

**MASTER INTERLOCAL AGREEMENT
BETWEEN THURSTON COUNTY & CITY OF TENINO
FOR TRANSPORTATION SERVICES AND ADMINISTRATION OF RCSP FUNDS**

This Agreement is entered into in duplicate originals on this _____ day of _____, 20__ between **CITY OF TENINO**, a **municipal corporation in the State of Washington**, hereinafter "CITY", and THURSTON COUNTY, a municipal corporation, hereinafter "COUNTY", collectively referred to as "parties" and individually as "party," pursuant to RCW 39.34.080.

WHEREAS, the parties hereto are charged with the responsibility of constructing and maintaining their streets, roads, and highways and maintaining staff, equipment, and materials to perform the necessary work, and it is to the mutual advantage of COUNTY and CITY to cooperate in order to make the most efficient use of their powers to provide services and facilities needed by the citizens residing within their respective jurisdictions; and

WHEREAS, the parties may from time to time need additional manpower, equipment, or materials or have manpower, equipment, and materials available in certain locations which could be used by the other party to this Agreement.

WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking that each public agency is authorized by law to perform;

WHEREAS, it is to the mutual advantage of the COUNTY and the CITY to have the COUNTY administer the funding allocated by the Thurston Regional Planning Council ("TRPC") from the Federal Highway Administration to the CITY. The fund is called the Rural Community Support Program ("RCSP") and is for construction of transportation facilities in the CITY that will benefit the citizens residing within their respective jurisdictions;

NOW THEREFORE, by virtue of RCW 39.34.080 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

**I
GENERAL**

- 1.0 It is the purpose of the Agreement to permit the parties to make the most efficient use of their resources by enabling them to cooperate by furnishing each other manpower, equipment, and materials when available on a reimbursable basis for roadway maintenance activities. This will be done with the understanding that the work of the owner of the requested resources takes priority.
- 1.1 It is also the purpose of the Agreement to permit the parties to expend Rural Community Support Program ("RCSP") funds held by the COUNTY set aside for the purposes of transportation improvements in the CITY.

**II
DURATION**

- 2.0 This Agreement is effective on the date written above and shall remain in effect for the remainder of the calendar year in which it is signed and throughout the following calendar year. Thereafter, this Agreement shall renew automatically from year to year effective January 1 to December 31 of each calendar year, unless either party notifies the other in writing to terminate or make substantial changes to this Agreement by April 1 of the preceding calendar year or is terminated pursuant to Article XI, Termination. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040.

III
REQUEST FOR SERVICES

- 3.0 Requests to the COUNTY for services shall be submitted to the County Public Works Director or designee. Requests to the CITY for services shall be submitted to the Mayor of Tenino or designee. Examples of the types of services that each party may provide to the other party are contained in Exhibit A attached hereto and incorporated herein by reference. Each request for service shall be in writing and shall specify the particular service required, the amounts and types of labor, equipment, and material required, the location of the work, the estimated cost of the work, when the work is to be performed, and other information pertinent to the request. Upon receipt of the request, the party which has been requested to supply the service shall indicate their acceptance or rejection of the request, have it signed by their authorized official, and return one (1) copy to the requesting party. The authorized official for the COUNTY is the Director of the Public Works Department or designee. The authorized official for the CITY is the Mayor of Tenino. In cases of emergency, the request and approval may be done verbally but must be documented in writing within forty-eight (48) hours of the verbal request. Each accepted request for service shall be incorporated into and is made a part of this Agreement.
- 3.1 The parties to this Agreement agree that the party receiving services pursuant to Article III, Request for Services, of this Agreement shall reimburse the party providing the services for their actual direct and related indirect costs. Upon request of the providing party, the party receiving services shall make partial payments to cover costs incurred. These payments are not to be more frequent than one (1) per month. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item.

IV
CARE AND MAINTENANCE OF EQUIPMENT

- 4.0 The parties agree that any time a request is made for the use of equipment, the requesting party shall be responsible for the proper care, maintenance, and security of the equipment until the equipment is returned to the owner. Any damage other than normal wear and tear will be the responsibility of the party in possession of the equipment at the time the equipment is damaged.

V
RIGHT OF ENTRY

- 5.0 The parties to this Agreement hereby grant and convey to each other the right of entry upon all land in which the parties have interest, within or adjacent to the right of way of the highway, road, or street for the purpose of accomplishing all work or services requested as part of this Agreement.

VI
ADMINISTRATION OF RCSP FUNDS

- 6.0 In the event that the COUNTY receives RCSP funds which have been allocated to the CITY by TRPC, the COUNTY shall contribute those funds to the CITY for transportation improvement projects within its jurisdiction.
- 6.1 The COUNTY and the CITY shall execute a Memorandum of Understanding ("MOU") which shall identify the project and describe the terms of use of the funds. Exhibit B contains an example MOU.
- 6.2 The CITY shall provide all planning, design, construction, contract administration, project coordination, and all other work and resources necessary to construct transportation improvements within its jurisdiction, as confirmed by the City Engineer. The COUNTY's contribution is limited to the RCSP funds held by the County, which have been allocated to the CITY by TRPC to the CITY for transportation improvement projects within the CITY's

jurisdiction. The CITY shall have the discretion to choose the projects that are appropriate for its jurisdiction. The CITY shall provide all inspection, operation, maintenance, and upgrades necessary to ensure the safety, function, accessibility and intended purpose of its transportation improvement projects. The CITY shall be solely responsible for ensuring the transportation improvements made as part of this agreement meet all existing and future applicable regulations.

VII PAYMENT OF RCSP FUNDS

- 7.0 The COUNTY shall contribute RCSP funds held by the COUNTY, which have been allocated to the CITY by TRPC, to the CITY for transportation improvement projects within the CITY's jurisdiction.
- 7.1 Such payment by COUNTY to CITY shall not constitute agreement or verification as to the appropriateness of any transportation improvement expenditure.
- 7.2 In no event will the payment to the CITY by the COUNTY exceed the amount of RCSP funds held by the COUNTY allocated to the CITY by TRPC.
- 7.3 If this Agreement is terminated pursuant to Article XI, Termination, the COUNTY may use any remaining RCSP funds allocated to the CITY by TRPC for COUNTY's road projects.

VIII RELATIONSHIP OF THE PARTIES

- 8.0 The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party. This Agreement is for the benefit of the parties, and no third-party beneficiary relationship is intended. No separate legal entity is created by this Agreement. No joint organization is created. No common budget is to be established. No personal or real property is to be jointly acquired or held.

IX HOLD HARMLESS AND INDEMNIFICATION

- 9.0 The COUNTY shall hold harmless, indemnify and defend the CITY, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness or death, or real or personal property damage or destruction and loss of use thereof, including costs and attorneys' fees in defense thereof, caused by or arising out of the COUNTY's negligence in the performance of its obligations under this Agreement.
- 9.1 The CITY shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness, or death or real or personal property damage or destruction and loss of use thereof, including costs and attorneys' fees in defense thereof, caused or arising out of the CITY's negligence in the performance of its obligations under this Agreement.
- 9.2 The COUNTY's obligations and the CITY's obligations hereunder shall not extend to bodily injury, sickness or death caused by or arising out of the sole negligence of other party, its officers, officials, employees or agents.
- 9.3 In the event of the concurrent negligence of the parties, the COUNTY's and the CITY's obligations hereunder shall apply only to the percentage of fault attributable to each party, its officers, officials, employees or agents.

- 9.4 For paint striping services approved under this Agreement involving the application of paint striping by the COUNTY on CITY streets only, the CITY agrees to be responsible for the claims management process, including all investigation and resolution of claims. The CITY also agrees to be responsible for the payment of claims arising out of the COUNTY's work resulting in real or personal property damage or destruction except to the extent of the COUNTY's gross negligence or willful misconduct. "Claim" means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable to damage or destruction of real or personal property including loss of use resulting therefrom.
- 9.5 The provisions of this Hold Harmless and Indemnification section shall survive the expiration or termination of this Agreement and completion of the request for services.

**X
INSURANCE**

- 10.0 All parties shall maintain Commercial General Liability or equivalent for bodily injury, personal injury and property damage, subject to limits of not less than \$1,000,000 per loss. The general aggregate limit shall apply separately to this Agreement and be no less than \$2,000,000. From time to time as this agreement is automatically extended, the insurance limits shall be reviewed and adjusted as mutually agreed by the COUNTY and the CITY. The Director of Public Works is authorized to approve these changes. Participation in a governmental self-insured risk pool shall fulfill the above stated coverage requirements. An Evidence of Coverage acknowledgement letter from the jurisdictions' risk pools will be provided to each party upon request.
- 10.1 All parties shall maintain Automobile Liability insurance subject to limits of not less than \$1,000,000 per accident. Participation in a governmental self-insured risk pool shall fulfill the above stated coverage requirements. An Evidence of Coverage acknowledgement letter from the jurisdictions' risk pools will be provided to each party upon request.
- 10.2 All parties shall maintain workers' compensation insurance as required by Title 51 RCW and shall provide evidence of Coverage to each party's Risk Manager or Risk Management Division upon request.
- 10.3 All parties shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies and endorsements expiring before completion of services shall be promptly replaced with written notice mailed to the other party upon request.

**XI
TERMINATION**

- 11.0 Any party may terminate this Agreement upon ninety (90) calendar days prior written notice to the other parties. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred, including contractual obligations, in accordance with the terms of this Agreement prior to the effective date of termination. Upon termination the COUNTY may use any remaining RCSP funds allocated to the CITY by TRPC for COUNTY road projects.

**XII
LEGAL RELATIONS**

- 12.0 No liability shall attach to the parties by reason of entering into this Agreement except as expressly provided herein.

**XIII
FORCE MAJEURE**

- 13.0 Neither party will be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the

party affected and could not have been avoided by exercising reasonable diligence. Force majeure will include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, epidemics, civil or public disturbances, or other similar occurrences. If any party is unable to perform under this Agreement due to a force majeure event, upon giving notice and reasonably full particulars to the other party, such obligation or condition will be suspended only for the time and to the extent commercially practicable to restore normal operations.

**XIV
ADMINISTRATION**

14.0 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. Wherever written notice is required under this Agreement, such notice shall be provided to the representatives designated below. In the event such representatives are changed, the party making the change shall notify the other party.

The COUNTY's representative shall be: Public Works Director, 9605 Tilley Rd SW, Tumwater WA 98512, 360-867-2300.

The CITY's representative shall be: Mayor of Tenino, P.O. Box 4019, Tenino WA 98589, 360-264-2368.

**XV
CHANGES, MODIFICATIONS, AND AMENDMENTS**

15.0 This Agreement may be changed, modified, amended or waived only by written agreement executed by each party's authorized governing authority as provided in chapter 39.34 RCW.

**XVI
GOVERNING LAW AND VENUE**

16.0 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

**XVII
WAIVER**

17.0 A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party.

**XVIII
SEVERABILITY**

18.0 If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

**XIX
ENTIRE AGREEMENT**

19.0 This Agreement contains all the terms and conditions agreed upon by the parties. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Board of County Commissioners
Thurston County, Washington

CITY OF TENINO

Chair

Mayor of Tenino

Vice-Chair

Commissioner

ATTEST:

ATTEST:

Clerk of the Board

Clerk/Treasurer, CITY of TENINO

Approved as to form:

Approved as to form:

JON TUNHEIM
PROSECUTING ATTORNEY

By: _____
Deputy Prosecuting Attorney

By: _____

EXHIBIT A

(Examples of Authorized Activities)

Traffic Services: The following are examples of traffic services that may be provided:

- Sign Maintenance: Replacing signs, removal of signs, installation of new signs, posts and bases.
- Crosswalks: Refurbishing with preformed plastic or removal.
- Stop Bars: Refurbishing with preformed plastic or removal.
- Arrows/Legends: Remarking worn arrows with preformed plastic or removal.
- Striping: Painting linear road stripes on pavement, such as centerlines and edge lines.
- Traffic Signals
- Street Lighting

Roadway Maintenance: The following are examples of roadway maintenance services that may be provided:

- Traveled Roadway Surface: Patching, crack pouring, pre-level work, pavement replacement, pavement preservation, chipseals, asphalt paving, grading, and pavement ratings.
- Drainage: Drainage pipe repair, catch basin and manhole cleaning, blade ditching/shoulder pulling, drainage systems cleaning, drainage preparation, catch basin repair, culvert header/trash rack replacement and repair, bucket ditching, catch basin replacement, erosion control, catch basin/manhole cover replacement, silt removal, and street sweeping.
- Structures: Guardrail repair, retaining wall repair, guardrail post removal, fencing repair, non-structural bridge maintenance, and inspections
- Pedestrian Facilities: Sidewalk/walkway repair.
- Roadside: Slope/shoulder mowing, tree removal, slide removal, tree trimming, and washout repair.

EXHIBIT B
(EXAMPLE MOU)

**Memorandum of Understanding Between
Thurston County Department of Public Works and
City of Tenino for
Project Title**

Prepared: xx, 20xx

I. PURPOSE

This Memorandum of Understanding (MOU) is entered into by and between the Thurston County Department of Public Works (hereafter "COUNTY") and the City of Tenino (hereafter "CITY") to permit the parties to expend Rural Community Support Program ("RCSP") funds held by the COUNTY set aside for the purposes of transportation improvements in the CITY.

This MOU is required under the terms of Interlocal Agreement ("ILA") # XXX-XXXX-XXX between the COUNTY and the CITY.

II. SERVICES

The CITY shall provide all planning, design, construction, contract administration, project coordination, and all other work and resources necessary to construct BLANK, per the approved project application as submitted to Thurston Regional Planning Council ("TRPC"). The project application can be found in Exhibit A.

III. PAYMENT

The parties to this Agreement agree the COUNTY shall contribute RCSP funds currently held by the COUNTY to the CITY for eligible transportation improvement projects within their jurisdiction. Such payment shall not constitute agreement or verification as to the appropriateness of any transportation improvement expenditure.

The amount payable to the CITY is \$XX,XXX.

The COUNTY will pay regular invoices during the project provided they are no more frequent than monthly and no less than \$5,000. The COUNTY will hold 10% until the project is completed and a Notification of Completion is submitted as stated below.

Upon completion of the transportation improvements by the CITY, and the COUNTY's receipt of a Notification of Completion and written attestation of compliance with all applicable

regulations from the City Engineer, the COUNTY shall make payment to the CITY for the cost of the transportation improvement project previously withheld.

IV. RECORDS RETENTION AND AUDIT

During the progress of the work and for a period not less than six (6) years or other required state record retention period from the final date of payment, the records and accounts pertaining to the work and accounting therefore are to be kept available for inspection and audit by either party and/or the Federal Government and copies of all records, accounts, documents, or other data pertaining to the work will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the 6-year retention period. Each party will promptly notify the other of any such litigation hold on records.

V. TERM

This MOU shall become effective upon execution. This MOU will be terminated after final payment to the CITY for the cost of the transportation improvement project or pursuant to the termination language in ILA # XXX-XXXX-XXX.

VI. SIGNATURES

The parties hereto have agreed to and signed this MOU as of the dates shown below.

_____	_____
Director, Thurston County Public Works	Date
_____	_____
Mayor of Tenino	Date