

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN CITY OF RICHLAND AND BENTON COUNTY
FOR GENERAL EQUIPMENT AND/OR SERVICES
THROUGH ROAD DEPARTMENT**

This agreement is made and entered into by and between City of Richland (Hereinafter "Richland") and Benton County (Hereinafter "Benton"), 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 Benton, through its Public Works Department, and Richland will temporarily provide equipment and/or services to the other party. Neither Benton nor Richland are required under this Agreement to provide equipment or services to the other party in the event that the party from whom the equipment or services are sought does not have the equipment or services available, or determines, in its sole discretion, that providing the requested equipment or services would not be in its best interest. No new or separate legal or administrative entity is created by this Agreement.

**ARTICLE II
ADMINISTRATION**

- 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 Richland's representative shall be the Public Works Director of Richland.
- 2.03 Benton's representative shall be the Public Works Administrator.
- 2.04 Requests for rental of equipment or performance of work shall be submitted by the requesting agency to the agency providing the equipment or work in writing. Written requests shall be submitted prior to rental of equipment or performance of work. In the event that circumstances do not permit a written request to be submitted, the representative for the agency providing equipment or work may waive this requirement, providing that a written request, along with an explanation of the circumstances for the waiver, be provided as soon as is practical.

**ARTICLE III
DURATION AND RENEWAL OF AGREEMENT**

- 3.01 **DURATION AND RENEWAL.** This Agreement shall be effective when executed by both parties and shall continue through December 31, 2021. The obligation to provide compensation for the use of equipment or service provided during the term of this Agreement shall survive this Agreement's termination or expiration.

**ARTICLE IV
COMPENSATION**

- 4.01 **COMPENSATION.** Both parties hereby agree to reimburse the other for the costs of the work performed or equipment rented, as requested by one agency herein to the other agency herein and shall be based on the actual cost of labor, equipment, 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. Also, an additional five percent (5%) of the total costs shall be added for overhead expenses for accounting, billing, and administrative services, after a certified statement of the costs is provided within thirty (30) days of the service or equipment rental. The amount shall be paid within thirty (30) days after billing.

**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 **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 material for the applicable retention period under federal and Washington law.
- 5.03 **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.

- 5.04 **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.
- 5.05 **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.
- 5.06 **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.
- 5.07 **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.
- 5.08 **NOTICE.** Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to Benton shall be to the Public Works Administrator, P.O. Box 1001, Prosser, Washington 99350; and to the Benton County Commissioners, P.O. Box 190, Prosser, Washington 99350. Notice to Richland for all purposes under this Agreement shall be to the Public Works Director of the City of Richland, 505 Swift Blvd., MS-26, Richland, Washington 99352, and the Richland City Council, 505 Swift Blvd., MS-05, Richland, WA 99352.

ARTICLE VI INDEMNIFICATION

- 6.01 **INDEMNIFICATION.** Benton shall indemnify Richland, its officers, agents, and employees, from and against any claim, action, judgment, damages, losses and expenses, arising from Richland providing equipment or services under this Agreement; provided, to the extent the claim, action, judgment, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of Richland, its officers, agents, or employees, Benton's indemnification obligation hereunder shall be limited to its proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

Richland shall indemnify Benton, its officers, agents, and employees, from and against any claim, action, judgment, damages, losses and expenses, arising from Benton providing equipment or services under this Agreement; provided, to the extent the claim, action,

judgment, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of Benton, its officers, agents, or employees, Richland's indemnification obligation hereunder shall be limited to its proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

ARTICLE VII DISPUTES

- 7.01 **DISPUTE RESOLUTION; GOVERNING LAW; VENUE.** In the event of a dispute regarding the enforcement, breach or interpretation of this Agreement, the parties shall first meet in a good faith effort to resolve such dispute. Any judicial proceeding arising out of this contract shall be governed by the laws of the State of Washington, and suit may be instituted and maintained only in the courts of competent jurisdiction in Benton County, Washington.

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.
- 9.02 **ASSIGNMENT.** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further 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 application 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 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.

9.05 **INTERLOCAL COOPERATION ACT PROVISIONS.** All vehicles, equipment, inventory and any improvement thereon or fixtures purchased by Richland, shall remain the sole property of Richland. All vehicles, equipment, inventory and any improvements thereon or fixtures purchased by Benton, shall remain the sole property of Benton.

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 Richland's or Benton's website as required by RCW 39.34.040.

9.06 **EVIDENCE OF AUTHORITY.** Upon execution of this Agreement, Richland shall provide Benton and Benton shall provide Richland with a certified copy of the resolution, ordinance, or other authority to execute this Agreement pursuant to RCW 39.34.030(2), and said documents shall be attached hereto and incorporated herein as Exhibit A (Richland) and Exhibit B (Benton).

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF RICHLAND, WASHINGTON

BENTON COUNTY, WASHINGTON

By: *Cheents*
Cindy Reents, City manager

By: *Small*
Chairman
Board of County Commissioners

Attest:
Marcia Hopkins
City Clerk

Attest:
Carrie Madsen
Clerk of the Board

Date: 9-12-18

Date: 8/28/18

Approved as to form:

Approved as to form:

Heather Kantzly
Attorney

Wally
Benton County Prosecuting Attorney

Date: 9-6-18

Date: 8/20/18

RESOLUTION

2018 610

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN BENTON COUNTY AND CITY OF RICHLAND FOR EQUIPMENT AND/OR SERVICES THROUGH THEIR DEPARTMENT OF PUBLIC WORKS

WHEREAS, pursuant to RCW 39.34, local government 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, Benton County and City of Richland desire to provide equipment and/or services through their 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 Benton County Commissioners constitutes the legislative authority of Benton County and desires to enter into the attached agreement as being in the best interest of Benton County, NOW, THEREFORE,

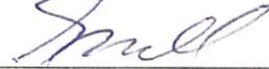
BE IT RESOVLED the Benton County Board of Commissioners hereby approves the attached Interlocal Cooperative Agreement between Benton County and City of Richland for equipment and/or services through their Department of Public Works; and

BE IT FURTHER RESOLVED this Agreement shall be effective when executed by both parties and shall continue through December 31, 2021.

Dated this 28th day of August 2018.

JEROME DELVIN - ABSENT

Chairman



Chairman Pro-Tem



Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest:


Clerk of the Board

RESOLUTION NO. 123-18

A RESOLUTION of the City of Richland authorizing an interlocal cooperation agreement with Benton County for general use of equipment and/or services.

WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage in provision of public services; and

WHEREAS, pursuant to RCW 39.34.080, public agencies are authorized to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which each public agency entering into the contract is authorized by law to perform; and

WHEREAS, the City of Richland and Benton County have successfully entered into other interlocal agreements to share resources and efficiently complete necessary work; and

WHEREAS, City staff have identified a near-term need for equipment support at the Horn Rapids Landfill; and

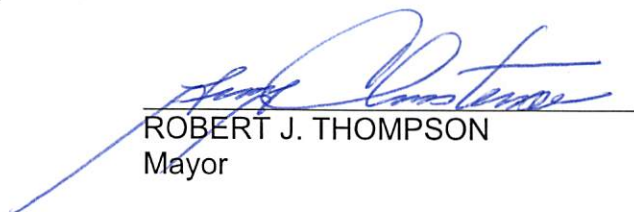
WHEREAS, the proposed interlocal agreement would address a near-term City need and establish an efficient process for activating cooperation between agencies in the future; and

WHEREAS, the agreement language establishes clear and concise methodology for calculating costs and reimbursing actual costs associated with the temporary use of equipment and/or services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute an interlocal agreement with Benton County to provide temporary use of equipment and/or services as needed.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 4th day of September, 2018.



ROBERT J. THOMPSON
Mayor

ATTEST:



MARCIA HOPKINS, City Clerk

APPROVED AS TO FORM:



HEATHER KINTZLEY, City Attorney