision of the Dispute Board will be considered final and may not be appealed.

## **XIV. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the Agreement as determined mutually by both Whitman and Franklin County.

## **XV. EFFECTIVE DATE**

This Agreement shall take effect as soon as it has been adopted by both parties as signed below.

## **XVI. CONTACTS**

Whitman County: W. Mark Storey, Public Works Director  
Brandon Kruger, Maintenance Operations Manager  
Evon Jones, Financial Manager  
Franklin County: Craig Erdman, County Engineer

ADOPTED this 5 day of JAN, 2020.

BOARD OF COUNTY COMMISSIONERS  
OF FRANKLIN COUNTY, WASHINGTON

  
Chair  
  
Commissioner  
**Brad Peck**  
Approved Telephonically  
Commissioner

ATTEST:

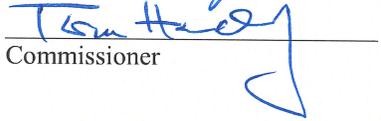
  
Clerk of the Board

Approved as to form:

  
12/16/2020

ADOPTED this 11th day of January, 2021

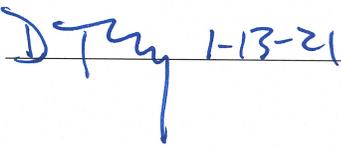
BOARD OF COUNTY COMMISSIONERS  
OF WHITMAN COUNTY, WASHINGTON

  
Chair  
  
Commissioner  
  
Commissioner

ATTEST:

  
~~Maribeth Becker, CMC~~ Connie Ellis, Deputy  
Clerk of the Board

Approved as to form:

  
1-13-21